CAPITAL
MARKETS AUTHORITY
Promoting the Integrity and Growth of the Capital Markets

CMA to have regulatory oversight over Alternative Investment Funds

Nairobi, 06 May 2024 …In line with its new strategic direction, the Capital Markets Authority (CMA) has published Regulations that seek to place funds that raise money from investors under its regulatory ambit, which is aligned to its investor protection mandate.

The funds classified as Alternative Investment Funds (AIF) are l collective investment schemes, which pools capital with a view to investment according to a defined investment policy. The product requires a substantial investment, and the eligible investors tend to be institutions and high-net-worth individuals. AIFs can be pooled from at least two, but not more than one hundred investors, who must invest a minimum of KES 1 million. AIF funds include debt and debt-linked funds; equity and equity-linked funds; hedge funds; property funds; and infrastructure funds.

The CMA Chief Executive Officer, Mr. Wyckliffe Shamiah, observed during the release of the Quarter One 2024 Capital Markets Soundness Report; "the Capital Markets (Alternative Investment Funds) Regulation 2023 provides for regulation of the private pooling of funds from domestic and foreign investors. The Regulations broadly cover several areas including requirements for approval of the funds; investment conditions and restrictions; obligations and responsibilities transparency, inspections; and procedures for action in case of default''.

Mr. Shamiah explained that the product allows investors to diversify their investment portfolios thereby acting as a cushion during a financial crisis or when the market is highly volatile. Further the funds are invested in all sectors of the economy, effectively contributing to economic development. The funds also function as a hedge against inflation thus providing a safeguard against erosion of value for investors. India, South Africa, Nigeria, and Egypt are some of the markets that have AIF markets.

Mr. Shamiah added that to protect the investing public, AIFs are barred from public solicitation for securities subscriptions, and are expected to establish governance structures around such funds including fit and proper directors, trustees, or partners, as well as an experienced investment teams. Upon approval, an AIF must provide clear details on investment objectives, targeted investors, scheme assets, and tenure. Entities such as family trusts and employee participation schemes are exempt from AIF classification. He added that to realize the full benefits of AIFs, CMA will be partnering with stakeholders to sensitize and build capacity for all participants in this market segment.

The gazettement of the AIF Regulations marks the first step towards growing the AIF industry in Kenya. The regulations allow for different structural innovations in the alternative investments space to finance property development and infrastructure projects. It brings funds that were previously outside the regulatory purview of CMA into its perimeter of oversight, while mitigating the risk of retail investors participating in complex fund structures.

Meanwhile, according to the Quarter One 2024 Capital Markets Soundness Report, the domestic capital market remained resilient and registered improved performance in indicators such as equities and both turnover, share volume, NSE indices and market capitalization, with investor net-worth increasing by Kshs 370 billion during the period under review. This was driven by the significant strengthening of the Kenya shilling against the US Dollar.

Specific to soundness and health indicators, the market witnessed low volatility of share prices of firms listed on the NSE, improved liquidity and a growth in foreign investors' market share of equities trading to 60 percent. On the flipside foreign investors continued to exit the NSE with net equity outflow of Kshs 2.20 billion registered in the quarter.

Notably, foreign participation in the equity market has recently attracted global institutional investors such as Blackrock, following recent market recovery and positive developments in Kenya's foreign exchange market. The outlook for the next quarter is therefore positive.

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BACKGROUND INFORMATION

The Capital Markets Authority (CMA) was set up in 1989 as a statutory agency under the Capital Markets Act Cap 485A. It is charged with the prime responsibility of both regulating and developing an orderly, fair, and efficient capital markets in Kenya with the view to promoting market integrity and investor confidence. CMA also regulates the commodity markets and online forex trading. The regulatory functions of the Authority as provided by the Act and the regulations include; Licensing and supervising all the capital market intermediaries; Ensuring compliance with the legal and regulatory framework by all market participants; Regulating public offers of securities, such as equities and bonds & the issuance of other capital market products such as collective investment schemes;

Promoting market development through research on new products and services; Reviewing the legal framework to respond to market dynamics; Promoting investor education and public awareness; and Protecting investors' interest. For more information, please contact: Antony Mwangi, Manager Corporate Affairs & International Relations on amwangi@cma.or.ke