



CLEARING, SETTLEMENT AND CENTRAL DEPOSITORY MODULE



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CSD-A.1 Purpose

Executive Summary

- CSD-A.1.1 Module CSD sets out the Central Bank of Bahrain's regulatory framework governing licensing of clearing houses and central depositories operating in or from the Kingdom of Bahrain.
- CSD-A.1.2 The CSD Module seeks to introduce a consistent, effective and harmonised approach in regulation and supervision of licensed clearing houses and central depositories in the Kingdom of Bahrain. It sets out the CBB requirements for their licensing and authorisation, and the initial as well as ongoing compliance requirements.
- CSD-A.1.3 The key principles underlying the approach of the CBB in this Module aim:
- (a) To promote the safety and efficiency of clearing and settlement facilities that support systemically-important markets or form an integral part of the financial infrastructure;
 - (b) To reduce systemic risk;
 - (c) To reduce direct counterparty risk in securities transactions by use of contributions from depository participants' members, as well as by imposing adequate risk management techniques, including the requirement of cash cover and collateral;
 - (d) To ensure finality of settlement;
 - (e) To reduce cost of clearing and settlement of transactions; and
 - (f) To ensure that the ownership and rights of investors are protected.

Legal Basis

- CSD-A.1.4 Article 1 of the CBB Law defines "Financial Sector Support Institutions" and "Financial Institutions" and the definition includes institutions licensed for operating clearance houses, settlement of payments, cheques and financial papers, and institutions which are wholly or partly set-up by financial institutions licensed by the Central Bank in order to provide services of a pure financial nature to the financial services industry. Articles 38 and 39 of the CBB Law provides the Governor of the CBB with the power to issue Directives or regulations in respect of regulated services.
- CSD-A.1.5 Article 40 of the CBB Law states that no financial institution should be established or carry out any regulated services without the prior approval of the CBB.
- CSD-A.1.6 Article 80 (4) includes depository, clearance and settlement of securities as regulated activities of companies in the securities market.
- CSD-A.1.7 Article 94 of the CBB Law provides the CBB with the power to authorise registration of ownership of the securities of a depositor in the name of a depository under a securities deposit agreement in accordance with the form issued for this purpose by a depository.



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CSD-A.1 Purpose (continued)

- CSD-A.1.8 Subject to the rules and laws of evidence and electronic transactions, Article 96 specifies that computer data, electronic files, recorded telephone calls, telex and facsimile correspondence may be considered as forms of evidence of ownership of securities when disputes relating to securities occur.
- CSD-A.1.9 Articles 108 and 109 provides the CBB with the power to issue regulations regarding procedures for clearing and netting of transactions and related exceptions.
- CSD-A.1.10 Article 110 provides that the Central Bank shall issue terms and conditions for the provision of any pledge, insurance, collateral or title transfer collateral to beneficiaries according to a market contract.
- CSD-A.1.11 Article 178 provides the CBB with the power to issue regulations for enabling title to securities to be evidenced and transferred without the need to produce a written instrument.
- CSD-A.1.12 Article 95 states that the CBB shall by regulation specify the procedures to be followed for the registration of pledges and liens on securities and the discharge and lifting of such pledges and liens.
- CSD-A.1.13 Licensed clearing houses and central depositories shall be subject to Part 10 (Articles from 133 to 159) of the CBB Law with regards to cases of insolvency, the consequences of such insolvency and violation of the insolvency law by licensees, and compulsory liquidation. The CBB is entitled to place a licensee under administration in the event of insolvency, cancellation or amendment of the license of the clearing house or central depository, and when it is in the best interests of the public to do so. Rules and regulations for placing a licensee under administration are set out in Articles 136-143 of the CBB Law.
- CSD-A.1.14 Article 161 of the CBB Law stipulates a penalty for contravention of Article 40 of the CBB Law.



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CSD-A.2 Module History

Evolution of Module

CSD-A.2.1 This Module was first issued in 2008. Any material changes that are subsequently made to this Module are annotated with the calendar quarter date in which the change is made; Chapter UG-3 provides further details on Rulebook maintenance and version control.

Superseded Requirements

CSD-A.2.2 This Module supersedes the following provisions contained in circulars or other regulatory instruments:

Circular/ other references	Provision	Subject
BSE Clearing, Settlement & Central Depository & Registry Rules	Rules that are contradictory to the provisions in this Module	Rules and regulations relating to registry, clearing, settlement & central depository.
BSE Clearing, Settlement and Central Depository Procedures	Procedures that are contradictory to the provisions in this Module	Scope of procedures to be carried out by clearance and settlement facilities and central depository.
BSE Brokers & Custodians Resolutions	Resolutions that are contradictory to the provisions in this Module	Provisions for custodial services and services provided by brokerage companies at the BSE.



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CSD-A.3 Interaction with Other Modules

CSD-A.3.1 All market participants must comply with all the other Modules in Volume 6 in addition to other applicable laws, rules and regulations.

CSD-A.3.2 Licensed clearing houses and central depositories must comply with Decree Law No. 4 of 2001 with respect to the Prevention and Prohibition of the Laundering of Money; Ministerial Order No. 7 of 2001 with respect to Obligations Governing Institutions Concerning the Prohibition and Combating of Money Laundering; Ministerial Order No. 18 of 2002 Specifying the Powers of the Enforcement Unit in Implementing the Provisions of the Decree Law Promulgated with Respect to the Prevention and Prohibition of the Laundering of Money; Ministerial Order No. 23 of 2002 with Respect to Procedures of Money Laundering Prevention and Prohibition; and Anti-Money Laundering (AML) requirements as laid out in the AML and Financial Crime Module.

CSD-A.3.3 Licensed clearing houses must also comply with the CBB's Real Time Gross Settlement System (Membership) Regulations 2007 and other related rules, regulations and guidelines.



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CSD-A.4 Division of Responsibilities

CSD-A.4.1 SROs should be subject to the oversight of the regulator, and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.

CSD-A.4.2 SROs shall:

- (a) Have the capacity to carry out the purposes of governing laws, regulations and SRO rules, and to enforce compliance by its members and associated persons with those laws, regulations, and rules;
- (b) Treat all members of the SRO and applicants for membership in a fair and consistent manner;
- (c) Develop rules that are designed to set standards of behaviour for its members and to promote investor protection;
- (d) Submit to the regulator its rules for review and/or approval as the regulator deems appropriate, and ensure that the rules of the SRO are consistent with the public policy directives established by the regulator;
- (e) Cooperate with the regulator and other SROs to investigate and enforce applicable laws and regulations;
- (f) Enforce its own rules and impose appropriate sanctions for non-compliance;
- (g) Assure a fair representation of members in selection of its directors and administration of its affairs;
- (h) Avoid rules that may create uncompetitive situations; and
- (i) Avoid using the oversight role to allow any market participant to gain unfair advantage in the market.

CSD-A.4.3 Regardless of the extent to which self-regulation is used, the CBB retains the authority to enquire into matters affecting investors or the market.

CSD-A.4.4 Where the powers of an SRO are inadequate for enquiring into or addressing particular misconduct, or where a conflict of interest necessitates it, the CBB shall take over the responsibility for an enquiry from an SRO. It is important therefore, to ensure that the information provided by the SRO to the regulator allows these matters to be identified at an early stage.

CSD-A.4.5 SRO's should follow similar professional standards of behaviour on matters such as confidentiality and procedural fairness as would be expected of the CBB.



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CSD-B.1 Scope

CSD-B.1.1

This Module shall apply to:

- (a) Clearing and settlement services provided by a licensed clearing house in or from the Kingdom of Bahrain for the clearing and settlement of securities transactions; and
- (b) Custodial services for securities offered by a central depository in or from the Kingdom of Bahrain.



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CSD-B.2 Definitions

CSD-B.2.1 For the purpose of this Module, unless the context otherwise requires, a list of relevant terms are defined in this section.

CSD-B.2.2 “Annual report” means:

- (a) In relation to a corporation operating a licensed clearing house or central depository, the annual audited financial statements, plus all accompanying notes, auditors’ reports, commentaries and disclosures required by IFRS, including the required non-financial, employment and corporate governance disclosures of the licensed clearing house or central depository; or
- (b) In relation to any other person operating a licensed clearing house or central depository, the profit and loss accounts and balance-sheet of the person in respect of the licensed clearing house or central depository.

CSD-B.2.3 “Beneficial owner” the term “beneficial owner” of securities refers to any person who, even if not the recorded owner of the securities, has or participates in the underlying benefits of ownership. These benefits include the power to direct the voting or the disposition of the securities, or to receive the economic benefit of ownership of the securities. A person is also considered to be the “beneficial owner” of securities if that person has the right to acquire such securities within a certain period of time, either by option or other agreement. Beneficial owners include persons who hold their securities through one or more trustees, brokers, agents, legal representatives or other intermediaries, or through issuers in which they have a “controlling interest”, which means the direct or indirect power to direct the management and policies of the issuer, or any other entity in question.

CSD-B.2.4 “Business rules” are those rules issued by a licensed clearing house or central depository in their capacities as self-regulatory organisations (SROs) to regulate the functions of a licensed clearing house and central depository and the admission, regulation and supervision of their members or participants.

CSD-B.2.5 “Central depository” means a central securities depository being any person who is eligible and licensed by the CBB to provide custody services, maintain a central securities register and accounts of central depository participants and evidence and transfer of ownership.

CSD-B.2.6 “Clearing member” means a person who is a member of a licensed exchange and a licensed clearing house and a Category 1 Investment Firm Licensee in terms of CBB Rulebook Volume 4 who can execute transactions and clear and settle transactions in a licensed clearing house.

CSD-B.2.7 “Clearing house” means any person who is eligible and licensed by the CBB and acts as the central counterparty in making payments or deliveries or both in connection with transactions in securities, or who provides facilities for comparison of data in respect of the settlement of securities transactions, to reduce the number of settlements of securities transactions, or for allocation of securities settlement responsibilities.



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CSD-B.2 Definitions (continued)

- CSD-B.2.8 “Custodian” means a person who is licensed to undertake depository participant or clearing member services as a licensed Category 1 Investment Firm in terms of CBB Rulebook Volume 4, including undertaking the business of safeguarding securities and assets on behalf of his clients in terms of this Module.
- CSD-B.2.9 “Days” unless specifically referred to as business days, means calendar days.
- CSD-B.2.10 “Dealing” in relation to any deposited security, means the deposit, purchase or sale of securities, including the charging or pledging of the deposited security by a securities holder and the evidence of ownership.
- CSD-B.2.11 “Default proceedings” means proceedings or other action taken by a licensed clearing house or a central depository under its default rules.
- CSD-B.2.12 “Default rules” in relation to a licensed clearing house or central depository, means the business rules of the licensed clearing house or central depository which provide for the taking of proceedings or other action if a clearing member, or participant has failed, or appears to be unable or to be likely to become unable, to meet his obligations for all unsettled or open derivatives market contracts to which he is a party.
- CSD-B.2.13 “Defaulter” means a clearing member or participant who is the subject of any default proceedings.
- CSD-B.2.14 “Delivery” means the final transfer of a security by the seller to the buyer.
- CSD-B.2.15 “Dematerialization” means a process by which evidence of ownership of securities is issued in electronic form or book entries, either at the time of original issue of securities or by subsequent conversion of evidence of ownership in the form of physical certificates into electronic form.
- CSD-B.2.16 “Depository participant” means a member of a licensed central depository who intermediates between the licensed central depository and the beneficial owner of securities as an agent of the depository.
- CSD-B.2.17 “Immobilization” means a process by which physical securities are held in a licensed central depository for the account of the beneficial owners of such securities and such immobilized securities can either be transferred by electronic or book entries on the records of a licensed central depository.
- CSD-B.2.18 “Issuer” means any person making an issue of securities.



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CSD-B.2 Definitions (continued)

- CSD-B.2.19 “Market charge” means a security interest, whether fixed or floating, granted in favour of a licensed clearing house or central depository:
- Over property held by or deposited with the licensed clearing house or central depository; and
 - To secure liabilities arising directly in connection with the licensed clearing house or central depository, ensuring the performance of a market contract.
- CSD-B.2.20 “Market collateral” means property held by, or deposited with, a licensed clearing house or central depository for the purpose of securing liabilities arising directly in connection with the licensed clearing house or central depository, ensuring the performance of market contracts.
- CSD-B.2.21 “Market contract or contracts” means:
- A contract subject to the business rules of a licensed clearing house or central depository that is entered into between the licensed clearing house and a member pursuant to a novation (however described), whether before or after default proceedings have commenced, which is in accordance with those business rules and for the purposes of the clearing or settlement of transactions using the clearing facility of the licensed clearing house; or
 - A transaction which is being cleared or settled using the clearing facility of a licensed clearing house and in accordance with the business rules of the licensed clearing house, whether or not a novation referred to in paragraph (a) is to take place.
- CSD-B.2.22 “Payment” means the final transfer of funds from the buyer to the seller.
- CSD-B.2.23 “Position” in relation to a futures contract, means a futures contract which is outstanding and which has not been liquidated:
- By an off-setting transaction;
 - By delivery of the commodity underlying the futures contract;
 - Through settlement of the futures contract in accordance with the business rules or practices of a futures market, as the case may be; or
 - By substituting the futures contract for a cash commodity.
- CSD-B.2.24 “Property” in relation to a market charge or market collateral, means:
- Money, letters of credit, banker’s drafts, certified cheques, guarantees or other similar instruments;
 - Securities listed and deposited with the central depository;
 - Futures contracts and any similar financial contract; or
 - Other assets of value acceptable to a licensed clearing house or central depository.



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CSD-B.2 Definitions (continued)

- CSD-B.2.25 “Record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined and approved by the CBB.
- CSD-B.2.26 “Registered owner” means a person who is listed in the issuer's register as the owner of securities.
- CSD-B.2.27 “Relevant office holder” means:
- A person acting in relation to a company as its liquidator, its provisional liquidator, its receiver, its receiver and manager, its judicial manager, or an equivalent person; or
 - A person acting in relation to an individual as his trustee in bankruptcy, the interim receiver of his property or an equivalent person.
- CSD-B.2.28 “RTGS” means Real Time Gross Settlement System introduced, operated and maintained by the CBB for facilitating on-line real-time settlement of payments in the Kingdom of Bahrain between members admitted to the RTGS system, either on gross basis, or through the Multilateral Net Settlement Batches (MNSB) received from the members and for matters connected therewith, or incidental hereto.
- CSD-B.2.29 “Securities” means shares or bonds issued by shareholding companies, government debt instruments and the following financial instruments:
- Shares in companies and other securities equivalent to shares in companies or other entities, and depositary receipts in respect of shares;
 - Bonds or other forms of debt, including depositary receipts in respect of such securities;
 - Warrants;
 - Units, rights or interests (however described) of the participants in a collective investment scheme;
 - Options, futures and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event);
 - Options, futures and any other derivative contract relating to commodities that can be physically settled;
 - Units to Real Estate Investment Trusts (REITs);
 - Index tracking products including Islamic indices;
 - Any other financial instrument approved as a financial instrument by the CBB for the purpose of trading such instrument on an exchange; and
 - Islamic securities, being those financial instruments that are Shari’a compliant.
- CSD-B.2.30 “Securities account” means an account maintained by the licensed central depository on behalf of the participants and their clients for use in one or more of its services.



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CSD-B.2 Definitions (continued)

- CSD-B.2.31 “Settlement bank” means an RTGS member entity licensed by the CBB and appointed by a licensed clearing house (including the clearing house itself) to settle payment obligations arising from the transactions of the participants of the licensed clearing house that are cleared or settled by the licensed clearing house.
- CSD-B.2.32 "Settlement", in relation to a securities trade, means the final transfer of the securities from the seller to the buyer and the final transfer of funds from the buyer to the seller. When both delivery and payment have occurred, the settlement process is complete.
- CSD-B.2.33 Settlement, in relation to a market contract, includes partial settlement:
- (a) Where a charge is granted partly for the purpose specified in the definition of “market charge” and partly for any other purpose or purposes, the charge shall be treated as a market charge under this Module insofar as it has effect for that specified purpose;
 - (b) Where collateral is granted partly for the purpose specified in the definition of “market collateral” and partly for any other purpose or purposes, the collateral shall be treated as market collateral under this Module insofar as it has been provided for that specified purpose; and
 - (c) References in this Part to settlement, in relation to a market contract, are references to the discharge of the rights and liabilities of the parties to the market contract, whether by performance, compromise or otherwise.
- CSD-B.2.34 “Settlement Guarantee Fund” means a fund maintained by a licensed clearing house through contributions from its members for providing a cushion against any residual risk to enable the licensed clearing house to eliminate counterparty risk and guarantee timely settlement of transactions.
- CSD-B.2.35 “Trading Member” means a person including a clearing member, where such member has been accepted in terms of the rules of the licensed clearing house, who is a member of a licensed exchange and who can execute transactions as a licensed exchange or licensed market operator.



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CSD-1.1 Licensing Conditions

Requirement to be Licensed

CSD-1.1.1 As per Article 40 of the CBB Law, no person shall operate or hold himself out as a licensed clearing house or central depository in the Kingdom of Bahrain, unless he has been licensed by the CBB under this section.

CSD-1.1.2 No person shall establish, maintain, operate or hold himself out as intending to establish, maintain or operate a clearing house or central depository, without notifying the CBB of such intention at least 90 days prior to the establishment or commencement of operations of the clearing house or central depository.

CSD-1.1.3 A person may apply to the CBB to reduce the period referred to in rule CSD-1.1.2 and the CBB may substitute such other period at its discretion.

CSD-1.1.4 The CBB may require a person providing the notice period referred to in rule CSD-1.1.2 to furnish the CBB with such information or documents as the CBB considers necessary in relation to the notice.

Persons Operating Clearing or Depository Facilities

CSD-1.1.5 The CBB may license a person operating a clearing or depository facility as a licensed clearing house or central depository for the purposes of this Module, if it has satisfied the criteria laid out in this Module. The CBB may, on application, give authorisation to overseas clearing houses, clearing corporations, or central depositories, particularly for facilitating the operations of the licensed market operators and cross-listings.

CSD-1.1.6 The CBB shall give notice in the Official Gazette of any person licensed under rule CSD-1.1.5.

CSD-1.1.7 A license provided by the CBB under rule CSD-1.1.5 shall continue to have effect until it is withdrawn by the CBB.

CSD-1.1.8 The CBB may withdraw the license of any licensed clearing house or central depository at any time, on its own initiative or on the application of the licensed clearing house or central depository, if the CBB is of the opinion that the considerations in rule CSD-1.1.5 are no longer valid or satisfied.

CSD-1.1.9 The CBB shall give notice in the Official Gazette of any withdrawal under paragraph CSD-1.1.8.



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CSD-1.1 Licensing Conditions (Continued)

CSD-1.1.10 The CBB shall not withdraw on its own initiative the license of any person operating a clearing facility or depository as a licensed clearing house or central depository, without giving the person an opportunity to be heard.



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CSD-1.2 Licensing Process and Timeline

CSD-1.2.1

A person may apply to the CBB to be:

- (a) Licensed as a licensed clearing house (including the function of central depository);
- (b) Licensed as a licensed clearing house;
- (c) Licensed as a licensed central depository.

CSD-1.2.2

Unless otherwise approved, a person licensed as a clearing house or central depository, or either a licensed clearing house or licensed central depository is required to be registered as a joint stock company in Bahrain in accordance with the Commercial Companies Law (CCL) 2001.

CSD-1.2.3

An application for a license to operate as a clearing house or central depository under Article 39 of the CBB Law shall be made in Form 1 and shall be lodged with the CBB, together with the following:

- (a) Form 3 (Information on Chief Executive Officer and Director) and Form 4 (Information on Shareholders and Subsidiaries);
- (b) Any relevant annexe and information specified in those forms;
- (c) A non-refundable prescribed application fee;
- (d) A business plan setting forth the internal controlling and risk management procedures of the enterprise; furthermore, the business plan must contain a budgeted accounting plan for the first three business years;
- (e) The memorandum and articles of association of the company or any of its constituent documents;
- (f) Three-year operational plans including the organisational structure, communication facilities and training programmes;
- (g) Draft business rules in respect of its operations as a licensed clearing house or central depository; and
- (h) The details of the proposed authorised and paid-up capital.

CSD-1.2.4

The CBB may, within 30 days from the date of submission, require an applicant to furnish it with amendments or such additional information or documents as the CBB considers necessary in relation to the application.

CSD-1.2.5

Where strict compliance with any form is not possible, the CBB may in its sole discretion, and upon request from the applicant to this effect, allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner.

CSD-1.2.6

The applicant may, at any time before a decision has been made about the application, withdraw his application or make amendments to any errors therein or in the supporting documents.



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CSD-1.2 Licensing Process and Timeline (continued)

- CSD-1.2.7 The CBB shall decide on the application within 60 days from the date of receiving the application, complete with all the required information and documents.
- CSD-1.2.8 The CBB may grant an in principle confirmation within 30 days from the date of the application, following which the applicant may take the following steps:
- (a) Set up the infrastructure required.; and
 - (b) Take steps for employment of personnel to the clearing house or central depository.
- CSD-1.2.9 At no point should an applicant hold themselves out as having been licensed by the CBB, prior to receiving formal written notification of the fact in accordance with rule CSD-1.2.3.
- CSD-1.2.10 The CBB may call for further information if it is of the opinion that the information provided is incomplete or needs to be substantiated.
- CSD-1.2.11 Where a clearing house applies to be licensed as a clearing house including the function of a central depository, the licensed clearing house shall apply for a single license as a clearing house and central depository, but must comply with the requirements of both a clearing house and central depository.



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CSD-1.2 Licensing Process and Timeline (continued)

CSD-1.2.12

A clearing house or central depository shall confirm that, for the duration of the license, it shall satisfy all conditions and restrictions that may be imposed on it.

General Criteria Applicable to a Clearing House and Central Depository

CSD-1.2.13

- The applicant must also demonstrate to the satisfaction of the CBB that it has:
- The financial resources, and the management and human resources with appropriate experience, necessary for the operation of a clearing house or central depository;
 - Made arrangements for the proper supervision of all transactions effected through the clearing house or central depository, so as to ensure compliance with the clearing house or central depository rules;
 - Taken sufficient steps to maintain security and back-up procedures to ensure the integrity of the records of transactions effected through the clearing house or central depository;
 - IT infrastructure and necessary systems to perform its function and comply with its obligations, including business continuity and disaster recovery systems;
 - Procedures in place for compliance with obligations in respect of Anti-Money Laundering and the Combating of Financial Crime;
 - Rules and procedures in place for the disciplining of its members and depository participants;
 - The ability to avoid and manage any conflicts of interest;
 - The ability to maintain confidentiality as required in this Module.

Criteria for Granting License of a Clearing House

CSD-1.2.14

- The CBB may license a person as a clearing house if:
- The CBB is satisfied that the establishment of a clearing house to be operated by a person will;
 - Contribute towards developing the financial sector and enhance confidence therein; and
 - Protect the interests of investors;
 - The CBB is satisfied that the person, having applied to be a licensed clearing house under this Module, is able/will be able to comply with the obligations or requirements imposed on the clearing house; and
 - If the CBB shall be satisfied that the rules of the applicant make satisfactory provision for:
 - The size and structure, or proposed size and structure, of the clearing facility;
 - The nature of the services provided, or to be provided, by the clearing facility;
 - The nature of the transactions cleared, or to be cleared, by the clearing facility;



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CSD-1.2 Licensing Process and Timeline (continued)

- (iv) The clearing and settlement of transactions and for the management of trade and settlement risk;
- (v) The market where the transactions cleared through the clearing facility are traded or are to be traded;
- (vi) The nature of the investors or members, or proposed investors or members, who may use or have an interest in the clearing facility;
- (vii) Whether the person operating the clearing facility is otherwise regulated by the CBB Law or any other law;
- (viii) Whether the clearing facility has the ability to perform its function as a central counterparty;
- (ix) Whether the clearing facility takes on counterparty risks, through novation or otherwise, in the clearing or settlement of transactions;
- (x) The parties who may be affected in the event that the clearing facility runs into difficulties;
- (xi) The interests of the public;
- (xii) The ability to meet international standards and related protocols including IOSCO;
- (xiii) The ability to meet the International Securities Identification Number (ISIN) Standards and other international standards and protocols; and
- (xix) Any other circumstances that the CBB may deem relevant.

Criteria for Granting License of a Central Depository

- CSD-1.2.16 The CBB may license a person as a central depository if:
- (a) The CBB is satisfied that the establishment of a central depository to be operated by a person will;
 - (i) Contribute towards developing the financial sector and enhance confidence therein; and
 - (ii) Protect the interests of investors; and
 - (b) The CBB is satisfied that the person, having applied to be a licensed central depository under this Module, is able/will be able to comply with the obligations or requirements imposed on the central depository.
 - (c) The CBB shall be satisfied that the rules of the applicant make satisfactory provision:
 - (i) With respect to the conditions under which securities may be deposited with, held by, withdrawn from, or transferred within, the central depository;
 - (ii) For the holding of securities deposited with the central depository or its nominee company;
 - (iii) For the processing of dealings in deposited securities;
 - (iv) For facilitating the settlement of deposited securities;
 - (v) For the protection of the interests of depositors and the protection and control of information on deposited securities and dealings therein;
 - (vi) For the monitoring of compliance with, and for the enforcement of, the rules of the central depository;

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CSD-1.2 Licensing Process and Timeline (continued)

- (vii) With respect to the maintenance of a policy or policies of insurance, and the establishment and maintenance of compensation funds, for the purpose of settling claims by depositors against the central depository, its nominee companies and depository participants; and
- (viii) Adequate regulation and supervision of its depository participants.

CSD-1.2.17 Where the CBB rejects an application, the decision and any appeal by the applicant shall be governed by Article 46 of the CBB Law.



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CSD-1.3 Withdrawal of License or Cessation of Business

Voluntary Surrender

CSD-1.3.1 A clearing house or central depository which intends to cease operating must apply to the CBB to surrender its license.

CSD-1.3.2 Any objections received from any user, member or depository participant of the clearing house or central depository shall be considered by the CBB prior to issuing its consent for the surrender of license or cessation of business of the licensee.

CSD-1.3.3 The CBB may, subject to paragraph CSD-1.3.2, cancel the license if it is satisfied that the licensed clearing house or central depository has ceased operating and that there are no pending obligations of the licensed clearing house or central depository or contracts traded.

CSD-1.3.4 The licensed clearing house or central depository shall publish a notice of its intention to cease to operate its market in 2 daily newspapers, one in Arabic and the other in English, in Bahrain.

CSD-1.3.5 The notice referred to in rule CSD-1.3.4 shall be subject to the approval of the CBB and shall be published at least 60 days prior to the cessation taking effect.

Cancellation of License

CSD-1.3.6 The CBB may cancel any license held by a licensed clearing house or central depository if:

- (a) There exists a ground under which the CBB may refuse an application;
- (b) The licensed clearing house or central depository is in the course of being wound up or otherwise dissolved;
- (c) The licensed clearing house or central depository contravenes:
 - (i) Any condition or restriction applicable in respect of its license;
 - (ii) Any direction issued to it by the CBB;
 - (iii) Any provision in this Module; or
 - (iv) Any other CBB law, rule or regulation;
- (d) The licensed clearing house or central depository operates in a manner that is in the opinion of the CBB, contrary to the interests of the public or user; or
- (e) Any information or document provided by the licensed clearing house or central depository to the CBB is false or misleading.

CSD-1.3.7 The CBB may not, subject to paragraph CSD-1.3.6, cancel any license that was granted to a licensed clearing house or central depository without giving the opportunity to be heard.



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CSD-1.3 Withdrawal of License or Cessation of Business (continued)

CSD-1.3.8 The CBB may cancel a license that was granted to a licensed clearing house or central depository on any of the following grounds without giving an opportunity to be heard:

- (a) The licensed clearing house or central depository is in the course of being wound up or otherwise dissolved;
- (b) A receiver, a receiver and manager, or an equivalent person has been appointed, in relation to or in respect of any property of the licensed clearing house or central depository; or
- (c) The licensed clearing house or central depository has been convicted, whether in Bahrain or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

CSD-1.3.9

A licensed clearing house or central depository shall be deemed to have ceased to operate if:

- (a) It has ceased to offer its services as a licensed clearing house or central depository for more than 30 days, unless it has obtained the prior approval of the CBB to do so; or
- (b) It has ceased to offer a licensed clearing house or central depository services under a direction issued by the CBB.

CSD-1.3.10

Any cancellation of a license of a licensed clearing house or central depository shall not operate so as to:

- (a) Avoid or affect any agreement, transaction or arrangement entered into by a licensed clearing house or central depository, whether the agreement, transaction or arrangement was entered into before or after the revocation of the license; or
- (b) Affect any right, obligation or liability arising under such agreement, transaction or arrangement.

CSD-1.3.11

Where the CBB cancels or amends a license of a licensed clearing house or central depository, notification to the licensed clearing house or central depository and an appeal against such a decision shall be governed by Article 48 of the CBB Law.

Publication of the Decision to Grant, Cancel or Amend a License

CSD-1.3.12

The CBB shall publish at the expense of the clearing house or central depository, its decision to grant, cancel or amend a license in the Official Gazette as well as in 2 local newspapers, one published in Arabic and the other in English in Bahrain.



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CSD-1.4 Annual Fees

Annual Fees Payable by Clearing House and Central Depository

CSD-1.4.1

Every licensed clearing house or central depository shall pay to the CBB such annual fees as may be prescribed, depending on the nature of the entity and the services it provides in such manner as may be specified by the CBB.

CSD-1.4.2

The CBB may, where it considers appropriate, refund or remit the whole or any part of any annual fee paid or payable to it.



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CSD-1.5 Power to Stop Commencement or Order Cessation

CSD-1.5.1

The CBB may order a person who has applied under rule CSD-1.1.1 not to establish or commence operation of a clearing or depository facility if:

- (a) The person did not furnish the CBB with such information or documents as required under rule CSD-1.2.3 of this Module;
- (b) Any information or document provided by the person to the CBB is or proves to be false or misleading; or
- (c) The CBB is of the opinion that it is in the interests of the capital market or financial sector.

CSD-1.5.2

The CBB may, by notice in writing, order a licensed clearing house or central depository to cease operating its clearing or depository facility if:

- (a) It has contravened any provision of the CBB Law, or any other law or rule in the course of operating its clearing facility;
- (b) It has not complied with any of the licensing requirements contained in this Module;
- (c) It provided any information or document to the CBB that is false or misleading;
- (d) In the opinion of the CBB, it is operating the clearing or depository facility in a manner that is likely to pose systemic risk to the financial system of Bahrain;
- (e) It is in the course of being wound up or otherwise dissolved, whether in Bahrain or elsewhere;
- (f) A receiver, a receiver and manager, or an equivalent person has been appointed, whether in Bahrain or elsewhere, in relation to or in respect of any property of the licensed clearing house or central depository;
- (g) It has been convicted, whether in Bahrain or elsewhere, of an offence involving fraud or dishonesty, or the conviction for which involved a finding that it had acted fraudulently or dishonestly; or
- (h) The CBB is of the opinion that it is in the interests of the public to do so.

CSD-1.5.3 The CBB shall give notice in the Official Gazette of any order made under rule CSD-1.5.2.

CSD-1.5.4 Subject to CSD-1.5.5, the CBB shall not make an order under rule CSD-1.5.1 or rule CSD-1.5.2 without giving the person an opportunity to be heard.



MODULE	CSD: Clearing, Settlement and Central Depository
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CSD-1.5 Power to Stop Commencement or Order Cessation (continued)

CSD-1.5.5 The CBB may order a person not to establish or commence operation of a clearing or central depository facility under rule CSD-1.5.1, or to cease operating its clearing or central depository facility under rule CSD-1.5.2 on any of the following grounds without giving the person an opportunity to be heard:

- (a) The person is in the course of being wound up or otherwise dissolved, whether in Bahrain or elsewhere;
- (b) A receiver, a receiver and manager, or an equivalent person has been appointed, whether in Bahrain or elsewhere, in relation to or in respect of any property of the person;
- (c) The person has been convicted, whether in Bahrain or elsewhere, of an offence involving fraud or dishonesty, or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

CSD-1.5.6 The CBB may direct, by notice in writing, a licensed clearing house or central depository, to whom an order to cease operations of its clearing facility has been made by the CBB under rule CSD-1.5.2, to take such action as it considers necessary, including any of the following actions:

- (a) Ordering the liquidation of all positions or part thereof, or the reduction in such positions;
- (b) Altering conditions of delivery of transactions cleared or settled, or to be cleared or settled through the clearing or depository facility;
- (c) Fixing the settlement price at which transactions are to be liquidated;
- (d) Requiring margins or additional margins for transactions cleared or settled or to be cleared or settled through the clearing or depository facility;
- (e) Modifying or suspending any of the business rules of the licensed clearing house or central depository; or
- (f) Transferring the rights and obligations of that licensed clearing house or central depository to another licensed clearing house and central depository; and

the licensed clearing house or central depository shall comply with that direction.

CSD-1.5.7 The CBB may modify any action taken by a licensed clearing house or central depository, including the setting aside of that action.

CSD-1.5.8

Any order made under rule CSD-1.5.2 shall not operate so as to:

- (a) Avoid or affect any agreement, transaction or arrangement entered into in connection with the use of a clearing facility operated by the person, whether the agreement, transaction or arrangement was entered into before or after the order of the cessation; or
- (b) Affect any right, obligation or liability arising under such agreement, transaction or arrangement.



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CSD-1.6 Establishment of a Clearing House and Central Depository as an SRO

CSD-1.6.1

A licensed clearing house or central depository shall be established as self-regulatory organisations (SROs) and must comply with the requirements laid down under the CBB Law, this Module, its approved business rules and the other applicable laws, rules and regulations.

CSD-1.6.2

As an SRO, the objectives and functions of the clearing house and central depository will be to:

- (a) Promote fairness and investor protection;
- (b) Provide for admission, regulation, supervision and expulsion of participation or membership;
- (c) Promote fair access to its facilities and information;
- (d) Promote the provision of timely and accessible relevant data;
- (e) Treat all its members, depository participants, users and investors in a fair and transparent manner;
- (f) Promptly inform the CBB of any violations of the provision of this Module or any relevant act, laws or regulations by its members, depository participants, users or investors;
- (g) Act in good faith and avoid conflict of interest in the conduct of its functions;
- (h) Comply with the norms of corporate governance, as provided under Module COG; and
- (i) Provide adequate supervision and regulation over its members.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-2.1 Clearing House Function

CSD-2.1.1 A licensed clearing house shall act as the central counterparty of the clearing members for clearing and settlement of transactions and for delivering securities to and receiving securities from clearing members and making payment to and receiving payment from clearing members in connection with any transaction.

Settlement Bank(s)

CSD-2.1.2 The licensed clearing house may undertake the settlement function directly, or from time-to-time appoint settlement bank(s) to act as the settlement bank(s) for the settlement of the transactions.

CSD-2.1.3 The appointed settlement bank(s) shall act as agent(s) of the licensed clearing house for the collection and payment for funds towards settlement obligations, margins and other dues.

Clearing Houses to Have Designated Accounts with Settlement Bank(s)

CSD-2.1.4 Every clearing member of the licensed clearing house shall maintain a designated bank account with a settlement bank.

CSD-2.1.5 The clearing members shall operate the designated bank accounts only for the purpose of payment of their monetary obligations to the licensed clearing house and/or the licensed exchange and receipt of monetary entitlements from the licensed clearing house or licensed exchange.

Settlement Bank to Act on Instructions of the Clearing House

CSD-2.1.6 The licensed clearing house shall instruct the settlement banks to debit or credit the account maintained by the licensed clearing house and also the designated bank accounts of the clearing members.

CSD-2.1.7 The settlement banks shall act on such instructions, which shall be deemed to be confirmed orders by the clearing members to debit and/or credit funds, as may be specified in the instructions from time-to-time.

CSD-2.1.8 Clearing members shall authorise settlement banks to access their designated bank accounts for debiting and/or crediting their accounts electronically, on the instructions of the licensed exchange or licensed clearing house.



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CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-2.1 Clearing House Function (continued)

Settlement Banks to Inform Status

- CSD-2.1.9 If there is any shortage in meeting monetary obligations by a clearing member relating to debits into a designated bank account, the settlement bank shall forthwith report such instances of shortage to the officer of the licensed clearing house and licensed exchange designated for the purpose in a mutually agreed mode of communication.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-2.2 Settlement by Clearing House

CSD-2.2.1

All securities transactions shall be settled through the licensed clearing house, by delivery and payment by the clearing members to the licensed clearing house in accordance with the provisions contained in this Module, the rules of the licensed clearing house and relevant directives or provisions that the CBB may from time-to-time prescribe.

CSD-2.2.2 Arrangements for clearing and settlement systems should provide for the prompt verification of a trade, as close as possible to real-time verification (including pre-validation).

CSD-2.2.3 Information which records the transaction, allows it to be checked and provides the basis for settlement should be available.

Settlement Rules and Regulations Form Part of Contracts

CSD-2.2.4 All the clearance and settlement rules and regulations in force from time-to-time relating to any procedure for the clearing and settlement of transactions by or through the licensed clearing house and the provisions of this Module shall be construed to be part of the contracts entered into by any trading member and/or clearing member with his clients and between trading members, inter-se, in any security or securities.

Settlement Procedure

CSD-2.2.5 The licensed exchange or clearing house shall prescribe the procedure, schedule, manner and mode to be followed in respect of settlement of all transactions contracts entered into or to be entered into in any security or securities by the clearing members through the licensed clearing house.

CSD-2.2.6

All the clearing members, custodians, clearing banks, central depositories, depository participants and other persons having beneficial interest in settlement shall comply with the provisions contained in the rules and regulations of the licensed exchange and the rules of the licensed clearing house from time-to-time.

CSD-2.2.7 Key aspects of the settlement process that the legal framework should support include the following:

- (a) Enforceability of transactions;
- (b) Protection of customer assets, particularly against loss upon the insolvency of a custodian;
- (c) Immobilization or dematerialization of securities and the transfer of securities by book entry;

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CSD-2.2 Settlement by Clearing House (continued)

- (d) Netting arrangements;
- (e) Securities lending, including repurchase agreements and other economically equivalent transactions;
- (f) Finality of settlement;
- (g) Margin trading and securities lending and borrowing;
- (h) Arrangements for achieving delivery versus payment;
- (i) Default rules addressing the consequences of a member's default;
- (j) Arrangement for registration of pledges and liens; and
- (k) Liquidation of assets pledged or transferred as collateral to support members' obligations.

CSD-2.2.8 The licensed clearing house shall maintain a Settlement Guarantee Fund to guarantee settlement obligations of clearing members.

CSD-2.2.9 The licensed clearing house shall deliver, at its discretion, securities which it has received from a clearing member to any other clearing member who is entitled to the same.

CSD-2.2.10 The licensed clearing house shall determine the settlement obligations relating to delivery and receipt of securities by and between clearing members to be exchanged electronically through the clearing and settlement system of the licensed clearing house.

Timing of Settlement

CSD-2.2.11 Final settlement should occur no later than the end of the settlement day as approved by the CBB.

CSD-2.2.12 The timing of settlement finality should be defined clearly to all the members.

Approval of Settlement System

CSD-2.2.13 The settlement system of a licensed clearing house must be able to effect:

- (a) Settlement of transfer orders within the system itself; and
- (b) Be able to comply with the requirements stipulated in paragraph CSD-2.2.7.

CSD-2.2.14 If the CBB determines that the criteria specified in rule CSD-2.2.13 have been met as regards a designated system, it shall issue in respect of the system a certificate certifying to that effect (“certificate of finality”), and specify a date and time from which the certificate shall have effect.



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CSD-2.2 Settlement by Clearing House (continued)

CSD-2.2.15 If the CBB is unable to make a determination in the terms mentioned in rule CSD-2.2.13 as regards a designated system, it shall inform the system operator in writing accordingly, giving particulars of the criteria specified in paragraph CSD-2.2.7 which have not been met, or of the further information it requires in order to make a determination in relation to such criteria.

CSD-2.2.16 A certificate of finality in respect of a designated system remains in effect until it is revoked.

Finality of Settlement and Precedence Over Law of Insolvency

CSD-2.2.17 In line with Article 108 of the CBB Law:

- (a) This Module shall be regarded as the requirements regarding conditions and controls to be incorporated in a Market Contract, as well as the procedures for carrying out clearing according to such contract;
- (b) Notwithstanding the provisions of any other law relating to clearing, bankruptcy or insolvency, any Close-out Netting shall be carried out according to the Market Contract in connection with debts, loans and dealings between the parties thereof that were originated or completed before any of the parties became insolvent or bankrupt. The same shall apply against the parties of the contract, their receivers in bankruptcy and their creditors; and
- (c) The previous paragraph shall not apply if one party knows or ought to have known that:
 - (i) An application for the liquidation and winding up of the other party by reason of insolvency, is being considered by the concerned authority; or
 - (ii) The other party has taken formal steps under any other applicable law to liquidate or wind up by reason of bankruptcy.

CSD-2.2.18 In line with Article 109 of the CBB Law:

- (a) Notwithstanding the provisions of any other law, no restriction or suspensions shall be applied to any provision related to clearance according to a Market Contract; and
- (b) Notwithstanding the provisions of any other law relating to clearance, bankruptcy or insolvency, the parties in a Market Contract may:

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CSD-2.2 Settlement by Clearing House (continued)

- (i) Agree to any system which will enable the parties to convert a non-financial obligation into a financial one of equivalent value and to value such an obligation for the purposes of any clearance or netting;
- (ii) Agree on the rate of exchange, or the method to be used to establish the rate of exchange to be applied in effecting any clearance or netting when the sums to be cleared or netted are in different currencies, and to establish the currency in which payment of the net sum is to be effected; or
- (iii) Agree that any transactions carried out pursuant to any Market Contract shall be treated as a single transaction for the purposes of the contract, whether such transactions were complete by the parties, a receiver in bankruptcy, a competent court, an officer representing the parties or that such transactions have been categorized or attributed to a certain type of trading.



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CSD-2.3 Arrangements for Depository Services

CSD-2.3.1 The clearing house shall put in place necessary arrangements to avail of the services of depositories licensed by the CBB.

CSD-2.3.2 A clearing member shall be required to maintain a designated account with one or more depositories.



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CSD-2.4 Central Depository Function

Securities Accounts and Records

CSD-2.4.1 No person shall deal in deposited securities without first having a securities account.

CSD-2.4.2 A depository participant which deals in deposited securities as principal shall, in relation to such dealing, open and maintain a securities account with the central depository.

CSD-2.4.3 A central depository may establish different types of securities accounts for different classes of persons.

CSD-2.4.4 Every securities account opened with a central depository shall be in the name of the beneficial owner of the deposited securities.

CSD-2.4.5 The person opening the securities account shall make a declaration in such manner as may be specified in the rules of the central depository that he is the beneficial owner of deposited securities.

Issuance of Statements of Accounts

CSD-2.4.6 A central depository shall issue to all securities holders statements of accounts in respect of all deposited securities held in custody by, or registered in the name of the central depository for the securities holders at such time and in such manner as may be provided in the rules of the central depository.

CSD-2.4.7 Notwithstanding rule CSD-2.4.6 above, a securities holder may, at any time, by written notice, require the central depository to issue to him a statement of account in respect of all or any of the deposited securities for the time being held in custody by, or registered in the name of the central depository.

CSD-2.4.8 A central depository shall, on receipt of a written notice under paragraph CSD-2.4.7 and upon payment of any charges which may be imposed under these rules, issue to the securities holder the statement so required.

CSD-2.4.9 A statement of account issued under this rule shall be prima facie evidence of the truth of the matters specified in the statement.



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CSD-2.5 Authorised Depository Participant

CSD- 2.5.1

Subject to this Module, a central depository may appoint any of the persons referred to in paragraph CSD-2.5.2 to be a depository participant for all or any of the following purposes:

- (a) To facilitate the deposit of securities;
- (b) To open, maintain and close securities accounts;
- (c) To make entries in securities accounts;
- (d) To collect such fees and charges imposed by the central depository as may be provided under these rules; or
- (e) Such other incidental and ancillary purposes as may be specified by the rules of the central depository.

CSD-2.5.2 A central depository may appoint as a depository participant any of the following:

- (a) A stock exchange;
 - (b) A clearing house or depository;
 - (c) A bank licensed by the CBB;
 - (d) An Islamic bank licensed by the CBB; or
 - (e) An investment firm licensee licensed by the CBB;
- and any depository participant so appointed, in carrying out all or any of the purposes mentioned in rule CSD-2.5.1, shall, when so required by the central depository, in respect of such purposes, be authorised to give, divulge, reveal or disclose to the central depository any information or documents relating to a securities account.

Agreement between Depository and Depository Participant

CSD-2.5.3 A central depository shall enter into an agreement with one or more depository participants as its agent.

CSD-2.5.4 Every agreement shall be consistent with the provisions of this Module.



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CSD-2.6 Provisions Relating to Immobilized Securities

CSD-2.6.1 A company or issuer may, in respect of securities listed or quoted on a licensed exchange or market operator give notice to the public and its security holders of its intention to immobilize the securities.

CSD-2.6.2 A listed company may from time-to-time after consultation with the licensed exchange prescribe that any security listed or quoted on the licensed exchange, or proposed to be listed or quoted on the licensed exchange or licensed market operator, be immobilized by depositing such security with the central depository.

CSD-2.6.3 A central depository or its depository participant, as the case may be shall, within the period prescribed in the rules, after the deposit by any person of a certificate and the instruments of transfer in respect thereof, if any, lodge the certificate and instrument with the issuer of the security within two market days.

Verification of Certificates and Transfer to a Central Depository

CSD-2.6.4 The issuer shall, on receipt of the certificate and instrument, forthwith, do all such acts and things as may be necessary in order to register the transfer of the security underlying such certificate in the name of the central depository.

CSD-2.6.5 Where an issuer refuses registration of a transfer, it shall serve on the transferor and the central depository, being the transferee, a written notice giving the reasons for such refusal, within 7 days.

CSD-2.6.6 Without prejudice to the right of an issuer to refuse to register a transfer under any written law, the issuer shall refuse registration of the transfer mentioned in rule CSD-2.6.8 if:

- (a) It ascertains that the certificate is not a genuine certificate, or is a certificate that was reported lost or destroyed; or
- (b) In relation to any such security, it discovers that:
 - (i) There has been a duplication in the issuance of the certificate representing the security;
 - (ii) Such certificate is a certificate issued in excess of the issued share capital of the issuer; or
 - (iii) It has been served with an order of a court of competent jurisdiction prohibiting any dealing in respect of the security underlying such certificate.



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CSD-2.6 Provisions Relating to Immobilized Securities (continued)

CSD-2.6.7 Within seven market days after a transfer is lodged with an issuer or within such longer period as may be allowed in writing by a central depository, the issuer shall complete and deliver the appropriate certificate to the central depository.

The central depository may refuse entry of the certificates deposited where prima facie:

- (a) There are discrepancies between the securities received and the transfer lodged; or
- (b) The securities are invalid, not genuine.

Issuance of Consolidated Statements

CSD-2.6.8 A central depository may require an issuer of deposited securities to issue in the name of the central depository a consolidated statement for such securities.

CSD-2.6.9 The issuer shall, upon receipt of a requirement as mentioned above, forthwith take such action as may be appropriate for the issuance of the consolidated statement to the central depository.

Withdrawal of Immobilized Securities

CSD-2.6.10 A depositor may by an application to the central depository withdraw an immobilized security standing to the credit of his securities account.

CSD-2.6.11 Where an application is made under paragraph CSD-2.6.13 for the withdrawal of an immobilized security which is registered in the name of a central depository or its depository participant, the central depository shall forthwith place such security under suspense with the issuer including:

- (a) The certificate representing the security; and
- (b) The instrument of transfer duly executed by the central depository or its depository participant, as the case may be,

for the purpose of effecting the transfer in favour of the depositor.



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CSD-2.6 Provisions Relating to Immobilized Securities (continued)

- CSD-2.6.12** An issuer shall, within two weeks after the certificate and the instrument of transfer in respect thereof are lodged with it:
- (a) Complete and have ready for delivery to the depositor, the appropriate certificate registered in the name of such depositor; and
 - (b) Unless otherwise instructed by the depositor, send or deliver the completed certificate to the depositor.

- CSD-2.6.13** No person shall trade any security withdrawn from a central depository on a licensed exchange, unless such security is redeposited in a central depository.

Central Depository Deemed a Bare Trustee

- CSD-2.6.14** A central depository shall, in relation to deposited securities which are registered in its name:
- (a) Not be deemed to have an interest in relation to the book-entry securities which are registered in its name; and
 - (b) Be deemed to be a bare trustee.

Central Depository and Depository Participant not Liable for Loss

- CSD-2.6.15 A central depository and depository participant shall not, except in the case of any willful act, omission, neglect or default on the part of the central depository or its authorised depository participant, be liable for any loss, damage or liability suffered or incurred by any person in respect of dealing in any security.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-2.7 Dematerialization and Central Registry Function

Dematerialization of Securities

CSD-2.7.1 A company shall, in respect of securities listed or quoted on a licensed exchange give notice to the public and its shareholders of its intention to dematerialize the securities. Any issue of such securities after this Module comes into effect shall be in dematerialized form.

CSD-2.7.2 A listed company may from time-to-time after consultation with the licensed exchange prescribe that any security listed or quoted on the licensed exchange, or proposed to be listed or quoted on the licensed exchange, be dematerialized.

CSD-2.7.3 On or after the dematerialization date, every issuer of a security prescribed as a dematerialized security shall:

- (a) Surrender the physical register of securities holders to the central depository; and
- (b) Provide or instruct its registrar to provide information to the central depository of any securities holder who appears in the appropriate register as a holder of a certificate not already dematerialized by the central depository.

CSD-2.7.4 A central depository shall maintain information of the holders of securities in a computerised record form, in accordance with the relevant Know Your Client (KYC) and Anti-Money Laundering (AML) and Financial Crime (FC) provisions, in addition to the relevant requirements under the Commercial Companies Law (CCL).

CSD-2.7.5 No issuer shall after the dematerialization date issue any certificate in respect of a dematerialized security.

CSD-2.7.6 With effect from the dematerialization date, a reference in respect of a dematerialized security, to:

- (a) A register of members or securities holders including branch registers, maintained by a company under the Commercial Companies Law, 2001, shall be deemed to be a reference to the record of securities holders maintained by the central depository;
- (b) A transfer of securities from a transferee shall be deemed to be a reference to a book entry transfer performed by the central depository; and
- (c) Any certificate, instrument of transfer or any movable property representing any security which is used as prima facie evidence of ownership of the security shall be deemed to be a reference to a statement of account issued by the central depository.



MODULE	CSD:	Clearing, Settlement and Central Depository
CHAPTER	CSD-2:	Clearing House and Central Depository Function

CSD-2.7 Dematerialization and Central Registry Function (continued)

Dealings Effected by Means of Electronic Process

- CSD-2.7.7 A dealing by a beneficial owner in respect of a dematerialized security shall be effected by means of an entry in the securities account of the beneficial owner.
- CSD-2.7.8 Transfer of securities shall be effected by beneficial owners or their authorised nominees.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-2.8 Entries in Securities Accounts

CSD-2.8.1

An entry in a securities account in respect of a dealing, shall:

- (a) In the case of a securities account established and maintained directly by a central depository, be deemed to have been made by, or with the authority of, the central depository; and
- (b) In the case of a securities account established through and maintained by a depository participant on behalf of a central depository, be deemed to have been made by, or with the authority of, the depository participant.

Entries in Securities Accounts to Specify Date, Time and Person Making the Entries

CSD-2.8.2 An entry in a securities account made under the rule CSD-2.8.1 shall specify the date and time of the making of such entry and, in the case of an entry made by a person, the identity of the person making the entry.

Record of an Entry Prima Facie Evidence

CSD-2.8.3 A record of an entry in a securities account in respect of a dealing in deposited securities shall be prima facie evidence of the truth of the matters so recorded.

Record of Securities Holders Beneficial Owner to be Issued to an Issuer on Request

CSD-2.8.4 An issuer of any deposited security may, in the manner and period prescribed by the rules of the central depository, request the central depository to issue him a record of the securities holders holding the aforementioned securities under their securities accounts, as at the date of the notice or such other date as may be specified in the notice.

CSD-2.8.5 The record of securities holders referred to in paragraph CSD-2.8.4 shall contain the names, addresses, number of the deposited securities acquired by each securities holder and such other information and particulars of the securities holders as may be required and prescribed by the rules of the depository.

Charging or Pledging of Securities

CSD-2.8.6

The central depository shall include in its Business Rules the rules and procedures in respect of the pledge of securities, including the acceptance of a pledge by a beneficial owner and the responsibilities of the pledgor in respect of effecting the pledge.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-2.8 Entries in Securities Accounts (continued)

CSD-2.8.7 Where a deposited security is charged or pledged by a securities holder (hereinafter referred to as “pledgor”) in favour of any person (“pledgee”), a central depository or a depository participant, with or through whom the securities account of the securities holder is maintained shall, on a request on the prescribed form made by the securities holder or pledgor, create a pledge on the relevant securities within the securities account.

CSD-2.8.8 Where a request is made by a securities holder as provided under paragraph CSD-2.8.7, such request shall be supported by documents evidencing such charge or pledge.

CSD-2.8.9 Where a pledge over a deposited security has been discharged or released, the central depository or its depository participant, as the case may be, shall, upon receipt of a notice in writing from the pledgee confirming the same, release the pledge within the securities account of the pledgor.

Securities in Suspense

CSD-2.8.10

A central depository may specify that any deposited security in a securities account as being in suspense in any of the following circumstances:

- (a) Where the securities have not been made fully paid-up;
- (b) Where the central depository has reason to believe or is satisfied that there is a breach of the rules of the central depository, licensed exchange or licensed clearing house;
- (c) Where the central depository has been served with a notice by the CBB that the CBB suspects or has reason to believe that a provision of a related law has been contravened and that securities account of a securities holder is relevant to its investigations regarding the contravention;
- (d) Where the central depository has been served with an order of a court of competent jurisdiction prohibiting any dealing in respect of a deposited security; or
- (e) Where the securities or interim certificates are lost and no other securities or certificates are given in lieu; or
- (f) Such other circumstances as may be prescribed by the CBB.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-2.8 Entries in Securities Accounts (continued)

CSD-2.8.11

In the case of a security that is specified in the securities account as being in suspense pursuant to rule CSD-2.8.10:

- (a) The rights, benefits, powers and privileges of a securities holder; and
- (b) The liabilities, duties and obligations of a securities holder, in respect of, or arising from, the suspension of such a security, shall be as prescribed by the suspension order.

CSD-2.8.12

Where the central depository specifies that any deposited security in a securities account has been suspended, the central depository shall inform the securities account holder, issuer, the relevant depository participants and the relevant licensed exchange.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-2.9 Proceedings of Licensed Clearing House and Central Depository Take Precedence over Law of Insolvency

CSD-2.9.1

In line with Articles 108 and 109 of the CBB Law, none of the following shall be regarded as to any extent invalid under the law on the grounds of inconsistency with the law relating to distribution of the assets of a person on insolvency, bankruptcy or winding up, or on the appointment of a receiver over any of the assets of a person:

- (a) A market contract;
- (b) The rules of a licensed clearing house relating to the settlement of a market contract;
- (c) Any proceeding or other action taken under the rules of a licensed clearing house relating to the settlement of a market contract;
- (d) A market charge;
- (e) The default rules of a licensed clearing house or central depository; and
- (f) Any default proceedings.

CSD-2.9.2

The powers of a relevant office-holder in his capacity as such, and the powers of a court acting under the law of insolvency, shall not be exercised in such a way so as to prevent or interfere with:

- (a) The settlement in accordance with the rules of a licensed clearing house or central depository of a market contract; or
- (b) Any default proceedings taken in pursuant to default rules.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.1 General Obligations of a Clearing House and Central Depository

CSD-3.1.1

A licensed clearing house and central depository shall:

- (a) As far as is reasonably practicable, operate a safe and efficient clearing or central depository facility;
- (b) Manage any risks associated with its business and operations prudently;
- (c) In discharging its obligations under this Module, not act contrary to the interests of the public, having particular regard to the interests of the investing public;
- (d) Ensure that access for participation in its clearing or central depository facility is subject to criteria that are fair and objective, and that are designed to ensure the safe and efficient functioning of its facility and to protect the interests of the investing public;
- (e) Maintain business rules that make satisfactory provision for:
 - (i) The clearing or central depository facility to be operated in a safe and efficient manner; and
 - (ii) The proper regulation and supervision of its members and depository participants;
- (f) Enforce compliance by its members and depository participants with its business rules;
- (g) Have sufficient financial, human and system resources:
 - (i) To operate a safe and efficient clearing or central depository facility;
 - (ii) To meet contingencies or disasters; and
 - (iii) To provide adequate security arrangements; and
- (h) Ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers;
- (i) Maintain efficient risk management and internal controls; and
- (j) Maintain a record of all transactions effected through its clearing or central depository facility in such form and manner as the CBB may prescribe, including:
 - (i) The extent to which the record includes details of each transaction in line with the applicable laws, rules and regulations related to the Know Your Client and the Prevention and Prohibition of Money Laundering; and
 - (ii) The period of time that the record is to be maintained.

CSD-3.1.2 The CBB may by notice in writing, exempt any clearing or central depository facility operated by a licensed clearing house or central depository from all or any of the provisions of this Module, if the CBB is satisfied that such exemption would not detract from the objectives specified in rule CSD-3.1.1.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.1 General Obligations of a Clearing House and Central Depository (continued)

CSD-3.1.3 In rule CSD-3.1.1 (g), “contingencies or disasters” include technical disruptions occurring within automated systems.

CSD-3.1.4 A licensed clearing house or central depository shall formulate and implement appropriate procedures for ensuring that its members or participants comply with the CBB Law, rules and regulations, and rules of the licensed clearing house or central depository.

CSD-3.1.5 A licensed clearing house or central depository shall, for the conduct of its business, at all times provide and maintain:

- (a) Adequate and properly equipped premises;
- (b) Competent personnel; and
- (c) Automated systems with adequate capacity, facilities to meet contingencies or emergencies, security arrangements and technical support.

CSD-3.1.6 Internal rules and procedures of a licensed clearing house or central depository must be enforceable with a high degree of certainty, so as to ensure its effective operation.

CSD-3.1.7 The rules and contracts related to the operation of the clearing house or central depository should be enforceable in the event of the insolvency of a member or depository participant.

Obligation to Submit Periodic Financial Reports

CSD-3.1.8 A licensed clearing house or central depository shall submit to the CBB such reports in such form, manner and frequency as the CBB may prescribe. A licensed clearing house or central depository shall submit to the CBB for the preceding quarter, in such form as may be approved by the CBB:

- (a) Within 3 months after the end of its financial year, a copy of its:
 - (i) Annual report and directors’ report prepared in accordance with the provisions of the IFRS; and
 - (ii) Auditors’ long form report;
- (b) Within 45 days after the end of each of the first 3 quarters of its financial year, a copy of its:
 - (i) Profit and loss accounts; and
 - (ii) Balance-sheet;
- (c) Within 3 months after the end of its financial year, a report on how the licensed clearing house or central depository has discharged its responsibilities under the CBB Law and this Module during that financial year;



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.1 General Obligations of a Clearing House and Central Depository (continued)

- (d) A report reviewed by the internal auditor relating to the business of operating the licensed clearing house or central depository, at such time or on such periodic basis as may be specified by the CBB; and
- (e) Such other report as the CBB may require at such time or on such periodic basis as may be specified by the CBB.

CSD-3.1.9

The auditors' long form report referred to in rule CSD-3.1.8 (a) (ii) shall include the findings and recommendations of the auditors, if any, on:

- (a) The risk management and internal controls of the licensed clearing house or central depository; and
- (b) The non-compliance with any:
 - (i) Provision of the CBB Law;
 - (ii) Direction issued by the CBB under the CBB Law and regulations; or
 - (iii) Other relevant laws or regulations.

Obligation to Maintain Transparency

CSD-3.1.10 A licensed clearing house or central depository should maintain complete transparency in relation to its operations, including clearing, settlement, depository and central registry with particular regard to:

- (a) Transaction execution;
- (b) Settlement arrangements;
- (c) Fees and charges;
- (d) Margin requirements, including lending and borrowing;
- (e) Operational requirements; and
- (f) Business rules.

Obligation to Assist CBB

CSD-3.1.11

A person operating a clearing or depository facility shall provide such assistance to the CBB as the CBB may require for the performance of the functions and duties of the CBB, including the furnishing of such returns and the provision of:

- (a) Such books and other information:
 - (i) Relating to the business of the clearing or depository facility; or
 - (ii) In respect of any transaction or class of transactions cleared or settled by the clearing facility, or accepted for deposit by a depository; and
- (b) Such other information or assistance, as the CBB may require for the proper administration of the CBB Law and regulations.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.1 General Obligations of a Clearing House and Central Depository (continued)

Obligation to Notify CBB of Certain Matters

CSD-3.1.12

A person operating a clearing or depository facility shall (including where a clearing facility carries on business or acquires a substantial shareholding in a central depository, or vice-versa), notify the CBB in the event of the following:

- (a) The carrying on of any business by the licensed clearing house or central depository other than:
 - (i) The business of operating a clearing facility and/or depository;
 - (ii) A business incidental to operating a clearing facility or depository; or
 - (iii) Such business or class of businesses as the CBB may prescribe;
- (b) The acquisition by the licensed clearing house or central depository of a substantial shareholding in a corporation which does not carry on:
 - (i) The business of operating a clearing facility or central depository;
 - (ii) A business incidental to operating a clearing facility or central depository; or
 - (iii) Such business or class of businesses as the CBB may prescribe;
- (c) The licensed clearing house or central depository becoming aware of a financial irregularity or other matter which in its opinion:
 - (i) May affect its ability to discharge its financial obligations; or
 - (ii) May affect the ability of a member or participant of the licensed clearing house or central depository to meet its financial obligations to the licensed clearing house or central depository;
- (d) The licensed clearing house or central depository reprimanding, fining, suspending, expelling or otherwise taking disciplinary action against a member or depository participant of the licensed clearing house or central depository; and
- (e) Any other matter that the CBB may prescribe by regulations or specify by notice in writing to the licensed clearing house or central depository.

CSD-3.1.13

A licensed clearing house or central depository shall, immediately after becoming aware of the occurrence of any of the following circumstances, notify the CBB in writing of:



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.1 General Obligations of a Clearing House and Central Depository (continued)

- (a) Any civil or criminal legal proceeding instituted against the licensed clearing house or central depository, or any of its members or depository participants, whether in Bahrain or elsewhere;
- (b) Any disciplinary action taken against the licensed clearing house or central depository, or any of its members or depository participants by any regulatory body, whether in Bahrain or elsewhere, other than the CBB;
- (c) Any significant change to the regulatory requirements imposed on the licensed clearing house or central depository by any regulatory body, whether in Bahrain or elsewhere, other than the CBB;
- (d) Any admission or cessation of a bank to act as a settlement bank for the licensed clearing house;
- (e) Any failure by any party to debit or credit the relevant accounts for the purpose of the settlement of transactions, including the settlement of moneys, securities or physically delivered futures contracts;
- (f) Any disruption of or delay in any clearing, settlement or central depository procedures of the licensed clearing house or central depository, including those resulting from any system failure.

CSD-3.1.14

Where a circumstance under paragraph CSD-3.1.13 (a), (b), (e) or (f) has occurred, the licensed clearing house or central depository shall, in addition to the notification required under paragraph CSD-3.1.16, within 7 days of the occurrence of the circumstance, submit a report to the CBB of the circumstances relating to the occurrence, the remedial actions taken at the time of the occurrence, and the subsequent follow-up actions that the licensed clearing house or central depository has taken, or intends to take.



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CSD-3.1 General Obligations of a Clearing House and Central Depository (continued)

CSD-3.1.15 A licensed clearing house or central depository shall, within a reasonable period of time prior to entering into negotiations to establish a clearing linkage, clearing arrangement, depository arrangement or co-operative arrangement with a person establishing or operating another clearing facility or depository, notify the CBB of such intent to enter into negotiations.

CSD-3.1.16 In rule CSD-3.1.15, “co-operative arrangement” shall not include:

- (a) Any joint development of products and services;
- (b) Any joint marketing efforts between the licensed clearing house or central depository and the person operating an overseas market, or clearing or depository facility, in promoting the services of either entity; or
- (c) Any memorandum of understanding for the exchange of information.

CSD-3.1.17 A licensed clearing house or central depository shall seek the approval of the CBB prior to making any change to the financial resources that are available to the licensed clearing house or central depository to support a default of its member; and

- (a) The CBB may grant its approval referred to above, subject to such conditions or restrictions as the CBB may think fit.
- (b) For the purposes of this paragraph, “financial resources that are available to the licensed clearing house to support a default of its member” shall not include margin trading facilities held with the licensed clearing house.

CSD-3.1.18 A person operating a clearing facility or depository shall, no later than 7 days after the occurrence of any of the following circumstances, notify the CBB of:

- (a) A change of its chief executive officer, in accordance with section CSD-5.3;
- (b) A change of the address of the principal place of business at which it carries on the business of operating a clearing facility or depository;
- (c) A material change in the business of the clearing facility or depository; or
- (d) Such other matter as the CBB may prescribe.

CSD-3.1.19 A licensed clearing house or central depository shall seek the approval of the CBB prior to accepting any new type of securities (e.g. equities or warrants) for clearing, settlement or deposit.



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CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.1 General Obligations of a Clearing House and Central Depository (continued)

CSD-3.1.20 The CBB may at its discretion, unless the timeframe is stipulated by law, decide on an application by the licensed clearing house or central depository to vary the timeframe for compliance with the obligations in this Module and substitute such timeframe.

CSD-3.1.21 Any application for an extension of the timeframe in which to comply with the obligations of this chapter CSD-3 must be made in writing, stating the extraordinary reason for such request.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.2 Obligation to Maintain Confidentiality

CSD-3.2.1

In line with Part 8 of the CBB Law, and except under circumstances specified in paragraph CSD-3.2.2 and paragraph CSD-3.2.3, a licensed clearing house or central depository and its officers and employees shall maintain, and aid in maintaining, confidentiality of all user information that:

- (a) Comes to the knowledge of the licensed clearing house or central depository or any of its officers or employees; or
- (b) Is in the possession of the licensed clearing house or central depository or any of its employees.

Exemption of Obligation to Maintain Confidentiality

CSD-3.2.2

Rule CSD-3.2.1 shall not apply to:

- (a) The disclosure of user information for such purposes, or in such circumstances, as the CBB may prescribe;
- (b) Any disclosure of user information which is authorised by the CBB to be disclosed or furnished; or
- (c) The disclosure of user information pursuant to any requirement imposed under any written law or order of court in Bahrain.

CSD-3.2.3

Rule CSD-3.2.1 shall not apply to the disclosure of user information by a licensed clearing house or central depository, or its officers or employees, for the following purposes or in the following circumstances:

- (a) The disclosure of user information is necessary for the making of a complaint or report under any law for an offence alleged or suspected to have been committed under such law;
- (b) The disclosure of user information is permitted for such purpose specified in writing by the user or, where the user is deceased, by his appointed personal representative;
- (c) The user information is disclosed to the approved holding company of the licensed clearing house or central depository;
- (d) The disclosure of user information is necessary for the execution by the licensed clearing house or central depository of a transaction in any listed securities or futures contracts, or clearing or settlement of a transaction on a licensed exchange and such disclosure is made only to another user which is:
 - (i) A party to the transaction; or
 - (ii) A member of a licensed exchange or a licensed clearing house through which that transaction is executed, cleared or settled;
- (e) The disclosure of user information is necessary:
 - (i) In any disciplinary proceedings of the licensed clearing house or central depository, provided that reasonable steps are taken to ensure that user information disclosed to any third person is used strictly for the purpose for which the user information is disclosed; or
 - (ii) For the publication, in any form or manner, of the disciplinary proceedings and the outcome thereof;
- (f) The user information disclosed is already in the public domain;



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CSD-3.2 Obligation to Maintain Confidentiality (continued)

- (g) The disclosure of user information is made in connection with an arrangement for protection against a default by a member or participant of the licensed clearing house or central depository to another member or participant of the licensed clearing house or central depository, who is identified by the licensed clearing house or central depository for the purposes of carrying out or undertaking the obligations under the arrangement;
- (h) The disclosure is required in accordance with international and multilateral arrangements including, but not limited to the IOSCO MMoU;
- (i) The disclosure of user information is made to a member or depository participant of the licensed clearing house or central depository in connection with an arrangement for the transfer to that member or depository participant of any contract or position from another member of the licensed clearing house or central depository who is in default;
- (j) The disclosure of user information is made in connection with:
 - (i) The outsourcing or proposed outsourcing of any function of the licensed clearing house or central depository to a third party after obtaining the approval of the CBB;
 - (ii) The engagement or potential engagement of a third party by the licensed clearing house or central depository to create, install or maintain systems of the licensed clearing house or central depository; or
 - (iii) The appointment or engagement of an auditor, a lawyer, a consultant or other professional by the licensed clearing house or central depository under a contract for service;
- (k) The disclosure of user information is necessary in:
 - (i) An application for a grant of probate or letters of administration, or the resealing thereof in relation to the estate of a deceased user; or
 - (ii) The administration of the estate of a deceased user, including such disclosure as may be required by the applicable laws, rules and regulations; or
- (l) The disclosure of user information is made in connection with:
 - (i) In the case where the user is an individual, the bankruptcy of a user; or
 - (ii) In the case where the user is a body corporate, the winding up or receivership of a user.

CSD-3.2.4 Where user information is disclosed under sub-paragraph (g), (h) or (i) of paragraph CSD-3.2.3, the licensed clearing house or central depository shall:

- (a) Maintain a record of:
 - (i) The circumstances relating to the disclosure of user information referred to in that sub-paragraph; and
 - (ii) In the case of disclosure of information, the particulars of:
 - A. The arrangement for protection;
 - B. The arrangement for transfer;
 - C. The outsourcing of the function of the licensed clearing house or central depository;
 - D. The engagement of the third party; and



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CSD-3.2 Obligation to Maintain Confidentiality (continued)

E. The appointment or engagement of an auditor, a lawyer, a consultant or other professional by the licensed clearing house or central depository under a contract for service, and make the record available for inspection by the CBB.

- (b) Disclose the user information insofar as this is necessary for the relevant purpose; and
- (c) Take reasonable steps to ensure that user information disclosed is used by the person to whom the disclosure is made strictly for the relevant purpose, and that the user information is not disclosed by that person to any other person except with the consent of the licensed clearing house or central depository.

CSD-3.2.5 Where disclosure of user information is permitted to be made for any purpose or in any circumstance under paragraph CSD-3.2.3 to a body corporate, the user information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

CSD-3.2.6 In paragraphs CSD-3.2.4 and CSD-3.2.5, “relevant purpose” means:

- (a) In the case of the disclosure of information under paragraph CSD-3.2.3(g), the carrying out of the arrangement for protection;
- (b) In the case of the disclosure of information under paragraph CSD-3.2.3(h), the carrying out of the arrangement for transfer;
- (c) In the case of the disclosure of information under paragraph CSD-3.2.3(j) (i), facilitating the outsourcing of the function of the licensed clearing house or central depository;
- (d) In the case of the disclosure of information under paragraph CSD-3.2.3(j) (ii), facilitating the engagement of the third party; and
- (e) In the case of the disclosure of information under paragraph CSD-3.2.3(j) (iii), facilitating the appointment or engagement of the auditor, lawyer, consultant or other professional.

CSD-3.2.7 For the avoidance of doubt, nothing in this section shall be construed as preventing a licensed clearing house or central depository from entering into a written agreement with a user which obliges the licensed clearing house or central depository to maintain a higher degree of confidentiality than that specified in this section.



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CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.3 Business Continuity Plan

CSD-3.3.1

A licensed clearing house or central depository shall maintain at all times a plan of action (referred to in this Module as a business continuity plan), setting out the procedures and establishing the systems necessary to restore safe and efficient operations of any clearing facility or depository it operates, in the event of any disruption to the processes of its clearing facility or depository.

CSD-3.3.2

As part of a business continuity plan the licensed clearing house or central depository should provide for:

- (a) Recovery situations;
- (b) Recovery situations affecting the clients, members and depository participants;
- (c) The evacuation of the office premises; and
- (d) Back-up licensed clearing house data centre.

CSD-3.3.3

A licensed clearing house or central depository shall review the procedures and systems referred to in rule CSD-3.3.1 on such regular basis as may be specified in the business continuity plan.

CSD-3.3.4

A licensed clearing house or central depository shall immediately notify the CBB of any activation of its business continuity plan and of any action taken, or intended to be taken, to restore safe and efficient operations of its clearing facility.

CSD-3.3.5

A licensed clearing house or central depository shall, within 7 days, inform the CBB of any material change to the business continuity plan and shall submit, at the request of the CBB, a copy of the new plan to the CBB.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.4 Transmission and Storage of User Information

CSD-3.4.1 A licensed clearing house or central depository shall take all reasonable measures to maintain the integrity and security of the transmission and storage of its user information.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.5 Regulation of Clearing and Deposit Fees of Licensed Clearing Houses and Central Depositories

CSD-3.5.1 A licensed clearing house or central depository shall not impose, modify, restructure or otherwise change any existing clearing or depository fee imposed on its members or depository participants, without the prior approval of the CBB.

CSD-3.5.2 The CBB may require the licensed clearing house or central depository to furnish it with such information or documents as the CBB considers necessary in relation to the application referred to in rule CSD-3.5.1, and the licensed clearing house or central depository shall furnish such information or documents as the CBB may require.

CSD-3.5.3 The CBB shall, within 30 business days of receipt of a completed application referred to in paragraph CSD-3.5.2, by notice in writing to the licensed clearing house or central depository, either grant the approval or notify the licensed clearing house or central depository of its intention to refuse to grant the approval.

CSD-3.5.4 The CBB may, by notice in writing to the licensed clearing house or central depository, extend the period referred to in rule CSD-3.5.3:

- (a) To a maximum of 45 business days from the day of receipt of a completed application referred to in rule CSD-3.5.1; or
- (b) For a further period of such duration as the CBB thinks fit upon the expiry of the 45 business days referred to in (a) above.

CSD-3.5.5 The CBB may have regard to the following matters for the purposes of deciding whether to grant or to refuse to grant its approval:

- (a) The effect of the proposed imposition of or change in the fee on:
 - (i) Competition in the financial services industry of Bahrain; and
 - (ii) Access to clearing, settlement or depository services in Bahrain;
- (b) The cost of providing the service for which such proposed imposition or change in fee is proposed;
- (c) The effect of such proposed imposition or change on the cost and efficiency of trading, clearing, settlement and depository in Bahrain of securities or futures contracts; and
- (d) The effect of such proposed imposition or change in the objective of the CBB as specified in the CBB Law.

CSD-3.5.6 The CBB may grant its approval subject to such conditions or restrictions as the CBB may think fit to impose by notice in writing to the licensed clearing house or central depository, including conditions or restrictions relating to:

- (a) The period for which the approval of the fee will be in force;



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.5 Regulation of Clearing and Deposit Fees of Licensed Clearing Houses and Central Depositories (continued)

- (b) The circumstances under which, or date by which the licensed clearing house or central depository will be required to submit another application for approval of the clearing or depository fee under rule CSD-3.5.1 upon the expiry of the period referred (a) above; and
- (c) The circumstances under which, or the changes in the fee for which, the licensed clearing house or central depository will not be required to submit another application for approval of a change in the fee under rule CSD-3.5.1 upon the expiry of the period referred to in (a) above.

CSD-3.5.7 The CBB shall not refuse to grant its approval without giving the licensed clearing house or central depository an opportunity to be heard.

CSD-3.5.8 The licensed clearing house or central depository may only charge the fee approved by the CBB under rule CSD-3.5.1 for the service or services in respect of which it was approved.

MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.6 Inspection, Accounting and Internal Audit

CSD-3.6.1 Every member or depository participant must submit to the licensed clearing house or central depository:

- (a) Audited financial reports; and
- (b) Quarterly internal audit reports.

CSD-3.6.2 The licensed clearing house or central depository shall carry out periodic visits to the offices of its members or depository participants and clearing or depository facilities to review the operating procedures, systems maintenance and compliance with the CBB Law, rules and regulations and its business rules.

CSD-3.6.3 The board of directors of the licensed clearing house or central depository may appoint a Disciplinary Action Committee (DAC) to deal with any matter relating to allegations of improper conduct from the clients of the members or depository participants and the issuers.

CSD-3.6.4 The DAC is empowered to :

- (a) Suspend or expel a member or depository participant;
- (b) Declare a security as ineligible on the central depository system;
- (c) Freeze a member or depository participant account; and
- (d) Conduct inspections or call for records and issue notices.

CSD-3.6.5 If a member or depository participant is aggrieved by the action of the DAC, it has the right to appeal directly to the CBB against the action of the DAC, within 30 days of the action of the DAC.

CSD-3.6.6 The CBB shall hear the appeal within two months from the date of filing the appeal.

CSD-3.6.7 The orders passed by the DAC shall be binding on the member or depository participant and the clients.

CSD-3.6.8 The information on all such actions under paragraph CSD-3.6.4 shall be furnished to the CBB.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.7 Specific Obligations of a Clearing House

Customers' Money and Assets Held by Licensed Clearing House

CSD-3.7.1 Every licensed clearing house may accept money or assets deposited with or paid by its members in respect of or in relation to the market contracts of the customers of such members.

CSD-3.7.2 A licensed clearing house, which accepts assets or money deposited with or paid to it by its members in respect of or in relation to contracts of the customers of such members, shall require each of its members to notify it in such manner as it may determine:

- (a) Whether a market contract is a contract of a customer of the member which has been cleared and settled by the member; and
- (b) Whether the money or assets being deposited with or paid to the licensed clearing house is, or are deposited or paid in respect of, or in relation to, a contract of a customer of the member.

CSD-3.7.3 Where a member has notified the licensed clearing house under rule CSD-3.7.2 that the money or assets are deposited or paid in respect of, or in relation to a contract of a customer of the member, the licensed clearing house shall:

- (a) Account for all such money and assets on an aggregated basis, separate from all other money and assets received by the licensed clearing house from the member; and
- (b) Subject to paragraphs CSD-3.8.1 and CSD-3.8.2, ensure that such money is deposited in a trust account, or such assets are deposited in a custody account, to be held for the benefit of the customers of the member and disposed of or used only in respect of or in relation to contracts of customers of the member.

Daily Computation of Customers' Money and Assets

CSD-3.7.4 A licensed clearing house shall, at such intervals as the licensed clearing house determines appropriate, but no less frequently than once each business day, compute the total amount of customers' money and assets held by the licensed clearing house, including money that has been kept by the licensed clearing house.

CSD-3.7.5 Any computation referred to in rule CSD-3.7.4 shall be completed no later than the commencement of the following trading session and shall be kept by the licensed clearing house together with all supporting data.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.7 Specific Obligations of a Clearing House (continued)

CSD-3.7.6 For the purpose of this Module, a “business day” refers to any day in which the licensed clearing house is open for business.

Verification of Money and Assets Placed with Licensed Clearing House

CSD-3.7.7

A licensed clearing house shall require its auditors to submit to the CBB a report on a bi-annual basis or such other time as the CBB may require:

- (a) Certifying that the money and assets deposited by a member with the licensed clearing house in respect of, or in relation to, a contract of a customer of the member are:
 - (i) Segregated from the other money and assets deposited by the member with the designated clearing house;
 - (ii) Deposited in a trust account or custody account and are not combined with the money and assets of the licensed clearing house;
 - (iii) Used as permitted under or in accordance with section CSD-3.8; and
- (b) Setting out the amount, on an aggregated basis, of all money and assets deposited by the member with the licensed clearing house:
 - (i) In respect of, or in relation to, a contract of a customer of the member; and
 - (ii) In respect of, or in relation to, any other market contract.

CSD-3.7.8

The business rules should support the segregation of customer assets or other arrangements for prioritizing claims in bankruptcy that serve to protect customers' holdings.

CSD-3.7.9

The central depository must enforce effective segregation of customer assets by custodians.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.8 Permissible Use of Customers' Money and Assets by Licensed Clearing House

- CSD-3.8.1 Where a member of a licensed clearing house fails to meet its obligations to the licensed clearing house, the licensed clearing house may use any money or assets deposited or paid in respect of or in relation to contracts of customers of the member and held by the licensed clearing house, including any money deposited in the trust account and any assets deposited in the custody account referred to in rule CSD-3.7.3 (b), to meet the obligations of the member to the licensed clearing house, if the licensed clearing house has reasonable grounds for forming an opinion that:
- (a) The failure of the member to meet the member's obligations is directly attributable to the failure of any of the customers of the member to meet that customer's obligations under any market contract; and
 - (b) The failure to use the money or assets to meet the obligations of the member may jeopardize the financial integrity of the licensed clearing house.
- CSD-3.8.2 A licensed clearing house shall notify the CBB prior to using any such money or assets in the circumstances specified in paragraph CSD-3.8.1.
- CSD-3.8.3 A licensed clearing house shall, in so far as any money which has been deposited in a trust account, or any asset which has been deposited in a custody account, ensure that it is used only in respect of or in relation to contracts of a customer of the member; or in accordance with its business rules.
- CSD-3.8.4 Where a licensed clearing house uses money and assets in contravention of paragraph CSD-3.8.3, it shall:
- (a) In the case of money, repay the money to the trust account referred to in rule CSD-3.7.3 (b); or
 - (b) In the case of assets:
 - i. Return the asset to the custody account referred to in rule CSD-3.7.3 (b); or
 - ii. If the asset cannot be returned to the custody account, deposit an amount of money which is equivalent to the monetary value of the asset at the time of the contravention of rule CSD-3.7.3 (b) in a trust account referred to in rule CSD-3.7.3 (b) for the benefit of the customers of the member.

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CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.9 Permissible Investments of Customers' Money and Assets by Licensed Clearing House

- CSD-3.9.1 Subject to paragraph CSD-3.9.2, a licensed clearing house may invest any money or assets deposited, or paid in respect of, or in relation to, contracts of customers of a member and held by the licensed clearing house in the course of its clearing or settlement activities, including any money deposited in the trust account in any security, instrument or other form of investment arrangement as the CBB may prescribe, which are low risk and which are not otherwise restricted by the CBB.
- CSD-3.9.2 A licensed clearing house may invest the money deposited with or paid to it in the following classes:
- Securities of the Government;
 - Bank deposits;
 - Transferrable negotiable certificates of deposit; and
 - Any other investment approved by the CBB.
- CSD-3.9.3 The licensed clearing house shall seek the approval of the CBB before investing any such money or assets under paragraph CSD-3.9.2.
- CSD-3.9.4 The licensed clearing house seeking the approval of the CBB under paragraph CSD-3.9.2 shall satisfy the CBB:
- That the management of the investments made by the licensed clearing house is consistent with the principles of preserving principal and maintaining sufficient liquidity to meet the obligations of customers of members of the licensed clearing house;
 - That prudential measures have been adopted to manage the risks in respect of the licensed clearing house's investment activities; and
 - Of any other matter which the CBB considers necessary for the sound management of the investments.
- CSD-3.9.5 The CBB may grant the approval referred to in paragraph CSD-3.9.2, subject to such conditions or restrictions as the CBB may think fit.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.10 Specific Obligations of a Central Depository

Obligation to Maintain Certain Records

CSD-3.10.1

A central depository shall provide or cause to be provided all such facilities as may be necessary:

- (a) To facilitate efficient deposit of securities;
- (b) To facilitate registration of dealings in deposited securities;
- (c) To ensure the safe custody of certificates and other documents representing deposited securities;
- (d) To guard against falsification of any records or accounts required to be kept or maintained under the Module; and
- (e) To establish a proper and efficient system for the verification, inspection, identification and recording of all securities deposited with the central depository.

CSD-3.10.2

Every central depository shall maintain the following records and documents, mainly:

- (a) Records of securities dematerialized and re-materialized;
- (b) The names of the transferor, transferee, and the dates of transfer of securities;
- (c) A register and an index of beneficial owners;
- (d) Records of instructions received from and sent to depository participants, issuers, issuers' agents and beneficial owners; and
- (e) Records of approval, notice, entry and cancellation of pledge or charge, as the case may be.

CSD-3.10.3

A central depository shall also keep such records and accounts, in sufficient detail, so as to show particulars of:

- (a) All monies received or paid by the central depository, including dividends received in respect of any deposited securities and the disbursement of such dividends to depositors;
- (b) All income received from commissions, fees, charges and other sources and all expenses, commissions and other payments made or paid by the central depository;
- (c) All assets and liabilities (including contingent liabilities) of the central depository;
- (d) All deposited securities and particulars showing for whom the certificates and the instruments of transfer in respect of such certificates are held;
- (e) All purchases and sales of deposited securities and particulars of other dealings made in respect thereof, the charges and credits arising therefrom, the identity of the buyer and seller of each of those deposited securities or, in the case of other dealings, the identity of the persons executing such dealings and the person in whose favour such dealings are executed as the case may be.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-2: Clearing House and Central Depository Function

CSD-3.10 Specific Obligations of a Central Depository (continued)

CSD-3.10.4 An entry in the records or accounts shall specify the date and time of making such entry and, in the case of an entry made by a person, the identity of such person.

CSD-3.10.5 All such records to be maintained for a minimum period of 10 years as required under the CBB law.



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CSD-3.11 Duty not to Acquire or Deal in Deposited Securities by a Central Depository

CSD-3.11.1 No central depository shall purchase, acquire, or otherwise deal in, any deposited security as principal other than for such purpose and in such manner as may be permitted by the CBB under this Module.

CSD-3.11.2 A central depository which contravenes the aforesaid provision shall be guilty of an offence and shall be subject to such penalty as the CBB may choose to levy.



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CSD-4.1 Business Rules of Licensed Clearing Houses and Central Depositories

CSD-4.1.1 The CBB may prescribe the matters that a licensed clearing house or central depository shall make provision for in the business rules of the licensed clearing house or central depository.

CSD-4.1.2 A licensed clearing house or central depository shall, in line with CBB Law, and to the satisfaction of the CBB, make provision in its business rules for continuing requirements for each member or depository participant, including requirements that the member is a Category 1 Investment Firm licensed by the CBB.

CSD-4.1.3 A licensed clearing house or central depository shall, in line with CBB Law, make provision in its business rules and to the satisfaction of the CBB for continuing requirements for each member or depository participant, including requirements relating to the terms and conditions under which transactions will be cleared, settled or deposited, including but not limited to:

- (a) The legal obligations and rights of the clearing house and members relating to the clearing and settlement of transactions;
- (b) The legal obligations and rights of the clearing house or central depository and members or depository participants relating to payments, including netting of obligations, distribution of entitlements, assumption of obligations and method of payment.

Business Rules of a Licensed Clearing House and Central Depository Have Effect as Contract

CSD-4.1.4 The business rules of a licensed clearing house and central depository shall be deemed to be, and shall operate as, a binding contract:

- (a) Between the licensed clearing house and central depository and each issuer of securities;
- (b) Between the licensed clearing house and central depository and each member or depository participant;
- (c) Between each issuer of securities and each member or depository participant; and
- (d) Between each member or depository participant and every other member or depository participant.



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CSD-4.2 Content of Rules of Licensed Clearing Houses and Central Depositories

CSD-4.2.1

A licensed clearing house and central depository shall, in line with CBB Law, make provision in its business rules and to the satisfaction of the CBB for:

- (a) Continuing requirements for each member, including requirements:
 - (i) Relating to the proper conduct of the member or depository participant when participating in any clearing or central depository facility operated by the licensed clearing house or central depository;
 - (ii) That the member has sufficient financial resources (capital adequacy) to reasonably fulfil all its financial obligations arising out of its activities of any clearing or central depository facility operated by the licensed clearing house or central depository;
 - (iii) That facilitate the monitoring by the licensed clearing house or central depository of the compliance of the member or depository participant with the business rules of the licensed clearing house or central depository; or
 - (iv) That provide for the expulsion, suspension or disciplining of the member or depository participant for a contravention of the business rules of the licensed clearing house or central depository;
- (b) The class or classes of transactions that may be cleared, settled, or deposited on any facility that it operates;
- (c) Matters relating to risks in the operation of any clearing or central depository facility that it operates;
- (d) The handling of defaults, including the financial resources available to support the default of a member or depository participant, and the taking of proceedings or any other action against a member or depository participant which has failed, or appears to be unable, or is likely to become unable, to meet the member's or depository participant's obligations for all unsettled or open market contracts to which the member or depository participant is a party;
- (e) The carrying on of business of the licensed clearing house or central depository with due regard to the interests and protection of the investing public.



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CSD-4.2 Content of Rules of Licensed Clearing Houses and Central Depositories (continued)

- (f) The granting of security interests to the clearing house or central depository or to other members or depository participants pursuant to the business rules, including a decertification of the collateral charged and the obligations secured;
- (g) The default rules which provide for the taking of proceeding or other action if a member or depository participant appears to be unable, or likely to become unable to meet his obligations in respect of all unsettled or open market contracts to which he is a party;
- (h) The rules and procedures governing how losses will be shared in the event that a defaulting firm's collateral fails to cover its exposure, including the maintenance and utilization of the Settlement Guarantee Fund; and
- (i) The legal relationships between the central depository and each depository participant, and between members or depository participants, inter se.

CSD-4.2.2

A licensed clearing house or central depository shall not make any amendment to its business rules, unless it complies with such requirements as the CBB may prescribe.



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CSD-4.3 Business Rules Specific to a Central Depository

CSD-4.3.1

The content of the rules of the central depository must include:

- (a) The terms and conditions under which transactions will be conducted on a central depository;
- (b) The qualifications and standards for participation;
- (c) The process and criteria for the admission, suspension and termination of depository participants;
- (d) A decertification of the structure of the services;
 - (i) The legal obligations and rights of the central depository and depository participants arising from the use of the services, including any indemnity;
 - (ii) The legal obligations and rights of the central depository and depository participants relating to the holding of securities by the depository on behalf of depository participants, as recorded in accounts maintained by the central depository for depository participants;
 - (iii) The decertification of the risk control mechanisms including system-operating caps, lines of credit, and depository participant funds;
 - (iv) The criteria for determining the type of collateral, and for calculating the amount of the collateral, to be charged by a depository participant with respect to a collateral pool or a depository participant fund;
 - (v) The process to be followed in the event of a depository participant suspension, and the realisation under the security interests and guarantees granted to the central depository;
 - (vi) The process for adopting and amending the business rules, and for prescribing and amending the procedures and user guides; and
 - (vii) The legal obligations and rights of the central depository and depository participants relating to confidentiality and use of information;
- (e) The class or classes of transactions that may be conducted on a central depository.



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CSD-4.4 Amendment of Business Rules

CSD-4.4.1 A licensed clearing house or central depository which intends to amend its business rules shall, prior to making the amendment, notify the CBB of:

- (a) The proposed amendment;
- (b) The purpose of the proposed amendment; and
- (c) The date on which the amendment is proposed to come into force.

CSD-4.4.2 The licensed clearing house or central depository shall, prior to notifying the CBB under rule CSD-4.4.1, consult its members and depository participants on the proposed amendment, unless the proposed amendment would have limited impact on its members or depository participants.

CSD-4.4.3 Subject to paragraphs CSD-4.4.4 and CSD-4.4.6, an amendment shall not come into force unless the notification referred to in rule CSD-4.4.1 is submitted at least 21 days before the date on which the amendment is proposed to come into force.

CSD-4.4.4 The CBB may, on its own initiative or on the application of the licensed clearing house or central depository, by notice in writing to the licensed clearing house or central depository, allow an amendment to come into force before the expiry of the period of 21 days referred to in rule CSD-4.4.3.

CSD-4.4.5 The CBB may, subject to paragraph CSD-4.4.6, within 21 days after the receipt of the notification referred to in rule CSD-4.4.1, by notice in writing to the licensed clearing house or central depository, disallow, alter or supplement the whole or any part of the proposed amendment and, thereupon, such whole or part of the proposed amendment, as the case may be:

- (a) Where it is disallowed, shall not come into force; or
- (b) Where it is altered or supplemented, shall come into force as altered or supplemented accordingly.

CSD-4.4.6 The CBB may, in its discretion, by notice in writing to the licensed clearing house or central depository, vary the period specified in paragraph CSD-4.4.5, and where the period in that paragraph is extended, the amendment shall not come into force before the expiry of the extended period.



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CSD-4.4 Amendment of Business Rules (continued)

CSD-4.4.7

This requirement shall not apply to any periodic amendment made by a licensed clearing house or central depository to the initial margin requirement, or maintenance margin requirement of a market contract which it imposes on its members or depository participants, where such amendment is made in response to a change in the historical or anticipated volatility or co-relation of any market contract.

CSD-4.4.8

Any reference to an amendment to a business rule shall be construed as a reference to a change to the scope of, or to any requirement, obligation or restriction under the business rule, whether the change is made by an alteration to the text of the rule or by any other notice issued by, or on behalf of, the licensed clearing house or central depository.



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CSD-4.5 Non-Compliance with Business Rules Not to Substantially Affect Rights of Person

CSD-4.5.1

Any failure by a licensed clearing house or central depository to comply with this Module or its business rules in relation to a matter, shall not prevent the matter from being treated, for the purposes of this Module, as done in accordance with the business rules, so long as the failure does not substantially affect the rights of any person entitled to require compliance with the business rules.



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CSD- 4.6 Determination of Position Limits

CSD-4.6.1

A licensed clearing house shall determine, from time-to-time, based on such criteria or methodology as may be established by the licensed clearing house with the approval of the CBB, position limits in respect of any futures contract cleared by a member of the licensed clearing house.

CSD-4.6.2 The position limits under rule CSD-4.6.1 may include limits on a person holding or controlling positions, separately or in combination, net long or net short, for the purchase or sale of a futures contract or an option for the futures contract on a futures equivalent basis.

CSD-4.6.3 The licensed clearing house:

- (a) Shall require a person, or any person acting for him pursuant to an express or implied agreement or understanding, who holds or controls net long or net short positions in any futures contract in excess of the position limits determined under rule CSD-4.6.1 to trade under such conditions and restrictions as the licensed clearing house considers necessary to ensure compliance with the position limits determined under that paragraph; and
- (b) May require such person referred to in (a) above to do any one or more of the following actions:
 - (i) Cease any further increase in his position;
 - (ii) Liquidate his position to comply with the position limits determined under rule CSD-4.6.1, within such time as may be determined by the licensed clearing house; or
 - (iii) Be subject to higher margin requirements in respect of his position.

CSD-4.6.4 In paragraph CSD-4.6.2, “futures equivalent basis” means the basis by which an option is adjusted by the risk factor or delta coefficient of that option, such risk factor or delta coefficient being calculated at the close of trading on the last day on which that option was traded, or at such other time as the CBB may determine.

CSD-4.6.5 The CBB may provide directions for changing the position limits imposed by a licensed clearing house where market conditions or the interest of investors warrant such directions.



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CSD-5.1 Control of Substantial Shareholding in Licensed Clearing Houses or Central Depositories

CSD-5.1.1 No person shall enter into any agreement to acquire shares in a licensed clearing house or central depository by virtue of which he would, if the agreement had been carried out, become a substantial shareholder of the licensed clearing house or central depository without first obtaining the approval of the CBB to enter into the agreement.

CSD-5.1.2 In rule CSD-5.1.1 “substantial shareholder” means a person who alone or together with his associates:

- (a) Holds not less than 5% of the equity shares in the licensed clearing house or central depository; or
- (b) Is in a position to control not less than 5% of the votes in the licensed clearing house or central depository.

CSD-5.1.3 In this section:

- (a) A person holds a share if:
 - 1. He is deemed to have an interest in that share in terms of the Commercial Companies Law (CCL); or
 - 2. He otherwise has a legal or a beneficial interest in that share, except such interest as is to be disregarded in the terms of the CCL;
- (b) A reference to the control of a percentage of the votes in a licensed clearing house or central depository shall be construed as a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the licensed clearing house or central depository; and
- (c) An associate of another person means in respect of individuals, a direct family member and in the case of a company, means the company is bound to follow the directives of the substantial shareholder, or the company in which the substantial shareholder has 20% of the votes of that company.

CSD-5.1.4 The CBB may grant its approval in accordance with rule CSD-5.1.1 or paragraph CSD-5.1.2, subject to such conditions or restrictions as the CBB may think fit.



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CSD-5.2 Application and Criteria for Approval to Acquire Substantial Shareholding

CSD-5.2.1

Any person applying for approval for acquiring substantial shareholding as defined hereunder shall submit to the CBB a written application that sets out:

- (a) The name of the applicant;
- (b) In the case where the applicant is a corporation:
 - (i) Its place of incorporation;
 - (ii) Its substantial shareholders;
 - (iii) Its directors and chief executive officer; and
 - (iv) Its principal business;
- (c) In the case where the applicant is a natural person:
 - (i) His nationality;
 - (ii) His principal occupation; and
 - (iii) His directorships;
- (d) All the corporations in which the applicant has a substantial shareholding;
- (e) The percentage of shareholding and voting power that the applicant has in the licensed clearing house or the central depository;
- (f) The percentage of shareholding and voting power the applicant is seeking to have in the licensed clearing house or the central depository;
- (g) The reasons for making the application;
- (h) The mode and structure, as appropriate, under which the increase in shareholding would be carried out;
- (i) Whether the applicant will seek representation on the board of directors of the licensed clearing house or the central depository; and
- (j) Any other information that may facilitate the determination of the CBB as to whether the applicant is a fit and proper person for the purposes of paragraph CSD-5.2.3 (a).

CSD-5.2.2 The CBB may require the applicant to furnish it with such information or documents as the CBB considers necessary in relation to the application, and the applicant shall furnish such information or documents as required by the CBB.



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CSD-5.2 Application and Criteria for Approval to Acquire Substantial Shareholding (continued)

CSD-5.2.3 The CBB may approve an application made under rule CSD-5.2.1 if the CBB is satisfied that:

- (a) The applicant is a fit and proper person to be a substantial shareholder;
- (b) Having regard to the applicant's likely influence, the licensed clearing house or central depository will, or will continue to conduct its business prudently and in compliance with the provisions of this Module; and
- (c) It would not be contrary to the interests of the public to do so.

CSD-5.2.4 The CBB may, for the purposes of securing compliance with rule CSD-5.2.1 or paragraph CSD-5.2.2, or any condition or restriction imposed under rule CSD-5.2.5, by notice in writing, direct the transfer or disposal of all or any of the shares of a licensed clearing house or central depository in which a substantial shareholder of the licensed clearing house or central depository has an interest.

CSD-5.2.5

Until a person to whom a direction has been issued under paragraph CSD-5.2.6 transfers or disposes of the shares which are the subject of the direction, and notwithstanding anything to the contrary in the Commercial Companies Law or the memorandum or articles of association, or other constituent document or documents of the licensed clearing house or central depository:

- (a) No voting rights shall be exercisable in respect of the shares which are the subject of the direction;
- (b) The licensed clearing house or central depository shall not offer or issue any shares, whether by way of rights, bonus, share dividend or otherwise, in respect of the shares which are the subject of the direction; and
- (c) Except in a liquidation of the licensed clearing house or central depository, the licensed clearing house or central depository shall not make any payment, whether by way of cash dividend, dividend in kind, or otherwise, in respect of the shares which are the subject of the direction.

CSD-5.2.6 Any issue of shares by a licensed clearing house or central depository in contravention of paragraph CSD-5.2.5 (b) shall be deemed to be null and void, and a person to whom a direction has been issued under this paragraph shall immediately return those shares to the licensed clearing house or central depository, upon which the licensed clearing house or central depository shall return to the person any payment received from him in respect of those shares.



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CSD-5.2 Application and Criteria for Approval to Acquire Substantial Shareholding (continued)

CSD-5.2.7 Any payment made by a licensed clearing house or central depository in contravention of rule CSD-5.2.5 (c) shall be deemed to be null and void, and a person to whom a direction has been issued under paragraph CSD-5.2.6 shall immediately return the payment he has received to the licensed clearing house or central depository.

CSD-5.2.8 The CBB may exempt:

- (a) Any person or class of persons; or
- (b) Any class or decertification of shares or interests in shares, from rule CSD-5.2.1 or paragraph CSD-5.2.2, subject to such conditions or restrictions as may be imposed by the CBB.



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CSD-5.3 Approval of Chairman, Chief Executive Officer, Director and Key Persons

CSD-5.3.1 No licensed clearing house or central depository shall appoint a person as its chairman, chief executive officer or director, unless the licensed clearing house or central depository has obtained the approval of the CBB.

CSD-5.3.2 The CBB may, by notice in writing, require a licensed clearing house or central depository to obtain the approval of the CBB for the appointment of any person to any key management position or committee of the licensed clearing house or central depository, and the licensed clearing house or central depository shall comply with the notice.

CSD-5.3.3 An application for approval under rule CSD-5.3.1 or paragraph CSD-5.3.2 shall be made in such form and manner as the CBB may prescribe; and the CBB may require the licensed clearing house or central depository to furnish it with such information or documents as the CBB considers necessary in relation to the application referred to in rule CSD-5.3.1, and the licensed clearing house or central depository shall furnish such information or documents as required by the CBB.

CSD-5.3.4 The CBB may have regard to the following matters in determining whether to approve or refuse to approve the appointment of a person under rule CSD-5.3.1 or paragraph CSD-5.3.2 of this Module:

- (a) Whether the person is fit and proper to be so appointed;
- (b) Whether the appointment of the person would be consistent with any applicable written law relating to the qualifications for the position or the requirements for the composition of the board of directors, or any committee of the licensed clearing house or central depository; and
- (c) Whether it would be contrary to the interests of the public to approve the appointment of the person.

CSD-5.3.5 Subject to paragraph CSD-5.3.6, the CBB shall not refuse an application for approval under this section without giving the licensed clearing house or central depository an opportunity to be heard.



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CSD-5.3 Approval of Chairman, Chief Executive Officer, Director and Key Persons (continued)

CSD-5.3.6 The CBB may refuse an application for approval on any of the following grounds without giving the licensed clearing house or central depository an opportunity to be heard:

- (a) The person is an undischarged bankrupt, whether in Bahrain or elsewhere; or
- (b) The person has been convicted, whether in Bahrain or elsewhere, of an offence:
 - (i) Involving fraud or dishonesty, or the conviction for which involved a finding that he had acted fraudulently or dishonestly; or
 - (ii) Punishable with imprisonment for a term of 3 months or more.

CSD-5.3.7 Where the CBB refuses an application for approval under this section, the CBB need not give the person who was proposed to be appointed an opportunity to be heard.

CSD-5.3.8

A licensed clearing house or central depository shall, as soon as practicable, give written notice to the CBB of the resignation or removal of its chairman, chief executive officer, director or person referred to in the notice issued by the CBB under paragraph CSD-5.3.2.

CSD-5.3.9 The CBB may impose regulations relating to the composition and duties of the board of directors or any committee of a licensed clearing house or central depository.

CSD-5.3.10 In this section, “committee” includes any committee of directors, disciplinary committee, appeals committee or any body responsible for disciplinary action against a member or depository participant of a licensed clearing house or central depository.

CSD-5.3.11 The CBB may exempt any licensed clearing house or central depository, or a class of licensed clearing houses or central depositories from complying with rules CSD-5.3.1 or CSD-5.3.8, subject to such conditions or restrictions as may be imposed by the CBB.

CSD-5.3.12 Where any appointment made in terms of section CSD-5.3 requires the approval of the CBB and the appointment is made without the approval of the CBB, such appointment shall be treated as null and void.



MODULE	CSD: Clearing, Settlement and Central Depository
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CSD-5.4 Listing of Licensed Clearing House and Central Depository on Securities Market

CSD-5.4.1

The securities of a licensed clearing house or a central depository shall not be listed for quotation on a securities market that is operated by any of its related corporations, unless the licensed clearing house or central depository and the operator of the securities market have entered into such arrangements as the CBB may require:

- (a) For dealing with possible conflicts of interest that may arise from such listing; and
- (b) For the purpose of ensuring the integrity of the trading of the securities of the licensed clearing house or central depository.

CSD-5.4.2

Where the securities of a licensed clearing house or central depository are listed for quotation on a securities market operated by any of its related corporations, the listing rules of the securities market shall be deemed to allow the CBB to act in place of the operator of the securities market in making decisions and taking action, or to require the operator of the securities market to make decisions and to take action on behalf of the CBB, on:

- (a) The admission or removal of the licensed clearing house or central depository, to or from the official list of the securities market; and
- (b) Granting approval for the securities of a licensed clearing house or central depository to be, or stopping or suspending the securities of the licensed clearing house or central depository from being listed for quotation or quoted on the securities market.

CSD-5.4.3

The CBB may, by notice in writing to the operator of the securities market:

- (a) Modify the listing rules of the securities market for the purpose of their application to the listing of the securities of the licensed clearing house or central depository for quotation or trading; or
- (b) Waive the application of any listing rule of the securities market to the licensed clearing house or central depository.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.1 Power to Impose Conditions or Restrictions

CSD-6.1.1 The CBB may impose on a licensed clearing house or central depository such conditions or restrictions as it thinks fit by notice in writing, in addition to the obligations imposed on the licensed clearing house or central depository under this Module, for the purposes of furthering the objectives specified in section CSD-A.1.

CSD-6.1.2 The CBB may, at any time, by notice in writing to the licensed clearing house or central depository, vary any condition or restriction as it may think fit.

CSD-6.1.3 Without affecting the generality of paragraphs CSD-6.1.1 or CSD-6.1.2, the conditions or restrictions that the CBB may impose include conditions or restrictions relating to:

- (a) The activities that the licensed clearing house or central depository may undertake;
- (b) The products that may be cleared by the clearing facility;
- (c) The securities that may be accepted for deposit by the depository; or
- (d) The nature of investors, members or participants who may use or participate in the clearing house facility and central depository.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.2 Power of CBB to Issue Directions

- CSD-6.2.1 The CBB may issue directions by notice in writing either of a general or specific nature to a licensed clearing house or central depository, and the licensed clearing house or central depository shall comply with such directions, if it considers it necessary or expedient:
- (a) For ensuring the safe and efficient clearing and settlement of transactions through review of system mechanisms and establishment of operating standards;
 - (b) For ensuring the integrity and stability of the capital markets or the financial system;
 - (c) In the interests of the public or a section of the public, or for the protection of investors;
 - (d) For the effective administration of the CBB Law and regulations; or
 - (e) For ensuring compliance with any condition or restriction as may be imposed by the CBB.
- CSD-6.2.2 For the avoidance of doubt, a direction issued under paragraph CSD-6.2.1 shall be deemed not to be subsidiary legislation, but any non-compliance with a directive shall be regarded as non-compliant with the rules of the CBB.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.3 Emergency Powers of CBB

- CSD-6.3.1 Where the CBB has reason to believe that an emergency exists, or considers that it is necessary or expedient in the interests of the public, or a section of the public, or for the protection of investors, the CBB may direct by notice in writing a licensed clearing house or central depository to take such action as it considers necessary to maintain or restore safe and efficient operations of the clearing facilities operated by the licensed clearing house and of the custodian services provided by the central depository.
- CSD-6.3.2 Without prejudice to paragraph CSD-6.3.1, the actions which the CBB may direct a licensed clearing house or central depository to take include:
- (a) Ordering the liquidation of all positions or part thereof, or the reduction of such positions;
 - (b) Altering conditions of delivery of transactions cleared or settled, or to be cleared or settled through the clearing facility;
 - (c) Fixing the settlement price at which transactions are to be liquidated;
 - (d) Requiring margins or additional margins for transactions cleared or settled, or to be cleared or settled through the clearing facility; and
 - (e) Modifying or suspending any of the business rules of the licensed clearing house or central depository.
- CSD-6.3.3 Where a licensed clearing house or central depository fails to comply with any direction of the CBB under paragraph CSD-6.3.1 within such time as is specified by the CBB, the CBB may:
- (a) Set margin levels for transactions cleared or settled, or to be cleared or settled through the clearing facility to cater for the emergency;
 - (b) Set limits that may apply to market positions acquired in good faith prior to the date of the notice issued by the CBB; or
 - (c) Take such other action as the CBB considers necessary to maintain or restore safe and efficient operations of the clearing facilities operated by the licensed clearing house and the services offered by the central depository.
- CSD-6.3.4 In this section, “emergency” includes:
- (a) Any threatened or actual market manipulation or cornering;
 - (b) Any major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity or securities;
 - (c) Any act of any government affecting a commodity or securities; or
 - (d) Any undesirable situation or practice which, in the opinion of the CBB, constitutes an emergency.
- CSD-6.3.5 The CBB may modify any action taken by a licensed clearing house or central depository under paragraph CSD-6.3.1, including the setting aside of that action.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.4 Power of CBB to Remove Officers

CSD-6.4.1

The CBB may, if it thinks it necessary in the interests of the public, or a section of the public, or for the protection of investors, by notice in writing direct that licensed clearing house or central depository to remove the officer from his office or employment, where the CBB is satisfied that an officer of a licensed clearing house or central depository:

- (a) Has wilfully contravened or wilfully caused that licensed clearing house or central depository to contravene this Module or its business rules;
- (b) Has, without reasonable excuse, failed to ensure compliance with this Module or the business rules of that licensed clearing house or central depository, by that licensed clearing house or central depository, or a member of that licensed clearing house or central depository, or a person associated with that member;
- (c) Has failed to discharge the duties or functions of his office or employment;
- (d) Is an undischarged bankrupt, whether in Bahrain or elsewhere;
- (e) Has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;
- (f) Has, whether in Bahrain or elsewhere, made a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation; or
- (g) Has been convicted, whether in Bahrain or elsewhere, of an offence involving fraud or dishonesty, or the conviction for which involved a finding that he had acted fraudulently or dishonestly.

CSD-6.4.2

Without prejudice to any other matter that the CBB may consider relevant, the CBB may, in determining whether an officer of a licensed clearing house or central depository has failed to discharge the duties or functions of his office or employment for the purposes of rule CSD-6.4.1 (c), have regard to such criteria as the CBB may prescribe or specify in directions issued by notice in writing.

CSD-6.4.3

Subject to paragraph CSD-6.4.4, the CBB shall not direct a licensed clearing house or central depository to remove an officer from his office or employment, without giving the licensed clearing house or central depository an opportunity to be heard.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.4 Power of CBB to Remove Officers (continued)

CSD-6.4.4 The CBB may direct a licensed clearing house or central depository to remove an officer from his office or employment under rule CSD-6.4.1 on any of the following grounds, without giving the licensed clearing house or central depository an opportunity to be heard:

- (a) The officer is an undischarged bankrupt, whether in Bahrain or elsewhere;
- (b) The officer has been convicted, whether in Bahrain or elsewhere, of an offence:
 - (i) Involving fraud or dishonesty, or the conviction for which involved a finding that he had acted fraudulently or dishonestly; or
 - (ii) Punishable with imprisonment for a term of 3 months or more.

CSD-6.4.5 Where the CBB directs a licensed clearing house or central depository to remove an officer from his office or employment under rule CSD-6.4.1, the CBB need not give that officer an opportunity to be heard.

CSD-6.4.6 No criminal or civil liability shall be incurred by a licensed clearing house or central depository in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of its obligations under this section.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.5 Criteria to Determine Failure to Discharge Duties or Functions by Officers

CSD-6.5.1 For the purposes of paragraph CSD-6.4.2 of this Module, the CBB may, in determining whether a chairman, chief executive officer or director, or any officer who is a person stated in a notice referred to in paragraph CSD-6.3.2, of a licensed clearing house or central depository has failed to discharge the duties or functions of his office, take into consideration whether that person has taken reasonable steps to discharge the following duties:

- (a) Ensure the proper functioning of the licensed clearing house or central depository;
- (b) Ensure the compliance of the licensed clearing house or central depository with any relevant laws or regulations of any jurisdiction in which it is incorporated, or in which it operates;
- (c) Set out and ensure compliance with written policies on all operational areas of the licensed clearing house or central depository, including its financial policies, accounting and internal controls, internal auditing and compliance with all laws and rules governing the operations of the licensed clearing house or central depository;
- (d) Identify, monitor and address the risks associated with the business activities of the licensed clearing house or central depository on an on-going basis;
- (e) Ensure that the business activities of the licensed clearing house or central depository are subject to adequate internal audit;
- (f) Oversee the financial undertakings or exposure of the licensed clearing house or central depository to risks of any nature, by setting out proper delegation limits and risk management controls; and
- (g) Ensure:
 - (i) That the licensed clearing house or central depository maintains written records of the steps taken by it to monitor compliance with its policies, the limits on discretionary powers and its accounting and operating procedures; and
 - (ii) That every report, return or statement submitted by the licensed clearing house or central depository to the CBB is complete and accurate.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.6 Additional Powers of CBB in Respect of Auditors

CSD-6.6.1

The auditor shall immediately send to the CBB a written report of the matter or the irregularity, if an auditor of a licensed clearing house or central depository in the course of the performance of his duties, becomes aware of:

- (a) Any matter which, in his opinion, adversely affects or may adversely affect the financial position of the licensed clearing house or central depository to a material extent;
- (b) Any matter which, in his opinion, constitutes or may constitute a breach of any provision of this Module or an offence involving fraud or dishonesty; or
- (c) Any irregularity that has or may have a material effect upon the accounts of the licensed clearing house or central depository, including any irregularity that affects or jeopardises, or may affect or jeopardise, the funds or property of investors.

CSD-6.6.2

An auditor shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of any statement made in his report under rule CSD-6.6.1.

CSD-6.6.3

Rule CSD-6.6.2 shall not restrict or affect any right, privilege or immunity that the auditor may have, apart from this section, as a defendant in an action for defamation.

CSD-6.6.4

The CBB may impose all or any of the following duties on an auditor of a licensed clearing house or central depository:

- (a) A duty to submit such additional information and reports in relation to his audit, as the CBB considers necessary;
- (b) A duty to enlarge, extend or alter the scope of his audit of the business and affairs of the licensed clearing house or central depository;
- (c) A duty to carry out any other examination or establish any procedure in any particular case.

CSD-6.6.5

The licensed clearing house or central depository shall remunerate the auditor in respect of the discharge by him of all or any of the duties referred to in paragraph CSD-6.6.4.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.7 Power of Court to Order Observance or Enforcement of Business Rules

CSD-6.7.1

Where any person who is under an obligation to comply, observe, enforce or give effect to the business rules of a licensed clearing house, or central depository fails to do so, the Court may, on the application of the CBB, a licensed clearing house, or central depository, or a person aggrieved by the failure, after giving the first-mentioned person an opportunity to be heard, make an order directing the first-mentioned person to comply, observe, enforce or give effect to those business rules.

CSD-6.7.2 In this section, “person” includes a licensed clearing house and central depository.

CSD-6.7.3 This section is in addition to, and not in derogation of, any other remedies available to the aggrieved person referred to in rule CSD-6.7.1.



MODULE	CSD: Clearing, Settlement and Central Depository
CHAPTER	CSD-6: Powers of CBB

CSD-6.8 Immunity

CSD-6.8.1

No civil liability, whether arising in contract, equity or otherwise, in respect of anything done or omitted to be done in good faith in the discharge or purported discharge of the duties of the licensed clearing house or central depository, or in the performance or purported performance of its functions under its business rules, shall be incurred by:

- (a) A licensed clearing house;
- (b) A central depository; or
- (c) Any person acting on behalf of a licensed clearing house or central depository, including any member of the board of directors of the licensed clearing house or central depository.

CSD-6.8.2

In respect of anything done or omitted to be done in good faith in the performance and purported performance of that function, no civil liability, whether arising in contract, tort, defamation, equity or otherwise, shall be incurred by:

- (a) Any person performing, by virtue of a delegation under the business rules of a licensed clearing house or central depository, a function of the licensed clearing house or central depository;
- (b) Any person acting on behalf of a person referred to hereinabove including a member of the board of directors of that person.