

## **PART C - CLEARING AND SETTLEMENT OF NON-CCP SETTLED TRADES**

### **SECTION 11**

#### **CLEARING MEMBERS – NON-CCP SETTLED TRADES**

*Non-CCP Settled Trades identified in this Part C shall be cleared and settled by a Limited Clearing Member admitted in terms of Rule 11.1 below.*

*For the avoidance of doubt, a Self Clearing Member or a Professional Clearing Member that is admitted by the Clearing House to clear and settle CCP Settled Trades shall, in addition to their status as a Self Clearing Member or Professional Clearing Member in respect of CCP Settled Trades, be admitted as a Limited Clearing Member in terms of Rule 11.1 below in order to clear and settle Non CCP Settled Trades carried out by it as a Trading Participant or affirmed as a Custodian Bank.*

#### **11.1 Admission as a Limited Clearing Member**

##### **11.1.1 Eligible Categories**

*The following persons are eligible for admission as a Limited Clearing Member:*

- (i) A Trading Participant of the CSE, which is a Stock Broker or Stock Dealer;*
- (ii) A Custodian Bank which is a Depository Participant of the CDS.*

##### **11.1.2 Entry Requirements for a Limited Clearing Member**

*An applicant for admission as a Limited Clearing Member shall on the date of application;*

- (i) comply with the following capital requirements:*
  - (a) If a Trading Participant of the CSE; a minimum liquid capital of Rs. 35 million and a minimum shareholders' equity of Rs. 100 million or 50% of the stated capital whichever is higher.*
  - (b) If a Custodian Bank; a minimum total shareholders' equity of Rs. 500 million.*

For the purposes of this Rule 11.1.2(i);

'liquid capital' shall have the same meaning as defined in Annexure 2 of the Trading Participant Rules of the CSE.

‘total shareholders’ equity’ shall be calculated in accordance with the Sri Lanka Accounting Standards.

- (ii) have sufficient resources and adequate systems and facilities to support the business operations of a **Limited Clearing Member** in terms of these Rules.
- (iii) have operational capability, including adequately trained staff, data processing capacity and suitable premises; and
- (iv) satisfy any other requirements and criteria as may be prescribed by the Clearing House for admission of **Limited Clearing Members**.

#### 11.1.3 Application to be admitted as a **Limited Clearing Member**

- (i) An application to be admitted as a **Limited Clearing Member** shall be submitted by the applicant to the Clearing House in the format specified by the Clearing House from time to time.
- (ii) The Clearing House may, accept or reject any application for admission as a **Limited Clearing Member**. In the event of a rejection, the Clearing House shall state the reasons.

#### 11.1.4 Grant of Clearing Member Status

- (i) If the application to be admitted as a **Limited Clearing Member** referred to in Rule 11.1.3 above is accepted by the Clearing House, notice of admission shall be provided as a Clearing Member that is a **Limited Clearing Member**.
- (ii) Admission as a Limited Clearing Member shall become effective on the execution of a Clearing Member Agreement by the Clearing Member with the Clearing House **expressly recording the status of the Clearing Member as a Limited Clearing Member. The Clearing Member Agreement shall, inter alia, contain a representation and undertaking by the Limited Clearing Member** that its Market Contracts shall enable and support the effective clearing and settlement of transactions by the Clearing House, it shall have always obtained the agreement of its Clients to the risk management and in particular the default and loss allocation framework employed by the Clearing House in terms of these Rules etc. By executing and entering into the Clearing Member Agreement, a Limited Clearing Member agrees to be bound by and comply with these Rules.

### 11.2 **Persons authorized to act on behalf of a Limited Clearing Member**

- 11.2.1 **Limited Clearing Members** shall give written notice of the persons who are authorized to act on behalf of such **Limited Clearing Member**.

11.2.2 Such authorized persons shall be the contact persons and shall be deemed to have the authority to instruct Clearing House in respect of matters concerning such **Limited Clearing Member**.

11.2.3 A **Limited Clearing Member** shall ensure that any change pertaining to such authorized persons shall be promptly communicated in writing to the Clearing House.

### 11.3 Clearing Member Fees

Upon admission as a **Limited Clearing Member** in terms of these Rules, such Clearing Member shall pay fees, charges and reimbursement of expenses in respect of the Clearing or Settlement services and facilities offered by the Clearing House as applicable from time to time.

### 11.4 Records in respect of Trades

#### 11.4.1 Reconciliation of Records

**Limited Clearing Members** shall reconcile their respective records with the records of the Clearing House on a daily basis, in relation (but not limited) to the following:

- (a) all settlement schedules issued by the Clearing House that are settled in each settlement cycle, including the funds and securities settled in respect of each settlement Instruction;
- (b) transfers of securities into or out of, and the daily closing balance in the Clearing Members' and Clients' Accounts.

If there is any discrepancy between the records of a Clearing Member and the Clearing House, the Clearing Member shall immediately inform the Clearing House of such discrepancy and take necessary steps to rectify such discrepancy.

#### 11.4.2. Maintenance of Records

- (a) Every Limited Clearing Member shall maintain records relating to its business operations relating to Trades as required to demonstrate compliance with these Rules.
- (b) Clearing Members shall notify the Clearing House of the place where the records referred to in Rule 11.4.2 (a), are kept and made available for inspection by the Clearing House and/or the SEC.

### 11.5 Reporting of Adverse Events

A **Limited Clearing Member** shall immediately notify the Clearing House, if:

- (a) it experiences an emergency or potentially debilitating situation that threatens its business operations in the capacity of a Clearing Member;

- (b) it is insolvent or wound-up, or has had an insolvency or winding-up application presented, or an order made by a court of competent jurisdiction, or any step is taken or a resolution passed, for its winding-up, dissolution, judicial management, a compromise with its creditors or administration, whichever occurs first;
- (c) it has had any attachment, distress, execution or legal process instituted against its assets, or has had any liquidator, receiver or any similar person appointed (or an application has been made for the appointment of such person) in respect of any of its assets; and
- (d) any regulatory body has initiated any action against such Clearing Member upon being found to have committed or been connected with the commission of any act which involves fraud, deceit or dishonesty by anybody with regulatory or supervisory authority;
  - (i) established by law in Sri Lanka or abroad,
  - (ii) constituted under law as a commission of inquiry, tribunal or other similar body, or
  - (iii) by any professional association which in the opinion of the SEC is of an established and credible stature.

## **11.6 Provision of Information by Limited Clearing Members**

- 11.6.1 Limited Clearing Members shall, upon the request of the Clearing House, provide any information or records and render such assistance (including giving access to its premises, systems and employees) as the Clearing House requires to discharge any of its duties (including to promote safe and efficient settlement), to make authorized disclosures or perform any other acts described in these Rules, or to investigate compliance with or enforce any Rule, from time to time.
- 11.6.2. The Clearing House reserves the right to use or disclose, all information and records so received pursuant to Rule 11.6.1 above, and each Clearing Member irrevocably consents to such use or disclosure.
- 11.6.3 The Clearing Member shall exercise due care to ensure that any information or records provided to the Clearing House do not contain untrue statements, are not misleading and include rather than omit any material statements/information.

## **11.7 Suspension/Termination of Clearing Member Status**

- 11.7.1 The Clearing House may, suspend or cancel the Clearing Member status of a ***Limited Clearing Member, if the Clearing Member fails to comply with or is in breach of any provision of these Rules or any term, condition or restriction imposed by the Clearing House under these Rules or of the Clearing Member Agreement with the Clearing House.***

***Additionally, the Clearing House may suspend or cancel the Clearing Member status of a Limited Clearing Member, in the following instances:***

- (i) where Clearing Member is a Trading Participant or Depository Participant, such Clearing Member ceases to be, or is suspended in its capacity as a Trading Participant or Depository Participant.
- (ii) winding up proceedings have commenced in respect of the Clearing Member.
- (iii) the Clearing Member is, in the opinion of the Clearing House;
  - (a) in financial or operating difficulty, including but not limited to not meeting fund settlement obligations and margin requirements as specified by the Clearing House;
  - (b) conducting its activities in a manner detrimental to the financial integrity, reputation or interests of the Clearing House, or clearing or settlement facilities operated by the Clearing House;
  - (c) no longer fit and proper to continue participating in settlement in terms of these Rules.
- (iv) it is necessary or desirable, in the interests of ensuring safe and efficient settlement or settlement facilities, or for ensuring the integrity of the capital market or for the proper mitigation and management of systemic risk, or for investor protection; or
- (v) **a directive has been issued to that effect** by the SEC, or
- (vi) the CBSL **has cancelled or suspended the licence issued to a Commercial Bank licensed by the CBSL to carry on banking business.**

11.7.2 The Clearing House shall not be obliged to provide any Clearing or Settlement facilities to a **Limited Clearing Member that is suspended in respect of any Trades carried out as a Trading Participant or affirmed as a Custodian Bank** or to perform any of its obligations under these Rules from the effective date of the suspension/termination of the Limited Clearing Member status of such Clearing Member, other than to the extent of facilitating the closing down operations of the suspended or terminated Limited Clearing Member in relation to outstanding clearing and settlements.

11.7.3 A Limited Clearing Member that is suspended pursuant to Rule 11.7.1, may be reinstated by the Clearing House upon complying with these Rules and/or any additional conditions as the Clearing House may impose.

11.7.4 The suspended Limited Clearing Member shall, from the effective date of such suspension until reinstatement of Clearing Member status respectively:

- (a) pay all outstanding charges owing to the Clearing House;
- (b) fulfill all outstanding settlement and other obligations in respect of Trades; and
- (c) continue to comply with the terms and conditions set out in the Clearing Member Agreement and these Rules.

**11.7.5 A Limited Clearing Member that is suspended shall comply with the following additional requirements:**

- (i) The Limited Clearing Member shall, immediately upon the suspension, issue a written notice to all its Clients, with a copy to the Clearing House, notifying them of the suspension;**
- (ii) Notwithstanding anything to the contrary in these Rules, the Limited Clearing Member shall continue to and be obliged to clear and settle the Trades executed by it on or before the effective date of suspension.**

**Once such Trades executed by the suspended Limited Clearing Member on or before the effective date of suspension are settled, the suspended Self Clearing Member shall not be eligible to clear and settle Non CCP Settled Trades, unless it is reinstated as a Clearing Member in terms of Rule 11.7.3.**

**11.7.6 Termination of clearing member status shall not affect the rights and obligations of the Limited Clearing Member which have accrued up to the effective date of termination.**

**11.7.7 The Clearing House shall forthwith notify the SEC, CSE, and the CDS of any action taken, or proceedings instituted against a Limited Clearing Member in terms of this Rule 11.7.**