



KENYA NATIONAL ASSEMBLY
TENTH PARLIAMENT – FOURTH SESSION

REPORT
OF THE
DEPARTMENTAL COMMITTEE
ON FINANCE, PLANNING & TRADE
ON THE

PARLIAMENT
OF KENYA
LIBRARY

KENYA AIRWAYS RIGHTS ISSUE
(RELATING TO QUESTION BY PRIVATE NOTICE)

Kenya National Assembly
Parliament Building
NAIROBI

*Papers laid
by Hon. Okeno
on Thursday June 7, 2012*

June, 2012

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1.0 PREFACE

Hon. Speaker Sir,

On behalf of the Departmental Committee on Finance, Planning, & Trade and pursuant to the provisions of Standing Order No. 152 (2), it is my pleasure and duty to present to the House, the Committee's Report on the Kenya Airways Rights Issue. The Finance, Planning & Trade Committee is one of the Departmental Committees established under Standing Order No. 198 whose functions are:-

- (i) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments;
- (ii) To study the programme and policy objectives of the Ministries and Departments and the effectiveness for the implementation;
- (iii) To study and review all legislation referred to it;
- (iv) To study, assess and analyse the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- (v) To investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary and as may be referred to them by the House or a Minister; and
- (vi) To make reports and recommendations to the House as often as possible including recommendations of proposed legislation.

The subjects falling within the purview of the Departmental Committee on Finance, Planning & Trade are:-

- ◆ Public Finance, Banking and Insurance;
- ◆ Population and National Development;
- ◆ Trade, Tourism promotion and management;

◆ Commerce and Industry.

The Committee membership comprise of the following:-

The Hon. Chrysanthus Okemo, EGH, MP - (Chairman)

The Hon. (Prof.) Philip Kaloki, MP - (Vice Chairman)

The Hon. Jakoyo Midiwo, MGH, MP

The Hon. Musikari Kombo, MP

The Hon. Lucas Chepkitony, MP

The Hon. Lenny M. Kivuti,

The Hon. Nelson Gaichuhie, MP

The Hon. Ntoitha M'Mithiaru, MP

The Hon. Shakeel Ahmed Shabbir, MP

The Hon. Nkoidila Ole Lankas, MP

The Hon. Sammy Mwaita, MP

Mr. Speaker Sir,

The matter regarding the Kenya Airways Rights Issue was referred to the Departmental Committee on Finance, Planning and Trade on Thursday 17th May, 2012 by the House arising out of a question by Private Notice by the Member for Igembe North, **Hon. Ntoitha M'Mithiaru, MP.**

Question by Private Notice:

- (a) *What is the Government's stake in the just concluded Kenya Airways Rights Issue and who were the transaction advisors or sponsoring stockbrokers?*
- (b) *Is the submission of Provisional Allotment Letter (PAL) in public placement like Kenya Airways Rights Issue a separate service from the advisory services provided by Transactions Advisor?*
- (c) *What is the procedure of selecting stockbrokers for the submission of the Provisional Allotment Letter and does the Provisional*

Allotment Letter service attract a commission, and if so, how much will be paid to the submitting stockbrokers?

The matter was deliberated on the said date but the House was not satisfied with the answer given by the Minister for Finance. Consequently, the matter was referred to the Departmental Committee on Finance, Planning & Trade in line with its mandate to investigate and report back to the House. The Committee held meetings with the following to shed more light on the matter.

- (i) Kenya Airways
- (ii) Ministry of Finance
- (iii) Capital Markets Authority
- (iv) Kenya Association of Stockbrokers & Investment Banks

Mr. Speaker Sir,

On behalf of the Departmental Committee on Finance, Planning & Trade, I have the honour and pleasure to present the Committee's Report and recommendations on the Kenya Airways Rights Issue. May I take this opportunity to thank all Members of the Committee for their input and valuable contributions during the deliberations on the matter.

Thank you

Hon. Chrysanthus Okemo, EGH, MP

Chairman,

Departmental Committee on Finance, Planning & Trade

Signed 

Date 7/6/2012

2.0 DELIBERATIONS ON THE KENYA AIRWAYS RIGHTS ISSUE

2.1. MINISTRY OF FINANCE

Mr. Joseph Kinyua, CBS, Permanent Secretary/Treasury accompanied by:- Esther Koimet, Investment Secretary and Beatrice Gathirwa, Ag. Director, Investment, appeared before the Committee on Monday 4th June, 2012.

The Committee was informed that the Kenya Airways Rights Issue had three main purposes:-

- (i) To assist in funding the pre-delivery payments to aircrafts manufacturers in connection with the acquisition of nine (9) Boeing 787 Dream-liner aircrafts and ten (10) Embraer 190 aircrafts for which the company has placed firm orders.
- (ii) To assist in funding the pre-delivery payments to manufacturer in connection with acquisition of other aircrafts for which the company may in future place orders.
- (iii) To finance Kenya Airways capital expenditure requirements related to the additional aircrafts and equipment such as hangers and engines.

2.1.1 Government Shareholding

The Committee was informed that:-

- (i) The Kenya Government holds **23%** of the total issued share capital in Kenya Airways and at the close of Shareholders' Register on 19th March 2012, the number of ordinary shares in the name of the Permanent Secretary/Treasury was **106,171,561**.
- (ii) In a Rights Issue, shares are offered to all shareholders on a pro-rata basis based on their shareholding. Consequently, in the just-concluded Kenya Airways Rights Issue, the Permanent Secretary/Treasury was provisionally allotted **339,748,995** new

shares being 23% of the Rights on offer at a total cost of **Kshs 4,756,485,930.00**. The offer price for the Rights was Kshs 14 per share.

2.1.2 **Transaction Advisory team**

The Committee was informed that the Advisory Team for the just concluded Kenya Airways Rights Issue included the following advisors who were hired by Kenya Airways on a competitive basis:-

Lead Transaction Adviser

- CFC Stanbic Bank limited and CFC Stanbic Financial Services Limited

Lead Sponsoring Stockbroker

- Standard Investment Bank Limited

Co-Sponsoring Stockbrokers

- Kestrel Capital (E.A.) Ltd.- Kenya
- Crested Stocks and Securities Limited- Uganda
- Orbit Securities Co. Limited – Tanzania

2.1.3 **Submission of Provisional Allotment Letter (PAL)**

The Committee was informed that:-

- (i) The submission of Provisional Allotment Letters is done through Authorized Selling Agents. Depending on the mandate of the Lead Advisor where the Lead Advisor is also an Authorized Selling Agent, the Lead Advisor could submit the Provisional Allotment Letters.
- (ii) In the case of Kenya Airways, the mandate for the submission of the Provisional Allotment Letters for **principal shareholders** was with the Lead Sponsoring Brokers who were competitively appointed by Kenya Airways (*Terms of Reference Clause i-Annex 1*).

2.1.4 **Selection of Stockbrokers for submission of PALs**

The Committee was informed that there is no procedure for appointing stockbrokers to handle Provisional Allotment Letters because it is the responsibility of each shareholder to pick an Authorized Selling Agent through whom to submit and process the Provisional Allotment Letter.

2.1.5 **Brokerage Commission**

The Committee was informed that:-

- (i) Brokerage Commission are regulated under the Capital Markets Authority regulations, Fifth Schedule, Section 1(b) of the Capital Markets (Licensing Requirements) (General) Regulations, 2002 ***(Schedule – Annex 2)***
- (ii) Shareholders do not pay any commission to Authorized Selling Agents in a Rights Issue unless they choose to trade their rights.

2.2 **KENYA AIRWAYS**

Dr. Titus Naikuni, Group Managing Director/Chief Executive of Kenya Airways accompanied by:- Alex Mbugua, Group Chief Finance Officer and Jane Kiboi, Treasury Manager, appeared before the Committee on Tuesday 5th June, 2012.

The Committee was informed that the Kenya Government holds **23%** of the total issued share capital in Kenya Airways and applied for full subscription of the shares entitled to under the Rights Issue.

2.2.1 **Transaction Advisory team**

The Committee was informed that the following organizations comprised the Advisory Team in addition to those listed above under 2.1.2. The advisors were both competitively and transparently appointed in line with the Kenya Airways procurement procedures:-

Receiving Bank

- Kenya Commercial Bank

Lead Legal Adviser

- Hamilton Harrison & Mathew Advocates

Other Legal Advisors

- Mkono & Co. Advocates – Tanzania
- Kampala Associated Advocates – Uganda
- Clyde & Co. International

Underwriters

- Citigroup Global Markets Limited

Reporting Accountants

- PriceWaterhouse Coopers

Share Registrar & Data Processing Consultant

- Custody & Registrars Services Limited

Advertising & marketing

- Scanad Kenya Limited
- Public Relations
- Ogilvy Public Relations

2.2.2 **Submission of Provisional Allotment Letter (PAL)**

The Committee was informed that:-

- (i) In the case of Kenya Airways, the mandate for submission of the Provisional Allotment Letters for **principal shareholders** was with the Lead Sponsoring Brokers, Standard Investment Brokers who were competitively appointed by Kenya Airways (***copy of the contract with Standard Investment Brokers – Annex 3***)
- (ii) As indicated under the *Terms of Reference Clause i*, the mandate of the Standard Investment Bank Brokers included the processing of PALs for the principal shareholders. Consequently, the processing

of PAL for the Kenya government as a principal shareholder was contractually allocated to the Standard Investment Brokers.

2.2.3 Selection of Stockbrokers for submission of PALs

The Committee was informed that there is no procedure for appointing stockbrokers to handle Provisional Allotment Letters because it is the responsibility of each shareholder to pick an Authorized Selling Agent through whom to submit and process the Provisional Allotment Letter.

However, Kenya Airways had informed the government that the management had appointed a Lead Sponsoring Broker with a mandate to process the Provisional Allotment Letter which it had established as the best practice as indicated in the table below.

Company	Date	Gross Proceeds (Kshs B's)	GOK holding	Sponsoring Stockbroker	PAL Handled by
KCB Bank (1)	25/2/04	2.5	Yes	SUNTRA	SUNTRA
CFC Bank	31/10/05	0.75	No	SIB/CFC	SIB/CFC
Diamond Trust Bank (1)	6/10/06	0.8	No	KESTREL	KESTREL
NIC Bank	26/7/07	1.1	No	OYER	DYER
Olympia Capital	26/6/07	0.4	No	SIB	SIB
Diamond Trust Bank (11)	30/8/07	1.6	No	KESTREL	KESTREL
HFCK Rights	12/3/08	2.3	Yes	SIB/CFC	SIB/CFC
KCB Rights	28/2/08	5.5	Yes	SIB/FAIDA	SIB/FAIDA
SCBK Rights	7/9/09	2.5	No	SIB	SIB
KCB Rights	1/7/2010	15.0	Yes	SIB	SIB
KPLC	Dec 2010		Yes	DYER	DYER
Kenya Airways	Apr 2012	20.68	Yes	SIB	SIB

2.2.4 Brokerage Commission

The Committee was informed that Brokerage Commission are regulated under the Capital Markets Authority regulations and commissions are paid by the Issuer for all IPOs and Rights Issues.

2.3 CAPITAL MARKETS AUTHORITY

Mr. Kungu Gatabaki, Chairman of Capital Markets Authority accompanied by:- Stella Kilonzo, Chief Executive Officer; Daniel Warutere, Assistant Manager, Legal Framework; Wycliffe Shameer, Director, Marketing; Rose Lumumba, Director, Corporate and Communication, and Abubakar Hassan, Senior Legal Officer, appeared before the Committee on Tuesday 29th May, 2012.

The Committee was informed that:-

- (i) The Kenya Airways Rights Issue was approved by the Capital Markets Authority on 9th March, 2012 having complied with all the legal and regulatory requirements contained in the Capital Markets Act and regulations thereunder in relation to Rights Issues.
- (ii) The Capital Markets Authority was advised by Kenya Airways Limited (*the issuer*) that the transaction advisers for the transaction would include the following as sponsoring stockbrokers. The role of the various transactions team members is disclosed in the agreements entered into between the issuer and the respective entity.

Name	Responsibility
Standard Investment Bank Ltd	Lead Sponsoring Stockbroker
Kestrel Capital EA Limited	Co-sponsoring Stockbroker
Crested Stocks & Securities Ltd-Uganda	Co-sponsoring Stockbroker
Orbit Securities Company Limited	Co-sponsoring Stockbroker

- (iii) The appointment and responsibilities of sponsoring stockbroker are provided for in Part II of the Nairobi Securities Exchange (NSE) Listing Manual 2002 (**Annex 4**). The sponsoring stockbroker(s) is/are appointed from licensed stockbrokers who are members of NSE. The role of the sponsoring stockbroker is to act as liaison between the issuer, the exchange and the regulator in putting together the required documentation towards compliance with set disclosures.
 - (iv) In Rights Issues of shares, Provisional Allotment Letters (PAL) are issued to the shareholders to solicit for subscription. A PAL is a temporary document of title by which new shares are offered to shareholders in a **Rights Issue** and the PAL shows each shareholder's entitlement to the new shares.
 - (v) To guide on the fees to be charged by various parties in an Issue, the Authority has issued the following guidance on the fees in Capital Markets (Licensing Requirements) (General) Regulations 2002 under the Fifth Schedule.
 - (a) Sponsoring stockbrokers fees are negotiable with the Issuer.
 - (b) In the case of placing commission, stockbrokers get 1.5% of the value of the successful application subject to a minimum of Kshs 100. Participating banks who act as agents of the Issuer, receive a 1% fee of the value of successful applications.
- The scope of the services of the parties involved may not be subject to only the above mentioned but depends on the contractual agreement between the parties and the Issuer.
- (vi) On receipt of the PAL, every shareholder is expected to complete the relevant fields accurately and submit back the completed PALs together with the required amounts through the selling/placing

agents for process and consideration for allotment in line with the terms and conditions of the Issue. Where a shareholder decides to engage a selling/placing agent to process and assist in completing the PAL, the decision is solely on the shareholder considering all other factors that may be relevant.

- (vii) Capital Markets Authority is not involved in the administrative aspects of the transactions provided full disclosure of the same is provided in the information Memorandum and the relevant forms.
- (viii) It is the responsibility of the Treasury as a shareholder to be involved in the process of selecting an Authorised Agent for purposes of the submission of Provisional Allotment Letter.

2.4 KENYA ASSOCIATION OF STOCKBROKERS & INVESTMENT BANKS

Mr. John Kirimi, Chairman of Kenya Association of Stockbrokers & Investment Banks accompanied by:- Geoffrey Odindo, Director; Lucas Otieno, Director; Fred Murimi, Director; and Willie Njoroge, Chief Executive Officer, appeared before the Committee on Monday 4th June, 2012.

The Committee was informed that:-

- (i) The Kenya Government owns 106,171,561 ordinary shares with Kenya Airways which entitled it to 339,748,996 shares in the Rights Issues that is calculated as 16 new shares for every 5 ordinary shares held.
- (ii) In public offering like the Kenya Airways Rights Issue, several consultants are hired, key among them are the Lead Transaction Advisors and the Sponsoring Stockbrokers. These two consultants guide the Issuer in the transactions and help to market/sell the shares in their respective terms of reference. This service is entirely different from the submission of the Provisional Allotment Letter which is a separate decision made by the shareholder (who in this

case is the Kenya government) on who among the approved Central Depository Agents, shall process their application. This decision ought to be based on the best interest of the applicant.

- (iii) The Stockbroker who processes the PAL is paid a commission by the Issuer (Kenya Airways in this case) at the rate of 1.5% of the monetary value of the rights allotted to the shareholder which in this case is 1.5% of Kshs 4,756,485,289.16. The commission paid is out of the proceeds of the money paid by the shareholder who is the Kenya government in this case.
- (iv) On large transactions, a shareholder like the Kenya government in this case is entitled to a returnable commission from the stockbroker who processed the Provisional Allotment Letter. This is where the government should have sourced for the stockbroker who is willing to give the biggest returnable commission. The practice is common in the industry and organizations like NSSF take advantage of that, be it in equities or fixed income trading.
- (v) The selection of stockbrokers for the submission of PAL is the normal procurement procedure which can be done through open tender or restricted tendering where the government writes to all or selected number of stockbrokers and request them to provide the amount of returnable commission they are willing to give. The government would then choose the stockbroker who is willing to give the highest returnable commission. It is important to note that no particular skill is required in executing a PAL which means that a competition in cases of this nature is purely based on the stockbroker willing to give the highest returnable commission.

3.0 COMMITTEE'S OBSERVATIONS

- i. The Committee noted that the procurement for the lead sponsoring stock broker for the rights issue commenced in June 2011 with Kenya Airways sending four pre-qualified stock-brokers requests for proposals. The stock-brokers who were sent the request for proposals were Dyer and Blair, Kestrel Capital, Sterling Capital, and the eventual successful bidder, Standard Investment Bank Limited. It is not clear how the four stock-brokerage firms were short-listed but Kenya Airways informed the Committee that the four firms are the only ones that met criteria set by the airline, which included minimum share capital requirements.
- ii. The request for proposals set out the scope of services to be rendered by the lead sponsoring stock-broker which included assisting with *“the uptake of the Rights Issue with the principal shareholders including all questions that may arise and guiding on the processing of the Provisional Allotment Letters and related documents”*.
- iii. The contract between Kenya Airways and the lead sponsoring stock-broker, Standard Investment Bank Limited, dated 1st August 2011 states at Article 8, inter alia that;

“...provided that the Consultant in its capacity as an authorized selling agent shall not be restricted from receiving placement commission for the rights issue at the rate of 1.5% of the amount placed and accepted by the issuer as stipulated in the Capital Markets (Licensing Requirements)(General) Regulations, Fifth Schedule Article 1(b)(i).”
- iv. The lead sponsoring stock-broker's terms of reference under the contract again included assisting the principal shareholders in

processing of the Provisional Allotment Letters and related documents.

- v. The complaint by the Kenya Association of Stockbrokers & Investment Banks relating to the appointment of the broker to process the Provisional Allotment Letter for the Government is therefore already overtaken by events as Kenya Airways has already contracted the lead sponsoring stock-broker to undertake this task. The Committee took issue with the Association for bringing up this matter rather late in the day when no action can be taken up with regard to the Kenya Airways Rights Issue.
- vi. The Committee however noted that the concerns raised by Kenya Association of Stockbrokers & Investment Banks are meritorious and need to be taken into account with regard to future rights issues and initial public offers involving Government shareholding.
- vii. The Committee noted that Regulation 5A of the Capital Markets (Securities)(Public Offers, Listing and Disclosures) Regulations, 2002 provides for the appointment of a transaction advisor and states as follows:
 - “(1) Any company proposing to offer its securities to the public or a section of the public shall appoint a transaction advisor.*
 - (2) A transaction advisor appointed under paragraph (1) shall be responsible for ensuring that the offer of securities is made in accordance with the provisions of the Act and Regulations issued hereunder.*
 - (3) A person shall not be eligible for appointment as a transaction adviser unless such person is licensed as an investment bank or is approved by the Authority to act as a transaction advisor for the particular officer of securities.”*

- viii. The process of appointment of the lead sponsoring stock-broker was therefore carried out in accordance with the Capital Markets Regulations.
- ix. The appointment of the transaction advisor is the responsibility of the issuer, in this case Kenya Airways. The Committee is however concerned that, whereas all other shareholders were free to choose their own stock-broker to handle their Provisional letter of Allotment (PAL), Kenya Airways appointed a stock-broker to handle the Government's PAL.
- x. Providing consultancy services as Lead Sponsoring stockbroker and the processing of the PAL are two separate transactions and should not have been lumped together in one contract.
- xi. The brokerage commission in respect of processing the Government's PAL shall be paid by Kenya Airways. It is understood that the Government shall only pay for the shares it is taking up. Kenya Airways shall pay the brokerage fees and benefit from the returnable commission it shall negotiate with the broker. The process of appointing the stock-broker to handle the Government's PAL was procured by Kenya Airways.
- xii. The Committee is concerned that Kenya Airways did not negotiate the returnable commission with the lead sponsoring stock-broker at the time of entering into contract so that the contract was comprehensive.
- xiii. The Committee observed that Kenya Airways had short-listed four brokerage firms that it then sent requests for proposals. One of the criteria for short-listing the firms was the share capital, that is, the firms were expected to be big and possibly established in the market. By lumping together the stock-brokerage advisory services and the

processing of the PALs for the main shareholders, Kenya Airways denied the smaller stock-brokerage firms the opportunity to bid for the task of processing the PALs for the main shareholders. This is not a satisfactory situation as it stifles competition and restricts big transactions to being undertaken by the established stock-brokers. The Committee noted that this has been the practice in the industry.

- xiv. The industry practice of having the lead sponsoring stock-broker also handle the PALs leads to a situation where the big stock-brokerage firms bid very low to be transaction advisors with the knowledge that they stand to earn substantial commissions from handling the PALs for the main shareholders. This is unfair competition that prevents smaller stock-brokers from growing in the market.
- xv. The Kenya Association of Stockbrokers and Investment Banks (KASIB) should come up with specific proposals on how to enhance competition among stock-brokers in future Initial Public Offers and Rights Issues.

4.0. COMMITTEE'S RECOMMENDATIONS

1. The Committee recommends that in future Initial Public Offers and Rights Issues the Capital Markets Authority should ensure that the issuer puts in place procurement procedures that ensure that there is sufficient competition among the stock-broking industry and that all players in the market are accorded a fair opportunity to bid for the work involved, which includes processing of Provisional Allotment Letters.
2. The Capital Markets Authority should ensure that in future Initial Public Offers and Rights Issues there is sufficient and fair competition among all players in the transactions advisory industry.

3. The Capital Markets Authority should work closely with and consult the Kenya Association of Stockbrokers and Investment Banks (KASIB) and other industry players to ensure all concerns regarding the Capital Markets are addressed and potential problems identified in advance and dealt with to the satisfaction of all.
4. The government should in future, ensure the participation of smaller and up-coming industry players in all Initial Public Offers and Rights Issues.

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APPENDIX (1)

(Annex 1-4)

The Lead Sponsoring Stockbroker (LSS) will perform the following services:-

	TOR	ACTION/COMMENT
a)	Assist the Lead Transaction Advisor (LTA) in preparation of offer documents;	Be available to assist in the preparations of docs as requested by TA
b)	Liaise with CMA, NSE and CDSC regarding the offer process and obtain the necessary approvals;	Agreed that TA will lead interactions with while SIB will lead interactions with NSE and CDSC
c)	Review the draft Information Memorandum and other Rights Issue documents to be issued to shareholders and provide comments on the same;	To review IM and other issue docs and make comments if any as soon as we get the drafts
d)	Distribute the Information Memorandum and other Rights Issue documents to other Stockbrokers and in conjunction with the LTA answer any queries these may have;	To commence the docs become ready
e)	Lead in the drafting of the Agents Manual and coordinate the training of the authorized selling agent using the Manual;	Shall prepare draft Agents Manual in consultation with the RB and Registrars
f)	Submit the application for admission of shares to listing on NSE;	At the right time upon allotment
g)	Present a memorandum of listing and a declaration confirming that all documents under the listing rules have been supplied, and comply with all conditions set out by the NSE Listing Manual;	On due date
h)	Assist in establishing the pricing of the Rights Issue taking into consideration the market conditions, including timing, competition for funds;	Upon receiving appropriate information: issue size, number of shares, valuation report; etc
i)	Assist with the uptake of the Rights Issue with the principal shareholders including dealing with all questions that may arise and guiding on the processing of the Provisional Allotment Letters and related documents;	On due date
j)	Coordinate the offer and trading of untaken rights on the secondary market at the NSE;	On due date
k)	Participating in the marketing activities and selling targeting both the retail and Institutional Investors such as town halls and road shows;	On due date

l)	Advise Kenya Airways on continued requirements of the Rights Issue at and after the closure of the Offer;	On due date
m)	Give periodic reports to Kenya Airways and the LTA during the Rights Issue window on the Offer uptake progress;	On due date
n)	Communicate to Kenya Airways and the public on the performance of the shares post rights issue; and	On due date
o)	Provide advice to Kenya Airways on such matters directly associated with this transaction as may be required and as may be reasonable to expect of the Lead Sponsoring Stockbroker.	On due date

**FIFTH SCHEDULE
BROKERAGE COMMISSION AND FEES**

(r. 26)

1. FOR NEW ISSUES**(a) Fees:**

- (i) Sponsoring stockbrokers: Sponsoring fee as negotiated with the issuer.
- (ii) The issuer shall pay a marketing fee not exceeding Kshs 25,000 each to all stockbrokers subject the stockbroker placing securities of a minimum value of Kshs 250,000.

(b) Placing Commission:

- (i) Stockbrokers: 1.5% of the value of the successful application subject to a minimum of Kshs 100/=.
- (ii) Participating banks (as agents of the issuer): 1% of the value of successful applications.

2. FOR SECONDARY TRADING

CONSIDERATION (Transaction Value)	NET BROKERAGE COMMISSION %	TRANSACTION FEE NSE CMA % %	INVESTOR COMPENSATION FUND FEE NSE CMA % %
Upto Kshs 100,000	1.80	0.14 0.14	0.01* 0.01*
Above Kshs 100,000	Open to negotiation subject to a maximum of 1.5%	0.14 0.14	0.01 0.01

* Stockbrokerage commission is net of contribution by the stockbroker of 0.02% to the Investor Compensation Fund.

Stockbrokerage commission shall be limited to Kshs 100 for all odd lots transactions up to Kshs 3000 excluding statutory fees. Odd lots transaction in excess of Kshs. 3000 shall be charged a commission at the prescribed rate of 1.8% excluding statutory fees.

3. FOR DEBT INSTRUMENTS (SECONDARY MARKET)

Transaction Rate of Commission - Trades of upto or equal to Kshs 5 million 0.125%

Trades above Kshs 5 million negotiable

Note * A statutory fee comprises transaction fee and the contribution towards the Investor Compensation Fund of the CMA and the NSE totalling to 0.3%.

Note * The Investor Compensation Fund fee payable to the Authority and the Exchange is charged on the brokers commission, and does not, therefore increase the cost of the investor;

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CONTRACT
FOR
LEAD SPONSORING STOCKBROKER SERVICES
BETWEEN
KENYA AIRWAYS LIMITED
AND
STANDARD INVESTMENT BANK LIMITED

FOR THE RIGHTS ISSUE

This contract (hereinafter called "the Contract") is made this 1st day of August 2011 (the "Effective Date"), between the Kenya Airways Limited, a body corporate established under the Companies Act. P.O. Box 19002 – 00501 Nairobi, whose office is situated in Embakasi, Nairobi, Kenya (hereinafter called the "Client") of the one part and Standard Investment Bank Ltd of P.O. Box 13714 – 00800 Nairobi, whose registered office is situated at ICEA Building, Kenyatta Avenue, Nairobi, Kenya (hereinafter called the "Consultant") of the other part:

WHEREAS

- (a) The Client requires Lead Sponsoring Stockbroker services for the Rights issue (hereinafter called the "Services"),
- (b) The Client has requested the Consultant to provide the services under this Contract; and
- (c) the Consultant, having represented to the Client that they have the required professional skills, personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract.

NOW THEREFORE the parties hereto hereby agree as follows:

Article 1

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The following Appendices:
 - Appendix A: Terms of Reference
 - Appendix B: Reporting Requirements
 - Appendix C: Key Personnel
 - Appendix D: Breakdown of Contract Price
 - Appendix E: Services and Facilities provided by the Client
 - (b) The Technical proposal submitted by the Consultant

Article 2

DEFINITIONS

Unless the context otherwise requires, the following terms whenever used in this Contract shall have the following meanings:



- (a) "Contract" means this Contract signed by the Parties, together with all the documents listed in Article 1;
- (b) "Contract Price" means the price to be paid for the performance of the Services, in accordance with Article 14;
- (c) "Party" means the Client or the Consultant, as the case may be, and "Parties" means both of them;
- (d) "Personnel" means persons hired by the Consultant and assigned to the performance of the Services or any part thereof;
- (e) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A;

Article 3

Description of Services

The Services to be rendered by the Consultant are described in the Appendix A to the Contract.

OBLIGATIONS OF THE CONSULTANT

Article 4

General Standard of Performance

The Consultant shall perform the Services and carry out its obligations with all due diligence, efficiency, and economy in accordance with generally accepted professional standards and practices and shall observe sound management practices and employ appropriate state of the art technology and safe methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with third parties.

Article 5

CONSULTANT'S PERSONNEL

5 (1) DESCRIPTION OF PERSONNEL

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel listed by title as well as by name in Appendix C are hereby approved by the Client.

5 (2) Removal and/or Replacement of Personnel

- (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement, a person of equivalent or better qualifications, experience and competence.
- (b) If the Client finds that any of the Personnel has:
 - i) committed serious misconduct or has been charged with having committed a crime or
 - ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel,then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with equivalent or better qualifications, experience and competence.
- (c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

Article 6

Consultant's Actions Requiring Client's Prior Approval

The Consultant shall obtain the Client's prior approval before replacing such members of the Personnel listed by name in Appendix C ("Key Personnel"). For Personnel not listed by name under Appendix C, the Consultant shall keep the Client informed on appointments and replacement of such Personnel.



Article 7

7 (1) Reporting Obligations

The Consultant shall submit to the Client two copies of the reports specified in Appendix B within the periods set forth in the said Appendix.

7 (2) Documents Prepared by the Consultant to Be the Property of the Client

All reports, and other documents submitted by the Consultant in accordance with Article 7(1) shall become and remain the property of the Client, and the Consultant shall, not later than 15 days upon termination or expiration of this Contract, deliver all such documents and software to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents.

Restriction on use of these documents are:

- All intellectual property rights (save for and trademarks which belong to the Consultant) in such documents produced as a result of the performance of the Services shall be and shall remain the property of the Client.

Article 8

Consultant Not to Benefit from Commissions, Discounts, etc

The remuneration of the Consultant pursuant to Article 14 shall constitute the Consultant's sole remuneration in connection with this Contract or the Services, and the Consultant shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultant shall use its best efforts to ensure that the Personnel, shall not receive any such additional remuneration, provided that the Consultant in its capacity as an authorized selling agent, shall not be restricted from receiving placement commission for the rights issue at the rate of 1.5% of the amount placed and accepted by issuer as stipulated in the Capital Markets (Licensing Requirements) (General) Regulations, Fifth Schedule Article 1 (b) (i).

Article 9

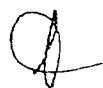
Confidentiality

- (a) No party will disclose to any third party without the prior written consent of the relevant party any confidential information which is received from the disclosing party for the purpose of providing or receiving services which if disclosed in tangible form is marked confidential or, if disclosed otherwise is confirmed in writing as being confidential or, if disclosed in tangible form or otherwise is manifestly



confidential ("Confidential Information"). Confidential information includes, without limit, this contract and the relationship between parties regarding the engagement. Each party agrees that any Confidential Information received from the other party shall only be used for the purposes of providing or receiving services under this contract. These restrictions will not apply to any information which:

- i) Is or becomes generally available to the public other than as a result of a breach of an obligation under this paragraph 9;
 - ii) Is acquired from a third party who owes no obligation of confidence in respect of the information, or
 - iii) Is or has been independently developed by the recipient or was known to it prior to receipt.
- (b) Notwithstanding paragraph (a) above each party will be entitled to disclose Confidential information of the other (i) to their respective insurers or legal advisers (in the case of legal advisers for the purpose of any actual, potential, or threatened dispute between the parties), or (ii) to a third party to the extent that this is required, by any court of competent jurisdiction, or by a governmental or regulatory authority or a professional body of which the Consultant or its personnel (including its contractor personnel) are members and which is relevant to the Services, or where there is a legal right, duty or requirement to disclose, provided that (and without breaching any legal or regulatory requirement) where reasonably practicable not less than 2 business days' notice in writing is first given to the other relevant party
- (c) Notwithstanding paragraph 1 above either party may disclose any information referred to in this Article 9 under certain circumstances as follows:
- i) The client may disclose such information to any department or Ministry within government for the purpose of management of their business or internal quality reviews.
 - ii) The Consultant (whether or not incorporated) which carries on business under a name which includes all or part of the Consultant's personnel for the purpose of the provision of the Services, any matters connected with the management of Consultant's business or for internal quality reviews.
- (d) Unless otherwise set out in the contract, following the completion of a successful transaction, the consultant may publicize or advertise their advisory role, using such media as they deem appropriate, and disclose the names of the parties and the consideration payable to corporate finance transaction and financial market information providers. The consultant will use their reasonable endeavours to inform the client of any publicity or advertisement in advance of its release.



Article 10

Prohibition of Conflicting Activities

The Consultant shall not engage during the term of this Contract, in any business or professional activities, which would conflict with the activities assigned to them under this contract.

Article 11

Insurance to be taken by the Consultants

The Consultant shall maintain, at their own cost, a Professional Indemnity cover of at least Kenya Shillings One Million 1,000,000/ (Kshs One million only) and shall provide evidence to the Client showing that such insurance is in place, shall be maintained during the Contract period and that the current premiums have been paid.

OBLIGATIONS OF THE CLIENT

Article 12

Change in Law

If, after the date of signing of this Contract, there is any change in the Law with respect to taxes and duties which increases or decreases the contract price, then the appropriate component(s) of the Contract Price under this Contract shall be increased or decreased accordingly to comply with such change in the law.

Article 13

SERVICES AND FACILITIES

The Client shall make available to the Consultant the Services and Facilities listed under Appendix E.

Article 14

PAYMENTS TO THE CONSULTANTS

14 (1) Contract Price

The total Contract Price payable shall be Kenya Shillings One Million Only (KSHS 1,000,000/-) exclusive of Value Added Tax. This does not include third party costs.

14 (2) Remuneration

The Consultant's total remuneration for the services shall not exceed the Contract Price. The professional fees payable shall be a fixed sum as per Appendix D. Except as provided in Article 12, the Contract Price may only be increased above the amounts stated in Article 14.1 if the Parties have agreed to additional payments in accordance with Article 17. The Client shall re-imburse the Consultant with any amounts reasonably spent by the Consultant as disbursements related to the work carried out under this Agreement, provided that the Consultant shall not incur any single item or series of terms of expenditure of more than Kenya Shillings Twenty Thousand (KShs 20,000) without the Client's prior written consent.

14 (3) Terms and Conditions of Payment

Payments shall be made to the Consultant within 30 days upon submission and acceptance by the client of an invoice and in accordance with the payment schedule stated herein below: -

GENERAL PROVISIONS OF THE CONTRACT

Article 15

15 (1) Effectiveness of Contract

This Contract shall come into effect on the Effective Date.

15 (2) Commencement of Services

The Consultant shall begin carrying out the Services on the date the Contract becomes effective, or at such other date as may be specified by the Client in writing.



Article 16

Duration

The duration of this Contract:

- (i) shall be [twelve (12)] months from the commencement date unless mutually extended by the Parties in writing or
- (ii) upon earlier successful completion of Services.

Article 17

Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, shall only be made by written agreement between the Parties.

Article 18

Termination

18 (1) By the Client

The Client may terminate this Contract forthwith by written notice of termination to the Consultant, to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Article and Thirty (30) days' in the case of the event referred to in (e):

- (a) if the Consultant does not remedy a failure in the performance of their obligations under the Contract, within seven (7) days after being notified or within any further period as the Client may have subsequently approved in writing;
- (b) if the Consultant becomes insolvent or bankrupt;
- (c) if, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than Thirty (30) days; or
- (d) if the Consultant, in the judgment of the Client, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this clause:

"corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the selection process or in Contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Client, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition.

- (e) If the Client in its own discretion decides to terminate the Contract.

18 (2) By the Consultant

The Consultant may terminate this Contract, by not less than Fifteen (15) days' written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Article.

- (a) if the Client fails to pay any monies due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Article 22 within Thirty (30) days after receiving written notice from the Consultant that such payment is overdue; or
- (b) if, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than Thirty (30) days.

Article 19

Payment upon Termination

Upon termination of this Contract pursuant to Article 18(1) or 18(2), the Client shall pay the Consultant for Services performed to the client's satisfaction prior to the effective date of termination.

Article 20

Cessation of Services

Upon termination of this contract by notice of either Party to the other pursuant to Article 18 (1) or 18 (2) hereof, the Consultant shall immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant, the Consultant shall proceed as provided by Article 7.2 hereof. The Consultant shall give all necessary assistance to the Client to hand over the work to any other Consultant that may be appointed by the Client.



Article 21

Force Majeure

21 (1) Definition

For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action.

Force Majeure shall not include:-

- (i) any event which is caused by the negligence or intentional action of a party or agents or employees, nor
- (ii) any event which a diligent party could reasonably have been expected to both (a) take into account at the time of the conclusion of this contract and (b) avoid or overcome in the carrying out of its obligations hereunder.
- (iii) Death or incapacity of key personnel

21 (2) No Breach of Contract

The failure of a Party to fulfill any of its obligations under the Contract shall not be considered to be a breach of, or default under this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event:

- (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and
- (b) has informed the other Party as soon as possible but not later than Fifteen (15) days about the occurrence of such an event.

21(3) Extension of Time

Any period, within which a Party shall, pursuant to this Contract, complete any action or task shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.



Article 22

Settlement of Disputes

22(1) Amicable Settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

22(2) Dispute Settlement

Any dispute or question which may arise at any time between the Parties regarding the construction of this Contract or the rights or liabilities of the Parties shall be referred to the decision of a single arbitrator in Nairobi to be agreed upon between the parties. In default of agreement within Fourteen (14) days after service by one of the Parties hereto on the other of notice of the existence of such dispute, difference or question, an arbitrator will be appointed at the request of either party by the Chairman for the time being of Kenya Branch of the Chartered Institute of Arbitrators and such arbitration shall be conducted in accordance with and subject to the provisions of the Arbitration Act (Act No. 4 of 1995) as may be amended from time to time and the rules of the Chartered Institute of Arbitrators (Kenya Branch) shall apply to such arbitration proceedings.

Article 23

Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

Article 24

Governing Law

The Governing Law shall be the Laws of Kenya.

Article 25

Electronic communications

During the Engagement both parties may wish to communicate electronically with each other. We each recognize the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted,



corrupted, lost or destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Accordingly unless client notifies the consultant otherwise, the Consultant shall regard the client's acceptance of this contract as including their authorization to the consultant's communicating with the client and third parties on their behalf using electronic means. Each party agrees to use commercially reasonable procedures to check for the most commonly known viruses before sending information electronically and to take responsibility for ensuring that an electronic communication is not misaddressed. Accordingly each party confirms that it accept the risks of electronic communication and will be responsible for protecting its own interests in relation to electronic communications. Subject to the foregoing and to the extent provided by Article 27, no party shall have any liability to any other party on any basis, whether in contract, tort (including negligence), or otherwise, in respect of any error, damage, loss or omission arising from or in connection with the electronic communication of information between the parties or any third party on the other party's behalf.

Article 26

Notices

Any notice, request, or correspondence made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an Authorized Representative of the Party to whom the communication is addressed, or when sent by registered mail, or facsimile to such Party at the address herein below.

The addresses are:

For Client: **Managing Director/CEO,
Kenya Airways,
P.O. BOX 34542-00100,
NAIROBI**

Tel: **+254 20 6422000**

Attention: **Job Kihumba
Executive Director,
Standard Investment Bank ,
P O Box 13714-00800
NAIROBI**

Tel: **020 2246729/2220225**

Facsimile: **020 2240297**

E-Mail: **jkkihumba@sib.co.ke**



Article 27

Limitations on liability

The Consultant shall use reasonable skill and care in the provision of the services and the extent of the Consultant's liability or otherwise shall be as follows:

- (a) Liability without limit for (i) death or personal injury caused by their negligence or the negligence of their employees acting in the course of their employment; (ii) any fraudulent pre-contractual misrepresentations made by them on which the client can be shown to have relied; and (iii) any other liability which by law they cannot exclude. This does not in any way confer greater rights than the client would otherwise have by law.
- (b) Liability to pay damages for all losses, including consequential damages, economic loss or failure to realize anticipated profits, savings or other benefits, incurred by the client as a direct result or breach of contract or negligence or any other tort by them in connection with or arising out of the contract or any addition or variation thereto shall be limited to that proportion only of the Client's actual loss which was directly caused by them and in any event their liability shall in no circumstances exceed in the aggregate the amount of fees payable under this contract.

Liability limitation and the provision of information Notwithstanding (a) and (b) above, but subject always to (1) in no circumstances shall the Consultants be liable to pay any damages to the Client for losses arising out of or in any way connected with the provision of information to the Consultants by the Client or the Client's failure to provide information to them either punctually or at all or any fraudulent act, misrepresentation or willful default on the Client's part.

Article 28

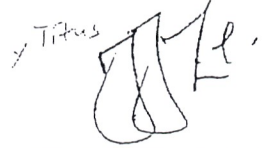
Media Control

The Consultant (including members of the Consultant's staff or their affiliates) shall not directly or indirectly related to this assignment make third party disclosures or announcements including media, public or government disclosures announcements without the specific written consent of the Client.




IN WITNESS THEREOF: The parties hereto acting through their duly Authorized Representatives, have caused this Contract to be signed in their respective names on the day and year first above written.

For and on behalf of
KENYA AIRWAYS LIMITED

Titus


In the presence of :

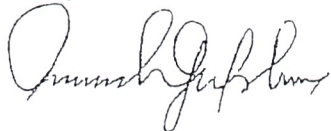

TEODOSIA OSIR
ADVOCATE
P. O. Box 56354.
NAIROBI.

Atty


For and on behalf of
STANDARD INVESTMENT BANK LIMITED



In the presence of :



Job Kihumba
AUTHORISED SIGNATORY

Amish Gupta
Standard Investment Bank Ltd
ICEA BUILDING 15 FLOOR
KENYATTA AVENUE
TEL: (Dir) 020 - 2454496
(Mob) 0722 - 204654

Appendix A – Description of the Services

A1. Terms of Reference

The Lead Sponsoring Stockbroker (LSS) will perform the following services:-

- a) Assist the Lead Transaction Advisor (LTA) in preparation of offer documents;
- b) Liaise with CMA, NSE and CDSC regarding the offer process and obtain the necessary approvals;
- c) Review the draft Information Memorandum and other Rights Issue documents to be issued to shareholders and provide comments on the same;
- d) Distribute the Information Memorandum and other Rights Issue documents to other Stockbrokers and in conjunction with the LTA answer any queries these may have,
- e) Lead in the drafting of the Agents Manual and coordinate the training of the authorized selling agent using the Manual;
- f) Submit the application for admission of shares to listing on NSE;
- g) Present a memorandum of listing and a declaration confirming that all documents under the listing rules have been supplied, and comply with all conditions set out by the NSE Listing Manual;
- h) Assist in establishing the pricing of the Rights Issue taking into consideration the market conditions, including timing, competition for funds;
- i) Assist with the uptake of the Rights Issue with the principal shareholders including with all questions that may arise and guiding on the processing of the Provisional Allotment Letters and related documents;
- j) Coordinate the offer and trading of untaken rights on the secondary market at the NSE;
- k) Participating in the marketing activities and selling targeting both the retail and Institutional Investors such as town halls and road shows,
- l) Advise Kenya Airways on continued requirements of the Rights Issue at and after the closure of the Offer;
- m) Give periodic reports to Kenya Airways and the LTA during the Rights Issue window on the Offer uptake progress,
- n) Communicate to Kenya Airways and the public on the performance of the shares post rights issue; and
- o) Provide advice to Kenya Airways on such matters directly associated with this transaction as may be required and as may be reasonable to expect of the Lead Sponsoring Stockbroker.

Appendix B—Reporting Requirements
(As per the Technical Proposal)

KQ-CNT-2011-328

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Appendix C—Key Personnel

(As per the Technical Proposal)



Appendix D—Breakdown of Contract Price

<i>Consultancy Fee</i>	<i>1,000,000/-</i>
<i>Reimbursable Expenses</i>	<i>To be paid on presentation of proof of expenditure</i>
<i>Taxes (V.A.T)</i>	<i>160,000/-</i>
<i>Total</i>	<i>1,160,000/-</i>



APPENDIX E— SERVICES AND FACILITIES PROVIDED BY THE CLIENT

1. Data room consisting of all documents requested by the Consultant to progress the work.
2. Key contact person at KQ Head Office through whom all documents and data can be obtained / requested.



**FIFTH SCHEDULE
BROKERAGE COMMISSION AND FEES**

(r. 26)

1. FOR NEW ISSUES

(a) Fees:

(i) Sponsoring stockbrokers: Sponsoring fee as negotiated with the issuer.

(ii) The issuer shall pay a marketing fee not exceeding Kshs 25,000 each to all stockbrokers subject the stockbroker placing securities of a minimum value of Kshs 250,000.

(b) Placing Commission:

(i) Stockbrokers: 1.5% of the value of the successful application subject to a minimum of Kshs 100/=.

(ii) Participating banks (as agents of the issuer): 1% of the value of successful applications.

2. FOR SECONDARY TRADING (Amended by Legal Notice No. 119 of 2004)

CONSIDERATION (Transaction Value)	NET BROKERAGE COMMISSION %	TRANSACTION FEE			INVESTOR COMPENSATIO N FUND FEE	
		NSE %	CMA %	CDSC %	NSE %	CMA %
Upto Kshs 100,000	1.78	0.12	0.12	0.06	0.01*	0.01*
Above Kshs 100,000	Open to negotiation subject to a maximum of 1.5%	0.12	0.12	0.06	0.01	0.01

* Stockbrokerage commission is net of contribution by the stockbroker of 0.02% to the Investor Compensation Fund.

Stockbrokerage commission shall be limited to Kshs 100 for all odd lots transactions up to Kshs 3000 excluding statutory fees. Odd lots transaction in excess of Kshs. 3000 shall be charged a commission at the prescribed rate of 1.8% excluding statutory fees.

3. FOR DEBT INSTRUMENTS (SECONDARY MARKET)

Transaction Rate of Commission

Trades of upto or equal to Kshs 5 million 0.125%

Trades above Kshs 5 million negotiable

Note * A statutory fee comprises transaction fee and the contribution towards the

Rajesh Kumar

Investor Compensation Fund of the CMA and the NSE totaling to 0.3%.
Note * The Investor Compensation Fund fee payable to the Authority and the Exchange
is charged on the brokers commission, and does not, therefore increase
the cost of the investor;

Made on the 4th July 2002.

D. D. AFANDE P. K. MELLY
Chairman Chief Executive
Capital Markets Authority. Capital Markets Authority.



NAIROBI SECURITIES EXCHANGE LIMITED

ING

ALL

0723 852 780

(Margaret)

APPENDIX

- 5.1 The sponsoring stockbroker shall make a declaration in a format set out under Schedule 5 to the Exchange to accept the responsibilities as a sponsor and to discharge those responsibilities at all times to the satisfaction of the Exchange.
- 5.2 The responsibilities of a sponsoring stockbroker shall include the following:
- (i) to present the application for admission to listing to the Exchange.
 - (ii) to submit to the Exchange as soon as possible and, in any event, not later than the date on which any documents in connection with the issuer are submitted to the Exchange, a letter of appointment, a Memorandum of Listing and a declaration in the form set out in Schedule 5;
 - (iii) to provide to the Exchange any information or explanation known to it in such form and within such time limit as the Exchange may reasonably require for the purpose of verifying whether the requirements under these rules are being or have been complied with by the proposed issuer;
 - (iv) to facilitate, (where necessary) communication between the issuer, the Exchange and the Authority;
 - (v) to submit all documentation required in terms of Schedules 1 to 6 to the Exchange as applicable;
 - (vi) to ensure that the issuer is guided and advised on the application of the listing requirements prescribed by the Act and these rules;
 - (vii) to ensure the correctness and completeness of all documentation submitted to the Exchange and the Authority;

APPENDIX (2)

(Minutes)

MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON WEDNESDAY 6TH JUNE, 2012 IN THE COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDING, AT 2.30 P.M.

PRESENT

Hon. Ntoitha M'Mithiaru, M.P. (**Ag. Chairman**)
Hon. Nelson Gaichuhie, M.P.
Hon. Jakoyo Midiwo MGH, MP.
Hon. Musikari Kombo, EGH, M.P.
Hon. Lucas Chepkitony, M.P.
Hon. Ahmed Shakeel Shabbir, M.P.

ABSENT WITH APOLOGIES

Hon Chrysanthus Okemo, EGH, M.P. (**Chairman**)
Hon. (Prof.) Philip Kaloki, M.P. (**Vice Chairman**)
Hon. Lenny Kivuti, M.P.
Hon. Nkoidila Ole Lankas, M.P.
Hon. Sammy Mwaita, M.P.

KENYA NATIONAL ASSEMBLY

Mrs. Florence Abonyo - First Clerk Assistant
Mr. Evans Oanda - Third Clerk assistant
Mr. Denis Dindi - Office Attendant

MIN.NO. 83/2012: ADOPTION OF THE DRAFT REOPRT ON KENYA AIRWAYS RIGHTS ISSUE

The Committee deliberated on the draft report on Kenya Airways Rights Issue and unanimously adopted it with the following amendments:-

1. Capital markets Authority

Under No. 2.3(viii) the paragraph should be reworded to read "***It is the responsibility of Treasury as a shareholder to be involved in the process of picking/selecting an authorized selling agent for submission of PALs***".

2. Committee's observations

Under No. (x) the paragraph to should be reworded to read "***It is understood that the government shall only pay for the shares it was taking up. Kenya Airways was to pay the brokerage fees and benefit from the returnable commission negotiated with the stockbroker. The process of appointing the stockbroker to handle the government's PAL was procured by Kenya Airways***".

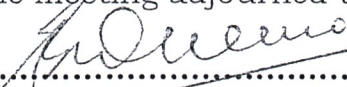
3. Committee's recommendations

An addition of the fourth recommendation to reading "***the government should in future, ensure the participation of smaller and upcoming industry players in all Initial Public Offers and Rights Issues***".

MIN.NO. 84/2012:

ADJOURNMENT

There being no other business, the meeting adjourned the meeting at 4.38 P.M.

Signed.....
(Chairman)

Date..... 7/6/2012