

THE CENTRAL DEPOSITORY

RULES, 2004

(REVISED 2018)

THE CENTRAL DEPOSITORY RULES, 2004

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THE CENTRAL DEPOSITORIES ACT, 2000

IN EXERCISE of the powers conferred by Section 4 of the Central Depositories Act 2000, the Central Depositories and Settlement Corporation Ltd makes the following rules –

THE CENTRAL DEPOSITORY RULES, 2004

PART I – PRELIMINARY

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|----------------|---|
| Citation | 1. These rules may be cited as the Central Depository Rules 2004. |
| Interpretation | 2. In these rules, unless the context otherwise requires -

"Act" means the Central Depositories Act, 2000 and any rules made there under;

“account” means a securities account

“Agency Agreement” means the agreement between a Central Depository agent and the Central Depository, whereby the Central Depository appoints a CDA;

“Activity” means any activity initiated by the account holder and includes purchase, sale, transfer between own accounts, private transfer, placing of liens (pledges) and releases thereof and change of static details;

"application date", in relation to any application under these Rules, means the date on which the application is lodged with the Central Depository or a CDA ;

"approved functions", in relation to any CDA, means those functions which have been authorised or approved, from time to time, by the Central Depository under these Rules to be performed by that agent;

“Authority” means the Capital Markets Authority established under section 5 of the Capital Markets Act (Cap. 485A);

“Board” means the Board of Directors of the Central Depository; |

"buying depositor" means a depositor who places an order to purchase a book-entry security;

"CDA" means Central Depository Agent and "CDAs" means Central Depository Agents;

"CMA rules" means Rules made by the Authority pursuant to Section 65 of the Act;

"Central Depository" means the Central Depository and Settlement Corporation Limited a limited liability company, incorporated in Kenya and approved under Section 5 of the Act;

"cum entitlement date" means the date fixed by an issuer as being the last date for entitlement to dividends, bonus issue, rights issue or other distributions to or rights of depositors in respect of securities issued by the issuer;

"Dormant Account" means an account that has had no activity for a minimum period of twenty four consecutive calendar months; and dormancy shall be construed accordingly;

"eligible securities" means a security which has been prescribed by a securities exchange to be immobilized with a Central Depository under section 13 of the Act;

"immobilization date", in relation to any eligible security, means the date specified in the notice given by a securities exchange under section 13 of the Act as being the last day on which the eligible security may be traded on the securities exchange unless such security has been deposited with the Central Depository;

"jumbo certificate", in relation to a book-entry security, means a certificate comprising not less than 10,000 units of securities of an issuer which is registered in the name of the Central Depository or its nominee company, as a bare trustee for depositors, provided that the jumbo certificate may be for fewer units if agreed with the registrar/issuer.

"listed" means admitted to the official list of a securities exchange in Kenya and listing shall be construed accordingly;

"market day" means any day during which a securities exchange is open for business;

"member of the securities exchange" means a person licensed by the Authority and admitted as a member to the securities exchange ;

"notification date", means the date on which the notice pursuant to sub-section 13(2) of the Act is given by the securities exchange;

"person" includes any body of persons, corporate or unincorporated;

“operational procedures” means the procedures adopted by the Central Depository from time to time;

"Procedures Manual" includes any manual containing guidelines and operating procedures for Central Depository agents, issuers and depositors, from time to time, issued by the Central Depository;

“record” includes, in addition to a record in writing –

- (a) any photograph;
- (b) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom; and
- (c) any film, tape or other device in which visual images are being embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom, and any reference to a copy of a record includes –
 - (i) in the case of a record falling within paragraph (b) but not paragraph (c) of this definition, a transcript of the sounds or other data embodied therein;
 - (ii) in the case of a record falling within paragraph (c) but not paragraph (b) of this definition, a still reproduction of the images embodied therein, whether enlarged or not; and
 - (iii) in the case of a record falling within both paragraph (b) and paragraph (c) of this definition the transcript of the sounds or other data embodied therein together with the still reproduction of the images embodied therein.

“rules” means the rules and any amendments thereto of the Central Depository and includes any appendices to the rules.

"rules of the securities exchange" shall have the same meaning as assigned to it under the Capital Markets Act - Cap 485A as amended from time to time;

"selling depositor" means a depositor who places an order to sell a book-entry security.

"settlement bank" means the bank(s) appointed by the Central Depository to provide clearing and settlement services.

"settlement partner" means any person appointed by a CDA with the approval of the Central Depository to undertake the settlement obligations of the CDA.

"services" means any of the Central Depository clearing, settlement and registration services provided by the Central Depository.

"securities exchange" or "stock exchange" means the Nairobi Stock Exchange Limited or any other securities exchange on which eligible securities may be listed;

"stock market" means the stock market established by a securities exchange;

"T" means the market day on which a security is purchased or sold by or on behalf of a depositor;

"terminal" means any computer terminal located at the premises of a user which forms part of the computer system;

"transitional period", in relation to any eligible securities means the period immediately following the notification date and ending on the immobilization date;

"user" means a Central Depository agent, an issuer, a securities exchange or such other person as may be prescribed by the Authority who may be given access to a computer system of the Central Depository;

In these rules, unless expressed to the contrary:

- a) a depositor of any book-entry security in or under suspense shall, for the purposes of section 37 of the Act, be treated as a member (or debenture holder) but nonetheless such security is under suspense by virtue of the Central Depository placing a computerised "freeze" or "hold", whether temporary or otherwise, on such security resulting in any of the following forms of suspension-

- i. where "freeze" or "hold" has been placed upon any securities issued by an issuer such that no entries whatsoever may be made in respect of any such securities in all securities accounts held by the Central Depository or a particular CDA;
 - ii. where a "freeze" or "hold" has been placed on a particular securities account such that no entries whatsoever may be made in respect of any book-entry securities whatsoever held in such account;
 - iii. where a "freeze" or "hold" has been placed on any securities issued by an issuer and only in respect of a particular depositors account such that no entries may be made whatsoever in respect of any book-entry securities of that issuer held under such securities account; or
 - iv. where a "freeze" or "hold" has been placed on a particular quantum and type of security held under a particular securities account such that no entries may be made in respect to such quantum and type of security held under such account.
- b) Words in the singular include the plural, and words in the plural include the singular.
 - c) Words importing the masculine gender include feminine and neuter gender.
 - d) References to the Act or any statute shall be deemed to include the Act or that statute as amended or re-enacted from time to time.
 - e) A reference to writing shall be deemed to include any mode of representing or reproducing letters, figures or marks in a visible form.
 - f) Terms used in these Rules and in the Act not specifically defined here shall unless a contrary intention appears, have the meaning respectively assigned to them under the Act.

PART II - GENERAL

(A) RULES RELATING TO APPOINTMENT OF CENTRAL DEPOSITORY AGENTS

Eligibility
and
procedure

3 (1) Only persons prescribed under section 9 of the Act and rule 10 of the CMA rules shall be eligible for appointment as CDA.

(2) All appointments of CDAs shall be made by the Central Depository in writing under the hand of the chief executive for the time being of the Central Depository.

Application

4(1) An application for appointment to operate as a CDA shall be submitted to the chief executive of the Central Depository in Form 1 set out in the First Schedule under the Procedures Manual and shall be accompanied by -

- (a) Memorandum and Articles of Association or any other document that defines the constitution of the applicant;
- (b) A letter of no objection from the industry regulator (where applicable) including, if the applicant is a member of a securities exchange, a letter of no objection from the relevant securities exchange;
- (c) A firm profile including experience and expertise;
- (d) A current license of operation (where applicable);
- (e) Statement by directors of the applicant of ability to provide the required services including financial resources to meet its obligations pursuant to the Act, the CMA rules, these rules and the Agency Agreement;
- (f) Details of key personnel, their training experience and skill;
- (g) The appointment fee as prescribed by the Authority.

(2) Every applicant shall make appropriate arrangements with the settlement bank to effect payment in accordance with these rules and the procedures set out in the Procedures Manual and authorise the settlement bank to effect settlement in accordance with instructions received from the Central Depository, and to disclose to the Central Depository information regarding the availability of funds to satisfy the CDA's settlement obligations.

Conditions

5(1) The appointment as CDA of a non-member of a securities exchange shall exclude the power to operate the accounts for trading activities and shall be limited to non-trading activities including custody and mortgaging.

(2) The Central Depository may, in appointing any CDA to perform any of the approved functions as set out in Rule 9, impose such requirements or conditions, as it considers necessary to ensure orderly deposits, withdrawals, transfers of book-entry securities, payment of cash and dealings in securities.

Appointment

6(1) Upon finding an applicant fit for appointment as CDA and the applicant satisfying the requirements under rule 4, the Central Depository shall appoint the applicant as a CDA. The CDA shall upon

executing the Agency Agreement be duly appointed and entitled to commence operations as such agent on the terms set out in the Agency Agreement.

(2) Without prejudice to the provisions of rule 4 any stockbroker, investment bank or dealer for the time being duly licensed by the Authority and a Member of the securities exchange shall qualify for appointment.

(3) Any person aggrieved by a decision of the Central Depository not to appoint him as a CDA may appeal to the Authority whose decision shall be final.

Fees

7. Every CDA shall pay an annual subscription fee prescribed by the Authority which shall be payable at the commencement of every calendar year following the year of appointment.

Continuing obligations

- 8.** Every CDA shall, throughout the term of its appointment: -
- (a) not later than three (3) months after the end of its financial year or submit to the Central Depository a copy of its audited financial statements;
 - (b) maintain all its equipment and facilities, including the hardware and software, in the manner specified in writing by the Central Depository from time to time;
 - (c) shall comply with the settlement obligations as provided in these rules;
 - (d) comply with the CMA rules, these rules, the provisions of the Act and any directions as provided under section 11 of the Act;
 - (e) comply with technical and security standards as may be prescribed by the Central Depository from time to time;
 - (f) provide such other documents as may reasonably be required by the Central Depository from time to time and
 - (g) meet all other conditions that may reasonably be imposed by the Central Depository

Approved

9. A CDA shall be authorized by the Central Depository

functions

to perform any or all of the following functions:-

- a) collection and submission to the Central Depository for deposit certificates for purposes of immobilisation of securities;
- b) submission of requests for withdrawal of certificates in respect of immobilised securities;
- c) the opening, maintenance and closing of securities accounts;
- d) the allocation of trades to securities accounts;
- e) the collection of such fees and charges imposed by the Central Depository as may be provided hereunder; and
- f) such other incidental and ancillary functions as the Central Depository may determine at its sole discretion.

Identity code

10. The Central Depository shall allocate to every CDA an Identity code

Indemnity

11(1) Every CDA shall be responsible for its own operations and functions pursuant to its appointment and shall indemnify and hold indemnified the Central Depository for any loss, legal costs (including third party legal costs), damage or liability suffered or incurred by the Central Depository, whether directly or otherwise, as a result of any negligence, omission, mistake, misrepresentation, fraud or error on the part of the CDA, its servants or agents.

(2) The Central Depository shall be responsible for its own operations and functions and shall indemnify and hold indemnified the CDAs for any loss, legal costs (including third party legal costs), damage or liability suffered or incurred by the CDAs directly as a result of any negligence, omission, mistake, misrepresentation, fraud or error on the part of the Central Depository, its servants or agents.

Right to
audit

12. The Central Depository shall, from time to time and at any time upon notice, require a CDA to produce to the Central Depository's duly authorised officer(s), its auditors, legal or other advisors, whether internal or external, such documents or records in respect of any securities transaction or pertaining to any securities account and to provide them with such unobstructed access to its terminals and other computer peripherals situated at the CDA's or other premises and any data record or information in respect thereof as may, in the opinion of the Central Depository or its said advisors, be necessary for the purposes of enabling such auditors to perform any audit and or other investigation or review.

Suspension or
revocation

13(1) Any CDA may be suspended by the Central Depository or be prohibited from maintaining or performing any or all of the approved functions of a CDA in any of the following circumstances:-

- (a) violation, whether directly or indirectly, of any provisions of the Act, the CMA rules or these rules notwithstanding the payment of any penalties or fines imposed thereon;
- (b) failure to pay any money due and owing to the Central Depository or the securities exchange on any account;
- (c) failure to make good any indemnity for the benefit of the Central Depository pursuant to rule 11 hereof;
- (d) becoming insolvent under the Companies Act or any rules or regulations made thereunder;
- (e) where it is a statutory body established under or by any Act of Parliament, being declared insolvent by the Government or being listed among entities to be dissolved or liquidated; or
- (f) otherwise acts in a manner prejudicial to the interests of the depositors, the Central Depository or the capital markets generally.

PROVIDED ALWAYS THAT the Central Depository shall effect such suspension in consultation with the Authority and the relevant securities exchange. A suspended CDA may have its appointment revoked if within the time allowed by the Central Depository it does not remedy the default for which it was suspended.

(2) Where the CDA is a member of a securities exchange, the Central Depository in consultation with the Authority and upon notification to the relevant securities exchange may suspend or prohibit the CDA from maintaining or performing the functions of a CDA if, without prejudice to the instances in sub paragraph (1) above –

- (i) it has been suspended from trading as a member of a securities exchange; or
- (ii) the Authority has not renewed its licence or has revoked or suspended the licence,

Appointment
of a manager

14(1) Where a CDA is suspended or prohibited pursuant to Rule 13 the Central Depository may appoint a Manager who shall be authorized to clear, settle or fulfill all outstanding or impending contracts, transactions, transfers or other approved functions of such CDA.

(2) Where the suspended CDA is a member of a securities exchange, the appointment of a manager shall be done in consultation with the Authority and upon notification to the relevant securities exchange.

(3) A manager appointed under these rules shall be empowered to:

- (a) inspect, examine and operate the whole or any part of the computer system situated at the premises of the CDA;
- (b) give any direction to the CDA, its servants or agents to require the production of any record or account required to be kept by such agent pursuant to Parts IV and V of the Act;
- (c) take over the control and management of the securities accounts of the depositors (other than pledged securities accounts) who have maintained their accounts with such CDA;
- (d) recommend as appropriate to the Central Depository the suspension of a securities account, a particular security therein or a particular issue of securities thereof; and
- (e) recommend to the Central Depository the transfer of any securities account together with all securities registered therein from such agent under suspension to another CDA, subject to the depositor's approval where the Depositor is available and gives appropriate instructions. Where a depositor is not available or is unable to give such instructions, the Central Depository shall facilitate the transfer of such securities accounts to be held directly through the Central Depository or its nominee company awaiting instructions from such depositors. No transactions may take place in securities held in such accounts until the depositors give instructions to transfer them to a CDA.

(4) Any manager appointed under this rule shall report to and be accountable or answerable for his actions to the Central Depository and shall be restricted to the role of the CDA.

(5) The appointment of the Manager may be revoked by the Central Depository with prior consultation with the Authority and upon notification to the relevant securities exchange.

(B)

NATURE OF INTEREST IN CENTRAL DEPOSITORY ACCOUNTS

Bare Trustee **15(1)** Securities deposited into the Central Depository shall be held in custody by the Central Depository in trust for the beneficial holders.

(2) A transfer of securities into the Central Depository by a depositor shall not convey any transferor's beneficial interests over the securities deposited.

(3) The beneficial owner shall be entitled to all rights and benefits and be subjected to all liabilities in respect of his/her securities held by the Central Depository.

Deposit Record **16.** A CDA shall receive certificates from depositors and complete the deposit form. It shall be the responsibility of the CDA to verify the information on the deposit form and ensure that the necessary documents relating to such deposits correspond with the record on the newly provisionally opened account prior to submission to the Central Depository.

Misplaced Lost or Stolen Certificate **17(1)** For any certificates or instruments of transfer which are misplaced, lost, destroyed or stolen once delivered to a CDA, in the event of any claims whatsoever brought against the Central Depository by the depositor or any other party by reason of the loss, misplacement, theft or destruction, the CDA hereby agrees to indemnify and to hold indemnified the Central Depository.

(2) Every CDA shall follow the directives of the Central Depository in relation to the acceptance or rejection of eligible securities.

(C) STRUCTURE OF CENTRAL DEPOSITORY ACCOUNTS

Securities accounts **18.** Every CDA shall open and maintain with the Central Depository one or more securities accounts for the recording of the deposit or withdrawal of securities and for dealing in such securities. These accounts shall comprise a CDA's securities account and client securities account.

Disclosure **19.** A CDA when opening a client securities account shall ensure that it has full particulars of the depositor's identity.

Kind of accounts **20.** A client securities account and a CDA securities account may, in accordance with the operational procedures, record eligible securities in:

- a) a Collateral Account, for eligible securities pledged to the CDA and held by the Central Depository subject to the CDA's instructions only; or
- b) a Pledge Account, for eligible securities pledged by one account holder to another account holder or other pledgee whatsoever and held by the Central Depository for and subject only to the instructions of that pledgee; or
- c) a General Account, for eligible securities available and unencumbered held by the CDA or by the holder of a securities account.

Operations

21(1) The depository service and its facilities shall be extended by the Central Depository and made available to CDAs in accordance with the Agency Agreement. Depositors shall maintain securities accounts only through the CDAs.

(2) Any instruction to change, update or make a correction to a securities account of a client shall be given to Central Depository by a CDA in accordance with the operational procedures.

Restrictions
for CDAs

22. CDAs shall where they are permitted to hold beneficial ownership in securities be required to segregate their client accounts from the accounts in which they hold beneficial ownership of securities.

(D)

OPENING AND MAINTENANCE OF SECURITIES ACCOUNTS

Process

23. (1) Subject to rule 22, Central Depository accounts shall consist of accounts held by all the depositors, which include:

- a) CDAs who are members of a securities exchange;
- b) CDAs who are not members of a securities exchange
- c) Other Depositors.

(2) All Central Depository accounts shall be opened through CDAs unless the Central Depository otherwise requires.

(3) Accounts held by CDAs shall contain the following information where applicable:

- a) Name of the CDA

- b) Address of the CDA
- c) Country of incorporation or registration of the CDA
- d) PIN Number of the CDA
- e) The CDA's identity code
- f) The CDA's account number
- g) The CDA's banker's address and account number
- h) Names of securities deposited
- i) Securities codes
- j) Quantities and descriptions of securities held
- k) Amount of frozen securities due to trades, mortgages, court orders (where applicable)
- l) Type of account
- m) Any other information as the Central Depository may prescribe from time to time.

(4) Accounts of non-CDA depositors shall contain the following information where applicable:

- a) Name of depositor
- b) Address of the Depositor
- c) Nationality of Depositor, or country of incorporation
- d) National ID or Passport Number
- e) Certificate of incorporation or registration
- f) PIN Number
- g) Name and address of CDA
- h) CDA's identity code
- i) The depositor's identity code
- j) CDS account number
- k) Name(s) of securities
- l) Securities codes
- m) Quantities and description of securities held
- n) Amount of frozen securities due to transfers, mortgages, court order (where applicable)
- o) Client reference number issued by the Central Depository
- p) Type of account
- q) Any other information as the Central Depository may prescribe from time to time.

Processing
period

24. An application to open a Central Depository account shall be processed by the CDA not later than one (1) business day after the application date.

Inserted
April 2018

(DD) DECLARATION OF DORMANCY

Eligibility to
dormancy

24A (1) CDSC shall declare an account dormant if there has been no activity in that account for a continuous period of twenty four calendar

months.

(2) An account shall be flagged dormant at the end of the day on which the account is due for declaration of dormancy.

(3) Upon declaration of dormancy on an account, CDSC shall send a notification to the account holder informing them of the declaration.

Restrictions on dormant accounts

24B No transactions shall be effected on an account that has been declared dormant in accordance with Rule 24A.

Allowable transactions on dormant accounts

24C Notwithstanding the generality of Rule 24B:

(1) (a) Upload of initial public offers and additional shares from bonus issues, script dividends, rights issues, splits or any other form of additional issued shares shall be automatically effected by CDSC on all eligible securities accounts irrespective of their dormancy status.

(b) the upload of shares or entitlements as per rule 24C (1) (a) in an account in dormancy shall not lift, nor be deemed to lift the dormancy status of that account and the account holder whose account is in dormancy shall not trade in shares so uploaded without first activating the account.

(2) (a) Redemption of debt instruments shall be automatically effected by CDSC on all eligible debt securities holders accounts irrespective of their dormancy status .

(b) The redemption of debt securities in an account in dormancy shall not lift nor be deemed to lift the dormancy status of that account.

Account statements

24D (1) Account Statements will be generated for accounts in dormancy pursuant to corporate actions, that is: upload of additional shares from bonus issues, script dividends, rights issues, splits or additional issued shares and initial public offers.

(2) An account in dormancy shall not be reactivated or be deemed to be reactivated by the generation of accounts statement in accordance with Rule 24D (1).

Re-activation of dormant

24E (1) An account that has been declared dormant may be re-activated

accounts

by the account holder submitting to their CDA a written request.

- (2) An account holder may also re-activate their account via the client's online portal on the CDSC website or through the CDSC Mobile application.
- (3) An account holder who wishes to activate their dormant account via the online portal or the mobile application shall follow the instructions provided on the preferred platform to submit their activation request.
- (4) An account holder who wishes to activate their dormant account using their CDA shall submit written instructions to their central depository agent accompanied by a copy of their identification document.
- (5) The central depository agent will verify the accuracy of the information submitted by the account holder and immediately initiate the reactivation process on the CDS and submit the reactivation instructions to CDSC for completion of the reactivation process.
- (6) The reactivation instructions in Rule 24E (5) shall be accompanied with an indemnity letter from the central depository agent indemnifying CDSC against any liability for reactivation of dormant accounts on the instructions of the CDA.
- (7) CDSC will complete the reactivation process within 24hours of receipt of client instructions on the online portal or mobile application or, in the case of activation using the CDA, receipt and verification of the reactivation instructions and indemnity from the CDA.

(E) DEPOSIT OF CERTIFICATES BY CENTRAL DEPOSITORY AGENTS

Processing
Of deposits

25 (1) No CDA shall accept securities other than eligible securities to be deposited with the Central Depository.

(2) Eligible securities may be deposited with a CDA after the notification date.

(3) Upon receipt of the deposit form and the securities certificates from the CDA, the Central Depository shall within one (1) market day of the date of lodgment forward the certificate to the issuer for verification and confirmation.

Responsibility for entries in security accounts

28. Every CDA shall be responsible for all entries made by such CDA its employees or servants in the securities accounts of its depositors and shall, in respect of any such entries, fully indemnify such depositors for any loss, damage or liability suffered by any depositor arising from any willful act, omission, neglect, fraud or error on the part of such agent, its employees or servants in respect thereof and shall indemnify and hold indemnified the Central Depository against any claim, action or proceeding instituted against the Central Depository by the depositors or any other third party towards any cost, expense, loss, damage or liability suffered or incurred by the Central Depository as a result of such claim, action or proceeding.

(H) PROHIBITION AGAINST VARIATION OF CONTRACT

Standardization of contracts

29. All contracts agreements or memorandum governing the contractual relationship between the Central Depository, the CDA and the depositors, notwithstanding anything in the application forms to open a securities account and all other forms for any other authorised functions relating thereto shall be made on forms prescribed by the Central Depository. No CDA shall vary, delete, amend or include any term or condition in the aforesaid forms without the prior written approval of the Central Depository. Once completed, the form shall be lodged with the Central Depository.

Prohibition

30. No CDA shall enter into any additional agreement, whether supplemental or principal, with their depositors, which may exclude, exempt, disclaim, reduce, limit or waive any liability for loss damage or liability on the part of the CDA for any willful act, omission, neglect fraud or error on the part of such CDA, as a CDA.

(I) PRIVATE TRANSACTIONS

Private Transactions

31. (1) No entries relating to private transactions shall be entered in the securities account without the prior approval of the Authority pursuant to Section 31 of the Capital Markets Act.

(2) The provisions of the Capital Markets (Licensing Requirements)(General) Regulations, 2002 shall apply for private transactions.

Settlement of Private Transactions

32. Transfers of eligible securities between custodians and between custodians and their clients where there is no change in beneficial ownership, donations, hereditary transfers (subject to relevant approval), sales on attachment, foreclosures on execution, pledges, free deliveries, loans and other dispositions of eligible securities shall be effected within

the CDS through CDAs with prior approval of the Authority pursuant to Section 31 of The Capital Markets Act

Cap 485A

(J) CENTRAL DEPOSITORY AGENT'S REFUSAL TO ACT

33. Where a CDA who is a member of a securities exchange refuses to act on the instructions of any of its depositors in carrying out any of its functions related to depositor's transactions specified under rule 9 relating to any book-entry security by reason that the depositor has defaulted (or is about to default) in his obligations relating to any trade order or otherwise, it shall be the duty of the CDA to notify the Central Depository, and where reasonably possible the depositor, immediately stating the reason for such refusal. Nothing in this rule shall be construed so as to authorise any member of the securities exchange to be in breach of any rule relating to such members' lien on securities.

34. Where the Central Depository, after investigating the matter, is not satisfied with the reason given by the CDA for its refusal to act, the central depository may, in consultation with the securities exchange instruct such CDA to carry out the depositor's instructions or direct the CDA to act appropriately to resolve the matter.

35. Failure on the part of the CDA to inform the Central Depository under rule 33 or to comply with its instructions under rule 34 may result in the suspension of such CDA as provided in these rules.

(K) MISCELLANEOUS

36. When acting in good faith and without negligence, the central Depository is not liable to any CDA or holders of securities accounts under its management for:

- a) any loss of opportunity, profit, market, goodwill, interest or use of money or securities;
- b) any other special, indirect or consequential loss, damage, expense, liability or claim;

which is suffered or incurred by any CDA or holders of securities accounts under its management arising from or related to the services.

37. Details of the insurance policy, in particular, relating to the circumstances and procedures in which claims may be submitted by any aggrieved person shall be made available free of charge to any depositor, CDA or issuer who request for such details.

(6) If the dispute referred under paragraph (3) cannot be resolved, it shall be referred to the final and binding decision of a single arbitrator to be agreed upon between both parties to the dispute difference or question. If the Parties cannot agree on the arbitrator within fourteen days of any party notifying the other of the need to appoint an arbitrator, the arbitrator shall be appointed at the request of any of the Parties by the Chairman for the time being of the Kenya Branch of the Chartered Institute of Arbitrators in accordance with and subject to the provisions of the Arbitration Act 1995 or any statutory modification or re-enactment thereof for the time being in force.

(7) The Arbitrator to whom any reference or appeal has been made under paragraph (6) shall render its decision within 30 days of reference or appeal as the case may be.

(8) The right to refer or appeal by a dissatisfied person is limited to seven (7) days from the date of the relevant decision.

(M)

THE BUSINESS CONDUCT COMMITTEE

The committee

42. (1) There shall be constituted a Business Conduct Committee which shall be a Committee of the Board whose object shall be:

- a) to monitor the operations relating to risk management issues and the Guarantee Fund;
- b) to hear complaints from aggrieved persons who claim to be adversely affected by any decision of the Central Depository with respect to the operations of the Central Depository;
- c) to make recommendations to the Board of the Central Depository with respect to applications for appointment as a CDA in accordance with rule 4 and to suspension or revocation of such appointment in accordance with rule 14;
- d) to deal with and advise the Board on such other matters of a financial and business nature as the Board may determine.

(2) The Committee shall comprise of five members appointed by the Board, three of whom (including the Chairman of the Committee) shall not be CDAs or be director or shareholder of a CDA or related to a CDA, or be employed by a CDA. Of the other two one shall be a stockbroker nominated by the securities exchange.

(3) No member of the Business Conduct Committee shall participate in the hearing of a dispute in which he has a conflict of interest. Accordingly if the CDA representatives have such a conflict in any hearing the Board (or,

in the case of the stockbroker, the securities exchange) shall appoint a replacement who is also a CDA on an ad hoc basis for the purpose of such dispute.

PART III - RULES FOR SECURITIES OTHER THAN DEBT SECURITIES

(A) DUTY TO NOTIFY SECURITIES HOLDER ON PRESCRIPTION AS AN ELIGIBLE SECURITY

Prescription of Securities For Immobilization **43** (1) Where, pursuant to section 13 of the Act, the Securities Exchange in consultation with the Central Depository intends to prescribe a security listed or proposed to be listed on its official list, the Central Depository shall, prior to prescribing such security, notify the Authority with respect to-

- a) the notification date;
- b) the transitional period; and
- c) the immobilization date.

(2) Where a listed security or security proposed to be listed for quotation on the official list of the securities exchange has been prescribed as an eligible security, the Central Depository in consultation with the securities exchange shall inform the issuer in writing at least seven (7) days prior to the notification date. In the case of a security proposed to be listed, the issuer shall serve written notice within seven business days after the receipt of the information from the Central Depository that:

- a) such security shall, after the notification date, become an eligible security;
- b) no securities holder shall, after the notification date, receive any written notice as the transferor in the event that a certificate with his name as the registered owner, together with the relevant instrument of transfer, has been lodged with the Central Depository to become a book-entry security to be credited into a transferee's securities account, unless such security is withdrawn in accordance with these rules.

(3) The securities exchange shall give the notices required under section 13 of the Act to the public at least seven (7) days prior to the immobilisation date in respect to any eligible securities prescribed by it to be immobilised with the Central Depository.

(4) The notice referred to in sub rule (3) above shall comply with section 13(2) of the Act. The notice required shall be given in not less than three daily newspapers of national circulation, one of which shall be in Kiswahili and at least two in the English language.

(B)

DEPOSIT OF SECURITIES INTO THE CENTRAL DEPOSITORY DURING INITIAL PUBLIC OFFERS

Deposit
Of securities
During
Initial public
Offers

44 (1) The Central Depository may prescribe for dematerialization a security proposed to be listed on the official list pursuant to section 24 of the Act.

(2) The Central Depository shall keep records of book entry securities and perform functions providing for the deposit and transfer of securities deposited therein.

(3) Investors wishing to subscribe for securities during Initial Public Offers or other subsequent offers and who do not already hold a securities account shall first open a securities account through a CDA. Provision will be made by the issuer to enable applicants who do not already hold accounts with the Central Depository or who wish to open accounts for the proposed issue to complete Account Opening Forms, in order to open such accounts together with the application for securities.

(4) Investors who subscribe for securities of issuers during the Initial Public Offers or primary issues as the case may be will be obliged to accept that the securities allotted to them will be deposited in their securities accounts with the Central Depository.

(5) Every Investor shall indicate his securities account number on the securities subscription form or fill out and submit the Account Opening Form referred to in sub paragraph (3) and submit the same through a CDA. Such new account shall be opened before the allocation of securities.

(6) After securities allocation, the issuer shall notify each successful applicant that the number of securities allotted or allocated to him has been credited to his account with the Central Depository.

(7) Nothing herein provided shall be deemed to relieve the issuer of its duties and obligations in relation to processing of applications, allotment of securities and appointment of agents for any securities issued.

(C)

ADDITIONAL ISSUES

Notice

45. Where notice has been given by the securities exchange to an issuer and the public, pursuant to section 13 of the Act to prescribe a security, the issuer shall not fix any date for the closing of books in respect of the making of a rights or bonus issue (or of any other options) for such security whereby such date shall fall during the period commencing from the notification date and ending on the ninth business day after the immobilization date.

Obligation
of the
issuer

46. Every issuer shall, immediately upon making an announcement in accordance with the listing requirements of the relevant securities exchange

Depositors
Entitlement
List

47. (1) An issuer may request the Central Depository for a list of depositors of such issuer's securities as on such date as may be specified in the request.

(2) Pursuant to sub paragraph (1), a list of depositors containing the particulars of depositors shall be issued by the Central Depository to the issuer as at 4.00 p.m. on the date so specified.

(3) For the purposes of this rule, the record shall be accompanied by a report specifying particulars of any securities which are in or under suspense.

Provisional
letters of
allotment

48. (1) Where a security has been prescribed for immobilisation under section 13 of the Act, any provisional letter of allotment for a rights issue submitted to the relevant securities exchange for approval shall contain a statement that-

- a) the principal security underlying the rights issue has already been prescribed as an eligible security;
- b) where such provisional letter of allotment has been issued to any depositor who is entitled to the rights the acceptance of the rights shall mean that the depositor consents to receiving such securities as a book-entry;
- c) where such provisional letter of allotment has been issued to any depositor who is entitled to the rights issue by virtue of the relevant book-entry security which is standing to the credit of his securities account, any person who intends to purchase such rights as are renounced shall have to state his securities account number

whereupon such rights shall be credited directly in his securities account in book-entry form.

(2) An issuer shall, upon issuing any securities pursuant to additional issues determine the computation of entitlement based upon the appropriate allocation in proportion to the amount of book-entry securities held by the Central Depository and deliver to the Central Depository a list of the allottees, and the quantity of securities allotted to them, together with the appropriate jumbo certificate registered in the name of the Central Depository. Unless otherwise instructed directly by a depositor to the contrary, the issuer shall, where the depositor has more than one securities account for the particular security, allocate such securities into the depositor's securities accounts in such proportion as the security is distributed in the existing account.

(3) An applicant for excess securities arising from an additional issue of securities shall open a securities account, if he does not already hold one.

(4) To facilitate delivery and settlement of such rights the Central Depository shall make provision in its systems for immobilisation, recording and settlement of such rights.

Entries **49.** The Central Depository shall, upon receipt of the list of allottees and the jumbo certificate pursuant to rule 35, credit the respective securities accounts with the allotted securities as specified therein prior to the listing of such securities.

Indemnity **50.** Every issuer shall fully indemnify and hold indemnified the Central Depository from all demands, actions and proceedings made by any depositor for any loss suffered by such depositor in respect of or arising from any error in the list of allottees provided that such error did not arise as a result of negligence on the part of the Central Depository.

Dividends **51.** The Central Depository may provide to issuers the service of distribution of cash dividends to depositors. The Central Depository shall charge for such service at such rate as shall be agreed with the issuer.

(D) WITHDRAWAL OF SECURITIES

General **52** (1) Before dematerialization, depositors may withdraw all or part of the securities held in their accounts.

(2) A request for withdrawal shall be made through a CDA in the prescribed form in accordance with the operational procedures.

(3) Once a request for withdrawal of securities has been made, no dealings in those securities may take place unless the application for withdrawal is first repudiated or the securities withdrawn have been re-deposited by the depositor with the Central Depository through a CDA.

Exceptions

53. Before dematerialization, no book-entry securities may be withdrawn from the Central Depository in any of the following circumstances:

- a) Where the securities are the subject of a transaction which has not been settled;
- b) where a prohibition for withdrawal of such securities is notified by a securities exchange under section 23 of the Act: and
- c) where such securities are for the time being designated as securities in or under suspense except for purposes of withdrawal pursuant to section 43 of the Act;
- d) any other circumstances as may be prescribed by the Central Depository from time to time.

Rejected
Withdrawals

54 (1) Any withdrawal rejected together with the reason for the rejection, shall be notified to the respective CDA within two (2) market days of the time the request is received by the Central Depository from the CDA.

(2) Save for any circumstances where the documents relating to any rejected withdrawal may be retained for and only during investigations, such documents shall be returned to the respective depositor.

Restriction

55. No applications for withdrawal of an eligible security shall be accepted during the period commencing seven (7) days before and including the books closure date and no account shall be closed between the books closure date and the payment date in the event of rights or bonus issues.

(E)

JUMBO CERTIFICATES

Issuance

56. The Central Depository shall, upon lodging with an issuer certificates representing book-entry securities together with the relevant instruments of deposit in the prescribed form duly executed by the depositor(s) thereof and certified in accordance with the provisions of section 14 of the Act, be issued with the jumbo certificate by the issuer.

Record
Of depositors

57(1) The Central Depository shall produce and maintain a ledger balance report on all securities accounts.

(2) The report shall be in the form of a statement which shall contain the following information:

- a) The name of the depositor or beneficial owner (where applicable);
- b) The name and quantity of securities held;
- c) The portion of the depositor's holdings that may have been mortgaged;
and
- d) The balance of securities available for transfer or settlement.

(3) Pursuant to section 31(3) of the Act, statements of accounts will be provided free of charge on a monthly basis where there has been activity in the relevant account, and on a quarterly basis where there has been no activity. Additional statements will be available to depositors through their respective CDAs within 24 hours of a request therefor, for such fee as may be prescribed by the Authority.

(F)

REGISTER OF SECURITIES HOLDERS

Register of
Holders

58(1) The Central Depository shall maintain and continuously update a register of existing depositors by security and the net balance of their holdings in the Central Depository

(2) Pursuant to section 36(2) of the Act, the Central Depository shall send updated records of depositors to the issuers within three (3) days from the date of a request by an issuer, provided that such request shall be made at a time so as not to include the book closure date.

(3) Nothing in sub paragraphs (1) and (2) shall constitute the Central Depository as the registrar of an issuer.

Form of
record of
Depositors

59(1) The record of depositors shall be issued in paper copy and in any other electronic form as may be agreed upon between the central depository and the issuer and shall include any information that may be required by the Central Depository to be included in the register of depositors.

(2) Where discrepancies in data content occur between a paper copy and an electronic form delivered to the issuer, the data on the paper copy shall prevail.

(G)

SUSPENSION OF SECURITIES

Securities in
suspense

60. Subject to Section 43(1) of the Act, the Central Depository shall specify that a book-entry security in a securities account is in suspense in any of the following circumstances:-

- (a) where an application under section 21 of the Act for withdrawal of such security has been made by a depositor;
or
- (b) in such other circumstances as may be prescribed by the Central Depository, the relevant securities exchange or the Authority.

Securities
under
Suspense

61. Subject to Section 43(2) of the Act, the Central Depository may specify a book-entry security held in any particular securities as under suspense, whether on a temporary basis or otherwise, in any of the following circumstances:-

- (a) where the securities exchange has suspended trading of the entire issue in respect of such security,
- (b) in the case of an individual depositor, where it has been notified that the depositor has died;
- (c) where a request for suspension of such security has been received from the depositor
- (d) where in compliance with the powers of the Authority to inspect, examine and operate the whole or any part of the computer system pursuant to section 56(1)(a)(i) of the Act, the Authority has decided that it necessary to place such security under suspense; or
- (e) where the Central Depository has been directed by the Minister, through the Authority, to suspend such security in the interests of national security.
- (f) where the book-entry security is reasonably believed to have been entered illegally or wrongfully into the account or is a security in respect of which the underlying certificate has been reported lost or stolen;
- (g) where, pursuant to an objection made in accordance with these rules, the Central Depository in its absolute discretion is of the opinion that there is a need to place under suspense

a security pending further investigations by the relevant authorities;

- (h) where, subject to an indemnity given by a CDA, a request for suspension has been received from such CDA;
- (i) where the Central Depository has been served with an order of a court of competent jurisdiction prohibiting any dealing in that book-entry security; or
- (j) where the security has been pledged as collateral.

Discretion

62. The Central Depository shall in its absolute discretion decide whether a book-entry security is to be placed under suspense under rule 61.

(H)

MORTGAGING AND PLEDGING OF SECURITIES

Mortgaging

63. Securities deposited in the Central Depository may be pledged as collateral.

And pledging

(2) All pledges of book entry securities shall be effected through entries in the Central Depository. A depositor shall not be required to deliver the physical certificate to the lender as collateral.

(3) Securities in the Central Depository that have been pledged as collateral shall not be traded until the pledge is discharged and the security redeemed, except with the prior written consent of the pledgee.

(4) All proceeds and entitlements of pledged securities belong to the pledgor, without prejudice to the right of the pledgor to pledge such proceeds and entitlements.

(5) Promptly upon the termination of the pledge for reasons of payment and performance of the principle obligation or other reason or consideration, the pledgee CDA shall enter the appropriate instructions to the Central Depository to release the securities from the pledgor's pledge account and record them in the pledgor's securities account.

(6) All charge documents shall be in the format approved by the Central Depository from time to time.

(7) To secure payments due or the performance of any obligation of

the CDA, the CDA may pledge to the CDS, as collateral for its obligations under the Agency Agreement:

- (a) all CDA contributions made by CDA to any guarantee fund established in accordance with the CMA rules;
- (b) all Eligible securities of CDA; and
- (c) all Eligible securities in the Securities Accounts under its management for which final and irrevocable payment has not been made by the CDA.

(8) The rights of the Central Depository as pledgee over the assets pledged is subject to CDA's use of any Service being suspended, terminated or withdrawn.

(9) The Central Depository shall appropriately mark in the register securities which are the subject of any pledge.

(I)

SETTLEMENT OF TRADES

Settlement
Of trades

64. The Central Depository shall appoint a settlement bank through which the CDAs shall settle their transactions.

(2) Every CDA that participates in settlement, shall enter into an agreement with the settlement bank for the purpose of settling transactions executed at the securities exchange.

(3) A CDA may appoint a settlement partner acceptable to the Central Depository for settlement purposes.

(4) The settlement partner shall be a party to the agreement between the CDA and the settlement bank.

Mandatory
settlement

65. All trades in eligible securities shall be cleared and settled through the Central Depository.

Transaction
Report

66. On every market day in which one or more transactions are recorded in a CDA's Account, the Central Depository shall combine the transactions and provide such CDA with reports at such time as are set forth in the operational procedures.

Settlement

67. Settlement shall be effected by T + 3 or as indicated at the

date	time of trading. The Central Depository shall be informed of any change in the settlement date at least one day prior to the new intended settlement date. Where no date of settlement is indicated, settlement shall be effected on T + 3.
Settlement mode	68. Upon settlement of a transaction, the transferor's securities account is debited with the eligible securities being the object of the transactions and the CDA's settlement account is credited with the corresponding payment therefor. Simultaneously, the transferee's securities account is credited with the securities being the object of the transactions and the CDA's settlement account is debited with the corresponding payment therefor.
Net Settlement Amended 2014	69. All net funds payment obligations arising on settlement date shall be effected and settled through the central bank at the time prescribed in the operational procedures on settlement date through the crediting and debiting by the central bank of the respective settlement bank accounts and thereafter through the crediting and debiting by the settlement bank of the respective settlement account of the CDAs based on the net position of each CDA as a result of settlement.
Effect of Settlement	70. Upon completion and settlement of the eligible securities and payment therefor title to the securities shall transfer on settlement date and the transaction shall be final and irrevocable.
No ON restrictions	71. No CDA is permitted to attach any condition or restriction the settlement of transactions and such conditions and restrictions that are imposed contrary to the CMA rules, these rules and operational procedures are void and ineffective.
Good Title	72. A transferee CDA or holder of an account under its management acquires good title to eligible securities obtained by means of a transaction settled through the Central Depository.
Failed delivery	73 (1) In the instances where a delivery failure occurs, a buy-in procedure under the trading rules of the securities exchange shall be invoked. (2) Delivery and settlement failure shall be subject to such fines and penalties as may be prescribed from time to time by the Authority.
Failed settlement	74. In the instances where a settlement failure occurs, the guarantee fund procedures shall be instituted as set out in the operational procedures.

Computer failure

75. Notwithstanding anything under this Part, in the circumstances where a terminal at a CDA premises is "down" or disconnected or where any part of the computer system has failed for any reason, it shall be the responsibility of the CDA to notify the Central Depository immediately by telephone and in writing or by other means to convey the relevant information required. Similarly the Central Depository shall immediately notify any CDA that may be affected by a failure of which the Central Depository is aware. The Central Depository shall at all times ensure there is adequate back up facilities to ensure that depositors data is not lost and that its operations can resume without unreasonable delay in the event of a computer failure or other disruption of any kind.

(J)

RULES RELATING TO ISSUERS

Compliance

76. Every issuer of eligible securities shall comply with these rules, the CMA rules and the provisions of the Act. For the purposes of this rule, an issuer shall include, if applicable, its company registrar, or its issuing house, its servants or agents.

Identity Code

77. The Central Depository shall allocate to every issuer of eligible securities an identity code.

(K)

DE-LISTING OF IMMOBILISED SECURITIES

De-listing

78 (1) If securities which are immobilised with the Central Depository cease to be listed at the relevant securities exchange, the Central Depository shall within 30 days of such cessation forward an up-to-date record of depositors to the issuer of such security for certification and shall execute a transfer in favour of such depositors unless in the meantime the issuer engages the Central Depository to continue holding such securities in immobilized form.

(2) All liability of the Central Depository and of CDAs towards such depositors shall cease forthwith upon de listing, save for any accrued liabilities.

Dated the 21st day of September 2004

Signed

Charles Ogalo
Chairman

Central Depository & Settlement Corporation Limited

Signed

Peter M. Waiyaki
Chief Executive
Central Depository & Settlement Corporation Limited