CAPITAL MARKETS LICENSING REGULATIONS 2025:

WHAT IT MEANS IN PRACTICE

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The Capital Markets (Licensing Requirements) (General) Regulations, 2025 (the Regulations) issued under the Capital Markets Act came into force on 11th December 2025. They repeal the Capital Markets (Licensing Requirements) (General) Regulations, 2002 and require existing licensees to comply with any new requirements within one year from 11th December 2025.

The Regulations represent far more than a routine update of capital thresholds. They introduce new licencing categories and provide a mechanism to formalize existing arrangements particularly technology driven market innovations bringing them firmly within the CMA's supervisory perimeter. While matters such as brokerage commissions and the cost to investors when purchasing securities remain unchanged inconsistencies exist between the Regulations and the Capital Markets (Collective Investments Schemes) Regulations, 2023 (CIS Regulations).

For existing licencees, key changes relate to the minimum capital and enhanced reporting requirements outlined below;

Securities Exchange	Not Specified	1 billion	N/A
Investment Bank	250 million	150 million	50 million or 8% of liabilities
Broker-Dealer	Authorised Securities Dealers (30 million)	70 million	50 million or 8% of liabilities
Stockbroker	50 million	50 million	30 million or 8% of liabilities
Dealer	20 million	20 million	10 million or 8% of liabilities
Fund Manager	10 million	20 million	N/A
Investment Adviser	N/A Professional Indemnity of not less than KES 500, 000 mandatory	No Change. Professional Indemnity of not less than KES 500, 000 mandatory	N/A
Trustee	Not Specified. Restricted to Banks or Financial Institutions approved by CMA	20 million	5 million or 8% of liabilities
Custodian	Not Specified. Restricted to Banks or Financial Institutions approved by CMA	Financial Institutions excluding Banks (1 billion	50 million or 8% of liabilities
ISP Provider	N/A	Adequate capital required	N/A

We review below key highlights of the Regulations :

Over-the-Counter Platforms

The Regulations introduce a formal licensing regime for Over-the-Counter (OTC) platforms. An OTC is a decentralized market, where buyers and sellers trade financial instruments directly between themselves, rather than through a securities exchange.

This change provides for a formal licencing framework for platforms such as the Nairobi Securities Exchange (NSE) Unquoted Securities Platform (USP) launched in 2021, on a no-objection basis from the CMA. The appeal in OTCs lies in their decentralised structure as it allows qualifying instruments to achieve liquidity and price discovery without subjecting investors to the daily mark-to-market volatility typical of a securities exchange. The NSE USP has progressively become the home for Kenya's REIT instruments currently hosting the Acorn I-REIT, Acorn D-REIT and the ILAM Fahari I-REIT following its delisting from the NSE Main Market .

This transitions OTCs from operating on regulatory accommodation to operating on legal right, tightening issuers and investors protection on OTC platforms and provides a foundation for new entrants.

Algorithm-driven investment advisers

The Regulations recognize the place of Artificial Intelligence (AI) in investment advisory through the introduction of a dedicated framework for automated, algorithm-driven investment advisory services, with little to no human supervision. Digital Investment Adviser platforms are now required to have a Kenyan bank account as the principal bank account, sufficient capital, reliable systems, well-documented processes and robust risk management.

Platforms such as FourFront Management robo-advisory service, that deploys AI algorithms and robo-advisory systems to help retail investors track share prices and capture trading opportunities on the NSE, now have specific compliance and resource obligations. Notably, there is a strong emphasis on data protection, covering data integrity safeguards, security and confidentiality of information and record retention for a minimum of seven years. The alignment of CMA's requirements with Kenya's Data Protection Act, 2019, signals that the Authority views the protection of investor data generated through digital channels as a key material regulatory concern.

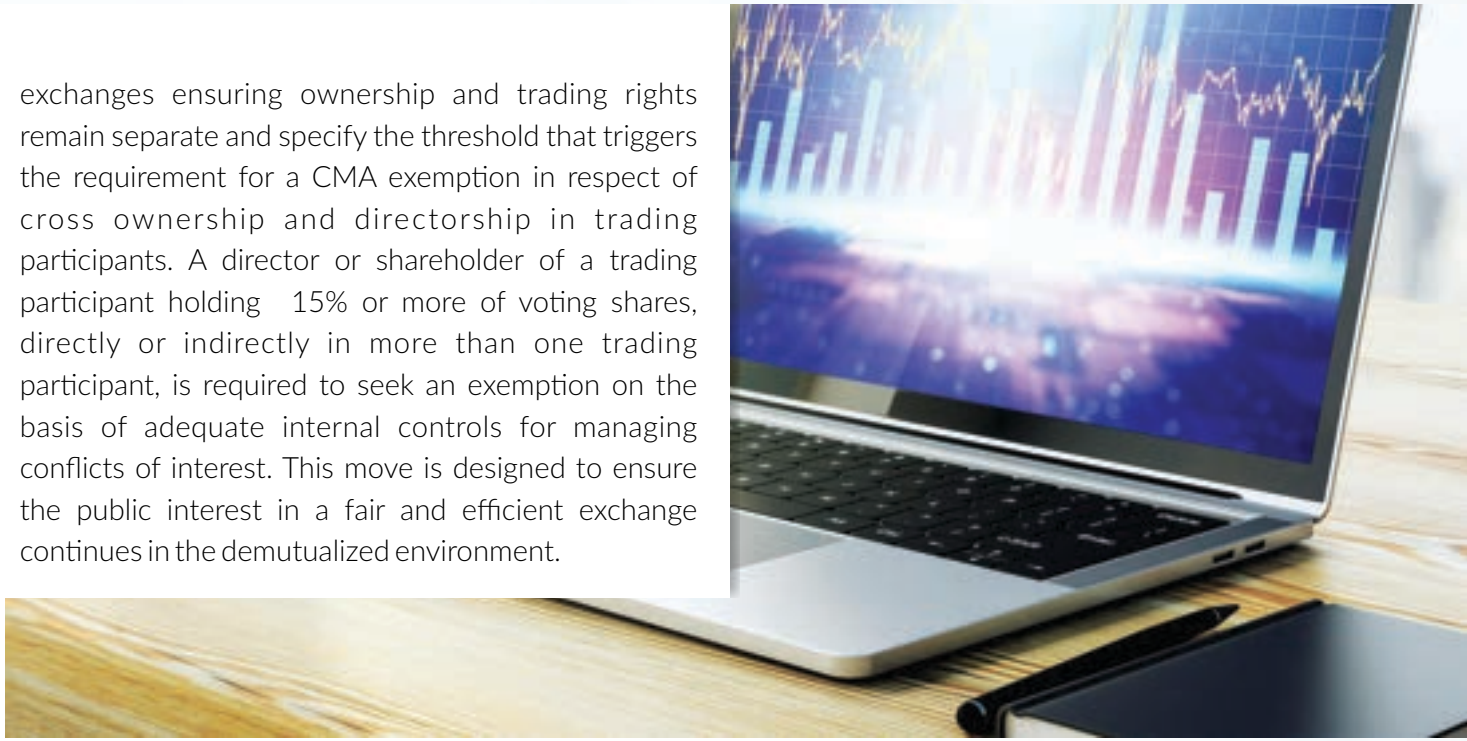
Whereas AI has enormous potential in transforming how ordinary Kenyans access and interact with capital markets through automated, algorithm-driven tools that identify profitable price movements in real time, new and evolving risks should be expected such as AI enabled fraud, algorithmic bias and opaque decision making. Agility in the ability to respond to these risks through a principle and outcome-based approach therefore remains key.

Securities- Exchanges

Against a backdrop of past governance tensions with the NSE over its governance, the CMA has now crystalized its stand on governance of security exchanges. The tenure of the Chief Executive Officers (CEO) has been reviewed and is now capped at five years, renewable once. This represents a modification rather than a departure from the previous regime, which prescribed a four-year term renewable once.

Further, the chairperson's tenure has been retained at three years, renewable once. Key to note is that similar term limits do not apply to other licencees and tend to be a hallmark in the governance of state corporations.

Additionally, the Regulations now specifically prescribe the mandatory demutualization of securities exchanges ensuring ownership and trading rights remain separate and specify the threshold that triggers the requirement for a CMA exemption in respect of cross ownership and directorship in trading participants. A director or shareholder of a trading participant holding 15% or more of voting shares, directly or indirectly in more than one trading participant, is required to seek an exemption on the basis of adequate internal controls for managing conflicts of interest. This move is designed to ensure the public interest in a fair and efficient exchange continues in the demutualized environment.



Trustees and Custodians

The codification of a formal licensing regime for trustees and custodians is significant development in Kenya's capital markets regulatory framework. CIS Trustees previously operated on an informal "no objection" basis from the CMA, while REIT Trustees follow a separate licensing process under the REIT Regulations. The CIS Regulations and the accompanying Regulations now cure this gap by entrenching a structured licensing regime for CIS trustees.

However, there is an inconsistency on the minimum capital requirements for trustees and custodians. For trustees, CIS Regulations prescribe KES 10 million against the KES 20 million threshold set under the Regulations. While the Regulations prescribe a higher threshold as compared to the CIS Regulations, the capital requirements for REIT Trustees remain significantly higher at KES 100 million. Amendments to the REIT Regulations, anticipated in the course of the year, are expected to harmonise the capital markets trustee framework.

With regard to Custodians, the capital requirements differ for financial institutions that are not banks seeking to operate as custodians under the capital markets framework. The CIS Regulations, prescribe a minimum paid-up share capital of KSh 1 billion and liquid capital of at least KSh 50 million. In contrast, the Regulations require a significantly lower threshold of KSh 50 million in paid-up capital and a minimum liquid capital of KSh 25 million.

The introduction of a definition for note trustees linked with the definition of trustee under the Act is of note signaling the CMA's intent to extend oversight across the broader trusteeship landscape possibly in light of previous corporate bond defaults. The initial understanding under the Act was that only trustees of

Collective Investment Schemes including REITS required licensing. This widening of scope underscores the urgent need for legislative alignment, both in the definitions under the Act and across the various pieces of subsidiary legislation, to ensure coherence and regulatory certainty for market participants.

Key to also note is that while the 2002 Regulations generally permitted related party relationships between the trustee, custodian and fund manager, the Regulations now only seem to permit a related party relationship between a fund manager and custodian but remain silent on whether the fund manager and trustee or the custodian and trustee may be related parties.

Broker Dealers

The Regulations now introduce the broker-dealer licences, representing a shift from the previous authorised securities dealer framework, whose scope of licence was restricted to fixed income securities. Broker Dealers are authorized to deal in all types of securities except exchange traded derivative contracts whose trading and the registration of derivative brokers is covered under the Capital Markets (Derivative Markets) Regulations. This framework aligns with best international practice and acknowledges the deepening of capital markets offering a wider variety of securities. Amendments to the Act to align the Regulations with the Act will be required to the extent the terminology used in the Act is “Authorised Securities Dealers”.

Intermediary Service Platforms

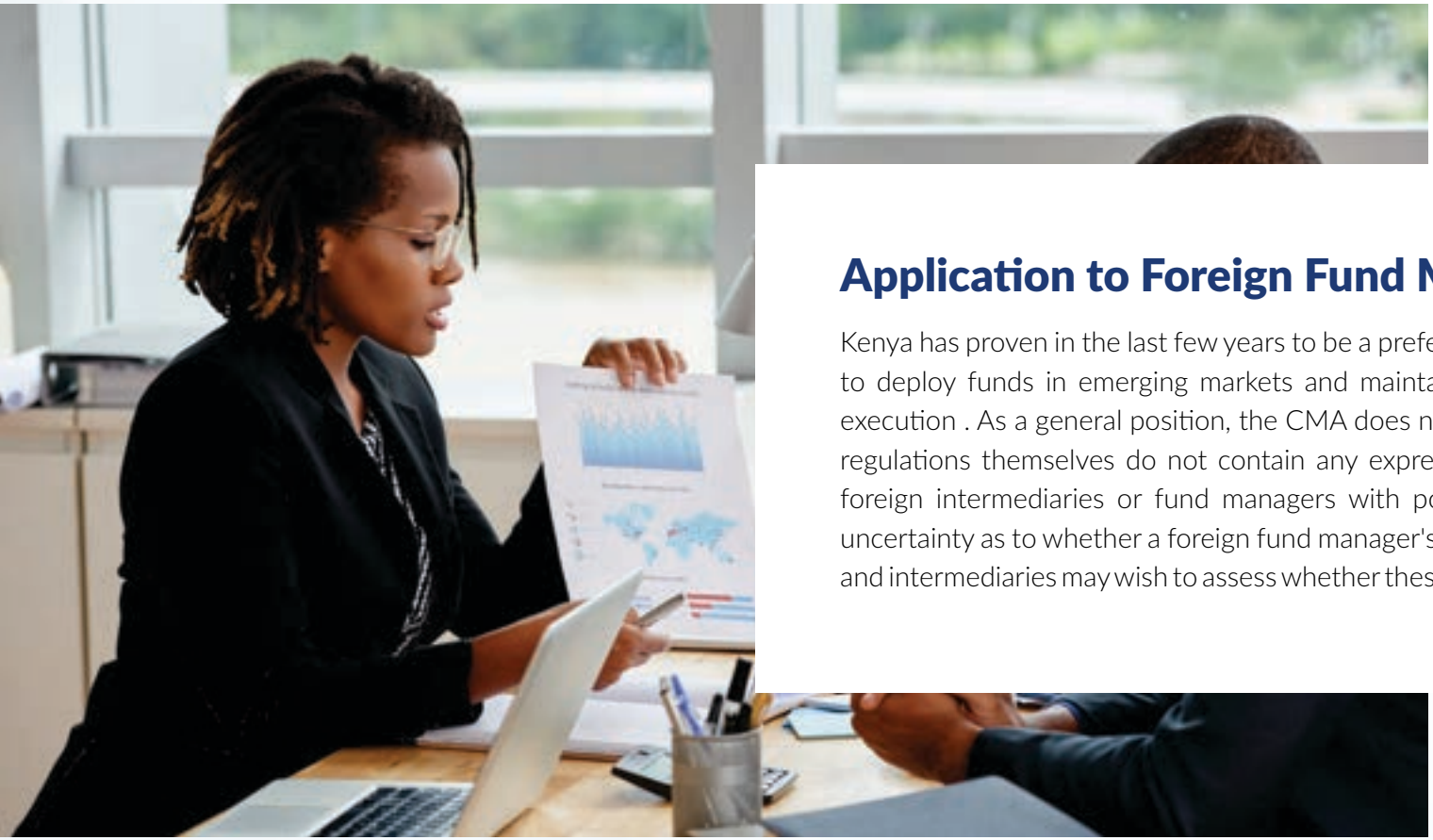
The Regulations have further expounded on the licencing of Intermediary Service Platform Providers (ISPs). An ISP is a digital application that facilitates the aggregation, marketing, and distribution of capital markets products and services, except crowdfunding platforms and platforms operated by existing licensees for internal efficiency purposes. The CIS regulations recognized ISPs however, they are not categorized as a standalone licence category but recognised within the broader framework governing collective investment schemes, with limited regulatory detail. ISPs must obtain CMA licences and enter into written agreements with licensed market intermediaries, setting out roles, responsibilities, liabilities, dispute resolution mechanisms, complaints handling, and investor protection measures. The Capital Markets Act does not expressly contemplate ISPs as a class of market intermediary, a registration framework rather than a licencing framework may have

been ideal to reduce the compliance burden on ISPs. A registration framework also acknowledges that a service platform may be applied for different uses for instance a digital market place may offer other services under different regulatory frameworks such as insurance under the Insurance Regulatory Authority or virtual currencies under the Central Bank of Kenya.

This notwithstanding, the timeliness of the ISP framework is illustrated by the explosive growth of electronic fund distribution and marketing in Kenya. It is indeed telling that following the publication of the 2023 CIS Regulations, six ISPs have already been licenced. The most noble is the Ziidi Investment Platform operated by Safaricom and distributed exclusively through M-PESA was approved by the CMA in November 2024 and opened to the public in December 2024.

The platform offers a money market fund which within one month, it had attracted over 450,000 opt-ins and Kshs. 2.85 billion in assets under management.

Its Assets Under Management (AUM) has grown to over Ksh, 15.1 billion, with over 1.15 million active customers, representing growth of over 1,000% year-on-year since its inception in 2024. Safaricom's M-PESA platform, with over 30 million users, functions as precisely the kind of distribution and aggregation mechanism that the ISP framework seeks to regulate. The recent introduction of the Ziidi Trader App further illustrates the rapid growth of digital investment platforms as during the Kenya Pipeline Company (KPC) IPO, it accounted for over 50% of retail investor participation.



Application to Foreign Fund Managers

Kenya has proven in the last few years to be a preferred destination for foreign fund managers looking to deploy funds in emerging markets and maintain local presence for investment monitoring and execution . As a general position, the CMA does not regulate funds that are not raised in Kenya. The regulations themselves do not contain any express provisions indicating that they extend to such foreign intermediaries or fund managers with portfolios in Kenya. That said, where there is any uncertainty as to whether a foreign fund manager's operation may be affected, foreign fund managers and intermediaries may wish to assess whether these regulations apply to their activities.

Conclusion

The Regulations represent the most comprehensive overhaul of Kenya's capital markets licensing architecture in over two decades. Save for the minor inconsistencies in the Regulations with the Act and the CIS Regulations highlighted above requiring a comprehensive alignment of the Capital Markets legislative framework, they are a step in the right direction.

In our view, the Regulations may have provided the perfect opportunity for the CMA in line with its powers under Section 11 (3) (ff) to provide a recognition mechanism for foreign fund managers seeking to promote funds locally without a fresh licensing requirement. This may have been useful for Alternative Investment Funds (AIF), that seek to raise funds in Kenya, through pooling, in addition to other jurisdictions such as PE or VC funds.

We however look forward to passporting arrangements as demonstrated by The Central Bank of Kenya and the National Bank of Rwanda who signed a Memorandum of Understanding in March 2026, creating a licence passporting framework for payment service providers between the two jurisdictions under the EAC Cross-Border Payments Master Plan reducing duplicative regulatory processes for Payment Service Providers (PSPs) across the countries. Similar passporting arrangements, on a need basis, under Section 11 (3) (q) remain open but limit efficiency since they operate on a piecemeal country-by-country basis lacking the uniformity and certainty of a framework .

Single-investor shareholding caps for capital markets licensees, were removed from the CMA Act, as part of this regulatory cycle, with the Cabinet Secretary granted the power to in consultation with CMA prescribe shareholding limits for different types of investors. The 2025 Regulations still leave the question of shareholding limits open. In the meantime, the position remains that there are no single shareholder limits for capital market intermediaries except as prescribed in relation to the NSE through the Capital Markets (Nairobi Securities. Exchange Limited Shareholding) Regulations, 2016.

The Regulations also introduce an annual regulatory fee with fund managers being most impacted and having to remit fees equivalent to 0.05% to 0.01% of Assets Under Management. It is not clear whether these fees shall be calculated with reference to the AuM at the end of the financial year or on an average basis. For Investment Banks a reduction of the minimum capital requirements but with a corresponding increase in the liquid capital requirements represents the clearest shift to a Risk Based Capital model whilst acknowledging the differing risk profile of a stock broker from an Investment Bank who previously had similar liquid capital requirements. Further for Fund Managers, liquid capital requirements stipulated in the Capital Markets Intermediaries (Financial Resource) Guidelines are not expressly set out in the Regulations as is the case for other licence categories requiring clarity

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