

**23<sup>rd</sup> June 2021**

Mr. Wyckliffe Shamiah  
Chief Executive Officer  
Capital Markets Authority  
Embankment Plaza, Upper Hill  
P. O. Box 74800 – 00200  
**NAIROBI**

Dear Sir,

**RE: FORMAL RESPONSE TO THE CAPITAL MARKETS AUTHORITY'S PRESS  
RELEASE DATED 17<sup>TH</sup> JUNE 2021**

We take note of your June 17<sup>th</sup>, 2021 press release to the public and recent media statements, which are grossly misleading to both the Kenyan public and relevant policy-makers. Given the sensitivities around financial markets, we would have preferred to address these issues confidentially, but now that you have taken them into the public domain, it is only fair that we rebut your statements with documentary evidence so that the public is better informed.

**Let me start by stating that in well-functioning markets, according to World Bank data, only 40% of financing for businesses comes from banking markets, with the balance of 60% coming from capital markets; in other words, businesses and entrepreneurs have more options for funding hence they can access ample funding at a reasonable cost. However, here in Kenya businesses and entrepreneurs have to rely on banking markets for 99% of their funding with capital markets providing only 1% of funding. The consequence is that funding for businesses and entrepreneurs is hard to access, and when accessed, it is expensively priced. This outcome is not innocent or accidental, it is the outcome of stifled capital markets. The reason why the President's visionary Housing agenda has failed miserably is not due to lack of land – there is a lot of land. It is not due to lack of demand – we have a housing deficit of 2 million. It is simply due to a lack of capital markets funding. Consequently, I urge you to encourage capital markets innovation to finance businesses and grow the economy, not fight innovation.**

Now kindly allow me to clarify specific areas touched on in your press release:

1. **Private products are allowed by law:** Your statement seems to paint unregulated products in a bad light – as if they are unlawful and risky. We wish to reiterate that unregulated products are allowed by law. Kindly take note of the Capital Markets (Securities) (Public Offers, Listings, and Disclosures) Regulations, specifically

regulation 21, which detail the threshold that unregulated investment products ought to meet. **See Attachment A** for your ease of reference.

2. **Private products are not necessarily riskier:** The Authority is advancing a false narrative that unregulated products are riskier. Private offers operated by companies such as Britam, Cytonn, Nabo Capital, MyCredit, Car&General, KK Security, ASL Credit, Watu Credit, etc have performed better than some of your regulated offers such Imperial bank bond, Chase bank bond, Amana Money Market fund, Uchumi, Mumias, CMC, etc, where investors have walked away empty-handed. Both public and private offers are essential to our capital markets, let's stop demonizing private offers, which are already allowed in law.
  
3. **Cytonn High Yield Solutions, CHY-S was a name co-created together with the Authority:** As you are well aware, Cytonn Investments, the group company offers a product called Cytonn High Yield Solutions, CHY-S. Even as you try to deploy the criminal justice system as a cover-up mechanism, facts will remain stubborn so may I remind you, clearly, of the origin of this CHY-S name:
  - a. In our letter to CMA dated **February 16<sup>th</sup>, 2016** we wrote to you, Wycliffe Shamiah, and asked for a meeting "to explain our private markets business so that you may advise whether the offerings that we may conduct during our operations satisfy your stipulations of a private offering." See Page 2 of **Attachment B**.
  - b. **On April 14<sup>th</sup>, 2016**, you confirmed what constitutes a private offer vide your response wherein you said, "As you had observed, an offer will be considered a private offer if it meets any of the conditions provided". **Attachment C**
  - c. **On August 31, 2016**, you finally granted us the aforementioned request for a meeting and we met yourself including your then CEO, Paul Muthaura, and explained our business. Attached are the minutes of the meeting and the thank you note. **Attachment D1 and D2**
  - d. **In June 2018**, CMA asked that we change the name from the then Cytonn Cash Management Solutions, CCMS, to the current name, Cytonn High Yield Solutions, CHYS.
  - e. **On June 20<sup>th</sup>, 2018**, we got approval from the CHYS Board of Investors to change the name to what the Authority preferred. **Attachment E**
  - f. **On July 5, 2018**, we took out a newspaper advert in the Daily Nation, at your request, and announced to the general public that CCMS had now changed its name to CHYS. The advert read, inter alia, that **"...we have been engaging with the regulator... as part of that process, we shall be renaming Cytonn Cash Management Solutions to Cytonn High Yield Solutions, CHYS"**. **Attachment F**

As you can see above, CHYS as a private offer was vetted in detailed with the Authority under your leadership Wycliffe Shamiah as the then Director of Market Operations. The naming was co-created with the Authority under your leadership. You directed us to publish the name in a daily newspaper. We have engaged over a

6-year period. Surely, how can you then turn around and purport to the public that CHYS is an illegal operation?

4. **Cytonn is not the only Player offering unregulated products:** There are other players offering products similar to ours, hence it is very damaging to capital markets for the Authority to be seen to be treating market players differently.
5. **CHYS is not the only real estate fund that has stopped redemptions:** See attached a sample of global real estate funds that have stopped redemptions. **Attachment G**
6. **We have been open to transitioning CHYS to a regulated product:** We have been eager and willing to transition CHYS into a regulated entity for the sake of peace, but at every turn, the transition has been frustrated by the Authority.
  - a. The CHYS to CHYF transition was frustrated by your sudden change of goal posts – asking us to reduce real estate exposure in a real estate fund to a maximum of 10% stopped the transition. This left two names operating in the market, this is a creation of the Authority because you asked for the creation of the name CHYS and you asked for it to be changed to CHYF, and then changed your mind
  - b. The CHYS to DREIT was frustrated by your sudden closure of the application process.
7. **Kindly note that your press release is putting at great risk Kshs. 20 billion of investments by 30,000 Kenyans managed across various portfolios.** We deal with all the key regulators – our pensions business is regulated by RBA, our insurance brokerage is regulated by IRA, and we do engage CBK from time to time, we have never seen such unbecoming conduct by a regulator. For a regulator to put out a statement and say they are conducting a criminal probe of a market player on a matter that you have engaged with and frustrated for 6 years is tantamount to trying to shut down the player.
8. While we do not understand the intention, we request that the numerous, incessant and unnecessary harassment of the Cytonn brand ought to end. You continue to disseminate nearly quarterly briefings, which make it hard to operate, erodes investor confidence and jeopardizes investor funds.
  - a. Please be reminded that in December 2019, CMA tried to shut down our Money Market Fund with unlawful claims that we did not have a trustee, yet a fund can never be without a trustee. That caused a 30% outflow in the money market fund. The High Court found your conduct to be malicious, your sanctions unlawful and set aside your sanction letter.
  - b. In April 2020, when the board of CHYS invoked a force majeure clause, you released a statement warning investors against the Cytonn brand, the warning further strained the liquidity of all our funds. This is at a time when regulators globally were extending liquidity support and collaborating with real estate funds, yet here in Kenya you were disseminating alarmist releases

- c. In August 2020 you tried to arbitrarily change the investment allocations of CHY-F, the courts provided temporary relief and that matter is in court
- d. In June 2021, you now make another misleading press release that has caused another round of panic.

As you try to deploy the criminal justice system as a cover-up mechanism, we are left with no option but to seek judicial interpretation on the contested matters so that they are settled once and for all, and also petition the relevant supervising legislative committee, the Finance and Planning committee to review the conduct of the Authority.

**Yours Faithfully,**

**For: Cytonn Investments Management Plc**



Edwin H. Dande, Chief Executive Officer, Cytonn Investments Management Plc

Cc:

Hon. Gladys Wanga

Chair Person, Finance and Planning Committee

# Attachment A

Meaning of private offers.

21.(1) For purposes of these Regulations, an offer of securities shall be regarded as private offer and accordingly shall be deemed not to be an offer to the public in Kenya if, to the extent that the offer is made to persons in Kenya under the following conditions -

(a) the securities are offered to not more than one hundred persons;

(b) the securities are offered to the members of a club or association (whether or not incorporated) and the members can reasonably be regarded as having a common interest with each other and with the club or association in the affairs of the club or association and in what is to be done with the proceeds of the offer;

(c) the securities are offered to a restricted circle of persons whom the offeror reasonably believes to be sufficiently knowledgeable to understand the risks involved in accepting the offer;

(d) the securities are offered in connection with a *bona fide* invitation to enter into an underwriting agreement with respect to them;

(e) the securities are of a private company and are offered by that company to-

i (i) members or employees of the company;

i (ii) members of the families of any such members or employees; or

i (iii) the securities are offered to a restricted circle of persons whom the offeror reasonably believes to be sufficiently knowledgeable to understand the risks involved in accepting the offer;

(f) the minimum subscription for securities per applicant is not less than Kenya Shillings one hundred thousand (Kshs. 100,000);

(g) the securities result from the conversion of convertible securities and a prospectus relating to the convertible securities was approved by the Authority and published in accordance with these Regulations;

(h) the securities of a listed company are offered in connection with a take-over scheme approved by the Authority; or

(i) the securities are not freely transferable.

(2) For the purposes of paragraph (e)(ii) the members of a person's family are the person's husband or wife, widow or widower and children (including stepchildren) and their descendants, and any trustee (acting in his capacity as such) of a trust the principal beneficiary of which is the person himself or herself, or any of those relatives.

# Attachment B



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www.cytonn.com

Your Ref: CMA/MRT/8/4

17<sup>th</sup> February 2016

The Director, Market Operations  
Capital Markets Authority  
P.O. Box No. 74800 -00200  
NAIROBI



**Attn: Mr. Wycliffe Shamiah**

Dear Sir,

**RE: SUMMONS FOR INFORMATION  
CYTONN RAISES KSHS. 600 MILLION MORE IN DEBUT NOTE**

The above-captioned matter refers.

We acknowledge receipt of your letter dated 11<sup>th</sup> December 2015. We note that The Authority "will proceed to close the inquiry" and we appreciate that outcome. We also note your offer for "any further assistance" and would like to take up the offer with respect to matters we either deem outstanding or for which we would like The Authority's esteemed guidance.

In our letter dated May 13<sup>th</sup>, 2015 we described how we execute our offers, specifically in the context of private offers. We note the appropriate advice in your letter dated December 11, 2015 that "any firm offering securities to the Kenyan public is required to comply with the provisions of Sections 30A to 30C of the Capital Markets Act "The Act" and the Capital Markets (Securities) (Public offers Listing and Disclosures) Regulations, 2002. "The Regulations". We are absolutely committed to complying fully with the provisions of The Act and the Regulations and given that The Authority is the custodian and enforcer of the said Act and Regulations, we seek clarity on one key matter, Private Offerings.

Based on several considerations, the board of directors and management of Cytonn took the strategic choice to only operate in private markets during the initial years of our business, and hence conduct all our fundraising activity in the private markets space. It is a well-documented practice of capital markets that there is a role for both public markets and private markets. One of the key national objectives of Vision 2030 is "to establish Kenya as a leading financial center" in the region. In the history of modern finance, there has never been a leading financial services center without both private and public markets to finance economic growth. These markets compliment each other and serve unique needs. Indeed, our own securities regulatory framework, for which The Authority is the principal custodian, recognizes the need for private markets and has clearly defined the form and manner of offers in private markets by first defining what shall not be deemed a public offer in The Act Section 30A (3) as follows:

"(a) An offer shall not be considered as a public offer if- an offer is not calculated to result, directly or indirectly, in the securities of the company being available to persons other than those receiving the offer; or

(b) otherwise being a private concern of the person receiving the offer and the person making the offer."

The regulatory framework then specifically provides for the meaning of private offers in The Regulations Part II 21. (1): "For purposes of these Regulations, an offer of securities shall be regarded as private offer and accordingly shall be deemed not to be an offer to the public in Kenya if, the offer is made to persons in Kenya under the following conditions – "The Section then goes ahead to list 9 conditions (a) through (i) that constitute a private offer.

We seek The Authority's guidance as follows:

1. In the view of the Authority, for an offering to meet the definition of a private offer, does the offer need to meet all, some or any of the conditions (a) through (i)? From our reading of the definitions, it seems clear to us that satisfactorily meeting any one of the 9 conditions effectively meets The Regulations' definition of a private offer; and in fact it is inconceivable that a single offering could meet all 9 conditions because, for example, condition (e) speaks to a private company and condition (h) speaks to a public company, so it can be safely implied that the conditions were meant to be severally considered because a company can't at once be public and private but we would like The Authority's clarification.
2. If an offer is a private offer, does the issuer still need to file an Information Notice pursuant to Section 30 C(a)(i) and (ii) of the Capital Markets Act? Our view is that the aforesaid information notice is only applicable in the case of a restricted public offer but is not required in the case of a private offer.
3. We still refer to our letter of May 13<sup>th</sup> 2015, where we asked for an audience with The Authority for us to explain our private markets business so that you may advise whether the offerings that we may conduct during our operations satisfy your stipulations of a private offering. We do hope that The Authority shall still consider this humble request and grant us the audience.

While we took the view, at incorporation, that we wanted to only operate in the highly lucrative private markets, we have spent enough time building and stabilizing our private markets business. We are now at a point where we would also like to start building a public markets business, which is typically regulated. We would appreciate you granting us a meeting, which we can combine with the pending meeting request, where we can discuss our interests in public markets and also get your guidance in terms of what we need to do in order to operate a regulated and licensed investment management business, which we intend to call Cytonn Asset Managers Limited.

Finally, we take this opportunity to again affirm our deep commitment and support to the capital markets industry. A key tenet of such commitment and support being compliance with the regulatory framework, which is underpinned by the Capital Markets Authority Act, various associated regulations and the Capital Markets Authority as the enforcement agency.

We look forward to a continued positive relationship.

Yours Faithfully,

For: Cytonn Investments Management Limited



**Edwin H. Dande**  
**Managing Partner & Chief Executive Officer**

cc:

**SC Mr. George Oraro – Oraro & Company Advocates**

**Ag. Chief Executive Officer, Paul Muthaura**



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Our ref.: CMA/MRT/8/4

14<sup>th</sup> April 2016

Edwin Dande  
Managing Partner & Chief Executive Officer  
Cytonn Investments Management Limited  
3rd Floor, Liaison House,  
State House Avenue  
**NAIROBI**

Dear Mr. Dande,

**RE: CYTONN RAISES KSHS. 600 MILLION MORE IN DEBUT NOTE**

We refer to your letter dated 17 February 2016 and confer our apologies for delay in responding thereto.

Further to your request for guidance on the issues raised in your aforementioned letter, the Authority wishes to state as follows:

1. On the conditions necessary to determine if an offer is a private offer, Regulation 21 of the Capital Markets (Securities) (Public Offers, Listings and Disclosures) Regulations provides for instances when an offer is considered a private offer. As you had observed, an offer will be considered a private offer if it meets any of the conditions provided.
2. Section 30A requires issuers of a public offer to submit a prospectus to the Authority whilst Section 30B requires issuers of securities to restricted sophisticated investors to submit a short-form prospectus.
3. Section 30C requires an issuer to file an information notice in the case of:
4. (i) restricted public offers of securities where the securities issued exceed the prescribed threshold  
(ii) any issue or offer exempted from issuing a prospectus or a short form prospectus except in respect of asset backed securities.

Accordingly, we would advise you that where an offer of securities is not specifically provided for in the provisions set out above, it will be deemed that the issuer is required to submit an Information Notice to the Authority.

We appreciate your engagements with the Authority and wish to advise that you seek clarifications on the regulatory requirements of any transaction from the Authority to ensure compliance.

The Authority accepts your request for a meeting and you can get in touch with our Ms. Esther Manthi on [Emanthi@cma.or.ke](mailto:Emanthi@cma.or.ke) to schedule the same at a mutually convenient time.

Yours Sincerely,



**Wycliffe Shamiah**  
**DIRECTOR, MARKET OPERATIONS**

# Attachment D1

## MINUTES OF THE MEETING HELD AT THE CAPITAL MARKETS AUTHORITY(CMA) OFFICES AT EMBANKMENT PLAZA BETWEEN CMA AND CYTONN INVESTMENTS MANAGEMENT LIMITED(CIM) ON 31/08/2016

CMA		
1.	Paul Muthaura - CEO	PM
2.	Wycliffe Shamiah	WS
3.	C. Maweu	CM
4.	P. Nabondyo	PN
5.	Edna Moraa	EM
6.	J. Oltetia	JO
7.	David Kanyi	DK
8.	Abubakar Hassan	AH
9.	Lawrence Mummia	LM
10.	Gloria Rono	GR
CIM		
1.	Prof. Daniel Mugendi(Chairman of the Board)	DM
2.	James Maina (Board Member and Chair Investment Committee)	JM
3.	Madhav Bhalla(Board Member and Chair Audit and Risk Committee)	MB
4.	Anti-Jussi Ahveninen(Board Member and Chair Human Resource Committee)	AA
5.	Edwin H. Dande (CEO)	EHD
6.	Elizabeth N. Nkukuu	EN
7.	Maurice Oduor	MO
8.	Doreen Onwong'a	DO

### MIN 1: Introduction

WS called the meeting to order at 3:20 pm and advised that the team would be joined by PM in due course. WS then asked the team to introduce themselves.

### MIN 2: Discussions

WS initiated discussions by advising that CMA was in receipt of complaints that CIM was offering products that were supposed to be regulated despite the fact that it was not registered by CMA. The purpose of the meeting was therefore to establish whether this was the case by understanding CIM's business.

Prof DM advised that the CIM team was indeed surprised since they were unaware of any unhappy clients and had recently held an AGM where all client questions were answered. EHD confirmed this and that this was the 3<sup>rd</sup> meeting at CMA offices and in all previous occasions the relevant information was provided and the matters marked as closed. This raised questions as to whether the complaints were not from other competitors

EN started by taking the team through CIM's profile after which the floor was opened to questions from the CMA team.

**Question 1:** CM asked on what CIM means by '*alternative investments*' considering real estate and the rest were already in the market. EN clarified that this means those products that you would not traditionally get from a stockbroker like equities and government bonds. EHD further clarified on why CIM chose to focus on alternative investments to (i) fill the existing gap in the market especially in provision of structured products in Real Estate; and (ii) increase private market access to high yielding assets such as real estate. AA further clarified that CIM indeed fills a gap in the market especially for institutional investors looking to bring capital to sub-saharan Africa and get high returns. EN advised the CMA team to look into Blackstone the leading alternative investments shop worldwide for clarity on the same.

**Question 2:** WS inquired on how CIM raised its funds and finances its business. EHD responded that CIM fundraising was done from (i) Institutional Investors (ii) High Net worth Individuals and (iii) the Diaspora. The funds were then put into various investment vehicles such as Real Estate, bank placements and Private Equity and there was an Investor Policy Statement to guide this promoting diversification whilst balancing liquidity, risk and return.

**Question 3:** PM then inquired that for the purposes of HNWI's how does Cytonn prospect for its clients considering the threshold of a minimum of Kshs. 1,000,000/= would mean a section of the public as it is any Kenyan with Kshs. 1,000,000/=. EHD advised that the team has a distribution channel that is well trained on private distribution and a checklist to certify that a prospect is indeed a High Networth Investor.

**Question 4:** DK inquired on what the partners in CMS contributed other than cash. EN advised that yes cash was contributed by all the partners including CIM. EHD further clarified that the partners also elected an Advisory Board at the AGM and had the right to remove CIM as principal partner with a super majority of 75% of the members. The partners also had the opportunity to contribute any ideas to the management of the Partnership at the Annual General Meeting (AGM) or the quarterly Advisory Board meeting.

**Question 5:** WS asked whether Cytonn offers investment advice. EHD replied not in the statutory context but as market participants yes they have views. EM inquired on what was the intention of the Cytonn Report to which EN replied that it was meant to deepen capital markets. EM asked how and AA stated that research is a positive for Kenya and was a major reason for foreign Private Equity firms' willingness to invest in Kenya and he quoted reports such as the Hass Consult. He also stated in his view the Cytonn Report does not qualify as '*statutory advisory opinion*' as it's not sold. He also stated that in his personal capacity he would not rely on the same. PM advised that advice need not be sold to constitute advice. EN inquired on the advisory opinions in newspapers and PM advised that there was a specific exemption for newspapers.

**Question 6:** AH asked what was the mode of recourse available in the event a partner had a dispute with Cytonn CMS. To which EHD advised that there are 3 methods of recourse (i) through the Advisory Board (ii) removal of CIM as Principal Partner through super majority; and (iii) through court. In addition, CIM provided a corporate guarantee and provided its Financial Statements to its clients freely.

JM then inquired on what the purpose of the meeting was since there seemed to be no specific complaint which statement was supported by Prof DM. PM clarified that the complaint was from persons who had received financial propositions to invest from CIM yet it was not regulated i.e. '*cold calling*' or '*cold e-mailing*'. It was therefore agreed that the way forward would be as follows:-

- (i) CIM to provide the checklist used by its distribution channel when prospecting for clients to certify they are High Net worth Investors;
- (ii) CIM to provide a brief of how it prospects for clients;
- (iii) CIM to provide the various Terms and Conditions under which it offers its products;
- (iv) CIM to give details on the level of disclosure given to clients before investing.

**AoB:** EHD inquired on whether there was engagement with Fund Managers and market players before the notice of cessation for CMS was issued considering that team currently at CIM invented CMS. EHD also stated that he expected that, the regulator, would in the event there is a deficiency in CIM's way of doing business such issues would be addressed through constructive engagement with CMA. WS advised that yes there was with regulated Fund Managers. EHD advised that CIM, at inception, wanted to operate in private markets but was considering regulation and will engage the Authority to be regulated.

PM wrapped up the meeting by advising that CMA's role was to ensure a fair playing ground and it does not act under any influence. It was agreed that CIM shall provide the items above by CoB Friday.

Prepared by Doreen N. Onwong'a

Reviewed by Edwin H. Dande



# Attachment D2

Edwin Dande <edande@cytonn.com>

## Thank You Note- CMA Team

2 messages

**Elizabeth Nkukuu** <enkukuu@cytonn.com>

Wed, Aug 31, 2016 at 7:36 PM

To: pmuthaura@cma.or.ke, shamiah@cma.or.ke, emoraa@cma.or.ke, joltetia@cma.or.ke, dkanyi@cma.or.ke, ahassan@cma.or.ke, lmumina@cma.or.ke, grono@cma.or.ke

Cc: Board of Directors <board@cytonn.com>, Corporate <corporate@cytonn.com>

Dear Mr. Muthaura and CMA Team:

On behalf of the Chairman of Cytonn Investments and the Board of Directors, which was represented by all the local board members, we would like to sincerely thank The Authority for taking the time to meet us and allowing us to explain our business.

We remain open to discussing and explaining more to you. We are committed to this market and we believe a good working relationships with all the market players and The Authority is key to market development.

We shall send all the data as requested by yourselves by the end of this coming Friday.

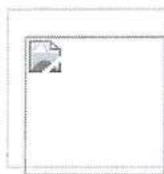
Kindly also note that we have subscribed you to our market research database for our weekly research. Should you opt not to receive the research, you can opt out of the invite.

Thank you.

PS: Abubakar, please note that we left 10 copies of our audited financials at your reception.

**Elizabeth N. Nkukuu** - Chief Investments Officer

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**Cytonn Investments Management Ltd.**

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**Wycliffe Shamiah** <Shamiah@cma.or.ke>

Wed, Aug 31, 2016 at 8:35 PM

To: Elizabeth Nkukuu <enkukuu@cytonn.com>

Cc: Paul Muthaura <PMuthaura@cma.or.ke>, "Edna O. Moraa" <EMoraa@cma.or.ke>, "joltetia@cma.or.ke" <joltetia@cma.or.ke>, David Kanyi <DKanyi@cma.or.ke>, "Abubakar A. Hassan" <AHassan@cma.or.ke>, Lawrence Mumina <LMumina@cma.or.ke>, "Gloria C. Rono" <GRono@cma.or.ke>, Board of Directors <board@cytonn.com>, Corporate <corporate@cytonn.com>

Dear Nkukuu.

Your view of our interests at this point is highly appreciated

Shamiah

[Quoted text hidden]

**INTEGRITY UPHOLDS A NATION... WE BELIEVE IT.**

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# Attachment E



**Cytonn**  
INVESTMENTS

CASH  
MANAGEMENT  
SOLUTIONS

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## MEMORANDUM

**To:** Mr. Shaka Kwach, Chairman to the Board  
**Copy:** Cytonn Cash Management Solutions LLP Board  
**From:** The Statutory Manager  
**Date:** 20<sup>th</sup> June 2018  
**Sub:** Cytonn CMS Change of Name

As updated at the Q2 2018 Board Meeting, we have been engaging with the Capital Markets Authority with regard to the operations of Cytonn CMS. Even as we continue to engage the Regulator, the Regulator has requested that we undertake a change of name of the Partnership from Cytonn Cash Management Solutions, LLP to *Cytonn High Yield Solutions, LLP*

The said change is of utmost importance to the Regulator for the following reasons:

- a. To avoid confusion in the market as to the status of the Cash Management Product given the Regulator's circular dated 22<sup>nd</sup> August 2016, CMA Circular/8/2016;
- b. The recent licencing of the Principal Partner's affiliate, Cytonn Asset Managers Limited, and therefore the need to align the operations of the Cytonn Group in general to the various guidelines issued by the Regulator.

Pursuant to the above, we wish to seek approval on the following matters as per Clause 11.10.2 of the Partnership Agreement allowing amendments by way of a board resolution whereby a directive has been issued by a state agency noting that the said change will neither have the effect of increasing the obligations of any of the Cytonn CMS Investment Partners nor do they prejudice in any manner the economic rights of the Investment Partners:

- i. Change of name to Cytonn High Yield Solutions LLP;
- ii. Amendment to the partnership documents including but not limited to the Partnership Agreement, Investment Agreement, Top up Form and Withdrawal Form to include the new name;
- iii. Communication to the current investors on the conversion and passing the requisite resolutions where necessary.

Given the foregoing please find attached hereto the proposed resolution for your perusal and if found fit, adoption as a written resolution of the Board of Cytonn Cash Management Solutions, LLP. In case of any further clarification, please contact the undersigned.

**Prepared By:**

Holliness Lumbi -Legal Analyst

**Reviewed By:**

Doreen Onwong'a- Secretary to the Board

**Approved By:**

Maurice Odior- Senior Investment Manager and Representative of the Principal Partner

## Soccer and race > Brazil has the largest number of blacks outside Africa, so why is race such a hot topic here?

BY CLEUCI DE OLIVEIRA  
The New York Times

**Y**ears before he became the most expensive player in the world; before his Olympic gold medal; before the Eiffel Tower lit up with his name to greet his professional move from Barcelona to Paris, Neymar da Silva Santos Júnior, the Brazilian forward known to the world simply as Neymar, faced his first public relations controversy.

The year was 2010 and Neymar, then 18, had shot to fame in Brazil after a sensational breakout season. During an interview for the newspaper *O Estado de São Paulo*, in between a conversation about Disneyland and sports cars, he was asked if he had ever experienced racism.

"Never. Not in the field, nor outside of it," he replied. "It's not like I'm black, you know?"

His answer was heard like a record scratch across the country. Was this young man in denial about his race identity? Particularly when in the same interview he outlined his meticulous hair care regime, which involved getting his locks chemically straightened every few weeks, then bleached blonde.

Or was there a less alarming explanation behind his comment? Could Neymar merely be pointing out that, as the son of a black father and a white mother, his lighter skin tone shielded him from the racist abuse directed at other players? Had he, at least in his context, reached whiteness?

Whatever the interpretation, Neymar's words revealed the tricky, often contradictory ways that many Brazilians talk, and fail to talk, about race in a country with the largest population of black descendants outside of Africa.

When audiences tune in to watch Brazil play, they are treated to a rich spectrum of skin tones flashing vibrantly across the screen. The racial makeup of the



# Is Neymar black? Brazil and the painful relativity of race

The World Cup is a wonderful showcase of the best of human achievement, and Brazil, with Neymar leading the way, have a good shot at winning it. But this pageant of nations is also a reminder that the modern world, in all of its globalised splendour, still lacks a truly equal, multiracial society

Brazilian squad, in fact, generally reflects the demographics of the country. According to 2017 data released by the census department, 47 per cent of Brazilians identify as mixed-race, while another eight per cent identify as black. One third of marriages happen across racial boundaries. Such numbers confirm the common belief held by Brazilians, and the millions of international travellers who visited last year, that the country is a racially fluid society.

Unlike the national team, however, the upper echelons of most professions in Brazil — be

it medicine, media, business, entertainment or government — are occupied by whites. The nation's raw demographic data paints an accurate portrait of a diverse people; yet it also adds patina to the old myth, promoted for generations by the government and first intellectualised by sociologists nearly a century ago, that Brazil is a *democracia racial*, or racial democracy.

Because Brazil never had an apartheid system like South Africa, or a ban on mixed-race marriages like America, went the argument, a spirit of warm relations blossomed across ra-

cial divides. Never mind that Brazil was the last country in the Americas to abolish slavery in 1888; or that after abolition, the ruling class mounted a campaign to whiten the majority black population, by fully subsidising the immigration of over four million white Europeans, giving them free land and compelling Brazilians to take up with them.

"The Brazilian people, more than any other, need the influence of advanced peoples in building a race," read one 1914 pamphlet, "especially at the historic moment when the percentage represented by the African race is beginning to

decline and must disappear into the whirlpool of the white race."

Even once *democracia racial* was widely debunked by a new generation of social scientists, the enduring legacy of the myth was that, rather than engage with the race question, Brazilians had turned racism, and talking about racism, into a taboo. In concealing the problem from vigorous public debate, a hierarchy based on skin colour was allowed to congeal.

Today, the socio-economic consequences of Brazil's "pigmentocracy" still reverberate: The top one per cent of Brazil's economy is about 80 per cent white; three-quarters of the bottom 10 per cent, meanwhile, are black or mixed-race. In 2016, more than half of black or mixed-race students between the ages of 18 and 24 hadn't reached high school. And only 13 per cent of those in the same age bracket were enrolled in college.

Even that happier stat that a third of marriages are mixed-race comes with an asterisk. According to the sociologist Edward Telles, author of *Race in Another America: The Significance of Skin Color in Brazil*, the rates of intermarriage are negligible among wealthier Brazilians.

Soccer is celebrated as one of the meritocratic spheres in Brazil where talent counts the most. But when the sport first took hold in the country, in the early 20th century, the major clubs and leagues barred non-whites.

The most famous player of all time, Edson Arantes do Nascimento, popularly known as Pelé, had another nickname near the start of his career: "Gasolina," the Portuguese word for "crude oil."

To the frustration of some Brazilians, Pelé has long preferred a posture of attempting to ignore racism and he has largely resisted public alliances with activists. In 2014, speaking on a Brazilian sports channel, Pelé chastised Brazilian club goalkeeper Aranha for confronting spectators who

called him a monkey. "If I had to stop or shout every time I was racially abused," he said, "every game would have to be stopped."

That same year, in Spain, a spectator threw a banana at Daniel Alves, Neymar's fellow Brazilian and then-teammate at FC Barcelona. Alves jauntily ate the banana in defiance. Neymar responded by starting a viral campaign with the caption *Somos Todos Macacos* (We are all Monkeys). The move was applauded as a cheeky response by some. But many black Brazilians weren't impressed. His image was still haunted by the 2010 incident, in which he appeared to distance himself from his black heritage.

"This is the difference between Brazil and America," Paulo César Lima, the 1970 World Cup champion and black rights activist, said during the 2010 episode. "Over there, if you're black, you stand up and say you're black."

Lima's words point to a painful and somewhat paradoxical consequence of Brazil's racial fluidity: America's politics of racial purity, which culminated in the notion that even one drop of African blood made a person legally black, fostered solidarity among those targeted by discriminatory laws.

In Brazil, however, the often admirable blurring of racial boundaries is a modern reality that — rather than stemming from colourblindness — is tainted with the sinister origins of state-sanctioned attempts to dilute, even dissolve, blackness.

### Whitening legacy

When, in 1965, *Ebony* magazine set out to explore why, at the height of the US civil rights and African independence movements, black Brazilians had failed to mobilise in a similar fashion, it concluded that Brazil's legacy of *embranquecimento*, or whitening, had a great deal to do with it.

In 2017, Neymar addressed racism in a speech at the United Nations, as a representative for the non-profit Handicap International. Back in Brazil, the public applauded his speech, interpreting it as a turning point in his willingness to wrestle with the issue.

"This has been a problematic theme for years," he said. "And it is prevalent within soccer. But incidents are occurring less and less. People are changing. The world is changing."

When spectators — whether they be from England, the United States or India — see Brazil playing, they should resist any urge to romanticise the country as a living illustration of racial harmony. What they're seeing, rather than a post-racial society, is a different country with distinct racial quagmires of its own.

The World Cup is a wonderful event, showcasing the best of human achievement. And Brazil, with Neymar leading the way, have a good shot at winning it.

But this pageant of nations is also a reminder, on the 130th anniversary of slavery's abolition, that the modern world, in all of its globalised splendour, still lacks a truly equal, multiracial society.

*Cleuci de Oliveira is a journalist who has reported both in the United States and South America. Her work on race and Brazilian law has appeared in Foreign Policy, The Guardian and other outlets.*



### NOTICE: CHANGE OF NAME

Cytonn Cash Management Solutions LLP, has changed its name to

**Cytonn High Yield Solutions LLP,**

Effective 9th July, 2018

Following the licensing of our asset management affiliate, Cytonn Asset Managers Limited, we have been engaging with the regulator to bring certain products within the regulatory ambit. As part of that process, we shall be renaming Cytonn Cash Management Solutions LLP, (Cytonn CMS) to Cytonn High Yield Solutions LLP, (Cytonn HYS) effective 9th July, 2018. The key reason is to have a name that is consistent with the underlying asset class, which is high yielding real estate that supports the high yield returns.

# Attachment G

Kindly note that these actions are not unique to Cytonn's real estate funds; pretty much all real estate funds around the world are taking mitigation measures given the effects of COVID-19. Real estate is a long-term illiquid asset hence real estate funds become quickly illiquid in periods of market stress as seen below:

<b>Global Real Estate and High Yield Funds Affected By COVID-19</b>	
<b>Fund</b>	<b>Source</b>
BlackRock and Schrodgers latest to freeze property funds	<a href="https://www.ft.com/content/b1e6ab9d-1dbc-44b2-90d9-e98b6d00060e">https://www.ft.com/content/b1e6ab9d-1dbc-44b2-90d9-e98b6d00060e</a>
Nordic high-yield bond funds block withdrawals	<a href="https://www.ft.com/content/162e4d8e-6c23-11ea-9bca-bf503995cd6f">https://www.ft.com/content/162e4d8e-6c23-11ea-9bca-bf503995cd6f</a>
SJP gates £3.6bn property fund range	<a href="https://www.ftadviser.com/investments/2020/03/19/sjp-gates-3-6bn-property-fund-range/">https://www.ftadviser.com/investments/2020/03/19/sjp-gates-3-6bn-property-fund-range/</a>
AEW Core Property Trust Suspends Redemptions	<a href="https://www.swfinstitute.org/news/78792/aew-core-property-trust-suspends-redemptions">https://www.swfinstitute.org/news/78792/aew-core-property-trust-suspends-redemptions</a>
Irish Life and Zurich restrict investors from cashing in property funds	<a href="https://www.irishtimes.com/business/commercial-property/irish-life-and-zurich-restrict-investors-from-cashing-in-property-funds-1.4207322">https://www.irishtimes.com/business/commercial-property/irish-life-and-zurich-restrict-investors-from-cashing-in-property-funds-1.4207322</a>
Canada Life suspends real estate funds until further notice	<a href="https://www.investmentexecutive.com/news/products/canada-life-suspends-real-estate-funds-until-further-notice/">https://www.investmentexecutive.com/news/products/canada-life-suspends-real-estate-funds-until-further-notice/</a>
Some UK property funds ban withdrawals over coronavirus	<a href="https://www.theguardian.com/business/2020/mar/18/some-uk-property-funds-ban-withdrawals-over-coronavirus">https://www.theguardian.com/business/2020/mar/18/some-uk-property-funds-ban-withdrawals-over-coronavirus</a>
Brazilian retail investors floored by real estate fund foray	<a href="https://www.reuters.com/article/health-coronavirus-brazil-real-estate/brazilian-retail-investors-floored-by-real-estate-fund-foray-idUSL1N2CP2GG">https://www.reuters.com/article/health-coronavirus-brazil-real-estate/brazilian-retail-investors-floored-by-real-estate-fund-foray-idUSL1N2CP2GG</a>