



**EXPOSURE OF PROPOSED MAJOR AMENDMENT TO THE RULES AND REGULATIONS OF THE COMMISSION**

**Major Amendment**

1. Proposed Amendment to Part C14- Depository and Participants

**Legend:** Additions are underlined; Deletions are ~~struck through~~; Justifications are *italicized*.

**~~C14- Depository and Participants~~ B22- Central Securities Depositories**

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2. Applicability
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### **(A) DEPOSITORY**

#### **~~121.~~ Definition**

~~Depository means a custodian who holds securities on behalf of known investors but whose name appears on the issuer's register as a fiduciary nominee for the benefit of the investor and who operates a system of central handling of securities of a particular class of an issuer deposited within its system and may be transferred, loaned or pledged by bookkeeping entry without physical delivery of certificates.~~

#### **Definition of terms**

**Central Securities Depository** means a depository as defined in the Investments and Securities Act.

**CSD** means Central Securities Depository

**Financial Institution** for the purpose of this rule means an entity whose primary function is the provision of financial services that include capital market, banking, insurance and pension.

**LEI** means Legal Entity Identifier which represents a 20-digit, alpha-numeric code that connects to key reference information which enables clear and unique identification of entities participating in global financial markets.

**Participant** means an entity that sign participation agreement with a CSD.

**Principal Officer**—For the purpose of this rules means an employee who is part of executive management team of a CSD responsible for day to day running of the entity.

#### **Applicability**

These rules shall apply to entities registered by the Commission as Central Securities Depositories

#### **~~122.~~ Registration Requirements**

An application for registration of a ~~depository company~~ CSD shall be made in the designated appropriate SEC form and shall be accompanied by:

- (1) Copy of certificate of incorporation certified by the company secretary;
- (2) ~~Two copies~~ Copy of the Memorandum and Articles of Association certified by the Corporate Affairs Commission, which shall include among other powers, the power to act as a depository;
- (3) Certified copy of Corporate Affairs Commission's Form showing names and particulars of the directors of the company;



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- (4) Copy of the latest audited accounts or statement of affairs and management accounts for companies in operation for less than one (1) year and management accounts not more than thirty (30) days old as at the time of filing;
- (5) ~~a set of duly completed designated forms to be filed by a minimum of 3 sponsored individuals;~~ Application for registration of all principal officers and compliance officers on the appropriate SEC Forms
- (6) ~~Two copies~~ Copy of existing or draft rules and regulations;
- (7) Sworn undertaking to promptly furnish the Commission with a copy ~~copies~~ of any amendment to the rules of the depository CSD;
- (8) ~~Information relating to the following facilities:~~
  - a) ~~computerization/back up~~
  - b) ~~telephone and other electronic facilities~~
  - c) ~~settlement procedure~~
- (9) ~~Information relating to internal control measures in relation to dematerialized certificates and the strong room;~~
- (10) ~~Software maintenance agreement;~~ Information on the infrastructure to be deployed by the CSD;
- (11) Fidelity bond of a value not less than 25% of paid up capital;
- (12) Sworn undertaking to keep such records and render such returns as may be specified by the Commission from time to time;
- (13) Sworn undertaking to comply with and enforce compliance by its participants with the provisions of the Act and these rules and regulations;
- (14) ~~Information as to~~ on the organization of the company including the organizational and shareholding structure, members of the board/~~council~~, principal officers as well as rules and procedures;
- (15) Evidence of minimum paid up capital of N5 billion;
- (16) Filing fee of N50,000;
- (17) Processing fee of N200,000;
- (18) Registration fee of N1,000,000;
- (19) Registration fee of N50,000 for each of the sponsored individuals and the compliance officer;
- (20) Any other document or information that may be required by the Commission from time to time.



## **Additional Requirements**

A registered CSD shall have:

1. Sufficient assets and resources, which include financial, management and human resources with appropriate experience, to perform its functions as set out in these Rules;
2. An effective and reliable infrastructure to facilitate its operations or services;
3. A comprehensive risk management processes;
4. Appropriate systems, controls and procedures that are reliable and secure and have adequate scalable capacity;
5. Adequate mechanisms for the purpose of reviewing, monitoring and evaluating its internal controls;
6. Proper arrangements for security and back-up procedures.
7. A dispute resolution mechanism in line with the Commission's rules on complaint management

## **Eligibility**

An application for registration as a depository CSD shall not be considered unless the sponsor is one of the following:

- (1) a financial institution licensed by the appropriate regulatory agency;
- (2) a recognized securities exchange registered by the Commission;
- (3) a body corporate engaged in the provision of financial services where not less than 75% of the equity capital is held by any of the institutions mentioned in (1) and (2) above.

A sponsor under this rule is a person who, acting alone or in partnership with others, holds not less than 30% of the equity capital of ~~the depository~~ a CSD at incorporation.

## **Ownership structure**

- ~~(1) An individual acting alone or in partnership shall at all times hold not more than 35% of the equity capital of a depository.~~
- (2) A single participant at all times shall not whether directly or indirectly hold not hold more than 5% of the equity capital of the depository a CSD.



## **~~123.~~ Functions -Duties and Responsibilities**

Functions of a CSD include:

1. Maintaining securities accounts
2. Provision of safekeeping/custodial services.
3. Confirmation and settlement of trades.
4. Any other function as may be approved by the Commission from time to time

### **Duties and Responsibilities**

A central security depository CSD shall:

- (1) enforce its rules, provisions of the Act and the rules and regulations made thereunder;
- (2) supervise compliance by participants with the depository CSD rules;
- (3) hold all securities of the same kind deposited with it by a participant collectively in a separate central securities depository;
- (4) have a robust system that ensures segregation between its own assets and the securities of its participants as well as segregation among the securities of participants;
- ~~(4) maintain a central securities account with due regard to the interests of the participant and its clients;~~
- (5) notify a participant in writing or as otherwise agreed to by the participant of an entry made in the participant's central securities account;
- (6) balance and reconcile the aggregate of the central securities accounts with the records of the relevant issuer:
  - a) in respect of ~~each kind of~~ any certificated security, not less than once every six(6)months;
  - b) in respect of each kind of un-certificated security:
    - i) if that aggregate has not changed, not less than once every month.
    - ii) if that aggregate has changed, on the business day after such change;
- (7) administer and maintain a record of un-certificated securities deposited with it;
- (8) be entitled to access the records of un-certificated securities administered and maintained by its participants;



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- (9) ~~disclose its fees and charges to participants and issuers the fees and charges required by it for its services;~~
- (10) ~~on request disclose on request to –~~
  - a) the Commission information about the securities held by a participant in a central securities account;
  - b) an issuer information about the securities issued by that issuer and held by participants in a central securities account;
- (11) ~~if a participant cease to be a participant, notify the Commission thereof as soon as possible~~ within 48 hours where a participant ceases to be a participant;
- (12) conduct its business in a prudent manner and with due regard to the right of the participants, clients and issuers.
- (13) Seek prior approval of the Commission prior to before deploying any infrastructure/software.
- (14) Perform any other function necessary for effective provision of CSD services.

## **Legal Entity Identifiers**

1. A CSD may shall issue LEIs subject to approval of the Commission and certification by the relevant global authority in line with the laid down procedures;
2. All eligible capital market operators as defined by the Commission shall obtain LEIs from the approved CSD;
3. A CSD approved to issue LEIs shall render returns to the Commission in a manner to be determined by the Commission from time to time.

## **Governance**

1. A CSD shall have:
  - a) Rules and procedures that support financial stability, safety and efficiency of its activities;
  - b) A charter for the Board and Management that clearly stipulates responsibility and accountability which should be made publicly available;
  - c) Standard operating procedures that stipulate its entire business processes and operations and must be duly approved by the board;
  - d) Processes to identify, assess, and manage potential conflicts of interest of members of the Board, principal officers, employees or any person directly or indirectly linked to the Board.



2. The Board and Management of a CSD shall have the required mix of skills and competence to discharge their duties
3. The Board of a CSD shall consider the interest of relevant stakeholders before making critical decisions.

## **Composition of the Board**

1. A CSD shall have a Board, which should be independent of Management;
2. Appointment of Board members shall be subject to approval of the Commission;
3. The Board shall comprise of:
  - a. A Chairman
  - b. A Chief Executive Officer;
  - c. At least one Independent Director;
4. The majority of Board members shall be Non-Executive Directors;
5. The Board shall have a minimum of 5 members
6. Board members other than the Chief Executive Officer shall hold office for a period of 4 years subject to cumulative maximum of 2 terms.
7. The Board shall have all the relevant Board Committees, including a Risk Management Committee.

## **Appointment of Chief Executive and Principal Officers**

1. The Chief Executive Officer of a CSD shall hold office for a period of five (5) years in the first instance and may be re-appointed for a further period of five (5) years and no more;
2. The appointment of a Chief Executive Officer and Principal Officers of a CSD shall be subject to the prior approval of the Commission;
3. The Chief Executive Officer and the other Principal Officers of a CSD shall be registered by the Commission as sponsored individuals;
4. The Chief Executive Officer and other Principal Officers of a CSD shall:
  - a. Be persons of proven integrity with no record of criminal conviction;
  - b. Hold at least a university degree or its equivalent;
  - c. Have at least ten (10) years cognate experience in the financial markets for Chief Executive Officer and Principal Officers respectively;
  - d. Not have been found complicit in the operation of an institution that has failed or been declared bankrupt or has had its operating license revoked as a result of mismanagement or corporate governance abuses;
  - e. Not have been found liable for financial impropriety or any other misdemeanor by any court, panel, regulatory agency or any professional body or previous employer;



- f. Comply with any other criteria which the Commission may, in the public interest, determine from time to time.

## **(15) Eligible securities for de-materialization**

~~— A depository shall in its rules state the specific securities which are eligible to be held in dematerialized form and shall include the following:~~

- ~~(1) Shares, scripts, stocks, bonds, debentures, debenture stock or other securities of like nature in or of any incorporated company or body corporate;~~
- ~~(2) Units of mutual funds, rights under collective investment schemes and venture capital funds, commercial papers, certificate of deposit, securitized debt, money market instruments and government securities.~~

## **(16) Agreement between depository and issuer**

- ~~(1) An issuer of securities shall enter into an agreement with a depository to enable an investor dematerialize the securities provided that no agreement shall be required to be entered into where depository itself is the issuer of securities.~~
- ~~(2) Where the issuer has appointed a registrar to the issue, the depository shall enter into a tripartite agreement with the issuer and the registrar to the issue in respect of the securities to be held in dematerialized form.~~

## **(17) Depository CSD Rules**

- i. A CSD shall make rules pursuant to the Act and these Rules and Regulations must be approved by the Commission.
- ii. CSD shall have rules, procedures, and participation agreements that are clear, understandable, enforceable and consistent with relevant laws and regulations.
- iii. The rules and procedures shall be made publicly available
- iv. The rules shall amongst others, provide for:
  1. protection against custody risk
  2. equitable criteria for the acceptance and expulsion of a participant and for such acceptance and expulsion to be in the interest of issuers and investors;
  3. ~~arrangements for certificated securities to be converted to un-certificated securities and for issuers to issue un-certificated securities;~~
  4. adequate steps to be taken by the securities depository CSD, or a person to whom the securities depository has delegated its investigation and disciplinary functions to investigate and discipline a participant or officer or employee of a participant who contravenes or fails to comply with the



- Act, the rules and regulations made thereunder, and the depository rules and shall require a report on the disciplinary proceedings to be furnished to the Commission within thirty (30) days after the completion of such proceedings;
5. requirements in respect of a participants' financial soundness and valid financial cover that the participant shall hold in respect of:
    - a. the participant's actual and potential liabilities;
    - b. conditional and contingent liabilities to the securities depository; and
    - c. liabilities which existed before, or after a person has ceased to be a participant;
  6. CSD shall ensure that:
    - a. dividends paid and other payments made by issuers in respect of securities are paid by issuers to participants or investors and, if applicable, by participants to investors;
    - b. all notices regarding rights and other benefits accruing to the owners of securities deposited with the securities depository are conveyed to participants and beneficial owners; and
    - c. rights of participants or beneficial owners are not in any way diminished by the fact that securities held by them or on their behalf are collectively in a securities depository;
  7. where a participant agrees, or is otherwise required to:
    - a. receive moneys in respect of securities on behalf of beneficial owners from a securities depository or issuer, such monies are paid to the beneficial owners concerned;
    - b. convey to all beneficial owners information regarding rights and other benefits accruing to the securities held on their behalf, such information is in fact conveyed; and
    - c. give effect to the lawful instructions of clients with regard to voting rights and other matters, the necessary action is taken;
  8. ~~a participant, on written request from a client to withdraw securities or an interest in securities held in a securities depository, to deliver a certificate or written instrument evidencing the same number of securities held in a securities depository on behalf of client in the securities depository, as long as client has sufficient unencumbered credit balance of those securities with the participant concerned;~~
  9. a participant's securities depository accounts do not show a debit balance;



10. the manner in which a securities depository CSD or a participant shall keep records of clients or owners or beneficial owners of securities and ~~limited~~ or other interests in securities;
11. the manner in which participants shall give instructions to the securities depository;
12. the purpose for which the depository may issue directives;
13. the manner in which a participant shall hold and administer securities;
14. a declaration that the rules are binding on the ~~securities depository~~ CSD, a participant, an issuer of securities deposited in the depository, their officers, employees and clients.

## **Outsourcing**

1. Where a CSD outsources any of its functions, services or activities, it shall take full responsibility for the functions, services and activities outsourced.
2. A CSD that outsources any of its functions, services or activities shall ensure that the outsourcing does not affect the discharge of its obligations to participants and clients.
3. A CSD shall ensure that outsourcing of functions, services and activities does not:
  - a. change the terms and conditions of its registration with the Commission;
  - b. affect its effective management of risks;
4. Where a CSD outsources any of its functions, services and activities to a third-party, it shall ensure that it obtains a "no objection" from the Commission and shall be responsible for the acts of the third party;
5. A CSD shall ensure that a third-party to which it outsources any of its functions, services or activities:
  - a. has the necessary business continuity arrangement;
  - b. protects any confidential information of the CSD, participants and clients.
6. A CSD shall have the necessary expertise and resources to evaluate the functions, services and activities provided by a third-party;

## **Framework for Comprehensive Management of Risks**

1. A CSD shall have risk-management policies, procedures, and systems that enable it to identify, measure, monitor, and manage the range of risks that arise in or are borne by it
2. CSDs' risk-management frameworks shall be subject to periodic review.



3. CSDs' shall have risk management tools to effectively manage systemic risks arising from its interconnectedness with other CSDs and FMIs;
4. CSDs' risk management shall be capable of identifying critical situations that may impact its going concern status in terms of operations as well as development of appropriate policies for business continuity, recovery plans or winding-down.

## **Business Risks**

A CSD shall:

1. Have policies and procedures to identify, monitor and manage general business risks;
2. Maintain a viable plan for raising additional equity should its equity fall close to or below the capital required;
3. Hold sufficient liquid net assets to enable it operate as a going concern if it incurs general business losses. The net asset position shall be determined by:
  - a. Its general business risk profile; and
  - b. The length of time required to achieve a recovery or orderly winding down.

## **Operational Risks**

A CSD shall:

1. Have clearly defined operational reliability objectives and policies designed to achieve those objectives.
2. Have comprehensive information security policies that address all potential vulnerabilities and threats.
3. Have a business continuity plan to mitigate the risk of major disruptions.
4. Identify, monitor, and manage operational risks posed by its staff, participants, other FMIs and service utility providers;
5. Have risk management tools to effectively manage CSD interoperability risks;
6. Put in place necessary controls and safeguards to ensure cyber security, ~~prevention~~ protection of confidential information, records and data from unauthorized access, alteration, destruction, disclosure or dissemination
7. Any other measures that may mitigate risks

## **Access and Participation**

A CSD shall:

1. Have participation criteria that are:
  - a) Non-discriminatory, fair and transparent in the interest of protecting the integrity of the market



- b) Risk-based, publicly disclosed and adequate to ensure that its participants meet appropriate operational, financial, and legal requirements to allow them to fulfill their obligations in a timely manner.
2. Ensure regular communication to its participants on the assessment of the risks arising from its operations;

## **Incidental Services**

1. A CSD shall seek the Commission's approval before:
  - a. Carrying out any business apart from its core function of providing depository, clearing and settlement services and any other incidental services thereto.
  - b. Where a CSD intends to offer incidental services, it shall maintain those incidental services operationally separate from its core functions.

### **(18) Systems and procedures**

A depository CSD shall have systems and procedures which will enable it to coordinate with the issuer, the registrar and the participants, to reconcile the records of ownership of securities with the issuer, registrar and participants on a daily basis.

### **(19) Connectivity**

A depository CSD shall maintain continuous electronic means of communication with all its participants, issuers, registrars, clearing houses CCPs and other CSDs depositories.

### **(20) ~~Transfer to be effected after~~ Delivery versus payment**

A depository CSD shall have a mechanism in place to ensure that the interest of the persons buying and selling securities held in the depository are adequately protected and shall register the transfer of a security in the name of the transferee only after it is satisfied that payment for such transfer has been made.

### **(21) Withdrawal by participant**

A depository CSD shall allow any participant to terminate its participation agreement ~~withdraw or transfer its account~~ where the request for such ~~withdrawal or transfer~~ complies with the conditions stipulated for that purpose in the rules of the CSD depository.

### **(22) Evaluation of Systems and Controls**

- (1) A depository CSD shall have adequate mechanisms for the purpose of reviewing, monitoring and evaluating its internal controls;



- (2) ~~The depository~~ A CSD shall cause to be inspected annually, the mechanisms referred to in (1) above by an expert and forward the report to the Commission within ~~three (3)~~ one (1) months from the date of inspection;
- (3) An expert for the purpose of this sub-rule is an independent person with requisite skills and knowledge and who is recognized by the Commission.

## **(23) Risk management**

~~A depository shall take adequate measures, including insurance, to protect the interests of beneficial owners against risks on account of its activities as a depository.~~

## **(24) Safety of Records**

A depository CSD shall

1. ensure that the integrity of its records and data processing systems is maintained at all times and take all necessary precautions to ensure that records are not lost, destroyed or tampered with as well as ensure that sufficient back up of records are kept at all times off-site the office of the CSD depository.
2. Have a disaster recovery site outside its operational environment.

## **Records to be maintained**

- (1) A depository CSD shall maintain the following records and documents:
  - (a) ~~records of securities dematerialized and rematerialized;~~
  - (b) the names of the transferor, transferee and dates of transfer of securities;
  - (c) a register and index of beneficial owners;
  - (d) details of the holdings of securities of beneficial owners at the end of each day;
  - (e) records of instruction received from and communication with participants, issuers, registrars and beneficial owners;
  - (f) records of approval, notice, entry and cancellation of pledge, or hypothecation;
  - (g) register of participants indicating their details;
  - (h) such other records as may be specified by the Commission for carrying on the activities as a depository CSD.
- (2) ~~A depository shall notify the Commission of the place where the records and documents are maintained.~~



- (3) Without prejudice to any enactment and these rules, a depository CSD shall preserve the records and documents required to be maintained for a minimum period of ~~seven~~ six (7 ~~6~~) years from the date of last entry in the records or date the document was made.

### **Reports to be filed**

1. A CSD shall file with the Commission:
  - a) Its monthly operational report within 5 working days after the end of each calendar month
  - b) Its quarterly financial statements within 1 month after the end of every quarter.
  - c) Its annual report and audited financial statement within 3 months after the end of each financial year
  - d) Any other information which the Commission may require from time to time.

### **~~3. Prohibition of assignment~~**

~~No depository shall assign or delegate to any other person its functions as a depository without the approval of the Commission.~~

### **~~(B) PARTICIPANT~~**

### **~~4. Definition~~**

~~Participant means a person that holds in custody and administers securities or an interest in securities and that has been accepted as a participant in accordance with the rules and regulations of the depository and registered by the Commission.~~

### **~~5. Registration requirements~~**

- ~~(1) An application for the registration of a participant shall be made to the Commission in the designated form to be endorsed by each depository on which the applicant proposes to act as a participant and shall be accompanied by the following:~~
  - ~~(a) a copy of the certificate of incorporation certified by the company secretary;~~
  - ~~(b) copy of the Memorandum and Articles of Association certified by the Corporate Affairs Commission;~~
  - ~~(c) latest copy of audited accounts or audited statement of affairs by the auditors for companies and management accounts not more than thirty (30) days old in operation for less than one(1) year;~~



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- ~~(d) a set of duly completed designated forms to be filed by a minimum of 3 sponsored individuals;~~
- ~~(e) information relating to the following facilities:
  - ~~i. computerization/back up~~
  - ~~ii. telephone and other electronic facilities~~~~
- ~~(f) information relating to internal control measures in relation to dematerialized certificates and the strong room;~~
- ~~(g) software maintenance agreement;~~
- ~~(h) fidelity bond of a value not less than 25% of paid up capital;~~
- ~~(i) sworn undertaking to keep such records and render such returns as may be specified by the Commission from time to time;~~
- ~~(j) sworn undertaking to comply with and enforce compliance by its staff/beneficial owners with the provisions of the Act and these rules and regulations;~~
- ~~(k) information as to the organization of the company including the organizational and shareholding structure, members of the board/council principal officers as well as internal controls;~~
- ~~(l) an operational manual, specifying the systems and procedures to be followed for the effective and efficient discharge of its functions;~~
- ~~(m) demonstrate an ability to settle trade on a delivery versus payment basis;~~
- ~~(n) any other document that may be required by the Commission from time to time.~~

~~(2) An application for registration as participant shall be forwarded to the Commission by the sponsoring depository in the designated form not later than thirty (30) days after receipt from the applicant together with the depository's recommendations and a certificate that the participant complies with the eligibility criteria including adequate infrastructure as provided in these rules and regulations and the rules of the depository.~~

## ~~6. Functions~~

~~A participant shall:-~~

- ~~(1) settle trades on behalf of its clients;~~
- ~~(2) if securities are deposited with it, deposit them with a central securities depository unless the client expressly directs otherwise in writing;~~



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- ~~(3) — maintain a securities account for a client in respect of securities deposited;~~
- ~~(4) reflect the number or nominal value of each kind of securities deposited in a securities account;~~
- ~~(5) — administer and maintain a record of all securities deposited with it in accordance with depository rules;~~
- ~~(6) — record all securities of the same kind deposited with it in a sub-register if so required by the depository rules;~~
- ~~(7) — disclose to clients the fees and charges required by it for its services;~~
- ~~(8) — notify a client in writing or as otherwise agreed to by the client or an entry made in the client's securities account;~~
- ~~(9) — on request disclose to:~~
  - ~~a) — the Commission information about the securities recorded in a securities account;~~
  - ~~b) — an issuer information about the securities issued by that issuer and recorded in a securities account;~~
- ~~(10) — have a central securities account with a central securities depository, and may:~~
  - ~~a) — deposit securities with or withdraw securities from that central securities depository; or;~~
  - ~~b) — transfer, pledge or cede an interest in securities through that central securities depository;~~
- ~~(11) — exercise the rights in respect of securities deposited by it with a central securities depository in its own name on behalf of a client when so instructed by the client; and~~
- ~~(12) — balance and reconcile the aggregate of the securities account with the central securities accounts on a daily basis.~~

## **7. — Eligibility**

For registration as a participant in a depository, the applicant shall meet any of the following requirements:

- ~~(1) — a bank duly licensed by the Central Bank of Nigeria(CBN);~~
- ~~(2) — a custodian of securities registered by the Commission;~~
- ~~(3) — a clearing corporation of a recognized securities exchange;~~
- ~~(4) — a stockbroker registered by the Commission with a minimum paid up capital of N2 billion, provided that where a stockbroker seeks to act as a participant in more than one depository, it shall comply with the above requirements separately for each of such depository;~~



- ~~(5) a non-banking finance company with a minimum paid-up capital of not less than N2 billion;~~
- ~~(6) a registrar and share transfer agent registered by the Commission with a minimum paid-up capital of N2 billion.~~

## ~~8. Agreement by participant~~

~~A participant shall enter into an agreement with its client before acting as a participant on its behalf, in the manner specified in the rules of the depository.~~

## ~~9. Separate accounts~~

- ~~(1) Separate accounts shall be opened by every participant in the name of each client and the securities of each client shall be segregated, and shall not be mixed up with the securities of other clients or with the participants' own securities.~~
- ~~(2) A participant shall register the transfer of securities to or from a client's account only on receipt of instructions from the client and thereafter confirm the same to the client in the manner prescribed by the rules of the depository.~~
- ~~(3) Every entry in the client's account shall be supported by electronic instructions or any other mode of instruction received from the client in accordance with the agreement with the client.~~

## ~~10. Statement of accounts~~

~~A participant shall provide statements of account to its clients showing details of transactions on their behalf at such time as provided in the agreement with the client.~~

## ~~11. Transfer or withdrawal by Client~~

~~A participant shall allow a client to transfer or withdraw his account in such manner as specified in the agreement with the client.~~

## ~~12. Connectivity for participant~~

~~A participant shall maintain continuous electronic means of communication with each depository in which it is a participant during the normal business hours of the depository.~~

## ~~13. Monitoring, reviewing, evaluation and inspection of internal system and controls.~~

- ~~(1) A participant shall have adequate mechanisms for the purpose of reviewing, monitoring and evaluating its internal controls and systems.~~
- ~~(2) The participant shall cause to be inspected annually the mechanism referred to in (1) above by an expert and forward the report to the depository within three~~
- ~~(3) months from the date of the inspection.~~



~~(3) An expert for the purpose of this sub-rule is an independent person with requisite skills and knowledge and who is recognized by the depository.~~

#### ~~14. Reconciliation for participant~~

~~A participant shall reconcile its records with every depository in which it is a participant on a daily basis.~~

#### ~~15. Returns~~

~~A participant shall submit quarterly returns to the Commission and every depository in which it is a participant in the format specified by the Commission and the rules of the depository.~~

#### ~~16. Records to be maintained~~

- ~~(1) A participant shall maintain the following records and documents:
  - ~~(a) records of all the transactions entered into with a depository and with a client;~~
  - ~~(b) details of securities dematerialized, rematerialized on behalf of clients with whom it has entered into an agreement;~~
  - ~~(c) records of instructions received from clients and statements of account provided to clients; and~~
  - ~~(d) records of approval, notice, entry and cancellation of pledge or hypothecation.~~~~
- ~~(2) A participant shall make available for the inspection of the depository in which it is a participant, all the records referred to in (1) above. For effective exercise of the inspection, the participant shall allow persons authorized by the depository in which it is a participant, to enter its premises during normal office hours and inspect its records.~~
- ~~(3) A participant shall notify the Commission of the place where the records and documents are maintained.~~
- ~~(4) Without prejudice to any enactment and these rules, a participant shall preserve the records and documents for a minimum period of seven (7) years from the date of last entry in the records or date the document was made.~~
- ~~(5) A participant who enters into an agreement with more than one depository shall maintain the records mentioned in (1) above in respect of each depository.~~

#### ~~17. Safety of records~~

~~Where records are kept electronically by the participant, it shall ensure that the integrity of the data processing systems is maintained at all times and take all~~



precautions necessary to ensure that the records are not lost, destroyed and tampered with and shall ensure that sufficient back up of records is available at all times, off site from the participant's office.

## **18. Prohibition of assignment**

A participant shall not assign or delegate its functions as participant to any other person without the approval of the depository.

## **19. Agreement by issuer**

An issuer whose securities are eligible to be held in a dematerialized form in a depository shall enter into an agreement with the depository, provided that no agreement shall be required to be entered into where the depository itself is the issuer of securities.

## **20. Handling of share transfer and maintenance of records to be at a single point**

All matters relating to transfer of securities, maintenance of records, register of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point i.e. either in-house by the issuer or by the Registrar to the issue who is registered with the Commission.

## **21. Redress of grievances**

An issuer or its agent or any person who is registered as an intermediary by the Commission shall redress the grievances of clients within thirty (30) days from the date of receipt of complaint and inform a depository about the number and nature of grievances redressed by it and the number of grievances pending before it every quarter.

## **22. Surrendering of certificate of securities to be dematerialized**

(1) A client who has entered into an agreement with a participant, shall inform the participant of the details of the certificate of securities to be dematerialized and shall surrender such certificate to the participant;

(2) The participant shall:

(a) on receipt of information from the client under (1) above, forward such details of the certificate of securities to the depository and confirm to the depository that an agreement has been entered into between it and the client;

(b) maintain records of beneficial owners whose securities have been surrendered, the number of securities and other details of the certificates of securities received;



- ~~(c) — within seven (7) days of the receipt of certificate of securities referred to in (a) above, furnish the issuer with details specified in (b) above along with the certificate of securities;~~
- ~~(3) — The issuer or its agent shall within fifteen (15) days of receipt of the certificate of securities from the participant confirm to the depository that the securities comprised in the said certificate have been listed on a stock exchange or exchanges and shall also after due verification immediately cancel the certificate of the depository as the registered owner and shall forward a record of this fact to the depository and to every stock exchange where the securities are listed.~~
- ~~(4) — Immediately upon receipt of information from the issuer under sub rule (3) above, the depository shall enter in its records the name of the person who has surrendered the certificate of security as the client, as well as the name of the participant from whom it has received under sub rule (2)(a) above and thereafter send notice thereof to the participant.~~
- ~~(5) — The issuer or its agent shall maintain a record of certificates of securities which have been dematerialized.~~

## ~~23. — Reconciliation for issuer or its agent~~

~~An issuer or its agent shall reconcile the records of dematerialized securities with all the securities issued by the issuer on a daily basis.~~

## ~~24. — Connectivity for Issuer or its agent~~

~~An issuer or its agent shall establish continuous electronic means of communication with the depository with which it has entered into an agreement during the normal business hours of the depository.~~

## ~~25. — Information~~

~~An issuer whose securities are dematerialization in a depository, shall give information to — the depository about the date of the following:~~

- ~~— (1) closure of register;~~
- ~~— (2) record dates;~~
- ~~— (3) payment of interest or dividend;~~
- ~~— (4) annual general meeting;~~
- ~~— (5) redemption of debentures;~~
- ~~— (6) conversion of debentures;~~
- ~~— (7) such other information at the time and in the manner as may be specified by the depository in its; rules or in the agreement with the issuer.~~

## ~~26. — Creation of Pledge or hypothecation~~



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- ~~(1) If a beneficial owner intends to create a pledge on a security owned by him, he shall make an application to the depository through the participant who has his account in respect of such securities.~~
- ~~(2) The participant shall make a note in its records of the notice of pledge and forward the application to the depository.~~
- ~~(3) The depository after confirmation from the pledgee that the securities are available for pledge with the pledgor, shall within fifteen (15) working days of the receipt of the application create and record the pledge and send notice of it to the participants of the pledgor and the pledgee.~~
- ~~(4) On the receipt of the notice under sub rule (3) above, the participants of the pledgor and pledgee shall inform the pledgor and pledgee respectively of the creation of the pledge.~~
- ~~(5) The pledge created under sub rule (3) may be cancelled by the depository if the pledgor or pledgee makes an application for cancellation through its participant,  
Provided that no pledge shall be cancelled by the depository without the concurrence of the pledgee.~~
- ~~(6) On the cancellation of the pledge, the depository shall notify the participant of the pledgor.~~
- ~~(7) On the foreclosure of the pledge, the depository shall register the pledgee as beneficial owner of such securities and amend its records accordingly.~~
- ~~(8) No transfer of securities in respect of which a notice of pledge is in force shall be effected by a participant without the concurrence of the pledgee.~~

## ~~27. Investment advice~~

- ~~(1) A depository or a participant or any of their employees shall not render any investment advice about a security in the publicly accessible media, unless a disclosure of interest, including long or short position in the said security has been made, while rendering such advice.~~
- ~~(2) Where an employee of the depository or participant is rendering such advice, he or she shall disclose the interest of his or her family members and the employer including long or short position in the said securities.~~

## ~~28. Code of conduct~~

~~A participant shall abide by the Code of conduct as set out in schedule IX to these rules and regulations.~~

~~***—[SECRR(A) April, 2008]***~~



~~**C15. Securities Clearing and Settlement company**~~

~~**29. Registration Requirements**~~

~~(1) An application for registration of securities clearing and settlement company shall be made in Form S.E.C. 5C contained in schedule III to these rules and regulations and accompanied by:-~~

- ~~(a) copy of certificate of incorporation certified by the company secretary;~~
- ~~(b) two copies of the Memorandum and Articles of Association certified by the Corporate Affairs Commission.;~~
- ~~(c) latest copy of audited accounts or statement of affairs signed by its auditors and management accounts that are not more than thirty (30) days old as at the time of filing with the Commission;~~
- ~~(d) two copies of existing or proposed rules and regulations, and code of conduct;~~
- ~~(e) sworn undertaking to promptly furnish the Commission with copies of any amendment to the rules of the clearing company;~~
- ~~(f) information relating to clearing facilities including:-
  - ~~i. computerization/back up facilities;~~
  - ~~ii. telephone and other electronic facilities;~~~~
- ~~(g) information relating to settlement facilities including settlement procedure;~~
- ~~(h) information relating to internal control measures in respect of access to demobilized materials and the strong room;~~
- ~~(i) software maintenance agreement;~~
- ~~(j) Fidelity bond representing 25% of paid up capital;~~
- ~~(k) sworn undertaking to keep such records and render such returns as may be specified by the Commission from time to time;~~
- ~~(l) sworn undertaking to comply with and enforce compliance by its members with the provisions of the Act and these rules and regulations;~~
- ~~(m) an application for registration of at least three (3) principal officers of the company on Form S.E.C. 2;~~
- ~~(n) information as to the organization of the company including the organizational and shareholding structure, profile of promoters, members of the council/board, principal officers as well as rules and procedures;~~



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(o) minimum paid-up capital requirement of N500 million;

(p) any other document required by the Commission from time to time.

~~(2) Rule 182 (2), (3) and (4) shall apply in case of denial or suspension of registration of an agency.~~

## ~~30. Functions~~

~~Securities clearing and settlement systems include full set of institutional arrangements for confirmation, clearance and settlement of securities trades.~~

### ~~(1) Confirmation of trade~~

~~A securities clearing and settlement company shall provide in its rules the period for final confirmation of trades.~~

### ~~(2) Settlement of trade~~

~~A securities clearing and settlement company shall provide in its rules the period for final settlement of transactions.~~

### ~~(3) Securities lending~~

~~Lending and borrowing of securities shall be provided in the rules of the securities clearing and settlement company~~

### ~~(4) Delivery versus payment~~

~~A Securities Clearing and Settlement Company shall link securities transfers to funds transfers so as to achieve delivery versus payment.~~

### ~~(5) Operational system and business continuity~~

~~A securities clearing and settlement company shall;~~

~~(a) have appropriate systems, controls and procedures that are reliable and secure and have adequate scalable capacity;~~

~~(b) have adequate offsite disaster recovery facilities and procedures.~~

### ~~(6) Protection of customer's securities~~

~~A securities clearing and settlement company shall adopt proper accounting and safe keeping procedures to ensure full protection of clients' securities. Adequate management controls and independent audit of information systems shall be maintained.~~

### ~~(7) Evaluation of systems and controls~~

~~(a) A securities clearing and settlement company shall have adequate mechanisms for the purpose of reviewing, monitoring and evaluating its internal controls;~~



~~(b) The securities clearing and settlement company shall cause to be inspected annually, the mechanism referred to in (1) above by an expert and forward the report to the Commission within three (3) months from the date of inspection;~~

~~(c) An expert for the purpose of this sub-rule is an independent person with requisite skills and knowledge and who is recognized by the Commission.~~

## ~~(8) **Communication Procedures and Standards**~~

~~A securities clearing and settlement company shall adopt and apply consistent communication procedures and standards relating to securities message, securities identification and participant identification. In the case of cross-border transaction, it shall adopt and apply the international numbering and messaging standard.~~

### **Justification**

*The Proposed amendments are intended to improve the regulations and enhance the operations of Central Securities Depositories, particularly in the area of risk management. They are also aimed at aligning the operations of CSDs with international best practices, particularly the Principles of Financial Market Infrastructures of Committee on Payment and Market Infrastructure-International Organisation of Securities Commission (CPMI-IOSCO).*