



**AN ACT ADOPTING
THE SECURITIES MARKET ACT
OF LIBERIA 2016**

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TABLE OF CONTENTS

***PART I: PRELIMINARY*..... 12**

Section 1. Short Title: 12

Section 2: Definition 12

Section 3. Establishment of the Securities Exchange Commission of Liberia. 23

***PART II: THE COMMISSION*..... 23**

Section 4. The Commission 24

Section 5. Composition of the Commission..... 24

5.2: Appointment 24

5.3: Terms of Membership..... 24

5.4: Meetings of the Commission..... 25

5.5: Appointment of Director General and Other Staff of Commission..... 26

5.6: Funds of Commission 26

5.7: General Functions of the Commission..... 26

Section 6. Discharge of functions 27

Section 7. Conduct and statements of principle 28

Section 8. General Power to make regulations..... 30

Section 9. Modification of regulations 31

Section 10. Arrangements for investigation of complaints against the Commission..... 31

Section 11. Investigation of complaints 32

Section 12. Establishment of Administrative Hearings Committee..... 33

12.3 The functions of the Hearings Committee are: 33

12.5: Submission of Complaint and Examination of Issues. 34

12.8: Proceedings of the Hearings Committee..... 34

12.9:	Decisions of Hearings Committee Subject to Approval of the	35
	Commission	35
12.10:	Appeals from Decision of Hearings Committee	35
Section 13.	Record keeping by the Commission	35
Section 14.	Fees payable to the Commission	35
Section 15.	Notices Issued By the Commission	36
Section 16.	Inspection and power to call for information	37
16.5:	Inspection by the Commission	37
16.6:	Power of Commission to require Production of Books by a Stock Exchange and certain Persons	38
Section 17.	Investigation powers	39
Section 18.	Exercise of investigation powers by officer	41
Section 19.	Powers of entry	42
19.6	Order by Magistrate to Search Premises	43
Section 20.	Failure to comply with investigation powers	43
Section 21.	Confidential information	43
21.7	Secrecy of Information from Books	44
Section 22.	Exemptions for Disclosure of Confidential Information	44
Section 23.	Co-operation	45
Section 24.	Investigations in support of foreign regulatory agency	46
Section 25.	Exemption from liability	47
PART III:	GENERAL APPLICATION	47
Section 26.	Application	47
Section 27.	General prohibition	48
Section 28.	Requirement to be fit and proper	48
Section 29.	Requirements for control functions	49
Section 30.	Controlling Interest Over Regulated Persons	50
Section 31.	Acquiring Control	51
Section 32.	Increasing Control	51

Section 33.	Reducing Control Procedure	51
Section 34.	Reducing Control.....	52
Section 35.	Acquiring, Increasing or Decreasing Control: Notification Procedure	52
Section 36.	Improperly Acquired Shares	53
Section 37.	Duty Of Commission With Respect to Notice of Control.....	54
Section 38.	Approval of Acquisition of Control.....	55
Section 39.	Conditions Attached to Approval.....	55
Section 40.	Objection to Acquisition of Control	55
Section 41.	Objections to Existing Control	56
Section 42.	Offences.....	56
Section 43.	Parent and Subsidiary undertaking	58
Section 44.	Interpretation of Group	58
Section 45.	Interpretation of Associates	58
Section 46.	Specific Classes of Investors.....	60
PART IV:	<i>EXCHANGES, CLEARING AND SETTLEMENT</i>	61
Section 47.	Regulated market.....	61
Section 48.	General requirements for Market Operator	61
Section 49.	Application process for a license for an Exchange.....	62
49.7	Power of Commission to Approve a Stock Exchange.....	63
49.8	Commission to approve Amendments to Rules.....	65
49.9	Stock Exchange to provide Assistance to the Commission	65
49.10	Disciplinary Power of the Commission	66
49.11	Power of Court to Order Observance or Enforcement of.....	66
	Rules of a Stock Exchange	66
49.13	Power of Commission to Prohibit Trading in Particular Securities.	67
Section 50.	Application process for a License for a Clearing house	68
Section 51.	Supplemental information requirements.....	69
Section 52.	General requirements for operator of licensed exchanges and clearing houses	69

Section 53. General requirements as to outsourcing for operators	70
Section 54. Grant of License to an exchange or a clearing house	70
Section 55. Establishment of default fund.....	70
Section 56. Admission of investments to trading by operator of licensed exchange or licensed clearing house.....	71
Section 57. Power of the Commission to make Regulations and Call for Information.....	71
Section 58. Modification of regulations	73
Section 59. Power of the Commission to ensure Compliance	73
Section 60. Recognition of foreign exchanges or clearing houses.....	75
Section 61. Reporting requirements for operator of recognised foreign exchanges or recognised foreign clearing houses	75
Section 62. Designation of operator of foreign exchanges or foreign clearing houses	76
Section 63. Power to give directions in case of non-compliance.....	76
Section 64. Revoking a License or recognition	77
Section 65. Directions and revocation Procedure.....	78
Section 66. General requirements for licensing of Central Securities Depository (CSD)...	79
Section 67. Power of the Commission to make Regulations and Call for Information.....	80
Section 68. Modification of regulations	81
Section 69. Power of the Commission to ensure Compliance	82
Section 70. Recognition of a foreign CSD.....	82
Section 71. Reporting requirements for operator of a recognised foreign CSD.....	83
Section 72. Designation of operator of a foreign CSD.....	84
Section 73. Trust status of property of central securities depository members.....	84
Section 74. Central securities depository requirements for dematerialised securities.....	84
Section 75. Nominee accounts regulations.....	84
Section 76. Power to give directions in case of non-compliance.....	85
Section 77. Power to Revoke a License	86
Section 78. Directions and revocation Procedure.....	87
Section 79. General Requirements for operator of credit rating agency	88
Section 80. General requirements for licensing of credit rating agency.....	89

Section 81.	Supplemental information requirements.....	90
Section 82.	Grant of License to credit rating agency	90
Section 83.	Organisational requirements for operator of credit rating agency.....	90
Section 84.	Power of the commission to make Regulations for operator of credit rating agency	91
Section 85.	Recognition of operator of foreign credit rating agency	91
Section 86.	Reporting requirements for recognised credit rating agency	92
Section 87.	Designation of operator of foreign credit rating agency.....	92
Section 88.	Power to give directions in case of non-compliance.....	93
Section 89.	Revoking a License or recognition of credit rating agency	93
Section 90.	Directions and revocation Procedure.....	94
PART V: PUBLIC OFFERING.....		95
Section 91.	Interpretation.....	95
Section 92.	Public offering requirements	97
Section 93.	Exempt Securities and Transactions.....	97
Section 94.	General duty of disclosure in prospectus.....	98
Section 95.	Written consent requirement for certain statements.....	100
Section 96.	Effective date for prospectus.....	100
Section 97.	Amendments to prospectus	101
Section 98.	Suspension of offering.....	101
Section 99.	Offering proceeds held in trust in separate bank account	101
Section 100.	Minimum subscription requirements.....	102
Section 101.	Regulations for shelf registration and form of shelf prospectus.....	103
Section 102.	Misleading statements and practices in relation to prospectuses	104
Section 103.	Failure to comply with content or requirement of prospectus.....	105
Section 104.	Damages for false or misleading statements in prospectus	105
Section 105.	Due diligence defence.....	106
PART VI: PUBLIC COMPANY STATEMENTS AND REPORTING REQUIREMENTS.....		106

Section 106.	Initial statements by public company.....	106
Section 107.	Financial reporting requirements.....	107
Section 108.	Periodic financial reporting requirement	107
Section 109.	Disclosure of price sensitive information	108
Section 110.	Required disclosure following unusual trading price or volume.....	109
Section 111.	Power of the Commission to require production of records and documents	110
Section 112.	Remedy in cases of unfair prejudice by companies	110
Section 113.	Power of Commission to issue directions to listed or publicly tradable companies	111
Section 114.	Duty of directors to disclose shareholdings	112
Section 115.	Register of directors' interests	113
Section 116.	Notification to Commission and exchange of directors' interests.....	113
Section 117.	Duty of substantial shareholder to disclose shareholding	113
Section 118.	Subsequent disclosures by substantial shareholders	114
Section 119.	Register of substantial shareholders	114
Section 120.	Substantial shareholders notification requirement.....	114
Section 121.	Internal record keeping and accounting controls requirement	114
Section 122.	Required reports by certain holders of equity securities	114
Section 123.	Proxies and Proxy requests	115
Section 124.	Right of shareholder's action to recover certain trading profits.....	115
Section 125.	Publicly tradable company requirements to minority shareholders.....	115
Section 126.	Tender offers	116
Section 127.	Requirements for tender offer statement.....	116
Section 128.	Prohibited activity during tender offer	117
Section 129.	Power of the Commission's tender offer regulations.....	118
PART VII:	INVESTMENT BUSINESS LICENSE.....	119
Section 130.	Applications for a License	119
Section 131.	Exemptions from requirement to hold a License	119
Section 132.	Grant of a License	120

Section 133. General requirements for holder of a License.....	121
Section 134. General Power of Commission to make Directions for License holders	121
Section 135. Variation of License:.....	122
Section 136. Power to give directions and suspend License.....	122
Section 137. Directions and revocation procedure	123
Section 138. Complaints arrangements	124
Section 139. False statements regarding License application.....	124
Section 140. Effect of revocation, suspension or expiration of License	124
Section 141. Notification of change of holder of a Licence’s business activity.....	125
Section 142. Public register of holders of Licenses	125
Section 143. Publication of names and addresses	126
<i>PART VIII: BOOK, AUDIT AND CLIENT ASSETS.....</i>	<i>126</i>
Section 144. Maintaining books and records and furnishing returns	126
Section 145. Appointment of auditor	127
Section 146. Required audited reports	127
Section 147. Responsibilities of auditor in certain situations	128
Section 148. Additional powers of Commission with respect to auditors.....	129
Section 149. Power of Commission to appoint an Independent person to review the license holder.....	129
Section 150. Disqualification of auditor.....	130
Section 151. Communications restrictions for auditors and employees	130
Section 152. Destroying or concealing of books and accounts etc.....	130
Section 153. Rights of exchange to impose obligations	131
Section 154. Certain representations prohibited	131
Section 155. Clients’ recommendations by holder of a License	131
Section 156. Liability.....	132
Section 157. Handling of client assets	132
Section 158. Safeguarding of client’s money and other assets.....	132
Section 159. Safekeeping of client’s money and assets.....	133

Section 160. Monies withdrawn from client account	133
Section 161. Claims and liens not affected	134
Section 162. Right to copy book entries and inspection of contract notes.....	134
Section 163. Liability to clients for activities.....	134
Part IX: COLLECTIVE INVESTMENT SCHEMES	134
Section 164. Collective investment schemes	134
Section 165. Types of collective investment schemes.....	135
Section 166. ARRANGEMENTS NOT CONSTITUTING A COLLECTIVE INVESTMENT SCHEME .	136
Section 167. interpretation.....	137
Section 168. Restrictions on promotion of collective investment scheme	138
Section 169. APPLICATION FOR COLLECTIVE INVESTMENT SCHEME LICENSE	139
Section 170. Grant of collective investment scheme License	139
Section 171. Time limits for determination of collective investment scheme License	140
Section 172. Refusal of License	140
Section 173. Collective investment scheme regulations.....	140
Section 174. Disqualification of auditor.....	141
Section 175. Modification or waiver of regulations	141
Section 176. Alteration of collective investment scheme	142
Section 177. Refusal of proposed changes to schemes.....	142
Section 178. Exclusion clauses.....	142
Section 179. Revocation of License	142
Section 180. Procedure for revocation of collective investment scheme License	143
Section 181. Requests for revocation or withdrawal of collective investment scheme License 143	
Section 182. Recognised collective investment scheme.....	144
Section 183. Revocation of recognition.....	145
Section 184. Procedure for refusal or revocation of recognition.....	145
Section 185. Powers of intervention for collective investment schemes.....	145
Section 186. Prohibition to Operate Unit Trust without a License.....	146

186.4	Manager and Trustee	146
186.5	Trust Deed	147
186.7	License to Operate a Unit Trust	147
186.8	Prohibition of Activities in Unlicensed Unit Trust.....	148
186.9	Interest of Investors in Unit Trust and Pricing of Unit	148
186.10	Scheme Particulars.....	148
186.11	Redemption of Units.....	148
186.13	Duties and Powers of Trustee.....	149
186.14	Prohibited Transactions by Manager	150
	Section 187. Prohibition of Operation of Mutual Fund without License	150
187.5	Application for a Mutual Fund License.....	151
187.6	License for Operation of Mutual Fund	151
187.7	Interest of an Investor in a Mutual Fund	152
187.8	Regulations of a Mutual Fund	152
187.9	Directions by Directors of a Mutual Fund.....	152
187.10	Custodian of Mutual Fund and its Duties	153
187.11	Duties of Directors of Mutual Fund.....	153
187.12	Duties of a Manager of a Mutual Fund Company.....	153
187.13	Unit Trust and Mutual Fund Company Annual Fee for License.....	154
187.14	Inconsistency with this Law and Regulations Made Under it	154
187.15	Changes in Unit Trust and Mutual Fund.....	154
187.16	Change and Retirement of Trustee or Custodian.....	154
187.17	Change of Manager of Unit Trusts and Mutual Funds	155
187.18	Retirement of Manager	156
	Section 188. Liability of Manager, Director Trustee and Custodian.....	156
	Section 189. Prohibited Transactions Under Mutual Fund.....	156
	Section 190. Commission to Keep Register of Unit Trust and Mutual Fund.....	157
	Section 191. Court May Rectify	157
191.2	Court may Order Appointment of Temporary Manager of a Scheme.....	157

Section 192. Termination of Scheme in Accordance with Constitution of the Scheme.....	158
192.2 Scheme Manager may Terminate Scheme.....	158
Section 193. Termination of Scheme by the court.....	158
Section 194. Winding Up of a Unit of Scheme.....	159
Section 195(A). Revocation of License of a Scheme.....	159
Section 195(B). Suspension of License of Unit Trusts and Mutual Funds.....	159
Section 196. Winding Up of a Mutual Fund Company.....	160
Section 196-(A) Cancellation of License.....	160
Section 197. General Penalty.....	160
Section 197-(A) Unauthorized Schemes.....	160
Section 198. Applications to Court.....	160
Section 199. Procedure for directions.....	161
<i>PART X: INTERVENTION POWERS OF THE COMMISSION.....</i>	<i>162</i>
Section 200. Scope of powers of Commission.....	162
Section 201. Employment of prohibited persons.....	162
Section 202. Public statement of misconduct.....	162
Section 203. Injunctions.....	162
Section 204. Liquidation orders.....	163
Section 205. Market abuse.....	163
Section 206. Insider dealing.....	165
Section 207. Defence to Insider Dealing.....	165
Section 208. Dealing in securities.....	166
Section 209. Inside information.....	167
Section 210. Insiders.....	167
Section 211. Information Made Public.....	168
Section 212. Professional Intermediary.....	169
Section 213. Limits on insider dealing.....	169
Section 214. Claiming falsely to be licensed and misleading statements.....	169

<i>PART XI: SETTLEMENT OF DISPUTES AND COMPENSATION ARRANGEMENTS.....</i>	<i>170</i>
Section 215. Investor Compensation Scheme.....	170
<i>PART XII: APPEALS AND THE FINANCIAL MARKETS PANEL.....</i>	<i>170</i>
Section 216. The Financial Markets Panel.....	170
Section 217. The Chairman and Members of the Panel.....	171
Section 218. Terms of Office.....	171
Section 219. Remuneration and Expenses.....	171
Section 220. Staff	171
Section 221. Constitution of Panel	171
Section 222. Powers of the Panel	172
Section 223. Panel Procedure	172
Section 224. Panel Regulations.....	172
Section 225. Evidence.....	172
Section 226. Decisions of The Panel.....	173
Section 227. Costs	174
Section 228. Appeals against Panel decision	174
<i>PART XIII: GENERAL OFFENCES AND PENALTY</i>	<i>174</i>
Section 229. Copy of entry in the regulated person’s record as prima facie evidence of such entry.....	174
Section 230. Offences by bodies corporate etc.	175
Section 231. General penalty	175
Section 232. Compounding of offences.....	175
Section 233. Convicted persons liable to pay compensation.....	175
Section 234. Prosecution of offences.	176
Section 235. Repeal, transitional and saving provisions	176
Section 236. Commencement.....	176

PART 1: PRELIMINARY

WHEREAS, the state of the economy of Liberia has reached a higher level at which the establishment of a securities market system has become desirable and necessary;

WHEREAS, the development of such a system is bound to stimulate trade and enhance the establishment of a conducive environment for other related economic developments;

WHEREAS, the establishment of a securities market for the first time in Liberia has the potential to infuse more money into circulation and diversify the economy in a broad based manner for the economic wellbeing of the population, irrespective of age, ethnicity, faith, culture, political affiliation or any form of social stigma; and,

WHEREAS, the existence of a securities market will further international trade and cooperation between Liberia and other nations as well as attract greater direct foreign investments thereby increasing opportunities for employment and a resulting higher standard of living in the Country;

NOW THEREFORE, it is enacted by the Senate and the House of Representatives of the Republic of Liberia in Legislature assembled:

Section 1. Short Title:

This Act may be cited as “The Securities Market Act of Liberia, 2016”.

Section 2: Definition: Within the context of this Act, the following terms have the specific meanings, respectively:-

2.1 “Accounting Records”—With respect to a company, means invoices or receipts for payment of money, bills of exchange, checks, promissory notes, vouchers, primary documentations such as working papers which, in reasonable detail, accurately and fairly explain the methods and calculations by which accounts are made up and howsoever compiled, recorded or stored.

2.2 “Accredited investor”—means:-

(a) an individual, banks, any private business development company, trusts, directors, executive officers or general partners, homes, spousal assets and LLCs:

(i) whose net personal (liquid) assets exceed in value or such other amount as the Commission may prescribe; or

- (ii) whose income in the preceding 12 months is not less than an amount or such other amount as the Commission may prescribe in (i) above.
 - (b) a company with net assets exceeding \$10 million in value (or its equivalent in a foreign currency) or such other amount as the Commission may prescribe in place of the first amount as determined by:-
 - (i) the most recent audited balance sheet of the company; or
 - (ii) where the company is not required to prepare audited accounts regularly, a balance sheet of the company certified by the company as giving a true and fair view of the state of affairs of the company as of the date of the balance sheet, which date shall be within the preceding 12 months;
 - (c) the trustee of such trust as the Commission may prescribe, when acting in that capacity; or
 - (d) such other person as the Commission may prescribe.
- 2.3 “Assets”—With respect to a holder of a license, means all the properties of the holder, whether or not used in connection with the carrying on of the regulated activity by the holder.
- 2.4 “Associate”—with respect to a person holding shares in an undertaking or entitled to exercise or control the exercise of voting power with respect to another undertaking, it means:-
- (a) the spouse of the person holding shares in the undertaking;
 - (b) a child or stepchild of the person holding shares in the undertaking(if under 18 years of age):-
 - (c) the trustee of any settlement under which the person holding shares in the undertaking has a life interest in possession;
 - (d) an undertaking of which the person holding shares in that undertaking is a director;
 - (e) a person who is an employee or partner of the person holding shares in the undertaking;
 - (f) where the person holding shares in the undertaking is:-
 - (i) a director of that undertaking;

- (ii) a subsidiary undertaking of that undertaking;
 - (iii) a director or employee of such a subsidiary undertaking; and
- (g) if that person has with any other person an agreement or an arrangement with respect to the acquisition, holding or disposal of shares or other interests in an undertaking or is a person who is entitled to exercise or control of the exercise of voting power with respect to another undertaking or an agreement or arrangement under which they agree to act together in exercising their voting power with respect to such respective undertaking that other person.
- 2.5 “Auditor”—means one who is authorized by the Liberia Institute of Certified Public Accountants to conduct an audit.
- 2.6 “Books”—mean:
- (a) any register;
 - (b) any document or other record of information; or
 - (c) any accounts or accounting records ;However compiled, recorded or stored, whether in written or printed form or on microfilm or in any other electronic form or otherwise.
- 2.7 “Borrower”—With respect to a debenture, means the company that is or will be liable to repay money under the debenture
- 2.8 “Board”—With respect to a company, means a team of directors who are charged with the responsibility to make broad policies for the governance of the Commission.
- 2.9 “Broker”—means a person who is engaged in the business of effecting transactions in securities for the benefit or account of others.
- 2.10 “Central Security Depository”—means a market operator who is licensed or recognized by the Commission:-
- (a) to establish and operate a system for the central handling of securities, whether or not listed on any licensed or recognized exchange:-
 - (i) whereby all securities are deposited with and held in custody by, or registered in the name of the company or its nominee company for the depositors and dealings in respect of these securities are affected by means of entries in securities accounts without the physical delivery of certificates; or

- (ii) which permits or facilitates the settlement of securities without the physical delivery of securities; and
 - (b) to provide other facilities and services incidental thereto;
- 2.11 “Clearing facility”—means:-
- (a) a facility for the settlement of transactions in investment instruments, as defined by this Act, which are traded on an exchange or over-the-counter;
 - (b) a facility for the guarantee of settlement of transactions referred to in paragraph (a); or
 - (c) such other settlement facility or class of settlement facilities as the Commission may allow;
- 2.12 “Clearing house”—means an operator whose activities or objects include the provision of clearing facilities.
- 2.13 “Client”—with respect to a holder of a license, means:-
- (a) a person on whose behalf the holder carries on or will carry on any regulated activity; or
 - (b) any other person with whom the holder, as principal, enters or will enter into transactions:-
 - (i) for the purposes of dealing in securities; or
 - (ii) for the purposes of trading in future contracts, but does not include such person or class of persons as may be prescribed.
- 2.14 “Commission”—means The Securities Exchange Commission of Liberia, the body so designated, and clothed with the authority to discharge all statutory duties and functions as provided for by the Legislature of the Republic of Liberia for the purposes indicated in the title of this Act and as established in section?? of this Act.”
- 2.15 “Company”—has the meaning assigned to it in the Associations Law or such successor Act.
- 2.16 “Contract note”—means the document issued by a holder of a license as prescribed by the Commission under Section 131, of this Act.
- 2.17 “Credit rating”—means an opinion regarding the creditworthiness of an entity, a debt or financial obligation, debt security, preferred share or other financial instrument, or an issuer of such a debt or financial obligation, debt security, preferred share or other financial instrument, issued using an established and defined system of rating categories.

- 2.18 “Credit rating activities”—means data and information analysis and the evaluation, approval, issuing and review of credit ratings.
- 2.19 “Credit rating agency”—means a person who carries on the business of credit rating activities.
- 2.20 “Custodian”—means a body corporate which by way of business is entrusted with safekeeping the property of another person and with respect to a client of a holder of a license, it means a bank which holds a license from the appropriate regulatory Commission or such other organization as may be prescribed by regulations made by the Commission.
- 2.21 “Dealer”—means a person who buys or sells securities on his own behalf and for his own account.
- 2.22 “Distribution channels”—means a channel through which information is, or is likely to become publicly available and “likely to become publicly available information” shall mean information to which a large number of persons have access.
- 2.23 “Director”—means a person occupying a position by that nomenclature of a company or any person in accordance with whose directions or instructions the employees of the company are accustomed to act.
- 2.24 “Durable medium”—means any instrument which enables a client to store information which is addressed personally to that client in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.
- 2.25 “Exchange”—means a market operator that is licensed or recognized as such by the Commission under this Act.
- 2.26 “Execution of orders on behalf of clients”—means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients.
- 2.27 “Expert investor”—means:-
- (a) a person whose business involves the acquisition and disposal, or the holding of securities, whether as principal or agent;
 - (b) the trustee of such trust as the Commission may prescribe; or
 - (c) such other person as the Commission may prescribe;
- 2.28 “Financial institution”—means any bank, merchant bank or finance company which is licensed under any laws of the Republic of Liberia.
- 2.29 “Fund management”—means the same as given in the schedule to this Act.

- 2.30 “Group”—with respect to a regulated person, it means any person who is:
- (a) a parent undertaking of the regulated person;
 - (b) a subsidiary undertaking of the regulated person;
 - (c) a subsidiary undertaking of a parent undertaking of the regulated person;
 - (d) a parent undertaking of a subsidiary undertaking of a regulated person;
 - (e) an undertaking in which the regulated person or an undertaking mentioned in paragraph (a), (c) or (d) has a participating interest.
- 2.31 “Institutional investor”—means:-
- (a) a bank that is licensed under the Financial Institutions’ Act/1999 or its successor Act;
 - (b) a finance company that is licensed under the Financial Institutions Act/1999 or its successor Act;
 - (c) a company or society registered under the Insurance Act/2006 or its successor Act;
 - (d) the government of the Republic of Liberia;
 - (e) a statutory commission established under any law of the Republic of Liberia;
 - (f) a pension fund or a collective investment scheme;
 - (g) the holder of a license granted under this Act;
 - (h) the trustee of such trust as the Commission may prescribe when acting in that capacity; or
 - (i) such other person as the Commission may prescribe or consider as an institutional investor based on the knowledge and experience of that person in investments including his/her ability to hire specialists with corresponding knowledge and experience, volume of his net assets or net assets under his management or other similar criteria.
- 2.32 “Holding company”—means a company which holds the majority of voting rights in another or subsidiary company.
- 2.33 “Information service “—means:-
- (a) a broadcasting service;

- (b) an interactive or broadcast videotext or tele-text service; or
 - (c) an online database service or other similar service; or
 - (d) any other service as may be prescribed by the Commission but does not include bond pricing facilities.
- 2.34 “Investment advertisement”— means any advertisement inviting persons to enter or offer to enter an investment agreement or to exercise any rights conferred by an investment to acquire, dispose of, underwrite, or convert an investment or containing information calculated to lead directly or indirectly to persons doing so and for the purposes of this Act an advertisement or other information issued outside the Republic of Liberia shall be treated as issued in the Republic of Liberia, if:-
- (a) it is directed to persons in the Republic of Liberia;
 - (b) it is made available to them in a newspaper, journal, magazine or other periodical published and circulated outside the Republic of Liberia or in a sound or television broadcast transmitted principally for reception outside the Republic of Liberia; or
 - (c) it is made by any other alternative medium which is capable of being received in the Republic of Liberia.
- 2.35 “Investment business”—has the same meaning as defined in the Schedule to this Act.
- 2.36 “Investment advice”—has the same meaning as defined in the Schedule to this Act.
- 2.37 “IOSCO MOU”—means the International Organization of Securities Commissions and its multilateral memorandum of understanding concerning consultation and cooperation and the exchange of information and the signatories thereto as from time to time amended.
- 2.38 “Lead rating analyst”—means a person with primary responsibility for elaborating a credit rating or for communicating with the issuer with respect to a particular credit rating or, generally, with respect to the credit rating of a financial instrument issued by that issuer and, where relevant, for preparing recommendations to the rating committee with respect to such rating.
- 2.39 “License”—means a permit to engage in business which is granted by the Commission under this Act.
- 2.40 “Licensed bank”—means any type of bank which is licensed under the Financial Institutions Act/1999 or its successor Act.

- 2.41 “Listed”—with respect to a security or a company, it means such a security or company whose securities or any class of its securities having gained admission, to be quoted on a market operator.
- 2.42 “Management company”—means a company by which or on whose behalf a unit of a unit trust scheme or collective investment scheme:-
- (a) has been or is proposed to be issued or offered for subscription or purchase; or
 - (b) in respect of which an invitation to subscribe or purchase has been made, and includes any person for the time being exercising the functions of the management company.
- 2.43 “Market maker”—means a person who holds himself/herself out on the financial market on a continuous basis as being willing to deal on his/her own account by buying and selling financial instruments against his/her proprietary capital at prices defined by him/her.
- 2.44 “Market operator”—means a person who manages or operates the business of a regulated market.
- 2.45 “Material information”—means information that would more likely than not have a significant influence on the investment decision of a reasonable investor considering trading the security in question.
- 2.46 “Member”—means a regulated person who, under the membership rules of a licensed, recognized or designated exchange or a clearing house, or of a central security depository, may participate in one or more of the services provided by that institution.; and
- 2.47 “Officer”—with respect to a company, it means:-
- (a) any director or secretary of the company;
 - (b) a receiver and manager appointed under a power contained in any instrument of any part of the undertaking or property of the company; and
 - (c) any liquidator of a company in a voluntary winding up, but does not include:-
 - (i) any receiver who is not also a receiver;
 - (ii) any receiver and manager appointed by the court; or
 - (iii) any liquidator appointed by the court or by the creditors.
- 2.48 “Official list”—means a list specifying all securities which have been admitted for quotation on a licensed or recognized exchange.

- 2.49 “Outsourcing”—means an arrangement of any form between a regulated person and a service provider by which that service provider performs a process, a service or an activity which would otherwise be undertaken by the regulated person himself.
- 2.50 “Over-the-counter market”—means a market for those securities which are traded in the Republic of Liberia that are not listed on a licensed or recognized Exchange.
- 2.51 “Panel”—means a Financial Markets Services organ which is established under the authority of this Act.
- 2.52 “Parent undertaking”—means an individual who would be a parent undertaking for the purposes of those provisions if he were taken to be an undertaking.
- 2.53 “Participating interest”—means an interest held by a person which would be a participating interest for the purposes of those provisions if he/she were taken to be an undertaking.
- 2.54 “Party”—with respect to a proposed or discharged agreement, it means a person who would be answerable to the agreement, were it in effect.
- 2.55 “Person” means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof. As used in this paragraph the term “trust” shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.
- 2.56 “Prescribed”—means stipulated in this Act or any regulations thereof.
- 2.57 “Private offering”—means any offer to fewer persons to sell securities within the meaning of this Act during a twelve month period, and for the avoidance of doubt, such an offer need not be accepted.
- 2.58 “Prospectus”—means a document which is prepared by or on behalf of an issuer in which the shares or debentures are offered for subscription or purchase or in respect of which an invitation to subscribe to the sale or purchase is made to the public.
- 2.59 “Proxy”—means a written authorization issued by a shareholder to another person granting that person the power to vote on behalf of the shareholder.
- 2.60 “Public offering”—means any offer to more persons to sell securities within the meaning of this Act and for the avoidance of doubt, such an offer need not be accepted.
- 2.61 “Publicly tradable company”—means a company that is required by this Act to file periodic reports due to the fact that:-
- (a) it has a class of securities listed for trading on an Exchange; or

- (b) it has sold its class of securities pursuant to registration under this Act; and
 - (c) such securities are owned by more persons who are not accredited investors for the purposes of this Act.
- 2.62 “Rated entity”—means a person whose creditworthiness is explicitly or implicitly rated in the credit rating, whether or not he/she has solicited that credit rating and whether or not he/she has provided information for that credit rating.
- 2.63 “Rating analyst”—means a person who performs analytical functions that are necessary for the issuing of credit rating.
- 2.64 “Recommendation”—means research and other information suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments, including opinion as to the present or future value or price of such instruments, which are intended for distribution channels or for the public.
- 2.65 “Registrar”—means the registrar of companies under the Associations Act or its successor Act and includes any deputy registrar or assistant registrar.
- 2.66 “Regulated activity”—means any of the types of activities which include dealing in investments, arranging deals in investments, safekeeping and administration of assets, managing investment instruments, investment advice, establishing collective investment schemes and using computer-based systems for giving investment instructions.
- 2.67 “Regulatory functions”—means the functions of issuing regulations, making statements of principle, codes of practice or guidance by the Commission and monitoring and enforcing compliance with these.
- 2.68 “Regulated person”—means the holder of a securities market license and any other person whether licensed, recognized, designated or exempted by the Commission under this Act.
- 2.69 “Related company”—with respect to a company, it means a company that is related to the first-mentioned company by virtue of the Associations Act or its successor Act.
- 2.70 “Research or other information recommending investment strategy”—means:-
- (a) information produced by an independent analyst, an investment person, a credit institution, any other person whose main business is to produce recommendations or a firm working for them under a contract of employment or otherwise, that, directly or indirectly, expresses a particular investment recommendation in respect of a financial instrument or an issuer of financial instruments, and

- (b) information produced by a person other than the persons referred to in paragraph (a) above which directly recommends a particular investment decision in respect of an investment instrument.
- 2.71 “Securities”—A financial instrument that represents: an ownership position in a publicly-traded corporation (stock), a creditor relationship with governmental body or a corporation (bond), or rights to ownership as represented by an option. A security is a fungible, negotiable financial instrument that represents some type of financial value. The company or entity that issues the security is known as the issuer.
- 2.72 “Securities market or capital market”—means a regulated market or other place at which, or a facility by means of which:-
- (a) offers to sell, purchase or exchange securities are regularly made or accepted;
- (b) offers or invitations that are intended or may reasonably be expected to result, in whether directly or indirectly, in the making or acceptance of offers to sell, purchase or exchange securities are regularly made; or
- (c) information concerning the prices at which or the consideration for which particular persons, or a particular class of persons, propose, or may reasonably be expected to sell, purchase or exchange securities is regularly provided.
- 2.73 “Senior management”—means the person or persons who effectively direct the business of the regulated person and include the member or members of his Board.
- 2.74 “Settlement”—with respect to a market contract, it means the discharge of the rights and liabilities of the parties to the market contract whether by performance, compromise or otherwise and includes partial settlement effected in accordance with the regulations of an approved clearing house.
- 2.75 “Settlement”—in subsection (1) (c), includes any disposition or arrangement under which property is held on trust (or subject to a comparable obligation).
- 2.76 “Shares”—
- (a) with respect to an undertaking with a share capital, it means allotted shares;
- (b) with respect to an undertaking with capital but no share capital, it means rights to share in capital of the undertaking;
- (c) with respect to an undertaking without capital, it means interests:-
- (i) conferring any right to share in the profits, or liability to contribute to the losses of the undertaking; or

- (ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.
- 2.77 “Specify”—where no mode is mentioned, it means to point out in writing and the power to point out includes the power to point out differently for different persons or types of investment transactions.
- 2.78 “Suspension”—means a postponement of listing.
- 2.79 “Subsidiary undertaking”—with respect to a body incorporated in or formed under the written law of a country or territory other than the Republic of Liberia, an undertaking which is a subsidiary undertaking within the meaning of any rule of law in force in that state or country.
- 2.80 “Underwriter”—means any person who acquires securities from an issuer with a view to distribute them, or offers or sells for an issuer in connection with the distribution of any security, or participates in any agreement or contract with respect to such underwriting, with the exceptions that may be defined by the decision of the Commission.
- 2.81 “Unit”—with respect to a unit trust scheme or a collective investment scheme, it means any right or interest therein by whatever name called and includes any subunit thereof.
- 2.82 “Unit holder”—means the unit holder of a unit trust scheme or a collective investment scheme.
- 2.83 “Voting power”—with respect to an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights; or the voting right of a board member or shareholder provided for under the constitution or by-law of an undertaking.
- 2.84 All definitions given in this Section may be subject to modifications as the Commission may prescribe by amendment.

Section 3. Establishment of the Securities Exchange Commission of Liberia.

There is hereby established a Commission under the Central Bank of Liberia to be known as the Securities Exchange Commission (SEC) which shall serve as the central, national agency of Liberia responsible for governing securities exchange markets and activities permanently.

PART II: THE COMMISSION

Section 4. The Commission

- 4.1 The “Commission” is the body to whom the functions, powers and duties under this Act are conferred, also known as the “Securities and Exchange Commission”
- 4.2 The Commission shall be a body corporate with perpetual succession common seal, and may sue and be sued in its corporate name.
- 4.3 The Commission may for the discharge of its functions under this Law acquire, hold and dispose of movable and immovable property and may enter into any contract or other transaction.

Section 5. Composition of the Commission.

5.1: The Commission shall consist of

- (a) a Chairman;
- (b) the Director-General;
- (c) the two Deputy Directors- General;
- (d) a representative of the Central Bank of Liberia not below the rank of a Director;
- (e) a representative of the Ministry of Finance and Development Planning not below the rank of a Deputy Minister;
- (f) a nominee of the Liberian National Bar Association (LNBA)
- (g) three other persons including a representative of the Liberia Bankers Association, Chamber of Commerce and the Liberia Business Association.

5.2: Appointment

- (a) The members of the Commission shall be appointed by the President with the advice and consent of the Senate.
- (b) The President shall in making appointment have regard to the expertise, knowledge and experience of the persons in matters relating to securities or investment.

5.3: Terms of Membership.

- (a) The Chairman and the other members of the Commission shall hold office for five years but shall be eligible for re-appointment.

- (b) A member of the Commission may resign his membership by notice in writing addressed to the President;
- (c) A member may be removed from membership of the Commission where he—
 - (i) becomes a person of unsound mind;
 - (ii) is absent from three consecutive meetings of the Commission without permission or reasonable cause;
 - (iii) is proved guilty of grave misconduct in relation to his duties as a member of the Commission;
 - (iv) is sentenced to death or to imprisonment for a term exceeding 12 months without the option of a fine or is convicted of an offence involving dishonesty;
 - (v) is declared bankrupt under any law in force in Liberia or in any other country; or
 - (vi) in the case of a person possessed of professional qualifications, he is disqualified or suspended, otherwise than at his own request, from practicing his profession in Liberia or in any other country by an order of any competent Commission made in respect of him personally.

5.4: Meetings of the Commission.

- (a) The Commission shall ordinarily meet for dispatch of business at such times and places as the Chairman may decide but shall meet at least once every two months.
- (b) The Chairman shall at the request in writing of not less than four members of the Commission, call an extraordinary meeting of the Commission at such time and place as he may determine.
- (c) The Chairman shall preside at every meeting of the Commission and in his absence any member of the Commission designated by the Chairman shall preside at the meeting.
- (d) If no member of the Commission is so designated the members of the Commission present shall elect one of their number to preside at the meeting.
- (e) The quorum at a meeting of the Commission shall be five members and shall include the Director-General or in his absence a Deputy Director-General.
- (f) All questions proposed at a meeting of the Commission shall be determined by a simple majority of the members present and voting, and where the votes are

equal the Chairman or the person presiding shall have a second or casting vote.

- (g) The Commission may request the attendance of any person to act as adviser at any of its meetings but such person shall not vote on any matter for decision by the Commission.
- (h) The validity of any act or proceedings of the Commission shall not be affected by any vacancy among its members or any defect in the appointment of a member.
- (i) Subject to this section the Commission shall regulate its own procedure.

5.5: Appointment of Director General and Other Staff of Commission.

The President shall appoint in accordance with the advice of the Commission a:

- (a) Director-General of the Commission who shall be the chief executive officer of the Commission and shall hold office on such terms and conditions as may be specified in his letter of appointment.
- (b) There shall be appointed by the President in accordance with the advice of the Commission two Deputy Directors-General of the Commission on such terms and conditions as may be specified in their letters of appointment.
- (c) The Deputy Directors-General shall assist the Director-General in the performance of his or her duties and perform such other functions as the Commission may direct.

5.6: Funds of Commission

The funds of the Commission shall include—

- (a) grants received from the Government by the Commission for the discharge of its functions.
- (b) any loans granted to the Commission by the Government or any other body or person;
- (c) any money accruing to the Commission in the course of the performance of its functions under this Law;
- (d) any grants made by donors;
- (e) All moneys received by or on behalf of the Commission

5.7: General Functions of the Commission.

The functions of the Commission are—

- (a) to advise the Liberian Stock Exchange or the CBL on all matters relating to the securities industry.
- (b) to maintain surveillance over activities in securities to ensure orderly, fair and equitable dealings in securities;
- (c) to register, license, authorize or regulate, in accordance with this Law or any regulations made under it, stock exchanges, investment advisers, unit trust schemes, mutual funds, securities dealers, and their agents and to control and supervise their activities with a view to maintaining proper standards or conduct and acceptable practices in the securities business;
- (d) to formulate principles for the guidance of the securities market industry;
- (e) to monitor the solvency of license holders and take measures to protect the interest of customers where the solvency of any such license holder is in doubt;
- (f) to protect the integrity of the securities market against any market abuse, fraud, and violations of this Law, including abuses arising from the practice of insider trading;
- (g) to adopt measures to minimize and supervise any conflict of interest that may arise for dealers;
- (h) to review, approve and regulate takeovers, mergers, acquisitions and all forms of business combinations in accordance with any law or code of practice requiring it to do so;
- (i) to create the necessary atmosphere for the orderly growth and development of the capital market;
- (j) to examine and approve invitations to the public.
- (k) to undertake such other activities as are necessary or expedient for giving full effect to the provisions of this Law; and
- (l) to perform other functions specified under this Law.

Section 6. Discharge of functions

6.1. In discharging its functions the Commission must, so far as is reasonably possible, act in a way –

- (a) which is compatible with the regulatory objectives of the Commission; and

- (b) which the Commission thinks fit for the purpose of meeting those objectives.
- 6.2. The regulatory objectives of the Commission include –
- (a) the promotion of fair, orderly and transparent markets;
 - (b) public awareness of the securities market; and
 - (c) the protection of investors;
- 6.3 In discharging its functions under this Act, the Commission must have regard to –
- (a) any published policy and development strategy for the market;
 - (b) the need to use its resources in the most efficient and economical way;
 - (c) the responsibilities of those who manage the affairs of regulated persons;
 - (d) the fact that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction;
 - (e) the desirability of facilitating innovation in connection with regulated activities;
 - (f) the desirability of facilitating competition between those who are subject to any form of regulation by the Commission.
- 6.4 In managing its affairs, the Commission must follow the generally accepted principles of good corporate governance as are applicable to it.
- 6.5 The Commission must make and maintain effective arrangements for consulting practitioners and investors on the extent to which its general policies and practices are consistent with its general duties under this section.
- 6.6 The Commission shall at least once a year produce an annual report on the discharge of its functions under this Act and the extent to which, in its opinion, the regulatory objectives have been met.

Section 7. Conduct and statements of principle

- 7.1 The Commission may issue statements of principle with respect to the conduct expected of regulated persons and those persons exercising control over such regulated persons.

- 7.2 If the Commission issues a statement of principle under subsection (1) of this section, it may also issue a code of practice for the purpose of helping to determine whether or not a person's conduct complies with the statement of principle.
- 7.3 A code issued under subsection (2) of this section may specify –
- (a) descriptions of conduct which, in the opinion of the Commission, comply with a statement of principle;
 - (b) descriptions of conduct which, in the opinion of the Commission, do not comply with a statement of principle; and
 - (c) factors which, in the opinion of the Commission, are to be taken into account in determining whether or not a person's conduct complies with a statement of principles.
- 7.4 The Commission may at any time alter or replace a statement or code issued under this section.
- 7.5 If a statement or code is altered or replaced, the altered or replacement statement or code must be issued by the Commission.
- 7.6 A statement or code issued under this section must be published by the Commission in the way appearing to the Commission to be best calculated to bring it to the attention of the public.
- 7.7 A code published under this section and in force at the time when any particular conduct takes place may be relied on so far as it tends to establish whether or not that conduct complies with a statement of principle.
- 7.8 Failure to comply with a statement of principle under this section does not of itself give rise to any right of action by persons affected or affect the validity of any transaction; however it may give rise to the use of the powers of the Commission under this Act.
- 7.9 A person is not to be taken to have failed to comply with a statement of principle if he shows that, at the time of the alleged failure, it or its associated code of practice had not been published.
- 7.10 The Commission may charge a reasonable fee for providing a person with a copy of a statement or code published under this section.
- 7.11 Before issuing a statement or code under subsection (1) or (2) of this section, the Commission must publish a draft of the statute or code in the way appearing to be best calculated to bring it to the attention of the public.
- 7.12 The draft must be accompanied by –

- (a) a cost benefit analysis; and
 - (b) a notice that representations about the proposal may be made to the Commission within a specified time.
- 7.13 Before issuing the proposed statement or code, the Commission must have regard to any representations made to it.
- 7.14 Subsections (11) to (13) of this section do not apply if the Commission considers that the delay involved in complying with them would prejudice the interests of investors.

Section 8. General Power to make regulations

- 8.1 The Commission may make regulations regulating the conduct of any investment business undertaken by a regulated person and failure to comply with any such regulations is a contravention of this Act.
- 8.2 Any regulations must take proper account of the fact that provisions that are appropriate for regulating the conduct of investment business in relation to some classes of investors may not (by reason of their knowledge, experience or otherwise) be appropriate in relation to others.
- 8.3 Without prejudice to the generality of subsection (1) of this section all regulated persons must:-
- (a) promote high standards of integrity and fair dealing in the conduct of investment business;
 - (b) act with due skill, care and diligence in providing any service which he provides or holds himself out as willing to provide;
 - (c) subordinate his own interests to those of his clients and act fairly between his clients;
 - (d) ensure that, in anything done by him for the persons with whom he deals, due regard is given to their particular circumstances;
 - (e) disclose interests in, and facts material to, transactions which are entered into by him in the course of carrying on investment business or in respect of which he gives advice in the course of carrying on such business, including information as to any commissions or other inducements received or receivable from a third party in connection with any such transaction;
 - (f) disclose the capacity in which and the terms on which he enters into any such transaction;
 - (g) when in the course of carrying on investment business, a regulated person enters or offers to enter into a transaction in respect of an investment with any

person, or gives any person advice about such a transaction, to give that person such information as to the nature of the investment and the financial implications of the transaction as will enable that person to make an informed decision;

- (h) ensure that where action is or is to be taken in conformity with arrangements for the purposes of stabilising prices that adequate arrangements exist for making known that the price of the investments in respect of which the action is or is to be taken;
- (i) protect client money and assets for which a regulated person is liable to account to another person;
- (j) make provision for reasonable compensation for investors;
- (k) keep appropriate records and make provision for their inspection by the Commission; and
- (l) comply with any code of corporate governance as may be issued by the Commission

Section 9. Modification of regulations

The Commission may, pursuant to a transparent criteria of modification, on the application of any regulated person to whom any conduct of investment business regulations under Section 28 of this Act apply, alter the requirements of the regulations so as to adapt them to the circumstances of that holder or to any particular kind of investment business carried on or to be carried on by him.

Section 10. Arrangements for investigation of complaints against the Commission

- 10.1 The Commission must make arrangements (“the complaints scheme”) for the investigation of complaints arising in connection with the exercise of, or failure to exercise, any of its functions other than its power to issue principles, regulations or codes under this Act;
- 10.2 The complaints scheme must be designed so that, as far as reasonably practicable, complaints are investigated quickly.
- 10.3 The terms and conditions on which the investigator is appointed must be such as, in the opinion of the Commission, are reasonably designed to secure –
 - (a) that he will be free at all times to act independently of the Commission; and
 - (b) complaints will be investigated under the complaints scheme without favouring the Commission.

- 10.4 Before making the complaints scheme, the Commission must publish a draft of the proposed scheme in the way appearing to the Commission best calculated to bring it to the attention of the public.
- 10.5 The draft must be accompanied by notice that representations about it may be made to the Commission within a specified time.
- 10.6 Before making the proposed complaints scheme, the Commission must have regard to any representations made to it in accordance with subsection 10.5.

Section 11. Investigation of complaints

- 11.1 The Commission is not obliged to investigate a complaint in accordance with the complaints scheme which it reasonably considers would be more appropriately dealt with in another way (for example by referring the matter to the Panel or by the institution of other legal proceedings).
- 11.2 The complaints scheme must provide –
- (a) for reference to the investigator of any complaint which the Commission is investigating; and
 - (b) for him –
 - (i) to have the means to conduct a full investigation of the complaint;
 - (ii) to report on the result of his investigation to the Commission and the complainant; and
 - (iii) to be able to publish his report (or any part of it) if he considers that it (or the part) ought to be brought to the attention of the public.
- 11.3 If the Commission has decided not to investigate a complaint, it must notify the investigator of that decision.
- 11.4 If the investigator considers that a complaint of which he has been notified under subsection (3) of this section ought to be investigated, he may proceed as if the complaint had been referred to him under the complaints scheme.
- 11.5 The complaints scheme must confer on the investigator the power to recommend if he thinks it fit that the Commission –
- (a) makes a compensatory payment to the complainant; or
 - (b) remedies the matter complained of,
- or takes both of the steps under paragraphs (a) and (b).

- 11.6 The complaints scheme must require the Commission, in a case where the investigator –
- (a) has reported that a complaint is well-founded; or
 - (b) has criticised the Commission in his report,

to inform the investigator and the complainant of the steps which it proposes to take in response to the report.
- 11.7 The investigator may require the Commission to publish the whole or a specified part of the response.
- 11.8 The investigator may appoint a person to conduct the investigation on his behalf but subject to his direction.
- 11.9 Neither an officer nor an employee of the Commission may be appointed under subsection (8) of this section.
- 11.10 Subsection 11.2 is not to be taken as preventing the Commission from making arrangements for the initial investigation of a complaint to be conducted by the Commission.

Section 12. Establishment of Administrative Hearings Committee

- 12.1 Without limiting the scope of section 11 (1) of this Act, there is hereby established an Administrative Hearings Committee of the Commission hereafter referred to in this Law as the "Hearings Committee.
- 12.2 The Hearings Committee shall be composed of the Chairman of the Commission who shall be the Chairman of the Hearings Committee and four other members of the Commission elected by the members.
- 12.3 The functions of the Hearings Committee are:**
- (a) to examine and determine complaints and disputes related to, in respect of, or arising out of any matter to which this Law applies; and
 - (b) to perform any duty related to the function specified under paragraph (a) as may be referred to it by the Commission.
- 12.4 A person appearing before the Hearings Committee may—
- (a) make a representation to the Hearings Committee;
 - (b) be represented by a lawyer or other expert of his choice;

- (c) produce such evidence as he considers necessary for the adjudication of the complaint or matter.

12.5: Submission of Complaint and Examination of Issues.

- (a) A complaint, dispute or any violation arising under this Law shall, before any redress is sought in the courts, be submitted to the Commission for hearing and determination in accordance with this Part.
- (b) A matter to which subsection 12.3(a) of this section applies shall be submitted in writing to the Director-General of the Commission and where it is not in writing the Director-General shall cause the matter to be reduced into writing.
- (c) The Director-General shall cause the matter to be investigated and shall, unless He or she:
 - (i) considers the matter to be frivolous or vexatious; or
 - (ii) can settle the disputed matter or complaint to the satisfaction of parties concerned, refer the matter together with the findings of the investigations to the Hearings Committee within thirty days from the date of receipt of the written complaint, dispute or violation and shall at the same time inform the complainant or persons concerned of the submission to the Hearings Committee;

12.6 The Hearings Committee shall upon receipt of a complaint or any matters under this Part examine and determine the complaint or matter.;

12.7 The Hearings Committee shall not determine any complaint or matter which is the subject matter of an action before a court unless the parties to the action so agree.

12.8: Proceedings of the Hearings Committee.

- (a) The Hearings Committee may exclude persons from its proceedings, other than parties to the proceedings and their lawyers or experts, where it considers it necessary in the interest of public order, public morality or the protection of the private lives and interest of persons concerned in the proceedings.
- (b) The Hearings Committee may call such witnesses and request the production of such documents as it considers necessary to determine the issue before it.
- (c) Witnesses appearing before the Hearings Committee may be paid such allowances as the Commission may determine.
- (d) The Hearings Committee shall give a fair hearing to all persons who appear before it and shall be guided by natural justice in its proceedings.

- (e) Where a complaint is submitted to the Hearings Committee, the Hearings Committee shall, within a period of thirty days from the date of receipt of the complaint or matter examine and determines the complaint or matter unless there is delay caused by the complainant, his representative or witness.
- (f) Except as otherwise provided in this Part, the Hearings Committee shall determine the procedure for its hearings.

12.9: Decisions of Hearings Committee Subject to Approval of the Commission.

- (a) Every decision of the Hearings Committee on any matter submitted to it for determination shall be referred to the Commission,
- (b) The Commission upon receipt of the decision may—
 - (i) approve of the decision;
 - (ii) remit the issue to the Hearings Committee for further consideration; or
 - (iii) modify the decision.

12.10: Appeals from Decision of Hearings Committee.

A person dissatisfied with a decision of the Hearings Committee under this Part confirmed by the Commission may appeal to the Commercial Court.

Section 13. Record keeping by the Commission

The Commission must maintain satisfactory arrangements for –

- (a) recording decisions made in the exercise of its functions; and
- (b) the safe-keeping of those records which it considers ought to be preserved.

Section 14. Fees payable to the Commission

14.1 The Commission may make regulations providing for the payment to it of such fees, in connection with the discharge of any of its functions under or as a result of this Act as it considers (taking account of its expected income from fees and charges provided for by any other provision of this Act) enable it –

- (a) to meet expenses incurred in carrying out its functions or for any incidental purposes;
- (b) to repay the principal of, and pay any interest on, any money which it has borrowed and which has been used for the purpose of meeting expenses incurred in relation to its assumption of functions under this Act;

- (c) to maintain adequate reserves.
- 14.2 In fixing the amount of any fee which is to be payable to the Commission, no account is to be taken of any sums which the Commission receives, or expects to receive, by way of penalties imposed by it under this Act.
- 14.3 Any fee which is owed to the Commission under any provision made by or under this Act may be recovered as a debt due to the Commission.

Section 15. Notices Issued By the Commission

- 15.1 Where it appears to the Commission that a person is not a fit and proper person to perform any regulated activity and or is in contravention of any provision of this Act the Commission may issue that person with a warning notice of any action that the Commission proposes to take in the exercise of its powers under this Act and the date that action will take effect.
- 15.2 The warning notice issued by the Commission must set out the reasons on which the Commission relies for the issue of the notice and inform the recipient of the opportunity to make representations to the Commission within the period specified in the notice;
- 15.3 The Commission may extend the period for allowing representations under the notice where it considered there is good reason so to do.
- 15.4 If having considered the representations, if any, made in respect of the warning notice the Commission decides-
 - (a) to continue with the proposed action;
 - (b) to vary the proposed action; or
 - (c) rescind the proposed action it must give the recipient a decision notice.
- 15.5 Any decision notice issued under subsection (4) of this section must;
 - (a) name the regulated person to whom the notice applies;
 - (b) set out the terms of the notice;
 - (c) give the reasons for the decision; and
 - (d) be given to the individual named in the order.
- 15.6 Any person who is aggrieved by the decision of the Commission, may, within 14 days after the person has been notified of the decision refer the matter to the Commercial Court.

- 15.7 Any regulated person who contravenes or employs a person in contravention of a decision notice is in violation of an offence and is liable to pay a fine not exceeding [US\$150,000], or its LD equivalent. In the case of a continuing offence, with a further fine not exceeding [US\$15,000] for every day or part thereof during which the offence continues.
- 15.8 In proceedings for an offence under subsection (7) of this section, it is a defence for the accused to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Section 16. Inspection and power to call for information

- 16.1 The Commission may require any regulated person to furnish it with such information as it may reasonably require for the exercise of its functions under this Act and the regulated person is under a duty to cooperate with any such request.
- 16.2 The Commission may require any regulated person to allow the Commission access to its place of business to inspect such information as it may reasonably require for the exercise of its functions under this Act and the regulated person is under a duty to cooperate with any such request.
- 16.3 The powers conferred by subsections (1) may also be exercised to impose requirements on any person who is or has been connected with or related to the regulated person.
- 16.4 The Commission may require any information which it requires under this section to be furnished within in such form, timescale and verified in such manner as it may specify.

16.5: Inspection by the Commission

- (a) The Commission may, inspect the books, accounts, documents and transactions of a stock exchange, a unit trust scheme, a mutual fund, a dealer or an investment adviser.
- (b) The Commission may appoint a person possessed of such qualification as it considers adequate to exercise the power of the Commission under subsection (1) of this section.
- (c) For the purposes of an inspection under this section, the stock exchange or any of the persons referred to in subsection (1), shall afford the Commission access to, and shall produce books, accounts and documents and shall give such information facilities as may be required to conduct the inspection.

- (d) A person appointed by the Commission shall have the power to copy or take possession of the books, accounts and other documents of a stock exchange, the manager of a unit trust scheme or mutual fund, a dealer or investment adviser.
- (e) A person who or stock exchange or unit trust scheme, or mutual fund which fails, without reasonable excuse, to produce any book, account or document, information or facilities in accordance with subsection (3) of this section commits an offence and is liable to pay a fine not exceeding [US\$5,000] or its LD equivalent.

16.6: Power of Commission to require Production of Books by a Stock Exchange and certain Persons.

- (a) The Commission may by notice in writing, at any time where it considers that there is sufficient cause to do so, give directions to—
 - (i) a stock exchange;
 - (ii) a member of the council of a stock exchange;
 - (iii) a manager of a unit trust scheme or a mutual fund;
 - (iv) a person who is or has been, either alone or together with another person a dealer or an investment adviser or is or has been a dealer's representative;
 - (v) a nominee controlled by a person referred to in paragraph (i) or (iv) of this section jointly controlled by two or more persons at least one of whom is a person referred to in these paragraphs;
 - (vi) a person who is or has been an officer or an employee of; or an agent, lawyer, auditor or other person acting in any capacity for or on behalf of, a stock exchange or a person referred to in paragraph (ii), (iii), (iv) or (v) of this section;
 - (vii) any other person who is or has been a party to any dealing in securities;
or
 - (viii) any person, to produce to a person authorized by the Commission such books as may be specified in the direction.
- (b) For the purposes of subsection (e) of this section, books in respect to which a request to produce may be made shall relate to—
 - (i) the business or affairs of a stock exchange;

- (ii) any dealing in securities;
 - (iii) any dealing in unit trusts and mutual funds;
 - (iv) any advice concerning securities or the issuing or publication of a report or analysis concerning securities;
 - (v) the character or financial position of, or any business carried on by, a person referred to in paragraph (iii), (iv) or (v) of subsection (a); or
 - (vi) an audit of, or any report of an auditor concerning a dealing in securities or any accounts or records of a dealer or of an investment adviser.
- (c) No direction to produce shall be given to any person under this section unless the Commission believes that the person has in his custody or under his control books which relate to a matter specified under subsection (e) of this section.
 - (d) No books shall be directed to be produced by any person under this section at a time or place that may unduly interfere with the proper conduct of the normal daily business of that person.
 - (e) The Commission may in writing authorize a person possessed of such qualification as it considers adequate to exercise the power to request for the production of books conferred on it under this section.
 - (f) An authorization from the Commission to any person under subsection (e) of this section may be of general application or may be limited to making requirements of a particular stock exchange, manager of a unit trust scheme or manager of a mutual fund or other person.
 - (g) Where the Commission, or a person authorized by the Commissioner, requires the production of any books under this section and a person has a lien on the books, the production of the books shall not prejudice the lien.
 - (h) An authorized officer shall where required to do so produce evidence of his authorization.
 - (i) No action shall be taken against any person for complying with a direction or requirement made or given under this section to produce books.
 - (j) A power conferred by this section to make a requirement of a person extends if the person is a body corporate, to making that requirement of any person who is or has been an officer of the body corporate whether that body corporate is in the course of being wound up or has been dissolved.

Section 17. Investigation powers

- 17.1 The powers of the Commission under this section shall be exercisable in any case in which it appears to the Commission that there is good reason to investigate the affairs, or any aspect of the affairs, of any person in relation to any contravention of this Act
- 17.2 The Commission may require the person whose affairs are to be investigated (“the person under investigation”) or any other person to appear before the Commission at a specified time and place and answer questions or otherwise provide information howsoever held with respect to any matter relevant to the investigation.
- 17.3 The Commission may require the person under investigation or any other person to produce at a specified time and place any specified documents, including any bank or brokerage records howsoever held, which appear to the Commission or relate to any matter relevant to the investigation and –
- (a) if any such documents are produced, the Commission may take copies from them or require the person producing them or any other person to provide an explanation of them; and
 - (b) if any such documents are not produced, the Commission may require the person or any other person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- 17.4 A statement by a person or other person in compliance with a requirement imposed by virtue of this section may be used in evidence against him.
- 17.5 In this section a “person” includes but not limited to –
- (a) a body corporate;
 - (b) an unincorporated association of persons;
 - (c) a partnership constituted under the laws of the Republic of Liberia or under the law of any territory or country outside the Republic of Liberia; or
 - (d) an individual.
- 17.6 In this section, “any other person” includes but not limited to –
- (a) any person who is or was that other person’s partner, employee, agent, appointed representative, banker, auditor or solicitor;
 - (b) where the other person is a body corporate, any person who is or was a director, secretary or controller of that body corporate or of another body corporate of which it is or was a subsidiary;
 - (c) where the other person is an unincorporated association, any person who is or was a member of the governing body or an officer or controller of the association;

- (d) where the other person is representative of a person, any person who is or was his principal; and
- (e) where the other person is the person under investigation (being a body corporate), any related company of that body corporate and any person who is a connected person in relation to that company –

17.7 In this section,

- (a) “documents” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, and the power to require its production includes power to require the production of a copy of the information in legible form;
- (b) “Related company”, in relation to a person under investigation (being a body corporate), means any other body corporate which is or at any material time was –
 - (i) a holding company or subsidiary of the person under investigation;
 - (ii) a subsidiary of a holding company of that person; or
 - (iii) a holding company of a subsidiary of that person,and whose affairs it is in the Commission’s opinion necessary to investigate for the purpose of investigating the affairs of that person.

Section 18. Exercise of investigation powers by officer

- 18.1 The Commission may appoint any officer or any other person to exercise on its behalf all or any of the investigation powers conferred by Section 17 and such power to investigate shall specify the affairs, or any aspects of the affairs, of the person or firm to be investigated in the investigation notice.
- 18.2 No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of an investigation notice granted under this section unless the investigator has, if required to do so, produced evidence of his appointment by the Commission.
- 18.3 A person shall not, by virtue of an investigation notice be required to disclose any information or produce any documents in respect of which he owes an obligation of confidence unless –
 - (a) he is the person under investigation or a related company;
 - (b) the person to whom the obligation of confidence is owed is the person or firm under investigation or a related company;

- (c) the person to whom the obligation of confidence is owed consents to the disclosure or production; or
- (d) the Commission has specifically required the information or documents.

18.4 Where the Commission appoints a person other than one of his officers to exercise any investigation powers, that person shall make a report to the Commission on the exercise of those powers and the results of exercising them.

Section 19. Powers of entry

19.1 The Commission may apply to the court for a warrant and where the court is satisfied that on information on oath given by or on behalf of the Commission that there are reasonable grounds for believing that a serious offence has been committed under this Act and that there are on the premises specified in the warrant, documents relevant to the question whether that offence has been committed or whose production has been required under the investigation powers and which have not been produced in compliance with the requirement.

19.2 A warrant issued under this section shall authorise any officer of the Commission or, any other authorised person to –

- (a) enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;
- (b) search the premises and take possession of any documents appearing to be such documents as are mentioned in subsection (1) or (2) of this section or to take, in relation to any such documents, any other steps which may appear to be necessary for preserving them or preventing interference with them;
- (c) take copies of any such documents; and
- (d) require any person named in the warrant to provide an explanation of them or to state where they may be found.

19.3 A warrant issued under this section shall continue in force until the end of the period of one month beginning with the day on which it is issued.

19.4 Any document of which possession is taken under this section may be retained –

- (a) for a period of three months; or
- (b) if within that period proceedings to which the documents are relevant are commenced against any person for any criminal offence, until the conclusion of those proceedings.

19.5 In this section, “documents” include information recorded in any form.

19.6 Order by Magistrate to Search Premises

- (a) Where it appears to a Magistrate, upon written information on oath, and after any enquiry he may think necessary, that there are reasonable grounds for suspecting that there are on any premises books the production of which has been directed and have not been produced in compliance with the direction, the magistrate may issue a warrant authorizing the Commission or any other person named in it—
- (b) to search the premises and to break open and search any cupboard, drawer, container or other receptacle, whether a fixture or not, in the premises;
- (c) to take possession of, or secure against interference, any books that appear to be books the production of which was so directed and
- (d) In this section "premises" includes any structure, building, place, aircraft, vehicle or vessel.

Section 20. Failure to comply with investigation powers

- 20.1 Any person who without reasonable excuse fails to comply with a requirement imposed on him under the investigation powers of the Commission has committed an administrative offence and is liable to pay a fine not exceeding [US\$100,000], or its LD equivalent and, in the case of a continuing offence, with a further fine not exceeding [US\$10,000] for every day or part thereof during which the offence continues.
- 20.2 A person who is found liable as a result of an investigation under this section may in the same proceedings be ordered to pay the expenses of the investigation.
- 20.3 Any person who intentionally obstructs the exercise of any rights conferred by a warrant or fails without reasonable excuse to comply with any requirement to disclose the whereabouts of documents requested is in violation of an offence and is liable to pay a fine not exceeding [US\$500,000] or its LD equivalent.

Section 21. Confidential information

- 21.1 Subject to Section **Error! Reference source not found.** of this Act, confidential information shall not be disclosed by a primary recipient or any person obtaining the information directly or indirectly from a primary recipient without the consent of –
 - (a) the person from whom the primary recipient obtained the information; and
 - (b) if different, the person to whom it relates.
- 21.2 Subject to subsection (4) of this section, “confidential information” means information which –

- (a) relates to the business or other affairs of any person; or
- (b) was obtained by the primary recipient for the purposes of, or in the discharge of his functions, under this Act or any regulations made under this Act.

21.3 For the purposes of this section, the following is a primary recipient –

- (a) the Commission;
- (b) anybody administering a compensation scheme;
- (c) any member of the Panel;
- (d) any person appointed or authorised to exercise any powers of investigation;
- (e) any officer or employee of any such person as is mentioned in paragraphs (a) to (d).

21.4 Information shall not be treated as confidential information for the purposes of this section if it has been made available to the public by virtue of being disclosed in any circumstances which are not precluded by this section.

21.5 This section shall not preclude the disclosure of information for the purpose of enabling or assisting any public or other body to discharge its functions as may be further specified by the Commission in regulations.

21.6 Any person who knowingly discloses restricted information under this Act is in violation of an offence and is liable to pay a fine not exceeding [US\$200,000] or its LD equivalent.

21.7 Secrecy of Information from Books

- (a) No information obtained from any books that have been produced without the previous consent in writing of the person who has custody or control of the books, be published or disclosed, except to the Commission and its officers and employees, unless the publication or disclosure is required—
 - (i) with a view to the institution of, or for the purposes of, criminal proceedings; or
 - (ii) for the purpose of proceedings under Section 10, 11 or 12 of this Law.
- (b) A person who publishes any information in contravention of this section commits an offence and is liable to pay a fine as determine by the commission.

Section 22. Exemptions for Disclosure of Confidential Information

Restrictions on disclosure of information under Section **Error! Reference source not found.** of this Act shall not preclude disclosure of the following –

- (a) with a view to the institution of or otherwise for the purposes of criminal proceedings;
- (b) with a view to the institution of or otherwise for the purposes of any civil or disciplinary proceedings or proceedings before the Panel;
- (c) for the purpose of enabling or assisting the Commission to exercise any powers conferred on it by this Act;
- (d) for the purpose of enabling or assisting the Commission designated under the provisions of the Financial Institutions Act 1999 or such successor Act to discharge its functions;
- (e) for the purpose of enabling or assisting a market operator, a central securities depository or a self-regulating organisation to discharge its functions under this Act or enabling or assisting the body administering a compensation scheme under this Act to discharge its functions under the scheme;
- (f) for the purposes of enabling or assisting any other domestic public Commission in the exercise of its statutory function;
- (g) for the purpose of enabling or assisting an official receiver to discharge his functions under any written law relating to insolvency;
- (h) for the purpose of enabling or assisting any person appointed to exercise any investigation powers or any auditor appointed under this Act to discharge his functions;
- (i) for the purpose of enabling or assisting a foreign regulatory Commission which exercises functions similar to those exercisable by the Commission under this Act to exercise its regulatory functions.

Section 23. Co-operation

The Commission may take such steps as it thinks fit to cooperate with a foreign regulatory Commission –

- (a) which is a signatory to the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information adopted by the International Organisation of Securities Commissions;
- (b) which exercises functions which correspond to those exercisable by the Commission under this Act; or
- (c) powers relating to the detection of financial crime.

Section 24. Investigations in support of foreign regulatory agency

- 24.1 At the request of a foreign regulatory Commission, as set out under Section **Error! Reference source not found.**(a) to (c) the Commission may –
- (a) exercise the power conferred by Section **Error! Reference source not found.** of this Act; or
 - (b) appoint one or more competent persons to investigate any matter.
- 24.2 An investigator appointed under Section 1(b) of this section has the same powers as an investigator appointed under Section **Error! Reference source not found.** of this Act.
- 24.3 In deciding whether or not to exercise its investigative power, the Commission may take into account in particular –
- (a) whether in the country or territory of the foreign regulatory Commission concerned, corresponding assistance would be given to the Commission;
 - (b) whether the case concerns the breach of a law, or other regulatory requirement, which has no close parallel in the Republic of Liberia or involves the assertion of a jurisdiction not recognised by the Republic of Liberia;
 - (c) the seriousness of the case and its importance to persons in the Republic of Liberia;
 - (d) whether it is otherwise appropriate to give the assistance sought.
- 24.4 An order under subsection (1)(a) or (b) of this section shall have effect notwithstanding any obligations as to secrecy or other restrictions upon the disclosure of information imposed by any –
- (a) written laws in the Republic of Liberia or any requirement imposed or regulations made thereunder;
 - (b) contractual obligations; or
 - (c) rules of professional conduct.
- 24.5 The Commission may decide that it will not exercise its investigative powers unless the foreign regulatory Commission undertakes to make such contribution towards the cost of its exercise as the Commission thinks fit.
- 24.6 If the Commission has appointed an investigator in response to a request from a foreign regulatory Commission, it may direct the investigator to permit a representative of that regulator to attend, and take part in, any interview conducted for the purposes of the investigation.

24.7 A decision under subsection (5) may not be given unless the Commission is satisfied that any information obtained by a foreign regulatory Commission as a result of the interview will be subject to equivalent safeguards as to the onward transmission of the information to third parties.

Section 25. Exemption from liability

No action, suit or other legal proceedings shall be brought against the Commission or any officer in respect of any act or thing done or omitted to be done by any of them in good faith in the exercise, performance or purported exercise or performance of any duty or function under this Act.

PART III: GENERAL APPLICATION

Section 26. Application

26.1 The provisions of this Act shall apply to all persons conducting activities in or from the Republic of Liberia.

26.2 In the case where any International Convention is signed or participated in by the Government of the Republic of Liberia conflicts with the provisions of this Act, the provisions of this Act shall prevail.

26.3 Except where expressly provided, any agreement made by a person in the course of carrying on a regulated activity in contravention of this Act is unenforceable against the other party and any provision which purports to vary any obligation imposed by this Act shall be void.

26.4 Where an agreement is made in contravention of this Act, the person seeking to enforce such agreement is entitled to

- (a) any money or other property paid or transferred by him under the agreement; and
- (b) compensation for any loss sustained by him as a result of having parted with it.

26.5 “Agreement” means an agreement –

- (a) made after this Act comes into force; and
- (b) the making or performance of which constitutes, or is part of, the regulated activity in question.

26.6 The amount of compensation recoverable as a result of subsection (4) of this section is –

- (a) the amount agreed by the parties; or
- (b) on the application of either party, the amount determined by the Commercial Court.

26.7 If the Commercial Court is satisfied that it is just and equitable in the circumstances of the case, it may allow –

- (a) the agreement to be enforced; or
- (b) money and property paid or transferred under the agreement to be retained.

Section 27. General prohibition

27.1 No person may carry or hold himself out as carrying on or purporting to carry on a regulated activity in or from the Republic of Liberia by way of business unless he is –

- (a) licensed;
- (b) recognized;
- (c) designated or
- (d) exempted,

by the Commission under the provisions of this Act.

27.2 The prohibition is referred to in this Act as the general prohibition.

27.3 The contravention does not –

- (a) make any transaction void or unenforceable; or
- (b) subject to subsection (4), give rise to any right of action for breach of statutory duty.

27.4 The contravention is actionable at the suit of a person who suffers loss as a result of the contravention, subject to the defences under subsection (6) of this section.

27.5 A person who contravenes the general prohibition is in violation of an offence and is liable to pay a fine not exceeding [LD\$10,000,000] or its US equivalent. Failure to comply, he/she shall be turned over to the Ministry of Justice for prosecution.

27.6 In proceedings for contravention of the general prohibition, it is a defence for the accused to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Section 28. Requirement to be fit and proper

- 28.1 No person shall be granted a license to conduct any regulated activity unless the Commission has satisfied itself that the applicant, owners and those exercising a control function over the applicant are fit and proper persons to carry on that regulated activity.
- 28.2 Fit and proper for the purposes of this Act means that
- (a) the applicant must
 - (i) have sufficient financial resources, must have available to it sufficient staff with the balance of skills and competence appropriate to the services for which the license is sought,
 - (ii) be able to demonstrate integrity;
 - (iii) demonstrate a willingness and capacity to operate effectively and efficiently the business for which the license is sought; and
 - (iv) demonstrate a willingness and capacity to comply with the requirements of this Act;
 - (b) The owners of the applicant must have sound financial standing, and integrity;
 - (c) Those exercising a control function must have the competence appropriate for their tasks, financial standing and integrity.
- 28.3 All regulated persons are required to be fit and proper persons at the time of the grant of a license and on a continuing basis.

Section 29. Requirements for control functions

- 29.1 A regulated person is under a duty to ensure that all persons it employs are fit and proper at all times.
- 29.2 Any regulated person who employs a person who is not fit and proper to exercise a control function is in violation of an offence and is liable to pay a fine not exceeding [\$150,000], in the case of a continuing offence, with a further fine not exceeding [\$15,000] for every day or part thereof during which the offence continues.
- 29.3 “Control function” means a person who is a board member, chief executive officer, financial controller, director, owner and any other person who de facto exercises control over the regulated person.
- 29.4 The Commission may by regulations add to the description of control function under subsection (3) of this section only if, with respect to the carrying on of a regulated

activity by a regulated person, it is satisfied that one of the following conditions is met

–

- (a) that the function is likely to enable the person responsible for his performance to exercise a significant influence on the conduct of the affairs of the regulated person so far as relating to the regulated activity;
- (b) that the function will involve the person performing it in dealing with clients of the regulated person in a manner substantially connected with the carrying on of the regulated activity;
- (c) that the function will involve the person performing it in dealing with property of clients of the regulated person in a manner substantially connected with the carrying on of the regulated activity.

29.5 “Arrangement” –

- (a) means any kind of arrangement for the performance of a function of a regulated person which is entered into by the regulated person or any contractor of his with another person; and
- (b) includes in particular, that other person’s appointment to an office (including that of a senior management position), his becoming a partner or his employment (whether under a contract of service or otherwise).

29.6 “Client”, in relation to a regulated person means a person who is using, or who is or may be contemplating of using, any of the services provided by the regulated person.

Section 30. Controlling Interest Over Regulated Persons

30.1 If a step which a person proposes to take would result in his acquiring –

- (a) control over a regulated person;
- (b) an additional kind of control over a regulated person;
- (c) an increase in a relevant kind of control which he or she already has over a regulated person,

he must notify the Commission in advance of that step and such control will not become effective without the approval of the Commission.

30.2 A person who, without himself taking any such step, acquires any such control or additional or increased control must notify the Commission before the end of the period of 14 days beginning with the day on which he first becomes aware that he has acquired it.

- 30.3 A person who is under the duty to notify the Commission imposed as required by subsection (1) of this section must also give notice to the Commission on acquiring, or increasing such control.
- 30.4 A notice under subsection (1) or (2) of this section is referred to in this Part as “a notice of control”.

Section 31. Acquiring Control

- 31.1 For the purposes of this Part, a person acquires control over a regulated person if he –
- (a) with respect to a body corporate, is a person who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of 10 per cent, or more of the voting power at any general meeting of the body corporate or another body corporate of which it is a subsidiary ; and
 - (b) with respect to an unincorporated association—
 - (i) any person in accordance with whose directions or instructions, either alone or with those of any associate or associates, the officers or members of the governing body of the association are accustomed to act (but disregarding advice given in a professional capacity); and .
 - (ii) any person who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, 10 percent, or more of the voting power at any general meeting of the association;
 - (c) or is able to exercise significant influence over the management of the regulated person by virtue of his shareholding in the regulated person;
- 31.2 For the purposes of this Part, “Associate”, “Shares” and “Voting power” have the same meaning as defined in Section 45 infra.

Section 32. Increasing Control

- 32.1 For the purposes of this Part, a controller of a regulated person increases his control over the regulated person if the percentage of shares held or the influence exerted by the controller in the regulated person is in accordance with Section 31(1) (a) to (c) of this Act;

Section 33. Reducing Control Procedure

- 33.1 If a step which a controller of a regulated person proposes to take would result in his
- (a) ceasing to have control of a relevant kind over the regulated person; or
 - (b) reducing a relevant kind of control over that person,

he must notify the Commission of his proposal.

33.2 A controller of a regulated person who, without himself taking any such step, ceases to have that control or reduces that control, must notify the Commission before the end of the period of 14 days beginning with the day on which he first becomes aware that –

(a) he has ceased to have the control in question; or

(b) he has reduced that control.

33.3 A person who is under the duty to notify the Commission imposed by subsection (1) of this section must also give a notice to the Commission –

(a) on ceasing to have the control in question; or

(b) on reducing that control.

33.4 A notice under this section must –

(a) be given to the Commission in writing; and

(b) include details of the extent of the control (if any) which the person concerned will retain or still retains over the regulated person concerned.

Section 34. Reducing Control

34.1 For the purposes of this Part, a controller of a regulated person reduces his control over the holder of a license if the percentage of shares held or the influence exerted by the controller in the regulated person decreases if it is in accordance with Section 31 (1) (a) to (c) of this Act.

Section 35. Acquiring, Increasing or Decreasing Control: Notification Procedure

35.1 A notice of control must –

(a) be given to the Commission in writing; and

(b) include such information and be accompanied by such documents as the Commission may reasonably require.

35.2 The Commission may require the person giving a notice of control to provide such additional information or documents as it reasonably considers necessary in order to enable it to determine what action it is to take in response to the notice.

35.3 Different requirements may be imposed by the Commission in different circumstances.

Section 36. Improperly Acquired Shares

- 36.1 The powers conferred by this section are exercisable if a person has acquired, or has continued to hold, any shares in contravention of –
- (a) a notice of objection; or
 - (b) a condition imposed on the Commission's approval.
- 36.2 The Commission may by notice in writing in accordance with the procedure in Part II of this Act served on the person concerned ("a restriction notice") direct that any such shares which are specified in the notice are, until further notice, subject to one or more of the following restrictions –
- (a) a transfer of (or agreement to transfer) those shares, or in the case of unissued shares any transfer of (or agreement to transfer) the right to be issued with them, is void;
 - (b) no voting rights are to be exercisable in respect of the shares;
 - (c) no further shares are to be issued in right of them or in pursuance of any offer made to their holder;
 - (d) except in a liquidation, no payment is to be made of any sums due from the body corporate on the shares, whether in respect of capital or otherwise.
- 36.3 The court may, on the application of the Commission, order the sale of any shares to which this section applies and, if they are for the time being subject to any restriction under subsection (2) of this section, that they are to cease to be subject to that restriction.
- 36.4 No order may be made under subsection (3) of this section–
- (a) until the end of the period within which a reference may be made to the Panel in respect of the notice of objection; and
 - (b) if a reference is made, until the matter has been determined or the reference withdrawn.
- 36.5 If an order has been made under subsection (3) of this section, the court may, on the application of the Commission, make such further order relating to the sale or transfer of the shares as it thinks fit.
- 36.6 If shares are sold in pursuance of an order under this section, the proceeds of sale, less the costs of the sale, must be paid into court for the benefit of the persons beneficially interested in them, and any such person may apply to the court for the whole or part of the proceeds to be paid to him.

36.7 This section applies –

- (a) in the case of a person falling within Section 3(1) of this section, to all the shares –
 - (i) in the regulated person which the person has acquired;
 - (ii) which are held by him or his associate; and
 - (iii) which were not so held immediately before he became a person with control over the regulated person;
- (b) in the case of a person falling within Section 36(2) of this section, to all the shares held by him or his associate at the time when he first became aware that he had acquired control over the regulated person; and
- (c) to all the shares in an undertaking –
 - (i) which are held by that person or his associate; and
 - (ii) which were not so held before he became a person with control with respect to the regulated person, where the undertaking is the undertaking in which shares were acquired by the person or his associate and, as a result, he became a person with control in relation to that regulated person.

36.8 A copy of the restriction notice must be served on –

- (a) the regulated person on to whose shares it relates; and
- (b) if it relates to shares held by an associate of that regulated person, on that associate.

36.9 The jurisdiction conferred by this section may be exercised

Section 37. Duty Of Commission With Respect to Notice of Control

37.1 The Commission must, before the end of the period of three months beginning with the date on which it receives a notice of control with respect to the period for consideration, determine whether –

- (a) to approve of the person concerned having the control to which the notice relates; or
- (b) to serve a warning notice.

37.2 If the Commission determines to give the person concerned a notice of objection of acquisition of control, it must give him a warning notice in accordance with the procedure in Part III of this Act.

Section 38. Approval of Acquisition of Control

38.1 If the Commission decides to approve of the person concerned having the control to which the notice relates, it must notify that person making the acquisition of its approval in writing forthwith.

38.2 If the Commission fails to comply with Section 8 of this Act, it is to be treated as having given its approval and notified the person concerned at the end of the period fixed by Section 8 of this Act.

38.3 The Commission's approval remains effective only if the person to whom it relates acquires the control in question –

- (a) before the end of such period as may be specified in the notice; or
- (b) if no period is specified, before the end of the period of 12 months beginning with the date –
 - (i) of the notice of approval;
 - (ii) on which the Commission is treated as having given approval under subsection (2) of this section; or
 - (iii) of a decision on a reference to the Panel which results in the person concerned receiving approval.

Section 39. Conditions Attached to Approval.

39.1 The Commission's approval under Section 38 of this Act may be given unconditionally or subject to such conditions as the Commission thinks fit.

39.2 If the Commission proposes to impose conditions on a person, it must give him warning notice in accordance with the procedure in Part II of this Act.

Section 40. Objection to Acquisition of Control

40.1 In considering a notice of control, the Commission may give a decision notice to the person acquiring control unless it is satisfied that the approval requirements are met.

40.2 The approval requirements are that –

- (a) the person acquiring control is a fit and proper person to have the control over the regulated person that he has or would have if he acquired the control in question; and

- (b) the interests of investors would not be threatened by the person acquiring that control.
- 40.3 In deciding whether the approval requirements are met, the Commission must have regard, with respect to the control that the person acquiring control –
 - (a) has over the regulated person concerned; or
 - (b) will have over the regulated person if the proposal to which the notice of control relates is carried into effect, to its regulatory objectives under this Act.
- 40.4 If the Commission gives a notice under this section but considers that the approval requirements would be met if the person to whom a notice is given were to take, or refrain from taking, a particular step, the notice must identify that step.

Section 41. Objections to Existing Control

- 41.1 If the Commission is not satisfied that the approval of control requirements have been met, it may give a decision notice under this section to a person if he has failed to comply with a duty to notify the Commission imposed by Section 35 of this Act..
- 41.2 If the failure relates to Section 30(1) or 30(2) of this Act, the Commission may (instead of giving a notice under subsection (1) of this section approve the acquisition of the control in question by the person concerned as if he had given it a notice of control.
- 41.3 The Commission may also give a decision notice to a person who is a controller of a regulated person if the Commission becomes aware of matters as a result of which it is satisfied that –
 - (a) the approval requirements are not met with respect to the controller; or
 - (b) a condition imposed under Section 11 of this Act which required that person to do (or refrain from doing) a particular thing and the condition has been breached as a result of his failing to do (or doing) that thing.
- 41.4 A person to whom a notice under this section is given must be made in accordance with the procedure in Part III of this Act.

Section 42. Offences

- 42.1 A person who fails to comply with the duty to notify the Commission imposed on him by Section 30(1) or Section 33(1) of this Act is liable for an administrative offence.
- 42.2 A person who fails to comply with the duty to notify the Commission imposed on him by Section 30(2) or Section 33(2) of this Act is liable of an administrative offence.

- 42.3 If a person who has given a notice of control to the Commission carries out the proposal to which the notice relates, he is liable of an administrative offence if –
- (a) the period of three months beginning with the date on which the Commission received the notice is still running; and
 - (b) the Commission has not responded to the notice by either giving its approval or giving him a warning notice.
- 42.4 A person to whom the Commission has given a warning notice is liable of an administrative offence if he carries out the proposal to which the notice relates before the Commission has decided whether to give him a notice of objection.
- 42.5 A person to whom a notice of objection has been given is liable of an administrative offence if he acquires the control to which the notice applies at a time when the notice is still in force.
- 42.6 A person found in violation of an administrative offence under subsection (1), (2), (3) or (4) is liable to a fine not exceeding [LD\$100,000] or its US equivalent. In the case of a continuing offence, with a further fine not exceeding [US\$15,000] for every day or part thereof during which the offence continues. . Failure to pay the fine, the matter would be considered criminal and shall be turned over to the Ministry of Justice for prosecution.
- 42.7 A person in violation of an administrative offence under subsection (5) of this section is liable to a fine not exceeding [US\$150,000] or its LD equivalent, in the case of a continuing offence, with a further fine not exceeding [US\$15,000] for every day or part thereof during which the offence continues. Failure to pay the fine, the matter would be considered criminal and shall be turned over to the Ministry of Justice for prosecution.
- 42.8 It is a defence for a person found in violation of an provision under subsection (1) of this section to show that he had, at the time of the alleged offence, no knowledge of the act or circumstances by virtue of which the duty to notify the Commission arose.
- 42.9 If a person –
- (a) was under the duty to notify the Commission imposed by section 3(1) or 14(1) of this Act but had no knowledge of the act or circumstances by virtue of which that duty arose; but
 - (b) subsequently, becomes aware of that act or those circumstances, he must notify the Commission before the end of the period of 14 days beginning with the day on which he first became so aware.

42.10 A person who fails to comply with the duty to notify the Commission imposed by subsection (9) of this section is in violation of an administrative offence and is liable to pay a fine not exceeding [US\$100,000] or its LD equivalent.

Section 43. Parent and Subsidiary undertaking

43.1 In this Act, “parent undertaking” and “subsidiary undertaking” have the same meaning as in the Associations Act of Liberia.

- (a) “parent undertaking” includes an individual who would be a parent undertaking for the purposes of those provisions if he were taken to be an undertaking (and “subsidiary undertaking” is to be read accordingly);
- (b) “subsidiary undertaking” includes, with respect to a body incorporated in or formed under the written law of a country or territory other than the Republic of Liberia, an undertaking which is a subsidiary undertaking within the meaning of any rule of law in force in that state or country.

Section 44. Interpretation of Group

44.1 In this Act, “group”, with respect to a regulated person means any person who is

- (a) a parent undertaking of the regulated person;
- (b) a subsidiary undertaking of the regulated person;
- (c) a subsidiary undertaking of a parent undertaking of the regulated person;
- (d) a parent undertaking of a subsidiary undertaking of the regulated person;
- (e) an undertaking in which the regulated person or an undertaking mentioned in paragraph (a), (b), (c) or (d) has a participating interest.

44.2 “Participating interest” includes an interest held by a person which would be a participating interest for the purposes of those provisions if he/she were taken to be an undertaking.

Section 45. Interpretation of Associates

45.1 In this Act, “Associate”, with respect to a person holding shares in an undertaking or entitled to exercise or control the exercise of voting power with respect to another undertaking means –

- (a) the spouse of the person holding shares in the undertaking;
- (b) a child or stepchild of the person holding shares in the undertaking (if under 18 years of age);

- (c) the trustee of any settlement under which the person holding shares in the undertaking has a life interest in possession;
- (d) an undertaking of which the person holding shares in that undertaking is a director;
- (e) a person who is an employee or partner of the person holding shares in the undertaking;
- (f) where the person holding shares in the undertaking is –
 - (i) a director of that undertaking;
 - (ii) a subsidiary undertaking of that undertaking;
 - (iii) a director or employee of such a subsidiary undertaking; and
- (g) if that person has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in an undertaking or is a person who is entitled to exercise or control the exercise of voting power with respect to another undertaking or an agreement or arrangement under which they agree to act together in exercising their voting power in relation to such respective undertaking.

45.2 “Settlement”, in subsection (1) (c) of this section, includes any disposition or arrangement under which property is held in trust (or subject to a comparable obligation).

45.3 “Shares” –

- (a) with respect to an undertaking with a share capital, means allotted shares;
- (b) with respect to an undertaking with capital but no share capital means rights to share in the capital of the undertaking;
- (c) with respect to an undertaking without capital, means interests –
 - (i) conferring any right to share in the profits, or liability to contribute to the losses of the undertaking; or is
 - (ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.

45.4 “Voting power”, with respect to an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights, means the right under the constitution of the undertaking to direct the overall policy of the undertaking or alter the terms of its constitution.

Section 46. Specific Classes of Investors

46.1 Subject to subsection (2) of this section, unless the context otherwise requires –

- (a) “Accredited investor” means –
 - (i) an individual –
 - (A) whose net personal [liquid] assets exceed in value US\$2 million dollars (or its equivalent in a LD) or such other amount as the Commission may prescribe in place of the first amount; or
 - (B) whose income in the preceding 12 months is not less than [US\$300,000] (or its equivalent in LD) or such other amount as the Commission may prescribe in place of the first amount;
 - (ii) a company with net assets exceeding [US\$10 million] in value (or its equivalent in LD) or such other amount as the Commission may prescribe, in place of the first amount, as determined by –
 - (A) the most recent audited balance-sheet of the company; or
 - (B) where the company is not required to prepare audited accounts regularly, a balance-sheet of the company certified by the company as giving a true and fair view of the state of affairs of the company as of the date of the balance-sheet, which date shall be within the preceding 12 months;
 - (iii) the trustee of such trust as the Commission may prescribe, when acting in that capacity; or
 - (iv) such other person as the Commission may prescribe;
- (b) “Expert investor” means –x
 - (i) a person whose business involves the acquisition and disposal, or the holding, of securities, whether as principal or agent;
 - (ii) the trustee of such trust as the Commission may prescribe, when acting in that capacity; or
 - (iii) such other person as the Commission may prescribe;
- (c) “Institutional investor” means –
 - (i) a bank that is licensed under the Financial Institutions Act 1999 or such successor Act;

- (ii) a finance company that is licensed under the Financial Institutions Act 1999 or such successor Act;
- (iii) a company or society registered under the Insurance Act 2006 or such successor Act ;
- (iv) the Government of the Republic of Liberia;
- (v) a statutory Commission established under any law of the Republic of Liberia;
- (vi) a pension fund or a collective investment scheme;
- (vii) the holder of a license granted under this Act;
- (viii) the trustee of such trust as the Commission may prescribe, when acting in that capacity; or
- (ix) such other person as the Commission may prescribe or consider as an institutional investor based on the knowledge and experience of that person in investments including his ability to hire specialists with corresponding knowledge and experience, volume of his net assets or net assets under his management or other similar criteria.

46.2 The definitions in subsection (1) may be subject to such modifications as the Commission may prescribe for any specified provision of this Act.

PART IV: EXCHANGES, CLEARING AND SETTLEMENT

Section 47. Regulated market

A regulated market is a securities market, including an exchange or trading systems (electronic or otherwise) whose operator is licensed, recognised or designated under this Act and which offers multilateral trading in investments as defined in Part I of the Schedule.

Section 48. General requirements for Market Operator

- 48.1 No person shall establish or operate a securities market, or maintain or assist in establishing operating or maintaining, or hold himself out as providing, operating or maintaining a regulated market, unless the person is a licensed, recognised or designated exchange or a licensed or recognized clearing house;
- 48.2 It is the duty of the market operator to promote and maintain a transparent, fair and orderly market and a secure settlement system.

- 48.3 Except with the written approval of the Commission, no person other than a licensed, recognised or designated market operator shall take or use, or have attached to or exhibited at any place –
- (a) a title or description indicating that a person is a “stock exchange”, “securities exchange”, or “commodities exchange” in any language; or
 - (b) any title or description which resembles a title or description referred to in paragraph (a) of this subsection.
- 48.4 The Commission may, by order published by the Commission recognise an operator of a foreign exchange, clearing house or trading system as a recognised exchange, clearing house or trading system where it is satisfied that the market operator complies with this Part.
- 48.5 Any person who contravenes subsection (1) to (3) of this section is in violation of an offence and is liable to pay a fine not exceeding [US\$10,000,000] or its LD equivalent and in the case of a continuing offence, to a further fine not exceeding [US\$1,000,000], for every day or part thereof during which the offence continues.

Section 49. Application process for a license for an Exchange

- 49.1 Any body corporate may apply to the Commission for a license to operate an exchange for the purposes of this Act.
- 49.2 The application must be made in such manner as the Commission may direct and must be accompanied by –
- (a) a copy of the applicant’s rules which must make provision for its constitution, membership, financial resources, safeguards for investors, monitoring and enforcement, expulsion, investigation of complaints, promotion and maintenance of standards, settlement of disputes, default regulations and appeals;
 - (b) a copy of any guidance issued by the applicant which is intended to have continuing effect and is issued in writing or other durable medium;
 - (c) the required particulars;
 - (d) such other information as the Commission may reasonably require for the purpose of determining the application; and
 - (e) a non-refundable prescribed application fee, which shall be paid in the manner specified by the Commission.
- 49.3 The required particulars are –

- (a) details of any arrangements which the applicant has made, or proposes to make, with a clearing house for the provision of clearing services in respect of transactions effected on that exchange; and
- (b) if the applicant proposes to provide clearing services in respect of transactions other than those effected on the exchange he will provide those services.

49.4 For the avoidance of doubt the Commission shall have the power to approve all rules and alterations made thereto in advance made by an exchange.

49.5 An exchange which is granted a license under this Act is subject to the continuous supervision of the Commission and is required to ensure it complies at all times with the conditions for initial licensing and any other continuing obligations under this Act.

49.6 The Commission shall grant a license to the operator of an exchange only where it is satisfied that both the operator and his systems are fit and proper, comply with the requirements of this Act.

49.7 Power of Commission to Approve a Stock Exchange

- (a) Application for approval as a regulated market may be made to the Commission in the prescribed form.
- (b) No approval shall be granted to any person to operate as a stock exchange other than a body corporate.
- (c) The Commission may in consultation with the Minister of Commerce approve a body corporate as a stock exchange if it is satisfied—
 - (i) that at least 3 members of the body corporate will carry on the business of dealing in securities independently of and in competition with each other;
 - (ii) that the rules of the body corporate will make satisfactory provision—
 - (iii) for the exclusion from membership of persons who are not of good character and high business integrity;
 - (iv) for the expulsion, suspension or disciplining of members for conduct inconsistent with just, and equitable principles in the transaction of business or for a contravention of or failure to comply with the rules of the stock exchange or the provisions of this Law;
 - (v) for the making of a report to the Commission by the body corporate whenever it rejects any application for membership or where it suspends or expels a member;

- (vi) for the terms and conditions of the chief executive officer of the body corporate, including a term that the chief executive officer shall not be liable to dismissal or removal from his office without the prior approval of the Commission;
 - (vii) with respect to the conditions under which securities may be listed for trading in the market proposed to be conducted by the body corporate;
 - (viii) with respect to the conditions governing dealing in securities by members;
 - (ix) with respect to the class of securities that may be dealt in by members;
 - (x) with respect to a fair representation of persons in the selection of its council members and administration of its affairs and provide that one or more council members shall be representative of listed companies, investors, and the professions relevant to securities trading and not be associated with a stock broker, or dealer;
 - (xi) generally, for the carrying on of the business of the stock exchange with due regard to the interest of the public; and
 - (xii) that the interests of the public will be served by the granting of the approval.
- (d) Nothing in this section shall preclude the Commission from appointing any person who is knowledgeable in the securities industry and who is not associated with a stockbroker or dealer, to be on the council of a stock exchange to represent the public interest; and the person so appointed—
- (i) shall have the same rights, powers, duties and obligations, liberties and privileges as any other member of the council of the stock exchange; and
 - (ii) shall hold office for a period specified by the Commission which may at any time revoke such an appointment.
- (e) The Commission shall publish in the Gazette notice of approval for the establishment of a stock exchange and every cancellation or suspension of any approval.
- (f) Where the Commission is of opinion that an approval granted to a stock exchange under subsection (c) of this section should be withdrawn in the public interest, it may serve on the council of that stock exchange a written notice that it is considering the withdrawal of the approval for the reasons stated in the notice and after giving an opportunity to the council to be heard on the matter, it may cancel the approval made under subsection (c).

- (g) A cancellation under subsection (f) of this section shall not take effect until after the expiration of three months from the date on which the cancellation is published in the Gazette.
- (h) With effect from the date on which a notice of cancellation of approval under subsection (i) is published in the Gazette, the council shall ensure that trading on the stock exchange ceases. During the three months between the said publication and the effective date of the cancellation, the council shall take steps to wind up the business of the stock exchange.

49.8 Commission to approve Amendments to Rules

- (a) Where an amendment is made, whether by way of rescission, alteration or addition, to the rules of a stock exchange or the listing rules of a stock exchange, the council of the stock exchange shall forward a written notice of it to the Commission for approval.
- (b) The Commission may give notice in writing to the stock exchange concerned that it approves the amendment or that it disapproves the whole or any specified part of the amendment in question and until such notice is given the amendment shall not have any effect.
- (c) Nothing in this section shall preclude the Commission, after consultation with the council of stock exchange, from amending the rules of an approved stock exchange by written notice specifying the amendments and the dates those amendments shall come into force, but the Commission may dispense with such consultation if it considers it necessary to do so for the protection of investors.
- (d) Any notice under this section may be served personally or by post.

49.9 Stock Exchange to provide Assistance to the Commission

- (a) A stock exchange shall provide such assistance to the Commission as the Commission reasonably requires for the performance of its functions and duties, including the furnishing of returns and providing such information relating to the exchange's business or in respect of its dealing in securities or any other specified information as the commission may require for the proper administration of this Law.
- (b) Where a stock exchange reprimands, fines, suspends, expels or otherwise takes disciplinary action against a member of the stock exchange, it shall within seven days, give to the Commission written particulars of the name of the member, the reason for and nature of the action taken, the amount of the fine, if any, and the period of the suspension if any.

49.10 Disciplinary Power of the Commission

- (a) The Commission may review any disciplinary action taken by a stock exchange under subsection (2) of Section 7 and may affirm or set aside a stock exchange decision after giving the member and the stock exchange an opportunity to be heard.
- (b) Nothing in this section precludes the commission, in a case where a stock exchange fails to act against a member of the stock exchange, from suspending, expelling or otherwise disciplining a member of the exchange but before doing so the Commission shall give the member and the stock exchange an opportunity to be heard.
- (c) Any person who is aggrieved by the decision of a stock exchange or the Commission under this section may, within one month after he is notified of the decision, appeal to the Minister of Commerce.

49.11 Power of Court to Order Observance or Enforcement of Rules of a Stock Exchange

- (a) Where a person who is under an obligation to comply with, observe, enforce or give effect to the rules or regulations of a stock exchange fails in performing the duty, the court, on the application of the Commission, a stock exchange or a person aggrieved by the failure, and after giving to the person against whom the order is sought an opportunity of being heard, may make an order giving directions to that person to perform the duty.
- (b) For the purpose of subsection (a)—
 - (i) a body corporate that has been admitted to any official list of a stock exchange and has not been removed from that official list; or
 - (ii) a person associated with a body corporate that has been admitted to any official list of a stock exchange and has not been removed from that official list, is under an obligation to comply with, observe and give effect to the rules of that stock exchange to the extent to which those rules apply in relation to it or him.

49.12 Power to Issue Directions to a Stock Exchange

- (a) The Commission may, where it appears to be in the public interest, issue directions to a stock exchange—
 - (i) with respect to trading on or through the facilities of that stock exchange or with respect to any security listed on that stock exchange; or

- (ii) with respect to the manner in which a stock exchange carries on its business, including the manner of reporting off-market purchases; or with respect to any other matters which the Commission considers necessary for the effective administration of this law, and the stock exchange shall comply with any such direction.
- (b) A stock exchange which, without reasonable excuse, fails or refuses to comply with a direction given under subsection (1) of this section, commits an administrative offence and is liable to pay a fine of [US\$10,000] or its LD equivalent and to a further fine of [US\$1,000] for each day the non-compliance continues.
- (c) Where the Commission is satisfied that an executive officer of a stock exchange—
 - (i) has wilfully contravened this Law or any regulations made under it or the rules of a stock exchange; or
 - (ii) has without reasonable justification or excuse, failed to enforce compliance with such provision by a member of the stock exchange or a person associated with that member;

the Commission may, if it thinks it necessary in the public interest or for the protection of the investors, and after giving the executive officer, an opportunity of being heard, direct by notice in writing the stock exchange remove from office or employment the executive officer, and the stock exchange shall comply with the direction; or the Commission may instead censure the executive officer.

49.13 Power of Commission to Prohibit Trading in Particular Securities.

- (a) Without prejudice to the generality of Section 30 of this Act, where the Commission is of the opinion that it is necessary to prohibit trading in particular securities of, or made available by, a body corporate on the stock market of a stock exchange in order to protect the interest of the public, the Commission may give notice in writing to the stock exchange stating that it has formed that opinion and setting out its reasons.
- (b) If, after the receipt of the notice, the stock exchange does not take action to prevent trading in the securities to which the notice relates on the stock market of the stock exchange and the Commission is still of the opinion that it is necessary to prohibit trading in those securities on that stock market, the Commission may, by notice in writing to the stock exchange, prohibit trading in those securities on that stock market during such period, not exceeding 14 days, as may be specified in the notice.

- (c) Where the Commission gives a notice to a stock exchange under paragraph (b) of this subsection, the Commission shall—
 - (i) at the same time send a copy of the notice to the body corporate together with a statement setting out the reasons for the giving of the notice; and
 - (ii) as soon as practicable furnish to the Secretary a written report setting out the reasons for the giving of the notice and send a copy of the report to the stock exchange.
- (d) A stock exchange which permits trading in securities on the stock market of the stock exchange in contravention of a notice under paragraph (b) of this subsection commits an offence and is liable to pay a fine of not more than [US\$1,000] or its Liberian Dollars equivalent; for each day the contravention continues.

Section 50. Application process for a License for a Clearing house

- 50.1 Anybody corporate may apply to the Commission for a license to operate a clearing house for the purposes of this Act.
- 50.2 The application must be made in such manner as the Commission may direct and must be accompanied by –
- (a) a copy of the applicant’s rules which must make provision for its constitution, membership, financial resources, safeguards for investors, monitoring and enforcement, expulsion, investigation of complaints, promotion and maintenance of standards, settlement of disputes, default regulations and appeals;
 - (b) a copy of any guidelines issued by the applicant which is intended to have continuing effect and is issued in writing or other durable medium;
 - (c) the required particulars;
 - (d) such other information as the Commission may reasonably require for the purpose of determining the application; and
 - (e) a non-refundable prescribed application fee, which shall be paid in the manner specified by the Commission.
- 50.3 The required particulars are –
- (a) if the applicant makes, or proposes to make, clearing arrangements with an operator of a licensed or recognised exchange, particulars of those arrangements; and

- (b) if the applicant proposes to provide clearing services for persons other than an operator of a licensed or recognised exchange, particulars of the criteria which he will apply when determining to whom he will provide those services.
- 50.4 For the avoidance of doubt the Commission shall have the power to approve all rules and alterations made thereto in advance made by an exchange.
- 50.5 The operator of a clearing house who is granted a license under this Act is subject to the continuous supervision of the Commission and is required to ensure that he complies at all times with the conditions for initial licensing and any other continuing obligations under this Act.
- 50.6 The Commission shall grant a license to the operator of a clearing house only where it is satisfied that both the operator and his systems are fit and proper and comply with the requirements of this Act.

Section 51. Supplemental information requirements

- 51.1 At any time after receiving an application and before determining it, the Commission may require the applicant to provide such supplementary further information as it reasonably considers necessary to enable it to determine the application.
- 51.2 The information which the Commission requires in connection with an application must be provided in such form, or verified in such manner, as the Commission may direct.
- 51.3 Different directions may be given, or requirements imposed, by the Commission with respect to different applications.

Section 52. General requirements for operator of licensed exchanges and clearing houses

- 52.1 The Commission shall require any person who effectively directs the business and the operations of the licensed exchange or the licensed clearing houses to be fit and proper and be of sufficiently good repute and sufficiently experienced as to ensure the sound and prudent management and operation of the services they provide.
- 52.2 The Commission shall require an operator of a licensed exchange or a licensed clearing house to inform the Commission of the identity and any other subsequent changes of the person who effectively direct the business and their operations before such changes are implemented.
- 52.3 The Commission shall refuse to approve proposed changes where it appears to the Commission that there are grounds for believing that the person or persons proposed to direct the business and their operations and not fit and proper or pose a material threat to the sound and prudent management and operation of the licensed exchange or the licensed clearing house.

- 52.4 The operator of a licensed exchange or a licensed clearing house is required to have the following organisational arrangements in place –
- (a) to identify clearly and manage the potential adverse consequences of any conflict of interest;
 - (b) to be adequately equipped to manage the risks to which he is exposed, to implement appropriate arrangements and systems to identify all significant risks to his operation, and to put in place effective measures to mitigate those risks;
 - (c) for the sound management of the technical operations of its systems, including the establishment of effective contingency arrangements to cope with risks of systems disruptions;
 - (d) transparent and non-discretionary rules and procedures that provide for fair and orderly provision of the services to his members;
 - (e) effective arrangements to facilitate the efficient and timely finalisation of the transactions cleared and settled under his systems;
 - (f) at the time of licensing and on an on-going basis, sufficient financial resources to facilitate his orderly functioning, having regard to the nature and extent of the services provided and the range and degree of the risks to which he is exposed.

Section 53. General requirements as to outsourcing for operators

An operator of a licensed exchange or a licensed clearing house is required to ensure that any outsourcing of important operational functions shall not be undertaken in such a way as to impair materially the quality of its internal control and the ability of the Commission to supervise its compliance with its obligations under this Act and any principles, regulations and codes made thereunder.

Section 54. Grant of License to an exchange or a clearing house

- 54.1 If it appears to the Commission that the applicant is a fit and proper person and satisfies the licensing requirements applicable in its case, the Commission may make orders declaring the applicant to be an operator of –
- (a) a licensed exchange; or
 - (b) a licensed clearing house.

54.2 The license must specify a date on which it is to take effect.

Section 55. Establishment of default fund

- 55.1 The Commission may by regulations require the establishment of a fund known as the default fund to guarantee the prompt and accurate clearance and settlement of transactions executed on an exchange.
- 55.2 The Commission may require that contributions are made to the default fund by the members of the exchange or clearing house.

Section 56. Admission of investments to trading by operator of licensed exchange or licensed clearing house

An operator of licensed exchange or licensed clearing house must –

- (a) have clear and transparent rules regarding the admission of investments to trading which have been approved in advance by the Commission and which ensure that any investments admitted to trading in a regulated market are capable of being traded in a fair, orderly and efficient manner and are freely negotiable;
- (b) establish and maintain effective arrangements to verify that its members comply with their obligations under this Act in respect of initial, on-going or ad hoc disclosure obligations and that there are arrangements in place which facilitate its members or market participants in obtaining access to information which has been made public; and
- (c) establish the necessary arrangements to review regularly the compliance with the admission requirements of the investments which the operator admits to trading.

Section 57. Power of the Commission to make Regulations and Call for Information

- 57.1 The Commission may make regulations as to the manner in which the operator of a licensed exchange or clearing house conducts its operations and require it to give to the Commission: –
- (a) notice of such events relating to the operator as may be specified including but not limited to any changes to its rules or systems; and
 - (b) such information in respect of those events as may be specified.
- 57.2 The regulations may require that the operator of an exchange or clearing house is required to have the following organisational arrangements in place –
- (a) to identify clearly and manage the potential adverse consequences in his day to day operations and for his clients of any conflict of interest between the interest of its owners or its operator and the sound functioning of the business;

- (b) to be adequately equipped to manage the risks to which it is exposed, to implement appropriate arrangements and systems to identify all significant risks to its operation, and to put in place effective measures to mitigate those risks;
 - (c) for the sound management of the technical operations of its systems, including outsourcing and the establishment of effective contingency arrangements to cope with risks of systems disruptions;
 - (d) to publish an annual transparency report; and
 - (e) at the time of authorisation and on an on-going basis, sufficient financial resources to facilitate its orderly operations having regard to the nature and extent of its business and the range and degree of the risks to which it is exposed.
- 57.3 The regulations may also require the operator of a licensed exchange or a licensed clearing house to give the Commission, at such times or in respect of such periods as may be specified, such information relating to it as may be specified.
- 57.4 An obligation imposed by the regulations extends only to a notice or information which the Commission may reasonably require for the exercise of its functions under this Act.
- 57.5 The regulations may require information to be given in a specified form and to be verified in a specified manner.
- 57.6 If the operator of a licensed exchange or clearing house –
- (a) proposes to alter or revoke any of his rules or guidelines; or
 - (b) propose to make new rules or issues new guidelines, he must give advance notice in writing to the Commission.
- 57.7 If the operator of a licensed exchange proposes to make a change –
- (a) in the arrangements he makes for the provision of clearing services in respect of transactions effected on the exchange; or
 - (b) in the criteria which he applies when determining to whom he will provide clearing services,
- he must give advance notice in writing to the Commission.
- 57.8 If the operator of a licensed clearing house proposes to makes a change –
- (a) to the licensed exchange for whom he provides clearing services; or

- (b) in the criteria which he applies when determining to whom (other than to members of a licensed exchange) he will provide clearing services,

he must give advance notice in writing to the Commission.

57.9 “Specified” means specified in the Commission’s regulations.

Section 58. Modification of regulations

58.1 The Commission may, on the application or with the consent of a licensed exchange or a licensed clearing house order that regulations made under section 55 –

- (a) are not to apply to the a licensed exchange or a licensed clearing house; or
- (b) are to apply to the licensed exchange or the licensed clearing house with such modifications as may be specified in the order.

58.2 An application must be made in such manner as the Commission may direct.

58.3 Subsections (4) to (6) apply to an order given under subsection (1).

58.4 The Commission may not give an order unless it is satisfied that –

- (a) compliance by the licensed exchange or the licensed clearing house with the regulations, or with the regulations as unmodified, would be unduly burdensome or would not achieve the purpose for which the regulations were made; and
- (b) the order would not result in undue risk to persons whose interests the regulations are intended to protect.

58.5 An order may be given subject to conditions.

58.6 The Commission may –

- (a) revoke or vary an order; or
- (b) vary it on the application, or with the consent, of the licensed exchange or the licensed clearing house to which it relates.

Section 59. Power of the Commission to ensure Compliance

59.1 The Commission may by notice in writing direct an operator of a licensed exchange or a licensed clearing house to do or not do specified things that the Commission considers are necessary or desirable to comply with this Act or ensure the integrity of the regulated market including but not limited to directions –

- (a) requiring compliance with any duty, requirement, prohibition, obligation or responsibility applicable to the operator of a licensed exchange or a licensed clearing house;
 - (b) requiring the operator of a licensed exchange or a licensed clearing house to act in a specified manner in relation to transactions conducted on or through the facilities operated by it, or in relation to a specified class of transactions; or
 - (c) requiring the operator of a licensed exchange or a licensed clearing house to act in a specified manner or to exercise its powers under any regulations that it has made.
- 59.2 The Commission may by notice in writing in accordance with the procedure in Part III of this Act direct the operator of a licensed exchange or a licensed clearing house to –
- (a) close the market or facilities operated by him in a particular manner or for a specified period;
 - (b) suspend transactions on the market or through the facilities operated by him;
 - (c) suspend transactions in any type of investments as set out in the Schedule to this Act conducted on the market or through the facilities operated by it;
 - (d) prohibit trading in any type of investments conducted on the market or through the facilities operated by him for a period of not more than 10 days;
 - (e) defer for a specified period the completion date of transactions conducted on the market or through the facilities operated by it; or
 - (f) do any act or thing, or not do any act or thing, in order to ensure an orderly market, or reduce risk to the Commission’s regulatory objectives under this Act.
- 59.3 Where the Commission exercises this power, it shall make this information public except where it appears to the Commission that such publicity would be likely to cause significant damage to the investors’ interests or the orderly functioning of the market.
- 59.4 The operator of a licensed exchange may suspend or remove from trading an investment which no longer complies with the regulations of the market operator unless such a step would be likely to cause significant damage to the investors’ interests or the orderly functioning of the market.
- 59.5 Where the operator of a licensed exchange suspends or removes from trading an investment, he is required to notify the Commission forthwith and make public this information.

Section 60. Recognition of foreign exchanges or clearing houses

- 60.1 An application for recognition by the operator of a foreign exchange or clearing house must contain the address of a place in the Republic of Liberia for the service on the applicant of notices or other documents required or authorised to be served on him under this Act.
- 60.2 If it appears to the Commission that the operator of an foreign exchange or clearing house satisfies the requirements of subsection (3), it may make a recognition order declaring the applicant to be the operator of –
- (a) a recognised exchange; or
 - (b) a recognised clearing house.
- 60.3 The requirements are that –
- (a) investors are afforded protection comparable to that which they would be afforded if the operator concerned were required to comply with licensing requirements for exchanges or clearing houses under this Part;
 - (b) there are adequate procedures for dealing with a member of the operator who is unable or likely to become unable, to meet his obligations in respect of one or more market contracts connected with the exchange or clearing house;
 - (c) the applicant is able and willing to co-operate with the Commission by the sharing of information and in other ways; and
 - (d) adequate arrangements exist for co-operation between the Commission and those responsible for the supervision of the applicant in the country or territory in which the applicant's head office is situated.
- 60.4 In considering whether it is satisfied as to the requirements mentioned in subsections (3) (a) and (b), the Commission is to have regard to –
- (a) the relevant law and practice of the country or territory in which the applicant's head office is situated; and
 - (b) the regulations and practices of the applicant.
- 60.5 The Commission shall grant recognition as an operator of a foreign exchange or clearing house only where it is satisfied that both the operator and his systems comply with requirements of this Act.

Section 61. Reporting requirements for operator of recognised foreign exchanges or recognised foreign clearing houses

- 61.1 At least once a year, every recognised foreign exchange and recognised foreign clearing house shall provide the Commission with a report.
- 61.2 The report shall contain a statement as to whether any events have occurred which are likely –
- (a) to affect the Commission’s assessment of whether it is satisfied as to the requirements for recognition; or
 - (b) to have any effect on competition.
- 61.3 The report shall also contain such information as may be specified in regulations made by the Commission.

Section 62. Designation of operator of foreign exchanges or foreign clearing houses

- 62.1 The Commission may by order designate such operators of foreign exchanges or foreign clearing houses as appear to it to offer similar protection to that set out by section 60(3).
- 62.2 The Commission may at its discretion withdraw designation where it is satisfied that the operator of a foreign exchange or a foreign clearing house no longer complies with the requirements in section 60(3) or have breached the requirements in section 63.

Section 63. Power to give directions in case of non-compliance

- 63.1 This section applies if it appears to the Commission that the operator of a licensed or recognised exchange or a licensed or recognised clearing house –
- (a) has failed, or is likely to fail, to satisfy the licensing or recognition requirements; or
 - (b) has failed to comply with any other obligation imposed on him by or under this Act.
- 63.2 The Commission may direct the operator of the licensed or recognised exchange or the licensed or recognised clearing house to take specified steps for the purpose of securing the his compliance with –
- (a) the licensing or recognition requirements; or
 - (b) any obligation of the kind in question.
- 63.3 A direction under this section is enforceable, on the application of the Commission, by an injunction.

63.4 The fact that a rule made by an operator of the licensed or recognised exchange or the licensed or recognised clearing house has been altered in response to a direction given by the Commission does not prevent it from being subsequently altered or revoked by the operator in question.

Section 64. Revoking a License or recognition

64.1 The license or recognition order granted to the operator of a licensed or recognised exchange or a licensed or recognised clearing house may be revoked by an order made by the Commission at the request, or with the consent, of the operator of the licensed or recognised exchange or the licensed or recognised clearing house concerned.

64.2 If it appears to the Commission that an operator of the licensed or recognised exchange or the licensed or recognised clearing house –

- (a) does not make use of the license or recognition within 12 months, expressly renounces the license or recognition or has not provided the services in the market for the preceding 6 months;
- (b) has obtained the license or recognition by making false statements or by any other irregular means;
- (c) is failing, or has failed, to satisfy the license or recognition requirements;
- (d) is failing, or has failed, to comply with any other obligation imposed on it by or under this Act; or
- (e) is not a fit and proper person to be licensed or recognised as providing the services in question,

it may make an order revoking the license or recognition order for that market operator even though the market operator in question does not wish the order to be made.

64.3 An order under this section (“a revocation order”) must specify the date on which it is to take effect.

64.4 In the case of a revocation order made under subsection (2), the specified date must not be earlier than the end of the period of three months beginning with the date on which the order is made.

64.5 A revocation order may contain such transitional provisions as the Commission thinks necessary or expedient.

Section 65. Directions and revocation Procedure¹

65.1 Before giving a direction or making a revocation order, the Commission must

- (a) give a notice in writing of its intention to do so to the operator of the licensed or recognised exchange or the licensed or recognised clearing house concerned;
- (b) take such steps as it considers reasonably practicable to bring the notice to the attention of the members (if any) of that operator of the licensed or recognised exchange or the licensed or recognised clearing house; and
- (c) publish the notice in such manner as it thinks fit for bringing it to the attention of other persons who are, in its opinion, likely to be affected.

65.2 A notice under subsection (1) must –

- (a) state why the Commission intends to give the direction or make the order; and
- (b) draw attention to the right to make representations conferred by subsection (3).

65.3 Before the end of the period for making representations –

- (a) the operator of a licensed or recognised exchange or a licensed or recognised clearing house;
- (b) any member of the licensed or recognised exchange or the licensed or recognised clearing house; and
- (c) any other person who is likely to be affected by the proposed direction or revocation order,

may make representations to the Commission.

65.4 The period for making representations is –

- (a) two months beginning –
 - (i) with the date on which the notice is served on the operator of the licensed or recognised exchange or the licensed or recognised clearing house; or
 - (ii) if later, with the date on which the notice is published; or

¹Note this power does not carry the right to have the matter determined before a Panel as it is generally considered that withdrawal of the license of an exchange or clearing house is a step of such severity that if the Commission is to be challenged in such decision then the ultimate appeal should be to the Supreme Court.

(b) such longer period as the Commission may allow in the particular case.

65.5 In deciding whether to –

(a) give a direction; or

(b) make a revocation order,

the Commission must have regard to any representations made in accordance with subsection (3).

65.6 When the Commission has decided to give a direction or to make the proposed revocation order it must –

(a) give the operator of the licensed or recognised exchange or the licensed or recognised clearing house a notice in writing of its decision; and

(b) if it has decided to give a direction or make an order, take such steps as it considers reasonably practicable for bringing its decision to the attention of members of the operator of the licensed or recognised exchange or the licensed or recognised clearing house or of other persons who are, in the Commission's opinion, likely to be affected.

65.7 If the Commission considers it necessary to do so, it may give a direction –

(a) without following the procedure set out in this section; or

(b) if the Commission has begun to follow that procedure, regardless of whether the period for making representations has expired.

65.8 If the Commission has, in relation to a particular matter, followed the procedure set out in subsections (1) to (5), it need not follow it again if, in relation to that matter, it decides to take action other than that specified in its notice under subsection (1).

Section 66. General requirements for licensing of Central Securities Depository (CSD)

66.1 Anybody corporate may apply for a license in respect of the provision of CSD services for the purposes of this Act

66.2 The application must be made in such manner and format as the Commission may direct and the operator of the CSD shall provide all such information as may be required by the Commission as to his proposed operations including the types of businesses envisaged and the organisational structure necessary to enable the Commission to satisfy itself that the operator of the CSD has established, at the time of licensing and on a continuing basis all the necessary arrangements to meet his obligations under the provisions of this Act.

- 66.3 The activities to be undertaken by a central securities depository are –
- (a) custodial services;
 - (b) maintenance of registry books for issuers; and
 - (c) such other related functions as the Commission may determine.
- 66.4 An operator of a CSD who is granted a license under this Act is subject to the continuous supervision of the Commission and is under a duty to ensure that he complies at all times with the conditions under this Act.
- 66.5 The Commission may prescribe by regulation persons who may be members, participants in or users of or shareholders of the CSD.
- 66.6 A CSD is prohibited from distributing dividends in respect of the shares of the CSD.
- 66.7 The Commission shall grant a license to the operator of a CSD only where it is satisfied that both the operator is fit and proper his systems comply with the requirements of this Act.

Section 67. Power of the Commission to make Regulations and Call for Information

- 67.1 The Commission may make regulations as to the manner in which the operator of a CSD conducts its operations and to give it –
- (a) notice of such events relating to the operator as may be specified including but not limited to any changes to its rules; and
 - (b) such information in respect of those events as may be specified.
- 67.2 The regulations may require that the operator of a CSD is required to have the following organisational arrangements in place –
- (a) to identify clearly and manage the potential adverse consequences in its day to day operations and for his clients of any conflict of interest between the interest of its owners or its operator and the sound functioning of the business;
 - (b) to be adequately equipped to manage the risks to which it is exposed, to implement appropriate arrangements and systems to identify all significant risks to its operation, and to put in place effective measures to mitigate those risks;
 - (c) for the sound management of the technical operations of its systems, including outsourcing and the establishment of effective contingency arrangements to cope with risks of systems disruptions;

- (d) to publish an annual transparency report; and
 - (e) at the time of authorisation and on an on-going basis, sufficient financial resources to facilitate its orderly operations having regard to the nature and extent of its business and the range and degree of the risks to which it is exposed.
- 67.3 The regulations may also require the operator of a CSD to give the Commission, at such times or in respect of such periods as may be specified, such information relating to it as may be specified.
- 67.4 An obligation imposed by the regulations extends only to a notice or information which the Commission may reasonably require for the exercise of its functions under this Act.
- 67.5 The regulations may require information to be given in a specified form and to be verified in a specified manner.
- 67.6 If the operator of a CSD –
- (a) proposes to alter or revokes any of his rules or guidelines; or
 - (b) proposes to make new rules or issues new guidelines, he must give advance notice in writing to the Commission.

Section 68. Modification of regulations

- 68.1 The Commission may, on the application or with the consent of a licensed CSD order that regulations made under section 66 –
- (a) are not to apply to the CSD; or
 - (b) are to apply to the CSD with such modifications as may be specified in the order.
- 68.2 An application must be made in such manner as the Commission may direct.
- 68.3 Subsections (4) to (6) apply to an order given under subsection (1).
- 68.4 The Commission may not make an order unless it is satisfied that –
- (a) compliance by the CSD with the regulations, or with the regulations as unmodified, would be unduly burdensome or would not achieve the purpose for which the regulations were made; and
 - (b) the order would not result in undue risk to persons whose interests the regulations are intended to protect.

68.5 An order may be given subject to conditions.

68.6 The Commission may –

- (a) revoke or amend an order; or
- (b) vary it on the application, or with the consent, of the CSD.

Section 69. Power of the Commission to ensure Compliance

69.1 The Commission may by notice in writing direct an operator of a licensed CSD to do or not do specified things that the Commission considers are necessary or desirable to comply with this Act or ensure the integrity of the regulated market including but not limited to directions –

- (a) requiring compliance with any duty, requirement, prohibition, obligation or responsibility applicable to the operator of a licensed CSD;
- (b) requiring the operator of a licensed CSD to act in a specified manner in relation to transactions conducted on or through the facilities operated by it, or in relation to a specified class of transactions; or
- (c) requiring the operator of a licensed CSD to act in a specified manner or to exercise its powers under any regulations that it has made.

69.2 The Commission may by notice in writing in accordance with the procedure in Part III of this Act direct the operator of a licensed CSD –

- (a) close the facilities operated by him in a particular manner or for a specified period;
- (b) Suspend transactions through the facilities operated by him; or
- (c) do any act or thing, or not do any act or thing, in order to ensure an orderly market, or reduce risk to the Commission’s regulatory objectives under this Act.

69.3 Where the Commission exercises this power, it shall make this information public except where it appears to the Commission that such publicity would be likely to cause significant damage to the investors’ interests or the orderly functioning of the market.

Section 70. Recognition of a foreign CSD

70.1 An application for recognition by the operator of a foreign CSD must contain the address of a place in the Republic of Liberia for the service on the applicant of notices or other documents required or authorised to be served on him under this Act.

70.2 If it appears to the Commission that the operator of a foreign CSD satisfies the requirements of subsection (3), it may make a recognition order declaring the applicant to be the operator of a recognised CSD.

70.3 The requirements are that –

- (a) investors are afforded protection comparable to that which they would be afforded if the operator concerned were required to comply with licensing requirements for CSD's under this Part;
- (b) there are adequate procedures for dealing with a member of the operator who is unable or likely to become unable, to meet his obligations in respect of one or more market contracts connected with the CSD;
- (c) the applicant is able and willing to co-operate with the Commission by the sharing of information and in other ways; and
- (d) adequate arrangements exist for co-operation between the Commission and those responsible for the supervision of the applicant in the country or territory in which the applicant's head office is situated.

70.4 In considering whether it is satisfied as to the requirements mentioned in subsections (3) (a) and (b), the Commission is to have regard to –

- (a) the relevant law and practice of the country or territory in which the applicant's head office is situated; and
- (b) the regulations and practices of the applicant.

70.5 The Commission shall grant recognition as an operator of a foreign CSD only where it is satisfied that both the operator and his systems comply with requirements of this Act.

Section 71. Reporting requirements for operator of a recognised foreign CSD

71.1 At least once a year, every recognised foreign CSD shall provide the Commission with a report.

71.2 The report shall contain a statement as to whether any events have occurred which are likely –

- (a) to affect the Commission's assessment of whether it is satisfied as to the requirements for recognition; or
- (b) to have any effect on competition.

71.3 The report shall also contain such information as may be specified in regulations made by the Commission.

Section 72. Designation of operator of a foreign CSD

- 72.1 The Commission may by order designate such operators of foreign CSD's as appear to it to offer similar protection to that set out by section 83(3).
- 72.2 The Commission may at its discretion withdraw designation where it is satisfied that the operator of a foreign CSD no longer complies with the requirements in section 83(3) or has breached the requirements in section 87.

Section 73. Trust status of property of central securities depository members

Any securities or other property held by a CSD for one of its members including securities that are in dematerialised form, shall be the property of the member and shall not be part of the assets of the CSD deemed to be member's assets and as such are held on trust for the ultimate beneficiary.

Section 74. Central securities depository requirements for dematerialised securities

- 74.1 The Commission may require that a CSD hold securities only in dematerialised form may permit a CSD to both hold certificated securities and securities in dematerialised form and the CSD is required to have systems and procedures to ensure that the number of dematerialised securities recorded as held in the CSD is equal to the number of securities actually deposited in the CSD.
- 74.2 Entries in CSD reducing the account of the transferor and increasing the account of a transferee are the only effective method to transfer ownership rights in the securities if the securities are either held by the CSD or are evidenced in dematerialised form through accounts of the CSD.
- 74.3 All securities indicated in the records of a CSD are transferable without regard to specific shares or certificate numbers. Pledges or security interests shall be legally valid when indicated on the records of a CSD.
- 74.4 The owners of securities indicated on the records of a CSD or its members are entitled to all rights of ownership with respect to such securities without limitation.

Section 75. Nominee accounts regulations

- 75.1 The Commission may by regulations provide that –
- (a) transfers of securities, including dematerialised securities, may be validly made by appropriate entries in the accounts maintained by a holder of a license or in the records of the issuer or his registrar and such entries shall be evidence of the transfer;

- (b) transfers of dematerialised shares shall only be evidence so far as the issuer is concerned, when a transfer is recorded in the books of the issuer of the names of the parties to the transfer and the number of shares transferred;
- (c) the official records and book entries of a CSD shall constitute the best evidence of such transactions between the central securities depository and its participants and members, without prejudice to the right of members' clients to prove their rights, title and entitlement with respect to the book-entry security holdings of the members held on behalf of the clients;
- (d) the issuer may be bound by paragraph (c) where the company secretary, is duly notified of the transaction in such manner as the Commission may provide.

75.2 The Commission may by regulation further provide that securities held by a nominee as nominee owned securities may not be used in insolvency or otherwise in satisfaction of the debts of the nominee.

75.3 The Commission may provide regulations for the protection of investors which –

- (a) validate the transfer of securities by book-entries rather than the delivery of physical certificates;
- (b) establish when a person acquires a security or an interest therein and when delivery of a security to a purchaser occurs;
- (c) establish which records constitute the best evidence of a person's interests in a security and the effect of any errors in electronic records of ownership;
- (d) establish the rights of investors who choose to hold their securities indirectly through a central securities depository, other intermediaries or both;
- (e) establish the duties of such intermediaries who hold securities on behalf of investors; and
- (f) establish first priority to any claims of the CSD against a participant arising from a failure by the member to meet his obligations under the rules of the CSD.

Section 76. Power to give directions in case of non-compliance

76.1 This section applies if it appears to the Commission that the operator of a licensed CSD –

- (a) has failed, or is likely to fail, to satisfy the licensing requirements; or
- (b) has failed to comply with any other obligation imposed on him by or under this Act.

- 76.2 The Commission may direct the operator of the licensed CSD to take specified steps for the purpose of securing the his compliance with –
- (a) the licensing or recognition requirements; or
 - (b) any obligation of the kind in question.
- 76.3 A direction under this section is enforceable, on the application of the Commission, by an injunction.
- 76.4 The fact that a rule made by an operator of the licensed CSD has been altered in response to a direction given by the Commission does not prevent it from being subsequently altered or revoked by the operator in question.

Section 77. Power to Revoke a License

- 77.1 The license granted to the operator of a CSD may be revoked by an order made by the Commission at the request, or with the consent, of the operator of the licensed or CSD.
- 77.2 If it appears to the Commission that an operator of the licensed CSD –
- (a) Does not make use of the license within 12 months, expressly renounces the license or has not provided the services in the market for the preceding 6 months;
 - (b) has obtained the license by making false statements or by any other irregular means;
 - (c) is failing, or has failed, to satisfy the license requirements;
 - (d) is failing, or has failed, to comply with any other obligation imposed on it by or under this Act; or
 - (e) is not a fit and proper person to be licensed as providing the services in question,
- it may make an order revoking the license even though the CSD does not wish the order to be made.
- 77.3 An order under this section (“a revocation order”) must specify the date on which it is to take effect.
- 77.4 In the case of a revocation order made under subsection (2), the specified date must not be earlier than the end of the period of three months beginning with the date on which the order is made.

77.5 A revocation order may contain such transitional provisions as the Commission thinks necessary or expedient.

Section 78. Directions and revocation Procedure

78.1 Before giving a direction or making a revocation order, the Commission must –

- (a) give a notice in writing of its intention to do so to the operator of the CSD;
- (b) take such steps as it considers reasonably practicable to bring the notice to the attention of the members (if any) of that operator of the licensed CSD; and
- (c) publish the notice in such manner as it thinks fit for bringing it to the attention of other persons who are, in its opinion, likely to be affected.

78.2 A notice under subsection (1) must –

- (a) state why the Commission intends to give the direction or make the order; and
- (b) draw attention to the right to make representations conferred by subsection (3).

78.3 Before the end of the period for making representations –

- (a) the operator of a licensed CSD;
- (b) any member of the licensed CSD; and
- (c) any other person who is likely to be affected by the proposed direction or revocation order,

may make representations to the Commission.

78.4 The period for making representations is –

- (a) two months beginning –
 - (i) with the date on which the notice is served on the operator of the licensed or recognised exchange or the licensed or recognised clearing house; or
 - (ii) if later, with the date on which the notice is published; or
- (b) such longer period as the Commission may allow in the particular case.

78.5 In deciding whether to –

- (a) give a direction; or
- (b) make a revocation order,

the Commission must have regard to any representations made in accordance with subsection (3).

78.6 When the Commission has decided to give a direction or to make the proposed revocation order it must –

- (a) give the operator of the licensed CSD notice in writing of its decision; and
- (b) if it has decided to give a direction or make an order, take such steps as it considers reasonably practicable for bringing its decision to the attention of members of the operator of the licensed CSD or of other persons who are, in the Commission's opinion, likely to be affected.

78.7 If the Commission considers it necessary to do so, it may give a direction –

- (a) without following the procedure set out in this section; or
- (b) if the Commission has begun to follow that procedure, regardless of whether the period for making representations has expired.

78.8 If the Commission has, in relation to a particular matter, followed the procedure set out in subsections (1) to (5), it need not follow it again if, in relation to that matter, it decides to take action other than that specified in its notice under subsection (1).

Section 79. General Requirements for operator of credit rating agency

79.1 No person shall establish, operate or maintain, or assist in establishing, operating or maintaining, or hold himself out as providing, operating or maintaining, a credit rating agency that is not –

- (a) licensed by the Commission;
- (b) recognised by the Commission as being a foreign credit rating agency.

79.2 For the purposes of this Act, subsection (1) applies to credit ratings issued by credit rating agencies which are disclosed to the public and distributed to the public by subscription.

79.3 For the purposes of this Act, subsection (1) does not apply to –

- (a) private credit ratings produced pursuant to an individual order and provided exclusively to the person who placed the order and which are not intended for public disclosure or distribution by subscription;
- (b) credit scores, credit scoring systems or similar assessments related to obligations arising from investor, commercial or industrial relationships;
- (c) credit ratings produced by export credit agencies; or

- (d) credit ratings produced by the banks and which –
 - (i) are not paid for by the rated entity;
 - (ii) are not disclosed to the public;
 - (iii) are issued in accordance with the principles, standards and procedures which ensure the adequate integrity and independence of credit rating activities as provided for by this Act; and
 - (iv) do not relate to financial instruments issued by the Government the Republic of Liberia or other central banks in foreign countries and territories.

79.4 For the purposes of this Act, the following shall not be considered to be credit ratings

- (a) recommendations which comprise research or other information recommending or suggesting an investment strategy, whether explicitly or implicitly, concerning one or several investment instruments or the issuers of investment instruments, including any opinion as to the present or future value or price of such instruments, intended for distribution channels or for the public;
- (b) investment research as regards organisational requirements and operating conditions for investment firms;
- (c) other forms of general recommendation, such as ‘buy’, ‘sell’ or ‘hold’, relating to transactions in investment instruments or to financial obligations; or
- (d) opinions about the value of an investment instrument or a financial obligation.

Section 80. General requirements for licensing of credit rating agency

80.1 The Commission shall grant a license as a credit rating agency only where it is satisfied that the operator of the credit rating agency is fit and proper and his systems comply with the requirements of this Act.

80.2 The operator of the credit rating agency shall provide all such information as may be required by the Commission as to his proposed operations including the types of businesses envisaged and the organisational structure necessary to enable the Commission to satisfy itself that the operator of the credit rating agency has established, at the time of recognition, all the necessary arrangements to meet his obligations under the provisions of this Act.

80.3 Every application for a license as an operator of a credit rating agency made under this Act shall be accompanied by –

- (a) particulars of any arrangements which the operator has made or proposes to make for the provision of his services; and
- (b) details of his organisational arrangements.

80.4 An operator of a credit rating agency who is granted a license under this Act is subject to the continuous supervision of the Commission and is required to ensure that he complies at all times with the conditions under this Act.

80.5 The Commission shall grant a license to the operator of a credit rating agency only where it is satisfied that both the operator and his systems comply with the requirements of this Act.

Section 81. Supplemental information requirements

81.1 At any time after receiving an application and before determining it, the Commission may require the applicant to provide such supplementary further information as it reasonably considers necessary to enable it to determine the application.

81.2 The information which the Commission requires in connection with an application must be provided in such form, or verified in such manner, as the Commission may direct.

81.3 Different directions may be given, or requirements imposed, by the Commission with respect to different applications.

Section 82. Grant of License to credit rating agency

82.1 If it appears to the Commission that the applicant satisfies the licensing requirements applicable in his case, the Commission may make orders declaring the applicant to be an operator of a credit rating agency.

82.2 The license must specify a date on which it is to take effect.

Section 83. Organisational requirements for operator of credit rating agency

83.1 The Commission shall require the person who effectively direct the business and the operations of the credit rating agency to be fit and proper and of sufficiently good repute and sufficiently experienced as to ensure the sound and prudent management and operation of the agency.

83.2 The Commission shall require the operator of a credit rating agency to inform the Commission of the identity and any other subsequent changes of the persons who effectively direct the business and the operations of the credit rating agency before such changes are implemented.

83.3 The Commission shall refuse to approve proposed changes where it appears to the Commission that there are grounds for believing that the person or persons proposed

to direct the business operations of the operator of the credit rating agency pose a material threat to the sound and prudent management and operation of the credit rating agency.

Section 84. Power of the commission to make Regulations for operator of credit rating agency

The Commission may make regulations which require that the operator of a credit rating agency is required to have the following organisational arrangements in place –

- (a) to identify clearly and manage the potential adverse consequences in his day to day operations and for his clients of any conflict of interest between the interest of his owners or his operator and the sound functioning of the business;
- (b) to be adequately equipped to manage the risks to which he is exposed, to implement appropriate arrangements and systems to identify all significant risks to his operation, and to put in place effective measures to mitigate those risks;
- (c) for the sound management of the technical operations of his systems, including outsourcing and the establishment of effective contingency arrangements to cope with risks of systems disruptions;
- (d) for ensuring the verification of the sufficiency and quality of the information upon which the agency bases their ratings;
- (e) for ensuring the disclosure of the models, methodologies and key assumptions on which the credit rating agency bases their ratings;
- (f) to publish an annual transparency report;
- (g) for establishing an internal function to review the quality of their ratings; and
- (h) at the time of authorisation and on an on-going basis, sufficient financial resources to facilitate his orderly operations having regard to the nature and extent of his business and the range and degree of the risks to which he is exposed.

Section 85. Recognition of operator of foreign credit rating agency

85.1 An application for recognition by the operator of a foreign credit rating agency must contain the address of a place in the Republic of Liberia for the service on the applicant of notices or other documents required or authorised to be served on him under this Act.

- 85.2 If it appears to the Commission that the operator of a foreign credit rating agency satisfies the requirements of subsection (3), it may make a recognition order declaring the applicant to be the operator of recognised foreign credit rating agency.
- 85.3 The requirements are that –
- (a) investors are afforded protection adequate to that which they would be afforded if the operator concerned were required to comply with licensing requirements for credit rating agency under this Part;
 - (b) the applicant is able and willing to co-operate with the Commission by the sharing of information and in other ways; and
 - (c) adequate arrangements exist for co-operation between the Commission and those responsible for the supervision of the applicant in the country or territory in which the applicant’s head office is situated.
- 85.4 In considering whether it is satisfied as to the requirements mentioned in subsection (3) (a) and (b), the Commission is to have regard to –
- (a) the relevant law and practice of the country or territory in which the applicant’s head office is situated; and
 - (b) the regulations and practices of the applicant.
- 85.5 The Commission shall grant recognition as an operator of a foreign credit rating agency only where it is satisfied that both the operator and his systems comply with requirements of this Act and where it is in the interests of the Republic of Liberia to grant such recognition.

Section 86. Reporting requirements for recognised credit rating agency

- 86.1 At least once a year, every recognised foreign credit rating agency shall provide the Commission with a report.
- 86.2 The report shall contain a statement as to whether any events have occurred which are likely –
- (a) to affect the Commission’s assessment of whether it is satisfied as to the requirements for recognition or
 - (b) to have any effect on competition.
- 86.3 The report shall also contain such information as may be specified in Regulations made by the Commission.

Section 87. Designation of operator of foreign credit rating agency

- 87.1 The Commission may by order designate such operator of a foreign credit rating agency as appears to it to offer similar protection to that set out by section **Error! Reference source not found.**(3).
- 87.2 The Commission may at its discretion withdraw designation where it is satisfied that the operator of a foreign credit rating agency no longer complies with the requirements in section **Error! Reference source not found.** or have breached the requirements in section **Error! Reference source not found.**.

Section 88. Power to give directions in case of non-compliance

- 88.1 This section applies if it appears to the Commission that the operator of a licensed or recognised credit rating agency –
- (a) has failed, or is likely to fail, to satisfy the licensing or recognition requirements; or
 - (b) has failed to comply with any other obligation imposed on him by or under this Act.
- 88.2 The Commission may direct the operator of the licensed or recognised credit rating agency to take specified steps for the purpose of securing its compliance with –
- (a) the licensing or recognition requirements; or
 - (b) any obligation of the kind in question.
- 88.3 A direction under this section is enforceable, on the application of the Commission, by an injunction.
- 88.4 The fact that a regulation made by an operator of the licensed or recognised credit rating agency has been altered in response to a direction given by the Commission does not prevent it from being subsequently altered or revoked by the operator in question.

Section 89. Revoking a License or recognition of credit rating agency

- 89.1 The license or recognition order granted to the operator of a licensed or recognised credit rating agency may be revoked by an order made by the Commission at the request, or with the consent, of the operator of the licensed or recognised credit rating agency concerned.
- 89.2 If it appears to the Commission that the operator of the licensed or recognised credit rating agency –
- (a) does not make use of the license or recognition within 12 months, expressly renounces the license or recognition or has not provided the services in the market for the preceding 6 months;

- (b) has obtained the license or recognition by making false statements or by any other irregular means;
- (c) is failing, or has failed, to satisfy the license or recognition requirements;
- (d) is failing, or has failed, to comply with any other obligation imposed on it by or under this Act; or
- (e) that he is not a fit and proper person to be licensed or recognised as providing the services in question,

it may make an order revoking the license or recognition order for that operator even though the operator in question does not wish for the order to be made.

89.3 An order under subsection (2) must specify the date on which it is to take effect.

89.4 In the case of a revocation order made under subsection (2), the specified date must not be earlier than the end of the period of three months beginning with the date on which the order is made.

89.5 A revocation order may contain such transitional provisions as the Commission thinks necessary or expedient.

Section 90. Directions and revocation Procedure

90.1 Before giving a direction or making a revocation order, the Commission must –

- (a) give a notice in writing of its intention to do so to the operator of the licensed or recognised credit rating agency concerned;
- (b) publish the notice in such manner as it thinks fit for bringing it to the attention of other persons who are, in its opinion, likely to be affected.

90.2 A notice under subsection (1) must –

- (a) state why the Commission intends to give the direction or make the revocation order; and
- (b) draw attention to the right to make representations conferred by subsection (3).

90.3 Before the end of the period for making representations –

- (a) the operator of a licensed or recognised credit rating agency;
- (b) any other person who is likely to be affected by the proposed direction or revocation order,

may make representations to the Commission.

- 90.4 The period for making representations is –
- (a) two months beginning –
 - (i) with the date on which the notice is served on the operator of the licensed or recognised credit rating agency; or
 - (ii) if later, with the date on which the notice is published; or
 - (b) such longer period as the Commission may allow in the particular case.
- 90.5 In deciding whether to –
- (a) give a direction; or
 - (b) make a revocation order,
- the Commission must have regard to any representations made in accordance with subsection (3).
- 90.6 When the Commission has decided whether to give a direction or to make the proposed revocation order it must –
- (a) give the operator of the licensed or recognised credit rating agency notice in writing of its decision; and
 - (b) if it has decided to give a direction or make an order, take such steps as it considers reasonably practicable for bringing its decision to the attention of the operator of the licensed or recognised credit rating agency or of other persons who are, in the Commission’s opinion, likely to be affected.
- 90.7 If the Commission considers it essential to do so, it may give a direction -
- (a) without following the procedure set out in this section; or
 - (b) if the Commission has begun to follow that procedure, regardless of whether the period for making representations has expired.
- 90.8 If the Commission has, in relation to a particular matter, followed the procedure set out in subsections (1) to (5), it need not follow it again if, in relation to that matter, it decides to take action other than that specified in its notice under subsection (1).

PART V: PUBLIC OFFERING

Section 91. Interpretation

- 91.1 In this Part –

- (a) “Borrowing entity” means an entity that is or will be under a current or future liability to repay any money received by it in response to an offer to subscribe for or purchase debentures of the entity;
- (b) “debenture” includes debenture securities, bonds, notes and any other debt securities issued by a company or any other entity, whether or not constituting a charge on the assets of the issuer but does not include –
 - (i) a check, letter of credit, order for the payment of money or bill of exchange;
 - (ii) a promissory note having a maturity period of not more than 12 months; or
 - (iii) for the purposes of the application of this definition to a provision of this Act in respect of which any regulations made thereunder provide that the word “debenture” does not include a prescribed document or a document included in a prescribed class of documents, that document or a document included in that class of documents;
- (c) “debenture issuance programme” means any scheme or arrangement by an entity for the issue of debentures or units of debentures where only part of the maximum amount or aggregate number of debentures or units of debentures under the programme is offered initially and a further trench or trenches may be offered subsequently;
- (d) “Guarantor entity”, in relation to a borrowing entity, means an entity that has guaranteed or has agreed to guarantee the repayment of any money received or to be received by the borrowing entity in response to an invitation to subscribe for or purchase debentures of the borrowing entity;
- (e) “Excluded invitation” or “excluded offer” means an invitation or offer which is specified as such in this Act or prescribed by the Commission to be an excluded invitation or excluded offer under this Part;
- (f) “Excluded issue” means an issue which is specified in this Act or which is prescribed by the Commission to be an excluded issue under this Part;
- (g) “Preliminary prospectus” means any document which is designed to assist an issuer in setting a price in respect of a proposed issue of, an offer for subscription or purchase of, or an invitation to subscribe for or purchase, securities or to determine the final contents of a prospectus;
- (h) “Promoter” means –
 - (i) in relation to a prospectus issued by or in connection with a company, a promoter of the company;

- (ii) in relation to a prospectus in respect of a collective investment scheme a promoter of the scheme; or
 - (iii) in relation to a prospectus in any other case, a promoter who is a party to the preparation of the prospectus or any relevant portion thereof, but does not include any person by reason only of his acting in a professional capacity;
- (i) “prospectus” means any publication or document inviting applications or offers to subscribe for or purchase securities, or offering any securities for subscription or purchase and, unless expressly specified, includes a supplementary prospectus, replacement prospectus, shelf prospectus, short form prospectus, supplementary shelf prospectus and abridged prospectus;
 - (j) “Shelf registration scheme” means a scheme applicable for the purpose of any issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, securities by an issuer based on a shelf prospectus and a supplementary shelf prospectus;
 - (k) “Supplementary shelf prospectus” means a document which provides material information necessary to update the information in a shelf prospectus subsequent to the registration of such shelf prospectus;
 - (l) “Underlying entity” in relation to an offer of units of shares or debentures, means the entity the shares or debentures of which are the subjects of the offer.

Section 92. Public offering requirements

- 92.1 No person shall make an offer to subscribe or purchase securities in the Republic of Liberia through a public or secondary offering without the prospectus for that offer being approved by the Commission pursuant to the provisions of this Act.
- 92.2 Only an issuer may make a public offering of its securities.
- 92.3 The Commission will notify the applicant in writing when a prospectus becomes effective.

Section 93. Exempt Securities and Transactions

- 93.1 The requirements of section **Error! Reference source not found.** do not apply to the following group of exempt securities and transactions –
- (a) exempt securities –
 - (i) any security issued and guaranteed by the Government of the Republic of Liberia;

- (ii) any security issued by a bank where that security is in respect of securities in the bank itself;
 - (iii) commercial paper, promissory notes and debentures with not more than 270 days to maturity from the date issued;
 - (iv) a class of securities that the Commission may by regulation determine as exempt which may include units in a collective investment scheme;
- (b) exempt transactions –
- (i) broker's transactions executed upon client's orders on any licensed, recognised or designated exchange;
 - (ii) the sale of securities by an issuer to fewer than 50 persons in the Republic of Liberia during a 12 month period may be considered a private offering in respect of which no public advertisement for the offer to sell such securities is permitted and such securities sold to these investors must be held for investment for a period of at least two years;
 - (iii) the sale of securities to any number of the specific classes of investors defined in section 19 and such other persons as the Commission may by regulation prescribe;
 - (iv) at any sale by order of the court or by an officer of the court in respect of insolvency proceedings;
 - (v) any other transaction that the Commission may by regulation determine as exempt.
 - (vi) any transaction approved by a court in a scheme arrangement

Section 94. General duty of disclosure in prospectus

94.1 In order to make a public offering, the issuer must submit its prospectus, as determine the Commission which must comply with the general duty of disclosure under this Part and any regulations issued by the Commission.

94.2 A prospectus shall contain all such necessary information as investors and their professional advisers would reasonably require, and reasonably expect to find there, for the purpose of making an informed assessment of –

- (a) the assets and liabilities, financial position, profits and losses, and prospects of the issuer of the securities; and
- (b) the rights attaching to the securities,

and “necessary information” means information which a person considering acquiring the securities of the kind in question would be likely to need in order not to be misled about any material facts which it is essential for him to know to make an informed assessment.

94.3 The prospectus must contain information or documents as may be necessary in respect of –

- (a) the terms of the offer including, the identity of any underwriter and the method of the offer;
- (b) information about the business and operations of the issuer;
- (c) the identity of directors, senior management, promoters and auditors;
- (d) Capitalization and indebtedness of the issuer;
- (e) risk factors;
- (f) securities market data regarding any trading history of the issuer’s shares;
- (g) use of the proceeds of the offer;
- (h) pending litigation;
- (i) management discussion and analysis of the financial condition and results of the issuer’s business operations;
- (j) forecast of estimated profit or loss for the year ending immediately before the date of the prospectus and the year ending immediately after the date of the prospectus;
- (k) a certificate from the issuer’s auditor stating any changes in directors and auditors during the last three years, indicating the reasons for any changes; and
- (l) audited financial statements for the years and periods as required by the Commission’s regulations.

94.4 The Commission may issue principles, regulations and codes in respect of the content of advertisements and public announcements in connection with public offerings.

94.5 The prospectus must be signed by the issuer’s senior management or persons performing similar functions accompanied by a duly verified resolution of the board of directors of the issuer company. Any written consent of a professional with significant experience in the securities industry named as having certified any part of the prospectus or any document used in that connection must also be delivered to the Commission.

- 94.6 Where the prospectus includes shares to be sold by selling shareholders, a written certification by such selling shareholders as to the accuracy of any part of the prospectus contributed to by such selling shareholders must also be delivered to the Commission.
- 94.7 The Commission may request additional information and changes in the prospectus. The prospectus shall not become effective until the additional information or changes are received and they fulfil the requirements provided for by the Commission.
- 94.8 The Commission may require an independent person to audit the financial statements, assets and other information of an issuer applying for registration of its securities whenever it thinks fit and in the interests of investor protection.
- 94.9 The Commission shall not approve, disapprove or otherwise express views on the merits or otherwise of particular securities.
- 94.10 Any person is prohibited from stating, directly or indirectly, that the Commission has approved, authorised, certified or conducted research on the various merits or otherwise of any security or offering.

Section 95. Written consent requirement for certain statements

- 95.1 A prospectus that includes a statement, other than a statement which is an extract of an official statement or any other statement as may be specified by the Commission, purporting to be made by any person or to be based on a statement made by such person shall not be issued unless –
- (a) the person has given his written consent to the issue of the prospectus with the statement made in the form and context in which it is included and has not, before the date of issue of the prospectus, withdrawn such consent; and
 - (b) there appears in the prospectus a statement that the person has given and has not withdrawn his consent.
- 95.2 Every person who knowingly is a party to the issue of any prospectus in contravention of subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding [\$100,000], imprisonment for a term not exceeding [2 years] or both and, in the case of a continuing offence, with a further fine not exceeding [\$10,000] for every day or part thereof during which the offence continues after conviction.

Section 96. Effective date for prospectus

- 96.1 The prospectus will become effective on the date it is declared effective by the Commission.
- 96.2 After the prospectus becomes effective, the issuer shall declare that all information is true and correct as represented by the issuer or by the person making the statement.

96.3 No person may sell securities in a public offering unless the purchaser has received a prospectus in compliance with this Act prior to or at the time of subscription.

Section 97. Amendments to prospectus

97.1 An issuer must submit an amendment to a prospectus at any time before or after the prospectus is effective if the issuer discovers that the prospectus omits information required to be included or updated, contains an untrue statement of material fact or omits to state a material fact necessary to make statements made therein not misleading.

97.2 In the event an issuer submits changes or additional information prior to the time the prospectus is effective, the prospectus is deemed to have been resubmitted on the date the changes or additional information are received.

97.3 The Commission may, at any time after the effective date, require that an issuer make amendments to the prospectus if it determined that the prospectus contains an untrue statement of material fact or omits to state a material fact necessary to make statements made therein not misleading. The Commission may require the issuer to suspend offers and sales of securities –

- (a) before an issuer has submitted amendments to the prospectus requested by the Commission; and
- (b) until 15 days following submission of the latest amendment.

Section 98. Suspension of offering

98.1 If, at any time, the information contained in the prospectus is or has become misleading, incorrect, inadequate or incomplete in any material respect, or the sale or offering for sale of the security will result in a fraud on investors, the Commission may require from the issuer such information it decides is necessary to enable the Commission to determine whether the prospectus should be revoked prior to becoming effective.

98.2 The Commission may also suspend the offering of any such security pending an investigation in the exercise of its powers under this Act

98.3 Where the Commission decides to suspend the offering, it must give the issuer a warning notice and give the issuer the opportunity of making representations to the Commission.

98.4 If the Commission decides to refuse to cancel the suspension of the issuance, the issuer may refer the matter to the Panel.

Section 99. Offering proceeds held in trust in separate bank account

- 99.1 All proceeds of the offer and other moneys paid prior to allotment by any applicant in respect of securities offered to him shall, until the allotment of the securities, be held by the person making the offer of the securities upon trust for the applicant in a separate bank account that is established and kept by the person solely for the purpose of depositing the offer moneys that are paid by applicants for those securities.
- 99.2 There shall be no obligation or duty on any bank with which any such moneys have been deposited to enquire into or see to the proper application of those monies, provided that the bank acts in good faith.
- 99.3 Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine of [\$200,000], imprisonment for a term not exceeding two years or both and, in the case of a continuing offence, to a further fine for [\$20,000]every day or part thereof during which the offence continues after conviction.

Section 100. Minimum subscription requirements

- 100.1 No allotment shall be made of any securities of a company unless –
- (a) the minimum subscription has been subscribed; and
 - (b) the sum payable on application for the securities so subscribed has been received by the company, but if a check for the sum payable has been received by the company, the sum shall be deemed not to have been received by the company until the check is paid by the bank on which it is drawn.
- 100.2 The minimum subscription shall –
- (a) be calculated based on the price at which each share or debenture, or each unit of share or debenture, is or will be offered; and
 - (b) be considered exclusively of any amount payable otherwise than in cash.
- 100.3 If the conditions referred to in subsection (1)(a) and (b) have not been satisfied on the expiration of four months after the first issue of the prospectus, all monies received from applicants for securities shall be immediately repaid to them without interest.
- 100.4 If any money referred to in subsection (3) is not repaid within five months after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at a rate to be determined by the Commission from the expiration of the period of five months, but a director shall not be so liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.
- 100.5 An allotment made by a company to an applicant in contravention of this section shall be voidable at the option of the applicant which option may be exercised by notice in writing served on the company –

- (a) within one month after the holding of the statutory meeting of the company and not later; or
- (b) in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment and not later, and the allotment shall be so void ab initio notwithstanding that the company is in the course of liquidation proceedings.

100.6 Every director of a company who knowingly contravenes or permits or authorises the contravention of any of the provisions of this section is guilty of an administrative offence and shall be liable to a fine of [\$5,000] and liable to compensate the company and the allottee respectively for any loss, damages or costs that the company or the allottee has sustained or incurred as a result.

100.7 No proceedings for the recovery of any compensation under subsection (6) shall be commenced after the expiration of two years from the date of the allotment.

100.8 Any condition requiring or binding any applicant for securities to waive compliance with any requirement of this section shall be void.

Section 101. Regulations for shelf registration and form of shelf prospectus

101.1 Notwithstanding section **Error! Reference source not found.**, a person may issue, offer for subscription or purchase, or make an invitation to subscribe for or purchase, securities where at the time of the issue, offer or invitation there is in force –

- (a) a shelf registration statement as updated by a form of supplementary shelf prospectus; and
- (b) additional forms and information,

relating to all matters which the Commission may require by way of regulations made under this Act with respect to a shelf registration and form of supplementary shelf prospectus.

101.2 The regulations referred to under subsection (1) may provide for, but shall not be limited to, the following matters –

- (a) a shelf prospectus, including a form of supplementary shelf prospectus;
- (b) additional forms and information;
- (c) the period during which a person may be permitted to issue, offer for subscription or purchase, or make an invitation to subscribe for or purchase, securities on the basis of a form of supplementary shelf prospectus;

- (d) the form and content of a form of supplementary shelf prospectus and additional forms referred to in paragraph (a), (b) or (c);
- (e) the persons or classes of persons to which any form or document referred to in paragraph (a), (b) or (c) may apply; or
- (f) the securities or classes of securities to which any form of supplementary prospectus referred to in paragraph (a), (b) or (c) may apply.

101.3 Where the Commission makes regulations under subsection (1) with respect to documents and forms under subsection (1) (a) and (b), the provisions of this Act and any other written law relating to liability in respect of statements in or omissions from prospectuses or otherwise relating to prospectuses shall apply to the shelf registration statement and the form of supplementary shelf prospectus, and additional forms and shall have effect accordingly.

Section 102. Misleading statements and practices in relation to prospectuses

102.1 Any person who –

- (a) makes a statement (which includes, prospectuses or supplementary prospectuses), promise or forecast which he knows to be misleading, false or deceptive or dishonestly conceals any material facts; or
- (b) recklessly makes (dishonestly or otherwise) a statement, promise or forecast which is misleading, false or deceptive, is guilty of an offence if he makes the statement, promise or forecast or conceals the facts for the purpose of inducing, or is reckless as to whether it may induce, another person (whether or not the person to whom the statement, promise or forecast is made or from whom the facts are concealed) to enter or offer to enter into, or to refrain from entering or offering to enter into, an investment agreement or to exercise, or refrain from exercising, any rights conferred by an investment.

102.2 Any person who does any act or engages in any course of conduct which creates a false or misleading impression as to the market in or the price or value of any investments is guilty of an offence if he does so for the purpose of creating that impression and of thereby inducing another person to acquire, dispose of, subscribe for or underwrite those investments or to refrain from doing so or to exercise, or refrain from exercising, any rights conferred by those investments.

102.3 In proceedings brought against any person for an offence under subsections (1) and (2), it shall be a defence for him to prove that he reasonably believed that his act or conduct would not create an impression that was false or misleading as to the matters mentioned in those subsections.

102.4 Subsection (1) does not apply unless –

- (a) the statement, promise or forecast is made in or from, or the facts are concealed in or from the Republic of Liberia;
- (b) the person on whom the inducement is intended to or may have effect is in the Republic of Liberia; or
- (c) the agreement is or would be entered into or the rights are or would be exercised in the Republic of Liberia.

102.5 Subsection (2) does not apply unless –

- (a) the act is done or the course of conduct is engaged in the Republic of Liberia; or
- (b) the false or misleading impression is created the Republic of Liberia.

102.6 A person guilty of an offence under this section is liable on conviction to a fine not exceeding [\$200,000], imprisonment for a term not exceeding [two] years or both, and, in the case of a continuing offence, with a further fine not exceeding [\$20,000] for every day or part thereof during which the offence continues after conviction.

Section 103. Failure to comply with content or requirement of prospectus

Where the issuer and each director of the issuer at the time of the issue of the prospectus fails to comply with the provisions of this Act he is liable on conviction to a fine not exceeding [US\$100,000], imprisonment for a term not exceeding one year or both.

Section 104. Damages for false or misleading statements in prospectus

104.1 A person who acquires, subscribes for or purchases securities and suffers loss or damage as a result of any statement or information contained in a form of prospectus that is false or misleading, or any statement or information contained in a form of prospectus from which there is a material omission, may recover the amount of loss or damage from all or any of the persons set out in paragraphs (a), (b), (c), (d), (e) and (f) and to the extent provided for –

- (a) the issuer and each director of the issuer at the time of the issue of the form of prospectus, for any loss or damage;
- (b) a person who consented or caused himself to be named and is named in the form of prospectus as a director or as having agreed to become a director, either immediately or after an interval of time, for any loss or damage;
- (c) a promoter, for any loss or damage arising from the form of prospectus or any relevant portion of the form of prospectus in respect of which he was a party to the preparation thereof;
- (d) a principal adviser, for any loss or damage;

- (e) a person named in the form of prospectus with his consent as having made a statement that is included in the form of prospectus or on which a statement made in the form of prospectus is based, for any loss or damage caused by the inclusion of the statement in the form of prospectus;
- (f) a person named in the form of prospectus with his consent as a securities broker, underwriter, auditor, banker or advocate or solicitor of the issuer in relation to the issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, securities, and who has made a statement that is included in the form of prospectus or on which a statement made in the form of prospectus is based, for any loss or damage caused by the inclusion of the statement in the form of prospectus.

104.2 For the purposes of paragraphs (1) (a) and (b), a director referred to therein shall include any person by whom the issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, securities is made.

Section 105. Due diligence defence

A person shall not be guilty of an offence and is not liable under section **Error! Reference source not found.**(1) if he proves that –

- (a) he had made all enquiries as were reasonable in the circumstances; and
- (b) after making such enquiries, he had reasonable grounds to believe and did believe until the time of the making of the statement or the provision of the information that –
 - (i) the statement or information was true and not misleading; or
 - (ii) there was no material omission.

PART VI: PUBLIC COMPANY STATEMENTS AND REPORTING REQUIREMENTS

Section 106. Initial statements by public company

106.1 A public company which has become listed in accordance with a declaration made by the Commission or a public company which is a publicly tradable company is required to

- (a) submit reports to the Commission and to the public periodically but not less frequently than semi-annually;

- (b) submit information to the Commission and to the public regarding significant developments that may reasonably be expected to have a significant effect on the market price of the securities no later than the close of the second business day following such development, or sooner to protect investors or the market.

106.2 Every issuer of a security listed for trading on an exchange must file with the exchange a copy of any report filed with the Commission under the requirements of this section.

Section 107. Financial reporting requirements

107.1 The Commission shall establish requirements and procedures for the content and form of financial reports for the reports of listed companies and publicly tradable companies.

107.2 The Commission may adopt and require international standards for the auditing of the financial reports of the reports of listed companies and publicly tradable companies and impose requirements on auditors who conduct auditing such financial reports.

107.3 All reports, including financial statements, required to be filed with the Commission pursuant to this section must be in the form, contain such information and be filed at such times as the Commission prescribes, and must be in addition to any periodic or current reports or financial statements otherwise required to be filed under this Act.

Section 108. Periodic financial reporting requirement

108.1 Every listed company and publicly tradable company shall disclose in a prescribed timely manner to the public an annual report which shall include its financial statements, the auditor's report and the directors' report.

108.2 The annual report required in subsection (1) shall contain all material information relating to the financial condition and operating performance of the company in the period to which it relates as well as its future development and prospects including but not limited to –

- (a) the financial and operating results of the company;
- (b) company objectives;
- (c) major share ownership and a description of voting rights;
- (d) remuneration policy for members of the board and key executives, and information about members of board, including their qualifications, the selection process, other company directorships and whether they are regarded as independent by the board;
- (e) related party transactions;

- (f) foreseeable risk factors;
 - (g) issues regarding employees and other stakeholders; and
 - (h) governance structures and policies, in particular, the content of any corporate governance code or policy and the policy and the process by which it is implemented.
- 108.3 The company shall ensure that its annual financial statements give a true and fair view of its financial position as at the end of its financial year.
- 108.4 The company shall ensure that its financial statements are audited by an auditor that is independent of the company and who may be designated as providing audit services by way of a list published by the Commission.
- 108.5 The company shall ensure –
- (a) that the company’s financial statements shall contain a statement as to whether the company’s financial statements are in accordance with International Financial Reporting Standards; and
 - (b) that International Financial Reporting Standards are applied consistently in the preparation of the company’s financial statements except where there are reasonable grounds for a change in which case the reasons for such change shall be disclosed in the financial statements.
- 108.6 The company shall keep such accounting records and documents as are necessary in order that the financial statements comply with this Act.
- 108.7 The company shall disclose to the public an interim report in a timely manner which shall contain all material information relating to the financial condition and operating performance of the company in the period to which it relates as well as its future development and prospects in accordance with subsection (2)(a) to (h) .

Section 109. Disclosure of price sensitive information

- 109.1 Except as provided in subsection (4), a listed company or a publicly tradable company shall disclose to the public any price sensitive information relating to the company or its subsidiaries that has come to the company’s knowledge that would be material to an investor’s investment decision, including information that –
- (a) is necessary to enable the public to appraise the position of the company and its subsidiaries;
 - (b) is necessary to avoid the creation or continuation of a false market in the securities of the company namely a market which is based on incomplete or inaccurate information; or

- (c) might reasonably be expected materially to affect market activity in and the price of its securities.
- 109.2 A company shall ensure that when disclosing information pursuant to subsection (1)(a) to (c) that the means it uses for disseminating information can be reasonably expected to provide for equal, timely and effective access to such information by the holders of the securities of the company and investors.
- 109.3 A company meets the requirements of subsection (1) and (2) when information that affects the market or a sector of the market generally is made public in a manner that would be likely to bring it to the attention of investors who commonly invest in securities of a kind whose price or value might be affected by the information.
- 109.4 A company may, under its own responsibility, and with the consent of the Commission, delay the public disclosure of price sensitive information such as not to prejudice its legitimate interests provided that –
- (a) such omission would not be likely to mislead public investors;
 - (b) any person receiving the information owes the company a duty of confidentiality, regardless of whether such duty is based on any written law, articles of association or contract; and
 - (c) the company is able to ensure the confidentiality of that information.
- 109.5 In the event that a company is also traded or listed on a foreign exchange, the company shall ensure that where information is released to those markets the same information is released in the Republic of Liberia simultaneously or as soon as practicable.
- 109.6 Without limiting the generality of this section, a listed company or a publicly tradable company shall also comply with such further obligations and requirements as may be prescribed by the Commission.

Section 110. Required disclosure following unusual trading price or volume

- 110.1 A company shall respond promptly or within 24 hours upon being informed by the Commission or an exchange that there are unusual movements in the price or volume of its traded securities by disclosing to the public –
- (a) details of any matter or development of which it is aware that is or may be relevant to the unusual movements, or
 - (b) a statement of the fact if it is not aware of any such matter or development.

110.2 Without limiting the generality of this Part, a listed company and a publicly tradable company shall also comply with such further reporting obligations and requirements as may be prescribed by the Commission.

Section 111. Power of the Commission to require production of records and documents

111.1 Where –

- (a) it appears to the Commission that there are circumstances suggesting that the business of a listed company or a publicly tradable company has been or is being conducted –
 - (i) with intent to defraud its creditors;
 - (ii) for a fraudulent or unlawful purpose;
 - (iii) with intent to defraud any of its shareholders or potential investors;
- (b) it appears to the Commission that there are circumstances suggesting that a company was formed for a fraudulent or unlawful purpose; or
- (c) it appears to the Commission that there are circumstances suggesting that the persons concerned with the formation of a company or the management of its affairs have in relation to the formation or management have been guilty of fraud, misfeasance or other misconducts the Commission may give directions
 - (i) to the directors or senior management of the company;
 - (ii) to a subsidiary or an associated company of the company;
 - (iii) to a company or companies that own or control either individually or collectively a majority shareholding of the company or have the power to place a majority of directors on the board of the company,

requiring it, at the time and place specified in the directions, to allow the Commission access to its business premises to inspect and or to produce the records and documents specified in the directions.

111.2 The Commission may, when acting under subsection (1), exercise its inspection and investigation powers in Part III of this Act.

Section 112. Remedy in cases of unfair prejudice by companies

112.1 If it appears to the Commission from any information, record or other document obtained under this Act or regulations made there-under that the affairs of a listed company or a publicly tradable company is being or has been conducted in a manner

unfairly prejudicial to the interests of some or all of its members, the Commission may make an application to the court for an order under this section.

112.2 If, on an application under this section, the court is of the opinion that the company's affairs are being or have been conducted in a manner unfairly prejudicial to the interests of its members generally or of some part of the members, whether or not the conduct consists of an isolated act or a series of acts, the court may –

- (a) make an order restraining the carrying out of the act or conduct;
- (b) order that the company shall bring in its name the proceedings the court thinks fit against the persons, on the terms, the court orders;
- (c) appoint a liquidator of the whole or a part of the company's property or business and may specify the powers and duties of the receiver or manager and fix his remuneration; or
- (d) make any other order as it thinks fit, whether for regulating the conduct of the company's affairs in future, or for the purchase of the shares of any members of the company by other members of the company or by the company and, in the case of a purchase by the company, for the reduction accordingly of the company's capital, or otherwise.

112.3 Where an order under this section makes an alteration in or an addition to the memorandum and articles of association of a company, the company shall not have power without the leave of the court to make any further alteration in or addition to the memorandum and articles of association which are inconsistent with the order.

Section 113. Power of Commission to issue directions to listed or publicly tradable companies

Where it appears to the Commission that –

- (a) it is desirable for the protection of holders or prospective holders of securities;
- (b) the listed company is in breach of its listing agreement; or
- (c) the listed company or publicly tradable company is contravening, has contravened or is about to contravene, or has failed to comply with any provision of or requirement under this Act or regulations made there-under, or, in purported compliance with any such provision or requirement has furnished the Commission with information that is false, inaccurate or misleading,

the Commission may issue directions to the listed company or publicly tradable company–

- (i) to refrain from carrying on the act or conduct or to do or not to do any matter as specified; or
- (ii) with regard to or for any other matter that the Commission considers necessary,

and the listed company or the publicly tradable company shall comply with the direction.

Section 114. Duty of directors to disclose shareholdings

114.1 A person who becomes a director of a listed company or a publicly tradable company and at the time when he does so is interested in the securities of the company or any other company being the company's subsidiary or holding company or a subsidiary of the company's holding company, shall give notice in writing to the company –

- (a) of the subsistence of his interests at that time; and
- (b) of the amount and description of securities of, the company or other such company in which his interest subsists at that time.

114.2 A director of a listed company or a publicly tradable company shall give notice in writing to the company of any of the following events –

- (a) any event in consequence of whose occurrence he becomes, or ceases to be, interested in the securities of the company, or any other company being the company's subsidiary or holding company or a subsidiary of the company's holding company;
- (b) the entering into by him of a contract to sell any such securities;
- (c) the assignment by him of a right granted to him by the company to subscribe for securities of the company;
- (d) the grant to him by another company, being the company's subsidiary or holding company or a subsidiary of the company's holding company, of a right to subscribe for securities of that other company, the exercise of such a right granted to him and the assignment by him of such a right so granted;
- (e) the sale of securities beneficially owned by him and any gain by the sale of such securities,

and the notification to the company shall state the number, amount, and description of securities involved.

114.3 A director of a listed company or a publicly tradable company shall submit a statement of beneficial ownership of the listed securities to the Commission in such form as may be prescribed by the Commission.

114.4 The obligation imposed by subsections (1), (2) and (3) is required to be undertaken before the expiration of a period of five days beginning with the date on which the obligation first arises.

114.5 This section applies to –

- (a) the spouse of a director of a company (not being a director); and
- (b) the minor son or daughter of a director (not being a director), as it applies to the directors.

114.6 For the purposes of this section –

- (a) “Son” includes step-son and “daughter” includes step-daughter; and
- (b) “minor” means a person under the age of 18 years.

Section 115. Register of directors’ interests

115.1 Every listed company or a publicly tradable company shall keep a register of directors’ interest in a form approved by the Commission.

115.2 Whenever a company receives notification from a director pursuant to section 114 of this Act, the company shall enter in the register, against the director’s name, the information received and the date of the entry.

115.3 The register may be made available by the Commission to the public.

Section 116. Notification to Commission and exchange of directors’ interests

116.1 Whenever a listed company is notified of any matter by a director in consequence of an obligation imposed by section **Error! Reference source not found.**, the company shall notify the Commission and the exchange, in writing, of that matter.

116.2 Whenever a publicly tradable company is notified of any matter by a director in consequence of an obligation imposed by section **Error! Reference source not found.**, the company shall notify the Commission in writing, of that matter.

116.3 The obligation imposed by subsections (1) and (2) is required to be undertaken before the close of business at the end of the day following that on which it arises.

116.4 The exchange shall publish the information received under subsection (1) in such manner as it may determine.

Section 117. Duty of substantial shareholder to disclose shareholding

117.1 A person who is a substantial shareholder or is in a position to exert significant control within the meaning of this Act in a listed company or publicly tradable

company, shall give notice in writing to the company stating his name and address and giving full particulars of the shares held by him or his nominee (naming the nominee) by virtue of which he is a substantial shareholder.

117.2 The obligation imposed by subsection (1) is required to be undertaken before close of business of the next day on which it arises.

Section 118. Subsequent disclosures by substantial shareholders

A substantial shareholder under section **Error! Reference source not found.** shall give further notice in writing to the company where his shareholding increases or decreases in accordance with the provisions on controlling interest as defined in this Act.

Section 119. Register of substantial shareholders

119.1 Every listed company and publicly tradable company shall keep a register of substantial shareholders in a form approved by the Commission.

119.2 Whenever a company receives notification from a substantial shareholder given under the obligation imposed on him by section **Error! Reference source not found.** the company shall enter in the register the information received and the date of the entry.

119.3 The register may be made available by the Commission to the public.

Section 120. Substantial shareholders notification requirement

120.1 Whenever a listed company or publicly tradable company is notified of any matter by a substantial shareholder in consequence of an obligation imposed by section **Error! Reference source not found.**, the company shall notify the Commission and the exchange, in writing, of that matter.

120.2 The obligation imposed by subsection (1) is required to be undertaken before close of business of the next day on which it arises.

120.3 The exchange shall publish, in such manner as it may determine, the information received under subsection (1).

Section 121. Internal record keeping and accounting controls requirement

121.1 Every listed and publicly tradable company shall compile and maintain complete and accurate accounting and books and records which fairly represent their assets.

Section 122. Required reports by certain holders of equity securities

122.1 Any person who, acting alone or with others, acquires in excess of five percent of the ownership of the outstanding voting securities of a listed or publicly traded company must within two days after such acquisition submit to the Commission and to the appropriate exchange, notice in such form as may be required by the Commission.

122.2 Any changes in beneficial ownership of such a person exceeding one percent of the outstanding voting securities must be reported within five days of such change.

Section 123. Proxies and Proxy requests

123.1 Proxies must be issued and proxy requests must be made in accordance with any regulations made by the Commission.

123.2 Proxies –

- (a) must be in writing, signed by the securities holder or his duly authorized representative and filed in electronic format or hard copy before the scheduled meeting with the corporate secretary; and
- (b) unless otherwise provided in the proxy or by regulations issued by the Commission shall be valid save for the meeting for which it is intended.

Section 124. Right of shareholder's action to recover certain trading profits

124.1 For the purpose of preventing the unfair use of information which may have been obtained by such owner, director, officer or other senior management by reason of his relationship to an issuer, any profit realized by him from any purchase and sale, or any sale and purchase, or any equity securities of such issuer within any period of less than six months, shall be recoverable by the issuer, irrespective of any intention of holding the securities purchased or of not repurchasing the securities sold for a period exceeding six months.

124.2 An action to recover such profit may be instituted before the court by the issuer, or by the owner of any securities of the issuer in the name and on behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after request or fails to diligently to prosecute the matter, but no such action shall be brought more than two years after the date such profit was realized.

124.3 This section shall not be construed as covering any transaction where the beneficial owner was not the beneficial owner both at the time of the purchase and sale, or the sale and purchase, of the securities involved, or any transaction or transactions which the Commission by regulations may exempt as not contemplated for the purpose of this provision.

Section 125. Publicly tradable company requirements to minority shareholders

125.1 A publicly tradable company shall –

- (a) require issued securities to be fully paid up on a timely basis;
- (b) provide holders of securities that have voting rights with the right to vote by proxy;

- (c) give to every holder of equity securities the pre-emptive right to subscribe to any newly offered equity securities or securities that can be converted into equity securities on a proportionate basis in the manner established by the Commission.

125.2 The Commission shall have the power to publish such regulations as it deems appropriate to supplement these requirements in order to protect the interests of the minority shareholders.

125.3 Members of the board of directors of a publicly tradable company have a duty to act in the interest of the company, for the benefit of all securities holders.

Section 126. Tender offers

126.1 No person (including issuers making offers for their own shares and affiliated persons) shall make a tender offer except in accordance with this Act and regulations made by the Commission.

126.2 For the purposes of this Act a tender offer in the Republic of Liberia includes the following –

- (a) active, wide spread and persistent solicitations of purchase of common securities of a certain issuer;
- (b) a person who makes an offer intends to purchase a considerable portion of common securities of an issuer as defined by the Commission;
- (c) a person who makes an offer declares the purchase price of securities which exceeds their average market price over an appropriate period determined by the Commission and such additional considerations as may be determined by the Commission;
- (d) terms on which an offer is made are permanent and do not vary depending on wishes of a securities holder;
- (e) a person who makes an offer intends to purchase a known number of securities;
- (f) an offer is valid only within time periods established beforehand;
- (g) a person to whom an offer is addressed is pressed to sell securities he owns;
- (h) an offer is followed or preceded by the appropriate public advertisement; and
- (i) any other matters as may be determined by the Commission.

Section 127. Requirements for tender offer statement

- 127.1 A person who intends to make a tender offer shall file a tender offer statement with the Commission in a form and within the time limit prescribed by the Commission.
- 127.2 The Commission shall not permit any public announcements or offers to purchase to be made or securities accepted except as in accordance with any regulations made by the Commission.
- 127.3 A tender offer must remain open for at least 30 days from the date of the written tender offer statement is sent to securities holders or they are notified in a different manner established by the Commission.
- 127.4 A bidder must within 20 days –
- (a) pay the consideration offered for redeemed securities to persons who accepted an offer upon termination of an offer;
 - (b) from the date of withdrawal of a tender offer by a bidder or declaration of an offer to be invalid due to non-fulfilment of terms established by the Commission return securities deposited in accordance with the terms of the offer.
- 127.5 Any person who has deposited securities pursuant to a tender offer has the right to withdraw the securities at any time during the offer period.
- 127.6 If a bidder makes a tender offer for less than all of the outstanding equity securities of a class, and if a greater number of securities are deposited than the person has agreed to purchase, the securities shall be purchased as nearly as possible on a *pro rata* basis, disregarding fractions, according to the number of securities deposited by each depositor during the offer period.

Section 128. Prohibited activity during tender offer

- 128.1 During a tender offer period, the bidder and persons acting with the bidder shall not –
- (a) directly or indirectly, purchase or make any arrangement to purchase any security of the issuer that is subject to the tender offer (or any security which is immediately convertible into or exchangeable for that security) outside of the tender offer; and
 - (b) shall not sell any security of that issuer.
- 128.2 At any time an issuer has been informed of a pending tender offer for any of its securities or has reason to believe that an offer is pending, it must not take any action identified by the Commission's regulations. The Commission may issue regulations to specify particular actions that are not permitted during or in connection with a tender offer.

- 128.3 Any tender offer shall be open to all securities holders of the class of securities subject to the offer. All securities holders of the same class of an issuer must be treated similarly by the bidder. The consideration paid to any securities holder pursuant to the tender offer must be the same paid to any other securities holder under the offer.
- 128.4 Within the period of validity of the tender offer a bidder or persons acting with it may not make any arrangements or enter into agreements –
- (a) with securities holders or separate groups of security holders;
 - (b) to deal in securities of the issuer;
 - (c) if there are favourable conditions attached which are not being extended to all securities holders.
- 128.5 During a tender offer period or when a tender offer is in contemplation, neither a bidder nor an issuer whose securities are the subject of a tender offer nor any of their respective advisers may furnish information to some securities holders that is not made available to all securities holders, except that information may be furnished in confidence by an issuer to a *bona fide* potential bidder, but the potential bidder thereby becomes an insider with respect to the issuer and subject to the sanction imposed by this Act.
- 128.6 Any information provided by an issuer to one bidder is subject to immediate disclosure in the same form to other potential bidders.

Section 129. Power of the Commission's tender offer regulations

The Commission may issue regulations –

- (a) that requires persons bidding for or holding in excess of a specified percentage of the equity securities of a public company established by the corresponding regulations to make an offer to purchase such equity securities of the public company;
- (b) that requires equal treatment of security holders in connection with a tender offer;
- (c) that offers made are not less favourable than prior offers;
- (d) that certain offers must be made in cash or provide a cash alternative; and
- (e) that requires issuers to furnish shareholder lists to potential bidders.

PART VII: INVESTMENT BUSINESS LICENSE

Section 130. Applications for a License

- 130.1 Any person may make an application for a license to be endorsed to carry on investment business.
- 130.2 The application must be made in such manner as the Commission may direct and must be accompanied by –
- (a) sufficient information to demonstrate that the applicant is a fit and proper person;
 - (b) such other information as the Commission may reasonably require for the purpose of determining the application; and
 - (c) a non-refundable prescribed application fee, which shall be paid in the manner specified by the Commission.
- 130.3 In granting a license, the Commission shall specify the regulated activity or activities which relate to the license in such a manner as the Commission thinks fit.
- 130.4 An applicant who is granted a license under this Act is subject to the continuous supervision of the Commission and is required to ensure that it complies at all times with the conditions for initial licensing including capital requirements and any other continuing obligations under this Act.
- 130.5 The Commission shall grant a License only where it is satisfied that the applicant is a fit and proper person.

Section 131. Exemptions from requirement to hold a License

- 131.1 All persons must hold a license to engage in a regulated business, except:
- (a) persons who provide investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;
 - (b) persons who do not provide any investment services or activities other than dealing on own account;
 - (c) persons who provide investment services consisting exclusively in the administration of employee participation schemes;
 - (d) persons who provide investment services which only involve institutional investors, administration of employee participation schemes and the provision of investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;

- (e) such other person or class of persons in respect of any regulated activity as may be exempted by the Commission.
- 131.2 The Commission may by regulations or by notice in writing impose such conditions or restrictions on a holder of a license in relation to the conduct of the regulated activity or any related matter as it thinks fit and the holder of a license shall comply with such conditions or restrictions.
- 131.3 Any holder of a license who contravenes any condition or restriction imposed under subsection (2) is guilty of an offence and liable on conviction to a fine not exceeding [\$500,000], imprisonment for a term not exceeding [5 years] or both.
- 131.4 The Commission may give notice that it intends to withdraw an exemption granted to a person under this section –
- (a) if that person contravenes any provision of this Act which is applicable to him or any condition or restriction imposed under subsection (2); or
 - (b) if that person contravenes any direction issued to him.
- 131.5 A withdrawal under subsection (4) of an exemption granted to any person shall not operate so as to –
- (a) make void or affect any agreement, transaction or arrangement relating to the regulated activities entered into by the person, whether the agreement, transaction or arrangement was entered into before or after withdrawal of the exemption; or
 - (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.
- 131.6 When the Commission proposes to take action against a person under this section, it must give a warning notice in accordance with the procedure under Part III of this Act.
- 131.7 Every holder of a license shall pay to the Commission a fee with respect to each regulated activity as may be prescribed and in such manner as may be specified by the Commission.

Section 132. Grant of a License

- 132.1 Subject to subsections (2) and (3), the Commission may grant a license if it appears to the Commission that the applicant satisfies the licensing requirements applicable in his case under this Part and the Commission may make an order declaring the applicant to be the holder of a license.
- 132.2 The license must specify a date on which it is to take effect.

132.3 In granting a license, the Commission may –

- (a) specify and describe the regulated activity to which the license relates;
- (b) specify the license to be subject to such conditions or restrictions as the Commission deems fit;

132.4 Any person who contravenes any condition or restriction imposed by subsection (3) may be subject to such intervention action as the Commission thinks fit under its powers in this Act.

Section 133. General requirements for holder of a License

133.1 The Commission shall require the holder of a license to inform the Commission of the identity and any other subsequent changes of the persons who effectively direct the business and its operations before such changes are implemented.

133.2 The Commission shall refuse to approve proposed changes where it appears to the Commission that there are grounds for believing that the person or persons proposed to direct the business and its operations are not fit and proper.

133.3 A holder of a license is required to have the following organisational arrangements in place –

- (a) to identify clearly and manage the potential adverse consequences of any conflict of interest;
- (b) to be adequately equipped to manage the risks to which he is exposed, to implement appropriate arrangements and systems to identify all significant risks to his operation, and to put in place effective measures to mitigate those risks;
- (c) to ensure that any outsourcing of important operational functions shall not be undertaken in such a way as to impair materially the quality of his internal control and the ability of the Commission to supervise his compliance with its obligations under this Act or and any principles, regulations and codes made thereunder; and
- (d) at the time of licensing and on an on-going basis, sufficient financial resources to facilitate his orderly functioning, having regard to the nature and extent of the services provided and the range and degree of the risks to which he is exposed.

Section 134. General Power of Commission to make Directions for License holders

134.1 The Commission may by notice in writing direct the holder of a license to do or not to do specified things that the Commission considers are necessary or desirable to

comply with this Act or ensure the integrity of the regulated market including, but not limited to, directions –

- (a) requiring compliance with any duty, requirement, prohibition, obligation or responsibility applicable to the holder of the license; or
- (b) requiring the holder of the license to act in a specified manner in relation to transactions conducted on or through him, or in relation to a specified class of transactions.

134.2 When the Commission proposes to take action against a person under this section, it must give a warning notice in accordance with the procedure in part III of this Act.

134.3 Where the Commission exercises this power, it may make this information public save where it appears to the Commission that such publicity would be likely to cause significant damage to the investors' interests or interests of the holders of licenses or the orderly functioning of the market.

Section 135. Variation of License:

135.1 The Commission may, on the application of a holder of a license, vary his license by adding or removing a regulated activity to or from those already specified in the license;

135.2 The Commission may –

- (a) approve the application subject to such conditions or restrictions as it thinks fit; or
- (b) refuse the application on any of the grounds set out in section **Error! Reference source not found.**

135.3 When the Commission proposes to take refuse an application person under this section, it must give a warning notice in accordance with the procedure in Part III of this Act.

Section 136. Power to give directions and suspend License

136.1 This section applies if it appears to the Commission that a holder of a license –

- (a) has failed, or is likely to fail, to satisfy the licensing requirements; or
- (b) has failed or is likely to fail to comply with any other obligation imposed on him under this Act.

136.2 The Commission may direct the holder of the license or the representative's license to take specified steps for the purpose of remedying the conduct that has led to the imposition of the direction or suspension.

136.3 A direction under this section is enforceable, on the application of the Commission, by an injunction.

136.4 Where section (1) applies, the Commission may, if it thinks fit to do so –

- (a) suspend a license for a specific period; and
- (b) at any time extend or revoke the suspension.

136.5 The Commission may revoke or suspend a license without giving the license holder an opportunity to make representations where –

- (a) in the case of a holder of a license, on any of the following grounds –
 - (i) the holder is in the course of being wound up or otherwise dissolved, whether within or outside the Republic of Liberia;
 - (ii) a receiver, a receiver and manager or an equivalent person has been appointed, whether within or outside the Republic of Liberia in respect of any property of the holder; or
 - (iii) the holder or any of his directors, chief executive, senior managers or controller has been convicted of any offence involving dishonesty;

136.6 A person whose license is revoked or suspended under this section shall, for the purposes of this Act be deemed not to be license from the date that the revocation or suspension takes effect.

136.7 A person who –

- (a) carries on a regulated activity after his license has been revoked;
- (b) carries on a regulated activity while his license has been suspended; or
- (c) is in breach of a restriction imposed under this section, is guilty of an offence and liable on conviction to a fine not exceeding [\$500,000], imprisonment for a term not exceeding [5 years] or both and, in the case of a continuing offence, to a further fine not exceeding [\$500,000] for every day or part thereof during which the offence continues after conviction.

136.8 In the case of a revocation order made under subsection (2), the specified date must not be earlier than the end of the period of three months beginning with the date on which the order is made.

136.9 A revocation order may contain such transitional provisions as the Commission thinks necessary or expedient.

Section 137. Directions and revocation procedure

- 137.1 Before giving a direction or making a revocation, the Commission must –
- (a) give a notice in writing of its intention to do so to the holder of a license;
 - (b) take such steps as it considers reasonably practicable to bring the notice to the attention of other persons who are, in its opinion, likely to be affected.
- 137.2 When the Commission proposes to take action against a person under this section, it must give a warning notice in accordance with the procedure in Part III of this Act.
- 137.3 If the Commission considers it essential to do so, it may give a direction –
- (a) without following the procedure set out in Part III of this Act; or
 - (b) if the Commission has begun to follow that procedure, regardless of whether the period for making representations has expired.
- 137.4 If the Commission has, in relation to a particular matter, followed the procedure set out in subsections (2), it need not follow it again if, in relation to that matter, it decides to take action other than that specified in its notice.

Section 138. Complaints arrangements

- 138.1 The Commission must make arrangements for the investigation of any relevant complaint about any holder of a license.
- 138.2 In this section, “relevant complaint” means a complaint which the Commission considers is relevant to the question of whether the holder of a license should remain licensed.

Section 139. False statements regarding License application

A person who, in connection with an application for the grant, or variation of a license, makes a statement that is false or misleading in a material particular knowing it to be false or misleading or wilfully omits to state any matter or thing without which the application is misleading in a material respect, is guilty of an offence and liable on conviction to a fine not exceeding [\$200,000], imprisonment for a term not exceeding [2 years] or both.

Section 140. Effect of revocation, suspension or expiration of License

- 140.1 A revocation, or suspension of a license or the imposition of a restriction on a license shall not operate so as to –
- (a) make void or affect any agreement, transaction or arrangement relating to the regulated activities entered into by such person, whether the agreement, transaction or arrangement was entered into before or after the revocation, suspension or expiration of the license or the imposition of restriction on the license; or

- (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

140.2 Where any license is revoked or suspended or has expired under this Part, the Commission may by notice in writing permit the holder of a license to –

- (a) in the case of a revocation, carry on business operations for the purpose of closing down the business connected with the revocation;
- (b) in the case of a suspension, carry on only essential business operations for the protection of interests of clients of the regulated firm during the period of suspension; or
- (c) in the case of an expiration, carry on such business activity as the Commission may approve for the protection of the interest of clients of the holder of the license before such expiry, subject to such conditions as the Commission may specify in the notice.

Section 141. Notification of change of holder of a Licence's business activity

In the event that –

- (a) a holder of a license ceases to conduct business in any of the regulated activities to which the license was granted;
- (b) or there is any material change in the matters required to be maintained on the public register of license holders; or
- (c) there is any material change in the regulated business;

the holder of a license shall furnish details of the event to the Commission not later than 14 days after the occurrence of the event.

Section 142. Public register of holders of Licenses

The Commission shall maintain and make available to the public a continuously updated register of holders of licenses in such form as it thinks fit, including electronic register, that specifies –

- (a) for the holder of a license
 - (i) his name;
 - (ii) the address of the principal place of business at which he carries on the business in respect of which the license is held;
 - (iii) the regulated activity or activities to which the license relates;

- (iv) where the business is carried on under a name or style other than the name of the holder of the license, the name or style under which the business is carried on and the location of the business; and
- (iv) such other information as may be prescribed;

Section 143. Publication of names and addresses

- 143.1 The Commission may cause to be published in such form and manner as the Commission thinks fit in the interest of the markets and investors, a list of the names and addresses of all holders of Licenses.
- 143.2 If the Commission at any time amend the register kept by it by adding or removing the name of a holder of a license, the Commission shall cause that information of the amendments to be published.

PART VIII: BOOK, AUDIT AND CLIENT ASSETS

Section 144. Maintaining books and records and furnishing returns

- 144.1 A holder of a license must –
- (a) maintain, or cause to be maintained, such books, accounting records and data as will sufficiently explain the transactions and financial position of its business and enable true and fair profit and loss accounts and balance sheets to be prepared from time to time; and
 - (b) maintain, or cause to be maintained, such books, accounting records and other data in such a manner as will enable them to be conveniently and properly audited.
- 144.2 An entry in the books, accounting records and data of a holder of a license required to be maintained in accordance with this section shall be deemed to have been made by, or with the Commission of, the holder of a license.
- 144.3 A holder of a License shall retain such books, accounting records and data as may be required to be maintained and preserved under this Act for a period of not less than six years.
- 144.4 A holder of a license shall take reasonable steps –
- (a) to prevent falsification of the books, accounting records and data required to be kept by it under this Act; and
 - (b) to facilitate the detection of any falsification of any such book, accounting records and data.

144.5 Any person who knowingly or recklessly furnishes an auditor appointed under this Act with information which the auditor is entitled to require and which is false or misleading in a material particular is guilty of an offence and liable on conviction to a fine not exceeding [\$200,000], imprisonment for a term not exceeding [2 years] or both.

Section 145. Appointment of auditor

145.1 A holder of a license shall appoint an auditor who is a member of the Liberian Institute of Certified Public Accountants to audit its accounts and when, for any reason, the auditor ceases to act for that person, he may as soon as practicable, appoint another auditor.

145.2 A holder of a license is required to –

- (a) remove an auditor who becomes ineligible by virtue of any reason; and
- (b) may, in any other case, with a notice in writing to the Commission, remove an auditor from the audit duties.

145.3 An auditor of a person under subsection (1) may resign from his office by giving a notice in writing to that effect to the Commission provided that such notice shall be accompanied by –

- (a) a statement of any circumstances connected with his ceasing to continue as auditor that he considers should be brought to the attention of the Commission; or
- (b) if he considers that there are no such circumstances, a statement that there are none.

145.4 Notwithstanding any other provisions of this Act the Commission may, at any time, determine that the performance of duties by an auditor appointed by a holder of a license or representative's license does not meet professional standards or that the auditor is not independent and direct the holder of a license or representative's license

- (a) to remove the auditor; and
- (b) as soon as practicable appoint another auditor,

and the holder of a license or representative's license shall forthwith comply with such directions.

Section 146. Required audited reports

146.1 A holder of a license under section **Error! Reference source not found.** shall, within three months after the close of each financial year, or such further period as the Commission may permit under subsection (2), file with the Commission an audited

report containing a profit and loss statement and a balance sheet and information on material events and matters as may be specified by the Commission.

146.2 Where an application for an extension of the period of three months specified in subsection (1) has been made by a holder of a license and if the Commission is satisfied that there are special reasons for requiring the extension, the Commission may extend that period by not exceeding three months subject to such conditions and restrictions as the Commission thinks fit to impose.

146.3 A holder of a license who does not meet the requirements of this section is liable to an initial fine not exceeding [\$1,000], and in the case of a continuing offence, to a further fine not exceeding [\$5,000] for every day or part thereof during which the contravention continues.

146.4 For the purposes of subsection (1), “financial year”, in relation to a holder of a license, means the financial year of the company.

Section 147. Responsibilities of auditor in certain situations

147.1 Where, in the performance of his duties as auditor for a holder of a license, an auditor becomes aware –

- (a) of any matter which in his opinion may constitute a contravention of any provision of this Act, or an offence involving fraud or dishonesty;
- (b) of any irregularity that may have a material effect upon the accounts or position of the holder of a license, including any irregularity that put at risk or may put at risk the moneys or other assets of any client of the holder of a license;
- (c) that losses have been incurred by the holder of a license which renders him to be unable to meet the minimum financial requirements as may be prescribed in the regulations made under this Act;
- (d) that it is impossible to confirm that claims of clients or creditors of the holder of a license are covered by the assets of that holder;
- (e) that a breach in connection with the business of the holder of a license has been committed; or
- (f) in the case of a holder of a license, that there has been a possible breach of the regulations of a licensed or recognised exchange, a licensed or recognised clearing house or a central securities depository,

the auditor shall immediately report the matter to the Commission and where relevant the licensed or recognised exchange, the licensed or recognised clearing house or the central securities depository.

147.2 No auditor shall be liable to be sued in any court in respect of any statement made by the auditor in good faith in the discharge of his duties under this section.

Section 148. Additional powers of Commission with respect to auditors

148.1 The Commission may require the auditor of a holder of a license to carry out any of the following duties as the Commission thinks fit–

- (a) to submit such additional information or explanation in relation to his audit or any report to the Commission as the Commission may specify;
- (b) enlarge or extend the scope of his audit of the business of the holder of a license in such manner or to such extent as the Commission may specify;
- (c) to carry out any specific examination or establish any procedure in any particular case;
- (d) to submit a report on any of the matters referred to in paragraphs (a) to (c) within the time specified by the Commission

148.2 The auditors' remuneration for the conduct of any of the above shall be paid for by the license holder.

148.3 The auditor shall comply with any requirement of the Commission under subsection (1).

148.4 For the purposes of subsection (1), the holder of a license and any director or senior manager of the holder of a license shall provide such accurate and truthful information and access to such information as the auditor shall require in respect of the discharge by him of all or any of the additional duties under this section and shall pay the remuneration imposed by the auditor for such additional duties performed by him.

148.5 No auditor shall be liable to be sued in any court in respect of any statement made by the auditor in good faith in the discharge of his duties under this section.

Section 149. Power of Commission to appoint an Independent person to review the license holder

149.1 Where –

- (a) a holder of a license fails to submit the auditor's report in compliance with section **Error! Reference source not found.**; or
- (b) the Commission receives a report under section 146 or 148,

the Commission may, if the Commission is satisfied that it is in the interests of the holder of a license concerned, the members or the clients of that holder of a license to

do so, appoint in writing an independent person to examine, audit and report, either generally or in relation to any particular matter, upon the books, accounts and records of, and assets held by the holder of a license.

149.2 An independent person appointed by the Commission shall have the powers of an investigator appointed under Part III of this Act and shall, upon the conclusion of the examination and audit in respect of which such auditor was appointed, make a report to the Commission.

149.3 Where the Commission is of the opinion that the whole or any part of the costs and expenses of an independent person appointed by the Commission under subsection (1) of this section should be paid by the holder of a license, the Commission may, by order in writing, direct such holder to pay a specified amount, being the whole or part of such costs and expenses, within the time and in the manner as may be specified in the direction.

149.4 Where a holder of a license fails to comply with an order of the Commission under subsection (3) of this section, the amount specified in the order may be sued for and recovered by the Commission as a civil debt.

Section 150. Disqualification of auditor

If it appears to the Commission that an auditor has failed to comply with a duty imposed on him by this Act and any regulations made thereunder in relation to the holder of a license it may disqualify him from being the auditor for any licensed holder.

Section 151. Communications restrictions for auditors and employees

Except as may be necessary for the carrying into effect of the provisions of this Act or so far as may be required for the purpose of any civil or criminal proceeding, an auditor or his employee or any other person shall not disclose any matter, which may come to his knowledge or possession in the course of performing his duties –

- (a) to any person other than the Commission;
- (b) to any other person specified by the Commission; and
- (c) in the case of an employee of such auditor, to any person other than the auditor.

Section 152. Destroying or concealing of books and accounts etc

Any person who, with intent to prevent, delay or obstruct the carrying out of any examination and audit under this Act –

- (a) destroys, conceals or alters any books, accounts, assets or records relating to the business of a holder of a license or attempts to do so,

- (b) is guilty of an offence and liable on conviction to a fine not exceeding [LD \$500,000] or imprisonment for a term not exceeding [5 years] or both.

Section 153. Rights of exchange to impose obligations

The provisions relating to these sections shall not prevent a licensed or recognised exchange from imposing on any participating member of that organisation any further obligation or requirements it thinks fit with respect to –

- (a) the audit of accounts;
- (b) Information to be furnished in reports from auditors; or
- (c) the keeping of accounts, books and records.

Section 154. Certain representations prohibited

The holder of a license shall not represent or imply or knowingly permit to be represented or implied in any manner to any person that the holder's abilities or qualifications have in any way been approved by the Commission.

Section 155. Clients' recommendations by holder of a License

155.1 A holder of a license shall not make a recommendation with respect to any investments to a client not falling within the definition of section **Error! Reference source not found.**, who may reasonably be expected to rely on the recommendation without having a reasonable basis for making the recommendation to the client.

155.2 For the purposes of subsection (1), a holder of a license does not have a reasonable basis for making a recommendation to a client unless –

- (a) the holder of a license has, for the purposes of ascertaining that the recommendation is appropriate, taken all practicable measures to ascertain that the information he possessed and relied upon concerning the investment objectives, financial situation and particular needs of the client is accurate and complete;
- (b) the holder of a license has given such consideration to, and conducted such investigation of, the subject matter of the recommendation as may be reasonable in all the circumstances; and
- (c) the recommendation is based on such consideration and investigation.

155.3 Where the holder of a license contravenes subsection (2) by making a recommendation to a person and –

- (a) the person, in reliance on the recommendation, does a particular act or refrains from doing a particular act;

- (b) it is reasonable, having regard to the recommendation and all other relevant circumstances, for the person to do that act or to refrain from doing that act in reliance on the recommendation; and
- (c) the person suffers loss or damage as a result of doing that act or refraining from doing that act,

the holder of a license is liable to pay damages to the person in respect of that loss or damage.

Section 156. Liability

156.1 A holder of a license shall not be liable under section **Error! Reference source not found.** if it is proved that a reasonable person under the circumstances could be expected to have done or omitted to do that act in reliance on the recommendation even if the holder of a license had complied with section **Error! Reference source not found.** in relation to the recommendation.

156.2 A holder of a license shall not be liable under section **Error! Reference source not found.** if it is proved that the recommendation was, in all circumstances, appropriate having regard to the information that, when making the recommendation, the holder of a license had about the client investment objectives, financial situation and particular needs.

156.3 For the purposes of section **Error! Reference source not found.** a reference to the making of a recommendation is a reference to the making of a recommendation whether expressly or by implication.

Section 157. Handling of client assets

157.1 A holder of a license shall, to the extent that he receives money or other assets from or on account of a client –

- (a) do so on the basis that the money or other assets shall be applied solely for such purpose as may be agreed to by the client, when or before he receives the money or other assets;
- (b) pending such application, pay or deposit the money or other assets in such manner as may be prescribed; and
- (c) record and maintain a separate book entry for each client in accordance with the provisions of this Act in relation to that client's money or other assets.

157.2 The Commission may, without prejudice to any other provision in this Act, make regulations in respect of all or any of the matters in this Part, including the handling of money or other assets by a holder of a license.

Section 158. Safeguarding of client's money and other assets

All money or other assets received from or on account of clients or deposited in the manner prescribed under section 155

- (a) shall not be available for payment of the debts of the holder of a license; and
- (b) shall not be liable to be paid or taken in execution under an order or a process of any court against the license holder.

Section 159. Safekeeping of client's money and assets

159.1 A holder of a license shall establish and keep in a licensed bank one or more segregated accounts designated or evidenced as such into which he shall pay –

- (a) all amounts, less any brokerage and other proper charges, that are received from or on account of any person, other than a holder of a license, for the purchase of securities and that are not attributable to securities delivered to a holder of a license not later than the next banking business day or such other date as may be specified by the Commission on which they were received by that holder; and
- (b) all amounts, less any brokerage and other proper charges, that are received for or on account of any person, other than a holder of a license, from the sale of securities and that are not paid to that person or as that person directs not later than the next banking business day or such other date as may be specified by the Commission on which they were received by that person.

159.2 For the purposes of paragraph (1) (b), any check issued for the purpose of payment to a person which is not collected by that person or as directed by that person within 5 banking business days or such other date as may be specified by the Commission, after the date such check is issued, shall be credited into the segregated account.

159.3 A holder of a license who –

- (a) contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding [\$200,000], imprisonment for a term not exceeding [2 years] or both; or
- (b) with intent to defraud, contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding [\$500,000], imprisonment for a term not exceeding [5 years] or both.

Section 160. Monies withdrawn from client account

160.1 A holder of a license shall not withdraw any monies from a client account except for the purpose of making a payment –

- (a) to, or in accordance with the written instructions or agreement of, the client;
- (b) defraying brokerage and any other proper charges; or
- (c) that is otherwise authorised by any written law.

160.2 A holder of a license who contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding [\$1,000,000], imprisonment for a term not exceeding [seven years] or both.

Section 161. Claims and liens not affected

Nothing in this Part shall be construed as taking away or affecting any lawful claim or lien which any holder of a license has against or upon any monies –

- (a) held in a client account; or
- (b) received for the purchase of securities or from the sale of securities before such monies are paid into a client account.

Section 162. Right to copy book entries and inspection of contract notes

162.1 A holder of a license shall supply, on demand, to his client or any person authorised by the client, copies of all entries in his books relating to the client's transactions.

162.2 A person referred to in subsection (1) shall be entitled to inspect any contract note or document relating to client's transactions free of charge.

Section 163. Liability to clients for activities

A holder of a license shall be liable to clients and other third parties that have contracted with him for any act of negligence, recklessness or fraud committed by his officer, employee or authorised agent as if he had carried out the act.

Part IX: COLLECTIVE INVESTMENT SCHEMES

Section 164. Collective investment schemes

164.1 In this Part, "collective investment scheme" means any investment arrangements with respect to assets of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income.

164.2 The arrangements must be such that:

- (a) the persons who are to participate (“participants”) do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions and
- (b) the arrangements must also have either or both of the following characteristics
 - (i) the contributions of the participants and the profits or income out of which payments are to be made to them are pooled;
 - (ii) the property is managed as a whole, by or on behalf of the operator of the collective investment scheme; and
- (c) the arrangements must satisfy the condition set out in subsection (3) below.

164.3 The condition referred to in subsection (2) (b) above is that the property belongs beneficially to, and is managed by or on behalf of, a company, the trustee of a trust or some other entity or arrangement having as its purpose the investment of its funds with the aim of spreading the investment risk and giving its members the benefit of the results of the management of those funds for or on behalf of that company, trust, entity or arrangement.

164.4 If arrangements provide for such pooling as is mentioned in subsection (2) (b) (i) in relation to separate parts of the property, and each part is maintained in a portfolio segregated in the book of the scheme from the other assets of the scheme then the arrangements shall be regarded as constituting a single umbrella collective investment scheme provided that the participants are entitled to exchange rights in one part for rights in another.

Section 165. Types of collective investment schemes

165.1 In this Part a collective investment scheme shall be formed as:

- (a) a unit trust scheme; or
- (b) an investment company with fixed or variable capital; or
- (c) a partnership.

165.2 Without prejudice to subsection (1) the Commission may prescribe arrangement other than those set out at subsection (1) above by which collective investment schemes may be formed.

165.3 A collective investment scheme may be formed as:

- (a) an open-ended scheme namely a scheme which is obliged to redeem participants holdings upon their request at a price related to the net asset value of the property of the scheme at no less a frequency than twice a month at regular intervals; or

- (b) a closed ended scheme namely a scheme which is not obliged to redeem participants holdings at their request; or
- (c) an interval undertaking namely a scheme which is obliged to redeem participants' holdings at a price related to the net asset value of the property of the scheme on a regular periodic basis which is no less than twice a year.

165.4 Where a collective investment scheme is formed as a partnership the operator of the scheme must be the general partner and hold or be eligible to hold a license under this Act.

Section 166. ARRANGEMENTS NOT CONSTITUTING A COLLECTIVE INVESTMENT SCHEME

166.1 Arrangements that do not constitute a collective investment scheme are:

- (a) an arrangement operated by a person other than by way of business;
- (b) an arrangement where each of the participants carries on a business other than a business concerned with dealing in, arranging deals, managing or advising on securities or investments and enters into the arrangement for commercial purposes related to that business;
- (c) an arrangement where each of the participants is a company in the same group as the management company of the undertaking;
- (d) an arrangement where:
 - (i) each of the participants is a bona fide employee or former employee, or the wife, husband, widow, widower, child or step child under the age of 18 years of age of such an employee or former employee, of a company in the same group as the management company; and
 - (ii) the property to which the arrangement relates consists of shares or stock, debentures, loan stock, or any other instrument creating or acknowledging indebtedness or warrants or certificates conferring rights in relation to any such investment, in each case being an investment in or in a member of that group;
- (e) a franchise arrangement, namely an arrangement under which a person earns profits or income by exploiting a right conferred by the arrangements to use a trade name or design or other intellectual property or the goodwill attached to it;
- (f) an arrangement the predominant purpose of which is to enable persons participating in it to share in the use or enjoyment of a particular property or to make its use or enjoyment available gratuitously to other persons;

- (g) an arrangement under which the rights or interests of the participants consist of the benefit of certificates or other instruments conferring rights in relation to securities other than shares in an investment company;
- (h) a contract of insurance; and
- (i) a scheme with fewer than 50 participants.
- (j) a government guaranteed pension scheme,
- (k) a closed ended investment company which is established by the operator of another collective investment undertaking:
 - (i) for the purposes of holding investments, directly or indirectly, on behalf of that undertaking, or a series of collective investment undertakings established by a single sponsor to invest in parallel one with another (the “owning undertakings”); and
 - (ii) the shares of which are not marketed to or otherwise available to any participant other than the owning undertakings;
- (l) a building society;
- (m) a co-operative society including funeral societies;
- (n) a credit union.

Section 167. Interpretation

167.1 In this Part, unless the context otherwise requires –

- (a) “Constitution document” means for an investment company the constitution and or memorandum and articles of the company as the case may be, and for a partnership the partnership deed; and for a unit trust the trust deed;
- (b) “Communicate” includes causing a communication to be made;
- (c) “Custodian”, in relation to any form of collective investment scheme, means the body corporate (and includes a trustee) to whom the property subject to the collective investment scheme is entrusted for safekeeping;
- (d) “Investment Company” means a collective investment scheme which is a body corporate whose principal objective is the diversified investment of its property in real or personal property of whatsoever form;
- (e) “Investment Company with a fixed capital” means a body corporate which has a fixed number of shares in issue;

- (f) “Investment Company with variable capital” means a body corporate which has a variable number of shares;²
- (g) “Licensed corporate director” means the corporate director of an investment company with fixed or variable capital and which is the management company of that investment company;
- (h) “Management Company” means the body corporate responsible for the establishment, promotion, operation, investment management and administration of an investment company and which is licensed by the Commission under this Act;
- (i) “Offer to the public” has the same meaning as “public offering” in this Act;
- (j) “Operator”, of a collective investment scheme, which is an investment company, means the licensed corporate director of that company which is the management company and in relation to a unit trust the management company and in relation to a partnership means the general partner;
- (k) “promotion otherwise than to the general public” includes promotion in a way designed to reduce, so far as possible, the risk of participation by persons for whom participation would be unsuitable;
- (l) “Participate”, in relation to a collective investment scheme means becoming a participant in the collective investment scheme by reason of having invested in the collective investment scheme;
- (m) “unit trust” means a collective investment scheme whose constitution document is a trust deed between the management company and a trustee;

Section 168. Restrictions on promotion of collective investment scheme

168.1 Subject to subsection (3) a holder of a license must not communicate an invitation or inducement to participate in a collective investment scheme.

168.2 Subsection (1) applies in the case of a communication originating outside the Republic of Liberia only if the communication is capable of having an effect in the Republic of Liberia.

168.3 Subsection (1) does not apply in relation to –

- (a) a licensed collective investment scheme; or
- (b) a recognised collective investment scheme.

²Variation of the number of shares in this type of corporate vehicle is not something which requires the approval of shareholders and it is not clear if the current Associations Act would permit such an arrangement.

168.4 Subsection (1) does not apply to anything done in accordance with regulations made by the Commission for the purpose of exempting from that subsection the promotion otherwise than to the general public of collective investment schemes of specified descriptions.

Section 169. APPLICATION FOR COLLECTIVE INVESTMENT SCHEME LICENSE

169.1 Any application for an order declaring a collective investment scheme to be a licensed scheme must be made to the Commission by the operator and custodian, or proposed operator and custodian, as the case may be, of the scheme.

169.2 The operator and custodian or proposed operator and custodian must be independent of each other.

169.3 The application –

- (a) must be made in such manner as the Commission may direct; and
- (b) must contain or be accompanied by such information as the Commission may reasonably require for the purpose of determining the application.

169.4 At any time after receiving an application and before determining it, the Commission may require the applicants to provide it with such further information as it reasonably considers necessary to enable it to determine the application.

169.5 The Commission may give different directions, and impose different requirements in relation to different applications.

169.6 The Commission may require applicants to present information which they are required to give under this section in such form, or to verify it in such a way, as the Commission may direct.

Section 170. Grant of collective investment scheme License

170.1 Where on an application for a collective investment scheme license, the Commission

- (a) is satisfied that the collective investment scheme complies with the requirements set out in this section;
- (b) is satisfied that the collective investment scheme complies with the general obligations applicable to all regulated persons under this Act; and
- (c) has been provided with a copy of the constitution of the collective investment scheme,

the Commission may make an order declaring the collective investment scheme to be a licensed collective investment scheme.

170.2 If the Commission makes an order under subsection (1), it must give notice in writing of the order to the applicant.

170.3 The operator and the custodian must each –

(a) be a body corporate incorporated in the Republic of Liberia; and

(b) have a place of business in the Republic of Liberia,

and the affairs of each must be administered in the country or territory in which it is incorporated.

170.4 The custodian must be a licensed bank

170.5 The name of the collective investment scheme must not be undesirable or misleading.

170.6 The purposes of the collective investment scheme must be reasonably capable of being successfully carried into effect.

Section 171. Time limits for determination of collective investment scheme License

171.1 An application for a license must be determined by the Commission as soon as is reasonably practicable.

171.2 The applicant may withdraw his application, by giving the Commission a notice in writing, at any time before the Commission determines it.

Section 172. Refusal of License

172.1 If the Commission proposes to refuse an application for a license, it must give each of the applicants a warning notice.

172.2 When the Commission proposes to take action against a person under this section, it must give a warning notice in accordance with the procedure under Part III of this Act.

Section 173. Collective investment scheme regulations

173.1 The Commission may make regulations (“scheme regulations”) as to –

(a) the constitution, management and operation of licensed collective investment scheme;

(b) the powers, duties, rights and liabilities of the operator and custodian of any such scheme;

(c) the rights and duties of the participants in any such scheme; and

- (d) the winding up of any such scheme.

173.2 Scheme regulations may, in particular, make provision for the following–

- (a) the issue and redemption of the units under the scheme and valuation and pricing of the scheme and units in the scheme;
- (b) the expenses of the scheme and the means of meeting them;
- (c) the appointment, removal, powers and duties of an auditor for the scheme;
- (d) restricting or regulating the investment and borrowing powers exercisable in relation to the scheme;
- (e) restricting or regulating conflicts of interest or related party transaction;
- (f) requiring the keeping of records with respect to the transactions and financial position of the scheme and for the inspection of those records;
- (g) requiring the preparation of periodical reports with respect to the scheme and the provision of those reports to the participants and to the Commission; and
- (h) with respect to the amendment of the scheme.

173.3 Scheme regulations may make provision as to the contents of the trust deed or the constitution of the collective investment collective investment scheme.

173.4 Scheme regulations are binding on the manager, operator, custodian trustee and participants of the scheme independently of the contents of the trust deed or the constitution of the collective investment scheme.

Section 174. Disqualification of auditor

If it appears to the Commission that an auditor has failed to comply with a duty imposed on him by this Act and any regulations in relation to collective investment scheme it may disqualify him from being the auditor for any licensed collective investment scheme.

Section 175. Modification or waiver of regulations

175.1 In this section, “regulations” means any regulations made by the Commission under this part in relation to collective investment schemes.

175.2 The Commission may, on the application or with the consent of any person to whom any regulations apply, direct that all or any of the regulations –

- (a) are not applicable to him as respects a particular scheme; or
- (b) are applicable to him, as respects a particular scheme, with such modifications as may be specified in the direction.

Section 176. Alteration of collective investment scheme

176.1 Where a licensed collective investment scheme proposes to alter the scheme's constitution and or to replace its custodian it must give a notice in writing to the Commission.

176.2 Any notice given in respect of a proposal to alter the scheme shall not take effect unless –

- (a) the Commission, by notice in writing, has given its approval to the proposal; or
- (b) one month, beginning with the date on which the notice was given, has expired without the collective investment scheme receiving from the Commission a warning notice in respect of the proposal.

176.3 The Commission must not approve a proposal to replace the operator or the custodian of a licensed collective investment scheme unless it is satisfied that, if the proposed replacement is made, the scheme will continue to comply with the requirements of its license.

Section 177. Refusal of proposed changes to schemes

If the Commission proposes to refuse approval of a proposal to replace the operator or the custodian of a licensed collective investment scheme it must give a warning notice in accordance with the procedure under Part III of this Act.

Section 178. Exclusion clauses

Any provision of the trust deed or constitution of a collective investment scheme is void if it has the effect of exempting the operator or custodian from liability for any failure to exercise due care and diligence in the discharge of his functions in respect of the scheme.

Section 179. Revocation of License

179.1 A collective investment scheme license may be revoked by an order made by the Commission if it appears to the Commission that –

- (a) one or more of the requirements for the making of the order are no longer satisfied;
- (b) the operator or custodian of the scheme concerned has contravened a requirement imposed on him by or under this Act;
- (c) the operator or custodian of the scheme has, in purported compliance with any such requirement, knowingly or recklessly given the Commission information which is false or misleading in a material particular;

- (d) no regulated activity is being carried on in relation to the scheme and the period of that inactivity began at least 12 months earlier; or
- (e) none of paragraphs (a) to (d) applies, but it is desirable to revoke the license in order to protect the interests of participants or potential participants in the scheme.

179.2 For the purposes of subsection (1) (e), the Commission may take into account any matter relating to –

- (a) the scheme;
- (b) the operator and custodian;
- (c) any person employed by or associated with the operator and custodian in connection with the scheme;
- (d) any director of the operator and custodian;
- (e) any person exercising influence over the operator and custodian;
- (f) anybody corporate in the same group as the operator and custodian;
- (g) any director of any such body corporate;
- (h) any person exercising influence over any such body corporate.

Section 180. Procedure for revocation of collective investment scheme License

180.1 If the Commission proposes to make an order revoking a collective investment scheme license, it must give separate warning notices in accordance with the procedure under Part III of this Act to the operator and the custodian of the scheme.

180.2 If the Commission decides to make a revocation order, it must without delay give each of them a decision notice in accordance with the procedure under Part III of this Act

Section 181. Requests for revocation or withdrawal of collective investment scheme License

181.1 A collective investment scheme license may be revoked by an order made by the Commission at the request of the operator and custodian of the scheme concerned.

181.2 If the Commission makes an order under subsection (1), it must give a notice in writing of the order to the operator and custodian of the scheme concerned in accordance with the procedure under Part III of this Act .

181.3 The Commission may refuse a request to make an order under this section if it considers that –

- (a) that any matter concerning the scheme should be investigated before a decision is taken as to whether the license should be revoked; or
- (b) revocation would not be in the interests of the participants.

181.4 If the Commission proposes to refuse a request under this section, it must give separate warning notices to the operator and the custodian of the scheme in accordance with the procedure under Part III of this Act.

181.5 If the Commission decides to refuse the request, it must without delay give each of them a decision notice in accordance with the procedure under Part III of this Act.

Section 182. Recognised collective investment scheme

182.1 A collective investment scheme which is not a licensed scheme in the Republic of Liberia but is managed in, and licensed under the law of, a country or territory outside the Republic of Liberia is recognised scheme if –

- (a) that country or territory is designated for the purposes of this section by an order made by the Commission;
- (b) the operator and custodian of the scheme has given notice in writing to the Commission that he wishes it to be recognised.

182.2 The Commission may not make an order designating any country for the purposes of this section unless it is satisfied –

- (a) that the law and practice under which the relevant collective investment schemes are authorised and supervised in that country or territory affords to investors in the Republic of Liberia adequate protection to that provided by this Act; and
- (b) that adequate arrangements exist, or will exist, for co-operation between the authorities of the country or territory responsible for the licensing and supervision of comparable licensed schemes.

182.3 The notice to be given by the operator and custodian under subsection (1) (b) –

- (a) must contain the address of a place in the Republic of Liberia for the service on the operator and custodian of notices or other documents required or authorised to be served on him under this Act; and
- (b) must contain or be accompanied by such information and documents as may be specified by the Commission.

Section 183. Revocation of recognition

The Commission may direct that a scheme is to cease to be recognised or revoke a recognition order if it appears to the Commission –

- (a) that the operator or custodian of the scheme has contravened a requirement imposed on him by or under this Act;
- (b) that the operator or custodian of the scheme has knowingly or recklessly given the Commission information which is false or misleading in a material particular;
- (c) in the case of a recognition order, that one or more of the requirements for the making of the order are no longer satisfied;

Section 184. Procedure for refusal or revocation of recognition

184.1 If the Commission proposes to refuse recognition it must give the operator and custodian of the scheme a warning notice in accordance with the procedure under Part III of this Act.

184.2 If, having given a warning notice, the Commission decides to refuse approval it must give the operator and custodian of the scheme a decision notice in accordance with the procedure under Part III of this Act.

Section 185. Powers of intervention for collective investment schemes

185.1 The Commission may give a direction under this section if it appears to the Commission that –

- (a) one or more of the requirements for the granting of a license or recognition are no longer satisfied;
- (b) the operator or custodian of a licensed or recognised collective investment scheme has contravened, or is likely to contravene, a requirement imposed on him by or under this Act;
- (c) the operator or custodian of such a collective investment scheme has, in purported compliance with any such requirement, knowingly or recklessly given the Commission information which is false or misleading in a material particular; or
- (d) none of paragraphs (a) to (c) applies, but it is desirable to give a direction in order to protect the interests of participants or potential participants in such a scheme.

185.2 A direction under this section may –

- (a) require the operator or custodian of the scheme to cease the issue or redemption, or both the issue and redemption, of participations under the scheme;
- (b) require the operator and or trustee of the scheme to wind it up.

185.3 If the license is revoked, the revocation does not affect any direction under this section which is then in force.

185.4 The Commission may, either on its own initiative or on the application of the operator or custodian of the scheme concerned, revoke or vary a direction given under this section if it appears to the Commission –

- (a) in the case of revocation, that it is no longer necessary for the direction to take effect or continue in force;
- (b) in the case of variation, that the direction should take effect or continue in force in a different form.

Section 186. Prohibition to Operate Unit Trust without a License

186.1 No person shall—

- (a) establish or operate a unit trust;
- (b) issue any invitation to the public to acquire any units in any unit trust; or
- (c) maintain or hold itself out as carrying on the business of dealing in units of a unit trust

unless the person is licensed by the Commission.

186.2 No license shall be granted to any person to operate a unit trust unless it is a company incorporated under the Laws of the Republic of Liberia

186.3 Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than [\$100,000] or imprisonment for a term not exceeding two years or to both and where the contravention is by a body corporate, the body corporate shall on conviction be liable to a fine of not less than [\$200,000].

186.4 Manager and Trustee

- (a) A company seeking to establish a unit trust shall be the manager of the unit trust.
- (b) The manager shall appoint a trustee for the unit trust but the manager and the trustee shall be independent of each other.

186.5 Trust Deed

- (a) A unit trust is constituted by a document made under seal between the manager of the unit trust and the trustee and the document shall be the trust deed.
- (b) The trust deed shall be in such form and contain such particulars as may be prescribed by Regulations made under this Law.

186.6 Application for License to Operate a Unit Trust

- (a) An application for a license for a unit trust shall be made to the Commission and shall be in such form as the Commission may determine.
- (b) The applicant manager shall also submit to the Commission
 - (i) the names and qualifications of its directors and other principal officers and those of the trustee;
 - (ii) its certificate of incorporation;
 - (iii) a copy of the trust deed; and
 - (iv) such particulars as may be prescribed by Regulations under this Law.

186.7 License to Operate a Unit Trust

- (a) The Commission may license a unit trust if it is satisfied that
 - (i) the manager and trustee are qualified to act in that capacity;
 - (ii) the manager is a company incorporated in Liberia;
 - (iii) the trustee is either a bank, an insurance company or a financial institution or a wholly owned subsidiary of any of them approved by the Commission;
 - (iv) the trustee has the minimum paid up capital required by the Commission;
 - (v) the business of the manager in relation to the unit trust is administered independently of the trustee; and
 - (vi) the trust deed complies with the provisions of this Law and Regulations made under this Law.
- (b) The Commission shall within ninety days of receipt of an application for a license communicate its decision on it in writing to the applicant.

- (c) A license granted under subsection 186.7(a) shall be subject to such conditions as may be specified in it or in relation to it.

186.8 Prohibition of Activities in Unlicensed Unit Trust

- (a) No person shall undertake any activity in or related to a unit trust either directly or indirectly unless:
 - (i) the units are those of a unit trust licensed by the Commission; and
 - (ii) the particulars of the unit trust have been approved by the Commission.
- (b) A person who acts contrary to subsection 186.8(a) commits an offence and is liable on summary conviction to a fine of not less than [\$50,000] or to a term of imprisonment not exceeding two years or to both and where the person is a body corporate to a fine of not less than [\$100,000].

186.9 Interest of Investors in Unit Trust and Pricing of Unit

- (a) The interest of a unit holder in a unit trust consists of units including fractions of a unit.
- (b) The calculation of prices at which units of any unit trust may be bought or sold shall be in accordance with provisions to be prescribed by the Commission.

186.10 Scheme Particulars

- (a) Any letter, notice, circular, document or prospectus prepared by a manager of a unit trust for the purpose of offering its units to the public shall be approved by the trustee of the scheme and the Commission before publication.
- (b) There shall be included in a document of the kind referred to in subsection (a) of this section, information in relation to such matters as may be prescribed or specified from time to time by the Commission.

186.11 Redemption of Units

- (a) The manager of a licensed unit trust shall, if requested by a holder of units of the unit trust, buy from the holder any number of units the holder may specify at the price at which the manager buys the units of the unit trust.
- (b) Where the license of a unit trust has been revoked, the manager shall buy all the units under the scheme at the last bid price at which the manager bought units of the unit trust before the revocation.

186.12 Duties and Powers of a Manager of a Unit Trust

- (a) The manager of a unit trust shall manage the assets of the unit trust on a day to day basis and shall select the investments to be made on behalf of the trust in the best interest of the unit holders.
- (b) The manager shall act in accordance with the trust deed and comply with its investment objectives and policy under the directions given by the trustee.
- (c) The manager shall provide such information on the management and administration of the unit trust as any trustee may request.
- (d) The manager of a unit trust shall maintain such minimum capital requirement as the Commission may determine.
- (e) The manager shall ensure that its directors or other persons concerned with the management of its business have such qualifications and experience as are specified by the Commission.

186.13 Duties and Powers of Trustee

- (a) The trustee of a unit trust shall comply with the provisions of this Law, Regulations made under it, the terms of the trust deed and all prescribed particulars of the unit trust.
- (b) The trustee shall take into its custody or under its control the property of the unit trust and hold it in trust for the investors in accordance with this Law, Regulations made under it, the trust deed and any other applicable enactment.
- (c) The trustee shall ensure that an asset attributable to a particular unit trust is separately identified.
- (d) The trustee shall
 - (i) ensure that the method used by the manager in the calculation of prices at which interest is issued and redeemed is within the limits determined by the Commission; and
 - (ii) maintain the minimum paid up capital determined by the Commission.
- (e) The trustee may execute documents to secure acquisitions, disposals and loans made by the manager in accordance with this Law or Regulations made under it and the trust deed.
- (f) Subject to subsection (7), this Law or Regulations made under it and the terms of the trust deed, the trustee shall carry out the instructions of the manager in respect of investments which constitute the property of the scheme.

- (g) The trustee may give notice to the manager that it is unwilling to accept the transfer of any property which contravenes this Law or Regulations made under it or the trust deed.
- (h) The manager may, with the approval of the trustee, determine that each unit shall be sub divided into two or more units or that two or more units shall be consolidated.

186.14 Prohibited Transactions by Manager

- (a) No company that is a manager of a unit trust or is a subsidiary or holding company of the manager shall
- (b) borrow money on behalf of the unit trust for the purpose of acquiring securities or other property for the unit trust;
- (c) lend money that is subject to the unit trust to a person to enable him to purchase units of the unit trust;
- (d) mortgage, charge or impose any other encumbrance on any securities or other property subject to the unit trust; or
- (e) engage in any transaction which in the opinion of the Commission is not in the interest of the holders of the units of the unit trust, provided that paragraphs (a) and (c) shall not apply to borrowings made on behalf of the trust solely for the purpose of meeting obligations to redeem units from the holders when requested and provided further that the borrowings shall be subject to such conditions and restrictions as the Commission shall prescribe.
- (f) A company that contravenes subsection (a) commits an offence and every officer of the company who acted in breach of the provision shall also be liable on summary conviction
 - (i) in the case of the company to a fine of not less than [\$100,000]; And
 - (ii) in the case of an officer to a fine not exceeding [\$50,000] or to a term of imprisonment of not less than six months or to both.

Section 187. Prohibition of Operation of Mutual Fund without License

187.1 No person shall

- (a) establish or operate a mutual fund;
- (b) issue any invitation to the public to acquire any shares in a mutual fund; or
- (c) maintain or hold himself out as carrying on the business of dealing in a mutual fund unless the mutual fund is licensed by the Commission.

187.2 Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than [\$50,000] or imprisonment for a term not exceeding two years or to both and where the contravention is by a body corporate, the body corporate is liable upon summary conviction to a fine of not less than [\$100,000]

187.3 Appointment of a Manager and Custodian

- (a) The directors of a company applying to operate as a mutual fund shall appoint for the mutual fund
- (b) a manager which shall be a company incorporated in Liberia and independent of the mutual fund company; and
- (c) a custodian which shall be independent of the mutual fund company and be a bank, an insurance company or any other financial institution approved by the Commission or a wholly owned subsidiary of any of them approved by the Commission.

187.4 The custodian shall have and maintain such minimum capital requirement as shall be determined by the Commission

187.5 Application for a Mutual Fund License

- (a) The Commission may on an application made to it by—
 - (i) a public company incorporated or
 - (ii) an external company with a place of business in Liberia, license the company as a mutual fund company.
- (b) The company referred to in subsection (1) must have been incorporated solely to hold and manage securities or other financial assets.
- (c) The application shall be in such form and contain such particulars as are specified by or under this Law and as may be directed by the Commission.
- (d) The Commission shall within ninety days of receipt of the application communicate its decision on it in writing to the applicant.

187.6 License for Operation of Mutual Fund

- (a) The Commission shall not grant a license to any company to operate as a mutual fund company unless the Commission is satisfied that—
 - (i) if an invitation is made to the public to subscribe for its shares, the price at which the shares will be offered will be based on the net value of the

company's assets at the time of the offer with no addition except for a reasonable service charge;

- (ii) the company will at all times repurchase the shares from the holder at a price based on the net value of its assets at the time of the repurchase without any deduction other than a reasonable service charge, provided that where the shares of the mutual fund company are to be listed on an approved stock exchange, the Commission may waive or modify the requirements of this paragraph;
 - (iii) a manager and custodian for the scheme have been appointed by the directors;
 - (iv) the manager is a company incorporated in Liberia and is separate from and independent of the custodian; and
 - (v) the custodian being a bank or an insurance company or a wholly owned subsidiary of either of them has and maintains the required minimum paid up capital.
- (b) The license may be subject to such other conditions as the Commission may specify.

187.7 Interest of an Investor in a Mutual Fund

The interest of an investor in a mutual fund consists of shares in the company.

187.8 Regulations of a Mutual Fund

A mutual fund shall make regulations which shall be in such form and contain such matters as are prescribed by Regulations made under this Law or as may be directed by the Commission.

187.9 Directions by Directors of a Mutual Fund

- (a) Subject to the Companies Code the directors of a mutual fund shall determine the investment and general policies of the company and shall give directions to the manager accordingly.
- (b) No director shall give any directions which are likely to make the manager act in contravention of this Law and Regulations made under it; and the directors shall act in accordance with the terms of the regulations or the constitution of the mutual fund and any management agreement.
- (c) Any director who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding [\$100,000] or imprisonment for a term not exceeding one year or to both.

187.10 Custodian of Mutual Fund and its Duties

- (a) The directors of a mutual fund shall appoint a custodian for the mutual fund which shall take into its custody or put under its control the property of the mutual fund which shall be held in accordance with this Law and any relevant agreement not inconsistent with this Law.
- (b) The custodian of a mutual fund shall have such minimum capital requirement as may be determined by the Commission.
- (c) The custodian may give notice to the manager that it is not prepared to accept the transfer of assets in contravention of this Law and may require the manager to give security for the transfer of assets.
- (d) Subject to subsection (c), the terms of its contract of appointment and this Law, the custodian shall carry out the instructions of the manager as regards investments which comprise the assets of the company.

187.11 Duties of Directors of Mutual Fund

The directors of a mutual fund shall take reasonable care—

- (a) to ensure that the property of the mutual fund is managed by the manager in accordance with this Law, Regulations made under it and the constitution or regulations of the mutual fund;
- (b) that the manager performs its functions and discharges its duties under this Law and Regulations made under it; and
- (c) that the methods used by the manager to calculate prices at which shares are issued and redeemed are legal; and shall carry out periodic checks to verify whether the manager has determined prices within those limits.

187.12 Duties of a Manager of a Mutual Fund Company

- (a) The manager shall manage the mutual fund on a day to day basis, select investments to be owned by the company and carry out any other functions assigned to it under contract from the mutual fund.
- (b) The manager shall be subject to the directions of the directors of the mutual fund and shall perform the normal functions carried out by the managing director of a company.
- (c) Where the directions given to the manager by the directors of the mutual fund contravene this Law or any other enactment, the manager shall refer the matter to the Commission for guidance.

- (d) The manager of a mutual fund shall maintain such minimum paid up capital and have the amount and type of financial and material resources as may be directed by the Commission.
- (e) The manager shall not allow the property of the company to be used or invested contrary to the investment restrictions under this Law or Regulations made under this Law.
- (f) The manager shall ensure that its directors or other persons concerned with the management of its business have the necessary qualifications and experience required by the Commission.
- (g) The manager shall act in accordance with investment policies laid down by its directors and the provisions of this Law.

187.13 Unit Trust and Mutual Fund Company Annual Fee for License.

There shall be paid in respect of a license issued under this Part such application fee and annual license fee as the Commission may determine.

187.14 Inconsistency with this Law and Regulations Made Under it

If any provision in a trust deed establishing a unit trust or any provision in the regulations or constitution of a mutual fund is inconsistent with a provision of this Law or Regulations made under this Law, that provision shall be of no effect to the extent of the inconsistency.

187.15 Changes in Unit Trust and Mutual Fund

- (a) A proposal for change in a unit trust or mutual fund shall be subject to approval by a special resolution of holders of interests in the unit trust or mutual fund.
- (b) The manager of a unit trust or mutual fund shall submit the proposal to the Commission for approval and the Commission shall acknowledge receipt in writing within seven days of receipt.
- (c) If the Commission does not take a decision on the proposal within a period of sixty days after its submission, the manager may assume that it has been approved.

187.16 Change and Retirement of Trustee or Custodian

- (a) The manager of a unit trust or the directors of a mutual fund shall give written notice to the Commission of any proposal to replace the trustee or custodian of the scheme and seek the approval of the Commission and the Commission shall acknowledge in writing the receipt of the proposal within seven days of receipt.

- (b) Any proposal for a change of a trustee or custodian shall be subject to approval by a special resolution of holders of interest in the scheme.
- (c) If the Commission does not indicate its decision on the proposal within a period of sixty days after its submission, it may be assumed that the proposal has been approved.
- (d) A trustee or a custodian may be replaced by a person who satisfies the requirements of this Law.
- (e) A trustee or a custodian may retire upon giving notice of not less than ninety days.

187.17 Change of Manager of Unit Trusts and Mutual Funds

- (a) A trustee, or directors of a mutual fund, shall give written notice to the Commission of any proposal to replace a manager of the scheme and seek the approval of the Commission and the Commission shall acknowledge receipt in writing within seven days of receipt.
- (b) If the Commission does not indicate its decision on the proposal within a period of sixty days after its submission it may be assumed that there has been approval.
- (c) The manager shall be replaced by a person who satisfies the requirements of this Law.
- (d) The manager shall cease to hold office if
 - (i) it goes into liquidation, except a voluntary liquidation to reconstruct or amalgamate on terms previously approved in writing by the trustee or directors;
 - (ii) a receiver is appointed in respect of the unit trust or mutual fund;
 - (iii) the shareholders take a decision to remove the manager in terms of this Law; or
 - (iv) the trustee of a unit trust or directors of a mutual fund states in writing giving reasons that a change of manager is desirable in the interest of the investors and the Commission approves.
 - (v) If the name of the scheme makes reference to the name of the former manager, the former manager may require the new manager to propose a change in the name of the scheme.
 - (vi) Where the manager ceases to act as a manager, the trustee of a unit trust or the directors of the mutual fund shall appoint a person eligible under

this Law to be the manager of the scheme subject to that person entering into an agreement with the trustee of the unit trust or the directors of the mutual fund to secure the due performance of its duties as manager.

187.18 Retirement of Manager

- (a) The manager may retire in favour of another eligible person upon the written approval of the trustee or the directors of the mutual fund if;
 - (i) in the case of a unit trust, the appointment is made under the seal of the retiring manager;
 - (ii) the rights and duties of the retiring manager have been assigned to the new manager; and
 - (iii) any other act required to be done for the assumption of duty as manager has been done.
- (b) The retiring manager shall be absolved from any obligation upon retirement but this shall be without prejudice to the rights of any person for any act or omission of the retiring manager prior to its retirement.
- (c) Upon assumption of office as the new manager, the manager shall enjoy the rights and exercise the powers as manager and also be subject to the duties and obligations of a manager.

Section 188. Liability of Manager, Director Trustee and Custodian

The manager of a unit trust, the trustee of a unit trust or the director, the manager or custodian of a mutual fund shall be liable to an investor for any loss suffered by the investor by reason of failure to perform the duties of office under this Law or Regulations made under this Law.

Section 189. Prohibited Transactions Under Mutual Fund

A manager or custodian of a mutual fund shall not—

- (a) borrow money on behalf of the mutual fund for the purpose of acquiring securities or other property for the mutual fund;
- (b) lend money that is subject to the mutual fund to a person to enable that person acquire an interest in the mutual fund or for any purpose;
- (c) mortgage, charge or impose any other encumbrance on any securities or other property subject to the mutual fund; or
- (d) engage in any transaction which in the opinion of the Commission is not in the interest of the shareholders of the mutual fund,

provided that subsection (a) and (c) shall not apply to borrowings made on behalf of the fund solely for the purpose of meeting obligations to redeem shares from the holders when requested, and provided further that the borrowings shall be subject to such restrictions as the Commission shall prescribe.

Section 190. Commission to Keep Register of Unit Trust and Mutual Fund

190.1 The Commission shall keep a register of licensed unit trusts and mutual fund companies.

190.2 Any person who so wishes may inspect the register and upon payment of a fee obtain a copy of or extract from the register.

Section 191. Court May Rectify

191.1 The court may on an application order—

- (a) that a register be rectified if it is just to do so; or
- (b) the manager to pay for any loss or damage if it is satisfied that a person has suffered loss or damage by an error or defect in the register of investors.

191.2 Court may Order Appointment of Temporary Manager of a Scheme

- (a) The court may, on application, order the appointment of a person as a temporary manager of a scheme.
- (b) The application may be made by—
- (c) the Commission;
- (d) the manager;
- (e) the directors of a mutual fund;
- (f) the trustee or custodian; or
- (g) an investor in the scheme.

191.3 The appointment shall be for not more than ninety days but the court may, on application by the temporary scheme manager, extend the appointment.

191.4 A temporary scheme manager shall, before the end of the appointment, report to the court recommending a course of action to be taken in relation to the scheme.

191.5 The court may make such orders as are just, including orders to call an investors' meeting to consider a proposed resolution to nominate or place a scheme manager or for the termination of the scheme.

191.6 A temporary scheme manager shall have the same powers and rights in respect of the property of the scheme as the manager of the scheme

Section 192. Termination of Scheme in Accordance with Constitution of the Scheme

192.1 A scheme is terminated when

- (a) an event, date or state of affairs specified for the purpose in the scheme's constitution occurs.
- (b) a provision in the constitution of a scheme, which provides or has the effect of providing that the scheme is terminated if the manager is removed as manager.

192.2 Scheme Manager may Terminate Scheme

- (a) The manager of a scheme may, in writing and with the approval of the Commission, terminate the scheme on the ground that the purpose of the scheme has been or cannot be accomplished.
- (b) No manager shall terminate a scheme unless he has given notice as required under subsection 192.2(a) and a period of 60 days has passed.
- (c) The notice shall include—
 - (i) an explanation of the proposal;
 - (ii) a statement of the circumstances under which the purpose of the scheme has been, or cannot be, accomplished; and
 - (iii) a statement of the right of the investors to requisition a meeting of investors.

Section 193. Termination of Scheme by the court

The court may, on an application by the manager of a scheme or by—

- (a) the Commission;
- (b) an investor in the scheme;
- (c) a director of the manager; or
- (d) a temporary scheme manager,

make an order to terminate the scheme if it is just and equitable to do so or the scheme is insolvent.

Section 194. Winding Up of a Unit of Scheme

- 194.1 The trustee shall after the termination of the scheme realise the assets and after the payment from it of all liabilities and costs of the winding up, distribute the proceeds of the realisation to the manager and the investors upon the production by the manager and investors of evidence as to the proportion of their entitlement or interest in the scheme.
- 194.2 The trustee shall pay into court any unclaimed net proceeds or other cash held by the trustee after the expiration of twelve months after the day on which the net proceeds became payable.
- 194.3 The trustee may deduct any reasonable expenses incurred by him in making that payment into court from the unclaimed net proceeds.
- 194.4 The trustee shall notify the Commission after the completion of the winding up.

Section 195(A). Revocation of License of a Scheme

- 195-(A).1 The Commission may, subject to the provisions of this Law and upon notification revoke the License of a scheme if—
- (a) in the opinion of the Commission the interests of the holders of the units or shares created or held under the scheme require that; or
 - (b) the Commission is satisfied that the scheme as operating no longer qualifies as provided under this Law.
- 195-(A).2 The Commission shall before revoking the License notify the manager and trustee of the unit trust or the directors of the mutual fund of its intention to revoke the License.
- 195-(A).3 The manager of the unit trust or the directors of the mutual fund may within twenty-one days of the notification make representations in writing in respect of the proposed revocation to the Commission.
- 195-(A).4 The Commission shall consider the representations made before deciding whether to revoke the License or not.
- 195-(A).5 The Commission shall communicate its decision to revoke the License of the scheme within thirty days after representations have been made or if none is made, within thirty days after the last day for making their presentation.

Section 195(B). Suspension of License of Unit Trusts and Mutual Funds

- 195-(B).1 Nothing in this Part prevents the Commission from suspending the License of any unit trust or mutual fund subject to such conditions as the Commission shall specify in writing.

- (a) The Commission shall—
 - (i) before suspending a License notify the unit trust or mutual fund of its intentions; and
 - (ii) by the notice, invite the unit trust or mutual fund to make, within a period of not more than thirty days from the date of the service of the notice, any representations it may desire to make in respect of the suspension of the License.

195-(B).2 The Commission may revoke the License of the unit trust or mutual fund If

- (a) after the expiration of the period the unit trust or mutual fund has not made any representations; or
- (b) it is not satisfied with representations made by the unit trust or mutual fund.

Section 196. Winding Up of a Mutual Fund Company

A mutual fund shall be wound up in accordance with the provisions of the Laws of the Republic of Liberia

Section 196-(A) Cancellation of License

The Commission shall cancel the License of a scheme upon the termination of the scheme in accordance with law.

Section 197. General Penalty

Any person who does any act which constitutes a contravention of a provision of this Act commits an offence and except specifically provided in this Act in respect of that provision the person shall be liable upon summary conviction to a fine not in accordance with the Penal Code regarding the nature and grading of offenses.

Section 197-(A) Unauthorized Schemes.

No person shall operate any other form of collective investment scheme unless it is licensed by the Commission.

Section 198. Applications to Court

198.1 Where the Commission can give a direction under section **Error! Reference source not found.** it may also apply to the court for an order –

- (a) removing the operator or the custodian or both of them of the collective investment scheme; and

- (b) replacing the person or persons removed with a suitable person or persons nominated by the Commission.
- 198.2 The Commission may nominate a person for the purposes of subsection (1) (b) only if it is satisfied that, if the order was made, the requirements of the grant of the license would be complied with.
- 198.3 If it appears to the Commission that there is no person it can nominate for the purposes of subsection (1) (b), it may apply to the Court for an order –
- (a) removing the operator, or the custodian, or both of them; and
 - (b) appointing a holder of a license to wind up the scheme.
- 198.4 On an application under this section the Court may make such order as it thinks fit.
- 198.5 The Court may, on the application of the Commission, rescind any such order as is mentioned in subsection (3) and substitute such an order as is mentioned in subsection (1).
- 198.6 The Commission must give notice in writing of the making of an application under this section to the operator and custodian of the scheme concerned.
- 198.7 The jurisdiction conferred by this section may be exercised by the High Court;

Section 199. Procedure for directions

- 199.1 A direction made under this Part takes effect –
- (a) immediately, if the notice given states that that is the case; or
 - (b) on such date as may be specified in the notice;
- 199.2 A direction may be expressed to take effect immediately (or on a specified date) only if the Commission, having regard to the ground on which it is exercising its powers considers that it is necessary for the direction to take effect immediately (or on that date).
- 199.3 If the Commission proposes to give a direction or gives such a direction with immediate effect, it must give a separate notice in writing to the operator and the custodian, as the case may be, of the collective investment scheme concerned in accordance with the procedure under Part III of this Act.
- 199.4 Where the Commission proposes to take action under this section it must give a warning notice in accordance with the procedure under Part III of this Act.

PART X: INTERVENTION POWERS OF THE COMMISSION

Section 200. Scope of powers of Commission

The powers conferred on the Commission shall be exercisable in relation to any regulated person if it appears to the Commission –

- (a) that the exercise of the powers is desirable for the protection of investors;
- (b) that the regulated person is not fit and proper to carry on investment activities of a particular kind or which he is carrying on or proposing to carry on; or
- (c) that the regulated person has contravened any provision of this Act, principles or any regulations or codes made under it or, in purported compliance with any such provision of the Act, principle, regulation or code has furnished the Commission with false, inaccurate or misleading information or has contravened any prohibition or requirement imposed under this Act.

Section 201. Employment of prohibited persons

201.1 If it appears to the Commission that any person is not a fit and proper person to be employed in connection with any particular type of investment activities, it may direct in accordance with the procedure under Part II of this Act that he shall not, without the written consent of the Commission, be employed in connection with investment activities by any regulated person.

201.2 The Commission may revoke a disqualification direction.

Section 202. Public statement of misconduct

If it appears to the Commission that a person who is, or was a regulated person or any other person has contravened any provision of this Act, principles, regulations or codes made by the Commission or employed a disqualified person, it may publish a statement to that effect.

Section 203. Injunctions

203.1 If, on the application of the Commission, the Commercial Court is satisfied –

- (a) that there is a reasonable likelihood that a person will conduct investment activities without a license; or
- (b) that any person has conducted investment activities without a license and that there is a reasonable likelihood that the contravention will continue or be repeated,

the court may grant an injunction restraining the contravention.

203.2 If, on the application of the Commission the Court is satisfied –

- (a) that there is a reasonable likelihood that any person has or is likely to contravene any provision of the regulations made by the Commission;
- (b) that any person has employed or is likely to employ a disqualified person and has made or is likely to make any misleading statements and practices; or
- (c) that there is a reasonable likelihood that any person has contravened or is likely to contravene the regulations of a licensed exchange, a licensed clearing house or a central securities depository to which that person is subject and which regulate the carrying on by him of investment business activities;

the court may grant an injunction restraining the contravention or make an order requiring that person and any other person who appears to the court to have been knowingly concerned in the contravention, to take such steps as the court may direct to remedy such contravention.

Section 204. Liquidation orders

204.1 On a petition presented by the Commission by virtue of this section, the court may wind up a regulated person to whom this section applies if –

- (a) the regulated person is unable to pay his debts; or
- (b) the court is of the opinion that it is just and equitable that the regulated person should be wound up.

204.2 Subsection (1) applies to any regulated person including collective investment schemes and any person whose license has been suspended by the Commission.

204.3 For the purposes of a petition under subsection (1), a person who defaults in an obligation to pay any sum due and payable under any investment agreement shall be deemed to be unable to pay his debts.

Section 205. Market abuse

205.1 For the purposes of this Act, market abuse is behaviour (whether by one person alone or by two or more persons) –

- (a) which occurs in relation to qualifying investments traded on a market to which this section applies;
- (b) which satisfies any one or more of the conditions set out in subsection (2); and
- (c) which is likely to be regarded by a regular user of that market who is aware of the behaviour as a failure on the part of the person or persons concerned to observe the standard of behaviour reasonably expected of a person in his or their position in relation to the market.

205.2 The conditions are that –

- (a) the behaviour is based on information which is not generally available to those using the market but which, if available to a regular user of the market, would or would be likely to be regarded by him as relevant when deciding the terms on which transactions in investments of the kind in question should be effected;
- (b) the behaviour is likely to give a regular user of the market a false or misleading impression as to the supply of, or demand for, or as to the price or value of, investments of the kind in question; and
- (c) a regular user of the market would, or would be likely to, regard the behaviour as behaviour which would, or would be likely to, distort the market in investments of the kind in question.

205.3 The Commission may by order prescribe (whether by name or by description) –

- (a) the markets to which this section applies; and
- (b) the investments which are qualifying investments in relation to those markets.

205.4 The order may prescribe different investments or descriptions of investment in relation to different markets or descriptions of market.

2055 Behaviour is to be disregarded for the purposes of subsection (1) unless it occurs –

- (a) in the Republic of Liberia; or
- (b) in relation to qualifying investments traded on a market to which this section applies which is situated in the Republic of Liberia or which is accessible from the Republic of Liberia.

205.6 For the purposes of this section, the behaviour which is to be regarded as occurring in relation to qualifying investments includes behaviour which –

- (a) occurs in relation to anything which is the subject matter, or whose price or value is expressed by reference to the price or value, of those qualifying investments; or
- (b) occurs in relation to investments (whether qualifying or not) whose subject matter is those qualifying investments.

205.7 Information which can be obtained by research or analysis conducted by, or on behalf of, users of a market is to be regarded for the purposes of this section as being generally available to them.

205.8 Behaviour does not amount to market abuse if it conforms with a rule of the Exchange which includes a provision to the effect that behaviour conforming with the rule does not amount to market abuse.

205.9 Any reference in this Act to a person engaged in market abuse is a reference to a person engaged in market abuse whether alone or with one or more other persons.

205.10 In this section –

- (a) “Behaviour” includes action or inaction;
- (b) “Regular user”, in relation to a particular market, means a person who regularly deals on that market in investments of the kind in question.

205.11 If the Commission is satisfied that a person –

- (a) is or has engaged in market abuse, or of market abuse;
- (b) by taking or refraining from taking any action has required or encouraged another person or persons to engage in behaviour which, if engaged in by that person would amount to market abuse,

it may impose on him a penalty of such amount as it thinks fit.

Section 206. Insider dealing

206.1 An individual who has information as an insider is guilty of insider dealing if, in the circumstances mentioned in subsection (3), he deals in securities that are price-affected securities in relation to the information

206.2 An individual who has information as an insider is also guilty of insider dealing if—

- (a) he encourages another person to deal in securities that are (whether or not that other person knows it) price-affected securities in relation to the information, knowing or having reasonable cause to believe that the dealing would take place in the circumstances mentioned in subsection (3); or
- (b) he discloses the information, otherwise than in the proper performance of the functions of his employment, office or profession, to another person.

206.3 The circumstances referred to above are that the acquisition or disposal in question occurs on a regulated market or that the person dealing relies on a professional intermediary or is himself acting as a professional intermediary.

Section 207. Defence to Insider Dealing

207.1 An individual is not guilty of insider dealing by virtue of dealing in securities if he shows—

- (a) that he did not at the time expect the dealing to result in a profit attributable to the fact that the information in question was price-sensitive information in relation to the securities, or
- (b) that at the time he believed on reasonable grounds that the information had been disclosed widely enough to ensure that none of those taking part in the dealing would be prejudiced by not having the information, or
- (c) that he would have done what he did even if he had not had the information.

207.2 An individual is not guilty of insider dealing by virtue of encouraging another person to deal in securities if he shows—

- (a) that he did not at the time expect the dealing to result in a profit attributable to the fact that the information in question was price-sensitive information in relation to the securities, or
- (b) that at the time he believed on reasonable grounds that the information had been or would be disclosed widely enough to ensure that none of those taking part in the dealing would be prejudiced by not having the information, or
- (c) that he would have done what he did even if he had not had the information.

207.3 An individual is not guilty of insider dealing by virtue of a disclosure of information if he shows—

- (a) that he did not at the time expect any person, because of the disclosure, to deal in securities in the circumstances mentioned in subsection (3) of section **Error! Reference source not found.**; or
- (b) that, although he had such an expectation at the time, he did not expect the dealing to result in a profit attributable to the fact that the information was price-sensitive information in relation to the securities.

Section 208. Dealing in securities

208.1 For the purposes of this Part, a person deals in securities as defined in the schedule to this Act if—

- (a) he acquires or disposes of the securities (whether as principal or agent); or
- (b) he procures, directly or indirectly, an acquisition or disposal of the securities by any other person. .

208.2 For the purposes of this Part, “acquire”, in relation to a security, includes—

- (a) agreeing to acquire the security; and

(b) entering into a contract which creates the security.

208.3 For the purposes of this Part, “dispose”, in relation to a security, includes—

(a) agreeing to dispose of the security; and

(b) bringing to an end a contract which created the security.

208.4 For the purposes of subsection (1), a person procures an acquisition or disposal of a security if the security is acquired or disposed of by a person who is—

(a) his agent,

(b) his nominee, or

(c) a person who is acting at his direction,

in relation to the acquisition or disposal.

208.5 Subsection (4) is not exhaustive as to the circumstances in which one person may be regarded as procuring an acquisition or disposal of securities by another.

Section 209. Inside information

209.1 For the purposes of this part, “inside information” means information which—

(a) relates to particular securities or to a particular issuer of securities or to particular issuers of securities and not to securities generally or to issuers of securities generally;

(b) is specific or precise;

(c) has not been made public; and

(d) if it were made public would be likely to have a significant effect on the price of any securities.

209.2 For the purposes of this Part, securities are “price-affected securities” in relation to inside information, and inside information is “price-sensitive information” in relation to securities, if and only if the information would, if made public, be likely to have a significant effect on the price of the securities.

209.3 For the purposes of this section “price” includes value.

Section 210. Insiders

210.1 For the purposes of this Part, a person has information as an insider if and only if—

(a) it is, and he knows that it is, inside information, and

(b) he has it, and knows that he has it, from an inside source.

210.2 For the purposes of subsection (1), a person has information from an inside source if and only if—

(a) he has it through—

(i) being a director, employee or shareholder of an issuer of securities; or

(ii) having access to the information by virtue of his employment, office or profession;

(iii) criminal activities; or

(b) the direct or indirect source of his information is a person within paragraph (a).

Section 211. Information Made Public

211.1 For the purposes of this part, “made public”, in relation to information, shall be construed in accordance with the following provisions of this section; but those provisions are not exhaustive as to the meaning of that expression.

211.2 Information is made public if—

(a) it is published in accordance with the rules of a regulated market for the purpose of informing investors and their professional advisers;

(b) it is contained in records which by virtue of any enactment are open to inspection by the public;

(c) it can be readily acquired by those likely to deal in any securities—

(i) to which the information relates, or

(ii) of an issuer to which the information relates; or

(d) it is derived from information which has been made public.

211.3 Information may be treated as made public even though—

(a) it can be acquired only by persons exercising diligence or expertise;

(b) it is communicated to a section of the public and not to the public at large;

(c) it can be acquired only by observation;

(d) it is communicated only on payment of a fee; or.

- (e) it is published only outside the Republic of Liberia.

Section 212. Professional Intermediary

212.1 For the purposes of this Part, a “professional intermediary” is a person—

- (a) who carries on a business consisting of an activity mentioned in subsection (2) and who holds himself out to the public or any section of the public (including a section of the public constituted by persons such as himself) as willing to engage in any such business; or
- (b) who is employed by a person falling within paragraph (a) to carry out any such activity.

212.2 The activities referred to in subsection (1) are—

- (a) acquiring or disposing of securities (whether as principal or agent); or
- (b) acting as an intermediary between persons taking part in any dealing in securities.

212.3 A person is not to be treated as carrying on a business consisting of an activity mentioned in subsection (2)—

- (a) if the activity in question is merely incidental to some other activity not falling within subsection (2); or
- (b) merely because he occasionally conducts one of those activities.

212.4 For the purposes of this part, a person dealing in securities relies on a professional intermediary if and only if a person who is acting as a professional intermediary carries out an activity mentioned in subsection (2) in relation to that dealing.

Section 213. Limits on insider dealing

213.1 Insider dealing does not apply to anything done by an individual acting on behalf of a public body in pursuit of monetary policies or policies with respect to exchange rates or the management of public debt or foreign exchange reserves.

213.2 No contract shall be void or unenforceable by reason only of its having come about in consequence or as a result of insider dealing.

Section 214. Claiming falsely to be licensed and misleading statements.

214.1 A person is guilty of an offence if –

- (a) for the purposes of or in connection with any application under this Act; or

- (b) in purported compliance with any requirement imposed on him by or under this Act,

he furnishes information which he knows to be false or misleading in a material particular or recklessly furnishes information which is false or misleading in a material particular.

214.2 A person is guilty of an offence if, not being a regulated person, he –

- (a) describes himself as such; or
- (b) so holds himself out as to indicate or be reasonably understood to indicate that he is such.

214.3 A person guilty of an offence under subsections (1) and (2) is liable on conviction to a fine not exceeding [\$10,000,000], imprisonment for a term not exceeding [10 years] or both.

214.4 In proceedings brought against any person for an offence under subsection (1) or (2), it shall be a defence for him to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

PART XI: SETTLEMENT OF DISPUTES AND COMPENSATION ARRANGEMENTS

Section 215. Investor Compensation Scheme

215.1 The Commission may establish for the purposes of this Act a body to be called the Investor Compensation Scheme.

215.2 The principal objects of the Investor Compensation Scheme are to set up and manage a scheme to provide compensation for eligible investors where a regulated person is in financial distress.

215.3 The Commission may make such regulations as it thinks fit for the Investor Compensation Scheme.

PART XII: APPEALS AND THE FINANCIAL MARKETS PANEL

Section 216. The Financial Markets Panel

216.1 The Commission may establish for the purposes of this Act a Panel to be called the Financial Markets Services Panel (referred to in this Act as “the Panel”).

216.2 The Panel is to have the functions conferred on it by or under this Act or by regulations made by the Commission.

Section 217. The Chairman and Members of the Panel

217.1 The Attorney General (AG) must appoint a person for the purposes of serving as chairman of the Panel.

217.2 A person is qualified to serve as chairman if he is a member of the Bar Association of Liberia of at least seven years standing

217.3 The Attorney General must also appoint a group of persons, the lay Panel members, who appear to the AG to be qualified by experience; skills and expertise to deal with matters of the kind that may be referred to the Tribunal.

Section 218. Terms of Office

218.1 Each member of the Panel of chairmen and lay members are to hold and vacate office in accordance with the terms of his appointment.

218.2 The [Attorney General] may remove any member of the Panel on the ground of incapacity or misbehaviour.

218.3 A member of either panel—

- (a) may at any time resign office by notice in writing to the [Attorney General];
- (b) is eligible for re-appointment if he ceases to hold office.

Section 219. Remuneration and Expenses

219.1 The [Attorney General] may pay to any person, in respect of his service as a member of the Panel Tribunal including service as the Chairman such remuneration and allowances as he may determine.

Section 220. Staff

220.1 The [Attorney General] may appoint such staff for the Panel as he may determine.

220.2 The remuneration of the Panel's staff is to be defrayed by the [Attorney General].

220.3 Such expenses of the Panel as the [Attorney General] may determine are to be defrayed by the [Attorney General].

Section 221. Constitution of Panel

221.1 The Panel shall comprise one legal chairman and two lay members.

221.2 If while a referral is being dealt with, a person serving as member of the Panel in respect of the referral becomes unable to act, the referral may be dealt with by

- (a) the other members selected in respect of that referral; or

- (b) by the appointment of another member of the panel of chairmen as may be selected.

221.3 If it appears to the Panel that a matter before it involves a question of fact of special difficulty, it may appoint one or more experts to provide assistance.

Section 222. Powers of the Panel

On a referral against the decision of the Commission, the Panel may –

- (a) affirm the decision of the Commission;
- (b) set aside the decision of the Commission; or
- (c) substitute such decision as it thinks fit provided such decision is within the powers of the Commission under this Act.

Section 223. Panel Procedure

223.1 For the purpose of dealing with referrals, or any matter preliminary or incidental to a referral, the Panel must sit at such times and in such place or places as the [Attorney General] may direct.

223.2. No referral of any matter to the Panel shall act as an automatic stay on any decision taken by the Commission.

Section 224. Panel Regulations

Regulations made by the Commission for the Panel may in particular include provision—

- (a) as to the manner in which referrals are to be instituted;
- (b) for the holding of hearings in private in such circumstances as may be specified in the rules;
- (c) as to the persons who may appear on behalf of the parties;
- (d) for a member of the panel of chairmen to hear and determine interlocutory matters arising on a reference;
- (e) as to the withdrawal of references;
- (f) as to the registration, publication and proof of decisions and orders.

Section 225. Evidence

225.1 The Panel may by summons require any person to attend, at such time and place as is specified in the summons, to give evidence or to produce any document in his custody or under his control which the Panel considers it necessary to examine.

225.2 The Panel may—

- (a) take evidence on oath and for that purpose administer oaths; or
- (b) instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matters in respect of which he is examined.

225.3 A person who without reasonable excuse—

- (a) refuses or fails—
 - (i) to attend following the issue of a summons by the Panel, or
 - (ii) to give evidence, or
- (b) alters, suppresses, conceals or destroys, or refuses to produce a document which he may be required to produce for the purposes of proceedings before the Panel is guilty of an offence.

225.4 A person guilty of an offence under sub-paragraph (3)(a) is liable on conviction to a fine not exceeding [\$5,000], imprisonment not exceeding [two] years or a fine or both.

Section 226. Decisions of The Panel

226.1 A decision of the Panel may be taken by a majority.

226.2 The decision must—

- (a) state whether it was unanimous or taken by a majority;
- (b) be recorded in a document which—
 - (i) contains a statement of the reasons for the decision; and
 - (ii) is signed and dated by the member of the panel of chairmen dealing with the referral.

226.3 The Panel must—

- (a) inform each party of its decision; and
- (b) as soon as reasonably practicable, send to each party and, if different, to any licensed person concerned, a copy of the document mentioned in sub-paragraph (2).

226.4 The Panel must send the Commission a copy of its decision.

226.5 All referrals to the Panel must be determined within six months of the date of the receipt of the referral by the Panel

Section 227. Costs

227.1 If the Panel considers that a party to any proceedings on a referral has acted vexatious, frivolously or unreasonably it may order that party to pay another party to the proceedings the whole or part of the costs or expenses incurred by the other party in connection with the proceedings.

227.2 If, in any proceedings on a referral, the Panel considers that a decision of the Commission which is the subject of the reference was unreasonable it may order the Commission to pay to another party to the proceedings the whole or part of the costs or expenses incurred by the other party in connection with the proceedings.

Section 228. Appeals against Panel decision

An appeal lies from the Panel to the Supreme Court only in respect of a mistake of law by the Panel and any such appeal shall not of itself act as an automatic stay on any decision made by the Panel.

PART XIII: GENERAL OFFENCES AND PENALTY

Section 229. Copy of entry in the regulated person's record as prima facie evidence of such entry

229.1 Subject to this Act, a copy of an entry in the accounting or other records of a regulated person shall in all legal proceedings be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded.

229.2 A copy of an entry in the accounting or other records of a regulated person shall not be received in evidence under this Act unless it is first proved that those records were, at the time of making of the entry, the ordinary records of the regulated persons and that the entry was made in the usual course of business and that the records are in the custody or control of the regulated person.

229.3 Such proof as is required under subsection (2) may be given by the regulated person or any employee of the regulated person and may be given orally or by an affidavit or statutory declaration.

229.4 A copy of an entry in the accounting or other records of a regulated person shall not be received in evidence under this Act unless it is further proved that the copy has been examined with the original entry and is correct.

229.5 Such proof as is required under subsection (4) may be given by any person who has examined the copy with the original entry, and may be given orally or by an affidavit or statutory declaration.

Section 230. Offences by bodies corporate etc.

230.1 Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or of any person who was purporting to act in such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

230.2 Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of that body corporate.

Section 231. General penalty

Any person who contravenes or fails to comply with any provision of the Act or any regulations made there-under is guilty of an offence and, where no penalty is expressly provided, is liable on conviction to a fine not exceeding [\$10,000,000], imprisonment for [ten years] or both.

Section 232. Compounding of offences

232.1 The Commission may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the maximum fine prescribed for that offence.

232.2 On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

232.3 The Commission may make regulations to prescribe the offences which may be compounded.

232.4 All sums collected under this section shall be paid to the Commission.

Section 233. Convicted persons liable to pay compensation

A person convicted of an offence under this Act shall pay such compensation as may be determined by the Court to any person who has purchased or sold any securities at a price affected by the act or transaction the subject of the offence, for the damage suffered by him as a result of that purchase or sale.

Section 234. Prosecution of offences.

No prosecution for any offence under this Act shall be instituted except with the consent of the Public Prosecutor.

Section 235. Repeal, transitional and saving provisions

235.1 Subject to this section, the [Financial Institutions Act 1999 and the Associations Act] is repealed in respect of the following parts:[insert as appropriate]

235.2 Any subsidiary legislation, declaration or appointment made and anything done under the repealed Act and in force immediately prior to the commencement of this Act shall, so far as it is not inconsistent with the provisions of this Act, continue to be in force as if made or done under this Act until it is amended, revoked or repealed under this Act.

235.3 Any permission, approval, decision, notice, warrant, order, guidelines or other document prepared, made, granted, issued and any act or thing done or given under or pursuant to the repealed Act and valid immediately prior to the commencement of this Act shall be deemed to have been prepared, made, granted, issued, done or given under or pursuant to the corresponding provisions of this Act and shall continue to have effect accordingly.

235.4 Any breach, contravention or non-compliance of the repealed Act shall be deemed to be a breach, contravention or non-compliance of the corresponding provisions of this Act and the powers conferred on the Commission by this Act may be exercised in respect of any such breach, contravention or non-compliance.

235.5 Any enforcement process or proceedings commenced or pending immediately prior to the commencement of this Act in connection with any breach, contravention or non-compliance of or under the repealed Act may be continued and disposed of under the repealed Act as if this Act has not been made.

235.6 Any reference in any written law to the repealed Act or any provision thereof shall, as from the commencement of this Act, be a reference to this Act or the corresponding provision of this Act.

Section 236. Commencement

This Act shall take effect immediately upon publication in Hand Bills by the Ministry of Foreign Affairs.

ANY LAW TO CONTRARY NOTWITHSTANDING.

2016

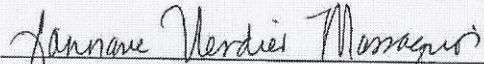
FIFTH SESSION OF THE FIFTY-THIRD
LEGISLATURE OF THE REPUBLIC OF LIBERIA.

SENATE'S ENGROSSED BILL NO. 21 ENTITLED:

AN ACT ADOPTING THE SECURITIES MARKET ACT
OF LIBERIA 2016.

On Motion, Bill read. On Motion, the Bill was adopted on its first reading, and sent to Committee Room on Thursday, September 29, 2016 at the hour of 11:53 G.M.T.

On Motion, Bill taken from the Committee Room for its second reading. On Motion, under the suspension of the rule, the second reading of the Bill constituted its third and final reading and the Bill was adopted, passed into the full force of the law and ordered engrossed today, Thursday, September 29, 2016 at 15:55 G.M.T.



SECRETARY, LIBERIAN SENATE, R.L.

2016


FIFTH SESSION OF THE FIFTY-THIRD
LEGISLATURE OF THE REPUBLIC OF LIBERIA.

HOUSE'S ENDORSEMENT TO SENATE'S ENGROSSED
BILL NO. 21 ENTITLED

AN ACT ADOPTING THE SECURITIES MARKET ACT
OF LIBERIA 2016.

On Motion, Bill read. On Motion, the Bill was adopted on its first reading, and sent to Committee Room on Tuesday, November 15, 2016 at the hour of 13:38 G.M.T.

On Motion, Bill taken from the Committee Room for its second reading. On Motion, under the suspension of the rule, the second reading of the Bill constituted its third and final reading and the Bill was adopted, passed into the full force of the law and ordered engrossed today, Tuesday, November 22, 2016 at 12:55 G.M.T.



CHIEF CLERK, HOUSE OF REPRESENTATIVES; R.L.

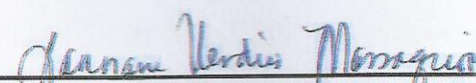
2016

ATTESTATION

AN ACT ADOPTING THE SECURITIES MARKET ACT
OF LIBERIA 2016.



VICE PRESIDENT OF THE REPUBLIC OF LIBERIA/PRESIDENT OF THE SENATE



THE SECRETARY, LIBERIAN SENATE



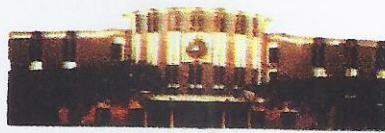
THE SPEAKER, HOUSE OF REPRESENTATIVES



THE CHIEF CLERK, HOUSE OF REPRESENTATIVES



SECRETARY OF THE SENATE



The Liberian Senate

CAPITOL BUILDING, CAPITOL HILL, MONROVIA, LIBERIA
WEST AFRICA

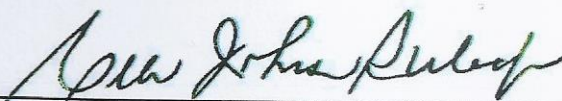
FIFTH SESSION OF THE FIFTY-THIRD LEGISLATURE OF THE REPUBLIC OF LIBERIA.

SCHEDULE OF SENATE'S ENROLLED BILL NO. 18 ENTITLED:

AN ACT ADOPTING THE SECURITIES MARKET ACT OF
LIBERIA 2016.

PRESENTED TO THE PRESIDENT OF THE REPUBLIC OF LIBERIA FOR
EXECUTIVE APPROVAL.

APPROVED THIS 21ST DAY OF DECEMBER A.D. 2016
AT THE HOUR OF 2:00 P.M.



THE PRESIDENT OF THE REPUBLIC OF LIBERIA