

THE
JAMAICA
CENTRAL SECURITIES
DEPOSITORY



RULES

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Rule 1. Start

Rule 1.1. Definitions

In the Rules and Procedures, unless otherwise specified:

"Account" means a Securities Account and a Funds Account;

"Board of Directors" means the duly elected board of directors of the JCSD, including a committee of members of the board of directors appointed by the board of directors to exercise any of its duties or powers under the Rules;

"BOX" means Bank of Jamaica;

"JCSD Participant Account" means the Participant Account at BOJ;

"Business Day" means any day, during normal business hours, on which the JCSD is open for business with Participants;

"CIFTS" means the Customer Inquiry and Funds Transfer System at BOJ.

"Defective Security" means a Security that is invalid, forged, counterfeit, altered, defective, non-negotiable, the object of a claim or improper delivery, which bears an unauthorized or inappropriate signature or that cannot be rightfully transferred or registered;

"Depository Service" means the service provided by the JCSD and described in Rule 3 whereby the JCSD records a Security and Transaction therein;

"Funds Account" means an account defined in Rule 4;

"Issuer" means a Person who has outstanding issues of or proposes to issue a Security;

"Participant" means a Person whose Participation Application to use the Depository Service or Settlement Service has been accepted, signed and delivered by the JCSD, and who continues, is reinstated or remains a Participant, and where "Participant" is associated to a Service, a Participant using that Service;

"Participation Application" means the form adopted by the JCSD and modified in accordance with Rule 3 with respect to the use of any of the Services;

"Person" means an individual, a corporation, partnership, joint venture, trust, unincorporated organization and government, whether domestic or foreign, a subdivision, agency or instrumentality thereof and any other legal or commercial entity.

"Procedures" mean the procedures adopted by the JCSD and modified in accordance with Rule 3 with respect to the Services and the computer hardware, software and use of the Services;

"JCSD" means the Jamaica Central Securities Depository.

"JCSD Agreement" means the JCSD's Participation Application, Rules and Procedures;

"USE" means the Jamaica Stock Exchange;

"Rules" means the Rules adopted by JCSD and modified in accordance with Rule 3) to govern the use and the provision of the Services, and includes their numbered divisions;

"Security" means a share, participation or interest in property, rights or an enterprise of an Issuer, an obligation of an Issuer, any right to acquire such share, participation, interest or obligation, of a type commonly recognized as a medium for investment or dealt in upon a securities exchange or organized market, and includes a Security that is evidenced by a certificate or not and which is made eligible by the JCSD to the operation of the Settlement Service or the Depository Service in accordance Rule 2;

"Securities Account" means an account defined in Rule 5.

"Services" means the Settlement service, the Depository service and any other service provided from time to time by the JCSD;

"Settlement" means the settlement of transactions in accordance with the Settlement service;

"Settlement Bank" means 130J, or any regulated bank which meets standards and qualifications that the JCSD may establish from time to time in the Procedures with respect to the financial ability, personnel, facilities, equipment, procedures of the banks and other relevant matters, and which provides a Participant with facilities to effect payment in accordance with the Rules and Procedures and which the JCSD may designate from time to time;

"Settlement Service" means the service provided by the JCSD and described in Rule 4 whereby the JCSD provides facilities for the reporting and comparison of data respecting the terms of Settlement of Transactions, the reduction of the number of Settlements of Transactions, the allocation of Settlement responsibilities, and to act as an intermediary in making payments and deliveries in connection with Transactions;

"Transaction" means a transaction in a Security on the JCSD or otherwise permitted by the Services involving a Security or funds or both to effect a deposit, sale, purchase, loan, pledge, gift, transfer, delivery or withdrawal of a Security and registration thereof and a change in the information pertaining to a Securities Account.

Rule 1.2. Notices

- Rule 1.2.1. Notice to Participants. Unless otherwise specified in the Procedures, a notice to be given by the JCSD or Participants under the Participation Application and the Rules, is validly given to a Participant when in writing delivered, sent by confirmed recorded telecommunication or by means of a terminal video display, to the address, telephone or facsimile number. Each Participant provides the JCSD with a correct contact name, address, telephone and facsimile numbers on which the JCSD and Participants can rely for the purpose of this Rule.
- Rule 1.2.2. Notice to JCSD. Unless otherwise specified in the Procedures, a notice to be given by Participants to the JCSD under the Participation Application and the Rules is validly given to the JCSD when given to the Secretary of the JCSD in writing delivered at the address of the head office of the JCSD or sent by confirmed recorded telecommunication at the telecopier number prescribed in the Procedures.
- Rule 1.2.3. Notice under Procedures. A notice to be given under the Procedures is given in accordance with the manner prescribed in the Procedures, respectively. In the absence of a prescribed manner, a notice is given in accordance with Rules 1.3.1 or 1.3.2.

Rule 2. Participation

Rule 2.1. Eligible Person

Rule 2.1.1. Participant Eligibility. A Person is eligible to apply for participation in one or more of the Services if he/she is a broker or dealer trading or dealing in Securities who is a member of the JCSD; and.

- I. such other Person who demonstrates to the Board of Directors that its affairs and capabilities are such that it reasonably expects a material benefit from being a participant.

Rule 2.1.2. **Qualifications.** (1) An eligible Person qualifies to become a Participant if it:

- (a) and its directors, officers and partners are in good standing under the laws pursuant to which it is incorporated, established or formed and regulated;
- (b) owns, manages, controls or has custody of Securities;
- (c) provides evidence to the JCSD of its financial stability upon request;
- (d) possesses such other qualifications satisfactory to the JCSD for the protection of the JCSD and other Participants; and
- (e) meets any requirements the Settlement Bank may stipulate.

Rule 2.1.3. **Standards.** An eligible Person and a Participant demonstrates to the satisfaction of the JCSD, upon request by the JCSD, that it:

- (a) has the financial resources to comply with the JCSD's Agreement;
- (b) has adequate personnel, premises, communication and data processing capabilities, books and records enabling it to fulfill its obligations and operational requirements promptly and accurately;
- (c) has made, where appropriate, arrangements with the Settlement Bank to effect and receive payment;

- (d) meets such other standards or submits such other documents or information as the Board of Directors may from time to time determine by resolution for an eligible person or Participants or for the use of the Settlement Services, the Depository Service or any other Service made available from time to time; and meets any requirements the Settlement Bank may stipulate.

Rule 2.1.4. The Board of Directors can with consent of the Settlement Bank waive for an eligible Person the compliance with any classification, qualification or standard, conditionally or temporarily, if it is unduly severe and not against the best interests of the JCSD and Participants.

Rule 2.1.5. **Change.** An Applicant and a Participant undertake to give immediate notice to the JCSD upon ceasing to satisfy the applicable classification, qualifications or standards.

Rule 2.2. Application Procedure

Rule 2.2.1. **Participation Application.** A Person eligible for participation signs and delivers to the JCSD in duplicate originals of Participation Application in the form made available by the JCSD and the Participant thereby consents to the transmission of information to the Settlement Bank.

Rule 2.2.2. **Mandatory Refusal.** The Board of Directors refuses a Participation Application that is incomplete or deficient or where there are reasonable grounds to believe that the Person, a partner, associate, director or officer:

- (a) has been convicted within ten years preceding the filing of the Participation Application or at any time thereafter of:
 1. any criminal offense involving the purchase, sale or delivery of any Security, or the taking of a false oath, or the making of a fraudulent statement, of a false report or bribery or perjury, or burglary, or conspiracy to commit any offense referred to in this clause;
 2. the larceny, theft, robbery, embezzlement, extortion, fraudulent conversion, fraudulent concealment, forgery or misappropriation of funds, Securities or their property,
 3. any violation or offense involving breach of fiduciary obligation, or arising out of the conduct of business as a broker dealer, investment adviser, bank, trust company, fiduciary, insurance company or other financial institution, or the material violation of a Securities act or regulation;

- (b) has been permanently or temporarily enjoined or prohibited by order, judgment, or decree of any court or other governmental authority of competent jurisdiction from acting as, or as a person connected with, a broker, dealer, investment adviser or underwriter or as an affiliated person or employee of any investment company, bank, fiduciary, insurance company or other financial institution, or from engaging in or continuing any conduct of practice in connection with any such activity, or in connection with the purchase, sale or delivery of any Security;
- (c) has been suspended or expelled from a national securities exchange, a national securities association or a clearing corporation, or has been barred or suspended from being associated with members of such an exchange, association, clearing corporation ; or
- (d) has made a misstatement of a material fact or has omitted to state a material fact to the JCSD in connection with its Participation Application or thereafter.

Rule 2.2.3. **Deferral.** The Board of Directors defers its approval of a Participation Application with respect to anyone of the Services until such time as the JCSD has adequate personnel, facilities, data processing capacity or such operational capability to provide its services to additional Participants without impairing its ability to service existing Participants, to assure the prompt and efficient settlement of Transactions, to safeguard the funds and a Security, and to carry out its functions in the normal course of business.

However, Persons whose Participation Applications are denied pursuant to this Rule are approved as promptly as the capabilities of the JCSD permit in the order in which their Participation Applications were filed with the JCSD.

Rule 2.2.4. **Approval.** The Board of Directors can approve, with respect to any one of the Services applied for, a Participation Application for signature by the JCSD and delivery to the Participant who then becomes a Participant. A Participant whose Participation Application is approved may only use the Service specified in the Participation Application.

Rule 2.3. Suspension and Termination

Rule 2.3.1. **Sufficient cause.** Sufficient cause for suspension or termination of a Participant in any one or more Services exists when the JCSD determines, in its sole discretion and for any one of the Services, an actual or imminent:

- (a) failure to make or accept any payment as required by the Rules or Procedures;
- (b) failure to deliver or receive any Securities as required by the Rules or Procedures;
- (c) non-performance of a material provision, or repeated breach of any provision, of the JCSD's Agreement;
- (d) non compliance with any disciplinary action or imposition of surcharges by the JCSD;
- (e) ineligibility, loss of qualification or non compliance with standards for Participation;
- (f) adverse effect on the integrity or interests of the JCSD or Participants by the financial or operating condition, or continuation of the participation, of the Participant;
- (g) revocation of the registration or license, expulsion or suspension of the Participant by the regulatory or competent body having jurisdiction over the Participant;
- (h) order or decision of a competent judicial or administrative authority enjoining the Participant from engaging in or continuing any conduct or practice related to securities or payment transactions;
- (i) or when the Board of Directors, in its discretion, determines that other similar or adequate cause for suspension or termination exists.

Rule 2.3.2. **Suspension.** When sufficient cause exists, the JCSD may suspend the right of a Participant to use any Service or any function within a Service, with respect to any specific one or all transactions or Securities, until the JCSD determines that the sufficient cause no longer exists.

Rule 2.3.3. **Termination.** When sufficient or adequate cause exists, the Board of Directors may terminate the right of a Participant to use any Service. At least five days before the meeting at which termination is to be considered, the Participant is given notice of the time and place of the meeting and the cause for termination. The Board of Directors gives the Participant the opportunity to be heard by the Board of Directors at that meeting. -

- Rule 2.3.4. **Outstanding Items.** The JCSD determines what actions are taken with respect to Transactions of a suspended or terminated Participant that have not settled or that are not completed. The JCSD may take any action it deems necessary to maintain the provision and the integrity of the Services, and Participants concerned comply with the JCSD's instructions.
- Rule 2.3.5. **Withdrawal.** A participant may, on thirty days' prior notice to the JCSD, cease to be a Participant.
- Rule 2.3.6. **Reinstatement.** Upon request by a Participant, the Board of Directors may reinstate in any Service a terminated or withdrawn Participant on terms and conditions determined by the Board of Directors.
- Rule 2.3.7. **Obligations.** The obligations of a suspended, terminated or withdrawn Participant survive the suspension, termination and withdrawal from any Service. A Participant waives its rights to any damages or action against the JCSD, its directors, officers or employees in connection with its suspension, termination or withdrawal or that of another Participant.
- Rule 2.3.8. **Civil and Criminal Liability.** The suspension, termination or withdrawal of a Participant does not prejudice the right of the JCSD and Participants to take civil or criminal action against the suspended, terminated or withdrawn Participant.

Rule 2.4. Appeals Procedure

- Rule 2.4.1. **Appeal to Board of Directors.** A Participant who is adversely affected by a decision of the JCSD management may appeal the decision to the Board of Directors. The Participant notifies the JCSD, within ten Business Days from the date the decision is made known to the Participant, of the decision and the grounds for the appeal. Within twenty Business Days from the date the JCSD is notified, but not earlier than ten Business Days unless the Participant consents to a shorter delay, the Board of Directors gives the Participant the opportunity to appear before and to be heard by the Board of Directors.

The Board of Directors is not bound by the technical rules of evidence in the conduct of the hearing and deliberation of the decision under appeal. No final decision shall become effective until affirmed by a majority of the members of the Board of Directors and notified to the Participant within a reasonable time after the hearing.

Rule 3. Use and Provision of Services

Rule 3.1. Participant Authorization and a Security

Rule 3.1.1. **Authorized Signatories.** Each Participant files with the JCSD any form required by the JCSD including a designation, signed by two of the Participant's senior officers, of the name, office, telephone and telecopier numbers, and specimen signature of those individuals who are duly authorized to legally and validly act on behalf of the Participant in all matters of the Service it is authorized to use, including the ability of such designated personnel to access computer processing activities for on-line functions and facilities.

Such designation becomes effective when the JCSD acknowledges receipt thereof by signing a duplicate copy remitted to the Participant. The JCSD is authorized and instructed by the Participant to rely on such effective form or designation and on any replacement thereof.

Rule 3.1.2. **Securities.** A Participant complies with the Procedures concerning the reasonable security measures of the JCSD with respect to its premises, employees and computer processing facilities. A Participant is also responsible for taking appropriate and diligent security measures concerning its own personnel, the preservation of access codes and passwords to the JCSD's computer processing facilities and its operations with the JCSD.

Rule 3.1.3. **Participant Action.** Subject to the requirement of the JCSD to require further confirmation before acting on an instruction from a Participant, the JCSD is authorized and directed by a Participant to rely on and accept any written instruction, telecopied, telephoned or electronic message from any designated personnel of a Participant. The JCSD is not required to verify the source of a telecopied, telephone or electronic message given in accordance with the JCSD's Agreement.

The JCSD is not responsible or liable for any act done in good faith in reliance of any erroneous, forged or unclear message given in accordance with the JCSD's Agreement.

Rule 3.2. Payment and Funds Account

Rule 3.2.1. **Service Fees.** A Participant pays, within the time, at the place and in the form and manner specified in the Procedures, such fees and surcharges for its use of the Services, determined by the JCSD from time to time. Fees and surcharges are billed on a monthly basis or as often as the JCSD requires as specified in the Procedures.

- Rule 3.2.2. **Transactions.** Every Business Day on which the JCSD provides a Participant with a Transaction report, notional payments between the Participant and the JCSD of a debit and credit shown in such report is made through the Funds Account in accordance with the Rules and within the time, at the place and in the form and manner specified in the Procedures.
- Rule 3.2.3. **Acceptable Banks.** Payment between Participants and the JCSD are effected through the facilities of the Settlement Bank.
- Rule 3.2.4. **Other Means.** The JCSD may at any time and, whenever possible, with prior notice to Participants concerned, require that a payment be made or accepted using alternate means. A Participant forthwith effects payment and takes alternate means of effecting payment.
- Rule 3.2.5. **Payment Final and Irrevocable.** A payment by a Participant through a JCSD Participant Account or drawn on any other Settlement Bank is final and irrevocable. A Participant cannot revoke, countermand, cancel, return through the payments clearing system or otherwise refuse to pay or attempt to prevent any payment.
- A Participant's obligations and liability to the JCSD remain outstanding until the JCSD receives full, unconditional and irrevocable payment, and 'are not discharged by the delivery to a Participant, the JCSD or Settlement Bank any instruction, form or instrument of payment by a Participant or the Settlement Bank for the account of a Participant. If a payment is returned or otherwise not made or reversed for any reason, including the failure or insolvency of the Settlement Bank by which payment is to be made, a Participant immediately makes payment in accordance with the JCSD's instruction.
- Rule 3.2.6. **Accountability.** Payment by a Participant or the Settlement Bank is made without prejudice to the right of a Participant and the JCSD to an accounting after such payment of the amounts properly owing between a Participant and the JCSD.
- Rule 3.2.7. **Funds Account.** A Participant opens and maintains with the JCSD a Funds Account in accordance with the Procedures, which is used solely for the notional Settlement of funds for obligations pertaining to Transactions, fees and surcharges, and any other payments obligations under the JCSD's Agreement.
- Rule 3.2.8. **A Settlement Bank Account.** Participant opens and maintains with the Settlement Bank a Settlement Bank account, and were BOJ is the Settlement Bank a JCSD Participant Account, for each Funds Account

maintained at the JCSD. Each **Settlement Bank account** or were BOJ is the Settlement Bank each Participant Account is used solely for effecting the actual payment of the net funds Settlement obligations of a Participant and the JCSD.

Rule 3.2.9. **Settlement Bank Limit.** In the event that Settlement is to be effected through a bank other than BOJ, Participants are required to obtain from the Settlement Bank a credit facility in the form of an unencumbered and unrestricted Settlement Bank limit, the available amount of which the Settlement Bank confirms to the JCSD. Such limit is in effect until revoked, increased or decreased, but such change does not take effect until after the Settlement obligations of a Participant are fulfilled under the existing limit, notice is given by Settlement Bank to the JCSD prior to the time on a Business Day set forth in the Procedures. Until the JCSD is notified by the Settlement Bank in accordance with the Procedures, the current limit is valid and constitutes obligations of the Settlement Bank and the Participant.

Rule 3.2.10. **Actual Payment.** At the time prescribed and using one of the following methods of payment set forth in the Procedures for the actual payment of Settlement:

- (a) the net debit or credit amount in the Funds Account is communicated to the Settlement Bank by the JCSD for immediate posting to the Participant's Settlement Bank account; or
- (b) the JCSD pays a Participant by delivering at its office an uncertified cheque drawn on the Settlement Bank to Participant's order. A Participant pays JCSD by delivering to the JCSD at the JCSD's office a certified cheque to the JCSD's order drawn on the Settlement Bank, subject to the Settlement Bank limit. A Participant may pay the JCSD by an uncertified cheque any amount less than the certifiable minimum amount set forth in the Procedures.

Rule 3.2.11. **JCS D Payment Order.** The JCSD is irrevocably and duly authorized and directed by a Participant to:

- (a) require and receive an advice from the Settlement Bank with respect to a Participant's Settlement Bank limit;
- (b) direct Settlement Bank to credit and debit a Participant's Settlement Bank account with the amount resulting from Settlement obligations of a Participant and the JCSD; and
- (c) direct Settlement Bank to perform other related activities.

A Participant makes necessary arrangements with the Settlement Bank to enable the JCSD to utilize the authorization and direction given hereunder.

Rule 3.2.12. **Payments via CIFTS.** The JCSD is irrevocably and duly authorized and directed by Participant to:

- (a) require and receive an advice from CIFTS with respect to JCSD Participant Account balance;
- (b) direct BOJ to credit and debit Participant's JCSD Participant Account with the amount resulting from Settlement obligations of Participant and the JCSD.

Rule 3.3. Participant Liability

Rule 3.3.1. **Separate Services.** The rights, liabilities and obligations of a Participant using a Service are not affected by the rights, obligations and liabilities of a participant arising in another Service, where that other Service is not used by a Participant and, unless the Participant is in default of its obligations in the Service used, where the other Service is used by a Participant.

Rule 3.3.2. **Principal.** A Participant uses the Services strictly for the purpose for which they are intended under the JCSD Agreement.

Where a Participant uses any Service on behalf of another Participant or of a non-Participant, so far as the rights of the JCSD and of other Participants are concerned, the Participant is liable as principal for the performance and execution of all obligations under the JCSD Agreement.

Rule 3.3.3. **Sufficiency and Authority.** At all times, a Participant ensures that there are sufficient funds and Securities in the relevant Accounts to fulfill the financial and settlement obligations resulting from its Transactions and instructions to the JCSD.

A Participant also warrants to the JCSD and other Participants that it has complete power, right and authority to enter into all Transactions and instructs the JCSD in accordance with the JCSD Agreement. Participants enter into an agreement with each client in the substance of the provisions prescribed in the Procedures.

Rule 3.3.4. **Responsible Use.** The use by a Participant of any Service, including the facilities of another clearing corporation provided through a Service,

constitutes the agreement of every Participant with the JCSD and other Participants to be bound by the Rules and Procedures, and by all agreements entered into, all *instruments, declarations* made and other acts done by the JCSD in respect of that facility or Service used by the Participant. Every Participant observes and complies with and is bound by such rules and procedures of the clearing corporation to the same extent as if the Participant were a participant of that service or clearing corporation.

- Rule 3.3.5. **Indemnification.** A Participant indemnifies and holds harmless the JCSD, its nominee and all Participants, their partners, directors, officers, employees and agents from any loss, damage, cost expense, liability or claim incurred or sustained by them arising from a Participant's instructions, actions or directions, failure or breach of its obligations.

Rule 3.4. Provision of Services

- Rule 3.4.1. **Depository and Settlement Services.** The JCSD provides the Settlement Service and the Depository Service as two separate Services, which carry separate and distinct rights, obligations and responsibilities.

Where a Participant uses both Services and the JCSD determines an actual or imminent default of a Participant in one Service, the JCSD is entitled to treat all of that Participant's rights, obligations and liabilities as if the Participant is also in default in the other Service.

- Rule 3.4.2. **Other Services.** The JCSD may provide such other Service with respect to a Security or not, including the delivery and receipt, settlement of transactions in and the pledge of Securities or otherwise of a nature commonly performed by a clearing corporation, as the JCSD may from time to time determine, including the disbursement of money to and the receipt of money from Participants and others in connection with Transactions and a Security.
- Rule 3.4.3. **Services to non-Participants.** The JCSD may from time to time act in delivering Securities to and receiving Securities from persons, firms, or organizations which are not Participants and paying to and receiving from such persons, fin-ns, or organizations amounts payable in connection with such receipts and deliveries.
- Rule 3.4.4. **Cessation of Services.** The JCSD, notwithstanding anything herein contained, may in its discretion cease to provide, temporarily or indefinitely, one or more Services for any Transaction, class of Transactions or a Security. The JCSD promptly notifies Participants of such cessation.

- Rule 3.4.5. **Participant Identifier.** A Participant is allocated a unique identification code, and each Account is allocated a unique identification code, which is used in all forms used by the Participant in connection with the Services.
- Rule 3.4.6. **Waiver.** The time fixed by or pursuant to the Rules and Procedures for the doing of any act or acts may be extended, or the doing of any act or acts required by the Rules and Procedures may be waived or suspended by the JCSD whenever in its judgment such extension, waiver, or suspension is necessary or desirable.
- Rule 3.4.7. **Grounds for Waiver.** A written report of any such extension, waiver, -or suspension stating the pertinent facts, the identity of the person or persons who authorized such extension, waiver or suspension and the reason for such extension, waiver or suspension was deemed necessary or expedient, is promptly made and filed with the JCSD records and is available for inspection by any Participant during regular business hours on Business Days. Any such extension or waiver may continue for more than thirty calendar days after the date thereof unless it shall have been disapproved by the Board of Directors within such period of thirty calendar days.

Rule 3.5. Rules and Procedures

- Rule 3.5.1. **Amendment of Rules.** The Board of Directors may after consultation with the Settlement Bank prescribe and from time to time amend Rules. The JCSD promptly notifies Participants of any proposal to change, revise, add or repeal any Rule and of the text of the proposed rule and a brief description of its purpose and effect. Participants may, within the time prescribed by the Board of Directors, submit to the JCSD for its consideration its comments with respect to any such proposal, and such comments are filed with the JCSD records and copies thereof delivered to the Securities Commission upon request.
- Rule 3.5.2. **Procedures.** The JCSD may prescribe and from time to time amend the Procedures. Participants are bound by such Procedures and any amendment thereto in the same manner as they are bound by the provisions of the Rules. Participants are given prompt notice of any proposed amendment to the Procedures. Upon adequate notification of Participants, the JCSD may, when in its discretion it deems advisable to do so, alter the Procedures with respect to any particular Transaction.

The JCSD may from time to time establish Procedures for the processing, copying, retention and destruction of documents used by the JCSD and Participants, for the establishment of cut off times and for any other purpose in relation to the JCSD functions.

The JCSD may adopt Procedures for the receipt and delivery of a Security at or through the facilities of such other clearing corporation or entity as may be designated by the JCSD.

Rule 3.5.3. **Services Advisory Committee.** The Board of Directors may appoint a committee, to be known as the Services Advisory Committee, to advise the JCSD with respect to its Services, the Procedures and pricing. The Committee shall be comprised of representatives of Participants, Issuers of a Security or transfer agents, and the Settlement Bank. The Committee reviews such Services, Procedures and pricing and makes its recommendations to the JCSD prior to their implementation. Such review and recommendations are necessary if in the opinion of the JCSD the circumstances require prompt or immediate action or if the matter subject to consideration by the Committee is of a routine or inconsequential nature.

Rule 3.5.4. **Forms.** In connection with any Transactions or matters handled through, with, or by the JCSD under or pursuant to the Rules, Procedures and such forms, lists, instructions, requests, notices, and other documents are used as the JCSD may from time to time prescribe, and additions to, changes in and elimination of any forms may be made by the JCSD at any time in its discretion.

Rule 3.6. Securities

Rule 3.6.1. **Eligibility Policy.** The JCSD determines from time to time which Securities are eligible for any particular Service.

Rule 3.6.2. **Exceptions to Policy.** The JCSD may refuse to accept a Security as eligible or may discontinue, for any particular Service, the eligibility of any Security previously accepted for any reason, including any one of the following where:

- (a) the JCSD lacks the operational capability or may be unable to obtain sufficient information regarding the a Security to permit the performance with respect to such a Security of the Services ordinarily rendered by the JCSD with respect to Securities;
- (b) the market for the a Security has not demonstrated liquidity sufficient to permit reasonable liquidation of positions therein;
- (c) a Security, other than a corporate bond, is neither traded on the Exchange nor subject to quotations (representing bona fide offers to Participants to buy and sell in reasonable quantities at stated prices);

- (d) a Security of an Issuer who is in default on payments of declared dividends, interest or face value;
- (e) a Security the trading of which has been suspended by the order of the Stock Exchange, Securities Commission, or by any other authority having the power to suspend trading in such a Security;
- (f) during the preceding six consecutive months the level of activity in the JCSD concerning the Security or the level of service provided by the transfer agent or the Issuer in connection therewith has been insufficient to render the continued eligibility of the Security practical;
- (g) the continued eligibility of the Security may adversely affect the financial condition of the JCSD or of a Participant who uses a Service, as deemed by the JCSD necessary or appropriate in the public interest in view of the JCSD's overall capabilities.

Rule 3.6.3. **Conditions.** The JCSD may, in its discretion and at any time, impose or remove conditions on any Security, including constraints on or prohibitions in respect of any Transaction provided that:

- (a) prior to imposing or removing such condition, the JCSD takes reasonable steps to give Participants sufficient prior notice to permit Participants to take alternate means to carry out its Transactions, including the withdrawal of deposited Security or to refrain from depositing those to become subject to the condition; and
- (b) in exercising its discretion to impose or remove conditions, the JCSD takes reasonable care in what, in good faith, it considers to be in the best interests of all Participants.

Rule 3.6.4. **List.** The JCSD maintains a list of Securities and when the JCSD discontinues the eligibility of a Security for a Service or imposes conditions, the JCSD notifies Participants thereof, and from and after the effective date specified in such notice, the JCSD ceases to render such Service or enforces the condition with respect to such a Security. Such list is available to Participants and non-Participants on demand for a prescribed fee.

Rule 3.7. Fees and Charges

Rule 3.7.1. **Formula.** The Board of Directors establishes and revises a reasonable and nondiscriminatory basis for the determination by the JCSD of the amounts of, manners in which and times at which fees and surcharges are

paid, and for which Transactions in any Service such fees and surcharges are levied.

Rule 3.7.2. **Fees.** The JCSD determines the fees to be paid for the use of the Services and the manner and time of payment thereof.

Rule 3.7.3. **Surcharges.** The JCSD determines the fees to be paid, and the manner and time of payment thereof, for non or late compliance with the provisions of the JCSD Agreement and for any conduct deemed by the JCSD to be contrary to the interest or integrity of the JCSD, Participants and their respective affairs.

The JCSD also makes a similar determination for taxes, and for those unusual expenses caused directly or indirectly to the JCSD by a court or administrative order to which a Participant, its clients, directors, officers or employees thereof are subject.

Rule 3.7.4. **Publication.** Fees and surcharges determined by the JCSD are set forth in the Procedures and are released to Participants thirty days prior to the effective date thereof.

The JCSD is not precluded from imposing surcharges and lawful taxes that are not set forth in the Procedures when circumstances so require.

Rule 3.8. Reports and Audits

Rule 3.8.1. **Reports.** The format and contents of the reports for Participants evidencing the records of the JCSD provided for the Services are determined by the JCSD and set forth in the Procedures.

Rule 3.8.2. **Confirmation.** Before the close of the Business Day following the Business Day on which a report is made available to Participants, Participants verify the accuracy, completeness and correctness of all such reports and raises with the JCSD any discrepancy with Participants' internal records identified by Participants.

After that period, Participants are deemed to have confirmed the accuracy, completeness and correctness of such reports.

Rule 3.8.3. **Correction.** The JCSD may correct or adjust any entry in any report or record maintained by the JCSD and forthwith notify the Participant concerned, including any manifest error after the confirmation period, provided that the delay does not prejudice the JCSD or any Participant. A Participant conforms its records to those of the JCSD, which prevail over Participant's records in case of any discrepancy.

- Rule 3.8.4. **Best Evidence.** The reports and records of the JCSD prevail over Participants' internal records and constitute, with respect to any and all Transactions, the best evidence of such Transactions, without prejudice to the right of Participants clients to prove their ultimate rights, title and entitlements.
- Rule 3.8.5. **Retention.** The JCSD determines and sets forth in the Procedures the period for the retention by the JCSD of Service records, after which period such records can be discarded or destroyed. The JCSD is not obligated to retain any of its Service records for longer than 10 years after the date on which the entry was made on such records. The JCSD may prescribe and set forth in the Procedures the records and the period for retention thereof by the JCSD.
- Rule 3.8.6. **Annual Financial Audit.** The annual financial statements of the JCSD are audited by a firm of independent public accountants selected by the general meeting of shareholders of the JCSD. Such audit shall be conducted in accordance with the generally accepted auditing standards.
- Rule 3.8.7. **Review of Internal Accounting and Procedures.** A study and evaluation is conducted annually by independent public accountants of the suitability of the system of internal controls of the JCSD with the objectives of internal control stated by the JCSD pertaining to:
- (a) the accounting of Participants' Security Accounts and Funds Accounts;
 - (b) the processing of Transactions in accordance with Participants instructions, the Rules and Procedures; and
 - (c) the integrity and reliability of the data processing facilities of the JCSD.
- Rule 3.8.8. **Financial Reports.** Within ninety (90) days after the end of each fiscal year, the JCSD shall provide Participants with financial and other statements of the JCSD audited by independent public accountants for such fiscal year.

Within thirty (30) days after the close of any fiscal quarter, the JCSD shall provide to any Participant upon request unaudited quarterly financial statements of the JCSD.

Rule 3.9. Confidentiality

Rule 3.9.1. **Secrecy.** Any information about Participants' Securities Accounts, JCSD Participant Account and Funds Accounts obtained by the JCSD in the course of its operations are kept confidential by the JCSD unless it is otherwise publicly available.

Rule 3.9.2. **Disclosure.** A Participant authorizes and directs the JCSD to disclose information about the Participant, its Funds Account, JCSD Participant Account and its Securities Accounts and those under its management:

- (a) to the respective auditors of the JCSD, of the Participant and other Participants and the Securities Accounts under the Participant's management, to the extent required to perform their duty;
- (b) to directors, employees, agents and legal counsel of the JCSD, to the extent required to perform their duty;
- (c) to the Issuer of securities held for a Participant and in Securities Accounts under its management;
- (d) as required by order of a court, or order of or under an agreement with a regulatory body having jurisdiction over a Participant or holders of Securities Accounts;
- (e) to a securities exchange, clearing agency or self-regulatory organization which services Participants;
- (f) limited to Securities held for a Participant, as required by any person concerning the influence of the votes of Security holders, the offer to acquire or exchange securities or any other matter related to the affairs of the Issuer of such a Security;
- (g) which is in a statistical, summary or other format that does not identify a Participant, holders of Securities Accounts or a group of Participants.

Before disclosing the information under (d), the JCSD notifies the Participant concerned of the request unless specifically prohibited to do so.

Rule 3.10. JCSD Liability

Rule 3.10.1. **Exclusion.** The JCSD is not liable to any Participant or holders of Securities Accounts under its management for:

- (a) any loss of opportunity, profit, market, goodwill, interest or use of money or Securities; b) any other special, indirect or consequential

loss, damage, expense, liability or claim c) any loss in respect of which the Participant indemnifies the JCSD; which is suffered or incurred by any Participant or holders of Securities Accounts under its management arising from or related to the Services.

Rule 3.10.2. **Limitation.** The JCSD's liability in respect of any Service to any Participant, for a loss not excluded by the Rules and arising from any cause, does not in any event exceed the net amount that the JCSD recovers from its insurers or any other person for any such loss.

Where more than one Participant or holders of Securities Accounts suffer or incur a loss for which the JCSD accepts such limited liability, the net amount recovered by the JCSD is distributed among all such Participants and holders of Securities Accounts in a fair and equitable manner determined by the JCSD.

Rule 3.10.3. **Insurance.** The JCSD takes reasonable steps to obtain and maintain one or more policies of insurance for such amounts and coverage as the JCSD may reasonably determine in the best interests of the JCSD and Participants, and provided such insurance is available at a reasonable cost. A policy of insurance maintained by the JCSD is open to Participants' inspection at the time and place determined by the JCSD.

The JCSD notifies Participants of any material reduction in the coverage or amount of any policy of insurance maintained by the JCSD.

Rule 4. Settlement Service

Rule 4.1. Service Description

- Rule 4.1.1. **Settlement.** The Settlement Service is a Service whereby the JCSD acts as an intermediary in making payments or deliveries or both in connection with Transactions in a Security and provides facilities for the comparison of data respecting the terms of settlement of Transactions, to reduce the number of settlements of Transactions, or for the allocation of settlement responsibilities arising from Transactions.
- Rule 4.1.2. **Clearance and Settlement through JCSD.** The reporting and confirmation of a Transaction to the JCSD constitutes the agreement of Participants and the JCSD to clear and settle such Transaction through the Services in accordance with the JCSD Agreement.
- Rule 4.1.3. **Non-Participants.** No Transaction can be effected through the Settlement Service if a party to the Transaction is not a Participant. A non-Participant appoints a Participant to act as the attorney of such non-Participant.
- Rule 4.1.4. **Transaction Feed.** No amendment may be made to any Transaction reported to the JCSD except in accordance with the rules and procedures of the JSE and, when not entered into on the JSE, by all Participants involved in the Transaction.
- Rule 4.1.5. **Simultaneous Delivery and Payment.** The settlement of Transactions is by means of delivery of a Security coinciding with payment of funds.

Rule 4.2. Settlement of Transactions

- Rule 4.2.1. **Mandatory Settlement.** All JSE trades in a Security between Participants, unless the Procedures prescribe otherwise, are reported and submitted for clearance to the JCSD and for settlement by Participants through the Settlement Service and the Depository Service.
- Rule 4.2.2. **Transaction Settlement.** Transfers of a Security between custodians and securities companies, as well as donations, hereditary transfers, sales on attachment, foreclosures on execution, pledges, free deliveries, loans and other dispositions of a Security may be settled within the Services through Participants in such Services.

- Rule 4.2.3. **Transactions Report.** On every Business Day that one or more Transactions are recorded in a Participant's Account, the JCSD combines the Transactions and provides the Participant with reports and at such time as are set forth in the Procedures.
- Rule 4.2.4. **Settlement Date.** On Settlement Date, when a Security and the net available Settlement Bank limit or the amount in the Participants' Accounts are sufficient to cover the Security and funds elements of the Settlement, the Transaction is automatically settled by the Services.
- Rule 4.2.5. **Settlement Mode.** Upon Settlement of a Transaction, the transferring Participant's Account is debited with the a Security being the object of the Transactions and its JCSD Participant Account or in the case of another Settlement Bank its Funds Account is credited with the corresponding payment therefor. Simultaneously, the transferee Participant's Account is credited with a Security being the object of the Transactions and its JCSDI Participant Account or in the case of another Settlement Bank its Funds Account is debited with the corresponding payment therefor.
- Rule 4.2.6. **Payment of Settled Transfers.** All net funds payment obligations arising on Settlement date are effected and settled through the Settlement Bank at the end of the Business Day on Settlement date through the crediting and debiting by the Settlement Bank of the respective Participants' Account based on the net position of each Participant as a result of Settlement.
- Rule 4.2.7. **Effect of Settlement.** Upon completion and settlement of the Security and payment therefor, the Transaction is final and irrevocable and cannot be unwound.
- Rule 4.2.8. **No Restrictions.** Participants are not permitted to attach any condition or restrictions on the Settlement of Transactions and such conditions and restrictions that are imposed contrary to the Rules and Procedures are void and ineffective, and noncompliance therewith does not invalidate Settlement.
- Rule 4.2.9. **Good Title.** A transferee Participant or holder of an Account under its management acquires good, valid and incontestable title to a Security obtained by means of a Transaction settled through the Services.
- Rule 4.2.10. **Novation and Netting.** The JCSD may prescribe and set forth in the Procedures that Transactions may be cleared by setting any of them off against any other Transaction, and that in addition, upon such netting of Transactions, an obligation to deliver and the right to receive a Security and funds in payment between Participants are extinguished and replaced by the obligations and right between each Participant and the JCSD.

Rule 4.3. Loan Post

- Rule 4.3.1. **Loan Post.** All loans of Securities from one Participant to another are contracts between Participants and are made through the JCSD loan post. Unless otherwise provided in the Procedures, the JCSD loan post is a facility whereby the JCSD releases the name of any Participant willing to lend Securities through the Depository Service. All Securities loaned and moneys deposited as a Security for such loans may be delivered through the Service.
- Rule 4.3.2. **Client's Authorization.** A Participant having authority to do so from a client may loan to another Participant marginable Securities held for such client, provided that nothing in such authorization justifies a Participant in loaning more of such Securities than is fair and reasonable in view of the indebtedness of such client. To determine what is fair and reasonable, a Participant maintains a separate list identifying the client and the Securities loaned.
- Rule 4.3.3. **Borrowing Procedure.** A Participant wishing to borrow Securities contacts the Participant prepared to make such loan directly and enters into an agreement determined entirely by the parties thereto, without the intervention of the JCSD.
- Rule 4.3.4. **Deposit of Money with Lender.** A loan may be made against deposit by the lender Participant of a sum equal to the current market price of the said Securities as determined by the lender Participant or of such greater sum, if any, as agreed upon, and is made either flat or with interest or premium as agreed upon by the borrower and the lender Participants. The lender Participant is not be accountable to his client for any interest on the money deposited with the lender Participant as aforesaid.
- Rule 4.3.5. **Marking to market.** The lender Participant may at any time on any clearing day, require the borrower Participant to furnish margin equivalent to the amount by which the then current market price exceeds the sum of money on deposit with the lender Participant, and the borrower Participant may require the lender Participant to refund such money as is necessary to reduce the amount of deposit for the loan to such current market price.
- Rule 4.3.6. **Repayment.** Subject to any special time arrangement agreed upon, the borrower Participant may return the loan and the lender Participant may call the loan at any time upon notice to the other Participant. If a Transaction is involved, a trade that is not completed by the return of the Securities and money deposited may be closed out.

Rule 4.3.7. **Lender's right to dividend.** During the continuance of the loan, dividends, rights and other entitlements pertaining to the Securities remain with the lender Participant. Claims may be requisitioned from the borrower Participant.

Rule 5. Depository Service

Rule 5.1. Service Description

Rule 5.1.1. **Depository.** The Depository Service is a Service of a system for the central handling of securities whereby the JCSD acts as a custodian of a Security. All Securities of a particular class or series of any Issuer deposited within the system are treated as fungible and may be transferred, loaned, pledged or subject to other operations, all by entries in the records of the JCSD without physical delivery of Security certificates, or otherwise to permit or facilitate the settlement of Transactions without physical delivery of Security certificates.

Rule 5.1.2. **Securities Accounts.** To use the Depository Service, a Participant opens and maintains with the JCSD one or more Securities Accounts, which may comprise a Participant Securities Account and a Client Securities Account to comply with segregation requirements for clients' Securities.

Rule 5.1.3. **Accounts.** A Client Securities Account and a Participant Securities Account may, in accordance with the Procedures, record a Security in:

- (a) a Collateral Account, for a Security pledged to a Participant and held by the JCSD subject to a Participant's instruction only;
- (b) a Pledge Account, for a Security pledged by a Participant to another Participant and held by the JCSD for and subject only to the instruction of that Participant;
- (c) a General Account, for a Security available and unencumbered held by a Participant or by the holder of a Securities Account.

Rule 5.1.4. **Operations.** The Depository Service and its facilities are extended by the JCSD and made available to Participants and non-Participants who can maintain Securities Accounts only under the responsibility of Participants and solely upon instruction received from Participants and determined to be in accordance with the JCSD Agreement.

Any instruction to change, update or make a correction to a Securities Account of a non-Participant is given to the JCSD by a Participant in accordance with the Procedures.

Rule 5.1.5. **Client's Accession.** A Participant embodies in a proper contract with its clients a provision to the effect that a Participant's client agrees to abide by Participant's instruction to the JCSD and the Rules and Procedures. On receipt of instructions from a Participant exercising control over a client

Securities Account, the JCSD effects the Transaction required by an entry in the proper records.

- Rule 5.1.6. **Failure.** Where the JCSD is unable to effect a transfer, pledge, withdrawal of a Security or other Transaction, on its records because of an extraordinary event, the JCSD is not liable to compensate any person who incurs a loss as a result of a delay in effecting the transfer, pledge, withdrawal or other Transaction to the extent that it proves that it took reasonable corrective action.
- Rule 5.1.7. **Buy-Ins.** Where there is not a sufficient quantity of a Security in a Securities Account to fulfill the delivery requirements of a Settlement or Transaction, the JCSD may debit the Funds Account of the Securities Account holder's Participant, as Security, with an amount equal to the value of such Security plus any amount determined by the JCSD to protect the JCSD, Participants and the integrity of the Depository Service. Where the Securities Account holder fails to deliver the required Security in accordance with the Procedures, the JCSD may buy a sufficient quantity of the Security required to fulfill the delivery requirements of the Settlement or Transaction. The purchase price and related costs and surcharges are an amount owing from the Securities Account holder's Participant to the JCSD.

Rule 5.2. Deposit

- Rule 5.2.1. **Procedure.** Securities can be deposited in the Depository Service.
- Rule 5.2.2. **Surrender of Certificates.** To deposit Securities, a Participant delivers the Security certificates to the JCSD for immobilization by the JCSD. The Security certificates are accompanied by the proper deposit instructions.
- Rule 5.2.3. **Legend.** The Security certificate must be conspicuously marked on its face with the legend prescribed in the Procedures prior to its delivery to the JCSD.
- Rule 5.2.4. **Deposit of Uncertificated Securities.** The Issuer of Securities not evidenced by a certificate may, through a Participant, initiate the deposit of Securities in the Depository Service for credit to a specific Securities Account by delivering to the JCSD an instruction and such other prescribed documents and certifications.
- Rule 5.2.5. **Credit upon Deposit.** Upon confirmation that the deposit of a Security is valid, the JCSD credits the Security to the Securities Account in accordance with the Participant's instructions.

Rule 5.2.6. **Effectiveness of Deposit.** Upon credit by the JCSD of the Securities to the Securities Account in accordance with the Participant's instructions, the Securities are eligible for Transactions.

Rule 5.3. Delivery of a Security

Rule 5.3.1. **Procedure.** A transfer, a gift, a delivery without a funds exchange through the Service or a loan of a Security is effected in the Depository Service on the instruction of a Participant.

Rule 5.3.2. **Record-entry delivery.** The record-entry delivery of a security pursuant to an instruction of a Participant is effected in the Depository Service by making appropriate entries in the records of the JCSD debiting and crediting the Securities Accounts of the delivering and the receiving Participants in accordance with their Instructions.

Rule 5.3.3. **Finality and Irrevocability.** The making of entries in the Securities Accounts of Participants reflecting the execution by the JCSD of a Transaction occurs when the projected balances of Securities are converted into actual Securities Account balances. At the time of such conversion, the projected net balances of Securities in the Securities Accounts are made final by the JCSD. The making of appropriate entries in the Securities Accounts by the JCSD effects final and irrevocable delivery of Securities to or from Participants in whose Securities Accounts the entries are made.

Rule 5.3.4. **Constructive Delivery.** The making of an appropriate record-entry by the JCSD in its records and the Securities Accounts of Participants to effect a delivery of a Security constitutes conclusive evidence and the agreement of Participants that the Security so delivered is held for the transferee Participant, and such security is hereby constructively delivered to the transferee Participant.

Rule 5.4. Pledge of Securities

Rule 5.4.1. **Pledge.** A pledge of Securities is effected by the pledgor Participant reporting, on its own or on behalf of its client, and the pledgee Participant confirming, on its own or on behalf of its client, through the Depository Services the pledge Transaction for the quantity or face value of Securities to be pledged.

Rule 5.4.2. **Pledge of Securities.** Securities pledged to a Participant through the Depository Service are identified as pledged to the pledgee Participant and recorded in the pledgor Participant's Securities Account, and may be

dealt with strictly and exclusively in accordance with the instruction of the pledgee Participant, without regard to the pledgor Participant. The JCSD has no obligation to verify the terms of the pledge or compliance therewith by either Participant or non-Participant parties to a pledge.

- Rule 5.4.3. **Unavailable Position.** Securities that are pledged are no longer eligible for any transactions or Settlement unless first released by the pledgee Participant.
- Rule 5.4.4. **Entitlements.** All proceeds and entitlements of pledged Securities in the Service are the property of the pledgor Participant, without prejudice to the ability of the pledgor Participant to constitute a pledge over the proceeds and entitlements if so stipulated by the pledgor-Participant and pledgee-Participant.
- Rule 5.4.5. **Foreclosure.** In the event a Participant pledgor defaults on the principal obligation that is the subject of a pledge, the participant authorizes and directs the JCSD to comply with any instruction from an appropriate person or authority without any liability of the JCSD to either Participants.
- Rule 5.4.6. **Release.** Promptly after the termination of the pledge, the pledgee Participant enters the appropriate instruction to release the Securities and to record them in the pledgor Participant's Sub-Account.
- Rule 5.4.7. **Obligation of JCSD.** When a pledgor fails to perform the principal obligation for which the pledge was created or continued, the JCSD has the authority from the pledgor Participant to maintain the Securities in the Collateral Account of the pledgee Participant until instructed to release the Securities under pledge by the pledgee Participant, without any liability of the JCSD.
- Rule 5.4.8. **Right of Redemption.** A Participant ensures that any right of redemption over the pledged Securities is maintained and kept valid and enforceable throughout the effectiveness of the right of redemption. The JCSD is in no way required to ascertain or ensure that any right of redemption is validly reserved to the pledgor and cannot be held liable for any loss, damage or claim arising from the failure of any party to maintain any such right of redemption.
- Rule 5.4.9. **No Other Voluntary Liens.** Except for a Pledge, no other voluntary liens involving deposited Securities may be effected in the Service, without prejudice to the right of a Participant to uplift the Securities for the proper constitution of such other voluntary liens.

Rule 5.4.10. **No Involuntary Liens.** In case of any involuntary lien (such as an attachment, injunction, sequestration, levy, notice of lien pending or judgment, expropriation, and other similar encumbrances), a Participant concerned uplifts the Securities within one Business Day from notice for the proper constitution of such other involuntary liens.

Rule 5.5. Withdrawal

Rule 5.5.1. **Procedure.** Securities are withdrawn from Securities Accounts in accordance with the Procedures.

Rule 5.5.2. **Debit.** Upon confirmation that the withdrawal of a Security is valid, the JCSD debits the Security from the Securities Account in accordance with the Participant's instructions and those Securities withdrawn are no longer eligible for Transactions.

Rule 5.5.3. **Retirement.** Securities that expire, are redeemed or canceled are retired by the JCSD from the Depository Service and the Securities Accounts, unless the JCSD is instructed otherwise by a Participant.

Rule 5.6. Entitlements

Rule 5.6.1. **List of Account Holders.** On receipt of a demand from an Issuer or its agent for a list of the names of Participants and non-Participants for whom the JCSD holds a Security of a class issued by the Issuer in any Securities Account, the JCSD provides the Issuer or its agent with a list setting out:

- (a) the name and address of, and
- (b) the number or amount of a Security of the class held for each such Participant and non-Participants made up as of the date specified in the demand of the Issuer or its agent.

Rule 5.6.2. **Examination.** After submitting a request to the JCSD, a holder of a Securities Account with a Security of an Issuer, may during a Business Day examine a list in intelligible form of the records of the clearing agency that relate to such a Security of the Issuer held by it made up as of a specific date, at a reasonable time after submission of the request. The holder may also make extracts therefrom, and any other person may do so upon fulfilling the requirements set forth in the Procedures.

Rule 5.6.3. **Stock Dividend.** All dividends and distributions in the form of a Security are distributed through the Depository Service. The amount of dividends in the form of a Security is determined by the Issuer thereof and credited to Securities Accounts in accordance with the Issuer's instructions.

Rule 5.6.4. **Other Corporate Actions.** The JCSD may from time to time provide supplemental services for other types of corporate actions through the Depository Service in accordance with the Procedures.

Rule 5.7. Declarations

Rule 5.7.1. **Constraints.** A Participant shall not knowingly permit Transactions in a Security in the Depository Service to be held in contravention of any applicable charter, by-law, legislation, regulation or order.

Rule 5.7.2. **Declarations.** A Participant provides or causes to provide, as and when required, a declaration containing such information with respect to any Security in a Security Account to comply with:

- (a) a lawful request of the Issuer of the a Security made to comply or facilitate compliance with any legislation, rule, regulation, order of a court or administrative or regulatory body, by-law or provision to which the Issuer is subject; or
- (b) with any legislation, regulation, or order of a court or administrative or regulatory body.

Rule 6. Participant Indemnities

Rule 6.1. Collateral Pledge

Rule 6.1.1. **Collateral Pledge.** A Participant pledges to the JCSD, to secure payments due or the performance of any obligation of the Participant:

- (a) all Participant contributions made by a Participant to a guarantee fund established in accordance with the Rules; and
- (b) all Securities of a Participant and in the Securities Accounts under its management for which final and irrevocable payment is not made and the Participant's use of any Service is suspended, terminated or withdrawn.

Rule 6.2. Guarantee Fund

Rule 6.2.1. **Guarantee Fund.** The Board of Directors may establish or operate a guarantee fund to satisfy a loss sustained by the JCSD caused by Participant's failure to satisfy its obligations. The Board of Directors determines the calculation formula for and the acceptable forms of contributions to the fund, the circumstances under which contributions made in the form of a Security are devalued, their refund, their custody and their utilization by the JCSD as set forth in the Procedures.

Rule 6.2.2. **Application of Fund Contributions.** Upon default by a Participant in its obligations in a Service, the JCSD:

- (a) applies the defaulting Participant's contributions to the guarantee fund of that particular Service to satisfy such obligations;
- (b) requires the defaulting Participant to immediately pay the amount by which the loss exceeds the Participant's contribution; and
- (c) applies the defaulting Participant's contributions to the guarantee fund of the other Service, to satisfy such obligations, if the Participant uses that other Service;

- (d) applies contributions to the fund for that particular Service of other Participants on a pro-rata basis to the remaining amount of the loss in the Service.

Rule 6.2.3. **Settlement Bank Guarantee.** The Settlement Bank, may as security and as a condition to the opening and maintenance of a Participant account, require a Participant to provide a guarantee or guarantees in amounts and on conditions acceptable to it, and each participant shall comply with any such requirement of the Settlement Bank. Where any such Participant fails to meet any such requirement of the Settlement Bank the JCSD may elect to suspend or terminate the Service or Services pursuant to Rule 2.3.1 of these Rules.

Rule 6.3. Representations and Liability

Rule 6.3.1. **Representations and Warranties of Participants.** The instructions given by a Participant to the JCSD in the Depository Service and the Settlement Services to effect a deposit, withdrawal, transfer or pledge of a Security and any other Transaction constitute the representation and warranty of the Participant to the JCSD that the Participant has full power, right and authority to make the deposit, withdrawal, transfer, pledge or other transaction in accordance with its instructions. Any instruction given by the Participant to the JCSD for the clearance, settlement or record delivery of Securities in respect of a Transaction, or to take any steps as the holder of Securities held for the Participant, constitutes the representation and warranty of the Participant to the JCSD that the Participant has and will continue to maintain a balance in its Securities Account sufficient to support all transactions specified in such instruction.

Rule 6.3.2. **Warranty of Authority from Third Party.** Whenever a Participant is acting for or on behalf of a third party in relation to deposited Securities, such a Participant warrants to the JCSD that it notified such third party and has the special power and full authority of such third party to accept the Rules so as to bind such third party. Nevertheless, the JCSD is not bound to act on the instructions of any such third party, and all deliveries of such deposited Securities will be made to or to the order of such a Participant.

Rule 6.3.3. **Representations and Warranties.** The JCSD has the right to rely on any representation or warranty, express or implied, made or deemed made by a Participant by its accession to the Rules.

Nevertheless, the JCSD may take steps to verify the representation or warranty and, for such purpose, require a Participant to provide such information or document as may be relevant to the verification, without in any way being considered as having waived its right to rely on the representation or warranty of the Participant.

Rule 6.3.4. **Irrevocable Authority.** Each Participant irrevocably and by special power authorizes the JCSD to be its attorney-in-fact to do such acts and to exercise such powers on behalf of the Participant as may be delegated to the JCSD by the Rules, together with such powers as are necessary or incidental thereto.

Rule 6.3.5. **Execution of Other Acts.** Upon request from the JCSD, a Participant promptly performs such required acts and executes such required documents as the JCSD may reasonably require to enable the JCSD to comply with the provisions of the Services.

Rule 6.3.6. **Indemnity by Participant for Services.** A Participant acting on its own behalf or on behalf of another Person and utilizing a Service is liable as principal for all obligations incurred with respect to such Service.

A Participant indemnifies and hold harmless the JCSD and all other Participants, and their respective partners, directors, trustees, officers, employees, agents and contractors from and against any loss, damage, cost, expense, liability or claim (including without limitation the cost of legal counsel to advise on or defend against such claims) suffered or incurred by or made against it, them or any of them arising:

- (a) in the Depository Service and in the Settlement Services, from:
 - 1. any interruption, malfunction or disruption of any Service to the extent caused or contributed to by any negligent, reckless, willful, fraudulent or dishonest act or omission of a Participant or of any director, trustee, officer, partner, employee, servant, contractor or agent of the Participant done while acting in the course of office or employment or made possible by information or opportunities afforded by such office or employment;
 - 2. any incorrect information or documentation (whether concerning a security, a deposit thereof, a Transaction or otherwise) provided to the JCSD by

a Participant and whether provided by telephone, telex, on-line terminal communication, hard copy document, or other means of communication; and

3. any breach by a Participant of its obligations, representations or warranties to the JCSD; and

(b) in the Depository Service, from:

1. a Participant's deposit of a Defective Security;
2. the potential invalid, improper, defective, ineffective or wrongful transfer or registration of any Security deposited by a Participant in the name of the JCSD or it being subject to an adverse claim or privilege;
3. incorrect information or documentation (whether concerning an Eligible Security, the deposit or withdrawal thereof or otherwise) provided to the JCSD by a Participant by telephone, telex, on-line terminal communication, hard copy document, or other means of communication;
4. a Participant's entry of incorrect details identifying a security;
5. the fact that Securities in a Participant's Account are held by or registered in the name of the JCSD, including but not limited to calls, assessments, taxes (except for taxes measured by the income of the JCSD) and other governmental charges, and any other expenses related to the ownership of the Securities, but only to the extent the expenses are made, imposed or charged in respect of a time, event or period when the Securities were held for the Participant;
6. the reliance on or use by the JCSD, of any declaration provided by a Participant except a declaration, which is provided, in the form and time required by the JCSD and is made in the manner contemplated by the Rules;
7. a Participant's failure to provide or cause to be provided a declaration as required;

8. an Issuer's purchase, sale, redemption or cancellation of Securities resulting from the information contained in a declaration provided by a Participant; or
9. a breach of a Participant's obligations, representations or warranties.

Rule 6.3.7. **Holder's Rights Indemnity.** At a Participant's request, the JCSD may take or cause a custodian to take any steps as the holder, bearer or person otherwise entitled to Securities held for a Participant, including without limitation the exercise of rights of a holder, bearer or owner of the Securities, or the pursuit of an action to enforce payment on the Securities. The JCSD may require the Participant to become the registered holder or bearer of the Securities so as to be able to take any such steps itself. The JCSD is not obligated to take any such steps except pursuant to the reasonable instructions of the Participant for which such Securities are held, provided only that the JCSD receives from the Participant an indemnity and assurance of payment satisfactory to the JCSD. The JCSD is not obligated in any event to determine the legal or other requirements to be followed in the pursuit of such rights or actions, or the desirability or necessity of taking any such steps. Each Participant indemnifies and holds harmless the JCSD and its respective partners, directors, officers, employees, agents and contractors from and against any loss, damage, cost, expense, liability or claim (including without limitation the cost of legal counsel to advise on or defend against such claims) suffered by or made against it, them or any of them arising from or which they may incur if such steps are taken at the Participant's request.

- Rule 6.3.8. **Reporting of Fraud.** To the extent of its knowledge of such matters, a Participant must report to the JCSD:
- (a) any violation of the JCSD's Agreement or misuse of the Services;
 - (b) any error regarding any data in the Services;
 - (c) any fraud or criminal activity committed or about to be committed in connection with any Service;
 - (d) any unauthorized or criminal access to or use of any Service;

- (e) any negligence or omission by any Participant or personnel of the JCSD.

Rule 6.3.9. **Submission to Disciplinary Action.** A Participant must abide by all disciplinary measures imposed by the JCSD on such a Participant, including surcharges, suspension, and expulsion, and hereby waives, but without prejudice to its rights under the law, all its other rights to remedies inconsistent with the Rules.

Rule 6.4. Insurance and Liability

Rule 6.4.1. **JCS D Liability for Participant Loss.** The JCSD is liable to its Participants for any Participant Loss. A "Participant Loss" is any loss, damage, cost, expense, liability or claim suffered or incurred by a Participant arising from or connected to a Service, other than a Loss of Securities. The JCSD is not liable to a Participant for any Participant Loss in respect of which the Participant is required to make indemnification pursuant to the Rules.

Rule 6.4.2. **JCS D Liability for Loss of Securities.** The JCSD is liable to its Participants for a Loss of Securities. A "Loss of Securities" is any circumstance where the JCSD cannot deliver in accordance with the Rules to all Participants all Securities held by the JCSD for them, including without limitation:

- (a) the theft, destruction, loss or mysterious disappearance of any certificate or other instrument evidencing Securities;
- (b) the determination that any Security is a Defective Security;
or
- (c) the determination that the registration of any Security in the name of the JCSD, is or would be invalid, improper, defective, subject to any adverse claim or privilege or cannot be effectively and rightfully transferred.

The JCSD is not liable to any Participant for any Loss of Securities in respect of which that Participant is required to make indemnification pursuant to the Rules.

Rule 6.4.3. **Shared Loss of Securities.** The JCSD determines each Participant's proportionate share of the total Loss of Securities. The Board of Directors sets the effective date for the determination of proportionate shares. To determine the proportionate share of a Loss of Securities, each Participant is

deemed to have on the effective date an interest in each registration, certificate or other instrument evidencing any Security held in the Depository Service equivalent to the interest the Participant then has in all registrations, certificates or other instruments in the Depository Service which evidence Securities identified by the same security identifier. This interest is in the same proportion as the number or par value of that particular Security held for the Participant by the JCSD in the Depository Service bears to the total number or par value of that particular Security held for all Participants in the Depository Service.

Rule 6.4.4. **Reduction in Securities Accounts.** If the net amount recovered by the JCSD is insufficient to make good the entire Loss of Securities, and the JCSD remains unable to deliver all Securities to each Participant pursuant to the Rules, the JCSD may debit any Securities Account maintained for a Participant by its proportionate share of the number or par value of Securities so lost. If such debit results in a short position in the Participant's Securities Account, the JCSD may take the steps set out in these Rules. Such interest shall be in the same proportion as the number or par value of that particular Security held for the Participant by the JCSD in the Depository Service bears to the total number or par value of that particular Security held for all Participants.

Rule 6.4.5. **Limitation of Participant Recovery.** The maximum total amount payable by the JCSD to all Participants for all loss, damage, cost, expense, liability or claim suffered or incurred by or made against them or any of them arising from a Participant Loss or a Loss of Securities does not exceed the net amount recovered by the JCSD from its insurers or any other responsible Person in respect of the loss.

In the event of a loss, the JCSD claims under any applicable policy of insurance and against any Person responsible for the loss, if the JCSD considers it commercially reasonable to make such a claim.

If more than one Participant is affected by a loss, the amount recovered by the JCSD is to be pro-rated so that the amount payable to a single Participant is in the same proportion to the total amount payable to all Participants that the amount of the Participant Loss suffered by that Participant is of the total amount of the loss suffered by all Participants. In the case of a Loss of Securities, the net amount recovered by the JCSD shall be prorated so that the amount payable to each Participant shall be in the same proportion to the total amount payable to all Participants that each Participant's proportionate share

pursuant to the Rules of the Loss of Securities is of the total Loss of Securities.

The amount payable by the JCSD for any loss is limited to the amount payable pursuant to this Rule and is not exceeded in any circumstances or for any reason whatsoever, including, without limitation, the event or cause giving rise to the loss, as for example, a Participant Loss or a Loss of Securities arising from or in any way connected with a breach (including a fundamental breach) of the JCSD Agreement or a Participant Loss or Loss of Securities arising from or in any way connected with any negligent or reckless act or omission of the JCSD or any fraudulent, negligent, reckless or willful act or omission of any director, officer, employee, agent or contractor of the JCSD, whether or not the possibility of such loss was disclosed to or reasonably could have been foreseen by the JCSD.

Rule 6.4.6. Payment from Reserves. If the payment made by the JCSD to Participants pursuant to this Rule 6.4 is less than the amount required to make good the loss suffered by Participants, then the Board of Directors, taking into consideration the best interests of the JCSD and of all Participants, and the need to preserve the integrity of the JCSD and all the Services, may or not elect to allocate all or any portion of the retained earnings and any contingency reserves of the JCSD to make good the Participant Loss.

If more than one Participant is affected by a loss, the net amount allocated by the JCSD pursuant to this Rule is allocated to each Participant in the same proportion as the payment made pursuant to Rule 6.4.6.

Rule 6.4.7. Exclusion of Liability. The JCSD, or a partner, director, officer, employee or agent of the JCSD or a Nominee have no personal liability to a Participant for any act or omission in relation to any and all of the Services other than liability for a fraudulent act of the individual concerned: the foregoing exclusion of individuals' personal liability does not affect the JCSD's liability for any loss pursuant to this Rule 6.4.

The JCSD is not liable to any Participant for any loss of opportunity, profit, market, goodwill, interest or use. of money or Securities, or any other special, indirect or consequential loss, damage, cost, expense, liability or claim suffered or incurred by any Participant arising from any Service, any Participant Loss and any Loss of Securities. The JCSD is not liable to any Participant for any loss, damage, cost, expense, liability or claim suffered or incurred by a

Participant which arises from any action taken by the JCSD in accordance with a lawful direction given by a regulatory authority having jurisdiction over the JCSD, its Participants and the Issuers and its contractors.

Rule 6.5. Participant Ring

Rule 6.5.1. **Loss Sharing.** Where the JCSD cannot obtain from a Participant (the "Defaulter") of a particular Service for which there is a Fund, the fulfillment of its obligation to the JCSD, and the Defaulter's obligation to the JCSD remains unsatisfied from the guarantee fund, then each Participant of that particular Service must pay to the JCSD its proportionate share of that obligation upon request by the JCSD for the payment thereof. If a Participant fails or refuses to pay its proportionate share of the obligation of such subsequent Defaulter, and so on with respect to all failures or refusals of other Participants to pay their respective proportionate shares, until the full amount of the obligation owing by the Defaulter to the JCSD is fully paid. All obligations arising from Transactions constitute obligations arising from that particular Service.

Rule 6.5.2. **Proportionate Share.** The notice given by the JCSD pursuant hereto specifies the date used to calculate Participant's proportionate share of the obligation and provides details of that calculation. The date for calculation of proportionate shares shall be the date of the default by the Defaulter or subsequent Defaulter, unless the Board of Directors, acting reasonably in the best interest of the JCSD and Participants generally, determines that another date shall be used for such calculation. A Participant's proportionate share of an obligation shall be in the same proportion to the obligations of all other Participants making use of that Service that Participant's Contribution to the Fund established for the Service in respect of which the obligation has arisen is of the total of all Contributions required to be made to that Fund by all Participants (other than the Defaulter) making use of that Service. In calculating a Participant's proportionate share of the obligation of a subsequent Defaulter, the Contributions to the Fund of the Defaulter and of each subsequent Defaulter shall be excluded from the calculation.

Rule 6.5.3. **Recovery and Subrogation.** Where the JCSD recovers an amount in respect of a defaulting Participant's obligation, the net amount thereof is paid or credited to the non-defaulting Participants whose Contributions were applied or who paid in proportion to the amounts paid to the JCSD by them, whether or not they are still

Participants. Upon making payment to the JCSD pursuant hereto, a Participant is subrogated to the rights of the JCSD against the Defaulter and the subsequent Defaulters.