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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Central Bank of Sri Lanka Notices

REGISTERED STOCK AND SECURITIES ORDINANCE

REGULATIONS made by the Minister of Finance under Section 55 of the Registered Stock and Securities Ordinance (Chapter 420) as last amended by Act, No. 32 of 1995.

KAIRSHASP NARIMAN CHOKSY,
Minister of Finance.

31st January, 2002.

Regulations

1. These Regulations may be cited as the Registered Stock and Securities Ordinance (Primary Dealers) Regulations, No. 1 of 2002, and shall come into force on 1st February, 2002.

2. *Appointment of Primary Dealers :*

- (1) The Monetary Board may from time to time determine the criteria for the appointment of Primary Dealers or the purposes of the Ordinance.
- (2) A Primary Dealer may enter into transactions in Treasury Bonds directly as a counter party with the Central Bank in the primary and the secondary market and may transact in Treasury Bonds for its own account and for the account of customers in accordance with the Ordinance, any other written law, directions, guidelines, operating instructions and contracts as may be applicable.
- (3) Every Primary Dealer appointed by the Monetary Board shall be bound by and comply with these regulations and any directions and guidelines issued by the Central Bank.

3. *Application for Appointment as a Primary Dealer :*

- (1) An application for appointment as a Primary dealer shall be made to the Central Bank by a Licensed Commercial Bank or any other company or in the case of a company to be formed for the purpose of carrying on the activities of primary dealer by the promoter of such company, in the form set out in Schedule I or Schedule II hereto, as may be appropriate, and shall be accompanied by the documents referred to in the Annex to Schedule I or II.
- (2) The applicant shall furnish to the Central Bank such other information and documents as the Central Bank may consider necessary for the purpose of considering the suitability of the applicant to be appointed as a Primary Dealer.
- (3) The Central Bank may conduct such inquiries as it may consider necessary to ascertain the suitability of the applicant to be appointed as a Primary Dealer, including inquiries as regards the competence, character, integrity and suitability of its directors and principal officers.

4. *Appointment :*

The Central Bank may, having regard to the suitability of the applicant to be appointed as a Primary Dealer on the basis of the criteria adopted by the Monetary Board for the approval of Primary Dealers, and in the interest of the national economy and the primary dealer system, appoint an applicant as a Primary Dealer.

5. *Conditions applicable to Licensed Commercial Banks which are appointed as Primary Dealers :*

Where the Monetary Board appoints a Licensed Commercial Bank as a Primary Dealer, the Bank shall comply with the following conditions :

- (1) (a) The Licensed Commercial Bank shall create and maintain a special reserve, known as the " Primary Dealer Special Reserve " in a minimum amount as may be determined by the Monetary Board from time to time. The Primary Dealer Special Reserve shall be used exclusively for obligations arising from primary dealer operations and activities of the Licensed Commercial Bank.
- (b) Any variation of the minimum amount determined under sub-paragraph (1) (a) shall be communicated to the Licensed Commercial Bank in writing.
- (c) When any variation made under sub-paragraph (1) (b) requires the Licensed Commercial Bank to increase the minimum amount determined under sub-paragraph (1) (a) or sub-paragraph (1) (b), the Monetary Board may, on application made to it, grant the Licensed Commercial Bank a period of six (6) months or such longer period in which to comply with such requirement.
- (2) The Licensed Commercial Bank shall maintain separate books of accounts in respect of primary dealer activities and conduct such primary dealer activities in a separate unit.
- (3) The Licensed Commercial Bank shall not have on its Board of Directors, a director or an employee of another Primary Dealer Company.
- (4) The primary dealer operations of a Licensed Commercial Bank shall be headed by a qualified and competent person holding a senior management position in such Bank, who shall devote his full time to such primary dealer operations.
- (5) The Licensed Commercial Bank shall be subject to operating guidelines and prudential requirements imposed by the Central Bank from time to time in respect of primary dealer activities and operations.
- (6) The primary dealer activities and operations of a Licensed Commercial Bank shall be monitored and supervised by the Central Bank.

6. *Conditions applicable to Companies which are appointed as Primary Dealers :*

Where the Monetary Board appoints a company as a Primary Dealer hereinafter referred to as a " Primary Dealer Company ", the Company shall comply with the following conditions :

- (1) The Memorandum of Association of the Company shall limit its objects to carrying on the activities set out in Schedule III to these Regulations and to activities ancillary to, or in connection with such activities.
- (2) The Company shall maintain a minimum capital as determined by the Monetary Board from time to time, of which the Tier II capital shall not exceed 50 per centum of the Tier I capital.
- (3) The Company shall not have on its Board of Directors, a director or an employee of another Primary Dealer or except for the Chief Executive Officer, an employee of the company.
- (4) The company shall not have on its Board of Directors any person who is subject to any disqualification applicable to directors of a licensed commercial bank in terms of the Banking Act provided however an employee or director of a licensed commercial bank which is not a primary dealer shall not be disqualified to be a director of Primary Dealer Company.

- (5) The Company shall not register, without prior written approval of the Monetary Board, any shareholdings of a person if such shareholding results in a change in the controlling interest in the Primary Dealer Company. For this purpose "controlling interest" shall mean the holding of 51% or more of the paid-up share capital of the Company.
- (6) The Company shall not register without the prior written approval of the Monetary Board any shareholding of more than 10 per centum of the issued capital of the Company of a person if such person is the holding company or a subsidiary of any other Primary Dealer.

7. *Variation in the Capital of a Primary Dealer Company :*

- (1) The Monetary Board may having regard to the viability and stability of the primary dealer system and the interest of the national economy determine the capital required to be maintained by a Primary Dealer Company and may vary such determination from time to time. A determination or a variation made by the Monetary Board under this sub-paragraph shall be communicated to all Primary Dealer Companies in writing.
- (2) Where a Primary Dealer Company is required by a variation under sub-paragraph (1) above to increase its capital, it shall upon an application made to the Monetary Board, be given a period of six months, or such longer period as may be granted by the Monetary Board in which to comply with such requirement.
- (3) A Primary Dealer Company of which the capital falls below the minimum required to be maintained in terms of this regulation shall forthwith notify the Central Bank in writing of such fact.
- (4) Without prejudice to the rights of the Monetary Board to suspend or cancel the appointment of a Primary Dealer Company which fails to maintain the minimum capital required to be maintained in terms of this Regulation, the Monetary Board may, if it considers it to be in the interest of the Primary Dealer system or the national economy to do so, grant time as determined by the Monetary Board to meet the shortfall in capital. The Monetary Board may grant such permission subject to such terms and conditions as it may impose.

8. *Material Interest :*

A Primary Dealer shall not acquire or hold either directly or indirectly a material interest in another Primary Dealer Company. For this purpose, 'material interest' means the holding of over 10 per centum of the issued capital of such Primary Dealer Company.

9. *Duties and Privileges of Primary Dealers :*

- (1) A Primary Dealer shall have the right to deal with the Central Bank as a counter-party in the primary and secondary markets for securities.
- (2) A Primary Dealer shall participate in the primary market in the manner and at levels determined by the Central Bank from time to time and communicated to the Primary Dealer.
- (3) A Primary Dealer shall be responsible for creating and maintaining a secondary market in securities.
- (4) A Primary Dealer shall comply with levels for maintenance of stock of securities and for participation in the secondary market as determined by the Central Bank from time to time and communicated to the Primary Dealer.
- (5) A Primary Dealer shall have the right to engage in transactions relating to securities for its own account and for the account of customers.
- (6) A Primary Dealer shall maintain standards of competence and infrastructural facilities as may be determined by the Central Bank from time to time and communicated to the Primary Dealer.
- (7) A Primary Dealer shall act in a fiduciary capacity in respect of its customers in the holding of and in the collection and payment of maturity proceeds and interest on securities and shall for this purpose segregate the assets of its customers from its own assets. The assets of customers shall not form a part of the assets of the Primary Dealer in a winding-up.

- (8) A Primary Dealer shall maintain strict confidentiality in respect of its dealings with its customers.
- (9) A Primary Dealer shall conduct its business and activities in accordance with the operations manual, code of conduct and any other guidelines for Primary Dealers formulated by the Central Bank from time to time.

10. *Supervision, Examination and Investigation of Primary Dealers :*

- (1) The Central Bank may supervise and examine a Primary Dealer and may conduct investigations into any specific matter or activity of a Primary Dealer for the purpose of ensuring that the conduct of business by the Primary Dealer is not prejudicial to the interest of the customers of the Primary Dealer and to the Primary Dealer system and/or that the Primary Dealer is acting in compliance with the provisions of the Ordinance, and the Regulations made under the Ordinance, operations manual, code of conduct, guidelines and any other applicable written law.
- (2) A Primary Dealer shall make available to the Central Bank its books, accounts, registers, files and other records kept in relation to its activities as a Primary Dealer, inclusive of records maintained in electronic and magnetic media and shall furnish any information as may be required for the purposes set out in sub-paragraph (1).
- (3) A Primary Dealer, its directors and officers shall comply with any request made for the submission of any books, accounts, registers, files or information under sub-paragraph (2).

11. *Evaluation of Performance :*

- (1) The performance of a Primary Dealer shall be evaluated by the Central Bank periodically on :
 - (a) its participation at primary auctions in securities ;
 - (b) in creating and maintaining a Secondary Market in securities ; and
 - (c) its record of compliance with applicable laws, rules, regulations, directions, guidelines and the code of conduct.
- (2) A Primary Dealer shall be informed by the Central Bank of any shortcomings which come to light in the course of such evaluation and such Primary dealer shall take any measures that may be recommended by the Central Bank to remedy such shortcomings.

12. *Directions :*

- (1) The Central Bank may issue directions to a Primary Dealer to ensure compliance by the Primary Dealer with these Regulations. Without prejudice to the generality of the foregoing and to the power of the Central Bank to issue directions under the Ordinance or any other written law, such directions may provide for all or any of the following matters :
 - (a) The procedures to be complied with by Primary Dealers in respect of auctions of securities carried out by the Central Bank and secondary market operations of the Primary Dealer ;
 - (b) The minimum level of participation by Primary Dealers, in primary auctions of securities carried out by the Central Bank ;
 - (c) The conditions to be complied with by Primary Dealers in the collection and payment of maturity proceeds and interest on securities to customers ;
 - (d) The maintenance of books, records and accounts by Primary Dealers ;
 - (e) The adequacy of internal controls and risk management systems ;

- (f) The submission of periodic reports or information to the Central Bank by Primary Dealers ;
 - (g) The minimum level for secondary market operations of Primary Dealers ;
 - (h) The maintenance of stocks of securities to meet the demand for such securities in the secondary market ;
 - (i) Charges that may be imposed by Primary Dealers on customers ;
 - (j) The qualifications required of the Chief Executive Officer of the Primary Dealer company or the person who heads the primary dealer operations of a Licensed Commercial Bank and of the other senior executive officers ;
 - (k) The infrastructure and other facilities to be maintained by the Primary Dealer for the proper discharge of its duties ;
 - (l) The activities and business which may be carried on by the Primary Dealer Company as activities or businesses connected or incidental to the activities set out in paragraph (1) to (3) of Schedule III ;
 - (m) The rectification of any situation arising from any failure or shortcoming which has come to light in the course of supervision, examination, investigation or evaluation conducted by the Central Bank ;
 - (n) The discharge of obligations and duties to the Central Bank, other Primary Dealers, direct participants and customers of a Primary Dealer whose business and activities as a Primary Dealer has been suspended under paragraph 13 ;
 - (o) Capital, reserves, capital adequacy and other prudential and operating requirements.
- (2) In the event of a Primary Dealer failing to comply with any provisions of the Ordinance, these Regulations or any other regulations, or directions issued under the Ordinance, or carrying on business in a manner which is detrimental to the interest of its customers, the Monetary Board may conduct such investigations as it may consider necessary and may issue to such Primary Dealer a direction to comply with such provisions or to cease to carry on business in such manner within such time as may be specified in the direction and where the Primary Dealer fails to comply with such direction, shall without prejudice to any other action under paragraph 13, publish for the information of the public, in a local newspaper in all three languages the direction so issued to the Primary Dealer.
13. *Suspension and Cancellation of Appointments of a Primary Dealer :*
- (1) The Monetary Board may suspend a Primary Dealer from carrying on the business and activities of a Primary Dealer for a period which shall not exceed six months or may cancel the appointment of a Primary Dealer, if such Primary Dealer has failed to comply with any law, regulation, direction, guideline or code of conduct applicable to it or acts in a manner detrimental to the interest of the Primary Dealer system or to the national economy.
 - (2) Where the Monetary Board suspends a Primary Dealer from carrying on the business and activities of a Primary Dealer under sub-paragraph (1) above, the Monetary Board may at or before the expiry of the period of suspension, extend the suspension for the further period—
 - (a) if it is of the opinion that further time is required to ensure the proper discharge by the Primary Dealer of its obligations and duties to the Central Bank, other Primary Dealers, direct participants and customers ;
or
 - (b) if a request for such extension is made by the Primary Dealer and the Monetary Board considers it to be in the interest of the Primary Dealer system to grant such extension.
- A suspension may be extended in terms of this sub-paragraph notwithstanding that by such extension the maximum period of time specified in sub-paragraph (1) will be exceeded.
- (3) The Monetary Board may revoke the suspension imposed on a Primary Dealer if it is of the opinion that the situation that led to the suspension has been rectified and it will not be detrimental to the interest of the Primary Dealer system or to the national economy to revoke such suspension

- (4) The Monetary Board may at the expiry of a period of suspension, cancel the appointment of a Primary Dealer if in its opinion the continuance of business by the Primary Dealer is detrimental to the interest of the Primary Dealer system and to the national economy.
- (5) A Primary Dealer whose appointment is suspended or cancelled shall not have the right to deal with the Central Bank as counterparty in the primary and secondary markets in securities and shall not transact new business with customers and shall not be entitled to utilize the facilities provided by the Central Bank to Primary Dealers except to the extent permitted by the Central Bank for the discharge of such Primary Dealer's obligations and duties to the Central Bank, other Primary Dealers, customers and others in accordance with directions issued by the Monetary Board.

14. *Central Bank :*

Where by these Regulations any power has to be exercised or any act has to be done by the Central Bank such power shall be exercised or such act shall be done by an officer of the Central Bank authorised for the purpose by the Monetary Board.

15. *Interpretation.*—In these Regulations, unless the context otherwise requires :

- “**Banking Act**” means the Banking Act, No. 30 of 1988.
 - “**Capital**” means the aggregate of Tier I Capital and Tier II Capital.
 - “**Central Bank**” means the Central Bank of Sri Lanka established by the Monetary Law Act, No. 58 of 1949.
 - “**Company**” means a company within the meaning of the Companies’ Act, No. 17 of 1982 but shall exclude a Licensed Commercial Bank.
 - “**Customer**” means in relation to a Primary Dealer any person who purchase from such Primary Dealer or sells to such Primary Dealer or otherwise acquires or disposes of securities or any interest therein through such Primary Dealer or who negotiates with such Primary Dealer for the possible acquisition or disposition of such securities.
 - “**Licensed Commercial Bank**” means a Licensed Commercial Bank within the meaning of the Banking Act, No. 30 of 1988.
 - “**Monetary Board**” means the Monetary Board of the Central Bank of Sri Lanka.
 - “**Ordinance**” means the Registered Stock and Securities Ordinance.
 - “**Primary Dealer Special Reserve**” means the special reserve created and maintained by a Licensed Commercial Bank in respect of its Primary Dealer operations. The Primary Dealer Special Reserve shall be made up of retained profits or a combination of retained profits and debt capital. Tier II capital (subordinated debt) shall not exceed 50 per centum of Tier I capital (retained profits).
 - “**Tier I Capital**” means the total of :
 - (a) Issued and paid up ordinary share-capital ;
 - (b) Issued and paid up perpetual non-cumulative preference share (non-redeemable or redeemable at issuer's option, with the prior approval of the Central Bank) ;
 - (c) Share premium account ;
 - (d) Reserves created or increased by appropriations of retained earnings or other surpluses eg. retained profits and other reserves (excluding fixed asset revaluation reserves and retained profits on unaudited financial statements. Retained profits on unaudited financial statements can be included if the certification of a statutory auditor is provided) ;
- Less :* Goodwill and other intangible assets, accumulated losses including losses on unaudited financial statements.

“Tier II Capital” means the total of :

- (a) Short term subordinated debt (maturity period of more than three years) ;
 - (b) Long term subordinated debt (maturity period of more than five years) ;
 - (c) Cumulative preference shares ;
 - (d) Perpetual subordinated debt.
16. (a) Registered Stock and Securities Ordinance (Primary Dealers) Regulations, No. 1 of 2000 is revoked with effect from 1st February, 2002.
- (b) Notwithstanding the revocation effected by paragraph (a) ;
- (i) Companies appointed as Primary Dealers under the regulations repealed under paragraph (a) shall be deemed to be Primary Dealer Companies appointed under these Regulations.
 - (ii) Any directions or guidelines issued under the regulations repealed under paragraph (a) shall be valid and effective as if they were issued under these Regulations.

Schedule I

**APPLICATION TO BE A PRIMARY DEALER IN GOVERNMENT/TREASURY SECURITIES AND
CENTRAL BANK SECURITIES**

Licensed Commercial Bank

- (1) Name of the Bank :
- (2) Date of Incorporation of the Bank in Sri Lanka / Date of Establishment of the Branch in Sri Lanka* :
- (3) Directors of the Bank :
- (4) Capital and Reserves of the Bank/Branch* :
(As per the latest audited financial statements)
- (5) Evidence of Experience in activities relating to the Government Securities market, money and capital market:
- (6) Specific reasons for the application to be Primary Dealer :
- (7) Limit on the investment in Government Securities, if any, imposed by the Head Office* :

.....
Secretary to the Board of Directors
of the Bank/Chief Executive*.

Seal of the Bank

Date :

* In the case of a branch office of a Bank incorporated outside Sri Lanka.

Section B : Evaluation :

(1) Share Capital

	<i>Rs.</i>	<i>Mn.</i>
Authorised
Issued and Fully Paid

Please indicate Name of Shareholders.

- (2) Name of Directors :
 (List out separately their academic/professional qualifications and experience.).
- (3) Management :
 (List out all key officials including CEO with their academic/professional qualifications and experience.)
- (4) Details of Employment :

Grade	Existing				Proposed			
	Male		Female		Male		Female	
	P	C	P	C	P	C	P	C
Executive								
Non Executive								
Total								

P = Permanent

C = Casual

- (5) Evidence of experience in activities relating to government securities and money and capital markets :
- (6) Evidence with regard to the necessary infrastructure facilities to undertake primary/secondary market transactions :
- (7) Any specific reasons for the application to be considered for primary dealer status :
- (8) Any other matters which the applicant considers useful for the Central Bank of Sri Lanka to evaluate the application :
- (9) Documents referred to in Annex to Schedule II.
 (Please annex the documents)
- (10) We further undertake to provide any further information or documents that Central Bank of Sri Lanka may consider necessary for the purpose of considering our suitability to be appointed as a Primary Dealer.

Signature of Authorised Officer :

Name of the Applicant Company :

Date :

Note.—Where the space provided is insufficient, information may be given in an additional sheet of paper under the same reference number.

DOCUMENTS TO BE SUBMITTED WITH THE APPLICATION

- I. Memorandum and Articles of Association of the Company.
- II. Certificate of Incorporation of the Company.
- III. Resolution of the Board of Directors to make an application to the Central Bank of Sri Lanka for appointment as a Primary Dealer and authorizing the signatory of the application to sign the application on behalf of the applicant.
- IV. An undertaking from the Company to abide by the rules and regulations, directions, code of conduct and related guidelines pertaining to Primary Dealers and to primary/secondary market transactions issued by the Central Bank from time to time.
- V. Last audited financial statements of the Company.

Schedule III

Activities of Primary Dealer Companies

- (1) Bidding at primary auctions conducted by the Central Bank of Sri Lanka for Treasury Bills, Treasury Bonds and instruments issued by the Government and the Central Bank and purchasing such securities in such primary market.
- (2) Engaging in the secondary market activities in Treasury Bills, Treasury Bonds and other Government and Central Bank Securities with the Central Bank and others.
- (3) Promoting and developing a secondary market in Treasury Bills, Treasury Bonds and other Government and Central Bank Securities ; and
- (4) Any activities connected or incidental to the activities set out in paragraph (1) to (3) above.

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