

STATUTORY INSTRUMENT

Supplement to the Sierra Leone Gazette Vol. CXLVI, No. 30

dated 12th November, 2015

THE COMPANIES REGULATIONS, 2015

PART I-INTERPRETATION

1. Interpretation.

PART II—REGULATION OF FORMS, RETURNS AND OTHER INFORMATION

2. Hours of business.
3. Forms.
4. Documents to Commission.
5. Submission of documents and proof of payment.
6. Registered address.
7. Registration of company.
8. Proof of identity.
9. Registration and change of business name.
10. Use of “holding”, “national”, “international”, “Sierra Leone”.
11. Filing of resolutions.
12. Registration of notice of change of name.
13. Alteration to memorandum and articles of association.
14. Foreign nationals.
15. Increase in share capital.
16. Reduction of share capital.
17. Returns on allotment of shares.
18. Transfer of shares.
19. Refusal to inspect document.
20. Notice of charge.
21. Notice of satisfaction of a charge.
22. Notice of appointment of manager or receiver.
23. Notice of cessation to act.
24. Notice of change or appointment of director.
25. Notice of appointment or change of secretary.
26. Extension of time for annual general meeting.
27. Annual returns.
28. Change of accounting reference period.
29. Re-registration of company.
30. Winding up by court.
31. Member’s voluntary winding up.
32. Creditor’s voluntary winding up.
33. Certified true copy of companies document.
34. Request for approval to conduct transaction.
35. Prejudicial and oppressive conduct .

ii

36. Request for investigation.
37. Request for status report.
38. Time not stated.
39. False statements.
40. Repeated defaults.

PART III- MERGERS, ACQUISITIONS, TAKE OVERS , AMALGAMATIONS AND BUSINESS COMBINATIONS

41. Application of part.
42. Merger notification.
43. Documents to be submitted.
44. Additional information to be disclosed.
45. Failing company in merger.
46. Merger involving a small company.
47. Approval by Commission.
48. Post merger inspection.
49. Procedure and criteria of take over bid.
50. Rules on take over.
51. Amalgamation.
52. Procedures for amalgamation.
53. Official liquidator.
54. Intimation and notice to the Commission.
55. Scope of business combination regulations.
56. Notice of business combination.
57. Commission approval.

PART IV- PROSPECTUS

58. Submission of prospectus.
59. Form of prospectus.
60. Prohibition of dealing without approved prospectus.
61. Election to have prospectus.
62. Criteria for approval of prospectus.
63. Exemptions from disclosure.
64. Application for approval.
65. Procedure for approval.
66. Transfer of application for approval.
67. Supplementary prospectus.
68. Right of investor to withdraw.
69. Register of investors.
70. Listing application.

PART V-MISCELLANEOUS PROVISIONS

71. Securities formula.
72. Certificate of registration.

Schedules

STATUTORY INSTRUMENT NO. 5 OF 2015

Published 12th November, 2015

*THE COMPANIES ACT, 2009
(ACT NO. 5 OF 2009)*

THE COMPANIES REGULATIONS, 2015

Short title

In exercise of the powers conferred upon the Commission by sections 494 and 530 of the Companies Act, 2009 the Commission hereby makes the following Regulations—

PART I—PRELIMINARY

1. In these Regulations unless the context otherwise requires— Interpretation

“Act” means the Companies Act, 2009 (Act No. 5 of 2009);

“acquiree” means a person acquiring from a company that is the object of an acquisition attempt;

“acquirer” means a company purchasing another company in an acquisition;

“amalgamation” means the combination of one or more companies into a new company;

“amalgamating companies” means two or more companies which willingly unite to carry on their business activities jointly;

“amalgamated company” means a newly formed union of two or more amalgamating companies;

“company report” means a report containing the information relating to a company as recorded by the Corporate Affairs Commission in records kept by the Commission;

“corporate complainece” means the act of being in compliance with legislation, rules, regulations, guidelines and ethical standards;

“issuer” means -

- (a) in relation to an offer of transferable securities to the public or admission of transferable securities to trading on a regulated market for which an approved prospectus is required, a legal person who issues or proposes to issue the transferable securities in question, and
- (b) in any other case, a person who issues financial instruments;

“merger and acquisition” means a method by which corporations legally unify ownership of assets formerly subject to separate controls;

“non-equity transferable securities” means transferable securities that are not equity securities;

“offer of transferable securities to the public” means an offer of transferable securities to the public if there is a communication to any person which presents sufficient information on -

- (a) the transferable securities to be offered, and
- (b) the terms on which they are offered,

to enable an investor to decide to buy or to subscribe for the securities;

“order” means an order of a court of competent jurisdiction;

“take over bid” or “lender offer” means a proposal made by one company to purchase shares or stock of another company, in order to acquire control thereof.

PART II - REGULATION OF FORMS, RETURNS AND OTHER INFORMATION

2. The Commission shall be open to the public every working day for the transaction of business between the hours of 9 a.m. and 3p.m. (save for public holidays) or such other period as the Commission may from time to time determine and sufficiently bring to the notice of the general public. Hours of business.

3. (1) The forms set out in the First Schedule of these Regulations shall be used for submission of information required by the Commission. Forms.

(2) Where a form in the First Schedule continues onto 2 or more pages, the following information must appear at the top of each additional page -

- (a) Company’s name;
- (b) Company’s number; and
- (c) date of submission.

(3) Any form in the First Schedule may be varied by the Commission as the circumstances may require .

(4) Every application submitted to the Commission shall-

- (a) comply with sub-regulation (2);

- (b) state legibly and with specific details the information required to be brought to the attention of the Commission for purposes of filing, or for which an approval is being sought; and
- (c) be accompanied by the prescribed fee.

Documents to Commission.

4. (1) All documents prepared for delivery, submission to or registration with the Commission shall be legible and where a document is required to be signed—

- (a) the signature shall be an original signature, or if electronic, be affixed to or logically associated with other electronic data that may be used to identify the signatory in relation to the electronic message or document and to indicate the signatory's approval of the information contained in the electronic message or document;
- (b) the full name of the signatory shall be legibly typed, printed, stamped, or written below or beside the original or electronic signature and
- (c) the person signing the document shall state the capacity in which his signature is appended.

(2) The Commission may accept documents in electronic form, and may specify the requirements, including any requirements in respect of signature, that shall apply in the case of documents provided in electronic form.

(3) Sub-regulation (1) shall apply to all documents provided in electronic form subject to any modifications as may be determined by the Commission under sub-regulation (2).

(4) All documents submitted, delivered to or registered with the Commission shall be in English language or accompanied by a certified English translation.

5. (1) Documents may be submitted to the Commission for filing by electronic means, courier services or hand delivery.

Submission of documents and proof of payment.

(2) Where documents are submitted to the Commission for filing by electronic or any other means, evidence of payment of statutory fees or any other applicable fees shall be disclosed by electronic means.

(3) Where documents are delivered to the Commission by courier services, evidence of payment of statutory fees or any other applicable fees shall accompany the documents.

(4) Except otherwise authorised and in respect of filing of documents, all other payments to be made to the Commission shall be done on invoices generated by the Commission which shall represent the exact amount paid to the Commission.

(5) Any document required to be filed, submitted, registered or recorded or any fact or information required or authorized to be registered under the Act shall be submitted, filed, registered or recorded within the time specified under the Act or these Regulations.

6. (1) Where an address is required in any document, the address shall be an address in Sierra Leone that is physical and shall be described in sufficient particulars as to make it traceable.

Registered address.

(2) Where a company intends to change its registered business address it shall –

- (a) submit the following documents to the Commission—

- (i) resolution for change of registered business address of the company signed by a director and secretary or two directors;
- (ii) a completed Notice of Change of registered address as set out in form 247(4) in the First Schedule and ;

(b) pay the requisite fee.

(3) Notice of change of registered address shall be filed with the Commission within 14 days of a resolution referred to in paragraph (i) of sub-regulation (2).

(4) The Commission may at any time, physically verify any address provided in any document purporting to be the registered business address of the company or any other registered address that may be required by the Commission.

Registration
of company.

7. (1). A person who wishes to apply for the registration of a company shall submit to the Commission a completed-

- (a) Form AA as set out in the First Schedule in the case of a local incorporation; and
- (b) Form 485 as set out in the First Schedule in the case of a foreign company.

(2) An application under subregulation (1) shall state the name of the company as approved by the Commission and shall be accompanied by -

- (a) a signed Memorandum and Articles of Association in accordance with section 23 of the Act, in the case of a newly incorporated company;

- (b) a copy of statute, charter or instrument under which the company was incorporated, in the case of foreign company and in such form as specified in Form 32/211 in the First Schedule;
- (c) statements required under paragraphs (c), (d) and (f) of subsection (2) of section 32 of the Act;
- (d) a completed Form 32(E) as specified in the First Schedule; and
- (e) proof of payment of the appropriate fees as specified in the Second Schedule.

8. (1). Every subscriber to a company and every person appointed as a director of a company shall submit a valid proof of his identity to the Commission. Proof of identity.

(2) A valid proof of identity under subregulation (1) shall in the case of –

- (a) a Sierra Leonean citizen, be a copy of any of the following -
 - (i) a valid Sierra Leonean passport;
 - (ii) a valid national driver's licence;
 - (iii) a valid National Social Security and insurance Trust card; and
 - (iv) a valid National Identification Card.
- (b) a foreign national, be a copy of a valid passport.

9. (1) The Registration of a company under the Act shall be deemed to be a registration under the Registration of Business Name Act, 2007 (Act No. 18 of 2007). Registration and change of business name.

(2) The Commission shall prohibit or restrict the use of any business name that is -

- (a) the same as an existing name on the index of company names or any registered business name;
- (b) identical to a company name or resembles that name that it is likely to deceive except where the company is in the process of closing down and gives its consent; or
- (c) misleading by its activities or undesirable, offensive or against public policy.

(3) Where a person wishes to register a company's name he shall -

- (a) obtain the approval of the Commission for use of name if applying in person;
- (b) submit to the Commission –
 - (i) a completed Form 28 as set out in the First Schedule if applying in person;
 - (ii) a completed Form 30B as set in the First Schedule: and
 - (iii) proof of payment of the appropriate fees as specified in the Second Schedule.

10. (1) No company shall use the word-

- (a) "holding" in its company's name unless -

Use of
"holding",
"national",
"international",
"Sierra
Leone"etc

(i) an application is made to the Commission for use of the word showing evidence of ownership of majority shares in no less than two subsidiary companies; or

(ii) a declaration is made by the directors of the company that the company shall acquire more than half of the nominal value of the share capital of each of two subsidiaries within 90 days of its incorporation; and such approval is granted by the Commission;

(b) "International" in its company's name unless the company shows evidence that it operates in at least one country other than Sierra Leone; and approval is granted by the Commission;

(c) "National" in its company's name either used at the start of or forms part of the company's name unless the company demonstrates that it is pre-eminent or very substantial in its field and working in partnership with the Government of Sierra Leone; and approval is granted by the Commission;

(d) "Sierra Leone" in any part of the company's name implying a connection with a government department, body or public authority and the relevant body unless the Company shows written proof of such connection and approval is granted by the Commission;

- (e) “Municipal “or “council” in its company’s name implying a connection with any government Department, body or public authority unless the relevant body confirms that it has no objection and approval is granted by the Commission;
- (f) “Charter or Chartered” in its company’s name unless–
 - (i) it has the consent from the professional body and the body confirms that it has no objection; or
 - (ii) evidence is shown of the company’s royal charter status in the case of an existing company;
- (g) “Co-operatives” in its company’s or business name unless–
 - (i) the company or business is owned and controlled by its members, customers or employees;
 - (ii) membership is voluntary and open;
 - (iii) members participate in the economic activity of the business; or
 - (iv) profit is distributed equally amongst members or at least in proportion to the extent each member has participated in the business.

(2) Paragraph (f) of sub-regulation (1) shall not apply to expressions such as ‘Air Charter’, ‘Chartered Flights’ or ‘Chartered Travel’.

(3) In all instances where approval is sought from the Commission, a name deemed unauthorized shall not be used unless an approval is granted.

11. (1) Resolutions or documents delivered, submitted to or filed with the Commission by a company having two or more directors shall be signed by two directors or a director and the Company Secretary. Filing of resolutions.

(2) Sub-regulation (1) shall not apply to a one man company.

(3) The resolution shall be signed by at least one director and the Company Secretary in the case of a one man company..

(4) The prescribed filing fees to be paid to the Commission shall be as set out in the Second Schedule

12. Where a resolution is passed for a company to change its name the following shall be submitted to the Commission - Registration of notice of change of name.

(a) a completed Form 30 as set out in the First Schedule ;

(b) a copy of a special resolution passed in respect of the change of name signed by a director and secretary or two directors; and

(c) the original certificate of incorporation of the company;

(2) Application for change of company name shall be made to the Commission within 15 days of the passing of the special resolution for change of name.

(3) The prescribed fee to be paid to the Commission for change of name shall be as set out in the Second Schedule.

Alteration to
M&A.

13. (1) A company wishing to alter its Memorandum and Articles of Association shall -

- (a) subject to sub-regulation (2) submit to the Commission a copy of the special resolution for alteration of its Memorandum and Articles of Association signed by a director and secretary or two directors and stating the altered clauses and articles
- (b) submit to the Commission a signed Memorandum and Articles of Association marked as "Altered" reflecting the altered clauses and articles; and
- (c) pay the prescribed fee as set out in the Second Schedule.

(2) The special resolution of alteration of Memorandum and Articles of Association shall be registered with the Commission within 15 days of the passing of the resolution except where the alteration relates to the business or object of the company in which case it shall be registered with the Commission within 15 days after the 28 days for application to court for cancellation of the alteration.

Foreign
nationals.

14. (1) For the purposes of company registration foreign nationals may hold equity in any private business enterprise and undertake any type of business in Sierra Leone.

(2) Foreign nationals serving as executive directors shall submit to the Commission residence and work permit before undertaking, in part or whole, any business enterprise in Sierra Leone.

Increase in
share capital.

15. (1) A company wishing to file notice of increase in its authorized share capital, shall -

- (a) submit to the Commission -

- (i) a copy of the company resolution authorizing the increase and signed by a director and the Company Secretary or two directors;

- (ii) a completed Form 87 as set out in the First Schedule; and

- (b) pay the prescribed fee as set out in the Second Schedule.

(2) Notice of increase in authorised share capital shall be filed with the Commission within 7 days of passing the resolution and the notice shall include information set out in subsection (4) of section 87 of the Act,.

(3) Increase in authorised share capital shall not take effect unless the directors submit to the Commission within six months of filing the notice of increase, a statutory declaration that not less than 25% of the share capital (including the increase) has been issued.

(4) Where sub-regulation (3) is not complied with, the increase shall have no effect and the company shall be required to file a new notice of increase in the share capital.

16. A company wishing to reduce its share capital shall pay the prescribed fee as set out in the Second Schedule and submit the following to the Commission- Reduction in
share capital.

- (a) a copy of the resolution of the Board authorising the reduction in the share capital of the company, signed by a director and secretary or two directors stating the mode of reduction;

- (b) a certified true copy of the court order confirming the reduction of share capital;

- (c) evidence of publication of notice of reduction of share capital if so directed by the court;
- (d) court-approved minutes of meeting of company stating -
 - (i) amount of share capital;
 - (ii) number of shares into which share capital is divided;
 - (iii) amount of each share and;
 - (iv) amount (if any) deemed to be paid on each share at date of registration; and
- (e) completed Form 89 as set out in the First Schedule.

Returns on allotment of shares.

17. (1) A company wishing to file a return of allotment of shares shall pay the prescribed fee as set out in the Second Schedule and submit the following to the Commission—

- (a) a completed Form 110 as set out in the First Schedule;
- (b) information on the amount paid;
- (c) in the case of shares allotted fully or partly paid up other than in cash -
 - (i) a duly registered contract of sale or for service or other consideration of which allotment was made;

- (ii) return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up and the consideration for which they have been allotted; and
- (iii) particulars of the valuation of consideration.

(2) Return of allotment shall be filed with the Commission within one month of the allotment.

18. A company wishing to file a notice of transfer of shares, shall pay the prescribed fee as set out in the Second Schedule and submit the following to the Commission—

- (a) the application for approval for the transfer of shares sought providing particulars of transferor and proposed transferee and details of shares intending to be transferred;
- (b) a copy of proposed instrument of transfer;
- (c) valid identification of proposed transferee in the case of an individual and in the case of a company or corporation, certificate of incorporation; and
- (d) a declaration signed by two directors or a director and company secretary stating that the requirements in respect of transfer of shares as provided for in the Memorandum and Articles of Association have been complied with and that the transferee is capable of holding shares.

19. (1) Pursuant to subsection (2) of section 120 of the Act a member of a company may inspect any document of the company whether intending to file a law suit or not.

Refusal to inspect document.

(2) A member who is refused the right to inspect any document of the company shall within seven days of the refusal submit to the Commission a written notice of the refusal indicating-

- (a) the company's name and number of which he is a member;
- (b) the nature or type of document (s) requested and date the request was made ;
- (c) the manner in which request for access was made and person to whom it was made;
- (d) reasons (if any) for which the document was requested; and
- (e) reasons (if any) proffered for the refusal.

(3) After reviewing the notice referred to in sub-regulation (2) the Commission shall issue a directive to the company stating the period within which the document shall be produced.

Notice of charge.

20. (1) A company wishing to file notice of a charge on a company's property or undertaking shall pay the prescribed fee as set out in the Second Schedule and submit the following to the Commission-

- (a) a completed form 170 as set out in the First Schedule;
- (b) a certified true copy of the trust deed or debenture by which the charge was created; and
- (c) copy of a court order where applicable.

(2) A notice of charge shall be filed with the Commission within 21 days of the creation of the charge if it is created within Sierra Leone and within 90 days if it is created outside Sierra Leone.

21. A company wishing to file notice of deed of release or satisfaction of a charge shall pay the prescribed fee as set out in the Second Schedule and submit the following to the Commission- Notice of satisfaction of a charge.

- (a) a signed deed of release; and
- (b) a completed form 177 as set out in the First Schedule.

22. A company wishing to file notice of appointment of receiver or manager shall pay the prescribed fee as set out in the second Schedule and submit the following to the Commission- Notice of Appointment of manager or.

- (a) a completed Form 335 as set out in the First Schedule;
- (b) in the case of an appointment by the court-
 - (i) a certified true copy of the court order appointing receiver or manager delivered to the Commission within seven days of the order; and
 - (ii) a copy of the summary of statement received from the company or comment thereon where receiver or manager is appointed on behalf of holders of debentures secured by floating charge;
- (c) in the case of appointment under powers contained in any instrument -
 - (i) deed of appointment; and
 - (ii) notice of appointment.

23. A person wishing to file notice of cessation to act as receiver or manager shall submit to the Commission- Notice of cessation to act.

- (a) a completed Form BB as set out in the First Schedule; and
- (b) an abstract of the aggregate amount of receipts and payments during the relevant periods between the date of his appointment and the date of his cessation to act.

Notice of change or appointment of director.

24. (1) A company wishing to file notice of change in directorship shall pay the prescribed fee and submit the following to the Commission—

- (a) the resolution removing or appointing the director, signed by a director and Company Secretary or two directors;
- (b) a completed Form 247(4) and form 32/211 as set out in the First Schedule ;
- (c) a letter of consent of newly appointed director (s);
- (d) residence and work permit where the director is not a Sierra Leonean but appointed an executive director;
- (e) resignation letter or letter of termination of previous director where applicable;
- (f) declaration that the new director is capable of holding office; and
- (g) copies of valid identification of the new director in accordance with Regulations 8.

(2) Notice of removal or appointment of director shall be filed with the Commission within 14 days after the passing of the resolution for the removal or appointment of a director.

25. (1) A company wishing to file notice of appointment or change of Company Secretary shall pay the prescribed fee as set out in the Second Schedule and submit the following to the Commission- Notice of appointment or change of Secretary.

- (a) a copy of the resolution of Board of Directors of the company signed by two directors; and
- (b) a completed Form 247(4) as set out in the First Schedule.

(2) Notice of appointment or change of Company Secretary shall be filed with the Commission within 14 days of the passing of the resolution.

26. A company wishing to apply for an extension of time within which to hold an annual general meeting shall pay the requisite fee and submit to the Commission a completed Form 185 as set out in the First Schedule. Extension of time for annual General meeting.

27. (1) A company wishing to file annual returns shall pay the prescribed fee as set out in the Second Schedule and submit the following to the Commission- Annual Returns.

- (a) in the case of a company limited by shares other than a small company—
 - (i) a completed form 317 as set out in the First Schedule and;
 - (ii) a copy of audited financial statement signed by two directors and duly certified by a chartered accountant where applicable.
- (b) in the case of a company limited by guarantee—

- (i) a completed form 318 as set out in the First Schedule;
- (ii) a copy of the audited financial statement signed by two directors and certified by a chartered accountant where applicable;
- (c) in the case of a small company–
 - (i) a completed form 319 as set out in the First Schedule; and
 - (ii) the financial statement signed by two directors.

(2) Every company to which these Regulations apply shall file its annual return with the Commission immediately after 28 days of the holding of the annual general meeting.

Change of accounting reference period.

28. (1) A company wishing to give notice of its accounting reference period or change its accounting reference date shall pay the prescribed fee as set out in the Second Schedule and submit to the Commission a completed Form 284 as set out in the First Schedule.

(2) A company wishing to change its accounting reference date shall submit to the Commission a completed Form 285 as set out in the First Schedule upon payment of applicable fee.

Re-registration of Company.

29. (1) A private company having a share capital wishing to re-register as a public company shall in addition to fulfilling the requirements of Section 45 of the Act, pay the prescribed fee as set out in the Second Schedule and submit to the Commission a completed Form 45 as set out in the First Schedule.

(2) A public company wishing to re register as a private company shall in addition to fulfilling the requirements of section 46 of the Act, pay the prescribed fee as set out in the Second Schedule and submit to the Commission a completed Form 46 as set out in the First Schedule.

(3) A private limited liability company wishing to re-register as unlimited company shall in addition to fulfilling the requirements of section 47 of the Act , pay the prescribed fee as set out in the Second Schedule and submit to the Commission a completed Form 47 as set out in the First Schedule

(4) An unlimited liability company wishing to re-register as a company limited by shares shall in addition to fulfilling the requirements of Section 48 of the Act , pay the prescribed fee as set out in the Second Schedule and submit to the Commission a completed Form 48 as set out in the First Schedule.

(5) Where a company wishes to cancel a resolution for re-registration and passes a special resolution to the effect, it shall submit to the Commission a completed Form 46A as set out in the First Schedule.

(6) Notice by a company for cancellation of a resolution shall be submitted to the Commission.

30. (1) Where a company is wound up by the court the company shall submit the following to the Commission– Winding up by court.

- (a) publication of notice of appointment of liquidator in the Gazette or two daily newspapers;
- (b) liquidator's notice of his appointment;
- (c) liquidator's account of receipts and payments at least twice in a year;
- (d) certified true copy of court order for dissolution of company; and
- (e) updated annual return and liquidators report.

(2) A special resolution for winding up of a company shall be filed with the Commission within 14 days after its passing.

(3) Notice of appointment of liquidator shall be filed with the Commission within 14 days of his appointment.

(4) The liquidator's account of receipts and payments shall be in duplicate and verified by a statutory declaration.

(5) The order of court for dissolution of a company shall be filed with the Commission within 14 days after the date of its making.

(6) A company in the process of winding up by a court and for which a person other than the official receiver has been appointed liquidator shall notify the Commission of the appointment by submitting to the Commission a completed form 367 and pay the prescribed fee as set out in the Second Schedule.

(7) Any fees that may be required to be paid to the Commission under this Regulation shall be paid by the company.

Member's
voluntary
winding up.

31. (1) Where a company is voluntarily wound up by its members the following shall be submitted to the Commission—

- (a) a statutory declaration of solvency duly signed by majority of the directors and embodying statement of the company's assets and liabilities;
- (b) a copy of the special resolution for voluntary winding up signed by a director and secretary or two directors;
- (c) proof of publication of notice in two local newspapers;
- (d) a copy of the resolution passed for appointment of liquidator;

(e) a copy of the publication of notice of appointment of liquidator in the Gazette or two daily newspapers;

(f) a copy of the liquidator's notice of his appointment;

(g) a copy of the publication of notice of final meeting in the Gazette and at least two newspapers one of which must be circulated in the locality where the meeting is being called; laid before and approved by the meeting;

(h) the original certificate of registration (or certified true copy where applicable) for cancellation; and

(i) a copy of the updated annual return relating to the company.

(2) The company shall pay the prescribed fee as set out in the second Schedule when it submits the documents referred to in sub-regulation (1).

(3) A statutory declaration of solvency shall be filed by the company with the Commission within five weeks of its making.

(4) Special resolution for winding up shall be passed within five weeks of the making of the statutory declaration of solvency and filed with the Commission within 15 days of its passing

(5) Notice of appointment of liquidator shall be filed with the Commission within 14 days of the appointment.

(6) Return of final meeting and account shall be filed with the Commission within 7 days after the date of the final meeting.

(7) The account shall be audited by the auditor of the company unless the liquidator is qualified for appointment as auditor of a public company or the company has resolved, on or after appointment of the liquidator, that the account should not be audited

(8) Where the liquidator believes the company is not able to pay its debt within the period stated in the statutory declaration of solvency, he shall summon and lay before the meeting of the creditors a statement of the assets and liabilities of the company

(9) Where winding up continues for more than one year and the liquidator believes the company will not be able to pay its debt within the period stated in the statutory declaration of solvency, the liquidator shall—

- (a) summon a general meeting of the company and a meeting of the creditors—
 - (i) at the end of the first year from the commencement of the winding up (unless the meeting of creditors was held within the three months before the end of the first year), and at each succeeding year; or
 - (ii) at the first convenient date within 3 months from the end of the year or such longer period as the Commission may allow; and
- (b) lay before the meeting an account of his acts and dealings and the conduct of the winding up during the preceding year.

Creditor's
voluntary
winding up.

32. (1) Where a company is voluntarily wound up by its creditors the following shall be submitted to the Commission—

- (a) a copy of the publication of notice of the resolution in the Gazette and two daily newspapers;
- (b) a copy of the resolution passed for voluntary winding up; and
- (c) a copy of the notice of appointment of liquidator.

(2) The prescribed fee as set out in the Second Schedule shall be paid when submitting the documents referred under sub-regulation (1).

33. Where a person wishes to acquire a certified true copy of any company documents or certificates, the person shall submit to the Commission a completed Form DD as set out in the First Schedule and pay the prescribed fee as set out in the Second Schedule. Certified true copy of Company's documents

34. (1) When a request for approval to conduct a transaction where a conflict of interest has been disclosed under subsection (3) of section 236 of the Act, the following shall be submitted to the Commission- Request for approval to conduct transaction.

- (a) an application from the company stating the company's name and number in which the conflict of interest is disclosed;
- (b) a signed copy of a resolution authorizing members to seek the Commission's opinion or approval;
- (c) a statement of particulars of the conflict of interest that is disclosed;
- (d) supporting documents relating to the conflict of interest; and

- (e) any additional information that will assist the Commission to determine whether or not to approve the request.

(2) The prescribed fee as set out in the Second Schedule shall be paid when submitting the documents referred under sub-regulation (1).

Prejudicial and oppressive conduct.

35. (1) A member of a company may apply to the Commission pursuant to paragraph (a) of sub-section (2) of section 266 of the Act to seek relief on the grounds of unfair prejudice and oppressive conduct and shall submit the following documents to the Commission-

- (a) an application stating the name of the company, company number, details of membership of the applicant and a copy of share certificate;
- (b) a statement of particulars of conduct of the company considered to be oppressive or unfairly prejudicial to the member whether or not such conduct is an act or omission; and
- (c) documents in support of the application for relief.

(2) The person making an application under sub-regulation (1) shall pay the prescribed fee as set out in the Second Schedule when submitting the documents.

Request for investigation.

36. Where any member of a company wishes the Commission to investigate any behavior pursuant to subsection (3) of section 276 of the Act with respect to particular shares or debenture, the member despite his membership, right or percentage of share shall submit the following to the Commission-

- (a) an application stating name and number of the company;
- (b) status of membership;
- (c) a statement of particulars of the matter to be investigated;
- (d) a statement of details of members that are affected; and
- (e) any document in his possession that may assist the Commission in its investigation.

37. An individual or firm wishing to be provided with a status report of a registered company in respect of records held by the Commission in relation to that company (except where such information is held as confidential information) the individual or firm shall pay the prescribed fee as set out in the Second Schedule and submit to the Commission completed Form EE as set out in the First Schedule indicating the period for which a report is required. Request for status report.

38. Where the Act does not expressly state the period within which notice, resolution or information is to be submitted to the Commission, such notice, resolution or information shall be submitted to the Commission within 72 hours from the occurrence of the event that is to be brought to the attention of the Commission. Time not stated.

39. Save as otherwise provided in the Act and in any report, return, certificate, financial statement, prospectus, statement or other document required by or for the purposes of the Act or these Regulations, where any person makes any statement- False statements.

- (a) which is false in a material particular and knowing it to be false; or
- (b) which omits any material facts knowing it to be material, that person shall be in default and liable to a fine to be determined by the Commission.

Repeated defaults.

40. Where an officer of a company commits a breach or an offence for which a fine has been imposed and that breach or offence is committed twice within three years the company or officer or both in default shall be liable to twice the amount of fine for such breach in addition to any imprisonment which may be imposed.

PART III - MERGERS, ACQUISITIONS, TAKE-OVER
AMALGAMATIONS AND BUSINESS COMBINATIONS

Application Part.

41. This part shall apply to—

- (a) public and private companies; and
- (b) every merger, acquisition or combination between or among companies, involving acquisitions of shares or assets or ceding control of another company.

Merger notification.

42. Any person wishing to merge, acquire or combine companies involving the acquisition of shares or assets or ceding control of another company shall submit a merger notification to the Commission which shall contain the following—

- (a) a letter of intent signed by the merging companies accompanied by board resolutions of the merging companies supporting the merger;
- (b) a detailed memorandum of the proposed transaction including all the background studies relating to the merger, and justification for it which shall include the following—
 - (i) detailed information about product lines or operations of the companies;

- (ii) a list of the major competitors in that product market and the market position or market share of each company;
- (iii) the structure and organization of the companies;
- (iv) revenue information about the operations of the companies;
- (v) an analysis of the effect of the transaction on the relevant market including the post transaction market position of the merging or resultant company; and
- (vi) evidence of liabilities of the acquirer and copy of agreement reached in respect of settlement of liabilities.

43. (1) An acquirer wishing to acquire a company shall pay the prescribed fee as set out in the Second Schedule and submit the following to the Commission— Documents to be submitted.

- (a) a copy of the special resolution passed stating it has settled in full the liabilities of the acquiree or that appropriate arrangements have been made ;
- (b) a declaration of corporate compliance of companies in question including information on the following—
 - (i) statement of acquisition objective;
 - (ii) parties to the acquisition; and
 - (iii) the list of assets to be acquired and their value (where applicable);
- (c) as to the offer—

- (i) the purchase consideration;
- (ii) comparison of purchase consideration with historical market price (where applicable);
- (iii) effect of the acquisition on the management and employees of the acquiree's company;
- (iv) terms and conditions of the acquisition;
- (v) manner of acceptance;
- (vi) response of dissenting shareholders (if any);
- (vii) source of funding the acquisition and proof of the same; and
- (viii) evidence that liabilities including payment of creditors have been addressed
- (d) as to the acquirer–
 - (i) history and status of the business;
 - (ii) share capital and ownership structure;
 - (iii) director's beneficial interest;
 - (iv) three or five years financial summary.
- (e) as to the acquiree-
 - (i) history and status of the business;
 - (ii) share capital and ownership structure;
 - (iii) director's beneficial interest;

- (iv) three or five years financial summary; and
- (v) summary of claims and litigations and material contracts.

(2) An acquirer under sub-regulation (1) shall comply with post-approval requirements.

44. An acquirer under regulations 43 shall disclose to the Commission the following additional information–

Additional information to be disclosed.

- (a) the products or services that the merging entities sell or provide in, into or from Sierra Leone;
- (b) for each identified product or service, the geographic area (s) in Sierra Leone, in which the merging entities shall sell;
- (c) for each identified product or service, identify and provide contact details of the top three producers or providers in each identified geographical area with the largest estimated turn over in value, and their estimated share of the total turn over during the last financial year;
- (d) for each identified product or service, the turn over in each of the identified geographical areas during the last financial year;
- (e) for each identified product or service, identify and provide contact details for the merging entities' three customers in each of the identified geographical areas with the largest aggregate purchases in value during the last financial year;

- (f) the business relationship among the merging entities in terms of the products or services they sell to one another as well as the value of those products and services sold during the last financial year; and
- (g) detailed information which shall also indicate whether the merger will involve the following-
 - (i) transfer of all or part of the assets, liabilities and manner of settlement, other undertakings, including real and intellectual property rights; and
 - (ii) terms and conditions of transfer of shares or other interests.

Failing company in merger.

45. Where a company involved in a merger transaction claims that it is failing, the following documents shall be forwarded by the acquirer to the Commission-

- (a) financial information demonstrating that the firm will be unable to meet its financial obligations in future;
- (b) information indicating that the failing company would reasonably be expected to exit the market unless the merger is implemented;
- (c) the last audited financial statement of the companies ; and
- (d) certificate of the incorporation of the merging companies.

Merger involving a small company.

46. Where a party to a merger is a small company and is required to notify the Commission of the merger the company shall submit the following documents to the Commission-

- (a) an extract of board resolutions of the merging companies authorizing the merger duly certified by a director and the company secretary;
- (b) a copy of the letter appointing the financial adviser of the small company;
- (c) letter of no objection from company's sector regulator. (where applicable); and
- (d) the last accounts of the small company.

47. (1) Every merger or acquisition between or among companies shall be subject to the prior review and approval of the Commission. Approval by Commission.

(2) Approval for mergers and acquisition shall be given if, the Commission finds that-

- (a) the acquisition, whether directly or indirectly, the whole or any part of the equity or other share capital or of the assets of another company, is not likely to cause substantial restraint of competition or tend to create monopoly in any line of business enterprise;
- (b) the use of such shares by voting or granting proxies or otherwise shall not cause substantial restraint of competition or tend to create monopoly in any line of business enterprise;
- (c) though the contemplated merger is likely to restrain competition, one of the parties to the merger has proved that it is failing; and

- (d) sufficient evidence is put before the Commission to show that all liabilities of the acquiree have or shall be settled within a reasonable period of time.

Post-Merger
inspection.

48. Six months after approval by the Commission, a post-merger inspection shall be carried out by the Commission to ascertain the level of compliance with the provisions of the approval documents and the following documents shall be forwarded by the merged company to the Commission-

- (a) copy of the first board minutes;
- (b) copy of the amended Memorandum and Articles of Association (where applicable);
- (c) evidence of payment of severance benefits of employees of the dissolved companies where the same had not been paid;
- (d) a copy of the final settlement of shareholders and other creditors debts where the same had not been settled;
- (e) proof of issue of share certificates;
- (f) proof of settlement of all debts;
- (g) report of shareholders representatives on the merger; and
- (h) any other document that may be required by the Commission from time to time.

Procedure
and criteria
bid.

49. (1) All holders of securities in the offeree Company of the same class shall be afforded equivalent treatment.

(2) Where a person acquires control of a company the holders of securities shall be protected.

(3) Holders of securities in the offeree company shall have sufficient time and information to enable them to reach an informed decision on the bid.

(4) When advising the shareholders, the board of the offeree company shall give its views on the effects of implementation of the bid on employment, conditions of employment and the location of the place of business.

(5) The board of an offeree company shall act in the interest of the company as a whole and shall not deny the holders of securities the opportunity to decide on the merits of the bid.

(6) False markets shall not be created, whether in the securities of the offeror, offeree or other company concerned in the bid.

(7) An offeror may announce a bid only if it has ensured that it can meet in full any cash consideration payable and after taking all reasonable steps to secure the implementation of any other type of consideration.

(8) The offeree company shall not be hindered in the conduct of its affairs by the bid for longer than is reasonable.

50. (1) The following shall be the rules for take overs—

Rules on take
over.

- (a) when a person or group acquires interests in shares carrying 40% or more of the voting rights of a company, they shall make a cash offer to all other shareholders at the highest price paid in the 12 months before the offer was announced (40% of the voting rights of a company is treated by this Regulation as the level at which effective control is obtained);

- (b) when interests in shares carrying 10% or more of the voting rights of a class have been acquired by an offeror (i.e. a bidder) in the offer period and the previous 12 months, the offer shall include a cash alternative for all shareholders of that class at the highest price paid by the offeror in that period and if an offeror acquires for cash any interest in shares during the offer period, a cash alternative shall be made available at that price at least;
- (c) if the offeror acquires an interest in shares in an offeree company (i.e. a target) at a price higher than the value of the offer, the offer shall be increased accordingly;
- (d) the offeree company shall appoint a competent independent adviser whose advice on the offer shall be made known to all the shareholders, together with the opinion of the board;
- (e) favourable deals for selected shareholders shall be banned;
- (f) shareholders shall be given the same information;
- (g) those issuing takeover circulars shall include statements taking responsibility for the contents;
- (h) profit forecasts and asset valuations shall be made to specified standards and shall be reported on by professional advisers;

- (i) misleading, inaccurate or unsubstantiated statements made in documents or to the media shall be publicly corrected immediately;
- (j) actions during the course of an offer by the offeree company which might frustrate the offer shall be prohibited unless shareholders approve the plans;
- (k) stringent requirements shall be laid down for the disclosure of dealings in relevant securities during an offer; and
- (l) employees of both the offeror and the offeree company and the trustees of the offeree company's pension scheme shall be informed about an offer.

(2) The offeree company's employee representatives and pension scheme trustees shall have the right to have a separate opinion on the effects of the offer on employment appended to the offeree board's circular or published on a website.

51. (1) Regulations 52 to 57 shall apply to public and private Amalgamation. companies

- (2) Where a public company's securities have been –
 - (a) admitted to the official list at any time; and
 - (b) published on a regular basis for a continuous period of at least six months or subject to a marketing arrangement in the previous 4 years;

it is required to file a prospectus for the issue of securities in Sierra Leone in the previous 4 years;

(3) No company shall be involved in the amalgamation process unless it complies with corporate requirements.

Procedures
for
amalgama-
tion.

52. (1) The procedure for an amalgamation, where company A and company B are in the process of being amalgamated with company C shall be as follows—

- (a) the Board meeting of individual companies, company A and company B shall propose for the amalgamation with company C;
- (b) the proposal for the amalgamation shall be forwarded to company C by company B;
- (c) the Board meeting of company C shall consider the proposal and effect for the amalgamation, the Board shall approve the proposal of company A and company B;
- (d) subsequently, company C shall inform the fact that it has accepted the proposal to company A and company B;
- (e) after consultation with company A and company B company C shall appoint the valuers and a person who shall handle the corporate matters;
- (f) the valuer shall determine the fair share exchange ratios of the companies; and
- (g) after valuation, the valuers shall submit their Valuation Report of shares of all the companies to the Commission.

(2) The following documents shall be submitted to the Commission for its consideration and approval—

- (a) an explanatory statement;
- (b) a copy of the scheme for the amalgamation; and
- (c) the share exchange ratios approved by the Boards of all the companies and specified in the scheme for the amalgamation.

(3) An application for amalgamation shall be by motion to the Court praying for an order to call, hold and conduct a meeting under a scheme for the amalgamation and such order shall be enclosed with the application.

(4) An order made by a court under sub-regulation (3), shall provide for—

- (a) the date, time and venue of the meeting;
- (b) the appointment of the chairman of the meeting;
- (c) the time limit within which the chairman of the meeting shall submit his report to the court;
- (d) the advertisement of the notice of the meeting; and
- (e) any other directions as the court thinks expedient in relation to the calling, holding and conducting of the meeting.

(5) On receipt of the order of the Court, notice of the meeting shall be drawn up and the following documents shall be circulated—

- (a) a copy of the scheme of amalgamation;

- (b) an explanatory statement prepared; and
- (c) companies proxy form where proxies are allowed under the Memorandum and Articles.

(6) Advertisement of the notice of the meeting shall be given in accordance with the court order.

(7) The chairman of the meeting shall submit his report, on the decision taken at the meeting on the scheme of amalgamation, to the Court.

(8) Before making an order for the dissolution of company A and company B, the Court shall appoint an Official Liquidator who, on scrutiny of the books and papers of companies A. and B, shall make a report to the court that the affairs of the companies have not been conducted in a manner prejudicial to the interests of their members or to the public.

(9) After considering the report made by the Official Liquidator and other matters, the court shall make an order for the dissolution of Company A and Company B, the transferor companies, without winding up.

(10) A copy of every order made by the court under this Regulation shall be annexed to every copy of the Memorandum or instrument constituting or defining the constitution of the company.

(11) Every order made by the court under this Regulation shall be registered with the Registrar within seven (7) days of the making of the order.

Official liquidator.

53. (1) The Official Liquidator appointed by the court under sub-regulation(8) of Regulation 52 shall be responsible to scrutinize the books and papers of company A. and company B, and thereafter make a report to the court that the affairs of the companies have not been conducted in a manner prejudicial to the interests of their members or to the public.

(2) The Official Liquidator may, for the purpose of making a report to the court under sub-regulation (1), employ other professional services, including Chartered Accountants, to examine the books and papers of the transferor Companies, Company A and Company B.

54. A public company involved in the process of amalgamations shall send the following notices to the Commission— Intimation and Notice to the Commission.

- (a) notice that the Board meeting decides for the amalgamation;
- (b) notice that the court has issued an order sanctioning the scheme of amalgamation; and
- (c) notice that the court has made an order for dissolution of Company A and Company B (the transferor companies) without winding up.

55. (1) This Regulation shall apply to combinations in which separate entities are brought together to form a reporting entity by contract alone without obtaining an ownership interest; and business combinations involving mutual entities. Scope of Business Combination regulations

(2) Where the combination involves over 50% ceding control of assets and management of one company including though not limited to take over of liabilities, regulations and rules relating to mergers and acquisitions shall apply.

56. Any of the parties to a business combination shall, upon payment of the relevant fee, submit copies of the following to the Commission— Notice of business Combination.

- (a) notice of intention to combine business for the purpose of engaging in a transaction or series of transactions;

- (b) copies of resolution of companies involved in the transaction;
- (c) brief history of prior operations including financial statements of individual companies;
- (d) effects on market following the combination; and
- (e) authorization from the sector regulator (if any)

Commission approval.

57. (1) Every business combination shall be subject to the prior review and approval of the Commission.

(2) Approval for business combination shall be given if, the Commission is satisfied that -

- (a) the combination, whether directly or indirectly, the whole or any part of the equity or other share capital or of the assets of another company, or control remains with each company and would not create a monopoly in any line of business enterprise; and
- (b) though the combination is likely to affect competition its implementation would be in the public interest.

PART IV–PROSPECTUS

Submission of prospectus.

58. Every public company shall submit to the Commission a copy of its prospectus in the form prescribed in section 497 of the Act.

59. In addition to the requirements of Section 500 of the Act, every prospectus shall contain the following-

Form of prospectus.

- (a) general information about the issuer, its officers, members and promoter–
 - (i) name, address and date of incorporation of the company;
 - (ii) the address of the registered office and the transfer office, the date of incorporation of the issuer and, if it is an external company, the country in which it is incorporated and the date of registration in Sierra Leone;
 - (iii) if the issuer is a subsidiary, the name and address of the registered office of its holding company, or of any corporation which would have been its holding company;
 - (iv) the names, any former names, occupations and addresses of directors, managers and other members, a brief description of their principal activities in relation to the issuer or its subsidiaries, whether as an officer or otherwise, the directors of the issuer and its material subsidiaries; founders, if the issuer has been established for fewer than five years; executive managers of the issuer and its material subsidiaries and managers responsible for the day to day running of the business of the issuer or of a group to which the issuer belongs; and in the case of an issuer registered in a jurisdiction other than

- Sierra Leone, members of the issuer's domestic management committee;
- (v) for each person mentioned in paragraph (iv), his job title; nationality, qualifications and experience; remuneration and other benefits derived directly or indirectly from the issuer or a related corporation; the names of all companies and partnerships of which the person has been a director or partner at any time in the last five years, but excluding subsidiaries of any such company, indicating whether or not the officer is still a director or partner; corporations in which the officer owns an interest of 20% or more, has the right to an interest of 20% or more, or is entitled to 20% or more of the profits or benefits (including interest payments): details of any bankruptcies, insolvencies or individual voluntary compromise arrangements; details of any receiverships compulsory liquidations, creditor voluntary liquidations, administrations, company voluntary arrangements or any compromise or arrangement with creditors generally, or any class of creditor, of any company of which the officer is or was a director with an executive function at the time of or in the twelve months preceding any such event; details of any compulsory liquidations, administration or partnership voluntary arrangements of any partnerships of which the officer is or was a partner at the time of or in the 12 months preceding the event;

- (vi) details of receiverships of any asset of the officer or of a partnership of which the officer is or was a partner at the time of or in the 12 months preceding the event; details of any public criticisms of the officer by statutory or regulatory authorities, or recognised professional bodies, and whether the officer has ever been disqualified by a court from acting as a director of a company or from acting in the management or on behalf of any company; and any offence involving dishonesty;
- (vii) the direct and indirect interests of the directors in the share capital of the issuer, with a distinction between beneficial and non-beneficial interests and whether or not there has been a change in these interests from the end of the previous financial year to the date of application;
- (viii) full particulars of the nature and extent of any material interest of a director or promoter in any transaction effected by the issuer or a related corporation in the past three years, full particulars of the nature and extent of any material interest of the directors and promoter in the promotion of the issuer and in any property intended to be acquired by the issuer or its subsidiary out of the proceeds of the issue;
- (ix) if a director or promoter's interest is through an intermediary, the nature and extent of the intermediary's interest and the nature and extent of the director or promoter's interest in that intermediary;

- (x) a statement of amounts or inducements paid or agreed to be paid by any person within the past three years for any director to serve as a director, or for services rendered by the director or an intermediary in the promotion or formation of the issuer;
 - (xi) the name, address and professional qualifications of the secretary of the issuer; and
 - (xii) the dates, the nature of and the parties to, every material contract and provide details of a reasonable time and place at which copies of these contracts, or of any transcript or translation, may be inspected.
- (b) the offer and its proceedings containing the following—
- (i) the class of shares;
 - (ii) the nominal value of the shares (if applicable);
 - (iii) the offer price;
 - (iv) the number of shares offered;
 - (v) the class of debentures;
 - (vi) how the shares rank for dividend and whether they rank pari passu with existing shares of the same class;
 - (vii) the time, if any, after which a right to dividends lapses, and the person in whose favour it lapses;

- (viii) the fixed dates, if any, on which a right to dividends arises; any arrangement by which future dividends are or may be waived or agreed to be waived;
 - (ix) any provisions relating to transferability, convertibility of redemption;
 - (x) the treatment of fractions; and any other terms and conditions of the offer;
 - (xi) the terms and conditions of the debentures; the fixed dates, if any, on which a right to interest arises; if the debentures are secured, particulars of the security, specifying the property comprising the security and the nature of the title to the property; if the debentures are offered with a guaranty, particulars of the guarantor, any provisions relating to transferability, convertibility or redemption; and any other terms and conditions of the offer;
 - (xii) the time and date of the opening and of the closing of the subscription lists or the offer; and
 - (xiii) a statement of the purpose of the offer, explaining if applicable why it is considered necessary for the issuer to raise the capital offered.
- (c) If any part of the proceeds of the issue of shares is to be used by the issuer or its subsidiary, directly or indirectly, to acquire property, state-
- (i) the date of the acquisition or proposed acquisition;

- (ii) the purchase amount, specifying the portion settled by the issue of shares, the payment of cash and other means, and how any outstanding amount is to be settled;
 - (iii) details of the valuation of the property; any goodwill payment and how the goodwill was or will be accounted for;
 - (iv) any loans incurred, or to be incurred to finance the acquisition; and
 - (v) the nature of the title or interest acquired or to be acquired.
- (d) If any part of the proceeds of the issue of shares is to be applied, directly or indirectly, to the acquisition by the issuer or its subsidiary of the shares of any other corporation, in consequence of which that corporation will become a subsidiary or material investment of the issuer, provide in addition: an assessment of the principal risks associated with the acquisition, including risks related to the corporation's -
- (i) operating history;
 - (ii) profitability;
 - (iii) industry, business or proposed business, competitor activity and business environment;
 - (iv) labour relations, staff redundancies and compliance with employment equity targets; and

- (v) the market for its securities.
- (e) whether or not the sellers have guaranteed the book debts or other assets and describe any warranties that have been given;
- (f) whether the seller's agreement precludes the seller from carrying on business in competition with the issuer or any of its subsidiaries; or imposes any other restriction on the seller, providing details of any payment relating to a restraint of trade and the nature of the restraint;
- (g) how any liability for accrued taxation, or any apportionment of it to the date of acquisition, is to be settled in terms of the seller's agreement; the amount paid or payable in cash or securities to each of them; the amount (if any) payable for goodwill or items of a similar nature; the date on which the asset was acquired by the seller, and if within the past three years, the cost of the asset to the seller; and if the seller is a company, the names and addresses of the controlling shareholders of the seller;
- (h) commission paid or payable in respect of underwriting—
 - (i) the commission paid within the preceding three years, or to become payable to any person (including a promoter, director, officer or holding company of the issuer) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions for any shares of the issuer, listing the

- name, occupation and address of each such person, the amounts underwritten or sub-underwritten by each of them and the rate of the commission payable for the underwriting or sub-underwriting contract with each of them;
- (ii) if an underwriter or sub-underwriter is a company, state the names of the directors of the company and the nature and extent of any direct or indirect interest which any promoter, director or officer of the issuer might have in that company; and
- (iii) statements where an offer is not underwritten-if the offer is not underwritten, include a statement by the directors of the manner in and source from which any shortfall in the capital to be raised will be financed;
- (j) share capital of the issuer-
- (i) if the issuers share capital consists of shares of par value, state the authorised and issued share capital (or share capital agreed to be issued), specifying-
- (aa) the different classes of shares (the number of shares in each class);
- (bb) the nominal value of each share in each class; and
- (cc) the total value of each class .
- (ii) the share premium account; and

- (iii) if the issuers share capital consists of shares of no par value, specify with regard to the authorized and stated capital, (or stated capital agreed to be issued) -
- (aa) the different classes of shares;
- (bb) the number of shares in each class; and
- (cc) the total value of the stated capital account for each class
- (k) give a description for each class of shares of-
- (i) preferential conversion and exchange rights;
- (ii) voting rights; and
- (iii) rights to dividend, profits, capital and any other rights including redemption rights and rights on liquidity or distribution of capital assets
- (l) state what consent and procedures are required for the variation of rights attaching to shares;
- (m) a summary of other issues or offers of shares in the issuer or its subsidiaries during the last three years, stating-
- (i) the prices and terms at which the shares were issued or offered;
- (ii) by whom the offers were made;
- (iii) the number of shares allotted in pursuance of any issue or offer;

- (iv) whether the shares were issued to all who were holders of shares at that time in proportion to their holdings or if not, to whom they were issued, the reasons why the shares were so issued and the basis of the allotment of the shares;
- (v) the dates of the issues or offers;
- (vi) the reasons for any premium or discount on the issue or offer, how any premium or discount was dealt with and where some shares issued or offered at par and others at varying premiums or discounts the reasons for the differential;
- (vii) the value and description of the property, if any, acquired or to be acquired out of the proceeds of the issue or offer; and
- (viii) the details of any share purchases;
- (n) a summary of any consolidations or subdivisions of shares in the issuer during the preceding two years;
- (o) whether the directors or shareholders in the general meeting control the issuer and its subsidiaries including debentures issued prior to the offer and preference shares classified as debt in terms of financial reporting standards, stating for each of them-
 - (i) whether the loan is secured or unsecured;

- (ii) the name of the lender or debenture-holder;
- (iii) the amount, terms and conditions of repayment or renewal;
- (iv) the nominal and real rates of interest on each loan;
- (v) details of any security provided; and
- (vi) how payments due within the next 12 months will be financed;
- (p) whether any debentures have been-
 - (i) created in terms of a trust deed and the number and value issued or agreed to be issued;
 - (ii) issued by way of conversion or replacement of debentures previously issued, noting any difference between the security for the new debentures and that for the one substituted
- (q) options or preferential rights in respect of shares;
- (r) the substance of any contract or arrangement, or proposed contract or arrangement, whereby any option or preferential right of any kind was or is proposed to be given to any person to subscribe for any shares of the issuer or its subsidiary, specifying in respect of each of these-
 - (i) the number and description of shares subject to the option or right;

- (ii) the period during which it may be exercised;
- (iii) the exercise date;
- (iv) the exercise or strike period, or price to be paid for the shares subscribed for;
- (v) the nature of the option;
- (vi) the option premium or consideration paid or payable for it;
- (vii) the names and addresses of beneficiaries (other than current participants under an employee share scheme); and
- (viii) any other material fact or circumstance concerning the granting of the right or option.

Prohibition of dealing without approved prospectus.

60. (1) It shall be unlawful for transferable securities to which Regulations 62 to 69 apply to be offered to the public unless an approved prospectus has been made available to the public before the offer is made.

(2) It shall be unlawful to request the admission of transferable securities to which regulations 62 to 69 apply to trading on a regulated market situated and operating in Sierra Leone unless an approved prospectus has been made available to the public before the request is made.

(3) A contravention of this regulation shall be actionable, at the suit of a person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.

(4) For the purposes of these Regulations “approved prospectus” means, in relation to transferable securities to which this Regulation applies, a prospectus approved by the Commission in relation to the issuer of the securities.

(5) Regulations 62 to 69 shall not apply to securities listed as exemptions in Sierra Leone listing rules or any related existing rules.

61. (1) A person who proposes to—

- (a) issue transferable securities to which this Regulation applies, Election to have prospectus.
- (b) offer to the public transferable securities to which this Regulation applies, or
- (c) request the admission to a regulated market of transferable securities to which this Regulation applies,

may elect, in accordance with prospectus rules, to have a prospectus in relation to the securities.

(2) Where a person makes an election, this Part and the prospectus rules apply in relation to those transferable securities as if, in relation to an offer of the securities to the public or the admission of the securities to trading on a regulated market, they were transferable securities for which an approved prospectus would be required as a result of this Regulation.

62. (1) The Commission shall not approve a prospectus unless it is satisfied that— Criteria for approval of prospectus.

- (a) Sierra Leone is the country in relation to which the issuer of the transferable securities relates;

- (b) the prospectus is prepared in the form prescribed by the Commission and contains the necessary information stipulated under these Regulations and related sections of the Act; and
- (c) all of the other requirements imposed by or in accordance with this Part or the prospectus directive have been complied with (so far as those requirements apply to a prospectus for the transferable securities in question).

(2) The necessary information shall be the information necessary to enable investors to make an informed assessment of-

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

(3) The necessary information shall be presented in the prescribed form and shall be easy to analyse.

(4) The information shall be prepared having regard to the particular nature of the transferable securities and their issuer.

(5) The information shall briefly and in non-technical language, convey the essential characteristics of, and risks associated with, the issuer, any guarantor and the transferable securities to which the prospectus relates.

(6) The fee specified in the Second Schedule shall be paid to the Commission.

63. (1) The Commission may authorise the omission from a prospectus of any information, the inclusion of which would otherwise be required, on the grounds that - Exemptions from disclosure.

- (a) its disclosure would be contrary to the public interest;
- (b) its disclosure would be seriously detrimental to the issuer, provided that the omission would be unlikely to mislead the public with regard to any facts or circumstances which are essential for an informed assessment or;
- (c) the information is only of minor importance for a specific offer to the public or admission to trading on a regulated market and unlikely to influence an informed assessment.

(2) The Minister responsible for trade may issue a certificate to the effect that the disclosure of any information would be contrary to the public interest.

(3) The Commission shall be entitled to act on any such certificate in exercising its powers under the Act and these Regulations

64. (1) The Commission shall notify the applicant of its decision on an application for approval of a prospectus before the end of the period for consideration. Application for approval.

(2) The period for consideration-

- (a) shall begin with the first working day after the date on which the application is received; but
- (b) if the Commission gives notice, shall be treated as beginning on the first working day after the date on which the notice is complied with.

- (3) The period for consideration shall–
- (a) except in the case of a new issuer, be 30 working days; or
 - (b) in any other case, shall be 40 working days.
- (4) The Commission may by notice in writing require a person who has applied for approval of a prospectus to provide specified documents or information as referred to in sub-regulation (5).
- (5) Sub-regulation (4) shall apply to information and documents reasonably required in connection with the exercise by the Commission of its functions in relation to the application.
- (6) The Commission may require–
- (a) any information provided, whether in a document or otherwise, to be verified in a manner as it may reasonably require, or
 - (b) any document produced to be authenticated in such manner, as it may reasonably require.
- (7) The competent authority shall notify the applicant of its decision on an application for approval of a supplementary prospectus before the end of 10 working days beginning with the date on which the application is received;
- (8) The Commission's failure to comply with sub-regulation (3) shall not constitute approval of the application in question.

Procedure for approval.

65. (1) If the Commission approves a prospectus, it shall give the applicant written notice.
- (2) If the Commission proposes to refuse to approve a prospectus, it shall give the applicant written notice.

(3) The notice shall state the Commission's reasons for the refusal and shall give the applicant his right to appeal.

(4) In this regulation "prospectus" includes a supplementary prospectus.

66. (1) The Commission may transfer an application for approval of a prospectus or a supplementary prospectus to the appropriate Government body or authority ("the transferee authority"). Transfer of application for approval.

(2) Prior to transferring an application under sub-regulation (1), the Commission shall obtain the agreement of the transferee authority.

(3) The Commission shall inform the applicant of the transfer within 3 working days beginning with the first working day after the date of the transfer.

(4) On making a transfer under sub-regulation (1), the Commission shall cease to have functions under this Part in relation to the application transferred.

67. (1) Sub-regulation (2) applies if, during the relevant period, there arises or is noted a significant new factor, material mistake or inaccuracy relating to the information included in a prospectus approved by the competent authority. Supplementary prospectus.

(2) The person on whose application the prospectus was approved shall, in accordance with prospectus rules, submit a supplementary prospectus containing details of the new factor, mistake or inaccuracy to the competent authority for its approval.

(3) The relevant period begins when the prospectus is approved and ends–

- (a) with the closure of the offer of the transferable securities to which the prospectus relates; or

- (b) when trading in those securities on a regulated market begins.

(4) Any person responsible for the prospectus who is aware of any new factor, mistake or inaccuracy which may require the submission of a supplementary prospectus in accordance with sub-regulation (2) shall give notice of it to—

- (a) the issuer of the transferable securities to which the prospectus relates, and
- (b) the person on whose application the prospectus was approved.

(5) A supplementary prospectus shall provide sufficient information to correct any mistake or inaccuracy which gave rise to the need for it.

Right of investor to withdraw.

68. (1) Where a person agrees to buy or subscribe for transferable securities in circumstances where the final offer price or the amount of transferable securities to be offered to the public is not included in the prospectus, he may withdraw his acceptance before the end of the withdrawal period.

(2) The withdrawal period—

- (a) begins with the investor's acceptance; and
- (b) ends at the end of the second working day after the date on which the competent authority is informed of the information.

(3) Sub-regulation (1) shall not apply if the prospectus contains—

- (a) in the case of the amount of transferable securities to be offered to the public, the criteria or conditions (or both) according to which that element will be determined, or

- (b) in the case of price, the criteria or conditions (or both) according to which that element will be determined or the maximum price.

(4) Where a supplementary prospectus has been published and, prior to the publication, a person agrees to buy or subscribe for transferable securities to which it relates, he may withdraw his acceptance before the end of the period of 2 working days beginning with the first working day after the date on which the supplementary prospectus was published.

69. The Commission shall establish and maintain, in accordance with these regulations and prospectus rules, a register of investors.

70. Fees as determined by the Commission shall be applicable in respect of—

- (a) applications for approval of a prospectus or a supplementary prospectus;
- (b) applications for inclusion in the register of investors;
- (c) the continued inclusion of investors in the register referred to in regulation 69; and
- (d) access to the register referred to in regulation 69.

PART V—MISCELLANEOUS PROVISIONS

71. The formula at which securities may be bought or sold other than on the stock market shall be as set out in the Third Schedule.

72. Pursuant to subsection (2) of section 531 of the Act, a company applying for a certificate of registration shall submit to the Commission a completed form 531 as set out in the First Schedule.

FIRST SCHEDULE - FORMS

FORM AA

Regulation 7,9

CONTAINS GUIDANCE NOTES

REPUBLIC OF SIERRA LEONE

Corporate Affairs Commission

(Established under the Companies Act No.5 of 2009 and Business Registration Act, 2007)

Application for Incorporation, Registration of New Business, and Issuance of Taxpayer Identification Number (TIN) and Municipal License.

Section A

1. The Business Name [Grid]

2. Registration Type (Mark X in appropriate box) : Limited Liability [] Limited by Guarantee []

3. Type of Legal Entity: Local [] Foreign [] Private [] Public [] Other [] if other specify.....

4. Business Location Address Street [Grid] District [Grid] City/Town [Grid]

5. Postal Address P.O. Box [Grid] Street [Grid] City/Town [Grid] District [Grid]

6. Telephone No and E-mail Address of Business: Land line [Grid] Mobile [Grid]

E-Mail Address [Grid]

7. Activity/Industrial Classification (Mark X in appropriate box): [] Services [] Manufacturing [] Farming/Fisheries [] Commerce [] Transport/Communication [] Finance/Insurance/Real Estate [] Construction [] Banking [] Mining [] Government [] Other [] If other specify.....

8. Describe your Business Activity/Nature of Business:

9. The Capital employed in the business (including all Branches of Sierra Leone) with details of i. Nominal issue Capital In Words..... In figures [Grid] ii. Business estimate turnover for the twelve month form date of commencement of business: in words..... In figures [Grid]

10. Auditor /Accountant [Grid]

11. Name of contact person [Grid]

12. Name of person authorise to accept and receive document [Grid]

13. Address of person authorise to accept and receive document [Grid]

14. Name of Secretary [Grid]

15. Address of Secretary [Grid]

16. Full particulars of any branch(es) or other place(s) of business in Sierra Leone Branch [Grid] Address 1 [Grid]

Branch Address

Section B Shareholder 1

Particular of Shareholders

17. Title (Mark x in appropriate box) Mr. Mrs. Miss Surname

First name Middle Name

Occupation Date of birth Sex M F

Nationality ID/Passport No. Percentage of shares %

Shareholder 2

17. Title (Mark x in appropriate box) Mr. Mrs. Miss Surname

First name Middle Name

Occupation Date of birth Sex M F

Nationality ID/Passport No. Percentage of share %

Shareholder 3

17. Title (Mark x in appropriate box) Mr. Mrs. Miss Surname

First name Middle Name

Occupation Date of birth Sex M F

Nationality ID/Passport No. Percentage of share %

Shareholder 4

17. Title (Mark x in appropriate box) Mr. Mrs. Miss Surname

First name Middle Name

Occupation Date of birth Sex M F

Nationality ID/Passport No. Percentage of shares %

Note: Please attached photocopy of your National ID/Passport and residential permit Attach additional copy of shareholders information.

18. Particular of each company that is a shareholer

Company name

Address

ID/Passport No. of share

Shareholder 3

19. Date of Commencement of business

20. Note: for Promoter

I.....hereby certify and declare that the foregoing particulars are to my knowledge and belief correct, and I undertake to notify the Registrar of Companies/business, National Revenue Authority and the Freetown City Council whenever there is a change of circumstance affecting or relating to the particulars of the company/business as stated above.

FOR NRA OFFICIAL USE ONLY	
21. Date of Issue <input style="width: 40px;" type="text"/>	22. Data Entry By: <input style="width: 100px;" type="text"/>
23. Trade Activity Classification <input style="width: 40px;" type="text"/>	24. Tax District <input style="width: 40px;" type="text"/>
25. TIN Assigned to Company <input style="width: 60px;" type="text"/>	

<u>FREETOWN CITY COUNCIL OFFICIAL USE ONLY</u>	
26. Type of Business <input style="width: 100px;" type="text"/>	
Category: A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> Amount Due and Demanded Le:.....	

GUIDANCE NOTES

- * This form is to be completed for company other than Sole Proprietorships or Partnership.
- * Section B is for shareholders details and attach photocopies of National ID Card/Passport/Driver’s License for Sierra Leoneans and in the case of Non-Sierra Leoneans photocopies of Certificate of Registration, Passport and Residence Permit.
- * Please ensure that originals of photocopy attachments are presented for inspection as a basis for authentication of the photocopies at the CAC NRA and FCC offices when you are submitting the application.

Section A

1. Enter the name of business as you want it to appear in the business registration certificate.
2. Limited Liability Company is a profit making company and Limited by guarantee is a non profit making company.
3. Type of business Ownership: Local, Foreign private or public Limited Company. If your business does not correspond to one of these boxes then you are probably a Sole Proprietorship or Partnership and you must fill a different form.
4. Physical location of principal place where business is conducted (i.e. head office if business is conducted at two or more places). Provide street address and leave out phrases like “near bridge” etc.
5. Details of person’s address- Post Office Box number , town (or area) and district in which post office is located. District could be one of the following: Western Area Urban, Western Area Rural, Kailahun, Kenema, Kono, Bombali, Kambia, Koinadugu, Port Loko, Tonkolili, Bo, Bonthe, Moyamba or Pujehun.
6. Current E-mail address, numbers of land–line and mobile phone of the business.

- 7. Activity /industrial classification: Mark X in appropriate box.
- 8. Describe business activities with main activity first. Please be specific.
- 9. The money/asset you have or wish to have to invest in the Company.
Estimate Turnover means - The estimate of annual sales.
- 10. Name of External Auditor / Accountant of the business.
- 11. Name of contact person: A person in management position in the business, who interacts regularly with OARG, NRA and FCC on registration and tax issues.
- 12-13 The name and address of the person who should received and do correspondence on behalf of the company.
- 14-15. Name and address of the secretary of the company
- 16. Full detail of any other place(s) with business is operated in Sierra Leone
- 17. Enter the following details for each shareholder
 - * Tick appropriate title and write full name, beginning with surname.
 - * Date of birth beginning with day, followed by month and year in that order.
 - * Mark X in box for male or female.
 - * Sierra Leonean to provide Photocopy of National ID Number (or passport / driver's license if applicant has one). Non-nationals of Sierra Leone are to provide passport number and residence permit
- 18. Details of a company that is a shareholder
- 19. The date you started/will start operation
- 20. To be completed by promoter of a company (Shareholder). Promoter
Should fill his full name, sign and date

21-26. DO NOT FILL SECTIONS 21-26

FORM 485

FORM 485

THE COMPANIES ACT NO. 5 OF 2009
CORPORATE AFFAIRS COMMISSION
REGISTRATION FORM (FOREIGN COMPANY)

Company Name as per Incorporation	
Date of incorporation	
Country of Incorporation	

Proposed Name (if different from above)
(For registration name availability check having been carried out)

- 2. Types of Company: Public private
Limited by shares limited by guarantee unlimited
- 3. Address:
 - (a) In country of incorporation
 - (b) In Sierra Leone
- 4. Nature of business (tick appropriate box) services manufacturing farming/
fisheries commerce transport/communication finance/
banking building/construction mining manufacture insurance
If other please specify.....

5. Directors DETAILS

1st Director

2nd Director/ Secretary

Name or Director	
Telephone No	
Address	
Signature	
Email	

Every director listed to complete form 32/211

Submitted/Filed

DAY MONTH YEAR

Applicable fees shall/has been paid by : Mobile Money Bank Transfer

Note: signature gives consent to act in capacity as a director (attach copy of ID of each Director named)

6. Details of person authorized to manage company in Sierra Leone

Name	
Address	
Occupation	
Signature	
Telephone	Email:

(Attach copy of ID)

7. Name and address of person in Sierra Leone authorized to accept notices (if different from above)

Name	
Address	
Occupation	
Signature	
Telephone	Email:

Notes:

Attached to this application the following:

- (a) Copy of certificate of incorporation issued outside Sierra Leone
- (b) Copies of valid forms of Identification of all persons named showing a picture and date of birth. If person named is a Sierra Leone the following IDs are acceptable: passport, NASSIT Registration card, National ID, Driver's License. If a foreigner only copy of valid passport is acceptable.
- (c) Certified copy of charter, statute, memorandum and articles of the company or instrument constituting or defining the constitution of the company (if not in English language, a certified translation)
- (d) Copy of consent for use of name (if required)