



CORPORATE GOVERNANCE POLICY

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PART I: DEFINITIONS

Terms used in this Corporate Governance Policy (“Policy”) are as defined in the Banking Act. Other terms used in this Policy shall be taken to have the meaning assigned to them hereunder:

- 1.1 **“Articles of Association”** means the Articles of Association of the Bank.
- 1.2 **“Bank”** means Diamond Trust Bank Kenya Limited.
- 1.3 **“Board”** or **“Board of Directors”** means the board of directors of the Bank.
- 1.4 **“Chief Executive Officer”** means the chief executive officer of the Bank.
- 1.5 **“Compliance Function”** means an independent function that identifies, assesses, advises on, monitors and reports on the Bank’s compliance risk, that is the risk of legal or regulatory sanctions, financial loss, or loss to reputation the Bank may suffer as a result of its failure to comply with all applicable laws, guidelines, codes of conduct and standards of good practice.
- 1.6 **“Employee(s)”** means an employee(s) of the Bank and which expression shall include, where the context so admits, the Senior Officers.
- 1.7 **“Insider”** means a person is or was connected to the Bank and in possession or with access to material information, that could be price sensitive and that is not at a particular time generally available to the members of the public.
- 1.8 **“Memorandum of Association”** means the Memorandum of Association of the Bank.
- 1.9 **“Non-Executive Director”** means a member of the Board who is not involved in the day-to-day management and not a full- time salaried employee of the Bank or its subsidiaries and is not an executive director of the Bank’s subsidiaries. An individual in the full- time employment of the Bank holding company or its subsidiaries, other than the Bank concerned, would also be considered to be a non-executive director of the Bank concerned, unless such individual, by his / her conduct or executive authority, could be construed to be directing the day- to- day management of the Bank and its subsidiaries.

Further, it means a Director who:

- i) has not been employed by the Bank in an executive capacity within the last five (5) years.
 - ii) is not associated to an adviser or consultant to the Bank or a member of the Bank’s management or a significant customer or supplier of the Bank or with a not-for-profit entity that receives significant contributions from the Bank; or within the last five (5) years, has not had any business relationship with the Bank (other than service as a director) for which the Bank has been required to make disclosure;
 - iii) has no personal service contract(s) with the Bank, or any of the Senior Officers;
 - iv) has not had any of the relationships described above with any affiliate of the Bank.
- 1.10 **“Senior Officer”** means a person who manages or controls the Bank, and includes:
- i) the Chief Executive Officer, secretary to the board of directors and senior management

of the Bank comprising the managers and/ or heads of the units or departments, as the case may be, of the Bank;

- ii) a person with a similar level of position or responsibilities as a person described in paragraph (i) above.

1.11 “**Shareholder(s)**” means a shareholder(s) of the Bank.

1.12 In the event of any dispute between the terms of this Policy and any legislation and or regulations governing the affairs of the Bank then the provisions of such legislation and or regulations shall prevail and the provisions of this Policy shall be deemed to have been amended accordingly.

PART II: STATEMENT OF POLICY

1. **Purpose** - This Policy is intended to provide the minimum standards required from the Directors, the Chief Executive Officer, the Senior Officers and the Employees and other stakeholders of the Bank so as to promote proper standards of conduct and sound banking practice, as well as ensure that their duties and responsibilities are exercised with clarity, assurance and effectiveness. This Policy is formulated taking into account the Bank’s special needs and circumstances on the duties, responsibilities and conduct of its Directors, Chief Executive Officer, Senior Officers and Employees and other stakeholders of the Bank.
2. **Scope** - This Policy applies to the duties, responsibilities and code of conduct for the Shareholders, Directors, Chief Executive Officer, Senior Officers and Employees and other stakeholders of the Bank.
3. **Responsibility** - The Board of Directors is responsible for formulating policies and guidelines, which ensure that:
 - (a) all Directors, the Chief Executive Officer, Senior Officers and the Employees and other stakeholders of the Bank are made fully aware of their duties and responsibilities.
 - (b) all management decisions are made in accordance with prudent banking practices.
4. The **Shareholders** shall be responsible for the appointment of a competent and dedicated Board of Directors.

PART III: SPECIFIC REQUIREMENTS

1. SHAREHOLDERS

- 1.1 The Shareholders of the Bank shall jointly and severally protect, preserve and actively exercise the supreme authority of the Bank in general meetings, in accordance with the Memorandum and Articles of Association of the Bank and all other statutes, regulations and guidelines from time to time governing the operations and affairs of the Bank. They have a duty, jointly and severally, to exercise that supreme authority to:
 - Ensure that only competent and reliable persons who can add value to the Bank’s business are elected or appointed to the Board of Directors;
 - Ensure that the Board of Directors are constantly held accountable and responsible for the efficient and effective governance of the Bank; and

- Change the composition of the Board of Directors that does not perform to expectation or in accordance with the mandate of the Bank.
- 1.2 The Shareholders are expected to ensure that the Bank applies to the Central Bank of Kenya (“CBK”) for approval in the following circumstances, with respect to the Bank’s shareholding:-
- Transfer of existing shareholding in excess of five per cent (5%) of the Bank’s share capital;
 - Acquisition of more than five per cent (5%) of the share capital of the Bank where there is fresh capital injection.

It is similarly the Bank’s responsibility to ensure that the above approvals relating to significant Shareholders are obtained from the CBK, before allotment of the shares. The applications relating to significant Shareholders should include forms containing details of significant Shareholders as specified in the form CBK/IF 1-3 annexed to Guideline No. CBK/PG/01 on Licensing of New Institutions.

- 1.3 No Shareholder with more than five per cent (5%) shareholding shall be an Executive Director or form part of the management of the Bank.
- 1.4 The Bank shall ensure that a person does not become a significant Shareholder of the Bank unless the CBK has certified the person as a fit and proper person to manage or control the Bank. For purposes of certification, the CBK shall vet such a significant Shareholder when the Shareholder initially becomes a significant Shareholder.
- 1.5 The major criteria for determining the moral suitability of significant Shareholders proposed to manage or control the Bank are as follows:
- 1.5.1 The previous conduct and activities of the Significant Shareholder concerned with the Bank’s business or financial matters, and in particular, to any evidence that such person: -
- 1.5.1.1 has been convicted of the offence of fraud or any other offence of which dishonesty is an element: or
- 1.5.1.2 has contravened the provisions of any law designed for the protection of members of the public against financial loss due to the dishonesty or malpractices by, persons engaged in the provision of banking, insurance, investment or other financial services.
- 1.6 For the purposes of determining the moral suitability of a corporate entity, its Directors and senior officers the criterion prescribed under subsection 2.2.5 and 2.2.6 hereto shall be required to be satisfied.
- 1.7 Shareholder return expectations - The Bank’s significant shareholders (shareholders holding more than 5%) are primarily long-term players, who have a long- range outlook on their investment stake in the Bank. The key focus of the anchor shareholders has always been on the development and improvement of quality of life of the community in which the Bank operates. The key shareholders’ expectation for the Bank is to engage as a relevant and responsible financial intermediary, anchored on a strong ethical foundation, solid corporate governance framework and adherence to a high compliance culture. The key shareholders do not prescribe a minimum or a target return on equity threshold for the Bank. The Bank shall nevertheless strive to operate as a profitable institution delivering a reasonable return to all the shareholders.

2. DIRECTORS

No Director shall take up his/her position prior to being cleared by the CBK. A duly completed form CBK/IF 1-2 annexed to Guideline No. CBK/PG/01 on Licensing of New Institutions shall be submitted to the CBK.

2.1 DUTIES AND RESPONSIBILITIES

The major duties and responsibilities of the Directors include:

2.1.1 Regulating the manner in which the business is conducted

The Board of Directors must ensure that the Bank has adequate systems to identify, measure, monitor and manage key risks facing the Bank and adopt and follow sound policies and objectives. The Directors must provide clear objectives and policies within which the Chief Executive Officer and Senior Officers are to operate. These should cover all aspects of operations, including strategic planning, credit administration and control, asset and liability management encompassing the management of liquidity risk, interest rate risk and market risk, accounting system and control, service quality, automation plan, prevention of money laundering, profit planning and budgeting, adequacy of capital, and human resource development. Clear lines and limits of authority for all levels of staff should be established. The seriousness of infringing on the authorized limits should be emphasized to staff at all levels.

2.1.2 Corporate planning

The Board of Directors must formulate the future direction of the Bank of which planning, organising, and controlling, are three fundamental functions. Sound planning is of vital importance, and as such projections/targets must be periodically reviewed and amended as circumstances dictate.

2.1.3 Establish and ensure the effective functioning of the Board of Directors and Management Committees in key areas.

2.1.4 Set-up an effective internal audit department, staffed with qualified personnel to perform internal audit functions, covering the traditional function of financial audit as well as the function of management audit.

2.1.5 Set-up a Compliance Function and approve the Bank's compliance related policy(ies). It shall be the duty of the Board of Directors to ensure that the CBK is informed, should the Head of Compliance leave that position and the reasons thereof. At least once every two years or earlier if warranted, the Board of Directors or a sub-committee of the Board of Directors shall review the Bank's compliance related policy(ies) and its on-going implementation to assess the extent to which the Bank is managing its compliance risk effectively.

2.1.6 To promulgate policies and actions with a long-term view to support environmental and social sustainability.

2.1.7 Maintain adequate capital base

The Board of Directors has the responsibility of ensuring that the Bank maintains adequate levels of capital at all times with respect to the requirements of the Banking Act and the business operations. It is therefore the duty of Directors to inform the shareholders of capital adequacy and advice on the appropriate manner of re-capitalising the Bank's operations.

2.1.8 Observe Laws and guidelines

Directors should ensure cognizance is taken by management and themselves of all applicable laws and guidelines, and systems to effectively monitor and control their compliance. This will likely include provisions for training of personnel in these matters and, when violations do occur, make corrections immediately. It is a duty inherent with the office of Directors (or management) to know the laws and guidelines, and to ensure that compliance of all laws and guidelines receives the highest priority, and violations are not knowingly committed by them or by anyone in their employment. In particular, every Director should be conversant with the provisions of the Banking Act, Central Bank of Kenya Act and any guideline issued there under or other relevant laws and guidelines. The Directors should also review the Bank's CBK's inspection reports and audit reports and also ensure implementation of any recommendations made.

2.1.9 Appoint, dismiss and define the duties of management

It is the duty of the Board of Directors to define the duties of management and appoint those persons who are competent, qualified and experienced to administer the Bank's affairs effectively and soundly. It is also the responsibility of the Board of Directors to dispense with the services of staff considered undesirable.

2.1.10 Being informed about business condition of the Bank

Since the Directors are jointly and severally responsible for the effective supervision of the affairs of the Bank, they should be informed on regular basis of the business condition of the Bank. For the purpose of deliberating on this information and providing guidance to the management, the Board of Directors should meet regularly, preferably at least once in a quarter.

In addition, the Board of Directors and each director should exercise independent judgment in evaluating the performance of the management. This could be enhanced by the provision of independent reviews of the operations by third parties such as external auditors, internal auditors, audit committees or regulator and other experts reporting directly to the Board of Directors.

2.1.11 Attend Board meetings regularly

Every Director has a duty to attend board meetings regularly in accordance with the Articles of Association and to effectively participate in the conduct of the business of the Board of Directors. Every member of the Board of Directors shall attend at least seventy- five per cent (75%) of the Board meetings in accordance with the Articles of Association. This is to ensure that every board member will discharge his or her duties and responsibilities effectively. Attendances shall be disclosed in the annual report. At its Annual General Meeting, the Board of Directors is required to review the suitability of a non-executive director who has failed to comply with the seventy- five per cent (75%) attendance rule, without valid reason.

2.1.12 Maintain Positive Image

It is the duty of the Directors to ensure that the Bank maintains a positive image within the industry and the economy as a whole. To this extent, therefore, the Bank is expected to provide adequate services and facilities both efficiently and competitively in line with *safe and sound banking practices*.

2.1.13 Dispute Resolution

The Board of Directors should ensure that disputes with and among shareholders and or with the Bank's stakeholders are resolved effectively, efficiently and expeditiously. The Board shall

also take reasonable steps to encourage the Bank's shareholders and or stakeholders to solve their disputes through Alternative Dispute Resolution Mechanisms.

2.2 OTHER REQUIREMENTS

2.2.1 Board Composition

The Bank shall have a minimum of five (5) Directors and a maximum of twelve (12) Directors. Three - fifths (3/5) of the composition of the Board shall comprise of Non- Executive Directors. One third (1/3) of the Board shall comprise of Independent Directors.

The Non - Executive Directors must comprise the majority of the Directors serving on the Board. This is to ensure that the Non-Executive Directors, who should form the majority, would render the necessary independence to the Board of Directors from the executive arm of the Bank, and help mitigate any possible conflict of interest between the policy-making process and the day-to-day management of the Bank.

At each Annual General Meeting one-third (1/3) of the Non - Executive Directors shall retire from office and may stand for re-election in accordance with the Bank's Articles of Association.

In an increasingly complex banking environment, the presence of suitably qualified Directors should contribute effectively towards achieving the main tasks of the Board of Directors. Further, Directors should provide the necessary checks and balances on the Board of Directors so as to ensure that the interests of minority shareholders and general public are given due consideration in the decision-making process. Directors should not be brought in as a mere formality as this would be tantamount to deceiving the minority shareholders and the public.

2.2.2 Multiple Directorships

No person shall be permitted to hold the position of a director in more than one institution licensed under the Banking Act unless the said institution is a subsidiary or a holding company.

Furthermore, a director shall not hold such position in more than three public listed companies at any one time.

In a case where a director has appointed an alternate director, the appointment of such alternate director shall be restricted to two (2) public listed companies at any one time. A director can only have one (1) alternate director and a body corporate shall not be nominated as an alternate director. An executive director shall be restricted to one (1) other directorship of another listed company.

2.2.3 Appointment of the Chairperson of the Board of Directors

The Chairperson of the Board of Directors shall always be a Non-Executive Director. Furthermore, the Chairperson shall not hold such position in more than two (2) public listed companies at any one time, in order to allow the chairperson to devote sufficient time to steering the Board.

2.2.4 Appointment of Directors, Chief Executive Officer and Senior Officers

The Bank shall ensure that no person is appointed or elected as a Director or appointed as the Chief Executive Officer or a Senior Officer, as applicable, unless the CBK has certified the person as a fit and proper person to manage or control the Bank.

2.2.5 Criteria for determining the professional and moral suitability of Directors, Chief Executive Officer and Senior Officers

The CBK shall have regard to the following qualities, in so far as they are reasonably determinable, of the person concerned:

- 2.2.5.1 his/her possession of adequate professional credentials or experience or both for the position for which he/she is proposed;
- 2.2.5.2 his/her ability to recommend sound practices gleaned from other situations;
- 2.2.5.3 his/her ability to provide dispassionate advice;
- 2.2.5.4 his/her ability to avoid conflict of interest in his/her activities and commitments with other organizations; and
- 2.2.5.5 his/her ability to absent himself/herself from decisions when he/she is incapable of providing objective advice.

2.2.6 Without prejudice to the generality of the provisions of paragraph 2.2.5 above, the CBK, may have regard to the previous conduct and activities of the person concerned in the Bank's business or financial matters and, in particular, to any evidence that such person: -

- 2.2.6.1 has been convicted of the offence of fraud or any other offence of which dishonesty is an element;
- 2.2.6.2 has contravened the provisions of any law designed for the protection of members of the public against financial loss due to the dishonesty or incompetence of or malpractices by persons engaged in the provision of banking, insurance, investment or other financial services;
- 2.2.6.3 was a director or a senior officer of an institution that has been liquidated or is under liquidation or statutory management;
- 2.2.6.4 has taken part in any business practices that, in the opinion of the CBK, were fraudulent, prejudicial or otherwise improper (whether unlawful or not) or which otherwise discredited his methods of conducting business;
- 2.2.6.5 has taken part in or been associated with any other business practices as would, or has otherwise conducted himself in such manner as to cast doubt on his competence and soundness of judgement; and
- 2.2.6.6 has defaulted in the repayment of any advance or loan made to him by any institution licensed under the Banking Act or a society licensed under the Building Societies Act or any re-enactment thereof for three (3) consecutive months.

2.2.7 Remuneration and Termination Benefits

The remuneration of Directors and the Chief Executive Officer shall not be out of line with the nature and size of operations of the Bank. The Directors and Chief Executive Officer should not avail themselves of unreasonably bountiful remuneration, with excessive bonuses and fringe benefits relative to the profits and operations of the Bank. Non-Executive Directors should not receive executive pay.

The Chief Executive Officer of the DTB Group shall draw all his / her salary, including benefits, from one source. While the Chief Executive Officer of the Bank is entitled to receive Director's

fees from the Bank's subsidiaries, such fees should be nominal.

2.2.8 The Board and Director Evaluation

The Board of Directors through its Board Nomination and Human Resource Committee shall regularly review its required mix of skills and experience and other qualities in order to assess the effectiveness of the Board of Directors. Such review shall be by means of peer and self-evaluation of the Board of Directors as a whole, its committees and the continuation of each and every Director, including the Chairperson.

The evaluation shall be conducted annually and the fact that it has been done should be disclosed in the annual / integrated report. The Chairperson of the Board of Directors shall report to the CBK annually on the Board and directors' evaluations and effectiveness. The report shall be submitted to the CBK on or before 31 March of each calendar year.

2.2.9 Education

Directors should participate in an introductory programme upon appointment aimed at familiarizing themselves with the operations of the Bank. All Directors shall, as far as possible, be kept abreast of industry developments, including changes or additions to laws and regulations.

These will include:

- Regular management presentations on Bank activities and development in the industry;
- Regular briefing on legal developments;
- Briefing by the Bank's auditors as necessary but at least annually; and
- Attendance of seminars conducted by apex bodies like the CBK, Kenya Banking Association etc., from time to time.

2.2.10 Resignation / Removal of Directors

It will be the responsibility of the Board of Directors to report to the CBK, the resignation and/or removal of any of its members within seven (7) days.

2.2.11 Board Committees

- (a) Board committees shall assist the Board and its directors in discharging the duties and responsibilities, however the Board of Directors remain accountable. The terms of reference of the Board committees shall be approved from time to time by the Board and the prevailing ones shall be available from the company secretary.
- (b) Board Committees shall have formally determined terms of reference with clearly agreed upon reporting procedures and written scope of authority.
- (c) There should be transparency and full disclosure from the Board committee to the Board of Directors.
- (d) All Board Committees shall be chaired by a Non-Executive Director. The exception should be a Board Committee fulfilling an executive function.
- (e) Board Committees should be free to take independent professional advice as and when necessary, and to invite the senior officers to provide technical advice when needed.

3. THE CHIEF EXECUTIVE OFFICER

3.1 Major duties and responsibilities of the Chief Executive Officer

The sound operations of the Bank will depend critically on the guidance given to management by the Chief Executive Officer. He/she shall be wholly responsible to the Board of Directors for the day to day running of the Bank. The major responsibilities of the Chief Executive Officer are to:

- (a) Ensure that the policies spelt out by the Board of Directors in the Bank's overall corporate strategy are implemented;
- (b) Identify and recommend to the Board of Directors competent officers to manage the operations of the Bank. In the fulfilment of this duty, the Chief Executive Officer should ensure that the Bank's human resource manual is adhered to;
- (c) Co-ordinate the operations of the various departments within the Bank;
- (d) Establish and maintain efficient and adequate internal control systems;
- (e) Design and implement the necessary management information systems in order to facilitate efficient and effective communication within the Bank;
- (f) Ensure that the Board of Directors is frequently and adequately apprised about the operations of the Bank through presentation of relevant board papers, which must cover, but not limited to, the following areas:
 - Actual performance compared with the past performance and the budget together with explanations of all the variances.
 - Capital structure and adequacy.
 - Advances performance in particular problem loans, losses, recoveries and provisions.
 - Income and expenses.
 - Deposits: sources and distribution profile.
 - All Insider transactions that benefit directly or indirectly any officer and or shareholders of the Bank.
 - Report on violation of laws and remedial activities undertaken to ensure compliance with the Banking laws and CBK guidelines.
 - Large exposures.
 - Non-performing Insider loans.
 - CBK external, internal and audit committee reports.
 - Any other areas relevant to the Bank's operations.

- (g) Ensure that the Bank complies with all the relevant Banking and other applicable laws in the execution of its operations.

3.2 Approval by the CBK

The Chief Executive Officer shall take up his/ her position after being cleared by the CBK. The Bank shall submit to the CBK duly completed fit and proper form for the Chief Executive Officer as and when required. Where a Director who is cleared by the CBK is subsequently appointed as Chief Executive Officer, specific approval of the appointment shall be obtained prior to taking up the position. The information therein will be used by the CBK to evaluate the suitability of the Chief Executive Officer.

The Chief Executive Officer can be disqualified if adverse information is provided or if he/she acts in any manner contrary to or not in compliance with the requirements of the Banking Act or any guideline made there under, or in any manner detrimental to or not in the best interest of the depositors and members of the public.

3.3 Resignation / Removal of Chief Executive Officer

It will be the responsibility of the Board of Directors to report to the CBK, the resignation and/or removal of the Chief Executive Officer within seven (7) days.

4. MANAGEMENT

4.1 Major duties and responsibilities of Management

The primary responsibility of the management is to operate and administer the Bank on a day- to-day basis paying attention to the following:

- (a) The implementation and adherence to the policies, practices and standards as laid down by the Board of Directors;
- (b) The systems that have been established to facilitate efficient operations and communications;
- (c) The planning process that has been developed to facilitate achievement of targets and objectives;
- (d) All staff matters, particularly human resource development and training;
- (e) Adherence to the established code of conduct and with all the relevant banking laws, regulations and guidelines governing the operations and affairs of the Bank; and
- (f) Maintain adequate records to comply with all the reporting requirements.

4.2 Chief Financial Officer

The Chief Financial Officer responsible for the accounting department of the Bank shall be a member of the Institute of Certified Public Accountants of Kenya (“ICPAK”).

4.3 Internal Auditors

The person responsible for the internal audit function shall be a member of the Institute of Certified Public Accountants of Kenya (“ICPAK”).

4.4 Company Secretary

The Company Secretary of the Bank shall be a member of the Institute of Certified Public Secretaries of Kenya (“ICPSK”) established under the Certified Public Secretaries of Kenya Act.

5. STATEMENT ON SHARE TRADING POLICY

5.1 Share Trading

The Directors, Chief Executive Officer and Employees shall not deal in the securities of the Bank or any related company when they have or may be perceived as having relevant unpublished price sensitive information. They are only permitted to deal once the information is in the public domain. Further, Directors, Chief Executive Officer and Employees shall not deal on the basis of considerations of a short-term nature or to the extent of trading in those securities.

5.2 Purchase of Shares in the Market

Subject to compliance to the Capital Markets Act (“CMA”), and the Rules and Regulations promulgated thereunder, the Directors and Employees shall comply with the Bank’s then prevailing share trading policy.

Clauses 5.2.1 and 5.2.2 hereunder set out the restrictions comprised in the CMA, for ease of reference, with regard *inter alia* to Insider trading.

5.2.1 A. Prohibition against use of unpublished Insider information (Section 32A of the CMA)

(1) No Insider Shall:

- (a) Either on his own behalf or on behalf of any other person, deal in the securities of a company listed on any stock exchange on the basis of any unpublished price sensitive information; or
- (b) Communicate any unpublished price sensitive information to any person, with or without his request for such information, except as required in the ordinary course of business or under any law;
- (c) Counsel or procure any other person to deal in securities of any company on the basis of unpublished price sensitive information.

- (2) Any Insider, who deals in securities or communicates any information, or consults any person dealing in securities in contravention of the provisions of subsection (1) shall be guilty of Insider trading.

B. Prohibition of Insider Trading (Section 33 of the CMA)

- (1) A person who is, or at any time in the preceding six (6) months has been, connected with a body corporate shall not deal in any securities of that body corporate if by reason of his being, or having been, connected with that body corporate he is in possession of information that is not generally available but, if it were, would be likely to materially affect the price of those securities.
- (2) A person who is, or at any time in the preceding six months has been, connected with a body corporate shall not deal in any securities of any body corporate if by reason of his so being, or having been, connected with that first mentioned body corporate he is in

possession of information that-

- (a) is not generally available but, if it were, would be likely to materially affect the price or value of those securities; and
 - (b) relates to any transaction (actual or expected) involving both bodies corporate or involving one of them and securities of the other.
- (3) Where a person is in possession of any such information referred to in subsection (2) which if made generally available, would be likely to materially affect the price of securities but is not precluded by that subsection from dealing in those securities, he shall not deal in those securities if -
 - (a) he has obtained the information, directly or indirectly, from another person and is aware, or ought reasonably to be aware, of facts or circumstances by virtue of which that other person is himself precluded by subsection (1) from dealing in those securities; and
 - (b) when the information was so obtained, he was associated with that other person or had with him an arrangement for the communication of information of a kind to which that subsection applies with a view to dealing in securities by himself and that other person or either of them.
- (4) A person shall not, at any time when he is precluded by subsections (1), (2), or (3) from dealing in any securities cause or procure any other person to deal in those securities.
- (5) A person shall not, at any time when he is precluded by subsection (1), (2), or (3) from dealing in any securities by reason of his being in possession of any information, communicate that information to any other person if -
 - (a) trading in those securities is permitted on any securities exchange; and
 - (b) he knows, or has reason to believe, that the other person will make use of the information for the purpose of dealing or causing or procuring another person to deal in those securities.
- (6) Without prejudice to subsection (3), but subject to subsections (7) and (8), a body corporate shall not deal in any securities at a time when any officer of that body corporate is precluded by subsections (1), (2), or (3) from dealing in those securities.
- (7) A body corporate is not precluded by subsection (6) from entering into a transaction at any time by reason only of information in the possession of an officer of that body corporate if -
 - (a) the decision to enter into the transaction was taken on its behalf by a person other than the officer;
 - (b) it had in operation at that time arrangements to ensure that the information was not communicated to that person and that no advice with respect to the transaction was given to him / her by a person in possession of the information; and
 - (c) the information was not so communicated and such advice was not so given.
- (8) A body corporate is not precluded by subsection (6) from dealing in securities of another body corporate at any time by reason only of information in the possession of an officer of that first mentioned body corporate, being information that was obtained by the officer in the course of the performance of his duties as an officer of that first mentioned body corporate and that relates to proposed dealings by that first mentioned body

corporate in securities of that other body corporate.

- (9) For the purpose of this section, a person is connected with a body corporate if, being a natural person-
 - (a) he is an officer of that body corporate or of a related body corporate;
 - (b) he is a substantial shareholder in that body corporate or in a related body corporate; or
 - (c) he occupies a position that may reasonably be expected to give him access to information of a kind to which subsections (1) and (2) apply by virtue of -
 - (i) any professional or business relationship existing between himself (or his employer or a body corporate of which he is an officer) and that body corporate or a related body corporate; or
 - (ii) his being an officer of a substantial shareholder in the body corporate or in a related body corporate.
- (10) This section does not preclude the holder of a stockbroker's or dealer's licence from dealing in securities, or rights or interests in securities, of a body corporate, being securities or rights or interests that are permitted by a securities exchange to be traded on the securities market of that securities exchange, if -
 - (a) the holder of the licence enters into the transaction concerned as agent for another person pursuant to a specific instruction by that other person to effect that transaction;
 - (b) the holder of the licence has not given any advice to the other person in relation to dealing in securities, or rights or interests in securities, of that body corporate that are included in the same class as the first mentioned securities; and
 - (c) the other person is not associated with the holder of the licence.
- (11) For the purpose of subsection (8), - officer - , in relation to a body corporate, includes:
 - (a) a director, secretary, executive officer or employee of the body corporate;
 - (b) a receiver, or receiver and manager, of property of the body corporation;
 - (c) an official manager or a deputy official manager of the body corporate;
 - (d) a liquidator of the body corporate; and
 - (e) a trustee or other person administering a compromise or arrangement made between the body corporate and another person or other persons.
- (12) A person who contravenes this section shall be guilty of an offence and shall be liable:
 - (a) on a first offence –
 - (i) in the case of a body corporate, to a fine not exceeding five million shillings;
 - (ii) in the case of any other person, including a director or officer body corporate, to a fine not exceeding two million five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both;
 - (b) on any subsequent conviction –
 - (i) in the case of a body corporate, to a fine not exceeding ten million shillings;
 - (ii) in the case of any other person, including a director or officer of a body corporate, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding seven years or to both.
- (13) An action under this section for the recovery of a loss shall not be commenced after the expiration of six years after the date of completion of the transaction in which the loss

occurred.

- (14) Nothing in subsection (12) affects any liability that a person may incur under any other section of the CMA or any other law.

The paramount issue to note is that Insiders are outlawed from divulging any price sensitive and material information about the Bank's dealings (that is not in the public domain) to the benefit of third parties.

PART IV: REMEDIAL MEASURES AND ADMINISTRATIVE SANCTIONS

1. Remedial measures

- 1.1 When the Chief Executive Officer or an Employee is assessed and found to be unfit and not proper to work for the Bank, the Chief Executive Officer or Employee shall be required to dispense with the services forthwith and the Bank shall inform the CBK of such a decision as soon as possible. Any contravention of the provisions of this Policy will be subject to corrective measures and administrative sanctions set out below.
- 1.2 When the Bank contravenes any of the provisions of the Banking Act or is not in compliance with this Policy then:
 - a) The Chief Executive Officer and Senior Officers of the Bank shall be liable jointly and severally to indemnify the Bank against any loss arising in respect of the contravention of section 11 of the Banking Act.
 - b) In the case of violation of guidelines on an advance, loan or a facility to a person other than a Director of the Bank or a person participating in the general management of the Bank, the officer shall not be so liable, provided he or she shows that, through no act or omission on his or her part, he or she was not aware that the contravention was taking place, or he or she took all reasonable steps to prevent it taking place.
 - c) In the case of violation of guidelines on an advance, loan or credit facility to a Director of the Bank, the CBK may direct the removal of such Director from the Board of Directors of the Bank. The CBK may direct the suspension of the Chief Executive Officer or Employee of the Bank, as the case may be, who sanctioned the advance, loan or credit facility.
 - d) Any Director who defaults in the repayment of any advance or loan made to him by the Bank for three (3) consecutive months shall forthwith be disqualified from holding office as such.
- 1.3 The Bank shall comply with any direction of the CBK and shall not permit a Director, who is disqualified by virtue of CBK requirement, to continue holding office.

PART V: RELATIONSHIP WITH RELATED GOVERNANCE DOCUMENTS

1. Board Charter

This Corporate Governance Policy shall be read together with the Board Charter and in the event of any conflict therewith the terms of the Corporate Governance Policy shall prevail.

2. Code of Ethics and Conduct

This Corporate Governance Policy shall be read together with the Code of Ethics and Conduct and in the event of any conflict therewith the terms of the Corporate Governance Policy shall prevail.

3. Board Evaluation

This Corporate Governance Policy shall be read together with the Board Evaluation Policy and in the event of any conflict therewith the terms of the Corporate Governance Policy shall prevail.

PART VI: POLICY REVIEW

The Board will review this Policy every two (2) years and more frequently, if required, to align the same with the then prevailing legislation and regulations governing the Bank as well as best practice, as part of the Board and the Bank's commitment to good corporate governance.