

**CENTRAL DEPOSITORY SYSTEMS (PVT) LTD.**

# **Clearing House Rules**

**(Effective from 15th March 2023)**



Confidential

Internal

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## **INTRODUCTION**

### **(i) Role of the Central Depository Systems (Private) Limited as a Clearing House**

The Central Depository Systems (Private) Limited (CDS), a wholly owned subsidiary of the Colombo Stock Exchange (CSE), was incorporated on 30<sup>th</sup> August 1991 as a private company with limited liability under the Companies Act No. 17 of 1982.

The CDS is a Licensed Clearing House in terms of the Securities and Exchange Commission of Sri Lanka Act No. 19 of 2021 (SEC Act). The CDS has been licensed by the Securities and Exchange Commission of Sri Lanka (SEC) to operate and maintain a clearing facility for the purpose of clearing and settlement of securities transactions on the CSE.

Provided however that the CDS neither acts as a central counterparty nor guarantees clearing and settlement of securities transactions on the CSE.

### **(ii) Application of the Rules**

The Clearing House Rules are issued by the CDS in terms of Section 36 (4) of the SEC Act in the discharge of its duties as a licensed Clearing House under the said Act, including the obligation to act in the public interest having regard to the need to protect investors.

These Rules shall;

- (a) apply to all transactions that are cleared or settled through the Clearing House by Clearing Members; and,
- (b) operate as a binding contract between the Clearing House and each Clearing Member, and between the Clearing Members of the Clearing House.

### **(iii) Waivers or Variation**

#### **(a) Power of the Clearing House to Waive/Vary the Rules**

The Clearing House may waive the application of a Rule governing matters of a procedural nature (in whole or part) to suit particular circumstances, with prior notice to the SEC, unless the Rule specifically prohibits such waiver. Such waivers may be granted subject to conditions as the Clearing House considers appropriate.

#### **(b) Failure or delay to not deemed a waiver**

No failure or delay by the Clearing House to exercise or enforce any rights conferred upon it by these Rules shall be deemed to be a waiver of any such rights or operate so as to bar the subsequent exercise or enforcement thereof.

**(iv) Circulars and Operational Guidelines/Procedures**

The Clearing House may, from time to time, issue;

- (a) circulars to the Clearing Members of the Clearing House to supplement or explain these Rules; and
- (b) operational guidelines and procedures in the form of letters to the Clearing Members for administrative purposes.

These Circulars and Operational guidelines and procedures issued by the Clearing House, may be unilaterally issued, amended or revoked by the Clearing House and shall be effective on the date specified by the Clearing House.

**(v) Limitation of Liability**

Neither the Clearing House, its successors and/or assignees, nor its directors, officers, employees or agents will be liable to the Clearing Members or any person for any loss or damage (including consequential or indirect loss or damage), however caused or arising, including but not limited to any loss or damage arising directly or indirectly from or in connection with the following or anything done or not done as a direct or indirect consequence of the following:

- (a) any failure, error, delay, security breach or malfunction of the settlement facilities operated by the Clearing House whether or not identified or identifiable provided the Clearing House is able to demonstrate that it has taken due care to ensure the non-occurrence or mitigation of such failure, delay, security breach or malfunction;
- (b) the access to, use of or inability to use the settlement facilities operated by the Clearing House other than due to the negligence or fault of the Clearing House;
- (c) anything done (including any statement made) or omitted to be done in the course of, or in connection with the exercise of rights or the discharge or purported discharge of the Clearing House's obligations or rights under the SEC Act, any other applicable law, or under these Rules;
- (d) any breach or failure of any Clearing Member to comply with these Rules;
- (e) the insolvency or the acts or omissions of any of the Clearing Members;
- (f) the insolvency or the acts or omission of the appointed Settlement Bank(s) of the Clearing House;
- (g) the acts or omission of the CSE and the Central Depository;
- (h) any failure, security breach, inoperability or malfunction of equipment, software or any other product supplied to a Clearing Member or in respect of its installation, maintenance or removal, provided the Clearing House is able to demonstrate that it has taken due care to ensure the non-occurrence or mitigation of such failure, security breach, inoperability or malfunction;

- (i) the exercise of a decision-making or regulatory power or discretion under these Rules;
- (j) any virus or other destructive, malicious, or corrupting program, code, agent, script or macro other than due to the negligence or fault of the Clearing House;
- (k) any errors, inaccuracy, omissions or delay in the calculation of margins;
- (l) the originality, accuracy, adequacy, timeliness or completeness of the settlement system or any content, information, materials, images, sounds, graphics, video and other materials displayed therein or any functionalities or applications, programs or services provided therein other than due to the fault or negligence of the Clearing House;
- (m) any information transmitted or received by or on behalf of the Clearing House or a Clearing Member, including through the settlement system, or the interception of or access to such information by unauthorized persons.

**(vi) Indemnity**

Each Clearing Member shall indemnify the Clearing House, its directors and employees and hold each of them harmless against all costs, fees, expenses, liabilities and damages of any nature whatsoever suffered or incurred by them directly or indirectly as a result of or in connection with the following matters:

- a) the participation in any of the services or facilities of the Clearing House by the Clearing Member or the Clearing Member's activities in any of the services or facilities and all matters relating thereto as contemplated in these Rules;
- b) the failure by the Clearing Member to comply with these Rules, Circulars, Operational Guidelines/Procedures and any Agreement (including without limitation the representations and warranties contained therein) or to comply with any conditions imposed on the Clearing Member by the Clearing House;
- c) the actions and/or omission by the Clearing House, its directors and employees in reliance on any instructions or communication believed in good faith by any of them to have been given by or on behalf of the Clearing Member, or the failure of the Clearing Member to give instructions to the Clearing House as contemplated in these Rules.

**(vii) Action by the Clearing House**

Except where action of the Board of Directors is specifically required by these Rules, the Chief Executive Officer of the CDS or any person acting on his or her behalf shall act on behalf of the Clearing House in respect of its Clearing or Settlement functions.

No act carried out or omitted to be carried out by the Clearing House in good faith in connection with or for the purpose of these Rules shall subject any person acting on behalf of the Clearing House, including;

- a) any member of the Board of Directors, or any member of any committee established by any the Board of Directors,

- b) any officer assigned to carry out Clearing or Settlement functions of the Clearing House, and
  - c) any agent of, or any person acting under the direction of the Clearing House,
- to any liability whether personally or otherwise.

If any matter which arises in connection with or relating to Clearing or Settlement functions of the Clearing House is not provided for in these Rules, the Clearing House shall have the right to determine such matter. Any such determination shall be binding on the Clearing Members.

**(viii) Notices and communications with Clearing Members**

Any notice and/or communication by the Clearing House to any Clearing Member in terms of these Rules or otherwise may be issued through any method or means of communication available to and as may be deemed appropriate by the Clearing House. Such notice and/or communication shall be deemed to have been received by and/or delivered to the Clearing Member, if:

- (a) by email, upon its dispatch from the server of the Clearing House,
- (b) by fax, upon generation of transmission confirmation by the facsimile transmitter,
- (c) by courier, upon delivery to the Clearing Member.

**(ix) Forms**

All forms and other documents issued and/or prescribed by the Clearing House in connection with carrying out the clearing and settlement facilities of the Clearing House in terms of these Rules, may be varied by additions, deletions, exclusions at the sole discretion of the Clearing House.

**(x) Amendments to these Rules**

Subject to the approval of the SEC in terms of the SEC Act, the Clearing House may amend the provisions of these Rules from time to time.

## INTERPRETATION

### (i) DEFINITIONS

The following expressions shall bear the following meanings unless the context otherwise requires:

**Account Holder**

means any person who holds a Client Account in the CDS.

**Board of Directors**

means Board of Directors of the CDS - Clearing House.

**Buy-In Board Settlement Date**

means the date on which the settlement of a Trade on the Buy-in Board of the CSE shall take place in accordance with these Rules.

**CDS**

means the Central Depository Systems (Private) Limited.

**CBSL**

means the Central Bank of Sri Lanka.

**Central Counterparty**

means a Central Counterparty as defined in the SEC Act.

**Cleared Balance**

means the portfolio of Securities held in a Client Account, which are free from lien or any other encumbrances and have been cleared and settled in terms of these Rules.

**Central Depository**

means a Central Depository as defined in the SEC Act.

**Clearing Facility**

means a Clearing Facility as defined in the SEC Act.

**Clearing or Settlement**

means a Clearing or Settlement as defined in the SEC Act.

**Clearing Member**

means a Clearing Member as defined in the SEC Act and admitted as a Clearing Member of the Clearing House in terms of these Rules.

**Client Account**

means an account opened by a Depository Participant on behalf of a person in the CDS in accordance with Section 3 of the Central Depository Rules of the CDS.

**CSE**

means the Colombo Stock Exchange.

**Custodian Bank**

means a Bank licensed under the Banking Act No. 30 of 1988, as amended, providing custodial services and admitted by the CDS as Depository Participant in terms of the Central Depository Rules.

**Custodian Trade**

means a Trade carried out by an Account Holder registered through a Custodian Bank.

**Default Proceedings**

means Default Proceedings as defined in the SEC Act, which are initiated by the CDS in the provision of clearing and settling the Market Contracts in terms of these Rules.

**Default Rules**

means Default Rules as defined in the SEC Act, which are specified in Section 6 of these Rules.

**Defaulter**

means a Defaulter as defined in the SEC Act, which is a Clearing Member that is subject to Default Proceedings under these Rules.

**Designated Foreign Currency(s)**

means the foreign currencies specified by the CBSL as permitted foreign currencies in terms of the Banking Act No. 30 of 1988, as amended, for the purpose of engaging in foreign exchange transactions.

**Excluded Crossings**

means a Trade executed on the Crossing Board/Window of the CSE, which is settled in accordance with Section 5 of these Rules.

**Licensed Clearing House**

means a corporate entity licensed by the SEC to clear and settle securities transactions which take place on the CSE and includes the CDS for the time being.

**Market Collateral**

means Market Collateral as defined in the SEC Act.

**Market Contract**

means a Market Contract as defined in the SEC Act.

**Market Day**

means any day on which the CSE is open for trading.



**Pending Buy Trades**

means any Market Contract for purchase of securities which has been executed and is pending settlement.

**Pending Sell Trades**

means any Market Contract for sale of securities which has been executed and is pending settlement.

**Listed Entity**

means a Public Limited Company listed in terms of the Listing Rules of the CSE.

**Rules**

means these rules issued by the CDS acting as a Clearing House-

**SEC**

means the Securities and Exchange Commission of Sri Lanka incorporated under the SEC Act.

**SEC Act**

means the Securities and Exchange Commission of Sri Lanka Act No. 19 of 2021.

**Securities**

means Securities as defined in the SEC Act and recognized by the CDS as eligible Securities for Clearing or Settlement in terms of these Rules.

**Settlement**

means the settlement of Market Contracts in accordance with these Rules.

**Settlement Date**

means the date on which the settlement of a Market Contract shall take place in accordance with these Rules.

**Settlement Schedule**

means the schedule issued by the Clearing House on each Trade Day to a Clearing Member, reflecting the amounts to be payable or receivable (as the case may be) by such Clearing Member to the Clearing House on the Settlement Date.

**Short Position**

means in respect of a Market Contract for sale of Securities, a position where the aggregate of the Cleared Balance of the relevant Securities in a Client Account and the number of Securities purchased under Pending Buy Trades in relation to such Client Account is, as at the end of the Trade Day, less than the aggregate of the Securities sold under such Market Contract.

**Stock Broker**

means a Stock Broker as defined in the SEC Act and admitted as a Trading Participant of the CSE.

**Stock Dealer**

means a Stock Dealer as defined in the SEC Act and admitted as a Trading Participant of the CSE.

**Trade**

means a purchase or sale transaction of Securities executed on the CSE.

**Trade Day**

means in respect of a particular Trade, the Market Day on which the Trade is executed.

**Trading Participant**

means a Trading Participant as defined in the SEC Act and admitted as a Trading Participant by the CSE in terms of the Trading Participant Rules.

**(ii) INTERPRETATION OF RULES**

Headings are provided for ease of reference only and shall not affect the interpretation or construction of the provisions of these Rules.

Unless expressly provided to the contrary, the interpretation of these Rules shall be in conformity with the definitions set out above. In the event of any ambiguity, the Board of Directors of CDS or any Committee thereof, or their designee(s) shall have authority to interpret the Clearing House Rules of the CDS. Interpretations of the Board of Directors or any Committee thereof, or their designee(s) shall be final and binding subject to an appeal to the SEC provided that such appeal is made within seven (07) days of the interpretation being communicated to the aggrieved party.

If there is any conflict between any of the provisions of these Rules, the Circulars, Operational guidelines and procedures these Rules shall prevail.