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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1796/21 - 2013 පෙබරවාරි මස 08 වැනි සිකුරාදා - 2013.02.08
No. 1796/21 - FRIDAY FEBRUARY 08, 2013

(Published by Authority)

PART I : SECTION (I) — GENERAL

Central Bank of Sri Lanka Notices

NOTICE OF THE CENTRAL BANK OF SRI LANKA

REGULATIONS made by the Monetary Board of the Central Bank of Sri Lanka under Section 10(c) of the Monetary Law Act, No. 58 of 1949 (Chapter 422).

NIVARD AJITH LESLIE CABRAAL
Chairman
Monetary Board of the
Central Bank of Sri Lanka.

Colombo.
07 February, 2013.

Money Broking Regulations

1. These regulations shall be cited as the Money Broking Regulations No. 1 of 2013. These Regulations shall be effective from 15 February 2013, onwards. Citation and effective date.
2. No person shall engage in or cause another person to be engaged in the business of money broking except under the authority of a "Certificate of Authorisation" issued by the Monetary Board (hereinafter referred to as "Board") of the Central Bank of Sri Lanka (hereinafter referred to as "Central Bank"). Certificate of Authorisation.
3. Only a limited liability company registered under the Companies Act No. 07 of 2007, having a minimum stated capital equivalent to Rs. Ten million (Rs. 10,000,000/-) or such other capital as may be determined by the Board from time to time, shall be eligible to apply for a Certificate of Authorisation referred to in Regulation (2) above. Eligibility for application.
4. In order to be considered for the issue of a Certificate of Authorisation, the applicant company shall : Submission of the application.
 - (a) Make an application for a "Certificate of Authorisation" in the form as prescribed in these Regulations, and submit to the Director, Domestic Operations of the Central Bank of Sri Lanka together with such other documents as prescribed in Regulations (6) ; and
 - (b) Certify through a board resolution of the applicant company that the information provided in the application referred to in Regulation 4(a) above is accurate.

Transitional procedure.

5. (a) Any person who is already in the business of money broking with the “No Objection Letter” issued by the Central Bank and is desirous of carrying on business of money broking on or after the date these regulations come into effect, shall make an application as provided in Regulation (4) above, to the Director, Domestic Operations within a period of three (3) months from the date of these regulations seeking a “Certificate of Authorisation” from the Board.

(b) A person referred to in Regulation 5(a) above, shall be granted a period of one (1) year from the date of this regulation to fulfill the requirements as prescribed in this Regulation.

(c) The “No Objection Letter” already issued by the Central Bank shall expire after three (3) months from the date of these regulations coming into effect, provided however that, such “No Objection Letter” shall only expire after one (1) year from the date of these regulations coming in to effect, if the holder of such letter has complied with Regulation 5(a) above.

Documents to be submitted with the application.

6. The following documents/information, unless otherwise stated, shall be submitted by the applicant company including those who are currently operating on a “No Objection Letter”, together with the application for the “Certificate of Authorisation” in the form as prescribed by the Director, Domestic Operations :

- (a) Copy of the Articles of Association and Certificate of Incorporation and Form 20 certified by the Registrar of Companies ;
- (b) Copy of the feasibility report, in the event the application is being made by an eligible person, other than a person who is already in the business of money broking with a “No Objection Letter” issued by the Central Bank ;
- (c) Names, national identity card numbers and passport numbers, titles, addresses and details relating to the qualifications and experience of all the Directors and persons appointed as key management personnel, including chief executive officer ;
- (d) Affidavits of the chief executive officer and the directors as in Form : DOD/MB/002 ;
- (e) Names, national identity card numbers and passport numbers of all major shareholders ;
- (f) Board resolution stating that the applicant company is empowered to engage in money broking activities as a business of the company, in the event it is not so stated in the Articles of Association ;
- (g) Documentary evidence to prove that the company has met the minimum capital requirement ;
- (h) Copy of the business continuity plan ; and
- (i) Any other informatin as may be specified by the Director, Domestic Operations.

Accuracy of information provided.

7. Any information in the application for a Certificate of Authorisation or in any other document submitted in connection therewith or in the course of any inquiry or investigation conducted to ascertain the suitability of the applicant to be issued with a Certificate of Authorisation under these regulations, which is found to be false, incomplete or incorrect, may result in the application being rejected, Certificate of Authorisation being cancelled, or subject the applicant/Authorised Money Broking Company to such other measures that the Board may deem appropriate.

Annual certificate fee.

8. (a) Every Authorised Money Broking Company shall pay an annual certificate fee and any other fees as may be determined by the Board from time to time, to the Central Bank.

(b) The fees payable and any other instructions applicable to Authorised Money Broking Companies shall be communicated to them by way of circulars issued by the Director, Domestic Operations, from time to time.

9. (a) If an Authorised Money Broking Company decides to discontinue its business, such Authorised Money Broking Company shall inform the Director, Domestic Operations of the decision to so discontinue, not less than three (3) months prior to the date of termination of the business.

Termination of money broking business.

(b) Such Authorised Money Broking Company shall surrender the Certificate of Authorisation issued by the Central Bank, not later than three (3) working days after the termination of the business.

10. The permissible activities for an Authorised Money Broking Company shall include the following :

Permissible activities.

- (a) Engage in the business of money broking, foreign exchange broking, inter-bank money broking, as an agent, facilitator or mediator, in respect of transactions of financial products with clients in the money & foreign exchange markets in Sri Lanka and other recognised international markets ;
- (b) Engage in any other money broking related activities which the Board may authorise the Authorised Money Broking Company to engage in, from time to time.

11. An Authorised Money Broking Company carrying out money broking transactions shall be entitled to receive brokerage, commission or fees for the services rendered.

Brokerage commissions and fees.

12. An Authorised Money Broking Company shall :

Operating arrangements.

- (a) act only as a broker, agent, facilitator or mediator, for the transactions being brokered and not as a principal ;
- (b) adopt the Code of Conduct approved by the Director, Domestic Operations, as the guiding Code of Conduct, or adopt the ACI Model Code in the absence of such code of conduct approved by the Director, Domestic Operations ;
- (c) act as a focal point for incoming orders, monitor relevant financial product terms and conditions and keep records of pending and unfulfilled transactions ;
- (d) clearly state the qualifying conditions on which the transaction will be based (*e.g.* finding counterparty for matching deals), during the preliminary negotiations of the transaction and prior to its execution ;
- (e) act professionally at all times and use clear and unambiguous terminology ;
- (f) maintain full and updated records of segregated accounts ;
- (g) divulge the names of the principals only when satisfied that both parties display a serious intention to transact ;
- (h) report to the Director, Domestic Operations, any signs/evidence of malpractices and misdemeanor by any other Authorised Money Broking Company and/or any other parties involved in a transaction, if such signs/evidence comes to its notice ;
- (i) acquire the required level of knowledge of the relevant financial products and be fully conversant and aware of the sources of supply and demand, terms and conditions related to such financial products and relevant market information ;
- (j) comply with the related aspect of the regulations on foreign exchange and money market transactions issued by the Central Bank when sharing information with other counterparties;
- (k) provide adequate training to operational staff on skill and care required for identification and treatment of sensitive information.

Fit and proper requirement for key officers.

13. Persons appointed to key positions in Authorised Money Broking Companies, including but not limited to that of chief executive officer, director or key management personnel, shall be fit and proper persons to conduct the activities he/she is responsible for, and shall have the requisite experience, qualifications and competence.

Disqualifying from being appointed as a key officer.

14. A person shall be disqualified from being elected and/or appointed as a director, chief executive officer or key management personnel of an Authorised Money Broking Company or from holding such position, if such person :

- (a) does not possess academic or professional qualifications or effective experience in money broking, finance, law, business or administration or other relevant discipline ;
- (b) has been declared an undischarged insolvent or a bankrupt, by any court in Sri Lanka or abroad ;
- (c) has been convicted by any court for an offence involving moral turpitude ;
- (d) has failed to satisfy any judgement or order of any court to repay a debt ;
- (e) is being subjected to any investigation or inquiry in respect of a fraud, deceit, dishonesty or other similar criminal activity, conducted by the police, any regulatory or supervisory authority, professional association, commission of inquiry, tribunal, or any other body established by law in Sri Lanka or abroad ;
- (f) has been found guilty in respect of an act of fraud, deceit, dishonesty or other similar criminal activity, by any regulatory or supervisory authority, professional association, commission of inquiry, tribunal, or any other body established by law in Sri Lanka or abroad, at any time during the period of fifteen years immediately prior to being so appointed or elected ;
- (g) has been removed or suspended by a regulatory or supervisory authority from serving as a director, chief executive or other officer in any corporate body in Sri Lanka or abroad ;
- (h) is being subjected to court proceedings for an offence involving an act of fraud, deceit, dishonesty or other similar criminal activity ;
- (i) has been declared by a court of competent jurisdiction to be of unsound mind ;
- (j) is a chief executive officer, director or holding any other position of authority in any licensed commercial bank and/or in any primary dealer.

Restrictions on control over the money broking businesses.

15. A licensed commercial bank and/or primary dealer shall not have equity participation or have control over the directors or principal officers of the Authorised Money Broking Company.

Communicating quotes.

16. When communicating quotes (prices/rates) in the foreign exchange market, Authorised Money Broking Company shall :

- (a) not communicate quotes with the intention of distorting the exchange rate ;
- (b) not communicate quotes where the principal or authorised persons have no intention of honoring, and which are quoted merely to mislead other market participants ;
- (c) communicate the relevant rates in a Foreign Exchange Swap transaction based on the prevailing market rates and inter-bank term transactions.

Objectives of internal controls.

17. Every Authorised Money Broking Company shall have a sound internal control system within the organisation, in order to ensure :

- (a) efficiency and effectiveness of operations (operational objective) ;
- (b) reliability and completeness of financial and management information (information objective) and ;
- (c) compliance with applicable laws and regulations (compliance objective).

18. The internal control system referred to in Regulation (17), above shall include :

Internal controls.

- (a) the regular review and/or update of the internal control system, and an assurance that the operational staff possess a sound awareness of the need to comply with the system ;
- (b) the maintenance of proper records of all transactions with clear documentary evidence, electronically or otherwise for a minimum period of three (3) years for purposes of these regulations ;
- (c) the exclusive use of tie lines to carry out activities referred to in Regulation (10) ;
- (d) the maintenance of telephone conversation records (voice records) referred to in Regulation 18(c) above and retain such records for a period not less than two (2) months from the date of the telephone conversation ;
- (e) the maintenance of stringent physical access controls system to the telephone conversation records ;
- (f) the prohibition of the use of private mobile phones inside the operational floors, by all employees.

19. (a) The Authorised Money Broking Company shall confirm all transactions in writing within twenty (20) minutes of the transaction, and such confirmation shall include the following minimum information :

Broker confirmation.

- (i) the transaction time, date and the value date ;
- (ii) the names of the counterparties ;
- (iii) settlement instructions ; and
- (iv) details of any related transactions, including, where appropriate, the commission charged by the Authorised Money Broking Company.

(b) The broker confirmations shall be sent out by the back office, after it is scrutinized for its accuracy, independently of those who initiated the respective transaction.

20. The Authorised Money Broking Company shall submit a performance report on a monthly basis, to the Director, Domestic Operations, not later than five (5) working days of the following month in the form prescribed in the "Schedule A" attached hereto, via e-mail.

Reporting requirements.

21. The Director, Domestic Operations may, at any time, examine or authorise any officer of his Department to examine the books of accounts and other records/activities of any Authorised Money Broking Company. An Authorised Money Broking Company shall provide any information as may be requested by the Director, Domestic Operations or such officer authorised by the Director, Domestic Operations at all times in order to facilitate such examination.

Examination of books.

22. Failure to comply with the provisions of these regulations and/or the furnishing of false or incorrect information or the omission of any material information, may result in the Board taking punitive action after an investigation, which may include :

Failure to comply with these regulations.

- (a) a warning being issued to the errant Authorised Money Broking Company ;
- (b) the disqualification of the errant Authorised Money Broking company from carrying out certain money broking activities referred to in regulation in (10) ;
- (c) the revocation of the Certificate of Authorisation issued by the Board.

Definitions.

23. In these regulations unless the context otherwise requires -

- (a) “ACI Model Code” shall mean the self-governing model code adopted by the Association Cambiste Internationale (ACI) or the Financial Market Association ;
- (b) “Authorised Money Broking Company” shall mean a company holding a Certificate of Authorisation issued by the Monetary Board of the Central Bank of Sri Lanka, under these regulations ;
- (c) “Board” shall mean the Monetary Board of the Central Bank of Sri Lanka established under the Monetary Law Act (Chapter 422) ;
- (d) “Certificate of Authorisation” shall mean the authorisation granted by the Monetary Board for a company to engage in money broking business under these regulations ;
- (e) “Clients” shall mean licensed commercial banks and any other institution permitted to trade in foreign currency in future, licensed specialised banks, primary dealers, fund management companies, pension funds, unit trust companies, insurance companies, corporate treasuries, government institutions and other financial institutions accredited by the Central Bank of Sri Lanka ;
- (f) “Company” shall mean a company formed and registered as a private or public limited company under the Companies Act, No. 07 of 2007 ;
- (g) “Director, Domestic Operations” shall mean the Head of the Department of Domestic Operations of the Central Bank of Sri Lanka established under the Monetary Law Act (Chapter 422) ;
- (h) “Financial Products” shall mean wholesale local and foreign currency bank deposits, spot and forward foreign exchange (any currency against Sri Lanka rupees and cross currencies, outright or otherwise), currency swaps, interest rate swaps, currency options and futures, fixed income securities including government and corporate bonds, repurchase and reverse repurchase agreements, call money and term money, debentures, commercial papers, promissary notes, securitizations, any combinations of such instruments or any other financial product approved by the Board ;
- (i) “Internal Control System” shall mean the entire system of controls financial and otherwise, established by the management in order to carry on the business of the company in an orderly and efficient manner, ensure adherence to management policies, safeguard the assets and secure as far as possible the completeness and accuracy of the records ;
- (j) “Key Management Personnel” shall mean those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity ;
- (k) “Money Broking” shall mean the business of arranging transactions between buyers and sellers in the money and foreign exchange markets with brokers acting as an intermediary in consideration of brokerage or commission fees paid or to be paid ;
- (l) “No Objection Letter” shall mean the letter issued to an existing firm which is already in the business of money broking at the date on which these regulations comes into effect by the Director, Domestic Operations (or by the Chief Accountant if the letter was issued prior to 01 January 2002), stating that the Central Bank has no objection to such firm carrying on broking activities in the money and foreign exchange markets in Sri Lanka ;
- (m) “Operational Staff” shall mean employees of the Authorised Money Broking Company who are directly engaged in those activities referred to in Regulation (10) ;
- (n) “Primary Dealer” shall have the same meaning as given in the Registered Stock and Securities Ordinance No. 7 of 1937;

- (o) “Principal” shall mean a party to a transaction, acting as a buyer or a seller, who buys and sells for its own account and risk ;
- (p) “Securities” shall mean a negotiable financial instrument representing financial value, including debt securities and derivative contracts ;
- (q) “Stated Capital” shall have the same meaning as set out in The Companies Act, No. 07 of 2007 ;
- (r) “Tie Line” shall mean a dedicated communications link between an Authorised Money Broking Company and the respective principal.

SCHEDULE A

Name of Authorised Money Broking Company :

For the period ended :

	<i>Transaction Volume *</i> <i>(Face Value)</i>		<i>Revenue</i>	
	<i>USD Equivalent</i>	<i>LKR</i>	<i>USD Equivalent</i>	<i>LKR</i>
Foreign Exchange Transactions				
USD/LKR Outright				
SWAPS				
Cross Currency				
Deposits				
Inter-bank Transactions				
Call money				
Term money				
Government Securities				
Outright				
Repo/Reverse Repo				
Services (Commercial Papers)				
Other				

*Please take only one side of the transaction - buy or sell.

Other information :

- (a) Capital and Reserves :
- (b) Profit after Tax :
- (c) Number of Employees :
- (d) Principal Officers :
- (e) Board of Directors :

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