



ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE STUDIES
LL.M. in PUBLIC INTERNATIONAL LAW

**Assessing Regulatory Challenges for Intra-Africa Capital
Market Trading: The Case of Ethiopia**

A Thesis submitted in Partial Fulfillment of the Requirements for the Degree of
Master of Laws (LL.M.) in Public International Law

BY

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Assessing Regulatory Challenges for Intra-Africa Capital Market Trading: The Case of Ethiopia

Declaration

I, Tewodros Tena Kebede, hereby declare that this thesis, entitled “Assessing Regulatory Challenges for Intra-Africa Capital Market Trading: The Case of Ethiopia”, is my original work and has not been presented or submitted for a degree, diploma, or any other qualification at Addis Ababa University or any other institutions. This work contains no material previously published or written by another person, except where due acknowledgement is made in the text.

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Acronyms and Abbreviations

ADRs - American Depositary Receipts

AfCFTA - African Continental Free Trade Area

AELP - African Exchanges Linkage Project

AfDB - African Development Bank

AMF - Autorité des Marchés Financiers (France)

AMMC - Autorité Marocaine du Marché des Capitaux (Moroccan Capital Market Authority)

AML - Anti-Money Laundering

ASEA - African Securities Exchanges Association

ATS - Automated Trading System

BRVM - Bourse Régionale des Valeurs Mobilières (Regional Stock Market in the West African Economic and Monetary Union)

CAR - Central African Republic

CFT - Combating Financial Terrorism

CMA - Capital Market Authority (Kenya)

CMC - Capital Market Commission (Angola)

CNMV - National Securities Market Commission (Spain)

COMESA - Common Market for Eastern and Southern Africa

CSE - Casablanca Stock Exchange

CSD - Central Securities Depository

CSCS - Central Securities Clearing System (Nigeria)

DSE - Dar-es-Salaam Securities Exchange (Tanzania)

EAC - East African Community

Assessing Regulatory Challenges for Intra-Africa Capital Market Trading: The Case of Ethiopia

EASRA - East African Securities Regulatory Authority

EASEA - East African Stock Exchanges Association

ECMA - Ethiopian Capital Market Authority

ECSD - Ethiopian Central Securities Depository

EIH - Ethiopia Investment Holding

ESX - Ethiopian Securities Exchange

ETF - Exchange-Traded Fund

GDRs - Global Depositary Receipts

GDNs - Global Depositary Notes

IFRS - International Financial Reporting Standards

IFREFI - Francophone Institute of Financial Regulation

IOSCO - International Organization of Securities Commissions

KCB - Kenya Commercial Bank

KYC - Know Your Customer

MCMA - Moroccan Capital Market Authority (same as AMMC)

MPSR - Mediterranean Partnership of Securities Regulators

MTFs - Multilateral Trading Facilities

NGX - Nigerian Exchange Group

NMG - National Media Group

NSE - Nairobi Securities Exchange (Kenya)

NSEC - Nigerian Stock Exchange Commission

OTC - Over the Counter

PAPSS - Pan-African Payment and Settlement System

QFMA - Qatar Financial Markets Authority

REIT - Real Estate Investment Trust

RSE - Rwanda Securities Exchange

SADC - Southern African Development Community

SADSEC - SADC Stock Exchange Committee

SEC - Securities and Exchange Commission (Nigeria, Ghana)

SSEI - Sustainable Stock Exchanges Initiative

TDB - Trade and Development Bank Group

UASA - Union of Arab Securities Authorities

UCITS - Undertaking for Collective Investment in Transferable Securities

UDEAC - Central African Economic and Monetary Community

USE - Uganda Securities Exchange

WACMI - West African Capital Markets Integration

WFE - World Federation of Exchanges

Abstract

This study assesses the legal and regulatory challenges that limit Ethiopia's participation in intra-Africa cross-border capital market trading, which is the fundamental element for regional economic integration. Ethiopia has established key institutions to fully operationalize its capital market, including the Ethiopian Capital Market Authority (ECMA), the Ethiopian Securities Exchange (ESX), the Ethiopian Central Securities Depository, and other service providers. This development is marked as a substantial achievement in designing and implementing an effective capital market. Following the enactment of the Ethiopian Capital Market Proclamation No. 1248/2021, other enabling directives were legislated. However, these legal frameworks lack sufficient specific provisions or other separate laws for regulating cross-border securities trading that include foreign securities registration, listing requirements, and compliance mechanisms. As learned from the experience of the best practices of Kenya, Nigeria, and Morocco, which benefited from robust regulations, regional integrations, like the African Exchanges Linkage Project (AELP), and the Pan-African Payment and Settlement System (PAPSS), this study emphasizes the need for harmonized legal standards and international cooperation. Additionally, it identifies the economic benefits of cross-border capital market trading in the context of Ethiopia as an emerging market, such as improving market liquidity, expanding investor base, reduction of reliance on domestic financing, while addressing risks like fraud and money laundering. Finally, the paper recommends the enactment of laws that address detailed issues for hosting and participating in cross-border capital market trading, joining regional integrations, integrating with PAPSS, revising Ethiopia's tax laws, and expanding bilateral agreements to create a competitive and strong Ethiopian capital market.

Key words: Intra-Africa Capital Market Trading, Cross-border Securities Trading, Ethiopian Capital Market, Regulatory Challenges, Legal Framework, Regional Economic Integration

Chapter One

1. Introduction

1.1. Background of the Research

International trade involves the exchange of capital (in the capital markets), goods, and services between countries.¹ Essentially, it refers to transactions where goods and services are traded across national borders. Every country has limited resources.² As international capital flows have skyrocketed over the past decade,³ extra-territorial trade has become essential to satisfy the demand of the people seeking resources beyond their jurisdiction.⁴

International capital markets are a system in which people, companies, and governments trade in the global sphere across national boundaries with the expected benefit of higher investment returns and cheaper borrowing costs, and diversification of risks.⁵ International trading on the area of capital markets is conducted through cross-border listing of securities, which is a situation when shares of a company are listed on one or more stock exchange(s) in addition to its domestic stock exchange at the same time.⁶ There are also other trading arrangements such as Over the Counter (OTC)⁷, Global Depository Receipts (GDRs) and American Depository Receipts (ADRs)⁸, Dual-Listing Arrangements and Multilateral Trading

¹ Nikolche Jankulovski, Katerina Bojkovska (2018), "International Business and Trade" P. 105 available at https://www.researchgate.net/publication/329487447_International_Business_and_Trade?enrichId=rgreq-29cac87c9c983602761892a32ff8161c

[XXX&enrichSource=Y292ZXXJQYWdlOzMyOTQ0NzQ0NzUzOTQ0MDEyNzEyODM2MDk2MDBAMTU0NDIwNzUxMTU1MA%3D%3D&el=1_x_2&esc=publicationCoverPdf](https://www.researchgate.net/publication/329487447_International_Business_and_Trade?enrichSource=Y292ZXXJQYWdlOzMyOTQ0NzQ0NzUzOTQ0MDEyNzEyODM2MDk2MDBAMTU0NDIwNzUxMTU1MA%3D%3D&el=1_x_2&esc=publicationCoverPdf) (Last Visited on November 25, 2024)

² Ibid

³ Hali Edison and Francis E. Warnock (2003), "Cross-Border Listings, Capital Controls and Equity Flows to Emerging Markets," P. 3, available at <https://www.imf.org/external/pubs/ft/wp/2003/wp03236.pdf> (Last visited on October 14, 2024)

⁴ Ibid

⁵ Available at <https://open.lib.umn.edu/internationalbusiness/chapter/7-2-understanding-international-capital-markets/> (Last visited on November 25, 2024)

⁶ Calvin Kamotho Wanjiru (2013), "The Relationship Between Cross Listing and Liquidity: A Study of Shares Cross Listed in the East African Securities Exchanges," P.11, available at <http://erepository.uonbi.ac.ke/handle/11295/58480> (Last visited on October 15, 2024)

⁷ OTC market is where securities are traded via a broker-dealer rather than in a centralized exchange available at <https://www.investopedia.com/terms/o/otc.asp#:~:text=The%20OTC%20market%20is%20where,asset%20such%20as%20a%20commodity.> (Last visited on November 25, 2024)

⁸ This represents shares in a foreign company. Available at <https://www.investopedia.com/terms/g/gdr.asp#:~:text=GDRs%20are%20commonly%20used%20by,foreign%20company%20in%20U.S.%20markets.> (Last visit ed on November 25, 2024)

Facilities (MTFs).⁹ Accordingly, the state needs to establish firm harmonization of regulations to facilitate a robust cross-border trading through bilateral and multilateral treaties. Both the trading system and the investors can be protected and regulated by the national regulatory body. Since it involves transactions located in different jurisdictions, it requires a comprehensive, well-established, and resilient regulatory framework to promote overall trading in the capital market in a transparent manner.

There are various models for cross-border capital market trading in which the countries enter a commitment through bilateral treaties, international financial integration, and unilateral decisions. In international trading, there are pulling and pushing factors in which the companies are cross-listed by the regulation of the host states.¹⁰

So far, in Africa, there are many experiences of cross-border securities trading. In 2022, Nigeria and 13 Africa's largest economies and capital markets created a platform for the purpose of securities trading with the objective of creating seamless flows of investment across the continent.¹¹ There are many other countries in Africa in cross-border trading platform these are South Africa, Egypt, Kenya, Mauritius, Casablanca, Benin, Burkina Faso, Guinea Bissau, Côte d'Ivoire, Mali, Niger, Senegal and Togo.¹²

The Bourse Régionale des Valeurs Mobilières (BRVM) is the regional stock market in the West African Economic and Monetary Union.¹³ In 1997, the East African Capital Market Authorities, such as Kenya, Uganda, and Tanzania, entered into a Memorandum of Understanding for the integration of the East African Capital Market, which is the basis for the establishment of the East African Securities Regulatory Authority (EASRA).¹⁴

The African Exchanges Linkage Project (AELP) is a flagship project of the African Securities Exchanges Association (ASEA) and the African Development Bank (AfDB).¹⁵ It

⁹ The trading is operated in a trading facilities or venues similar to recognized exchanges. Available at <https://www.fca.org.uk/firms/authorisation/wholesale-markets/mtfs-otfs> (Last visited on November 25, 2024)

¹⁰ Ibid

¹¹ Available at <https://ngxgroup.com/nigeria-south-africa-12-others-begin-cross-border-securities-trading/> (Last visited November 26, 2024)

¹² Ibid

¹³ Available at <https://www.brvm.org/en/node/61597> (Last Visited November 26, 2024)

¹⁴ Available at

https://www.cma.rw/index.php?id=49&tx_news_pi1%5Bnews%5D=355&tx_news_pi1%5Bday%5D=17&tx_news_pi1%5Bmonth%5D=10&tx_news_pi1%5Byear%5D=2023&cHash=60c319eadcc606970758f5e89f045bfd (Last visited on November 26, 2024)

¹⁵ Available at <https://africanexchangeslink.com/> (Last visited on February 19, 2025)

aims to improve the depth and liquidity of Africa's capital markets and foster investment flows among participating Exchanges by enabling cross-border securities trading using a technological platform, a stockbrokerage sponsors on the host Exchange, and custody and settlement shall be on the host Exchange according to its market rules and practices.¹⁶

On October 18, 2024, a new promising chapter emerged for the future of Ethiopia's cross-border capital market, contingent on the government's commitment to reshaping the regulatory framework. The Ethiopian Securities Exchange (ESX)¹⁷ has signed a landmark Memorandum of Understanding with the Nairobi Securities Exchange (NSE)¹⁸ towards advancing regional financial markets. The agreement aimed to strengthen financial markets in both Ethiopia and the broader East African region. The strategic partnership is designed to foster the growth and development of capital markets between Kenya and Ethiopia through various initiatives. It enhances the region's visibility to both domestic and international investors. The collaboration was expected to support the integration of capital markets in Ethiopia and Kenya by leveraging the expertise of iCapital¹⁹ and the NSE.²⁰

The key focus of the MoU included knowledge exchange, capacity building, and promoting cross-border investments.²¹ This brings hope for the advancement of the market. However, its success will largely depend on Ethiopia's effort on developing clear, transparent and supporting legal grounds and robust regulatory frameworks. It seeks to address existing regulatory gaps that might hinder effective cross-border trading in the capital markets. The MoU provides a practical example for other further potential international securities trading in different arrangement of capital market. There is the necessity of developing a comprehensive legal framework in Ethiopia that is consistent with international standards,

¹⁶ Available at <https://africanexchangeslink.com/faq/> (Last visited on October 14, 2024)

¹⁷ Ethiopian Securities Exchange is a pioneer securities exchange in Ethiopia which facilitates access to capital and support capital allocation through developing a well-regulated capital market ecosystem. This is the first and only organized securities exchange in Ethiopia and was established as a public-private partnership in accordance with Art. 31 of the Capital Market Proclamation No. 1248/2021. Available at <https://esxethiopia.com/about-us> (Last visited on November 26, 2024)

¹⁸ The Nairobi Securities Exchange (NSE), formerly called Nairobi Stock Exchange, was established in 1954. this is a leading securities exchange in East Africa offering trading facilities for both domestic and foreign investors. Available at https://afx.kwayisi.org/nse/#google_vignette (Last visited on November 26, 2024)

¹⁹ iCapital is a financial technology company. Available at <https://icapital.com/> (Last visited on November 26, 2024)

²⁰ Available at https://www.ena.et/web/eng/w/eng_5312947 (Last visited at February 19, 2025)

²¹ Available at <https://www.stockmarket.et/ethiopian-securities-exchange-signs-mou-with-nairobi-securities-exchange-and-icapital-africa/>

thus promoting smoother intra-African trade and investment in the capital market will be realized.

1.2. Statement of the Problem

As part of the Home-Grown Economic Reform of Ethiopia, the establishment of the capital market was a crucial issue, and so far, there have been various milestones in the development of the capital market. In 2019, the House of People's Representatives enacted the Capital Markets Proclamation, and accordingly, the Authority was established as an autonomous Federal Government Regulatory Authority with its own juridical personality,²² accountable to the Prime Minister of the Federal Democratic Republic of Ethiopia.²³

In 2023, the Ethiopian Securities Exchange (ESX) was established as a private and public partnership and, as of December 5, 2024, has secured an operational license from ECMA.²⁴ This market provides a well-organized platform for trading of securities with the participation of other stakeholders, including the Central Securities Depository (CSD)²⁵ and other market participants. Accordingly, it can be stated that the effort to establish institutions has been successful. Furthermore, efforts have been made to establish partnerships with other African countries beyond Kenya; the securities exchanges of Morocco and Ethiopia signed an agreement to foster African financial integration.²⁶

The Ethiopian Securities Exchange and Bourse de Casablanca signed a strategic cooperation agreement to share expertise, for dual listing opportunities and cross-border investments, and to push environmental, social, and governance initiatives for sustainable economic development.²⁷ These and other initiatives will bring game-changing opportunities for the future economic integration of Africa. However, ECMA hasn't been considering having an inclusion clause or legislation for international financial transactions related to the market under its Public Offer and Trading of Securities and other relevant laws for the purpose of

²² Art. 3/1 of the Capital Market Proclamation No. 1248/2021, available at https://www.lawethiopia.com/images/federal_proclamation/proclamations_by_number/Capital-Market-Proclamation-No.1248-2021-unlocked.pdf (Last visited on December 8, 2024)

²³ Available at <https://ecma.gov.et/> (Last Visited on December 8, 2024)

²⁴ Available at <https://ethiopianmonitor.com/2024/12/07/ethiopias-first-securities-exchange-gets-operational-licence/> (Last visited on December 8, 2024)

²⁵ The CSD is a platform overseen by the National Bank of Ethiopia, which facilitates securities settlement, registration and custody services. Available at <https://nbe.gov.et/csd/> (Last visited on December 8, 2024)

²⁶ Available at <https://www.morocoworldnews.com/2024/12/366947/morocco-ethiopia-force-alliance-for-stock-synergy-african-integration> (Last Visited on December 14, 2024)

²⁷ Available at <https://www.african-markets.com/en/stock-markets/bvc/ethiopian-securities-exchange-and-bourse-de-casablanca-force-strategic-cooperation-partnership> (Last Visited on December 14, 2024)

listing foreign companies in the exchange. Meaning, there is not any law governing cross-border securities trading. Many African capital markets have facilitated intra-African securities trading, generating significant economic benefits to market participants.

The Ethiopian Capital Market Authority has the power and duties to co-operate or enter into agreements for mutual co-operation with other regulatory authorities to regulate cross-border activities in capital markets and address systemic risk in the financial system.²⁸ This is a foundational legal provision that enables the government to enter into agreements with other regulators for the mutual recognition of listing standards, securities trading, and consideration of major financial instruments. However, there is no sound regulatory framework that allows foreign companies from Africa to be listed in Ethiopia, which could potentially create promotion of investment opportunities for local investors in foreign companies and create a competitive Ethiopian capital market in Africa.

International economic law has the principle of cooperation and harmonization among states to achieve common goals through robust financial regulations and the avoidance of barriers to trade. However, in the absence of an unadjusted legal framework, it would be difficult to support such cooperation. This includes provisions for mutual recognition of regulations, legal standards, and mechanisms of dispute settlement.

International trade acts as an engine for economic growth by providing access to larger markets, promoting specialization, and enabling economies of scale.²⁹ Ethiopia's geographical and economic positioning in Africa could make it a hub for regional trade and investment. However, without a legal framework that facilitates cross-border capital market trading, this strategic advantage remains underutilized. Creating a conducive legal environment would enable Ethiopia to attract more regional investors, thereby strengthening its position in the African financial ecosystem.

²⁸ Art. 6/16 of the Capital Market Proclamation No. 1248/2021, available at https://www.lawethiopia.com/images/federal_proclamation/proclamations_by_number/Capital-Market-Proclamation-No.1248-2021-unlocked.pdf (Last visited on October 2, 2024)

²⁹ Mohammed Saaida (2023), "The Relationship Between International Trade and Economic Development in Developing Countries" P. 2 available at https://www.researchgate.net/publication/372217729_The_Relationship_between_International_Trade_and_Economic_Development_in_Developing_Countries?enrichId=rgreq-d7055f76aee398aff841c8c69f907357-XXX&enrichSource=Y292ZXJQYWdlOzM3MjIxNzcyOTtBUzoxMTQzMTI4MTE3NDA1NDUwMEAxNjg5MTA5ODk5NjM2&el=1_x_2&esc=publicationCoverPdf (Last visited on October 25, 2024)

It is known that the capital market of Ethiopia has not been developed both in operation and legislation, and until now, there is no clear legislation for cross-border trading, which would potentially foster and contribute to the success of the African Union on economic integration. The allocation of resources in Africa varies from place to place, where in some regions there are huge capital, population, and other resources, whereas in other regions there is scarcity. Therefore, the economic demand and supply need to be balanced. The main problem, with regard to the case of Ethiopia to practice intra-African securities trading, is the insufficiency of Ethiopia's legal framework to support cross-border capital market trading for an effective implementation of the regional economic cooperation and other necessary, both unilateral and multilateral commitments.

1.3. The Objective of the Research

1.3.1. General Objective

The general objective of the research is to examine the legal and regulatory challenges constraining Ethiopia's engagement in cross-border capital market trading throughout Africa and recommend the need for a robust legal framework to facilitate market integration, ensure investor protection, and attain economic development.

1.3.2. Specific Objectives

The following will be specific objectives of the study:

1. To assess the legal and regulatory challenges that limit Ethiopia's engagement in cross-border capital market trading within Africa.
2. To analyze the best experiences of other countries in Africa on successfully regulating cross-border capital market trading.
3. To identify the economic and financial benefits of developing a regulatory framework on cross-border capital market participation of Ethiopia within the continent of Africa.
4. To propose actionable recommendations on creating an enabling legal environment that facilitates intra-Africa cross-border capital market trading.

1.4. Research Questions

To achieve the above objectives the research will have the following questions:

1. What are the key legal and regulatory challenges that limit Ethiopia's engagement in cross-border capital market trading within Africa?
2. Which and what best practices can be identified from other African countries that have successfully regulated cross-border capital market trading?
3. What are the potential economic and financial benefits of developing a regulatory framework to develop Ethiopia's participation in cross-border capital markets within the continent of Africa?
4. What actionable recommendations can be provided to create a robust legal environment that facilitates intra-African cross-border capital market trading?

1.5. Literature Review

There are several foreign literatures that are conducted in regulating international capital market trading across the continent of Africa. However, there is no considerable literature that has been locally undertaken on the regulation of cross-border capital market trading in the specific case of Ethiopia.

Yabsira Dereje,³⁰ in his study focused on the regional integration perspective of capital markets which fundamentally basis on the experience of selected African and Asian states. He recommends that Ethiopia needs to investigate all the possible challenges which impedes from implementing regional capital market integration, Ethiopia shall commence regional capital market integration from simple step of bilateral and multilateral MoU, and the Ethiopian Capital Market Authority and other stakeholder shall work for policy harmonization. However, this study will assess the possible enabling legal environment for intra-Africa trading under the scope of international law.

The report of Africa Development Bank "*An Investigation of African Securities Markets Competitiveness Study*"³¹ This study explored that there are huge potential for more regional groupings in Africa, improving the environment for listing of companies in this regard the Africa Securities Exchanges Association has been working with the African Development

³⁰ Yabsira Dereje (2022), "Capital Market Integration in Developing Countries" Available at <https://etd.aau.edu.et/server/api/core/bitstreams/8f227543-6a21-447f-87a8-cc9badabccff/content> (Last visited on December 30, 2024)

³¹ The report of the African Development Bank (2022), "An Investigation of African Securities Markets Competitiveness" Available at https://www.afdb.org/sites/default/files/2022/12/14/afdb_acmcs_concise_final_report_23_july_2022_isc.pdf (Last visited on December 21, 2024) It was a publication resulted from a consultancy study undertaken by the International Securities Consultancy for the African Development Bank.

Bank in creating a robust regulatory compliance.³² The study also predicted that even if Ethiopia has the plan of organizing a regulator and exchange, it shall be in accordance with best experiences if not it will face a shortage of tradable securities. The paper also has a concern relating to cross-border transactions legal restrictions on foreign ownership, availability of custodian banks, security of settlement infrastructure and conformity with international standard.³³ The paper explored that Africa has created some multinational capital markets based on common currency which have avoided the issue of competition and avoided the constraint for cross-border exchanges. It stated that regulation is fundamentally important for the success of capital markets. However, the report didn't address the future potential of Ethiopia's market in international capital market transactions as well as in regulating of the market accordingly.

Celia Becker, in her article "*Attractiveness of African Stock Markets for Foreign Investors: An Analytical Perspective*"³⁴ examined various challenges faced by African stock markets which diminish their visibility foreign investors and assessed regional integration as a solution. Africa stock markets are obstructed by low intra-African trade and insufficient infrastructure. While African Continental Free Trade Area (AfCFTA) provided a concrete foundation for economic integration. The writer pointed out African countries needs to allocate more resources for an effective implementation AfCFTA and assure enhanced intra-Africa trade to improve in making its stock markets more attractive to foreign investors.³⁵ The writer recommend that regionalization of Africa stock markets requires to facilitate the mobilization of domestic and international financial resources through injecting liquidity towards the market.³⁶ The development of African capital markets is not for the sole reason of enhancing investment in local exchanges but also facilitate trade across the continent and mitigate non-tariff trade barriers.³⁷

Celia Becker also highlighted that the African stock markets have been attributed by weak regulation which has a fundamental impact in building trust of both local and international portfolio investors. The paper confirms that quality regulation provides a positive impact on

³² Ibid P. 9

³³ Ibid, P.14

³⁴ Celia Becker (2024), "Attractiveness of African Stock Markets for Foreign Investors: An Analytical Perspective" Available at https://www.ensafrica.com/uploads/newsarticles/0_jsoc%20becker.pdf (Last visited on December 22, 2024)

³⁵ Ibid P. 385

³⁶ Ibid P. 391

³⁷ Ibid P. 392

stock market development and concludes that effective regulation of financial market builds investor confidence in the region. Her study shows that in the recent years many African stock exchanges have been improving their regulatory oversight to ensure compliance with international standards and best practices with the aim of acquiring access to expertise, resource, technical assistance to support governance reforms by African exchanges.³⁸ In this context, this paper will evaluate how Ethiopia's commitment will enhance intra-Africa trade through robust regulation of cross-border capital market trading.

In her assessment Jacqueline Irving "*Regional Integration of Stock Exchanges in Eastern and Southern Africa: Progress and Prospects*"³⁹ argues that regional integration, if managed in the right manner, it can advance the liquidity, efficiency, and competitiveness of the region's exchanges.⁴⁰ she further analyzed the possible benefits of regional integration, by pooling resources and scattered capital markets, issuers can gain large number of investors and it will help to realize accelerated economic development. Fundamentally, the regulatory harmonization of stock market regulations and trading practices can highly foster regional integration. However, for the well-functioning of the market the legal and policy harmonization should commence from the national level since it is the base for an integrated operation.⁴¹ In the context of Ethiopia, this paper will assess the need for early regulatory preparation for international trading to achieve and advance in the integration.

1.6. Methodology of the Research

In addressing the research questions, the researcher will employ both primary including legislation, policies, and semi-structured interviews, and secondary data through gathering academic journals, articles, books, press releases, reports, and publications.

Accordingly, the researcher will apply a doctrinal or library-based research methodology to provide legal analysis within the scope and context of the research. In this regard, Ethiopian laws which are related with capital markets and other relevant laws will be reviewed and analyzed to identify and address the key legal and regulatory challenges that hinder Ethiopia

³⁸ Ibid P. 387

³⁹ Jacqueline Irving (2005), "Regional Integration of Stock Exchanges in Eastern and Southern Africa: Progress and Prospects" IMF working paper, available at [Regional Integration of Stock Exchanges in Eastern and Southern Africa: Progress and Prospects -- Jacqueline Irving -- June 1, 2005 -- IMF Working Paper No. 05/122](#) (Last visited on December 26, 2024)

⁴⁰ Ibid P.4

⁴¹ Ibid P. 9

in engaging on international capital market trading. International enabling laws, including African regional frameworks on the capital market, the bilateral and multilateral agreements, will be examined for the purpose of assessing cross-border trading.

The researcher will also apply a qualitative method of research through interviews and case studies. The interview will be conducted in two phases, these are:-

Phase one: African capital market regulator and other market participants which are in best practice of applying cross-border capital market trading will be interviewed relevant questions with the aim of identifying the challenges and opportunities of international trading in the capital market. The selected capital market includes Nigeria, Morocco and Kenya. These countries have Africa's top performing stock exchanges specially in listing and cross-border trading activities.⁴² They also rank among top ten capital market in terms of market capitalization.⁴³ For the purpose of a balanced representation the researcher selected Nigeria and Morocco from the highest-ranking markets, Kenya from the mid-tier. These countries have also a robust regulatory framework in facilitating cross-border listing. They have also established a partnership agreement with Ethiopian Securities Exchange and have been working in many aspects of capital market development including capacity building, knowledge sharing and facilitation for the future cross-border listing and investment.

Following this, the second phase of interview, will be conducted in Ethiopia which considers both the public and private sectors such as the Ethiopian Capital Market Authority (ECMA), Ethiopian Securities Exchange (ESX) other relevant market participants and service providers.

To identify the best practice in successfully implementing cross-border trading within the continent of Africa the researcher will conduct a case study in countries of Africa such as Morocco, Nigeria, and Kenya. These countries are selected for their potential in cross border capital market trading and as they will be the future partner of Ethiopia's capital market.

⁴² Available at <https://africanexchangeslink.com/about-aelp/> (Last visited at February 20, 2025)

⁴³ Available at <https://dabafinance.com/en/learn/blogs/the-largest-stock-exchanges-in-africa-by-market-capitalization> (Last visited at February 20, 2025)

1.7. Significance of the Research

As there is no research undertaken regarding regulatory framework of intra-Africa capital market trading in the case of Ethiopia, this research will serve as an input for both policy and law makers in the sector of capital market. By assessing potential regulatory challenges, the study will recommend the need for the formulation of an efficient regulatory system of international capital market trading.

As Ethiopia has huge potential in terms of economic resource, all economic and financial transactions within the continent under the capital market regional arrangements and bilateral trading arrangements need to be governed in a clear and organized regulatory framework, to achieve a transformative and competitive change in the market. In this regard, the study will help both the Ethiopian Capital Market Authority (ECMA) and the other market participants. Specifically, the Ethiopian Securities Exchange (ESX) might consider my recommendations on the case of cross-border trading for eligibility requirements on listing foreign companies under its platform, through protecting the investors.

The study will also provide successful practices of other African countries' regulators in formulating their legal framework on international securities trading, and Exchanges in practice which will help the market to learn from their successes and failures.

In terms of academic significance, the findings of this research will serve as a reference to undertake further studies in the law of international securities trading. Since the concept and practice of capital market is new for Ethiopia, much academic research will be demanding to address fundamental problems. The researcher believes that now is the time to create significant awareness for the public about the concept of capital markets in general, and specifically the case of regulating international securities trading within different regional as well as bilateral trading.

1.8. Scope of the Research

The scope of this research will be limited to assessing legal and regulatory challenges of Ethiopia in engaging in intra-African cross-border capital market trading. Accordingly, the focus will be on assessing Ethiopia's capital market laws regarding international capital market trading vis-à-vis other African countries that have a successful model and experience in regulating international securities trading.

1.9. Limitation of the Research

In the process of conducting the research, even if there are foreign journals, articles, and other relevant resources, there will be lack of domestic related literature which are conducted in the capital market, specifically in the regulation of international or cross-border securities trading. As a result, a major reliance will be based on foreign literature.

The researcher requires documentary data to know the details on how they regulate cross-border trading. However, accessing that document due to confidentiality and other issues will be challenging.

Time will be another critical problem, there is a short schedule to submit the final research work, which will be a fundamental constraint in undertaking of the thesis.

1.10. Organization of the Research

This thesis is divided into four sections. Chapter one is an introduction that proposes how the research is going to be conducted. The second chapter is about the conceptual and legal framework of international capital market trading: Best Practices in Africa. The third chapter is about the legal and regulatory challenges and economic benefits of cross-border capital market trading in Ethiopia. Finally, chapter four will be about conclusions and recommendations.

Chapter Two

2. Conceptual and Legal Framework of International Capital Market Trading: Best Practices in Africa

2.1. The Conceptual Framework of International Capital Market Trading

2.1.1. International Capital Market Integration

International economic integration is the mechanism through which financial markets become closer to each other beyond national borders.⁴⁴ An international treaty is one of the mechanisms of enforcement of financial integration. These treaties promote a cooperative policy response, the elimination of restrictions on the financial operation of cross-border trading by the members, and the harmonization of the regulation of the financial system.⁴⁵

In the context of the capital market, financial integration occurs when companies or governments issue bonds and equities across multiple jurisdictions. The issuers are required to pay not only the principal but also interest to the bondholders, and dividends or other benefits to shareholders.⁴⁶ However, there might be barriers to financial integrations such as exchange rate fluctuations, differential taxes, differences in regulation and enforcement, and entry barriers that might arise from asymmetric information.⁴⁷

Integrated cross-border trading of securities enables firms from less financially developed nations to access more finance through the listing of their financial instruments in foreign stock exchanges.⁴⁸

When individuals have more access to the international capital markets, businesses are more incentivized to adjust their investment expenditures in response to fluctuations in the

⁴⁴ N.W. Ho (2009), "Financial Integration: Concepts and Impacts," P.71, available at <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=2b10ac5f8c61151cc8f761d126587cd203f93b8b> (Last visited on March 12, 2025)

⁴⁵ Ibid

⁴⁶ Tullio Jappelli and Marco Pagano (2008), "Financial Market Integration under EMU," P. 4, available at https://ec.europa.eu/economy_finance/publications/pages/publication12323_en.pdf (Last visited on March 12, 2025)

⁴⁷ Ibid

⁴⁸ Ibid P. 7

marginal productivity of capital, as investors can better maintain stable consumption despite variations in dividends.⁴⁹

2.1.2. The Trend of the International Capital Market

The capital market serves as both an engine and a barometer of the economy. This market demands a network of specialized financial institutions, mechanisms, procedures, infrastructures, and regulations with the aim of creating a bridging facility between the suppliers of the funds and users of the capital.⁵⁰

Between 1989 and 1990, the international capital market experienced a fundamental shift from a stable macroeconomic environment to a period of significant instability. The main reason was the uncertainty of the economy due to different factors such as inflation and recession, which led to a narrow contraction of capital market activities.⁵¹

Major geopolitical events, such as German unification, political changes in Eastern Europe, and the turmoil of the Middle East, highly affect the global economy. Specifically, the value of equity and real estate prices weakened substantially during this period. However, in 1990 an increase in capacity utilization and rising energy prices led to heightened demand for funds, which were related to structural reforms in Eastern Europe and the unified Germany.⁵²

Since 1990, the international capital markets have continued to develop because of the increase in the cost of funds. The central element in market coordination and cooperation efforts and regulation, and supervision has been developed, while it was important to consider and safeguard the excessive concentration of risks.⁵³

⁴⁹ Martin D.D Evans and Viktoria V. Hnatkovska (2007), “International Financial Integration and Real Economy” P. 222 available at <https://www.imf.org/external/pubs/ft/staffp/2007/02/pdf/evans.pdf> (Last visited on March 12, 2025)

⁵⁰ Dhan Raj Chalise (2021), “Secondary Capital Market of Nepal: Assessing the Relationship Between Share Transaction and NEPSE Index” P. 55 available at https://www.researchgate.net/publication/351477084_Capital_Market?enrichId=rgreq-9cb88009462be5098ae09b422bb252f8-XXX&enrichSource=Y292ZXJQYWdlOzM1MTQ3NzA4NDtBUzoxMDIyMTI5MzExMDcyMjU2QDE2MjA3MDYwMjY0MjU%3D&el=1_x_2&esc=publicationCoverPdf (Last visited on March 1, 2025)

⁵¹ Alessandro Leipold and his staffs (May 1991) “ International Capital Market Developments and Prospects” P. 1 available at <https://doi.org/10.5089/9781451941920.083> (Last visited on March 8, 2025)

⁵² Ibid

⁵³ Ibid P. 35

As part of the trend towards globalization, many countries opened their financial markets for foreign investments.⁵⁴ During the 2000s, the Canadian and Indian companies were active in cross-listings, and over time, the United States of America appears to be a dominant host market in attracting foreign shares, which are followed by Luxembourg and the UK.⁵⁵ Following that, the international capital market has expanded significantly in scale, accessibility, and complexity.

2.1.3. The Rationale for Cross-Border Listing of Securities

As a response to the globalization trend, the issuance of equities by the company beyond the domestic market has become enhanced with the objective of raising capital. The natural way for cross-border equity financing is through listing by introduction.⁵⁶ Cross-border listing has a host of various advantages, such as enlarging the investor base, enhancing local market trading of equities, and the opportunity to raise new capital. There is also the advantage of creating liquidity in the secondary market, even if there are supplementary requirements such as reporting costs, registration, and listing fees. The international equity market diversification is understood as a means of improving portfolio returns and risk reduction.⁵⁷

Cross-border listing creates the opportunity for companies to enhance the awareness of the investors and to widen the investor base than trading in a limited market.⁵⁸ The cross-border listing brings a way of high profitability, enhanced liquidity, lower gearing ratio, and higher investor valuation.⁵⁹ Further cross-listing promotes regional integration in the capital market.⁶⁰

Cross-border listing has various advantages, including creating the opportunity for companies to acquire more exposure and access to more capital. It provides a framework for companies

⁵⁴ See Hali Edison and Francis E., *Supra* note 3, P. 7 (Last visited on March 8, 2025)

⁵⁵ Sergei Sarkissian and Michael J.Schill (2010), “Cross-Listing Waves” P. 2 available at https://mpra.ub.uni-muenchen.de/27545/1/MPRA_paper_27545.pdf (Last visited on March 8, 2025)

⁵⁶ Andrew Karolyi (1996), “What Happens to Stocks that List Shares Abroad?” P. 2 available at <https://papers.ssrn.com/sol3/Delivery.cfm/9611102.pdf?abstractid=1612&mirid=1> (Last visited on March 8, 2025)

⁵⁷ *Ibid*, P. 27

⁵⁸ Kariuki J.W (2015), “Effect of Cross-Border Listing on Financial Performance of Companies Cross-Listed within the East Africa Securities Exchanges” P. 2 available at <https://erepository.uonbi.ac.ke/bitstream/handle/11295/94482/JOANKARIUKI-THESISFINAL.pdf?sequence=1> (Last visited on Ma

⁵⁹ *Ibid*, P. 42

⁶⁰ *Ibid*, P. 44

to improve the structure of corporate governance and reputation on companies' public profiles.⁶¹

The enforcement of international cooperation in cross-border cases commenced through the signing of a bilateral memorandum of understanding, which is a non-binding and soft law.⁶² In some cases, changes to laws or regulations are necessary before countries sign a memorandum of understanding (MoU).⁶³

Besides bilateral arrangements, there is also a means of regional integration of a stock market that can be achieved through avoiding barriers to the capital flow on a regional basis.⁶⁴ Economic integration through trading improves ties between states, and foreign investment becomes stronger on a regional basis. When there is persistent continuation, the next centuries will become a time for regionalism rather than globalization.⁶⁵

2.2. International Trading Framework for the Emerging Capital Market

Compared with the developed markets, emerging capital markets have varied significantly from one jurisdiction to another. These markets face fundamental challenges, which include low liquidity, high volatility, a lack of institutional setting and regulatory framework, the absence of a benchmark yield curve, fewer traded instruments, a narrow investor base, limited transparency, and insufficient regulatory oversight

In addressing these gaps, the developing capital markets must develop certain reforms for different contexts as a precondition. The establishment of a strong macroeconomic environment, low inflation, robust fiscal policies, and a sound legal and institutional framework is a foundational basis to establish a strong capital market. The protection of investors, ensuring market fairness, transparency, efficiency, and risk reduction are the core principles of the international capital market.⁶⁶

⁶¹ Available at <https://corporatefinanceinstitute.com/resources/equities/cross-border-listing/> (Last visited on March 8, 2025)

⁶² Roger Silvers (2019), "Cross-border cooperation Between Securities Regulator" P. 7 available at <https://ssrn.com/abstract=3381887> (Last visited on March 8, 2025)

⁶³ Ibid, P. 9

⁶⁴ Richard Heaney, Martin Jaugietis and Vincent J. Hooper (2000), "Regional Integration of National Stock Markets" P. 4 available at https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID253000_code001218130.pdf?abstractid=253000&mirid=1 (Last visited on March 8, 2025)

⁶⁵ Ibid, P.10

⁶⁶ Ibid

Building high levels of trust and confidence in the cross-border capital market can serve as the main motive for retail and institutional investors. There is also a growing need for an interconnected legal framework that is developed by securities market regulators. The multilateral memorandum of understanding concerning consultation and cooperation is an instrument used by the regulator with the objective of strengthening the capital market throughout the world. Therefore, jurisdictions shall establish national and international cooperation mechanisms by considering various enabling environments both legally and technically.⁶⁷

The technological framework establishes a platform for securities trading from anywhere in the international market. Nevertheless, Cross-border trading poses challenges for regulatory monitoring and enforcement, especially for emerging markets. Accordingly, the regulator in the emerging market must be in a better position to the extent of the transactions of cross-border trading. Legislation, cooperation, and all other conduct shall aim to protect the interests of investors and protect or minimize potential risks.⁶⁸

Globally, there has been growing demand for issuers and investors towards a cross-border capital market. Domestic capital market service providers or market intermediaries now have digital access to foreign markets due to an advanced technological platform.⁶⁹

The types of securities traded internationally include, but are not limited to, shares, fixed income securities, compensatory means of payment, and investment bills. Ordinary bonds, derivative products (futures, options, commodity contracts), collective investment, warrants, depository receipts, and beneficiary certificates.⁷⁰

However, in many emerging capital markets, the regulatory framework governing cross-border trading remains minimal and inefficient. Strict foreign exchange controls, narrow and illiquid market, and underdeveloped automation and development in the field of communication and information technology for cross-border trading continue to impede

⁶⁷ Ibid

⁶⁸ Report of the Emerging Markets Committee of the International Organization of Securities Commissions (2005), "Market Intermediaries in Emerging Markets," P. 3, available at <https://www.iosco.org/library/pubdocs/pdf/ioscopd193.pdf> (Last visited on March 15, 2025)

⁶⁹ Ibid P. 5

⁷⁰ Ibid

international trading. Therefore, to develop cross-border capital market trading, these problems need to be addressed.⁷¹

The emerging market should consider developing the regulatory culture of cross-border securities trading before it opens the market for foreign service providers. There are risks of fraud, money laundering, and market manipulation if the entrance of foreign intermediaries is not regulated by the authorities of domestic and emerging markets. There needs to be established disclosure requirements with the objective of meeting the minimum requirements in the process of licensing and registration of market intermediaries.⁷²

Intermediate companies like investment banks, securities dealers, and securities brokers are either subject to the same regulations or have diverse regulatory requirements in other jurisdictions. Countries can use the IOSCO platform to acquire sufficient information concerning regulatory requirements and legal frameworks.⁷³

2.3. Regional Capital Market Integration in Africa

An assessment of the financial performance of African Stock markets reveals that, with few exceptions, many remain inefficient and illiquid. Therefore, it has resulted in having a limited economic impact on the financial sector. The most common recommendation to address these challenges is to promote regional integration or to establish stronger national stock markets on a regional basis. Accordingly, there have been notable incentives towards the establishment of integration and cooperation in West Africa, East Africa, Central Africa, and Southern Africa. However, due to different technical, legal, and institutional factors, the progress is limited.⁷⁴

With the exception of South Africa, the potential capital markets were small when they were measured by world standards. Nevertheless, in recent years, many markets have been experienced a rapid growth in terms of capitalization and overall performance. This positive trend is attributed to ongoing economic reforms, the strengthening of the role of the private sectors, which encourage the public companies to be privatized and opened for the listing of

⁷¹ Ibid P. 8-9

⁷² Ibid

⁷³ Ibid P. 13

⁷⁴ Keith Jefferis and Kennedy Mbekeani (2002) "Laws, Institutions and Capital Markets Integrations" P. 115 available at https://www.oecd.org/content/dam/oecd/en/publications/reports/2002/04/regional-integration-in-africa_g1gh29ab/9789264194427-en.pdf (Last visited on March 15, 2025)

shares in the stock market. Despite these advancements, liquidity challenges persist across most markets.⁷⁵

The regional integration of stock markets is the fundamental mechanism for addressing the challenges of size and liquidity. It must be noted that improving liquidity establishes the efficiency of the pricing process and stock portfolio diversification to reduce risks by reaching the international market beyond the national scope. Increased cross-border capital flows improve trading capacity and investment potential. Due to a standardized legal requirement, such as accounting rules, listing requirements, and other disclosure obligations, the establishment of the integrated market creates a strong economic basis and growth.⁷⁶

The Southern African Development Community (SADC) stock exchanges adopted common rules and requirements for cross-listing as a regional integration initiative by the SADC Stock Exchange Committee (SADSEC). The members of these arrangements are Botswana, Lesotho, Mauritius, Namibia, South Africa, Zambia, and Zimbabwe. The first fully organized regional stock exchange was the Bourse Régionale des Valeurs Mobilières (BRVM), established in Abidjan in 1998 based on the old Côte d'Ivoire exchange. Similarly, East Africa's Securities Exchange Association and African Securities Exchanges Association were also established. The Central Africa, the UDEAC members are Cameroon, CAR, Chad, Congo, and Equatorial Guinea.⁷⁷

As African stock markets have been getting enlarged and widened from time to time as a recent phenomenon, there has also been a march towards regional integration among the exchanges.⁷⁸ Therefore, the development of African capital markets is important to mobilize more financial resources on a regional basis. In this case, the standardization requirements under the regionalization always aim to meet the international requirements.⁷⁹

⁷⁵ Ibid P. 116-118

⁷⁶ Ibid P. 127

⁷⁷ Ibid

⁷⁸ Dr. Sally Farid (2013) "Financial Integration in African Emerging Markets" P. 6 available at https://archive.uneca.org/sites/default/files/uploaded-documents/AEC/2013/financial_integration_in_african_emerging_markets.pdf (Last visited on March 15, 2025)

⁷⁹ Ibid P. 17

Given the rapid growth of international financial transactions, the establishment of regional blocs leads to the enhancement of the performance of the economy of the African region.⁸⁰ In order to successfully achieve the Sustainable Development Goals, Africa should be open to foreign direct investment and should improve the macroeconomic environment.⁸¹

2.4. Selected Experience in Legal and Practical Framework of Africa's International Capital Market Trading

As the best experiences in Africa, Kenya, Nigeria, and Morocco's capital markets provide an important lesson on how the international capital market trading is regulated and practiced. Their experiences offer important lessons for strengthening cross-border investment, enhancing regulatory adherence, and promoting regional financial integrations of the capital market.

2.4.1. Kenya's Capital Market

The Nairobi Securities Exchange (NSE) was established in 1954, serving as Kenya's principal stock exchange. In 1989, the Kenyan Capital Market Authority (CMA), which is a regulatory body of the market, was created with the objective of achieving an orderly, fair, and efficient market in Kenya. CMA is responsible for licensing service providers and other relevant market participants, supervises the market intermediaries, executes both on-site and off-site market surveillance, enforces compliance through a regulatory instrument, and promotes market integrity and investor protection.⁸²

In 1997, the capital market regulatory authorities of Kenya, Tanzania, and Uganda signed a Memorandum of Understanding (MoU) and established the East African Member States Securities Regulatory Authority (EASRA). EASRA aimed at the integration of the stock markets in the region. The important elements of the treaty were to provide harmonization of policies and regulatory framework, and strengthen cooperation through cross-border listing and trading of securities. In 2000, a Joint Stock Exchange Task Force on cross-border listing

⁸⁰ Nicholas Biekpe (2000) "The Impact of Regionalization in the African Capital Markets Sector and the Mobilization of Foreign Capital for Sustainable Development" P. 165 available at <https://www.un.org/esa/sustdev/documents/08beik.PDF> (Last visited on March 15, 2025)

⁸¹ Ibid

⁸² Okoyo Kemmeth Onyango (2012) "Assessing the Role of the Capital Markets as an Engine for Economic Growth in Kenya" P. 5 available at https://erepository.uonbi.ac.ke/bitstream/handle/11295/96788/Okoyo_%20Assessing%20The%20Role%20Of%20The%20Capital%20Markets%20As%20An%20Engine%20For%20Economic%20Growth%20In%20Kenya.pdf?sequence=1&isAllowed=y (Last visited on March 22, 2025)

within the East African Community was established by Uganda (USE), Tanzania (DSE), and Kenya (NSE). This initiative was further supported by the establishment of the East African Stock Exchanges Association (EASEA) and the involvement of Common Market for Eastern and Southern Africa (COMESA), aiming to enhance regional linkage through harmonization regulatory framework for listing requirements and market practices.⁸³

As a result of this integration effort, in 2019, there were eight cross-listed companies at the NSE, Kenya. The Uchumi, Kenya Commercial Bank (KCB), National Media Group (NMG), Equity Bank, and Centum Investment have cross-listed at the Rwanda Securities Exchange (RSE), Uganda Securities Exchange, and Dar-es Salaam Securities Exchange. Besides this the Kenya Airways was cross-listed at Dar es Salaam Securities Exchange, and East Africa Breweries are also cross-listed at the Ugandan Securities Exchange.⁸⁴

2.4.1.1. The Regulatory Framework of Kenya's Cross-Border Capital Market Trading

A. The Capital Markets Act: Chapter 485A

The Capital Markets Act establishes the Capital Markets Authority (CMA) to develop and regulate Kenya's capital markets.⁸⁵ The CMA collaborates with other regulatory authorities to promote cross-border capital market Authorities,⁸⁶ and enforces rules set by the Cabinet Secretary for foreign investor participation.⁸⁷

B. Capital Markets (Public Offers, Listings and Disclosures) Regulations

This regulation governs cross-border listing and dual listing of securities in Kenya. Cross-listing refers to the listing of securities already traded on a foreign exchange,⁸⁸ while dual-

⁸³ Samuel O. Onyuma (2012) "Paradigm Shift in Stock Exchanges: Automation, Competition, Governance, Integration and Regulation of Stock Markets" P. 106-107 available at https://scholar.google.com/citations?view_op=view_citation&hl=en&user=2mJW-x4AAAAJ&citation_for_view=2mJW-x4AAAAJ:kc_bZDykSQC (Last visited on March 22, 2025)

⁸⁴ Beatrice Njuhi Wainaina (2022) "Cross-Border Listing Announcements and Stock Returns of Firms Listed at Nairobi Securities Exchange, Kenya" P. 7-8 available at <https://ir-library.ku.ac.ke/server/api/core/bitstreams/f42f22c3-a5dd-452b-bd52-11ae490fb47b/content> (Last visited on March 22, 2025)

⁸⁵ The Republic of Kenya Capital Market Act No. 11/1, available at <https://www.cma.or.ke/download/18/acts/5077/capital-markets-act-2023.pdf> (Last visited on March 23, 2025)

⁸⁶ Id, Act No. 11/3/q

⁸⁷ Id, Act No. 12/1/e

⁸⁸ The Public Offers, Listings and Disclosures Regulations, 2023, No. 2 available at <https://www.cma.or.ke/download/34/regulations/5018/the-capital-markets-public-offers-listings-and-disclosures-regulations-2023.pdf> (Last visited on March 23, 2025)

listing requires initial listings on multiple exchanges.⁸⁹ Issuers must meet eligibility and disclosure requirements with distinct provisions for foreign entities cross-listing on Kenyan exchanges.⁹⁰ (See Annex No.1)

C. The Capital Markets (Foreign Investors) Regulations, 2002

The regulation defines issuers as entities from the East African Community (EAC) Partner States offering securities publicly.⁹¹ Foreign investors face no restrictions on shareholding post-initial public offering.⁹² Listed companies must maintain shareholder registers, and foreign investors' shares are deposited with authorized stockbrokers.⁹³ The CMA approves and registers foreign-issued securities for public offering in Kenya.⁹⁴

D. Policy Guidance Note on Global Depository Receipts (GDRs) and Global Depository Notes (GDNs) in Kenya

Issued under Section 12A of the Capital Markets Act, this guidance provides the listing, trading, and settlement of GDRs and GDNs, which represent ownership of shares or bonds in foreign-listed companies.⁹⁵ Issuers must obtain an International Securities Identification Number and comply with regulatory requirements for listing depository securities in Kenya.⁹⁶

E. Nairobi Securities Exchange Listing Rules

The NSE Listing Rule defines foreign issuers as entities incorporated outside Kenya but registered locally.⁹⁷ Cross-border listings must comply with the eligibility and disclosure

⁸⁹ Ibid g

⁹⁰ Id, no. 23/2

⁹¹ The Capital Markets (Foreign Investors) Regulations, 2002, No. 2 available at <https://www.cma.or.ke/download/34/regulations/4301/the-capital-markets-foreign-investors-regulations-2002.pdf> (Last visited on March 25, 2025)

⁹² Ibid

⁹³ Id, No 4/1

⁹⁴ Id, NO. 7/9

⁹⁵ Policy Guidance Note on Global Depository Receipts (GDRs) and Global Depository Notes (GDNs) in Kenya, 2017, No. 1 available at <https://www.cma.or.ke/download/36/policy-guidance-notes/4330/policy-guidance-note-on-global-depository-receipts-and-notes-approved-july-2017.pdf> (Last visited on March 27, 2025)

⁹⁶ Ibid, No. 2.1

⁹⁷ Nairobi Securities Exchange (NSE) Listing Rules available at <https://www.nse.co.ke/wp-content/uploads/nse-listing-rules.pdf> (Last visited on March 29, 2025)

requirements of the Main Investment Market Segment, REITs, and EFTs.⁹⁸ Foreign issuers must also ensure provisions for proxy voting at the general meeting through a Kenyan branch office.⁹⁹

2.4.1.2. *The Practice of Cross-border Securities Trading in Kenya's Capital Market*

According to Mr. Jackson Kiminje,¹⁰⁰ the current model of cross-border capital market trading in Kenya is largely based on an agency structure rather than direct market access. To invest in foreign markets like Nigeria or other parts of Africa, a Kenyan investor must engage a licensed Kenyan broker who has a bilateral corresponding partnership with a broker or intermediary in the target market. In that way, the transaction is executed by the Kenyan broker on behalf of the investor.

The same thing applies for foreign investors who wish to invest in Kenya must channel their investment through a licensed Kenyan intermediary, such as brokers or an investment banker, who will then purchase the securities on their behalf.¹⁰¹

For institutional investors, the process requires appointing both an investment banker and a custodian in Kenya. Transactions are routed through these entities to access the Kenyan market. However, Mr. Kiminje raises the importance of Kenya's participation in initiatives like the Africa Exchange Linkage Project, which facilitate direct market access. Under this model, a Kenyan stockbroker can obtain direct access to a foreign market through partnerships with a foreign service provider. For example, a Kenyan broker could send a trade order to Ethiopian market using the code of an Ethiopian licensed intermediary, thereby adhering to local regulations that require market participants to trade through licensed brokers in each respective country.¹⁰²

In terms of compliance, Kenya ensures that foreign and local investors are treated equally under the Know Your Customer (KYC) requirements. Any client, whether Kenyan or foreign, must undergo KYC verification prescribed under the trading regulations. Under international transactions, the KYC is important for anti-money laundering (AML) compliance. The

⁹⁸ Id. P.21-22

⁹⁹ Id. P. 70

¹⁰⁰ Mr. Jackson Kiminje, Business Development Lead for Retail Business Service in Nairobi Securities Exchange (NSE), Kenya, an in-person interview (Addis Ababa, Ethiopia on April 25, 2025)

¹⁰¹ Ibid

¹⁰² Ibid

stockbrokers and custodians are responsible for conducting KYC checks on all participants.¹⁰³

Mr. Kiminje further explained that funds entering the Kenyan market are subject to local regulations, not the regulations of the investor's country of origin. This standard is also applicable in other markets such as Uganda and Tanzania.

Regarding the listing of foreign companies, Kenya has laws and cross-listed companies within in East African region. These companies must comply with both the regulations of their home market and the Kenyan market. For example, a company, Umeme, cross-listed in Uganda and Kenya; when Umeme was suspended in Uganda due to regulatory issues, its trading was simultaneously suspended in Kenya.¹⁰⁴ Kenya's cross-border capital market practice is structured, strongly compliance-driven driven with local and regional regulatory cooperation.

2.4.2. Nigeria's Capital Market

The operation of the Nigerian capital market commenced following the establishment of the Central Bank in 1959, and two years later, the launch of the Lagos Stock Exchange.¹⁰⁵ The fundamental objective for the establishment of the Nigerian capital market is to mobilize long-term funds for the purpose of investment and to promote the industrial and economic transformation of the country.¹⁰⁶ The primary function of the Nigerian Capital Market is to efficiently mobilize and allocate capital for the purpose of investments.¹⁰⁷

The Nigerian Stock Exchange (NSE) was the focal point of the Nigerian Capital Market, and the Securities and Exchange Commission (SEC) is a regulatory body. To enhance efficiency, the Automated Trading System (ATS) was designed to facilitate speedy trading and clearing

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ Edward A. Arowolo (1971), "The Development of Capital Markets in Africa, with Particular Reference to Kenya and Nigeria", P. 446, available at <https://www.elibrary.imf.org/view/journals/024/1971/002/article-A006-en.pdf> (Last visited on March 29, 2025)

¹⁰⁶ Samson Ogege and John E. Ezike (2012), "The Nigerian Capital Market and Economic Development: A critical Appraisal" P. 228, available at https://www.researchgate.net/journal/International-Business-Research-1913-9012/publication/266867778_The_Nigerian_Capital_Market_and_Economic_Development_A_Critical_Appraisal/links/67728616117f340ec3e528ed/The-Nigerian-Capital-Market-and-Economic-Development-A-Critical-Appraisal.pdf?_tp=eyJjb250ZXh0Ijp7ImZpcnN0UGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19 (Last visited on March 29, 2025)

¹⁰⁷ Ibid

in the capital market. In 1999, there was a major restructuring shift to widen the functions and powers of the Nigerian Stock Exchange Commission (NSEC).¹⁰⁸

A significant transformation occurred in 2018 with the demutualization of the NSE into the Nigerian Exchange Group Public Limited Company (“NGX Group”).¹⁰⁹ Aimed at enhancing revenue generation, technological advancement, operational efficiency, and competitiveness, The Nigerian Exchange Group (NGX) has implemented various reforms to strengthen the capital market.. The NGX group operates with a corporate structure consisting of the Nigerian Exchange Limited (trading operations), NGX Regulation Limited (regulatory oversight), and NGX Real Estate Limited (property management).¹¹⁰

Nigeria and thirteen (13) other Africa’s largest economies and capital markets have established a uniform platform for trading of securities with a promised aim of promoting the free flow of investments throughout the continent of Africa.¹¹¹ Countries which involved in the first phase of the cross-border trading were South Africa (Johannesburg Stock Exchange), Egypt (The Egyptian Exchange), Kenya (Nairobi Securities Exchange), The eight West Africa countries (BRVM), Mauritius, Casablanca, Benin Burkina Faso, Guinea Bissau, Cote d’Ivoire, Mali, Niger, Senegal and Togo.¹¹² The cross-border project in which Nigeria was actively involved was named as African Exchange Linkage Project (AELP).¹¹³ The African Securities Exchanges Association Linkage Project (AELP) onboarded thirty (30) brokerage firms to facilitate cross-border trading, among which NGX is an active member.¹¹⁴

Nigeria is also a member of the West African Capital Markets Integration (WACMI).¹¹⁵ In addition, Nigeria Exchange Limited (NGX) and the Pan African Payments Settlement System (PAPSS) signed a Memorandum of Understanding (MOU) with the objective of integrating

¹⁰⁸ Id. P. 229

¹⁰⁹ Asiya Garba (2024), “Demutualization of the Nigeria Stock Exchange: Transforming the Capital Market”, P. 1, available at <https://papers.ssrn.com/sol3/Delivery.cfm/5046971.pdf?abstractid=5046971&mirid=1> (Last visited on March 29, 2025)

¹¹⁰ Ibid.

¹¹¹ Available at <https://ngxgroup.com/nigeria-south-africa-12-others-begin-cross-border-securities-trading/> (Last visited on March 29, 2025)

¹¹² Ibid

¹¹³ Available at <https://africanexchangeslink.com/> (Last visited on March 29, 2025)

¹¹⁴ Press Release of African Securities Exchange Association on April 29, 2022. Available at https://africanexchangeslink.com/wp-content/uploads/2022/05/presser20220429_African-Exchanges-Linkage-Project-onboards-30-Broker-Firms_Final.pdf (Last visited on March 31, 2025)

¹¹⁵ Available at https://www.afdb.org/sites/default/files/documents/project-related-procurement/general_procurement_notice_-_wacmi_phase_ii.pdf (Last visited on March 29, 2025)

the payment system into the capital markets, thus a cross-border securities transactions throughout Africa have been boosted.¹¹⁶

NGX is a strategic partner of the Ethiopian Securities Exchange (ESX) as one of the top institutional investors that provided huge capital into the operationalization with FSD Africa, Trade and Development Bank Group (TDB), the financial arm of the Common Market for Eastern and Southern Africa (COMESA).¹¹⁷

One of the 2022 achievements of the Nigerian Exchange Limited (NGX) and the Ghana Stock Exchange (GSE) reaffirmed their dedication to enhancing cross-border trading initiatives, aiming to boost investment flows, expand access to capital, and integrate their capital markets across the continent.¹¹⁸

2.4.2.1. The Regulatory Framework of Nigeria's Cross-Border Capital Market Trading

A. Rulebook of the Nigerian Stock Exchange (Issuers' Rules): Cross-Border Listing Rules

The Rulebook of the Exchange defines the foreign issuer as any entity which are incorporated under the laws of a foreign jurisdiction.¹¹⁹ In addition to meeting the general listing requirements stated in the Rulebook of The Exchange, there are additional requirements that apply to every foreign issuer or those who demand a listing on The Exchange.¹²⁰ These include, but are not limited to, the decision of a foreign Issuer on its intention to have primary

¹¹⁶ Available at <https://www.westernpost.ng/cross-border-securities-payments-get-boost-as-ngx-papss-sign-mou/> (Last visited on March 31, 2025)

¹¹⁷ Available at <https://ngxgroup.com/ngx-group-announces-strategic-investment-in-ethiopian-securities-exchange/> (Last visited on March 31, 2025)

¹¹⁸ Nigerian Exchange Group Update to the Capital Market Committee on August 18, 2022. Available at <https://www.sec.gov.ng/cmc/wp-content/uploads/2022/08/220811-NGX-Group-Update-to-CMC-August-2022-003-vF.pdf> (Last visited on March 31, 2025)

¹¹⁹ Rulebook of the Nigerian Stock Exchange (Issuers Rules) on Cross-border Listing Rules. Available at <https://ngxgroup.com/ngx-download/rules-for-cross-border-listing/?wpdmdl=26423&refresh=67e99a76af7d81743362678> (Last visited on March 31, 2025)

¹²⁰ Ibid. Art. 1.0

or secondary listings, and the Issuer's decision to provide a legal opinion to The Exchange about the registration.¹²¹

According to the laws of the place of incorporation, a foreign issuer shall be duly and validly established.¹²² Additionally, the jurisdiction of the foreign issuer's incorporation must be subject to company laws and other laws and regulations that have at least equivalent standards in Nigeria, including the corporate governance.¹²³

The financial statements of the applicant shall be prepared and audited in accordance with the International Financial Reporting Standards (IFRS) or any other standards stipulated by the laws of Nigeria.¹²⁴ The issuer is also required to comply with all the Exchange's listing rules.¹²⁵

Subject to the laws of The Exchange to be specified from time to time, the foreign issuers may issue securities in the Naira or any freely convertible currency. Conversions will be executed at official foreign currency market rates, as governed by the Central Bank of Nigeria.¹²⁶

In the case of an inbound dual listing application where a foreign issuer demands a listing on the Exchange, simultaneously with its listing on another exchange, where the issuer's securities are currently not listed on any exchange, the issuer shall specify which of the exchanges will be identified as the "primary listing exchange".¹²⁷

The primary and secondary listing exchanges must establish a cross-border regulatory agreement or memorandum of understanding (MoU) to facilitate the exchange of information regarding regulatory actions affecting issuers listed on both exchanges.¹²⁸

B. Listing Rules of The Nigeria Stock Exchange: Listing of Depository Receipts

¹²¹ Ibid. Art. 1.1 and 1.2

¹²² Ibid. Art. 1.3

¹²³ Id. Art. 1.4

¹²⁴ Id. Art. 1.8

¹²⁵ Id. Art. 1.9

¹²⁶ Id. Art. 7.0

¹²⁷ Id. Art. 8.0

¹²⁸ Id. Art. 10.0

The law deals with the listing requirements relating to Depository Receipts on general eligibility, disclosure, and continuous obligations requirements.¹²⁹ The underlying entity is required to be duly incorporated under the laws of its jurisdiction.¹³⁰ It shall have its primary listing on another exchange and shall be listed on an exchange that is admissible to the exchange.¹³¹

The underlying entity is also expected to acquire all necessary approvals or exemptions as applicable from the relevant authorities in the country of its incorporation.¹³² During the proposed DR listing the Underlying Entity is required to be sufficiently liquid in order to assure an efficient price formation in the secondary market.¹³³

The financial instruments or securities that represent the DRs shall already be listed or concurrently listed in a foreign exchange and be subject to the listing rules of the home country.¹³⁴ The DRs which are subject to listing shall be freely transferable securities, conform to the Nigerian law, and be eligible for deposit in an electronic clearing and settlement system.¹³⁵

The application for listing shall be submitted by the issuer by filling in the form provided by The Exchange, two copies of the listing documents, a copy of the Depository Agreement, and the undertaking by the Depository to comply with all obligations imposed by the rules of The Exchange and the terms and conditions as applicable.¹³⁶

2.4.2.2. *The Practice of Cross-border Securities Trading in Nigeria's Capital Market*

In an interview conducted with Mr. Shamsudeen Tukur,¹³⁷ various important insights were shared regarding the practical applicability of cross-border capital market trading within the context of Nigeria. Shamsudeen explained that in the process of buying and selling securities,

¹²⁹ Listing Rules of the Nigerian Stock Exchange; Listing of Depository Receipts, p. 1, available at https://ngxgroup.com/ngx-download/rules-for-listing-of-nigerian-depository-receipts/?wpdm_dl=26408&refresh=67ed4f4d3d7771743605581&ind=1605122691160&filename=Rules%20for%20Listing%20of%20Nigerian%20Depository%20Receipts.pdf (last visited on April 2, 2025)

¹³⁰ Ibid. Art. 2/a

¹³¹ Ibid,

¹³² Id. Art. 2/b

¹³³ Ibid

¹³⁴ Ibid. Art. 5/a

¹³⁵ Ibid Art. 6/a

¹³⁶ Ibid Art. 7/a

¹³⁷ Shamsudeen Tukur, Manager, Financial Standards and Corporate Governance Department, Securities and Exchange Commission, Nigeria, a virtual *interview via Microsoft Teams* (Addis Ababa, Ethiopia, and Legos, Nigeria, on April 4, 2025)

the investor is not required to be physically present in Nigeria to invest in the securities listed on NGX. Similarly, if someone want to buy the securities listed on the Ethiopian Securities Exchange, the investor may not be required to be in Ethiopia. Investors can use the broker to acquire those securities, and the settlement process will proceed accordingly. In the case of selling securities, the investor shall fill the sell order then the broker will execute in accordance with the interest of the investor.

Mr. Shamsudeen further explained that the issue of clearing, and settlement is a very important aspect of cross-border securities trading because the participants are dealing with different currencies. In Nigeria, there are two depositories, such as the Central Securities Clearing System (CSCS) and the FMB2 Depository. The former one deals with equities. For the existence of an efficient clearing system, there must be a linkage between depositories, because before securities are traded, it has to be deposited in custody. If the Ethiopian CSD has a linkage with the Nigerian CSCS, then the Nigerian CSC will open an account for the Ethiopian where those securities are deposited. In that case, the Ethiopian CSD will not deposit those securities into the account of the Ethiopian broker and investor.

It is emphasized that there must be a linkage called interoperability of CSD, then there should be an efficient settlement system, especially in terms of forex, in the case of dealing with multiple currencies. For example, the African Exchange Linkage Project and the African Export-Import Bank created PAPSS, which is the pan-African payment and settlement system which is an infrastructure that enables central banks of different African countries to efficiently settle transactions between multiple currencies. In Nigeria, there was a challenge with accessing foreign currency at the official rate, but with the recent policy changes, some of the problems have been addressed. Therefore, having a seamless settlement is important to be efficient in cross-border securities trading.¹³⁸

Various mechanisms ensure legal compliance in cross-border trading. Domestic regulators set procedures to ensure compliance and coordinate with other regulators. For example, Nigeria has a Memorandum of Understanding (MoU) with Ghana. Brokers and issuers such as Nigeria's ETI, listed on multiple exchanges, must comply with the regulations of all relevant jurisdictions. Disclosure requirements also necessitate adherence to each regulator.

¹³⁸ Ibid

Accordingly, legal harmonization is important to avoid overburdening the market participants.¹³⁹

Equities and bonds are subject to cross-listing in the Nigerian cross-border market. Such as Eurobonds, which a sovereign bonds issued by the federal government of Nigeria. These are traded both in the national and international markets. Nigeria facilitates trading through depository receipts. Such as Trust Bank that has a Global Depository Receipt (GDR) listing on both the London Stock Exchange (LSE), UK, and the Nigerian Exchange (NGX), as well as the depository receipt of Citibank, also listed on both exchanges.¹⁴⁰

Regarding liquidity, Mr. Shamsudeen, noted that sovereign bonds are highly liquid, as are equities in banks and other large companies such as MTS and Airtel. However, there is no lower liquidity in smaller companies.

Accordingly, the cross-border capital market trading in Nigeria is feasible, and there are fundamental factors for success, including the implementation of interoperability between CSDs of different countries. The introduction of PAPSS addressed currency conversion challenges, and the regulatory harmonization ensures legal compliance.

2.4.3. Morocco's Capital Market

The financial system of Morocco is well developed due to the implementation of reforms to liberalize the economy since the 1990s. The Casablanca Stock Exchange (CSE) was founded in 1929, which is one of the first exchanges in the history of Africa.¹⁴¹

In October 1967, the Casablanca Stock Exchange was reestablished and was responsible for arranging efficient and persistent trading in securities.¹⁴² Practically, one of the core

¹³⁹ Ibid

¹⁴⁰ Ibid

¹⁴¹ Available at <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/24108406-FR-MOROCCO.PDF> (Last visited on April 6, 2025)

¹⁴² Andrea Calamanti (1980) "The Stock Exchange and The Securities Market in Morocco" P. 270 available at <https://www.jstor.org/stable/pdf/25829753.pdf> (Last visited on April 5, 2025)

functions of the stock exchange in Morocco was to assist companies to raise funds, which is a typical function of the primary market.¹⁴³

In 2018, the Casablanca Stock Exchange was ranked the seventh stock exchange in Africa in its performance, which had a capitalization of 51 billion euros.¹⁴⁴ The Exchange had 75 listed companies. After successive and successful reforms in 1967, 1986 and 1993, it became the center of attraction due to the improvement of technology and the quotation system.¹⁴⁵

The Autorité Marocaine du Marché des Capitaux (AMMC) translates as the Moroccan Capital Market Authority (MCMA) is a regulatory body which is responsible for overseeing and regulating the capital markets in Morocco.¹⁴⁶ The Authority is responsible for ensuring the protection of investors, creating transparency and integrity of the capital market, implement legislative and regulatory provision, ensuring compliance with laws and regulations and assist government in the regulation of the capital market.¹⁴⁷ The tradable financial instruments includes stocks, bonds, mutual funds, securitization trust and venture capital funds.¹⁴⁸

The Casablanca Stock Exchange is a member of the African Securities Exchange Association (ASEA), Sustainable Stock Exchanges Initiative (SSEI), World Federation of Exchanges (WFX), Arab Federation of Exchanges (AFE) and Association des Bourses Francophones d’Afrique (ABFA).¹⁴⁹ The Moroccan Capital Market Authority (MCMA) is the signatory of the Multilateral Memorandum of Understanding/MMU of the International Organization of Securities Commissions (IOSCO).¹⁵⁰

¹⁴³ Id. P. 271

¹⁴⁴ Wiam Zaimi (2022) “An Empirical Analysis of a Stock Market Index of a Developing Country: Case of the Main Index of the Casablanca Stock Exchange MASI” P. 2 available at https://www.researchgate.net/publication/363553765_An_Empirical_Analysis_of_a_Stock_Market_Index_of_a_Developing_Country_Case_of_the_Main_Index_of_the_Casablanca_Stock_Exchange_MASI?enrichId=rgreq-b0fc4a0bfc27987195890cced2f84938-XXX&enrichSource=Y292ZXJQYWdlOzMzMzU1Mzc2NTtBUzoXMTQzMtI4MTA4ODMyMTY4MkAxNjY1MDU0NDY1OTew&el=1_x_2&_esc=publicationCoverPdf (Last visited on April 5, 2025)

¹⁴⁵ Ibid

¹⁴⁶ Available at <https://www.ammc.ma/en/node/90> (Last visited on April 7, 2025)

¹⁴⁷ Ibid

¹⁴⁸ Ibid

¹⁴⁹ Available at <https://www.african-markets.com/en/stock-markets/bvc/about> (Last visited on April 7, 2025)

¹⁵⁰ Available at <https://www.ammc.ma/en/node/92> (Last visited on April 8, 2025)

On July 13th, 2009, in Paris, the Mediterranean Partnership of Securities Regulators (MPSR), in which Morocco was a partner, signed a cooperation agreement to create a common national regulatory framework.¹⁵¹

Since 2007, it has also been a member of the Union of Arab Securities Authorities (UASA), which has the objective of developing the Arab securities and derivatives regulators.¹⁵² With the aim of strengthening cooperation On June 24th, 2002, MCMA is a member of the Francophone Institute of Financial Regulation (IFREFI).¹⁵³

In December 2024 the Ethiopian Securities Exchange (ESX) has signed a strategic cooperation agreement with the aim of leveraging the expertise of the Casablanca Stock Exchange (CSE) and to support ESX.¹⁵⁴ On October 29, 2024, the Moroccan Capital Market Authority (AMMC) and France's Autorité des Marchés Financiers (AMF) signed a Memorandum of Understanding (MoU) to enhance cooperation and mutual assistance in capital markets.¹⁵⁵

On July 13, 2023, the Moroccan Capital Market Authority (AMMC) and Angola's Capital Market Commission (CMC) signed a Cooperation Agreement on Technical Assistance in Rabat, Morocco. This agreement aims to promote cooperation in the development of capital markets in both countries.¹⁵⁶ On February 13, 2019, the Moroccan Capital Market Authority (AMMC) and Spain's National Securities Market Commission (CNMV) signed a cooperation and mutual assistance agreement in Rabat, Morocco.¹⁵⁷

On January 24, 2018, the Moroccan Capital Market Authority (AMMC) and the Qatar Financial Markets Authority (QFMA) signed a Memorandum of Understanding (MoU) to enhance cooperation and mutual assistance in capital market regulation.¹⁵⁸ On February 17, 2017, the Moroccan Capital Market Authority (AMMC) and Ghana's Securities and

¹⁵¹ Ibid

¹⁵² Ibid

¹⁵³ Ibid

¹⁵⁴ Available at <https://www.morocoworldnews.com/2024/12/167281/morocco-ethiopia-force-alliance-for-stock-synergy-african-integration/> (Last visited on April 8, 2025)

¹⁵⁵ Available at <https://www.ammc.ma/sites/default/files/pieces-jointes/Accord%20AMMC%20AMF.pdf> (Last visited on April 8, 2025)

¹⁵⁶ Available at <https://www.ammc.ma/sites/default/files/pieces-jointes/Accord%20AMMC%20CMC%20ANGOLA.pdf> (Last visited on April 8, 2025)

¹⁵⁷ Available at <https://www.ammc.ma/sites/default/files/pieces-jointes/Accord%20Maroc-%20Espagne%20du%2013%2002%202019.pdf> (Last visited on April 8, 2025)

¹⁵⁸ <https://www.ammc.ma/sites/default/files/pieces-jointes/MOU%20QATAR%20-MAROC%2024-01-2018.pdf> (Last visited on April 8, 2025)

Exchange Commission (SEC) signed a Memorandum of Understanding (MoU) to enhance cooperation and facilitate the exchange of information between the two regulatory bodies.¹⁵⁹

On May 6, 2009, the Moroccan Capital Market Authority (AMMC) and the Egyptian Capital Market Authority (CMA) signed a Memorandum of Understanding (MoU) to enhance cooperation and facilitate the exchange of information between the two regulatory bodies.¹⁶⁰

Morocco has signed many Memoranda of Understanding (MoUs) with foreign capital market regulators, which are an important instrument for cross-border capital market trading. The AMMC membership in IOSCO, ASEA, WFE SSEI, IFREFI, and other regulatory cooperation implies Morocco's commitment to the international standards and enhanced regulatory harmonization for the cross-border securities trading.

2.4.3.1. The Law and Practice of Cross-border Securities Trading in Morocco's Capital Market

According to Mr. Rachid Haouri,¹⁶¹ Cross-border capital market trading is regulated by Moroccan authorities, particularly the Office des Changes (Foreign Exchange Office). The Office des Changes strictly regulates capital outflows. As a Moroccan resident, someone cannot freely transfer funds abroad for investment purposes unless you follow specific rules or obtain prior authorization. Accordingly, these are classified as:

1. Individual Moroccan residents are prohibited from investing abroad.
2. Moroccan investment funds are allowed to invest in foreign stock markets, but such investments are subject to strict regulations from both the Office des Changes (Foreign Exchange office) and the AMMC (Moroccan Capital Markets Authority).

In the context of cross-border capital market trading, Mr. Haouri further pointed out regarding the regulatory framework for international investments in Morocco. The key points address the types of funds allowed to invest internationally, the specific regulatory framework

¹⁵⁹ Available at https://www.ammc.ma/sites/default/files/pieces-jointes/MoU%20AMMC%20SECGhana_0.pdf (Last visited on April 8, 2025)

¹⁶⁰ Available at https://www.ammc.ma/sites/default/files/accord_echange_CDVM_EFSA.pdf (Last visited on April 8, 2025)

¹⁶¹ Mr. Rachid Haouri, Director of Trading, Listing and Corporate Actions at Casablanca Stock Exchange, Morocco, a virtual interview (Addis Ababa, Ethiopia, and Rabat, Morocco, on April 25, 2025)

for managing such investments, and the role of the Moroccan authorities in overseeing and authorizing the transactions.

- A. **Funds Allowed to Invest Internationally:** certain funds, especially diversified funds or internationally-focused UCITS (Undertaking for Collective Investment in Transferable Securities), are authorized to invest part of their assets in foreign markets.¹⁶²
- B. **Types of Funds concerned:** UCITS are the most common types of funds in Morocco. These funds may invest a portion of their assets internationally, often within a specific limit (e.g., 10% or more, depending on the fund's strategy). Furthermore, contractual or dedicated funds may be eligible for specific exceptions, especially if they are designed with an international investment strategy.¹⁶³
- C. **Regulatory Requirements:** The fund manager of any fund seeking to invest internationally must meet the regulatory requirements. These include being licensed by the AMMC, complying with the foreign exchange limits set by the Office des Changes, ensuring regular reporting to the authorities regarding foreign investments, and collaborating with a custodian bank that verifies the legality and compliance of foreign transactions.¹⁶⁴

Foreign investment in Morocco's stock market is not only allowed but also encouraged. The regulatory framework is designed to be transparent and investor-friendly, particularly to attract international capital. Both foreign individuals and institutions are free to invest in securities listed on the Casablanca Stock Exchange.¹⁶⁵

The foreign investors have access to various financial instruments such as listed stocks on the Casablanca Stock Exchange, government bonds and corporate bonds, Moroccan mutual funds (UCITS) subject to certain conditions, structured products or derivatives via approved financial entities.¹⁶⁶

The regulatory framework is further guided by the Office des Changes (Foreign Exchange Office), which sets the legal requirements. Accordingly, foreign investments must be made

¹⁶² Ibid

¹⁶³ Ibid

¹⁶⁴ Ibid

¹⁶⁵ Ibid

¹⁶⁶ Ibid

through a convertible dirham account (in foreign currency or convertible MAD) at a Moroccan bank. Profits (dividends, capital gains, interest) can be repatriated freely, as long as the investment is made through official channels. There is no need for prior authorization if funds flow through a convertible account.¹⁶⁷

There are sector-specific restrictions, some strategic sectors may impose ownership limits or require prior approval, for example, media, banking, and defense. In specific cases, if a foreign investor intends to acquire more than 33% of a listed company's shares, a declaration or authorization may be required.¹⁶⁸

Chapter Three

3. The Legal and Regulatory Aspects and Economic Benefits of Cross-border Capital Market Trading in Ethiopia

3.1. Legal and Regulatory Gaps in Ethiopia's Capital Market for International Trading

3.1.1. The Emerging Trend of the Capital Market in Ethiopia

In 2020, Ethiopia designed a homegrown economic reform agenda, and one of the macro-financial reforms was enhancing financial sector development and developing capital markets.¹⁶⁹ The reform recognized that raising funds for financing the budget from the local markets relied on the development of the capital market.¹⁷⁰ The launching of the stock exchange and a secondary bond market, in collaboration with the private sector, represents a significant achievement since it enables efficient capital mobilization, investment diversification, and private sector growth.¹⁷¹

¹⁶⁷ Ibid

¹⁶⁸ Ibid

¹⁶⁹ The 2020 Ethiopia Homegrown Economic Reform Agenda: A Pathway to Prosperity. P. 15 available at https://www.mofed.gov.et/media/filer_public/38/78/3878265a-1565-4be4-8ac9-dee9eal1f4f1a/a_homegrown_economic_reform_agenda- a_pathway_to_prosperity - public_version - march_2020-.pdf (Last visited on April 12, 2025)

¹⁷⁰ Id. P. 16

¹⁷¹ Id. P. 20

The enactment of the Ethiopian Capital Market Proclamation No. 1248/2021¹⁷² can be considered a turning point in the country's financial history. The main objective of the proclamation is to support the development of the national economy through mobilizing capital, promoting financial innovation, and sharing investment risks. It also aims to ensure fairness, integrity, and efficiency of the market, and to protect and prevent systemic risks to the country's financial system.¹⁷³

Based on the Capital Market Proclamation No. 1248/2021, relevant institutions were established, such as the Ethiopian Capital Market Authority (ECMA),¹⁷⁴ The Ethiopian Securities Exchange (ESX),¹⁷⁵ The Ethiopian Central Securities Depository (CSD),¹⁷⁶ and the capital market service providers.¹⁷⁷ Each of these institutions has its own respective roles in playing a critical role in the capital market for both domestically and in terms of cross-border financial integration, as can be learned from the experience of other African countries such as Nigeria, Morocco, and Kenya. These institutions are expected to facilitate Ethiopia's participation in cross-border capital market trading.

In addition to the establishment of institutions, there are various ECMA directives such as the Public Offering and Trading of Securities Directive No. 1030/2024, the Capital Market Service Provider Licensing and Supervision Directive No. 980/2024, and the ESX and ECSD Rulebook. These can be taken as a step towards building the foundation of the capital market in Ethiopia. However, these laws were supposed to provide detailed guidance on Ethiopia's cross-border participation, specifically in areas such as the recognition of foreign securities, cross-border listing requirements, and regulatory cooperation with foreign capital markets, as can be learned from the experience of Nigeria's capital market laws.

The legal and institutional framework does not adequately address foreign investment in the capital market. Across Africa, various regional integrations are operated through integrating their capital markets. The Kenyan's capital market can be considered the best example in allowing foreign investors and cross-border listing under detailed regulations. In contrast,

¹⁷² See Capital Market Proclamation No. 1248/2021, Available at https://www.lawethiopia.com/images/federal_proclamation/proclamations_by_number/Capital-Market-Proclamation-No.1248-2021-unlocked.pdf (Last visited on April 11, 2025)

¹⁷³ Ibid. preamble

¹⁷⁴ Ibid. Art. 3

¹⁷⁵ Ibid. Art. 31

¹⁷⁶ Ibid. Art. 39

¹⁷⁷ Ibid. Art. 55

Ethiopia lacks international MOUs for cooperation in the international capital market trading. In this regard, Morocco, through the Casablanca Stock Exchange (CSE) and the Moroccan Capital Market Authority (AMMC), can be the best example in cross-border participation. It established the regional cooperation and bilateral MoUs with many African and European exchanges and regulators, respectively. The Nigerian capital market is also highly supportive the cross-border capital flow, dual listing through MoU and regional integration.

The law of the Ethiopian capital market doesn't have sufficient procedures and rules for registering, listing, and trading of foreign securities. While there are some MoUs by which the Ethiopian Securities Exchange (ESX) has signed with the Nairobi Securities Exchange (NSE),¹⁷⁸ Casablanca Stock Exchange (CSE)¹⁷⁹ and Nigeria Exchange Group (NGX).¹⁸⁰ These are an important step towards establishing market integration. However, these MoUs alone are not sufficient to address seamless cross-border capital market trading. The effectiveness of the bilateral mutual recognition and regional cooperation depends on the existence of further enabling regulatory and legislative efforts.

3.1.2. Ethiopian Capital Market Legal Limitations on Regulating Cross-Border Securities Trading

The power of the Ethiopian Capital Market Authority emanates from the law, and it is established as a Federal Government Regulatory Authority with its juridical personality.¹⁸¹ Its primary objectives are protecting investors, ensuring a fair, orderly, and efficient capital market, reducing systemic risk, and creating an enabling environment for long-term investment.¹⁸² To undertake its mission, ECMA collaborates or establishes agreements with other regulatory bodies to oversee cross-border capital market activities and to manage systemic risks within the financial system.¹⁸³ However, the practical and effective realization of cross-border trading requires more than general cooperation clauses because further directives as an enabling law are important to identify all the steps and requirements of hosting international trade in the market.

¹⁷⁸ See Mou between Ethiopian Securities Exchange and Nairobi Securities Exchange, supra note. 20 (Last visited on April 12, 2025)

¹⁷⁹ See Mou between Ethiopian Securities Exchange and Casablanca Stock Exchange, supra note. 26 (Last visited on April 12, 2025)

¹⁸⁰ Available at <https://ngxgroup.com/ngx-group-announces-strategic-investment-in-ethiopian-securities-exchange/> (Last visited on April 12, 2025)

¹⁸¹ Capital Market Proclamation No. 1248/2021 (supra note 186) art. 3

¹⁸² Capital Market Proclamation No 1248/2021 (supra note 186) art. 5

¹⁸³ Capital Market Proclamation No 1248/2021 (supra note 186) art. 20/5

The proclamation defines investment as securities listed on a foreign securities exchange or facility.¹⁸⁴ This provision is a foundation that legally acknowledges the future cross-border operations in the Ethiopian Capital market. However, there are no sufficient directives or specific rules that provide a concrete procedure for registering foreign securities. The practical and effective cross-border requires more than general cooperative clauses.

The Authority can share information either upon request or voluntarily with regulatory bodies in or outside Ethiopia to support administrative investigations.¹⁸⁵ The information sharing is based on an agreement with a foreign counterpart or any international agreement to which Ethiopia is a party.¹⁸⁶ This is important to empower the regulatory bodies to ensure transparency, collaboration, regulatory oversight, and compliance monitoring. It seems the information sharing is conditional on the existence of agreements with other countries. Ethiopia currently lacks sufficient MoUs and a formal regional integration framework, limiting its capacity for effective cooperation in cross-border capital market regulation.

Unlike the Capital Market Authority of Kenya, Nigeria, and Morocco, the Public Offering and Trading of Securities Directive Number 1030/2024 does not sufficiently provide a procedural framework on how foreign companies are being registered in the ECMA for further listing the Ethiopia's capital market. There are no legal provisions that enable to conduct of a cross-border due diligence or regulatory review, verifying the compliance history of foreign issuers, recognizing foreign disclosure and governance standards, and ensuring reciprocity with the home jurisdiction of the issuer. Apart from Directive No. 1030/2024, there is no other directive or legal instrument which are in force to govern cross-border registration of foreign securities in Ethiopia.

The Capital Market Service Providers Licensing and Supervision Directive Number 980/2024 opens Ethiopia's capital market for foreign participants to provide capital market services, such as to be an investment bank, securities dealer, securities broker, credit rating agency, and others. Foreign entities seeking to operate in the Ethiopian capital market must fulfill the requirements of this directive. In addition, the foreign companies are required to comply with

¹⁸⁴ Capital Market Proclamation No 1248/2021 (supra note 186) art. 2/35/b

¹⁸⁵ Capital Market Proclamation No 1248/2021 (supra note 186) art. 17/3

¹⁸⁶ Capital Market Proclamation No 1248/2021 (supra note 186) art. 17/4/a

Ethiopian Investment Proclamation No. 1180/2020,¹⁸⁷ which requires them to obtain an investment permit from the Ethiopian Investment Commission. These entities are expected to facilitate cross-border capital flows, support cross-border mergers and acquisitions, and facilitate international trading in the Ethiopian capital market. The entities that help in the capital market are accessible and connected to the global market. However, to perform these roles, there are insufficient enabling regulations on cross-border transactions under the laws of the Ethiopian capital market.

According to the 2024 potential markets size estimation and projection for Ethiopia's developing capital market, one of the scenarios that is based on the proactive government measure is the creation of a conducive investment and trade which is attractive for both domestic and foreign investors. This scenario implies the presence of well-organized, transparent rules and regulations.¹⁸⁸ Establishing a broad investor base depends on a strong legal system that is inclusive and attractive not only on a national basis but also internationally.

In assessing the perspectives from the Ethiopian Capital Market Authority, Ms. Hanna Tedla,¹⁸⁹ explained that the current regulatory framework provides a two-step process for certain types of transactions, which is the offering and listing of securities as provided in the Public Offering and Trading of Securities Directive No. 1030/2024. This framework sets the basic structure for listing and trading in Ethiopia. However, with respect to international transactions such as Ethiopian companies raising funds in a foreign capital market or the listing of foreign securities in Ethiopia and vice versa, the directive does not offer regulatory guidance.

Most jurisdictions regulatory framework usually shares one commonality, which is the International Organization of Securities Commissions (IOSCO) principles. Accordingly, the Ethiopian Capital Market Proclamation No. 1248/2021 was developed based on these

¹⁸⁷ Ethiopian Investment Proclamation No. 1180/2020. Available at https://admin.theiguides.org/Media/Documents/Investment-Proclamation-No.-1180_2020-Copy.pdf (Last visited on April 13, 2025)

¹⁸⁸ Tewodros Makonnen and Getachew Ahmed (2024) "Potential Market Size Estimation and Projection for the Developing Ethiopian Capital Market" P. 27 available at <https://ecma.gov.et/download/potential-market-size-estimation-and-projection-for-the-developing-ethiopian-capital-market/?wpdmdl=3147&refresh=67fb97408be831744541504> (Last visited on April 13, 2025)

¹⁸⁹ Ms. Hanna Tedla, Senior Capital Markets Legal Advisor in the Ethiopian Capital Market Authority (ECMA), an in-person interview (Addis Ababa, Ethiopia, April 25, 2025)

principles. IOSCO has twenty-four (24) principles of securities regulation, which cover areas such as market intermediaries, trading venues, clearing and settlement, the issuance of securities and fundraising, and ongoing information disclosure. In its initial stage, Ethiopia's capital market legal and regulatory framework focuses on laying the foundation, which is reflected in the content of the proclamation from the beginning to the end.¹⁹⁰

During the drafting of the directives, the details of the IOSCO criteria were addressed across each of these areas, and best practices were incorporated. These principles serve as the foundation for harmonizing securities regulation across countries. Regulators or exchangers become IOSCO members to adhere to these standards. Therefore, in developing a regulatory framework for international securities transactions in the future, ECMA will continue to consider these principles.¹⁹¹

The IOSCO principles serve as an instrument to which Ethiopia's regulatory framework should align to build effective international cooperation mechanisms. This principle provides a common language for assessing fundamental requirements. The internationalization of the capital market requires alignment with the core principles, as they effectively serve a trust framework among jurisdictions.¹⁹²

Ms. Hanna emphasized that participating in IOSCO, engagement in regional capital market integration, and the development of Memoranda of Understanding (MoUs) between regulatory bodies are important for setting international standards.

It can therefore be inferred that Ethiopia's capital market law reflects a strategic and principle-based legislative approach aligned with international standards. However, it lacks a specific legal framework to regulate cross-border capital market transactions, this legal gap requires further regulatory development.

Ms. Florence Muchunu,¹⁹³ provided an important regional and investment-focused perspective, accordingly, the Ethiopian government should continue to pursue the policy and

¹⁹⁰ Ibid

¹⁹¹ Ibid

¹⁹² Ibid

¹⁹³ Florence Muchunu, a Senior Capital Markets Advisor in the Ethiopian Securities Exchange and Policy, Market Infrastructure and Regional Integration Experts in the African Markets, the former East Africa Securities Exchange Association (EASEA) expert, and Head of Operations of the Nairobi Securities Exchange, an in-person interview (Addis Ababa, Ethiopia on April 23, 2025)

legal reform to make Ethiopia's capital market more accessible for foreign portfolio investors from Africa. Currency is one of the major barriers. However, Ethiopia's reform of moving to a more market-determined exchange rate for the birr reduces the risk of fluctuations.

In terms of service providers, the banking sector is open to foreign ownership. In this case, the foreign-owned investment banks, fund managers, custodians, and other service providers will join the market by adhering to the regulatory requirements provided by different entities. However, the legislator should consider the tax incentive mechanisms for securities investors, both local and international.¹⁹⁴

Ms. Florence's insights are very important for the case of Ethiopia, the issue of tax may create challenges, especially for investment, because of the tax treatment. According to the Federal Income Tax Proclamation, a person who derives a gain on the disposal of a share or bond, which is referred to as a taxable asset, shall be liable to pay income tax at the of 30% and 15% respectively.¹⁹⁵ On the other hand, there are many African countries that provide capital gain tax incentives for listed securities as a fundamental aspect of tax policy. It influences investment decisions and market participation.

As an example, countries in Africa, Kenya exempts income tax on gains from the sale of securities listed on the Nairobi Securities Exchange.¹⁹⁶ The same thing applies in Botswana (for security listed on the Botswana Stock Exchange),¹⁹⁷ The Republic of Tanzania,¹⁹⁸ Rwanda,¹⁹⁹ Ghana,²⁰⁰ and other African countries. Therefore, the tax treatment of Ethiopia is

¹⁹⁴ Ibid

¹⁹⁵ See Art. 59/1 and 2 of the Federal Income Tax Proclamation No. 979/2016, available at <https://sida.aau.edu.et/index.php/download/federal-income-tax-proc-979-2008-english/#> (Last visited on April 30, 2025)

¹⁹⁶ See Act No. 3(2)(I), No., 19(7), No. 48, No.51 and No. 48, available at [https://kenyalaw.org/kl/fileadmin/pdfdownloads/Income_Tax_Act\(Cap.470\).pdf](https://kenyalaw.org/kl/fileadmin/pdfdownloads/Income_Tax_Act(Cap.470).pdf) (Last visited on April 30, 2025)

¹⁹⁷ See The Income Tax Act, available at https://www.burs.org.bw/phocadownload/Revenue_laws/CAP%2052-01%20Income%20Tax%20Act.pdf (Last visited on April 30, 2025)

¹⁹⁸ Capital gains on shares listed on the Dar es Salaam Stock Exchange are exempt for both residents and non-residents, available at <https://www.tra.go.tz/index.php/capital-gains-tax/370-capital-gain-tax-on-realization-sale-of-securities> (Last visited on April 30, 2025)

¹⁹⁹ Art. 39 exempts capital gains on the sale of listed shares on the Rwanda Stock Exchange, available at [https://www.cmsa.go.tz/uploads/publications/en-1580904899-5.1%20Fiscal%20Incentives%20toCapital%20Markets%20Investments%20\(FLIER\).pdf](https://www.cmsa.go.tz/uploads/publications/en-1580904899-5.1%20Fiscal%20Incentives%20toCapital%20Markets%20Investments%20(FLIER).pdf) (Last visited on April 30, 2025)

²⁰⁰ Section 7/1/t Capital gains from the realization of securities traded on the Ghana Stock Exchange were exempted, available at [TAX 896-INCOME TAX ACT, 2015 \(ACT 896\) AS AMENDED BY ACTS 902, 907, 915, 924, 941, 956, 967 AND 973.pdf](https://www.irs.gov/irb/2015-42/IRB2015-42-02.html) (last visited on April 30, 2025)

an important factor for investors in deciding on where to invest, because comparing jurisdictions based on exemptions is taken as a factor.

3.1.3. The Regulatory and Operational Role of the Ethiopian Securities Exchange (ESX)

The Ethiopian Securities Exchange was established by law as a share company in accordance with the Ethiopian Capital Market Proclamation.²⁰¹ ESX is responsible for monitoring, surveillance, and supervision of its members; establishing market dispute resolution mechanisms; ensuring suitable trading control mechanisms; providing equal opportunities to all system users; and designing systems and controls to enable the management of risk. Additionally, ESX provides market participants with equivalent access to market rules and operating procedures, ensures the existence of risk management, complies with the directive of the Authority, and issues rules with requirements for providing post and post-trade information.²⁰² As a self-regulatory organization (SRO), the Ethiopian Securities Exchange (ESX) has the authority to make rules relating to matters for which it has regulatory or supervisory functions.²⁰³

It was in October 2023 through a public-private partnership with a 25% share of the government of Ethiopia, the Ethiopia Investment Holding (EIH), and 75% of the private shareholding. The list of investors includes foreign investors, such as FSD Africa, the Trade and Development Bank Group (TDB), Nigeria Exchange Group (NGX). Domestic private shareholders are sixteen (16) banks, twelve (12) insurance companies, and seventeen (17) other domestic investors.²⁰⁴

On January 10, 2025, Ethiopia reached a transformative milestone in its path towards economic modernization with the official launch of the Ethiopian Securities Exchange (ESX). This development is set to transform the financial landscape through establishing a transparent, efficient, and inclusive platform for securities trading by connecting capital with opportunities.²⁰⁵

²⁰¹ Capital Market Proclamation No. 1248/2021 (supra note 186) art. 31/1)

²⁰² Capital Market Proclamation No. 1248/2021 (supra note 186) art. 36)

²⁰³ Capital Market Proclamation No. 1248/2021 (supra note 186) art. 24/1)

²⁰⁴ Available at <https://www.thereporterethiopia.com/39478/> (Last visited on April 13, 2025)

²⁰⁵ Available at <https://esx.et/financial-sector-education/> (Last visited on April 13, 2025)

With the mission to provide a modern, reliable, and transparent environment for securities trading, ESX holds regulatory and operational responsibility. It is the Rulebook of the Ethiopian Securities Exchange that governs the overall operations of the market within the scope provided by law.

The Rulebook has five (5) volumes, which include the general rules, membership rules, listing rules, trading rules and disciplinary procedures, and dispute resolution rules. The rules apply to issuers and trading members in their relationship with The Exchange, as between themselves, with other entities, and the general public.²⁰⁶

In contrast with the Public Offers, Listings and Disclosures Regulations of Kenya, Listing rules of Nigeria, and Morocco, the ESX Rulebook lacks sufficient provisions that deal with the cross-border listing of securities, the disclosure requirements, and any other detailed requirements. As a result, there is insufficient guidance for issuers that are already listed on foreign exchanges who demand to be listed on the ESX. The insufficiency of these governing provisions would create legal and operational challenges for effective regional expansion, capital mobility, and broader integration of Ethiopia's capital market.

According to the legal provisions of the Proclamation and the Directives of ECMA, the Exchange may provide from time to time the Listing Requirements with which an issuer seeking listing shall comply before its securities are listed. Additionally, the Exchange ensures conformity with applicable Ethiopian laws, securities regulations, and international best practices. These rules are not exhaustive, and the Board of Directors may add more laws subject to the approval of the Authority.²⁰⁷ It implies that the Rulebook of ESX is flexible, and the intention to ensure conformity with international best practices is easily possible.

There is a means for expanding the listing rules over time. However, it is important to note that only this provision will not be promising for specifically addressing cross-border trading

²⁰⁶ Section 1.3, Chapter one (1), Volume-A of the Rulebook of the Ethiopian Securities Exchange available at <https://esx.et/wp-content/uploads/2025/02/RULEBOOKOFTHEETHIOPIANSECURITIESEXCHANGE2024.pdf> (Last visited on April 13, 2025)

²⁰⁷ Section 2.1/1 and 2/, Chapter two (2), volume-c of the Rulebook of the Ethiopian Securities Exchange available at <https://esx.et/wp-content/uploads/2025/02/RULEBOOKOFTHEETHIOPIANSECURITIESEXCHANGE2024.pdf> (Last visited on April 13, 2025)

issues. The absence of such provisions will create a challenge for the practical applicability of the MoU signed by ESX and other relevant regional integrations.

3.2. Ethiopia’s Integration with African Capital Markets

3.2.1. Applicable Cross-Border Capital Market Mechanisms for Ethiopia in the African Context

Listing foreign companies is important for the growth and diversification of the Ethiopian capital market. However, both the rational “why” and “how” questions should be addressed. To this end, a comprehensive legal framework is important to be incorporated.

The first step is going through the registration process for the purpose of admission to trading, whether for the listing or over-the-counter (OTC) market. This process requires disclosure of information to know the details about the company. The second step concerns the application of Ethiopian Securities Exchange (ESX) listing rules on the different criteria of market segmentation.

According to the IOSCO report, there are three broad types of approaches for cross-border regulation. These include national treatment, recognition, and passporting.²⁰⁸ The national treatment provides equal regulatory mechanisms for both domestic and foreign firms within one jurisdiction.²⁰⁹ Under this, a U.S.-licensed securities broker or investment bank could be treated similarly to the European firm. On the other hand, recognition is based on minimizing duplicative regulations for firms conducting cross-border business.²¹⁰ Regulators from different jurisdictions communicate and cooperate, sharing relevant information to facilitate market access and regulatory compliance. In the case of passporting, one common rule applies to jurisdictions covered by these arrangements for a firm’s entry to operate in different markets.²¹¹ For example, a U.S prospectus may be passported into the European market under certain conditions. Ethiopia lacks a comprehensive legal and institutional framework as a result, the implementation of these mechanisms might be challenging due to the absence of a clear legal structure to engage in regional and international cooperation.

²⁰⁸ The Board of the International Organization of Securities Commissions (2019), “Market Fragmentation and Cross-border Regulation,” P. 1, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD629.pdf> (Last visited on April 13, 2025)

²⁰⁹ Ibid

²¹⁰ Ibid

²¹¹ Ibid

In the context of African markets, liquidity is important on stock markets because illiquidity causes huge losses on markets due to the volatility of stocks.²¹² As Mr. Tom Minney,²¹³ explained that capital markets perform their function when there is liquidity, which is a result of having many active (long-term and short-term) investors and a good choice of opportunities for investment. Most African capital markets do not have enough domestic investors or a sufficient number and range of quality listed companies.

As Ethiopia's Capital market is a nascently established market, the problem of liquidity and diverse market participants might potentially appear as a challenge. In this context, Mr. Minney's emphasis is not just about integration but also a pooling of scarce resources. For Ethiopia, building a domestic market is just a step process. However, sustainable growth in the capital market depends on regional integration and a clear strategy to attract both investors and issuers across Africa.

The cross-border capital market trading for Ethiopia shall be through two mechanisms: the first is the cross-border listing, and the second is by means of regional integrations. In this case, assessing the cost and benefit analysis must be conducted to create efficiency of market. Mr. Tom also expressed that these two mechanisms are also potential approaches to combine the African markets.

3.2.1.1. Dual-Listing of Securities in the African Market

The implementation of cross-border listing of securities requires a case-by-case assessment. The dual listing approach provides more listing fees for the exchanges, and it means that investors can invest under the conditions and currency of their home market. However, it imposes burdens on issuers to comply with (and pay for) different listings on different markets, and shares have to be moved from a register in one country to a register in another. The number of dual listings will be sporadic, with one or two issuers deciding whether to list on different markets. It creates considerable extra cost and some extra workload for issuers and central securities depositories.

²¹² Prince Dubois Kenfack Hikouatcha (2018), "The Determinant of Illiquidity on Emerging Stock Markets: A Comparative Analysis Between the Johannesburg Stock Exchange (JSE) and the Nigerian Stock Exchange (NSE). P. 4, Available at <https://www.scientific-society.com/journal/index.php/AF/article/download/162/170/703> (Last visited on April 1, 2025)

²¹³ Mr. Tom Minney, Expert in Financial Markets Strategy and Growth for Securities Exchanges, Business, and Investors. Former Project Manager of African Exchanges Linkage Project (AELP) from 2019-2021, an interview (Addis Ababa, Ethiopia, and London, UK on April 29, 2025)

For Ethiopia, the approach establishes an infrastructure for local companies to access a wider range of investor base through listing or raising funds in more than one established exchange. It has the benefit of enhancing visibility and attracting foreign capital towards the domestic market. It also creates the opportunity for Ethiopian investors to access securities when a reciprocal listing is applicable.

The applicability of dual listing for Ethiopia would become more feasible in case large companies like telecom and banks are subject to listing because of a relevant cost assessment. For example, if Safaricom and Ethio-Telecom are dual-listed in Ethiopia and Kenya, then it would create regional economic cooperation between the two countries. Listing of Ethio-Telecom and Safaricom, in both the Kenyan and Ethiopian markets, would increase liquidity and investor participation. Despite its importance, considering various costs to be incurred by the companies is important in realizing a fair and efficient market.

In this context, Mr. Shamsudeen,²¹⁴ argues that, in principle, the kind of regulatory harmonization provided by the host countries must allow dual listing. There should also be an approval procedure for foreign companies to be admitted to the domestic market. Example NGX, as part of the requirements seeks evidence of the company's registration. There should also be a coordinated investigation among regulators of different companies in multiple jurisdictions to combat money laundering and Combating Financial Terrorism (AML and CFT).

3.2.1.2. Regional Integrations in the African Market

This approach is a mechanism in which cross-border trading enables investors to trade across borders, i.e., facilitating that their orders and funds are transmitted to another market and executed in a manner that is as friction-free as possible. The securities are kept in the register (central securities depository, etc.) in the host market.

This allows investors in one African market to have access to all the listed companies in the other participating markets and causing a much wider variety of choice. This is the basic framework of the African Exchanges Linkage Project (AELP), where an investor in one market can use his or her stockbroker to link to a stockbroker in another market and execute a trading order there. The stockbrokers (investor home market and executing stockbrokers in the host market) are encouraged to share commission (50-50). In this way, transaction fees for

²¹⁴ Mr. Shamsudeen, virtual interview, supra note 144

investors and traders are only increased by the costs of moving funds from one market to another and back.

In this case, the Ethiopian firms will not be subject to multiple listing regimes and incur dual listing costs. The securities will remain in the local CSD. According to Mr. Shamsudeen,²¹⁵ If the Ethiopian CSD has a linkage with the Nigerian CSCS, then the Nigerian CSCS will open an account for the Ethiopian where those securities are deposited. In that case, the Ethiopian CSD will not deposit those securities into the account of the Ethiopian broker and investor. However, investors need to have full access to investment in a real-time manner in listed securities. Broker-led capital market trading would be practical through the linkage's infrastructure.

3.2.2. The African Securities Exchanges Association (ASEA) as Regional Benchmarks for Ethiopia's Capital Market Integration

There are many regional capital market integrations in Africa. However, for the purpose of benchmarking, the African Securities Exchanges Association (ASEA) stand out as the premier Association on the continent. It was established in 1993 and provides a platform for the African capital markets.²¹⁶ This regional arrangement is important for the Exchanges to enhance visibility at the international level, provide authoritative information on the African public markets, advocate for member exchanges, promote capacity building, and strategic alliances on behalf of member Exchanges.²¹⁷

Membership in ASEA is open to all securities exchanges within African region.²¹⁸ There are two types of membership: full membership, which is open for regulated exchanges, and the other is associate membership for national and international organizations.²¹⁹ The African Exchange Linkages Linkage Project (AELP) is the flagship project of the African Securities Exchanges Association.²²⁰ This project provides an order routing system among stockbrokers for cross-border securities trading, capital raising, and Initial Public Offers (IPOs), develops the capacity between Exchanges, and promotes the African listed securities.²²¹

²¹⁵ Mr. Shamsudeen, virtual interview, supra note 144

²¹⁶ Available at <https://www.african-exchanges.org/who-we-are> (Last visited May 2, 2025)

²¹⁷ Ibid

²¹⁸ Ibid

²¹⁹ Ibid

²²⁰ Available at <https://africanexchangeslink.com/> (Last visited on May 2, 2025)

²²¹ Ibid

The Ethiopian Securities Exchange (ESX), as a nascent market, will benefit by joining the ASEA to promote collaboration, market credibility, capacity development, and cross-border integration. The former AELP manager, Mr. Tom,²²² stated that the key step is to ensure that Ethiopia follows common standards in terms of listing requirements (initial and ongoing), trading rules, broker rules, capital controls, settlement processes, KYC requirements, and other aspects. ASEA and, particularly, regional organizations such as the East African Securities Exchanges Association (EASEA) are able to facilitate the sharing of information and standards. The effect of a harmonized framework is that international investors (from outside Africa as well as cross-border African investors) do not have to treat each market very differently. If they can invest in one market they can also invest in another.

Capital controls (both with regard to bringing in funds to invest into securities and for repatriating dividends, proceeds from share sales and other funds stemming from cross-border investment) are also key, and would also need to make sure all stages of the share purchase, ownership and sale transactions are as friction free as possible. A key factor in capital market development is to have a strong and fast-growing domestic funds (pension, life insurance, etc.) sector. This is another key step in the capital market development of Ethiopia.

Mr. Tom,²²³ recommended that ESX should join ASEA and ask about the criteria to be admitted as a member of the AELP. Particularly if Ethiopia progresses on membership of the East African Community (EAC), the ESX can investigate joining the East African Securities Exchanges Association (EASEA), ECMA joining the East African Securities Regulators Authority (EASRA), and joining any regional linkage programmes.

3.2.3. The Role of Pan-African Payment and Settlement System in Enabling Cross-Border Capital Market Trading

The Agreement Establishing the African Continental Free Trade Area (AfCFTA) has the objective of creating a single market for goods, services to immensely enhance economic integration of the African continent in accordance with the Pan African Vision.²²⁴

²²² Mr. Tom Minnetomy, a virtual interview supra note 227

²²³ Mr. Tom Minnetomy, a virtual interview supra note 227

²²⁴ See Art. 3/a of the Agreement Establishing the African Continental Free Trade Area, available at https://au.int/sites/default/files/treaties/36437-treaty-consolidated_text_on_cfta_-_en.pdf (last visited on May 1, 2025)

Additionally, cooperation on investment, all trade-related areas are among the specific objectives of the AfCFTA.²²⁵

The AfCFTA is one of the regional integration projects in Africa, which is large in terms of both the number of participating countries and the subject matter it covers.²²⁶ Ethiopia is among the countries that signed the AfCFTA Agreement in the Kigali Summit in 2018 and ratified it within one year.²²⁷

The Afreximbank and the AfCFTA worked on the Pan-African Payments and Settlements System (PAPSS) and deployed the system with the objective of reaching the entire continent. It was officially launched in Accra, Ghana, on January 13, 2022.²²⁸ PAPSS makes a reality on facilitating cross-border payment, which was one of the agendas of enabling trading under the African Continental Free Trade Area.²²⁹ To enable instant payment throughout the African borders in local currency, PAPSS provides three core processes such as instant payment, pre-funding, and net settlement.²³⁰

In the Instant payment, the market participants are not required to convert local currencies into hard currencies. The participants are under an obligation to guarantee funds, which is a prefunded arrangement, and then are entitled to a prompt settlement.²³¹

Clearing and settlement is one of the challenges to effectively implement cross-border capital market trading in Africa. However, African countries have been utilizing the PAPSS infrastructure, for example, on March 2, 2023, the Nigerian Exchange Limited (NGX) and the Pan African Payment and Settlement have signed a Memorandum of Understanding (MoU) to facilitate cross-border payment and settlement transactions within countries under the African Exchanges Linkage Projects (AELP).²³² About 77 banks are mainly participants

²²⁵ See. Art. 4, AfCFTA Agreement

²²⁶ Alemayhu Geda and Guta Legesse, (2022), “Ethiopia and Investment Provisions in AfCFTA: Issues and Challenges,” with inputs from Yohannes Ayele and Martha Belete P. 19, available at https://media.odi.org/documents/Ethiopia_AfCFTA_Investment_Report.pdf (last visited on May 1, 2025)

²²⁷ Ibid

²²⁸ Available at <https://papss.com/media/in-the-media/afreximbank-and-afcfta-announce-operational-roll-out-of-papss-in-the-african-review/> (Last visited on May 1, 2025)

²²⁹ Available at <https://papss.com/about-us/#about-papss> (Last visited on May 1, 2025)

²³⁰ Ibid

²³¹ Ibid

²³² Available at <https://papss.com/media/ngx-papss-to-enhance-cross-border-payments-market-liquidity/> (Last visited on May 1, 2025)

in this system.²³³ Mr. Shamsudeen,²³⁴ states that the clearing and settlement is a very important aspect of cross-border trading and the efficiency of Nigeria's cross-border capital market has dramatically enhanced because of the implementation of PAPSS.

Ethiopia's early ratification of the AfCFTA agreement is a reflection of its commitment to regional integration. However, the success and implementation are subject to infrastructure and regulatory frameworks. Cross-border capital market trading is one of the elements of achieving regional integration. In this regard, PAPSS offered a transformative solution through enabling a real-time payment in a local currency. For Ethiopia's capital market, this arrangement will reduce transaction costs and improve market liquidity.

Ethiopia may need to establish a robust securities depository, then that depository shall be under linkage with other depositories. In this case, MoUs are necessary to legally integrate with the depository of foreign countries where the country with which it intends to trade. It is the National Bank of Ethiopia plays a key role in the PAPSS infrastructure. Ethiopia's reforms on foreign exchange policy might create the availability of FX for investors who intend to invest or trade in African countries.

There might be a high amount of money sitting idle in South Africa, Nigeria, and Morocco; on the other hand, there is a good investment opportunity in Ethiopia, in this case, an efficient cross-border capital market trading enables reaching the market of African market.

3.3. Key Potential Challenges to Cross-Border Capital Market Trading for Ethiopia

International cross-border capital market trading has introduced new challenges for regulatory oversight. These include unethical market practices such as fraud, market manipulation, insider trading, and other illegal acts, which are facilitated by modern telecommunications and extending beyond national borders. This is a particular concern for

²³³ Available at https://papss.com/wp-content/uploads/2025/04/PAPSS-LIST-OF-LIVE-COMMERCIAL-BANKS_30042025.pdf (Last visited on May 1, 2025)

²³⁴ Mr. Shamsudeen Tukur, virtual interview, supra note 144

an emerging market that is more vulnerable to the negative impact of such cross-border trading.²³⁵

Ethiopia, as an emerging market, might face such challenges in the context of international cross-border capital market trading. As the legal and regulatory framework is not comprehensive regarding international securities trading, unlike more developed jurisdictions, the transaction may become problematic. It may also be vulnerable due to nascent market institutions, challenges in technology and surveillance, and a lack of international cooperation.

There are also major impediments to cross-border trading of securities, such as a challenging macroeconomic and political environment, tight foreign exchange regulations that restrict the flows of capital across borders, stock exchanges in an emerging market often lack the level of advancement and sophistication, and the absence of communication and information technology.²³⁶ The issue of high inflation, currency fluctuation, and political tensions might limit the advancement of Ethiopia's participation in the international securities market.

Money laundering is another risk in the case of cross-border securities trading,²³⁷ because funds are often moved through multiple jurisdictions. In this context, criminals may follow the process of placing, layering, and integrating the money through using loopholes. Therefore, Ethiopia shall seriously implement laws on cross-border transportation of cash and bearer negotiable instruments and other relevant provisions.²³⁸ It is very difficult to trace the original source of funds since intermediaries are involved from multiple countries, and there might be coordinated monitoring mechanisms. Accordingly, it is the Ethiopian Capital Market (ECMA) that is responsible for implementing a proactive regulatory enforcement, legal clarity, and creation of international cooperation for AML/CFT.

Cross-border capital market trading might have legal, regulatory, and systemic risks. The dispute for instance, between an investor and/or their home stockbroker and the host

²³⁵ Emerging Markets Committee of the International Organization of Securities, Report on Cross-border Activities of Market Intermediaries in Emerging Markets (2005) P. 3, available at <https://www.iosco.org/library/pubdocs/pdf/ioscopd193.pdf> (last visited on April 19, 2025)

²³⁶ Ibid. P.8 and 9

²³⁷ Ibid. P. 14

²³⁸ See Art. 3 of the Prevention and Suppression of Money Laundering and Financial Terrorism Proclamation No. 780/2013. Available at <https://nbe.gov.et/wp-content/uploads/2023/04/Money-Laundering.pdf> (Last visited on April 19, 2025)

stockbroker that cannot be resolved by discussion between the parties would require an agreed framework for dispute resolution and/or arbitration. According to Mr. Tom.²³⁹ The African Exchange Linkage Project (AELP) has developed a dispute resolution framework as a means of settlement.

Weak regulatory oversight or KYC and other compliance in one market can allow bad actors, for instance, money launderers, to use that market as an opening to reach better-regulated markets. The former manager of AELP, Mr. Tom,²⁴⁰ emphasized that the AELP has sought to study KYC and other standards across the markets with a view to building capacity and encouraging mutual support and recognition.

Payment and currency risks, including costs, funds getting lost or cross-border currency risk, plus risks of people making payments not getting the exchange rates they expected. In this regard, Ms. Hanna,²⁴¹ has pointed out that safeguarding the local investors from risks related to foreign companies is important. Accordingly, disclosure of information is the best protection method, and also, by the nature of the investment proposition, risk can be mitigated. Example Nigerian company, which is Seplat Energy,²⁴² a leading energy supplier, was well established and had good financial records, and cross-listed in the UK, the document was assessed and evaluated. One of the challenging issues was the clearing and settlement arrangement. The other risk is the risk of the flight of capital. The number of foreign investors in Kenya is primarily foreign companies as a result, they have a high risk of capital flight.

3.4. Economic Justifications and Benefits of Cross-Border Capital Market Trading for Ethiopia

Cross-border listing is important because it creates capital flows and provides access to global investors, which is valuable for emerging markets or developed countries' exchanges.²⁴³ Cross-listed companies can enhance international visibility.²⁴⁴ When Ethiopian companies are eligible to be listed in other countries, the international accessibility will be high, which will boost their productivity through branding their name.

²³⁹ Mr. Tom Minny a virtual interview supra note 227

²⁴⁰ Ibid

²⁴¹ Ms. Hanna Tedla an in person interview, supra note 203

²⁴² Available at <https://www.seplatenergy.com/> (Last visited on May 2, 2025)

²⁴³ See Hali Edison and Francis E., Supra note 3, P. 4 (Last visited on May 2, 2025)

²⁴⁴ Available at <https://www.investopedia.com/terms/c/cross-listing.asp> (Last visited on May 2, 2025)

Cross-border trading offers several advantages, such as enlarging the investor base, enhancing local market trading, creating liquidity and improving portfolio returns, and hedging risks.²⁴⁵ Accordingly, the foreign investor participation can strengthen Ethiopia's capital market and reduce over-reliance on domestic financing. The cross-border trading or linkage with regional African exchanges improves Ethiopia's capital market in terms of enhanced trading volumes and better price discovery. Liquidity improves capital allocation, reduces the cost of capital, and supports market stability. The hedging mechanism will serve to combat inflation and currency devaluation, especially for Ethiopia's developing economy.

Some people argue that, as an emerging market, Ethiopia does not yet need cross-border trading. However, there are also other arguments on whether the market is mature or emerging the fact is that cross-border trading will enable building a strong domestic market, because it gives access to a large pool of capital and access to international expertise. According to Mr. Shamsudeen, the entry of brokers to Ethiopia with thirteen (30) or fourteen (40) years of experience will definitely develop the domestic market of the country. Therefore, cross-border trading can and should be pursued in parallel with efforts to build a strong, business-friendly regulatory environment.

Assuming that Ethiopia has a good range of quality companies, smoothly functioning and transparent taxation and payments systems for dividends and repatriating proceeds from a successful investment, quality brokers, etc., then it should seek to join regional bodies such as the East African Community as well as the AELP. This would enable other African investors to participate more freely in the Ethiopian market, boosting liquidity and the opportunity for Ethiopian companies to raise capital. Mr. Tom,²⁴⁶ stated that such regional openness and standards would also encourage international investors to participate in the Ethiopian market. This would offer more potential clients for brokers, more sources of capital for issuers, and more trading activity driven by different factors, compared to the activity driving local trading.

If Ethiopia allows its domestic investors access to international investment opportunities such as securities listed on other African exchanges, this will encourage saving, ensure future flows of dividends into Ethiopia. It would also help the Ethiopian market be more

²⁴⁵ See Andrew Karolyi., Supranote3, P. 2 (Last visited on May 2, 2025)

²⁴⁶ Mr. Tom Minney, a virtual interview, supra note 227

competitive, for example, if investors dissatisfied with governance standards or pricing at home choose to invest in neighboring markets, this would create pressure on Ethiopian capital market actors to improve their governance frameworks, pricing strategies, and overall market standards.

Chapter Four

4. Conclusion and Recommendation

4.1. Conclusion

This research has assessed the significance of international financial integration and the regulatory challenges facing emerging capital markets in the context of Ethiopia. Such integration facilitates the movement of capital across borders, allowing firms in less-developed markets to access international finance and improve investment efficiency. The international experience of cross-border capital markets suggests that regulatory harmonization and cooperation mechanisms, such as multilateral integration and bilateral Memoranda of Understanding (MoU), are the fundamental instruments to enable seamless cross-border trading. However, this process requires the commitment of governments and institutions to work in fostering international trade, and yet Ethiopia's engagement in this regard is minimal.

The absence of formal membership in the regional frameworks like the African Securities Exchanges Association (ASEA), the East African Securities Exchange Association creates challenges Ethiopia's integration into the African capital markets, despite Memoranda of Understanding (MoUs) with Nairobi Securities Exchange (NSE), Nigerian Exchange Group (NGX), Casablanca Stock Exchange (CSE) and Rwanda Stock Exchange.

As part of the Home-Grown Economic Reform Agenda in 2020, the enactment of the Ethiopian Capital Market Proclamation No. 1248/2021 marked a major legislative milestone. Since then, the country has achieved significant progress in laying the institutional foundation for its capital market. This includes the establishment of the Ethiopian Capital Market Authority (ECMA), the Ethiopian Securities Exchange (ESX), the Ethiopian Central Securities Depository (ECSD), and other relevant service providers. These developments are substantial and fundamental achievements in building the necessary infrastructure for both domestic and international capital market trading. ECMA, as a regulatory authority, has enacted many directives. However, the legal and regulatory framework is not yet sufficient to address the issue of cross-border capital market trading, such as recognition of foreign securities, regulations for cross-border listings, and detailed requirements for information disclosure have yet to be adequately addressed. On the

other hand, the best experiences from Kenya, Nigeria, and Morocco can be considered as a pathway for improvement.

The analysis provides that Ethiopia's legal framework, including the Public Offering and Trading of Securities Directive No. 1030/2024 and the Capital Market Service Providers Licensing and Supervision Directive No. 980/2024, is a foundational structure for the market operations. However, there are no specific and sufficient provisions for procedural and compliance requirements for hosting and participating in international trading. Unlike Kenya, Nigeria, and Morocco, which have detailed regulations governing foreign securities registration. In this regard, the absence of rules for recognizing foreign disclosure standards, conducting due diligence on foreign issues, or establishing reciprocity with other jurisdictions impedes Ethiopia's capacity to attract foreign issuers and investors.

The regulatory and practical study of Kenya, Nigeria, and Morocco's capital markets as best practices implies the importance of harmonized regulations, regional cooperation, and efficient payment systems for successful cross-border trading. Kenya's Capital Markets Act and Public Offers Regulations facilitate cross-listing within the East African Community, supported by the East African Securities Regulatory Authority (EASRA). Nigeria's NGX leverages the African Exchanges Linkage Project (AELP) and the Pan-African Payment and Settlement System (PAPSS) to enable seamless cross-border transactions. Morocco's AMMC benefits from IOSCO membership and multiple MoUs to adhere to the international standards. These countries can be considered as best in terms of regulatory frameworks, various regional integration initiatives, improving market liquidity, attracting foreign investment, and fostering economic growth. However, Ethiopia's market has a challenge in restrictive tax law, limited institutional capacity, risk of fraud and market manipulation, and a lack of cross-border trading initiatives.

Justifying the economic benefits of cross-border capital market trading for Ethiopia is a foundational basis in addressing the need for trading as one of the objectives. Through enabling cross-listings and regional linkages, Ethiopia could expand its investor base, improve market liquidity, and reduce reliance on domestic finance. Cross-border trading also offers opportunities for Ethiopian companies to gain international visibility, access larger pools of capital, and enhance corporate governance through exposure to the global standards. Participation in the

initiative of AELP and PAPSS could lower transaction costs and mitigate currency risks to make Ethiopia's market more competitive in Africa. However, these economic benefits cannot be achieved without addressing the regulatory inadequacies and building strong institutions that are eligible for managing international securities trading.

The IOSCO principles, which guide Ethiopia's existing laws, provide a foundation for harmonizing regulations with global standards, but further directives are needed to operationalize cross-border trading. Through learning best practices from Kenya, Nigeria, Morocco, and other countries, Ethiopia has the opportunity to address regulatory gaps with its model of governing the cross-border capital market trading.

4.2. Recommendations

To facilitate Ethiopia's effective participation in intra-Africa cross-border capital market trading, the researcher provides the following actionable recommendations.

1. As a priority, the Ethiopian Capital Market Authority (ECMA) should enact specific cross-border trading directives or include the provisions in the existing directives to govern registration, listing, and trading of foreign securities on the Ethiopian Securities Exchange (ESX). Accordingly, ESX's listing rule should be amended. The directive should include eligibility criteria, disclosure requirements, due diligence processes, and compliance mechanisms for foreign issuers through learning from Kenya's Public Offers, Listings and Disclosures Regulations and Nigeria's Cross-border Listing Rules. The directive should also include procedures for recognizing foreign governance standards and conducting regulatory reviews, ensuring reciprocity with other jurisdictions by adhering to the IOSCO principles.
2. The Ethiopian Securities Exchange should be a member of the African Securities Exchange Association (ASEA) and, East African Securities Exchange Association (EASEA). ECMA should also be a member of the East African Securities Regulatory Authority and other membership arrangements on the continent of Africa. These memberships will facilitate knowledge sharing, harmonization of listing and trading standards, and participation in the AELP in the case of ASEA. ECMA should also consider becoming a member of IOSCO to adhere to global regulatory standards.

3. The national bank of Ethiopia should collaborate with Afreximbank to integrate Ethiopia's financial infrastructure with PAPSS. It creates the opportunity for enabling real-time cross-border payments in local currencies, reducing transaction costs and currency conversion risks. Establishing interoperability between the Ethiopian CSD and foreign depositories, as exemplified by Nigeria's CSCS linkage, will further enable the clearing and settlement process, improve market efficiency, and liquidity.
4. Ethiopia should revise its Federal Income Tax Proclamation to exempt capital gains tax on listed securities, like the model of Kenya and Botswana. This incentive will make Ethiopia's capital market more competitive and encourage investor participation. ECMA should work with the Ministry of Finance to design tax policies that balance revenue generation with market growth.
5. ECMA and ESX should expand their networks through MoUs with African regulators and exchanges, respectively. These agreements should also include provisions for dispute resolution and anti-money laundering (AML) compliance, as shown by Morocco's cooperation frameworks, to mitigate risks in international trading.
6. ECMA and ESX should work to promote investors' education and market awareness about the benefits and risks of cross-border capital market trading. The targets of education should be both the retail and institutional investors. Having greater market participation improves a broader investor base, enhances liquidity, and supports the long-term growth of the national capital market.

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Interviews

Mr. Jackson Kiminje, Business Development Lead for Retail Business Service in Nairobi Securities Exchange (NSE), Kenya, an in-person interview (Addis Ababa, Ethiopia on April 25, 2025)

Mr. Shamsudeen Tukur, Manager, Financial Standards and Corporate Governance Department, Securities and Exchange Commission, Nigeria, a virtual *interview via Microsoft Teams* (Addis Ababa, Ethiopia, and Legos, Nigeria, on April 4, 2025)

Mr. Rachid Haouri, Director of Trading, Listing and Corporate Actions at Casablanca Stock Exchange, Morocco, a virtual interview (Addis Ababa, Ethiopia, and Rabat, Morocco, on April 25, 2025)

Ms. Hanna Tedla, Senior Capital Markets Legal Advisor in the Ethiopian Capital Market Authority (ECMA), an in-person interview (Addis Ababa, Ethiopia, April 25, 2025)

Florence Muchunu, a Senior Capital Markets Advisor in the Ethiopian Securities Exchange and Policy, Market Infrastructure and Regional Integration Experts in the African Markets, the former East Africa Securities Exchange Association (EASEA) expert, and Head of Operations of the Nairobi Securities Exchange, an in-person interview (Addis Ababa, Ethiopia on April 23, 2025)

Mr. Tom Minney, Expert in Financial Markets Strategy and Growth for Securities Exchanges, Business, and Investors. Former Project Manager of African Exchanges Linkage Project (AELP) from 2019-2021, an interview (Addis Ababa, Ethiopia, and London, UK on April 29, 2025)

Annexes

Annex 1: Annex 1: Kenya’s CMA Exceptional Regulatory Requirements for Listing of Foreign Companies

No	Exceptional List of Requirements for Foreign Company	Content of the requirements
1	Eligibility requirements for public offering and listing of equities in the main investment market and SME market segment ²⁴⁷	
1.1	Track record, profitability and future prospectus	To listing by introduction by the issuers listed on a foreign securities exchange, it shall have been listed for a minimum of two years
1.2	Certificate of comfort	When the issuer is listed in a Securities exchange outside Kenya or is licensed or regulated by any regulator, a certificate of no objection from that foreign securities exchange and relevant regulators will be required.
2	Requirements for the issuance of regional fixed income ²⁴⁸	
2.1	Issuer	The issuer shall be an entity incorporated or registered as a foreign entity in all jurisdictions where the offer is to be made
3	Main Investment Market Segment Disclosure Requirements for Public Offerings ²⁴⁹	
3.1	Directors and employees	In the case of a foreign issuer, where the Authority considers the parent company is not adequately represented on the directorate of its subsidiaries, an explanation shall be required.

²⁴⁷ The Public Offers, Listings and Disclosures Regulations, Supera note No. 48, First schedule (r. 11(a),

(b))

²⁴⁸ Id, [r. 11(e)]

²⁴⁹ Id

Annex 2: Interview Questions Presented to Current Employees of the Nairobi Securities Exchange (NSE), Casablanca Stock Exchange (CSE), and the Nigeria Exchange Group (NGX)

1. Can you briefly explain the concept of cross-border capital market trading and elaborate on its current applicability and implementation within Morocco, Nigeria, and Kenya's regulatory and market framework?
2. What key regulatory frameworks and institutional arrangements are essential to effectively facilitate cross-border capital market trading, particularly in the context of Morocco, Nigeria, and Kenya?
3. What compliance mechanisms and supervisory tools are currently in place to ensure adherence to cross-border capital market trading regulations in Morocco, Nigeria, and Kenya?
4. Could you describe the key segments of Morocco, Nigeria, and Kenya's clearing and settlement systems, and the specific regulations that apply to cross-border capital market transactions?
5. In your view, what role does the African Continental Free Trade Area (AfCFTA) play in shaping the future of international and cross-border capital market trading across Africa?
6. Based on Morocco, Nigeria, and Kenya's experience, what key recommendations would you offer for Ethiopia to implement cross-border capital market trading? What regulatory measures should be prioritized to ensure readiness and alignment with international best practices?
7. What type of regulatory harmonization or adjustments does Morocco, Nigeria, and Kenya provide to accommodate the listing of foreign companies on their capital market? Are there specific requirements or equivalent standards applied to issuers from other jurisdictions?
8. What types of financial instruments are eligible for listing in Kenya in the context of international or cross-border capital market trading?
9. What strategic steps can Ethiopia take to attract institutional and foreign investors to its capital market once cross-border trading is operational? Based on Morocco, Nigeria, and Kenya's experience, what incentives or regulatory assurances are most effective in building investor confidence?

10. What are the challenges and opportunities for cross-border trading for an emerging market like Ethiopia?

11. How does Morocco, Nigeria, and Kenya 's capital market framework address major international market challenges, such as exchange rate fluctuations, taxation issues, information asymmetry, and regulatory differences? What measures have been implemented to mitigate these risks for cross-border investors?

12. What are your final recommendations to have an effective implementation of international capital market trading for Ethiopia?

Annex 3: Interview Questions Presented to Mr. Tom Minney, Former Manager of the Africa Exchanges Linkage Project, AELP Manager, Tom Minney

1. Could you briefly explain the concept behind cross-border capital market trading and how you see its practical applicability within the African context?
2. What key procedures or steps should Ethiopia undertake to effectively integrate into regional African capital markets, particularly through platforms like the African Securities Exchanges Association (ASEA)?
3. What are the key benefits Ethiopia stands to gain by participating in bilateral and multilateral cooperation frameworks within the African capital markets landscape?
4. Given challenges such as limited resources, low liquidity, and a small investor base and number of listed securities, how can regional stock market integration and cooperation help address these issues?
5. What are the major barriers to investing in cross-border listed securities within African capital markets?
6. Could you identify the key legal, regulatory, and systemic risks involved in cross-border securities trading, and share how such risks are mitigated or managed in your jurisdiction or through regional cooperation?
7. In your view, what specific challenges, regulatory, infrastructural, or institutional, might Ethiopia face in engaging in cross-border capital market trading, and what opportunities could this unlock for its financial sector and broader economy?

8. Following the establishment of cross-border trading, what measures—regulatory, market-based, or policy-driven—can Ethiopia implement to attract and retain institutional and foreign investors in its capital market?
9. What are your key recommendations for Ethiopia to effectively implement and regulate international capital market trading, ensuring sustainable and beneficial integration with regional and global markets?

Annex 4: Interview Questions Presented for Employees of the Ethiopian Capital Market Authority (ECMA) and THE Ethiopian Securities Exchange (ESX)

1. Ethiopia's current capital market regulatory framework does not yet adequately address international financial transactions or promote the listing of foreign companies. In your view, what factors have contributed to this gap?
2. What key considerations should ECMA and the Ethiopian Securities Exchange consider when developing future regulatory frameworks to facilitate cross-border securities trading and promote intra-African market integration?
3. Why is it important to allow foreign African companies to list in Ethiopia, and how can the country build a framework to support regional investment and market competitiveness?
4. How can Ethiopia align its capital market regulations with international cooperation principles?
5. Given Ethiopia's strategic position in Africa, how can a robust legal framework for cross-border capital market trading help unlock its potential as a regional trade and investment hub?
6. What specific policy reforms or legislative initiatives would you recommend to attract foreign portfolio investors from other African countries?
7. In your opinion, what safeguards or risk mitigation strategies should be embedded in Ethiopia's legal framework to ensure investor protection and financial stability in cross-border trades?
8. What are your key recommendations for Ethiopia to effectively implement and regulate international capital market trading, ensuring sustainable and beneficial integration with regional and global markets?

