Statutory Instrument No. 74 of 1995

BOTSWANA STOCK EXCHANGE ACT, 1994
(Act No. 11 of 1994)

BOTSWANA STOCK EXCHANGE REGULATIONS, 1995

(Published on 27th October, 1995)

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IN EXERCISE of the powers conferred by section 88 of the Botswana Stock Exchange Act, 1994, the Vice-President and Minister of Finance and Development Planning hereby makes the following regulations —

Citation

1. These Regulations may be cited as the Botswana Stock Exchange Regulations, 1995.

Interpretation

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

"Form" means the appropriate form as specified in the First Schedule;

"holding company" and "subsidiary" have the respective meanings as stated in section 114 of the Companies Act;

"recognized external stock exchange" means a stock exchange which is situated outside Botswana and is recognized by the Registrar for the purposes of these Regulations by notice published in the Gazette;

"the Act" means the Botswana Stock Exchange Act, 1994.

Register of Stockbrokers

3. Entries in the Register of Stockbrokers in terms of section 22 of the Act shall be in Form B.S.E. 1.

Fees payable for inspection of Register

4. The fee payable in terms of section 22(2)(*f*) of the Act for the inspection of any entry in the Register shall be five Pula, and the fee for copying any entry in the Register shall be five Pula.

Application for registration

5. An application for registration made in terms of section 27(1) of the Act shall be in Form B.S.E. 2, and shall be accompanied by —

(*a*) a letter addressed to the Secretary in such form as may be specified in rules made by the Committee;

(*b*) documentary proof that the applicant —

(i) has attained the age of twenty-five years;

(ii) owns, in Botswana, assets which exceed his liabilities by not less than fifty thousand Pula; and

(iii) if a company, owns in Botswana assets which exceed liabilities by not less than one hundred and fifty thousand Pula; and

(*c*) an undertaking in writing that applicant will, in the event of the application for registration being accepted by the Registrar, obtain a policy or policies of insurance as referred to in section 46 of the Act.

Recommendation for registration

6. Where the Committee recommends that an applicant be registered in accordance with the provisions of section 29(1) or section 30(1) of the Act he shall forward together with such recommendation —

(*a*) a copy of the application for registration concerned; and

(*b*) a certificate issued by the Committee stating that the applicant has arranged to acquire not less than four but not more than twelve proprietary rights.

Certificate of registration

7. A certificate of registration issued under the hand of the Registrar in terms of sections 22(3)(*a*) and 23 of the Act shall be in Form B.S.E. 3.

Broker's transfer form and securities' transfer form

8. For the purposes of Part IX of the Act —

(*a*) a broker's transfer form shall be in Form B.S.E. 4; and

(*b*) a securities' transfer form shall be in Form B.S.E. 5.

Particulars in broker's note

9. A broker's note shall, in addition to the particulars specified in section 52 of the Act, contain the name under which the registered stockbroker concerned carries on his practice, or, where the registered stockbroker concerned is a member of a partnership or is a corporate body, the name of that partnership or corporate body, and —

(*a*) where the registered stockbroker is a member of a partnership, the name of each partner; or

(*b*) where the registered stockbroker is a corporate body, the name of each registered shareholder holding ten per cent or more of the issued and paid-up share capital thereof.

Submission of memorandum and articles of association

10. (1) An issuer who applies for securities issued by him to be included in the official list, or to be dealt in on the Exchange in terms of the proviso to section 16(1)(*b*) of the Act, shall submit to the Committee, together with his application, his memorandum and articles of association, and the memorandum and articles of association of each of his subsidiaries, if any.

(2) Where securities issued by an issuer have been included in the official list, or where they may be dealt in on the Exchange in terms of the proviso to section 16(1)(*b*) of the Act, the issuer shall —

(*a*) whenever called upon by the Committee to do so, submit to the Committee his memorandum and articles of association and the memorandum and articles of association of each of his subsidiaries, if any;

(*b*) upon acquiring a subsidiary, submit to the Committee the memorandum and articles of association of that subsidiary;

(*c*) submit timeously to the Committee notification of any change to the memorandum and articles of association of any company or subsidiary submitted in terms of this section.

(3) An issuer shall, in respect of each submission referred to in subsections (1) and (2), pay to the Committee such scrutiny fee as may be determined by the Committee:

Provided that the Committee may determine different fees for issuers who are, and for issuers who are not, holding companies.

Listing fees

11. (1) Where the Committee has, in terms of section 16(1)(*c*) of the Act, granted an application made by an issuer for securities issued by him to be included in the official list, the issuer shall, within a period fixed by the Committee, pay to the Exchange an original listing fee:

Provided that the Committee may fix different fees in respect of each class of security —

(i) in respect of an issuer who is the Government or a city, town or district council, or is a statutory body;

(ii) in respect of an issuer whose securities are quoted on a recognized external stock exchange; and

(iii) in respect of an issuer other than an issuer referred to in proviso (i) or proviso (ii).

(2) Where the Committee has, in terms of section 16(1)(*c*) of the Act, granted an application made by an issuer for securities issued by him to be included in the official list, which securities belong to a class of security in respect of which a similar application has previously been granted to him, the issuer shall, within a period fixed by the Committee, pay to the Exchange an additional listing fee agreed by the Committee in respect of those securities:

Provided that, if the issue of those securities does not entail an increase in the registered share capital of the issuer, no additional listing fee shall be payable.

Annual sustaining and annual review fees

12. An issuer of listed securities shall, not later than the 30th April in each year, pay to the Exchange —

(*a*) an annual sustaining fee agreed by the Committee in respect of each class of listed security issued by him; and

(*b*) an annual review fee set by the Committee:

Provided that no annual sustaining fee or annual review fee shall be payable —

(i) where the issuer of such listed securities is the Government, or a city, town or district council, or is a statutory body; or

(ii) in respect of any listed security which was included in the official list during the year in respect of which an annual sustaining fee would not otherwise have been payable.

Brokerage

13. (1) Subject to the provisions of this section, the minimum and maximum rates of brokerage shall be as determined by the Committee annually.

(2) If a registered stockbroker is instructed on one day, by one client, and for one account, to purchase or sell on behalf of that client a specified quantity of a listed security, other than a listed security issued by the Government or a city, town or district council or by a statutory body, and the registered stockbroker is unable to purchase or sell, as the case may be, that quantity by means of one Exchange transaction, the registered stockbroker shall —

(*a*) purchase or sell that quantity by means of two or more Exchange transactions; and

(*b*) for the purpose of calculating the brokerage payable in respect of that purchase or sale, aggregate the consideration paid or received in respect of —

(i) the first of the Exchange transactions referred to in paragraph (*a*); and

(ii) the second and any subsequent Exchange transaction referred to in paragraph (*a*) and effected within a period of five trading days from the day upon which the Exchange transaction referred to in sub-paragraph (i) above was effected.

(3) If a registered stockbroker is instructed simultaneously to purchase and to sell the same listed security by —

(*a*) one client who is not a non-member institution; or

(*b*) two or more clients who are —

(i) not non-member institutions; and

(ii) in the case of clients who are natural persons, members of the same family or, in the case of clients who are companies, a holding company and any subsidiary of that same company,

he may, if he has obtained the prior consent of two elected Committee members, allow his client a rebate on the brokerage charge, in such amount as may be determined by Committee,which rebate shall be additional to any rebate to which that client may be entitled in terms of subsection (5).

(4) If a registered stockbroker is instructed by a client who is a non-member institution, both to purchase and to sell listed securities of a particular class, other than listed securities issued by the Government, or a city, town or district council, or a statutory body, the registered stockbroker shall charge brokerage separately in respect of the instruction so to purchase and the instruction so to sell, subject to a rebate on that brokerage in an amount determined by the Committee, which rebate shall be additional to any rebate to which that client may be entitled in terms of subsection (5):

Provided that such client shall not be entitled to any rebate in terms of this subsection unless, in so instructing the registered stockbroker, such client is acting on behalf of persons who are bona fide principals of that client.

(5) If a registered stockbroker purchases or sells listed securities, other than listed securities issued by the Government, or a city, town or district council, or a statutory body, on behalf of a non-member institution, the non-member institution shall be entitled to a rebate, as determined by the Committee, on the brokerage charged in respect of that purchase or sale.

(6) The Committee may determine minimum and maximum rates of brokerage, different from those referred to in subsection (1), which may be charged in respect of purchases or sales of listed securities effected by a registered stockbroker on behalf of a person who is —

(*a*) a member of a recognized external stock exchange; and

(*b*) not a non-member institution.

(7) The brokerage payable on the purchase or sale of securities shall —

(*a*) where the consideration is to be paid in Pula, be calculated in Pula;

(*b*) where the consideration is to be paid in a currency other than Pula, be calculated in that currency or the Pula equivalent thereof.

Central share register

14. The Committee shall, within twelve months from the date of commencement of these Regulations, submit to the Minister a proposal to establish a central share register of all shares listed on the Stock Exchange, and to appoint a transfer secretary whose responsibilities shall include keeping an up-to-date register of company shareholders, and the transfer of shares from one shareholder to another.

SCHEDULE

FORMS

Form B.S.E. 1

BOTSWANA STOCK EXCHANGE ACT, 1994

REGISTER

Registration sheet No ....

Name of registered stockbroker:

Location of practice:

Postal address of practice:

Directorships held: Name of Company Nature of business

Name of partnership or corporate body (if any) of which registered stockbroker is a member;

Location of partnership or corporate body:

Postal address or partnership or corporate body:

Date of application for registration:

Certificate of registration No:

Date of registration:

Date of cancellation or registration:

Any period of suspension from practice:

Submission of annual returns (copy of audited accounts and auditor's report)

Date of receipt	Financial year ending	Date of receipt	Financial year ending	Date of receipt	Financial year ending

Form B.S.E. 2

BOTSWANA STOCK EXCHANGE ACT, 1994

APPLICATION FOR REGISTRATION

(To be completed in duplicate
-delete where inapplicable)

To: The Secretary
Botswana Stock Exchange.

Company Name:

A. Applicant:
Surname: (Mr./Mrs./Miss.)
(in block letters)

Christian Names:
(in block letters)

Postal address:

Residential address:

Location of business:

Telephone No.: Business:

Residential:

Professional qualifications:

Directorships: Name of company Nature of business

Shareholdings:

Name of company	Quoted or unquoted	Nominal value

Name of present employer:

Nature of employment:

Date of birth:

Nationality: (present):

(former, if any):

B. Name of partnership or corporate body (if any) of which applicant will be a member or representative:

Full names of other members of partnership or corporate body —

(1)

(2)

Postal address of partnership or corporate body:

Location of practice:

Telephone No:

C. Questions to be answered by applicant:

(i) Have you ever been adjudged or otherwise declared insolvent or bankrupt? If so, give date on which you were rehabilitated or discharged or granted your discharge:

(ii) Have you ever made an assignment to or arrangement or composition with, your creditors? If so, give particulars:

(iii) Are there any unsatisfied judgments outstanding against you? If so, give particulars:

(iv) Have you any interest, direct or indirect in any banking institution, insurer, management company or mutual funds or trust company? If so, give particulars:

(v) Have you ever been convicted of any offence involving fraud or dishonesty? If so, state the court by which you were convicted, the date of the conviction and full particulars of the offence:

D. Statement of applicant's personal history and employment since leaving school:

E. Declaration by applicant:

I hereby declare that —

(*a*) the information given in sections A and B is correct;

(*b*) the answers given to the questions in section C are true;

(*c*) the statement given in section D is, to the best of my knowledge and belief, a true and accurate record;

(*d*) I am a resident of Botswana;

(*e*) I have attained the age of twenty-five years, in proof whereof I submit the attached;

(*f*) I own, in Botswana, assets which exceed my liabilities by not less than fifty/ one hundred and fifty thousand Pula in proof whereof I submit the attached:

(*g*) I intend to obtain a policy or policies of insurance referred to in section 46 of the Act and to that end have arranged insurance cover to the value of Pula .... in proof whereof I submit the attached:

(*h*) I submit the attached statement by the partnership or corporate body —

(i) with which I have undergone a period of training prior to the date of this application;

(ii) for which I propose to work or of which I propose to become a member or representative, as the case may be, to the effect that partnership or corporate body is prepared to employ me or accept me as a member.

(Note.- Delete those words in subparagraph (ii) which are not applicable.)

I have read the Act and Regulations and rules and am conversant with them. I understand that I shall be examined on my knowledge of them and exchange procedures; and I acknowledge that upon registration I shall be bound by them and by the usage of the Botswana Stock Exchange.

Date: .... 19.......... Signature of applicant ....

F. Declaration by proposer —

I, ..., do hereby declare that —

(1) I have read the foregoing application and, to the best of my knowledge and belief, the statements made therein are correct;

(2) I have known the applicant in a personal and/or business capacity for .... years;

(3) from my personal knowledge of the applicant's past and present circumstances,
I am satisfied as to his fitness to be registered as a stockbroker;

(4) I am conversant with the provisions of section 33(1)(i) of the Act governing the making, negligently or wilfully, of a material mis-statement of fact relating to the applicant.

Accordingly, I propose, in terms of section 27(1)(b) of the Act, that the applicant be recommended for registration.

Date: .... 19.......... Signature of applicant ....

G. Declaration by seconder —

I, ..., do hereby declare that —

(1) I have read the foregoing application and, to the best of my knowledge and belief, the statements made therein are correct;

(2) I have known the applicant in a personal and/or business capacity for .... years;

(3) From my personal knowledge of the applicant's past and present circumstances,
I am satisfied as to his fitness to be registered as a stockbroker;

(4) I am conversant with the provisions of section 33(1)(i) of the Act governing the making, negligently or wilfully, of a material mis-statement of fact relating to the applicant.

Accordingly, I second, in terms of section 27(1)(*b*) of the Act, the proposal that the applicant be recommended for registration.

Date: .... 19............. Signature of applicant ....

H. Committee's recommendation —

The Committee has considered the foregoing application and being satisfied that the applicant is suitable for registration, recommends to the Registrar that the applicant be registered.

Date: .... 19...... Signature ....

Chairman Botswana Stock Exchange

Form B.S.E. 3

BOTSWANA STOCK EXCHANGE ACT, 1994

CERTIFICATE OF REGISTRATION

Number of certificate: ....

This is to certify that .... (full names of registered

stockbroker) was, on the .... day of ....19........ registered in terms of the Botswana Stock Exchange Act, 1994, and is therefore a registered stockbroker for the purposes of that Act.

Date: .... 19............ **Registrar of the Stock Exchange**

Form B.S.E. 4

BOTSWANA STOCK EXCHANGE ACT, 1994

BROKER'S TRANSFER FORM

For the transfer of listed securities as defined by Part IX of the Botswana Stock Exchange Act, 1994.

(For the avoidance of doubt, it is requested that this form be completed either in typewriting or in block letters.)

PART A. To be completed by the Selling Broker

Full name of issuer of the listed securities as shown in certificate ....

....

Quantity and full description of the listed securities to be transferred:

Description:

Figures:

Words:

Reference or distinctive number(s):

Certificate No(s):

Name(s) and present postal address(es) of the registered holder(s) should be given in full. If the transfer is not made by the registered holder(s), insert also the name(s) and capacity(ies) (e.g. Executor(s)) of the person(s) making the transfer.

I/We confirm that the securities' transfer form relating to the listed securities set out above was signed by the transferor(s) on the .... day of ...., 19..., and has been lodged with the issuer or his authorized agent and that those listed securities have been sold by me/ us by an Exchange transaction as defined by section 47 of the Botswana Stock Exchange Act, 1994.

Stamp of selling Broker(s).

Date ...., 19.........

PART B. To be completed by the agent(s) of the transferee(s)

Full name(s) and postal address(es) of the person(s) to whom the listed securities are transferred. Please state title, if any, or whether Mr., Mrs. or Miss.

Consideration: State here the amount (in figures) paid for the listed securities. If no consideration passed, the market value of the listed securities at the date of the Exchange transaction must be stated. Pula:

I/We confirm that the listed securities set out in Part A above have been purchased by an Exchange transaction as defined by section 47 of the Botswana Stock Exchange Act, 1994, and I/we request that such entries be made in the register as are necessary to give effect to this transfer.

Stamp of buying Broker(s) Stamp of lodging agent (if other than the buying Broker(s))

PART C. (for Use of Registering Office)

Form B.S.E. 5

BOTSWANA STOCK EXCHANGE ACT, 1994

SECURITIES' TRANSFER FORM

For the transfer of listed securities as defined by Part IX of the Botswana Stock Exchange Act, 1994.

PART A.

To be completed by the transferor(s) (that is the person(s) in whose name(s) the listed securities are at present registered).

Full name of issuer of the listed securities as shown in certificate:

Quantity and full description of the listed securities to be transferred:

Description:

Figures:

Words:

Reference or distinctive number(s):

Certificate No(s):

Name(s) and present postal address(es) of the registered holder(s) should be given in full. If the transfer is not made by the registered holder(s), insert also the name(s) and capacity(ies) (e.g. Executor(s)) of the person(s) making the transfer.

I/We hereby transfer the listed securities set out above of the name(s) afore said to the person(s) named in Part B below *or to the several persons named in Part B of Broker's transfer forms relating to the above listed securities.
*(Delete words in bold if inapplicable)

Stamp of Selling Broker(s)

Signed this ....day of.., 19 ....
by the transferor(s)

1. ....

2. ....

PART B. To be completed by the transferee(s) (that is, the person(s) in whose name(s) the listed securities are to be registered) or agent(s) except where Broker's transfer forms are used.

Full name(s) and postal address(es) of the person(s) to whom the listed securities are transferred. Please state title if any, or whether Mr., Mrs. or Miss.

Consideration: State here the amount (in figures) paid for the listed securities. If no consideration passed, the market value of the listed securities at the date of the Exchange transaction must be stated. Pula:

I/We request that such entries be made in the register as are necessary to give effect to this transfer.

Stamp of buying Broker(s) if any;

Stamp or name and address of person(s) lodging this form (if other than buying Broker(s).

PART C. (for Use of Registering Office)
The listed securities represented by the transfer overleaf have been sold as follows:

Shares/Stock	Shares/Stock

Balance (if any) due to selling Broker(s)

Amount of certificate(s)

Stamp of selling Broker(s)

MADE this 17th day of October, 1995.

J.L.T. MOTHIBAMELE,
Acting Minister of Finance and Development Planning.