

CENTRAL DEPOSITORY  
OPERATIONAL PROCEDURES, 2012

(REVISED 2022)

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# **1. INTRODUCTION**

## **1.1 PURPOSE**

1.1.1 This Procedures manual describes the procedures to be followed in performing the functions relating to securities deposit, custody, clearing and settlement at CDSC.

1.1.2 Appendices contain different reports and forms used for CDSC operations.

1.1.3 These Procedures provide for two settlements batches per day.

## 2. DEFINITIONS

This definition section is to be read in conjunction with Rule 1.2 of the CDS Rules.

Allotment Schedule.....	A report submitted to CDSC by Issuer consisting of a list of Securities Account Holders allotted with Securities in respect of IPOs, Bonus Issues, Rights, payment of dividend in species, mergers.
CBK.....	Central Bank of Kenya
CDA.....	Central Depository Agent. An institution appointed as an agent of a central depository to carry out one or more of the services provided by that central depository;
Custodian Bank.....	An authorised depository licensed by the CMA which has been appointed a CDA.
Entitlement Date.....	The date fixed by an Issuer for the purposes of determining entitlements, dividends or other distributions.
Entitlement Schedule.....	A report generated by CDSC for all Securities Account Holders entitled to Securities in respect of Bonus and Rights Issue, dividends and other Corporate Actions
Final Settlement Report .....	A report generated by CDSC on the net settlement obligation of each CDA on settlement date.
Fund.....	The Guarantee Fund established by CDSC.
Initial Settlement Report.....	A report generated by CDSC showing the net settlement obligation of each CDA for each trade day.
Market.....	Market means the official market of the Nairobi Securities Exchange.
Net Settlement Obligation .....	The sum of the total debit amounts netted off against the sum of the total credit amounts for the relevant trading day.
New Issues Schedule.....	A report generated by CDSC, giving details of Securities Accounts credited with securities allotted during an Initial Public Offer.
Schedule of Securities Allotted.....	A report generated by CDSC giving details of securities accounts credited with Bonus/Rights during a Bonus/Rights Issue
Settlement Account.....	An account to be opened and operated by each CDA at the Settlement Bank for purposes of making payment or receiving payment in respect of settlement by or to such CDA.
Settlement Bank.....	A commercial bank appointed by CDSC to provide funds settlement services to CDAs in respect of executed trades.
Settlement Instruction....	An instruction generated by CDSC to the Settlement Banks and the Central Bank to effect funds settlement
Statement of Account.....	A statement generated by CDSC showing transactions effected and balance of securities.
Stockbroker.....	A Member Company of the Stock Exchange
T.....	The day on which a trade took place on the Securities Exchange
Trade file.....	A file generated by CDSC in respect of trades executed by each CDA

## 3. CDA MATTERS

This function describes the procedures to be complied with in respect to appointment, suspension, termination and withdrawal of a CDA

### 3.1 CDAs APPOINTMENT PROCEDURES AND RELATED MATTERS

- 3.1.1 An application for appointment to operate as a Central Depository Agent (CDA) shall be submitted to the Chief Executive of the Central Depository in accordance with rule 4 (1) of the Central depository rules.
- 3.1.2 Upon receipt of the application, CDSC shall review the application and establish whether the applicant meets all the requirements set out under rule 4 of the Central Depository Rules before submitting it to the CDSC Business Conduct Committee for consideration and to the CDSC Board for approval.
- 3.1.3 Upon approval by the CDSC Board, CDSC shall inform the applicant of the approval in writing and request them to do the following:
  - 3.1.3.1 Sign the CDA Agency Agreement.
  - 3.1.3.2 Select a settlement bank from the list of appointed settlement banks and open a settlement account.
  - 3.1.3.3 Sign the tripartite agreement between CDSC, the settlement bank and the Agent.
  - 3.1.3.4 Deposit the required minimum contribution to the CDSC Guarantee Fund.
- 3.1.4 The applicant shall be required to fulfil the requirements set out in 3.1.3 above within a period of six months.
- 3.1.5 If the applicant fails to meet the timelines set out in 3.1.4 above, the approval shall be rescinded and the applicant shall be required to submit a fresh application.
- 3.1.6 Upon completion of 3.1.3 above, CDSC shall issue the appointment letter and train the agent to enable them to start operations.
- 3.1.7 If the application for appointment is rejected, CDSC shall inform the applicant in writing within ten (10) market days providing the reason for rejection. Any applicant whose application is rejected may appeal within ten (10) market days to the Capital Markets Authority whose decision shall be final.

### 3.2 SUSPENSION PROCEDURE

- 3.2.1 CDSC may, if it is satisfied that it is necessary to do so, at any time as it sees fit, suspend or prohibit a CDA from maintaining or performing any or all of the approved functions in any of the circumstances set out in Rule 13 of the Central Depository Rules and for any of the following reasons;
  - i. the CDA no longer meets the eligibility criteria to be a CDA;
  - ii. CDSC has reasonable grounds to believe that the CDA is approaching financial difficulty or will be unable to meet its obligations to CDSC and/or to the CDA's clients;

- iii. in the event of bankruptcy, insolvency, liquidation or winding up of a CDA or the initiation of any proceedings in relation thereto or if CDSC considers in its absolute discretion that the occurrence of such events are imminent or likely;
  - iv. the CDA has failed to redress grievances of its clients to the satisfaction of CDSC;
  - v. CDSC has reasonable grounds to believe that the CDA has been carrying on its activities in a manner which is detrimental to the interest of CDSC and/or its clients or that the suspension of the CDA is necessary for the protection of its clients or other CDAs or to facilitate the orderly performance of services rendered by CDSC;
  - vi. the quality of the services rendered by a CDA is not satisfactory in the opinion of CDSC as evidenced by complaints from the clients and/ or other CDAs, Issuers and Registrars.
- 3.2.2 Without prejudice to any other rights CDSC may have, and notwithstanding anything to the contrary contained in the CDSC Rules, CDSC may suspend with immediate effect, the activities of any CDA before issuance of any notice or pending the notice period.
- 3.2.3 The process below shall apply:
- i. CDSC shall inform the CDA in writing setting out the grounds for suspension.
  - ii. The CDA shall be given up to 30 (thirty) calendar days, to remedy the default or the reason for suspension.
  - iii. If the CDA does not remedy the default for which it was suspended within the timelines provided in 3.2.3 (ii) above, the CDA appointment may be revoked.

### **3.3 TERMINATION OF APPOINTMENT**

- 3.3.1 CDSC shall issue a notice to the CDA setting out the grounds on which the appointment with the CDA is sought to be terminated.
- 3.3.2 The CDA shall be given up to 5 (five) business days, to be heard by an officer or officers authorized by CDSC;
- 3.3.3 CDSC being satisfied on the strength of the report of the authorised officers that it is necessary to terminate the appointment of such CDA, shall proceed to so terminate the appointment.
- 3.3.4 Provided however that CDSC may, if it so considers it fit and proper in the facts and circumstances of any case, before issuing the show-cause notice as aforesaid, issue notice calling upon the Participants to rectify or remedy the breach or default within such period and on such terms and conditions as CDSC may deem fit.

### **3.4 VOLUNTARY WITHDRAWAL BY A CDA**

- 3.4.1 A CDA may voluntarily withdraw as a CDA, by notifying CDSC in writing giving notice of not less than 30 days of its intention to terminate its agreement with CDSC.
- 3.4.2 The CDA shall specify in the notice, the desired date for its withdrawal, provided that such date shall not be prior to the scheduled final settlement date of outstanding obligations owed by the agent.

- 3.4.3 Such termination shall not be effective until accepted by CDSC in writing. CDSC shall provide a response within 14 business days after receipt of the notice.
- 3.4.4 CDSC may require the CDA to continue its business as a CDA in the CSD for such further period not exceeding three months from the receipt of such notice if CDSC shall deem it necessary to do so in the interest of the CDS account holders or the functioning of the CSD.
- 3.4.5 No CDA shall be permitted to withdraw as a CDA unless and until such CDA shall have provided satisfactory evidence to CDSC that:
- a) the CDA has issued a 90 day notice of its intended withdrawal to all clients holding accounts with it and requested them to transfer their securities to a CDA of their choice;
  - b) all the securities held in the accounts of the clients held with the CDA have been transferred to another CDA of the Client's choice; there remain no pending instructions or unresolved grievances from clients or CDSC or that the CDA has otherwise made satisfactory arrangements in that regard;
  - c) no amount is due, owing or payable by the CDA to CDSC inter alia by way of fees, charges, penalties or interest.
  - d) the CDA has complied with such other terms and conditions as CDSC may have specified in that behalf.

### **3.5 CONSEQUENCES OF TERMINATION AND/OR WITHDRAWAL OF A CDA**

- 3.5.1 On termination of the agreement with the CDA or on withdrawal by the CDA, CDSC shall return to the CDA, within thirty business days from the date of termination, the CDA's contribution to the Guarantee fund inclusive of accrued interest, less any outstanding fees and any loss attributable to the CDA.
- 3.5.2 The termination of the appointment of a CDA will not affect any rights, liabilities or obligations of the CDA arising out of transactions which have taken place prior thereto in the CDS, and CDSC may continue to treat the Agent as a CDA for the limited purpose of settlement of any such rights or liabilities of the CDA.
- 3.5.3 Without prejudice to the above provisions, CDSC shall be entitled to set off any earlier claims or rights of the CDA against any amounts due to CDSC or any other persons entitled to any claim against such CDA through CDSC, irrespective of the fact that such counter claim has arisen after the date of termination with the agreement of the Participant.
- 3.5.4 CDSC shall, upon termination of the agreement with the Agent or upon withdrawal by a CDA, notify all other CDAs and initiate suitable steps for the protection of the interests of their clients and other CDAs.
- 3.5.5 On termination of the appointment of a CDA or on withdrawal by the CDA, every client of that CDA shall have the right of getting his securities transferred to another CDA.
- 3.5.6 Notwithstanding anything stated above even after such termination, the CDA shall continue to act as a CDA for the limited purpose of getting the securities held with them transferred to another CDA.
- 3.5.7 Upon termination of the agreement with a CDA, CDSC shall give notice in writing or through appropriate Media to all clients holding accounts with such CDA calling upon them to have their accounts transferred to any other CDA within 30 (thirty) market days from the publication of such notice.
- 3.5.8 In the event of there being any client who will have failed to have their accounts transferred to any other CDA as aforesaid, CDSC shall, nominate one or more CDAs to whom such accounts shall stand

transferred for the time being. CDA shall notify the Capital Markets Authority of the nominated replacement CDA(s)

## 4. SECURITIES ACCOUNT MAINTENANCE

This function describes the procedures to be complied with by CDAs with respect to; accepting, verifying and filing of Securities Account Opening/Maintenance Form and relevant documents, opening the account in the CDS changing particulars of clients and filing of relevant documents.

### 4.1 SECURITIES ACCOUNTS OPENING THROUGH CDAs

- 4.1.1** The following shall be the requirements for opening a CDS account for natural persons
- i. duly completed and signed Securities Account Opening Form CDS 1(Appendix 1)
  - ii. a certified copy of his/its identification document to the CDA
  - iii. two recent colour passport size photographs
  - iv. Copy of KRA PIN (where applicable)
  - v. Mobile phone number
  - vi. Email address
  - vii. Mailing address
  - viii. Bank account details
  - ix. Occupation or employment details
- 4.1.2** The following shall be the requirements for opening a CDS account for legal persons
- i. duly completed and signed Securities Account Opening Form CDS 1(Appendix 1)
  - ii. a certified copy of certificate of Incorporation or registration
  - iii. two recent colour passport size photographs of the director(s) or signatories
  - iv. Copy of KRA PIN (where applicable)
  - v. Phone number
  - vi. Email address
  - vii. Physical address
  - viii. Mailing address
  - ix. Bank account details
  - x. Certified copy of a board resolution/ certified resolution by the entity
  - xi. Full details of the natural persons owning or controlling the business/entity
- 4.1.3** For foreign clients, the documents will need to be notarized.
- 4.1.4** The client will submit the above requirements to the CDA.
- 4.1.5** The CDA shall ensure full disclosure of client's relevant information, verify the accuracy thereof and **witness** client's signature.
- 4.1.6** The CDA shall enter the data obtained from the Securities Account Opening/Maintenance Form (CDS 1) submitted by client into the CDS.
- 4.1.7** The CDA shall scan and upload the completed CDS 1 form and all other supporting documents into the CDS and submit the request to CDSC for approval.

- 4.1.8** CDSC will verify correctness of the information captured in the CDS and sufficiency of attached documents before approving the request. Where information submitted is incorrect or the documentation insufficient, CDSC shall decline the request.
- 4.1.9** Upon CDSC approval the CDS will generate a Client Identification number.
- 4.1.10** The CDA will enter the Client Identification number in the form and will return to the client a copy of Securities Account Opening/Maintenance Form, duly signed.
- 4.1.11** For purposes of opening accounts (whether initially or upon moving to a new CDA), national identity cards and passports shall be acceptable identification documents for individuals and certificates of incorporation or other registration documents issued by a duly authorized government office, for companies and other entities.
- 4.1.12** A CDA must ensure it retains copies of identification documents to assist it identify its clients. CDAs must also ensure the safe custody of specimen signatures and the passport size photographs of their clients.

## **4.2 SECURITIES ACCOUNT OPENING USING MOBILE PHONES/DEVICES**

This function describes the procedures to be followed by Participant CDAs with respect to accepting applications, verifying and opening of Securities Account where the client makes the request using the mobile phone/device.

- 4.2.1** The Participant CDA will provide an (mobile) application which will enable the clients to make the request for account opening;
- 4.2.2** Clients will access the application using their mobile phones/devices and submit all the relevant details via the application. The details to be submitted include:
- i. Client's full names as they appear on the ID;
  - ii. Client's date of birth;
  - iii. ID Number;
  - iv. Coloured unobscured photo of the face and shoulders;
  - v. Information on the client's occupation;
  - vi. Information on the client's postal and physical address;
  - vii. Client's email address;
  - viii. Client's source of funds;
  - ix. KRA PIN
  - x. Bank Account number
- 4.2.3** The client must ensure that the mobile number they use is registered in their name with the mobile network operator(s).
- 4.2.4** Only natural persons are allowed to open CDS accounts through the mobile phones. Institutions or joint accounts are not allowed.

- 4.2.5** The CDA is responsible for, and shall ensure full disclosure of client’s relevant information, and shall verify the accuracy thereof using reliable documents or other verifiable and independent means such as IPRS data;
- 4.2.6** The CDA shall submit an upload file containing the client data, to CDSC in the prescribed format to facilitate opening of the accounts;
- 4.2.7** CDSC will upload the data into the CDS;
- 4.2.8** CDS system will then generate a CDS Client Identification number (CDS account number);
- 4.2.9** The client data will be populated with the CDS account number and sent to the CDA;
- 4.2.10** The CDA will send a confirmation to the client via the mobile application providing them with the CDS account number;
- 4.2.11** For purposes of opening accounts using the mobile phone (**whether initially or upon moving to a new CDA**), national identity cards shall be the only acceptable identification document for individuals;
- 4.2.12** A CDA must ensure it retains a record of the data used to open the CDS account for the statutory period of seven years;
- 4.2.13** A CDA must establish policies and procedures to address any specific risks associated with opening and maintaining of CDS accounts using mobile phones. The procedures must be documented and easily accessible by the employees of the CDA at all times, and to CDSC when necessary.
- 4.2.14** A CDA shall be required from time to time to assess the reliability of the submitted documents data or information and consider taking additional measures to mitigate the risk posed by opening CDS accounts using mobile phones, including but not limited to:
- i. Telephone contact with the customer that can be verified independently through calling the number or sending messages to the phone after the account has been opened, among other ways;
  - ii. Confirmation of the client’s address through an exchange of correspondence or other appropriate method;
  - iii. Subject to the client’s consent, telephone confirmation of the client’s employment status with the client’s employer where applicable;
  - iv. Confirmation of the client’s source of income details by requiring the presentation of recent certified bank statements from the client, in addition to any other appropriate methods; and
  - v. Any other reliable verification checks adopted by the CDA for opening accounts using mobile phones

### **4.3 SECURITIES ACCOUNT OPENING FOR MINORS**

This function describes the procedures to be complied with by Participant CDAs with respect to account opening for clients below the age of 18 years. This includes accepting, verifying and filing of Securities Account Opening/Maintenance Form and relevant documents and opening the account in the CDS

- 4.3.1** For the purposes of this Procedure, a minor is defined as any individual who has not attained the age of 18 years.
- 4.3.2** The parent/guardian of the minor shall submit duly completed and signed Securities Account Opening Form CDS 1 (Appendix 1) together with a copy of the minor's birth certificate or passport and a recently taken (not more than 3 months old) colored passport size photograph. The CDS 1 form shall contain the details of the minor and the parent/guardian.
- 4.3.3** The parent/guardian shall act as the signatory to the account and shall be required to provide the following documents
- i. a copy certified of his/its identification document to the CDA
  - ii. two recent colour passport size photographs
  - iii. Copy of KRA PIN (where applicable)
  - iv. Mobile phone number
  - v. Email address
  - vi. Mailing address
  - vii. Bank account details
  - viii. Occupation or employment details of the parent/guardian
- 4.3.4** The CDA shall ensure full disclosure of client's (both the minor and his parent/guardian) relevant information, verify the accuracy and authenticity of the information and the supporting documents submitted; and witness the parent's/guardian's signature.
- 4.3.5** The CDA shall enter the data obtained from the Securities Account Opening/Maintenance Form (CDS 1) submitted by the client into the CDS.
- 4.3.6** The CDA shall be required to capture the KYC details of the minor as the investor and the details of the parent/guardian as the signatory to the account.
- 4.3.7** The CDA shall scan and upload the completed CDS 1 form and all other supporting documents into the CDS and submit the request to CDSC for approval.
- 4.3.8** CDSC will verify correctness of the information captured in the CDS and sufficiency of attached documents before approving the request. Where information submitted is incorrect or the documentation insufficient, CDSC shall decline the request.
- 4.3.9** Upon CDSC approval, the CDS will generate a Client Identification Number.
- 4.3.10** The CDA will then enter the Client Identification number in the form and will return to the client a copy of the Securities Account Opening/Maintenance Form, duly signed.

**4.3.11** A CDA must ensure it retains copies of identification documents to assist in identifying its clients. CDAs must also ensure the safe custody of specimen signatures and the passport size photographs submitted by their client.

#### **4.4 PROCEDURES FOR SECURITIES ACCOUNTS MAINTENANCE**

4.4.1 Where the client wishes to change any particulars submitted when opening an account, the client will submit duly signed Securities Account Opening/Maintenance Form (CDS 1) indicating the desired changes together with any supporting documents to his CDA.

4.4.2 The CDA shall verify the accuracy of information provided by the client **and authenticate the signature** before capturing the changes in the CDS and submit the changes in the system.

4.4.3 Upon receipt of the request CDSC shall verify the accuracy of the information captured and effect the changes.

4.4.4 The CDA will confirm the changes to the client by returning a copy of the Securities Account Opening/Maintenance Form, duly signed, stamped and dated.

4.4.5 The CDA will keep its copy of the Securities Account Opening/Maintenance Form.

4.4.6 The CDSC may suspend or close a Securities Account upon receipt of written instructions to do so together with supporting documents from a client through a CDA.

4.4.7 The Securities in the suspended Securities Account will no longer be available for settlement of other Transactions until the suspension is released.

#### **4.5 PROCEDURE FOR DEALING WITH DORMANT ACCOUNTS**

This function describes the procedures to be complied with in respect to CDS accounts becoming dormant. (This section was inserted in April 2018)

##### **4.5.1 Procedure for Flagging an Account Dormant**

4.5.1.1 After a lapse of a continuous period of twenty four months of inactivity, the CDS shall flag the account dormant.

4.5.1.2 Once an account is flagged dormant, CDSC shall send to the account holder a notification informing them of the declaration of dormancy. This notification may be through the email address or an SMS alert sent through the mobile phone number registered in the system.

4.5.1.3 The notification shall require no action on the part of the account holder and will be deemed as being for information purposes only.

4.5.1.4 The account holder shall be assumed to be the beneficial owner of the account and the official contacts in the CDS system shall be presumed to be the official contacts of that beneficial owner.

4.5.1.5 No further transactions shall be allowed in an account that has been declared dormant without the account first being activated.

4.5.1.6 No account statements, whether in soft copy or hard copy shall be sent when an account has been declared dormant except where activity is induced by corporate action such as upload of shares from public offers, bonus issues, script dividends, rights issues, splits or additional shares. The account holder shall however, be required to activate the account in order to sell or otherwise transact with the shares so uploaded.

#### **4.5.2 Procedure for Activation Via the CDA**

- 4.5.2.1 The account holder will issue instructions by filling and signing an account activation form (CDS 1a) at the CDA, and providing a copy of the account holder's identification document used while opening the account.
- 4.5.2.2 Upon receipt of the instructions, the CDA will verify the accuracy of the information provided in the account maintenance form.
- 4.5.2.3 The CDA shall send to CDSC by email an advance summary of the accounts to be activated and shall include an indemnity clause in the summary. The CDA shall also send scanned copies of the accounts activation instructions and documents to accompany the accounts activation summary.
- 4.5.2.4 The CDA shall initiate the account activation in the CDS and upload scanned copies of the account activation documents.
- 4.5.2.5 Upon receipt of the activation instructions from the CDA, CDSC will review all the activation requests and approve or decline within 24 hours. Activation requests which are not supported with all the required documentation will be declined.
- 4.5.2.6 Upon re-activation of a dormant account, a notification shall be sent to the account holder through email. An SMS alert will also be sent to those account holders whose mobile phone number details are available in the CDS. A notification shall also be sent to the account holder's CDA.

#### **4.5.3 Procedure for Activation by the account holder (Self service)**

- 4.5.3.1 The account holder may activate their account using the CDSC online portal. An account may also be activated using the CDSC Mobile application.
- 4.5.3.2 The account holder shall log in on the online portal or the mobile application using their log-in credentials and follow the instructions to lodge an activation request.
- 4.5.3.3 The request shall be submitted directly to the CDA from the online portal.
- 4.5.3.4 Upon receipt of the activation instructions from the account holder, procedure 4.5.2.3 to 4.5.2.6 above shall apply.

## 5. DEPOSITS

This section describes the procedures to be complied with by the issuer with respect to dematerialization.

### 5.1 DEPOSIT OF SECURITIES FOR DEMATERIALIZATION BY SHARE REGISTRARS

- 5.1.1 The Issuer will submit to CDSC, a file of investors' static details (in electronic format) of all shareholders whose shares are held in certificate form in their records.
- 5.1.2 Upon receipt of the information mentioned in 5.2.1 above, CDSC will create non – trading CDS accounts under the Issuer for the investors.
- 5.1.3 Investors' accounts created under 5.1.2 will have the following features.
- 5.1.3.1 The accounts will be created in CDS under the Issuer as a participant and will be inaccessible to CDAs.
  - 5.1.3.2 The accounts will be created as non-trading accounts.
- 5.1.4 CDSC will submit the file (in electronic form) of shareholders containing CDS account numbers to the Issuer.
- 5.1.5 Upon receipt of the file mentioned in 5.1.4, the Issuer will map and verify the data against the file submitted to CDSC in 5.1.1 and confirm acceptance to CDSC by stamping and signing a copy of the forwarding schedule.
- 5.1.6 Upon verification of the data as mentioned in 5.1.5, the Issuer will upload the file into their system and generate an upload file of the investors which will include their respective shareholding and submit it to CDSC.
- 5.1.7 Upon receipt of the upload file, CDSC will verify conformity of the CDS account details with the details contained in 5.1.4.
- 5.1.8 Upon verification, CDSC will credit the investors' accounts with their respective shares.
- 5.1.9 All such shares will be frozen and will only be transferred in the event of investors' instructions through the process provided in Procedure 5.2 of the CDS Operational Procedures.
- 5.1.10 CDSC will provide the Issuer with a report showing each certificated investor's account details inclusive of shareholding and CDS account numbers.
- 5.1.11 The Issuer will confirm conformity of the investors' static details and shareholding by stamping and signing a copy of the forwarding schedule.
- 5.1.12 Where the investor's shares are pledged, the Issuer will submit a separate upload file as provided in Procedures 5.1.1 to 5.1.6.
- 5.1.13 Upon receipt of the pledged shares upload file, CDSC will credit the shares into the investors account held under the Issuer and immediately record the pledge.
- 5.1.14 CDSC will inform the Pledgee of the recording of the pledge.

- 5.1.15 Upon receipt of a signed copy of the forwarding schedule provided for under Procedure 5.2.10, CDSC and the Issuer will sign off the data migration process.
- 5.1.16 Issuers will not be required to issue Jumbo certificates.

## **5.2 DEPOSITS OF SECURITIES FOR DEMATERIALIZATION BY INVESTORS**

This section describes the procedures to be complied with by CDA with respect to accepting, verifying of Securities Deposit Forms and Securities Certificates and their onward transmission to the issuers.

- 5.2.1 The client will submit in quadruplicate completed and signed Securities Deposit Form CDS 2 and the relevant Securities certificates to his CDA.
- 5.2.2 The CDA will verify the accuracy of information provided in the Securities Deposit form.
- 5.2.3 The CDA will acknowledge receipt of the documents by returning to the client a copy of the Security Deposit Form, duly signed, stamped and dated.
- 5.2.4 The CDA will deliver two copies of the duly signed Securities Deposit Form together with securities certificates and a forwarding schedule in duplicate to the Issuer
- 5.2.5 The Issuer will acknowledge receipt of deposit documents by handing over a copy of the forwarding schedule, duly signed, stamped and dated to the CDA.
- 5.2.6 The Issuer, upon receipt of the documents, shall verify their authenticity and ensure that the specimen signature and all other relevant information in their custody match the information on the deposit form(s).
- 5.2.7 The Issuer, after confirming their authenticity, will indicate the non-trading CDS number provided by CDSC and the Local Client ID in the non-trading account provided by registrar on the CDS 2 form.
- 5.2.8 The Issuer will initiate the certificate deposit process by capturing the details of the transaction in the CDS, uploading the CDS 2 form and supporting documents and submitting the request.
- 5.2.9 CDSC, upon receipt of the request will verify the accuracy of the information captured by:
- 5.2.9.1 Confirming correctness of the clients details indicated on CDS 2 form against the details in CDS system
  - 5.2.9.2 Confirming that the non trading CDS account number indicated on CDS 2 form conforms to the one in the CDS system
- 5.2.10 Upon verification CDSC will approve the request and the CDS will transfer the securities from the investors non trading account held under the Issuer to the Investor's account held under a CDA.
- 5.2.11 Any rejected documents will be returned to the CDA through the issuer.
- 5.2.12 The Issuer will, after verifying the authenticity of deposited Securities certificate, register the Securities in the name of CDSC or its nominees. Deposit documents will be valid as verified only when signed by the authorized signatories of the Issuer/Registrar as instructed to CDSC.

- 5.2.13 Upon completion of the transfer, CDSC will submit a report to the Issuer/Shares Registrar showing the movement of shares from the issuer's account to the CDA's account.
- 5.2.14 The Issuer will be required to indemnify the CDSC of any consequences as a result of erroneous crediting of securities in accounts arising from any information contained in the deposit documents.
- 5.2.15 No jumbo certificate will be required.
- 5.2.16 Any rejected documents will be returned by the Issuer to the CDA.

### **5.3 DEALING WITH PRIVATE TRANSFERS OF CERTIFICATED SECURITIES**

This section describes the procedures to be complied with by the CDA and the issuer with respect to private transfer of certificated securities.

- 5.3.1 The beneficiary will contact a CDA and if he already has a securities account in the CDS, obtain a Private Transfer form (CDS 7) and indicate the account number thereof on the form.
- 5.3.2 Where the beneficiary does not already have an account with a CDA of his choice, he will appoint a CDA of his choice and open a CDS account.
- 5.3.3 The beneficiary will fill and sign a CDS 2 form and CDS 7 form to be provided by the CDA. The beneficiary will submit to the CDA all relevant and required documentation to support the application.
- 5.3.4 The CDA will acknowledge receipt of the documents by stamping, signing and returning a copies of the CDS 7 form and CDS 2 form to the beneficiary.
- 5.3.5 The CDA will verify conformity of the supporting documents with the requirements of private transfers.
- 5.3.6 The CDA will submit the documents of transfer to the Shares Registrar for verification.
- 5.3.7 Upon verification, the Shares Registrar will indicate the non- trading account number on both the CDS 2 form and CDS 7 and return the documents to the CDA.
- 5.3.8 The CDAs will submit the documents to NSE for approval.
- 5.3.9 Upon approval, NSE will submit the documents to the Share Registrars upon which the Share Registrars shall capture the details of the transfer in the CDS and upload the CDS2 and CDS 7 forms and other supporting documents in the CDS.
- 5.3.10 Upon receipt of the request, CDSC shall verify correctness of information captured and approve the request.
- 5.3.11 Upon approval the CDS shall transfer the securities from the investor's CDS account created under the Issuer to the beneficiary's account under a CDA.
- 5.3.12 CDSC shall submit a report to the Issuer (every two weeks) showing the share movement from the Investors non trading accounts held under the Issuer to the Investors accounts.

## 6. TRADES

This function describes the procedures to be complied with by the CDAs for trades effected on the Stock Exchange with respect to:

- 1.) Accepting buying/selling orders of the Securities from Clients
- 2.) Providing trade details and client information to CDSC

### 6.1 ORDER INPUT

6.1.1 Safe for short sales, ATS operators will upon receipt of trade orders from clients verify availability of the Securities in the CDS before entering the orders in the ATS.

6.1.1.1 For trades executed by the CDA for their own clients, the stockbroker shall be required to capture the trades through the broker back office system which will validate availability of the securities.

6.1.1.2 For custodial trades the CDA shall ensure that the sale orders are accompanied by a confirmation of availability of securities from the client.

6.1.2 During the trading session, ATS Operators will in respect of all immobilized securities enter the trade orders in the ATS through their trading terminals

6.1.3 Upon an entry of an order by the ATS Operator, the ATS shall match the orders and transmit concluded trades to the CDS in real time.

6.1.4 The CDS will generate a unique CDS reference number for each trade executed

6.1.5 The CDS will generate the trades files and place them in the respective broker's Secure File Transfer Protocol (sFTP) folder by 5.00p.m on T.

6.1.6 Custodian Banks will access the Initial Settlement Reports in respect of transactions allocated to their clients from the CDS on T by 5.00p.m.

### 6.2 AMENDMENTS TO TRADE INFORMATION (POST TRADE AMENDMENTS)

6.2.1 Trade amendments will be subject to agreement among the Stockbrokers in the trade and the Exchange.

6.2.2 Any such amendments shall be submitted to the exchange within 30 minutes of the end of trading session.

6.2.3 The Exchange shall submit approved amendments to CDSC by placing them in the respective Secure File Transfer Protocol (sFTP) folder by 3.45pm on trade date.

6.2.4 Upon receipt of approved amendments from the exchange, CDSC shall effect the changes in the CDS by 5.00pm on T.

### **6.3 NEGATIVE AFFIRMATION OF TRADES**

- 6.3.1 Custodian Banks may reject any trades allocated to their clients erroneously and therefore not accepted. The custodian banks will negatively affirm such trades in the CDS.
- 6.3.2 The CDS will send notifications of the negatively affirmed trades to the affected Stock brokers.
- 6.3.3 In accordance with Procedure 6.3.1, Custodian Banks will have up to T+2, 3.00 p.m to negatively affirm trades that have been erroneously allocated to their clients by trading participants on T. Any trade not so rejected shall be deemed to be accepted.
- 6.3.4 Any request for trade acceptance by the Custodian after negative affirmation prescribed in 6.3.3 above will be subject to a surcharge, in accordance with Procedures 17 (i.e. between T+2 3pm and T+2 5p.m).
- 6.3.5 Where a custodian rejects a trade, the trading participant may re-allocate the trade to another client. Once the trade is re-allocated, the trade may not subsequently be accepted by the Custodian.
- 6.3.6 If the trade is not allocated by 8.00 am on T+3, the trade shall be dealt with in accordance with procedures 7.6 or 7.8.

### **6.4 REALLOCATION OF TRADES**

- 6.4.1 Custodian banks may re-allocate trades that were erroneously allocated by the trading participant and the following procedures shall apply.
- 6.4.2 The Stockbroker who effected the trade will send a written request to the affected custodians indicating the details of the trade and the affected accounts.
- 6.4.3 The Stockbroker who effected the trade will initiate the reallocation in the CDS.
- 6.4.4 CDA whose client the trade was initially allocated to will accept the de-allocation in the CDS
- 6.4.5 The CDA whose client the trade is being reallocated to will verify the details of the reallocation and, if the details are in conformity with their clients instruction, they will immediately approve the reallocation in the CDS
- 6.4.6 The revised Final Settlement schedule shall be made available to all the parties involved, on the same day the trade is reallocated, by 5pm.
- 6.4.7 The trades will thereafter settle in the usual manner

## 6.5 ACCELERATION OF TRADES

This function stipulates the procedures to be followed with respect to acceleration of trades  
This section was inserted in November 2016

- 6.5.1 Parties to a trade may change the settlement date to an earlier date (acceleration of trade), subject to an agreement between them.
- 6.5.2 Once all parties to a trade are in agreement to a trade acceleration, the buying CDA shall inform CDSC in writing and copy the contra CDA by 12.00 noon the day before the desired date of settlement.
- 6.5.3 The contra CDA shall inform CDSC in writing that they have accepted the proposed trade acceleration.
- 6.5.4 Upon receipt of the acceleration request from the buying CDA and confirmation of acceptance from the contra CDA, CDSC shall effect the trade acceleration in the CDS system.
- 6.5.5 The revised Final Settlement schedule shall be made available to all the parties involved on the same day the trade is accelerated, by 5pm.
- 6.5.6 The trades will thereafter settle in the usual manner as per Procedure 7.1

## 7. CLEARING AND SETTLEMENT

This function stipulates the procedures for clearing and settlement of securities transactions effected on the securities exchange.

### 7.1 PROCEDURE FOR APPOINTMENT OF SETTLEMENT BANKS

- 7.1.1 All CDAs shall be required to select a settlement bank from the pool of commercial banks appointed by CDSC.
- 7.1.2 Only Tier 1 and 2 Commercial Banks licensed by the Central Bank of Kenya will be appointed as settlement banks for the settlement of securities transactions effected at the Exchange.
- 7.1.3 Interested tier 1 or 2 banks shall submit their application to be appointed as Settlement Bank to CDSC. The application shall be in the form of a letter addressed to the Chief Executive and accompanied by the following documents:
  - 7.1.3.1 Memorandum and Articles of Association or any other document that defines the constitution of the applicant;
  - 7.1.3.2 A letter of no objection from CBK.
  - 7.1.3.3 A current license of operation;
  - 7.1.3.4 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 Rules issued thereunder and the Tripartite Agreement;
- 7.1.4 CDSC shall evaluate the application to ascertain that the applicant has demonstrated the capability to provide the minimum required services below:
  - 7.1.4.1 To open and maintain cash accounts for the CDAs
  - 7.1.4.2 To process and complete the inter participant settlement every market day on the instructions provided by CDSC.
  - 7.1.4.3 To provide Electronic access to CDAs who maintain cash accounts with the bank to view and operate their settlement accounts electronically.
  - 7.1.4.4 Provide electronic access to CDSC to view the settlement accounts
  - 7.1.4.5 Offer services to address the following;
    - 7.1.4.5.1 Clearing of cheques
    - 7.1.4.5.2 Electronic fund transfers
    - 7.1.4.5.3 Processing of funds within the bank
  - 7.1.4.6 To provide credit facilities to CDAs who maintain cash accounts with them, and to give an undertaking to accept shares as a suitable security/collateral in order to facilitate the intraday settlement obligations of such participant.

- 7.1.4.7 To possess systems and technology that is scalable to accommodate other tradable products and facilitate future enhancements and changes to the settlement system.
- 7.1.4.8 Demonstrate understanding of the settlement function, the inter-relationships between various players as well as the understanding of net settlement
- 7.1.4.9 To show e-banking products and demonstrate the effectiveness and use, especially in a real-time basis for communication purposes.
- 7.1.4.10 To show value provided to the CDAs under the settlement accounts which includes but not limited to same day value for banking made to the settlement account, waive ledger charges and interest charges on un-cleared effects.
- 7.1.4.11 To demonstrate the Disaster recovery plans that the bank has in place and the measures and controls put in place to guard against
- 7.1.4.12 Demonstrate financial strength & reputation by providing audit financial accounts and provide the names of directors, top shareholders and management team.
- 7.1.4.13 Show capability in SWIFT messaging.
- 7.1.4.14 To show Finality and non-repudiation of settlement

7.1.5 Upon confirmation that the Commercial bank meets the requirements, CDSC will submit the application to the CDSC Business Conduct Committee (BCC) and the Board for approval.

7.1.6 Upon approval by the BCC and the CDSC Board, CDSC will write to the Commercial Bank confirming the appointment.

7.1.7 The Commercial Bank shall sign a tripartite agreement between CDSC, CBK and the applicant.

7.1.8 The bank shall allocate designated staff to service the CDSC settlement system by way of an account manager or a designated unit.

7.1.9 CDSC reserves the right to accept or reject any application without assigning reasons therefor or obligating itself to any person or entity. The decision taken by CDSC will be final and conclusive.

## **7.2 PROCEDURE FOR CHANGE OF SETTLEMENT BANK BY CDAs**

7.2.1 CDA shall inform CDSC through a letter if they wish to change their settlement bank

7.2.2 CDSC shall write to the CDA's current settlement bank within 3 working days informing them of the CDA's intention to change the settlement bank

7.2.3 Current settlement bank shall send a letter of no objection to CDSC within 3 working days.

7.2.4 CDSC shall notify (in writing) the current Settlement Bank and the CDA the last settlement date with the current bank.

7.2.5 CDSC shall notify the new Settlement bank in writing of the date the CDA will commence settlement with them.

7.2.6 CDSC shall provide the initial and final settlement reports to the current settlement bank up to the last day of settlement.

7.2.7 On the day before the first day of settlement with the new settlement bank, CDSC shall update the CDA's new bank details in the CDS and provide the initial settlement reports for the last two days and final settlement report for the next day to the new settlement bank.

### **7.3 SECURITIES AND FUNDS SETTLEMENT**

7.3.1 CDSC will provide CDAs and their Settlement Banks with their respective Initial Settlement Reports by 5.00 pm on T.

7.3.2 CDSC will provide CDAs and their Settlement Banks with their respective Final Settlement Reports by 8.00 am on T+3.

7.3.3 Each CDA shall ensure that it has sufficient securities available in the CDS accounts, to cover its settlement obligations by T+2 5.00pm.

7.3.4 There shall be two settlement batches per day

### **7.4 FIRST SETTLEMENT BATCH**

7.4.1 Each CDA shall ensure that it has in the Settlement Account with its Settlement Bank, sufficient funds available to meet its settlement obligations in accordance with the Final Settlement Report before 10.15 am on T+3.

7.4.2 The Settlement bank shall, by 10.15am on T+3, notify CDSC of a CDA who does not have sufficient funds to meet their settlement obligation for the day.

7.4.3 CDSC shall submit final settlement instructions to the settlement banks and CBK by electronic means (or any other mode as may be agreed from time to time), by 10.30 a.m. on T+3. These settlement instructions shall be final and irrevocable.

7.4.4 The settlement banks and CBK shall transfer funds in accordance with the settlement instructions by 11.00 a.m. on T+3.

7.4.5 The CBK will confirm settlement of funds to CDSC immediately by electronic means (or any other mode as may be agreed from time to time)

7.4.6 CDSC will, upon receipt of the confirmation from CBK of successful settlement of funds, move the securities. The settlement of funds and movement of securities for the first settlement batch shall in any case occur not later than 11.15 am on T+3.

### **7.5 SECOND SETTLEMENT BATCH**

7.5.1 Trades that are not settled due to short securities positions, in the first settlement batch may be settled in the second settlement batch and the procedures below will be followed;

7.5.2 CDSC shall submit final settlement instructions to the settlement banks and CBK by electronic means (or any other mode as may be agreed from time to time), by 1.00 p.m. on T+3.

7.5.3 The settlement banks shall transfer funds in accordance with the settlement instructions by 1.30 p.m. on T+3. These settlement instructions shall be final and irrevocable.

7.5.4 CBK shall transfer funds for settlement in accordance with the Settlement Instructions by 1.30 p.m. on T+3.

7.5.5 The CBK will confirm settlement of funds to CDSC immediately by electronic means (or any other mode as may be agreed from time to time)

7.5.6 CDSC will, upon receipt of the confirmation from CBK of successful settlement of funds, transfer the securities. The settlement of funds and movement of securities for the second settlement batch shall in any case occur not later than 2.00 pm on T+3.

## **7.6 FAILURE TO ALLOCATE TRADES BY BUYING CDA**

7.6.1 Where a trade is not allocated by the buying CDA, the transaction will remain in the settlement cycle for settlement on T+3 but the procedures below will apply.

7.6.2 A penalty equivalent to 0.14 % of the value of the transaction shall be imposed for any trade not allocated on T+2 by 5.00 pm in accordance with Procedure 17.

7.6.3 If the Trade is not allocated before the commencement of trading on T+3, 9.00 am, the trade shall be allocated to the CDA's provisional account and settled on T+3 along with the CDA's other obligations. If necessary the Guarantee Fund will be used, in accordance with the Guarantee Fund Procedures.

7.6.4 The Guarantee Fund Procedures shall thereafter apply.

## **7.7 FUNDS SETTLEMENT DEFAULT**

7.7.1 The defaulting CDA's Settlement Bank will inform CDSC of any shortfall in the funds settlement by 10.15 am on T+3.

7.7.2 CDSC will seize the defaulting CDA's clients' shares and allocate them to the Guarantee Fund.

7.7.3 The defaulting CDA's Settlement Bank will provide for the shortfall in accordance with the terms of the Agreement between the Settlement bank and the CDA.

7.7.4 The defaulting CDA will be required to reimburse the Settlement bank of the amount paid on its behalf including any interest charges by 12.00 noon on the next business day.

7.7.5 In the event that the CDA does not reimburse the Settlement bank as stated in (e) above, the Settlement bank will immediately notify CDSC by 2.00 pm on the same day.

7.7.6 CDSC will draw down the amount required (initial amount paid plus any accrued interest) from the GF and replenish the affected Settlement bank position within one business day of being notified by the Settlement bank.

7.7.7 CDSC will levy default penalties to the affected CDA in accordance with the GF Procedures.

7.7.8 In any event, the defaulting CDA will not be allowed to access the trading system until its contribution to the GF has been regularized.

## **7.8 FAILURE TO ALLOCATE TRADES BY SELLING CDA**

7.8.1 Each CDA shall ensure that it has sufficient securities available in the CDS accounts, to cover its settlement obligations by T+2 5.00pm.

7.8.2 Where a selling account has insufficient securities, the CDA may:

7.8.2.1 buy securities in the market and accelerate the trade to settle in the selling account in time for the sale trade to settle on T+3;

7.8.2.2 make arrangements to borrow securities into the selling account so that the sale trade settles on T+3;

7.8.3 A penalty equivalent to 0.14 % of the value of the transaction shall be imposed for any trade NOT allocated on T+2 by 5.00 pm in accordance with Procedure 17.

7.8.4 If the trade is not allocated before the commencement of trading on T+3, 9.00 am, it shall be removed from the first settlement batch and moved to the second settlement batch.

7.8.5 If the trade is still unallocated by 11.30 am it shall be removed from the second settlement batch. CDSC shall inform the Buying CDA of this and mark the trade for buy-in.

7.8.6 A daily penalty of 2% of the value of the unallocated trade shall be levied on the defaulting stockbroker from T+3 until the buy-in process is concluded.

7.8.7 Once a trade has been committed for buy-in, the trade shall no longer be available for (re)allocation by the defaulting CDA

## 7.9 BUY IN PROCEDURE

- 7.9.1 Buy-in will be effected by the Securities Exchange and the following procedures shall apply.
- 7.9.2 CDSC will issue the defaulting broker with the buy-in notice by 12.30am on T+3.
- 7.9.3 The CDSC will inform the Securities Exchange of the buy-in by 12.30am on (T+3), and will provide the Securities Exchange with the following details:
- 7.9.3.1 The defaulting Stockbroker,
  - 7.9.3.2 The stockbrokers provisional account
  - 7.9.3.3 The security and quantity undelivered.
  - 7.9.3.4 The date set for buy-in
- 7.9.4 The Securities Exchange shall initiate buy in on T+3 in accordance with the notification from CDSC
- 7.9.5 The Securities Exchange shall ensure that the buy-in order is entered into the ATS, in accordance with the Trading Rules.
- 7.9.6 The Trade shall be provisionally allocated to the defaulting CDA's provisional account established for this purpose for subsequent delivery to the initial buyer.
- 7.9.7 Settlement of all buy-in trades shall be on T+1, that is, on T+4 of the original trade. The Buy-in process shall be concluded on T+4.
- 7.9.8 Once the NSE acquires the required amount of securities, the original trade shall be allocated to the defaulting CDA's provisional account and settled on T+4 with the second settlement batch of the day
- 7.9.9 Trades affecting the CDA's provisional account shall only be allowed in procedures 7.9.6 and 7.9.8. No other type of transaction will be allowed on this account.
- 7.9.10 The Stockbroker will be required to make a cash deposit of 25% of the value of the unallocated trade to CDSC by T+3 1.00pm. If the buy-in is successful, then CDSC will return the cash deposit to the defaulting Stockbroker.
- 7.9.11 If buy-in is unsuccessful, the unallocated trade shall be cancelled on T+4 and the Securities Exchange and the Authority shall be notified immediately. Upon cancellation of the trade CDSC will give 15% of the cash deposit to the buyer in the failed transaction as compensation and the remaining 10% will be retained by the CDSC as processing fee.
- 7.9.12 In the event that the Securities Exchange is unable to initiate buy-in on T+3 due to unforeseen circumstances, the buy in will be effected on T+4.
- 7.9.13 The Stockbroker shall also bear all losses and expenses associated with the buy-in. These shall include losses and expenses related to failure of dependent trades whose failure shall be directly attributable to the failed delivery and/or unsuccessful buy-in. Such losses and expenses accruing to CDSC shall form part of the stockbroker's funds settlement obligation. If the buy-in is successful, CDSC will deduct any such losses and expenses from the cash deposit of the CDA.
- 7.9.14 CDSC shall take disciplinary action against a CDA for occasioning settlement failure, and such action may include further pecuniary penalties or suspension or revocation of the CDA appointment. The decision on the disciplinary action shall rest with the Business Conduct Committee.

## 8. TRANSFER OF ACCOUNTS

This function describes the procedures to be complied with by the CDA with respect to accepting, verifying of Securities Transfer Forms and processing the transfer in the CDS.

### 8.1 INTER CDA TRANSFERS

- 8.1.1 The Client will submit in quadruplicate duly completed and signed Securities Transfer Form CDS 4A/B (Appendix 7) to his current CDA.
- 8.1.2 The current CDA shall sign the CDS form 4A/B and return it to the client together with a certified copy of the client's national ID or passport or the registration documents in case of a company.
- 8.1.3 The current CDA shall capture and submit the details of the transfer in the CDS within 24hrs of receipt of the duly completed CDS 4A and supporting documents.
- 8.1.4 The client shall submit the duly executed form together with supporting documents to the receiving CDA within 24hrs of receipt of the duly completed CDS 4A and supporting documents.
- 8.1.5 The Receiving CDAs shall verify the instructions and signature of client and will acknowledge receipt of the transfer request by returning to the client a copy of the Securities Transfer Form, duly signed.
- 8.1.6 The Receiving CDA shall accept the transfer in the CDS and upload the transfer form together with supporting documents and submit to CDSC within 24hrs of receipt of the duly completed CDS 4A and supporting documents..
- 8.1.7 CDSC shall verify correctness of information captured in the CDS and ensure that the details match those indicated on the transfer form and approve the transfer: or
- 8.1.8 CDSC will within one business day effect the transfer or reject it. CDSC shall give reasons for rejection in the CDS, and the transaction will revert to the initiator for correction.
- 8.1.9 On approval of the transfer by CDSC the securities will move from the client's CDS account with the current CDA to the client's account with the receiving CDA.

### 8.2 BULK TRANSFER

This section stipulates the procedures to be complied with by CDAs or issuers with respect to:

1. Bulk transfer of securities from one CDA to another
2. Bulk transfers of securities by issuers that result in a change of ownership or from Non Trading account to trading account.

- 8.1.1 The CDA or issuer shall create a multibulk transfer upload file in the format prescribed by CDSC.
- 8.1.2 The CDA or issuer will upload the bulk transfer file in the CDS.
- 8.1.3 The CDA or issuer shall submit a hard copy list of the uploaded file to CDSC.
- 8.1.4 The CDSC shall verify the correctness of information uploaded in the CDS and ensure that the details match those indicated on the hard copy list submitted to CDSC. If the details tally, CDSC shall approve the bulk transfer in the system.
- 8.1.5 Where the upload is not in conformity with the requirements CDSC shall reject the upload giving reasons for rejection to the CDA or issuer.
- 8.1.6 On approval by CDSC securities will move from the client's account with the current CDA to the client's account with the receiving CDA or;
- 8.1.7 On approval, CDS will move securities from the transferor's account to the transferee's account.

## 9. PRIVATE TRANSACTIONS

This section stipulates the procedures to be complied with by CDAs with respect to:

1. Hereditary transfers of securities already deposited in the CDSC,
2. Transfer of eligible securities between custodians and between custodians and their clients where there is no change in beneficial ownership,
3. Gifts or Donations
5. Other dispositions of eligible securities with prior approval of the Authority (Rule 44)

9.1.1 The Client will hand over duly completed and signed Securities Private transfer Form CDS 7 (Appendix 10) accompanied by relevant supporting documents to his CDA.

9.1.2 The CDA will verify the authenticity of the supporting documents and the instructions and signature of client and will acknowledge receipt of the transfer request by returning to the client relevant copies of the Private transfer Form duly signed, stamped and dated.

9.1.3 Where the transferor's CDA differs from the transferee's CDA, the transferor CDA will return the CDS 7 form together with supporting documents to the client for onward transmission to the transferee CDA.

9.1.4 The transferor's CDA will capture the details of the transfer in the CDS and submit the request.

9.1.5 The transferee will deliver the CDS 7 form together with supporting documents to their CDA

9.1.6 The transferee CDA will review the details of the transfer in the CDS, upload the CDS 7 form together with supporting documents and accept the transfer

9.1.7 CDSC will check whether the information provided in the Private transfer form is in conformity with the provisions of the CMA requirements for private transfers. If they fulfill all laid down requirements, CDSC shall approve the transfer in the system.

9.1.8 On approval the CDS will move securities from the transferor's account to the transferee's account and send notifications to the clients and CDAs involved

9.1.9 CDSC will send all transfers that require CMA approval to the Authority for approval first before approving the transfers in the CDS.

## 10. PLEDGES, RELEASES & FORECLOSURES

This section stipulates the procedures to be complied with by CDAs with respect to:

1. Procedure for appointment of Pledges
2. Pledge of securities already deposited in the CDS,
3. Release of pledge upon termination of the pledge,
4. Foreclosure on securities pledged in the CDS, and
5. Foreclosure on securities pledged with the Issuer.
6. Foreclosure on securities through a CDA other than the pledgee CDA.

### Procedure for appointment of pledgees

#### 10.1 APPOINTMENT OF AN ELIGIBLE FINANCIER (PLEDGEE)

In order to lend against electronic book entry securities, the financier must apply to CDSC to be approved as an eligible pledgee. Pledgors can pledge the desired securities only in favor of an Eligible Pledgee in the CDS. Once pledged, the securities are no longer available for transfer/delivery until the Pledgee releases them from pledge. In short, the control over the pledged securities moves to the Pledgee until the securities are released. Any benefits however, still accrue to the Pledgor.

#### 10.2 ELIGIBILITY CRITERIA

10.2.1 Any Company, Corporation or Institution such as Banks / Financial Institutions / SACCOs/ Self Help Groups that are authorized to provide financing can apply to CDSC to be appointed as an Eligible Financier.

#### 10.2.2 Procedure

The applicant is required to apply to CDSC in writing and provide the following documents:

- a) A letter of introduction by the applicant addressed to the Chief Executive detailing what the company does.
- b) Pledgee Admission Form: The form provides general information about the applicant.
- c) Board Resolution: A Board Resolution nominating signatories on behalf of the company.
- d) Pledgee Agreement: Standard Agreement that states the terms and conditions agreed upon by both parties.
- e) Certified true copy of Memorandum and Articles of Association.
- f) Certified true copy of Certificate of Incorporation.
- g) Certified Copies of ID of the directors
- h) A list of Authorized signatories and their specimen signatures printed on the companies' letter head
- i) Upon receipt of above documents from the applicant, CDSC shall review the application and ascertain whether the applicant meets the requirements.

- j) Upon approval, CDSC shall inform the applicant in writing and sign the pledgee agreement.
- k) The pledgee will be required to follow the procedure outlined in procedure 10 of the Central Depository Operational Procedures (revised 2019) while pledging or releasing securities.

### **10.3 PLEDGE IN THE CDS**

- 10.3.1 The Client will hand over duly completed and signed Securities Pledge Form CDS 5 (Appendix 8) to his CDA.
- 10.3.2 The CDA will verify instructions and signature of client and will acknowledge receipt of the pledge request by returning to the client relevant copies of the Pledge Form duly signed.
- 10.3.3 The Client/Pledgor will hand over the duly signed Securities Pledge Form to the pledgee and negotiate his pledge conditions.
- 10.3.4 The pledgee will forward the completed and duly signed Securities Pledge Form to the CDA.
- 10.3.5 The CDA will verify the client's signature on the CDS 5 form and ensure that the form is duly filled and stamped.
- 10.3.6 The pledgee CDA will capture the details of the pledge and upload the CDS 5 form together with supporting documents in the CDS and submit the request to CDSC for final approval.
- 10.3.7 CDSC will check whether the information provided in the pledge documents are in conformity with the Rules and Procedures.
- 10.3.8 CDSC shall reject incomplete pledge requests, stating reasons for rejection and return the pledge request to the pledgee's CDA.
- 10.3.9 On approval the CDS will pledge the Securities in the pledgor's account in favour of the pledgee.
- 10.3.10 CDSC will confirm to the pledgee and the pledgor's CDA the completion of the pledge by forwarding a confirmation letter, to each duly signed.

### **10.4 RELEASE TO PLEDGOR**

- 10.4.1 The pledgee will submit instructions to his CDA, on the Securities Pledge Release/Foreclosure Form CDS 6 (Appendix 9), clearly stating that the pledge is being terminated for reason of payment or foreclosure or any other reason provided under the Capital Markets Act, the Central Depositories Act and Regulations issued thereunder.
- 10.4.2 The pledgee CDA shall verify signatures and the information provided on the Securities Pledge Release / Foreclosure Form and complete the relevant section in the form.
- 10.4.3 The CDA will capture the details of the release in the CDS as provided in CDS 6 form, upload the CDS 6 form together with supporting documents and submit the request to CDSC for final approval.

10.4.4 Upon receipt of the instructions, CDSC shall verify whether the information captured is in conformity with the details provided on the CDS 6 form and the form has been properly filled and relevant documents attached.

10.4.5 CDSC shall confirm the authenticity of the pledge release with the financier.

10.4.6 Upon receipt of confirmation from the financier CDSC shall approve the request in the CDS.

10.4.7 On approval the CDS will release the pledge and the securities will be eligible for any other transaction.

## **10.5 FORECLOSURE ON SECURITIES PLEDGED WITH THE ISSUER**

This section pertains to foreclosure on securities which have never been deposited in the CDS and which are pledged in the register of the Issuer. Sale of such securities implies deposit of the pledged securities in the CDS in a Securities Account for the purpose of clearing and settlement through the CDSC.

10.5.1 The pledgee CDA will ensure that the pledgee has the proper authority to deposit the securities for subsequent sale.

10.5.2 The pledgee CDA will ensure that the pledgee has the proper authority to deposit the securities for subsequent sale. The pledged securities will be deposited in a Securities Account in the name of the pledgor clearly marked "Foreclosure".

10.5.3 The pledged certificate will be deposited in the CDS in accordance with Procedures 5 accompanied by:

- a) Instructions pertaining to "Foreclosure on securities pledged with the Issuer" on the Securities Pledge Release / Foreclosure Form CDS 6.
- b) Documents evidencing the pledge.

10.5.4 When the Issuer confirms the authenticity of the deposited certificates, CDSC will credit the securities to the client's Securities Account marked "Foreclosure".

10.5.5 Prior to effecting the sale through its CDA, the pledgee will give sufficient notice to the pledgor as required by any applicable law or agreement. CDSC will issue a letter to the pledgor notifying the pledgor that the securities are being released for sale by the pledgee.

10.5.6 The pledgee shall be required to indemnify the CDSC in the event of any wrongful foreclosure by dully completing the CDS 11a form (appendix 11).

## **10.6 FORECLOSURE ON SECURITIES PLEDGED IN THE CDS**

This section pertains to foreclosure by the pledgee on securities, which have been pledged in the CDS.

10.6.1 The pledgee shall submit instructions pertaining to "Foreclosure on securities pledged in the CDS" on the Securities Pledge Release / Foreclosure Form (Appendix 9).

10.6.2 The pledgee CDA shall capture the details provided on the Securities Pledge Release / Foreclosure Form in the CDS after verifying the details and signatories and completing the relevant section in the form.

10.6.3 The CDA shall upload the Securities Pledge Release / Foreclosure Form together with the supporting documents and submit the request in the CDS.

- 10.6.4 Prior to effecting the sale through its CDA, the pledgee will give sufficient notice to the pledgor as required by any applicable law or agreement. CDSC will issue a letter to the pledgor notifying the pledgor that the securities are being released for sale by the pledgee.
- 10.6.5 CDSC shall verify the correctness of the details captured in the CDS against those provided on the Securities Pledge Release / Foreclosure Form and the supporting documents and approve the release.
- 10.6.6 On approval the CDS will release the securities to the Securities and avail them for clearing and settlement purposes.
- 10.6.7 The pledgee shall be required to indemnify the CDSC in the event of any wrongful foreclosure by dully completing the CDS 11b form (appendix 12).

## **10.7 FORE CLOSURE ON SECURITIES THROUGH A CDA OTHER THAN THE PLEDGEE CDA**

This section pertains to foreclosure of securities by the Pledgee through a CDA other than the pledgee CDA in circumstances where the pledgee CDA has been suspended or is under statutory management or the pledgee chooses to use a different CDA

- 10.7.1 The pledgee shall dully complete a CDS 6 form, CDS 4A/4B and a letter to release the securities, signed by the Pledgee in place of the Pledgor.
- 10.7.2 The Statutory Manager or any other signatory authorized to sign on behalf of the CDA, shall sign the form before submission to CDSC.
- 10.7.3 The Pledgee shall fully indemnify CDSC for releasing the securities and subsequently transferring them to another CDA without the Pledgor's consent, by dully completing the CDS 11 b form
- 10.7.4 CDS 4A/4B shall be used to open a CDS account with the new CDA.
- 10.7.3 The Pledgee's CDA shall forward the documents together with a cheque of KES 1200 addressed to CDSC as payment of both the transfer and pledge release to another CDA for subsequent sale.
- 10.7.4 CDSC shall send a foreclosure letter to the client to notify them of the impending release and subsequent sale of the securities by the Pledgee.
- 10.7.5 The Central Depository, through the use of the CDS 4A/4B will transfer the pledged securities.
- 10.7.6 Once the pledged securities have been transferred, the securities will be released for sale.
- 10.7.7 As soon as the securities have been sold and settled, the Pledgee will inform the Central Depository to close the foreclosure account opened with the Pledgee's CDA.

## **10.8 PROCEDURE FOR PLEDGING OF SECURITIES THROUGH THE MOBILE PHONE**

This section provides the procedures to be complied with by Financiers with respect to mobile pledging of securities:

### **10.8.1 PLEDGING OF SECURITIES**

- i) The Financier shall provide the client with a platform that will enable a clients to request for a loan either through a mobile app, a USSD code or an online platform.
- ii) The client shall be required to accept the terms and conditions provided before capturing a request for a loan.
- iii) The client shall submit the loan request using the platform provided by the financier.
- iv) CDSC shall provide the financier with access to CDSC data to enable them to verify the client's holdings.
- v) The financier shall perform credit scoring in line with their set criteria and perform a valuation of the securities held by the client in order to establish the amount that they can lend the client.
- vi) The financier shall prepare a pledge file in the prescribed format and send it to CDSC for uploading in the system to facilitate automated pledging of the securities in the CDS in favour of the financier.
- vii) CDSC will confirm whether the file is in conformity with the requirements and then upload the file in the CDS.
- viii) CDSC shall reject any file that does not conform to the prescribed format or where the securities indicated in the file are unavailable.
- ix) Upon successful upload of the file in the CDS, CDSC shall send a confirmation to the financier informing them that the shares have been pledged in their favour.
- x) The financier will then release the funds to the client or inform them of the outcome in case of a rejection

### **10.8.2 RELEASE OF SHARES UPON TERMINATION OF THE PLEDGE**

- i) Upon clearance of the loan by the client, the financier shall submit a request for pledge release by providing a letter together with a list of the shares to be released.
- ii) CDSC will review the authenticity of the letter and confirm that the request has been submitted by an authorised employee of the financier.
- iii) If the request conforms to the requirements CDSC will release the shares and send a confirmation to the financier.
- iv) Once the release is approved the client's shares will be availed as balance free in the CDS.

- v) Where the request fails to conform to the requirements, CDSC will reject the request indicating the reason for rejection.

### **10.8.3 FORECLOSURE OF SECURITIES**

- i) Where the client defaults in paying back the loan, the pledged securities may be used to clear the loan.
- ii) In this case Procedure 10.5 above shall apply.

## 11. PUBLIC OFFERS

This function describes the procedures to be complied with by Issuers for Securities to be credited directly to clients Securities Accounts in respect of Initial and other Public Offers (IPOs)  
This section was amended in December 2013

- 11.1.1 The Client will, if he already has a securities account in the CDS, indicate the account number thereof in the subscription/ application form. If the client does not already have a CDS account, he will open one and have the account number indicated on the subscription form.
- 11.1.2 Upon completion of IPO, the Issuer will provide CDSC with an Allotment upload file in the format prescribed by CDSC, indicating the respective securities account numbers. The upload file must be submitted to CDSC at least four (4) days before the trade date.
- 11.1.3 At the close of the Business Day before the trade date CDSC will credit client Securities Account with the number of Securities allotted to them as per the Allotment file.
- 11.1.4 CDSC will make available to the Issuer a New Issues file.
- 11.1.5 Issuer will register the Securities as per the New Issues file in the name of CDSC nominees.

## 12. BONUS ISSUES

This function describes the procedures to be complied with by the Issuer for Bonus Securities to be credited directly to clients Securities Account.  
This section was amended in December 2013

- 12.1.1 The Issuer will inform CDSC in writing of any proposed Bonus Issue, the record and the Entitlement Date.
- 12.1.2 Following settlement of all transactions that took place on or before the last cum-date, CDSC will provide the Issuer with an Entitlement Schedule with respect to shareholders registered as at Entitlement Date.
- 12.1.3 The CDSC will provide the Issuer with the Entitlement Schedule at the close of business 4 days after the Entitlement Date. The issuer will generate the entitlement file directly from the CDS.
- 12.1.4 The Issuer will forward letters of allotment to ALL CDS Securities Accounts holders indicated in the Entitlement Schedule notifying them that their Securities Accounts shall be credited with the number of Bonus Securities.
- 12.1.5 The Issuer will submit to CDSC an upload file in the prescribed format for the incremental numbers of securities at least 4 days before commencement of trading. The Issuer will initiate the upload by submitting the file directly in the CDS
- 12.1.6 At the close of Business Day before the trade date, CDSC will credit the clients Securities Accounts with the number of Bonus Securities allotted to them by approving the upload in the CDS.
- 12.1.7 The CDSC will make available to the Issuer a Bonus Schedule
- 12.1.8 The Issuer will register the Securities as per the Bonus Schedule in the name of CDSC Nominees

## 13. RIGHTS ISSUES

This function describes the procedures to be complied with by Issuer and CDAs with respect to Rights Issues and trading of Rights.

This section was amended in December 2013

### 13.1 RIGHTS ENTITLEMENT

13.1.1 The Issuer will inform CDSC of:

- 13.1.1.1 The Rights Issue,
- 13.1.1.2 The Entitlement Date,
- 13.1.1.3 The period during which the Rights will be traded,
- 13.1.1.4 The last date of immobilization or transfer of rights, and
- 13.1.1.5 The opening and closing dates of subscription.

13.1.2 The Securities Exchange shall ensure that the last cum-date will be the Entitlement Date (Record Date).

13.1.3 Following settlement of all transactions that took place on or before the last cum-date, CDSC will provide the Issuer with an Entitlement Schedule with respect to shareholders registered as at the Entitlement Date.

13.1.4 CDSC will provide the Entitlement Schedule on the 4<sup>th</sup> day after the Entitlement Date.

13.1.5 The Issuer will forward Provisional Letters of Allotment (PAL) to Securities Account holders indicated in the Entitlement schedule.

13.1.6 The Issuer/ will submit to CDSC a Rights Allotment Schedule (upload file) in the prescribed format after Rights Issue processing at least for days before commencement of trading in rights.

13.1.7 If the Rights Allotment Schedule contains errors, CDSC will return the Allotment Schedule to the Issuer for rectification.

13.1.8 On the Business Day before the trade date of Rights, CDSC will credit the Securities Accounts (including the accounts held under the Issuer) with the number of Rights as per the Rights Allotment Schedule.

13.1.9 CDSC will make available to CDAs and Issuer a Schedule of Rights Allotted

### 13.2 TRADING OF RIGHTS

13.2.1 Rights holders not in the CDSC, but wishing to trade their Rights will have to open a Securities Account and deposit their Provisional Allotment Letters in accordance with Procedure 5.

13.2.2 Rights will be traded and settled in accordance with Procedures 6 and 7 respectively.

13.2.3 Subscription of rights bought on the trading floor will be effected in accordance with these Procedures.

13.2.4 Following settlement of transactions effected on the trading floor on the last trade date, CDSC will provide a Trade Schedule (share movement report) to the Issuer for the trading period of the rights.

### **13.3 SUBSCRIPTION OF RIGHTS**

- 13.3.1 Rights holders, including Securities Accounts holders, who accept all or part of the shares offered will submit the relevant subscription forms together with the remittances to the Issuer.
- 13.3.2 Securities Account holders who have bought Rights on the Securities Exchange will submit the relevant subscription forms and their remittances to the Issuer through their CDAs.
- 13.3.3 Transfer of rights for subscription by the transferee will be dealt with by the Issuer. Such requests will be submitted directly to the Issuer together with the remittances and the relevant approval.
- 13.3.4 Upon receipt of subscription forms from the rights holders, the Issuer shall ascertain from the Trade Schedule to be provided by CDSC that the subscriber has not already disposed of his/her rights.

### **13.4 TRANSFER OF RIGHTS BETWEEN DEPOSITOR'S ACCOUNTS**

- 13.4.1 In case of transfer of rights, between securities accounts of the same Depositor, procedure 8 shall apply.

### **13.5 APPLICATION FOR EXCESS SHARES**

- 13.5.1 Application for excess shares will be submitted directly to the Issuer for processing.

### **13.6 ALLOTMENT OF SHARES**

- 13.6.1 The Issuer will forward to the CDSC an Allotment file in the prescribed format that will contain the list of Securities Account holders who have been allotted shares after exercising their rights as well as those who have been allotted excess shares.
- 13.6.2 If the Allotment file contains errors, CDSC will return it to the Issuer for rectification.
- 13.6.3 At the close of business day before trade date, CDSC will credit the clients Securities Accounts with the number of Securities as per the Allotment file.
- 13.6.4 CDSC will make available to the Issuer a Schedule of Securities Allotted.
- 13.6.5 The Issuer will register the Securities as per the Rights Schedule in the name of CDSC Nominees.

## 14. DIVIDENDS/CORPORATE ACTIONS

This function describes procedures to be complied with by Registries in respect of dividends payment and Corporate Actions.

This section was amended in December 2013

- 14.1.1 The Issuer will inform CDSC in writing of the Entitlement Date, the last cum-date and the effective date, in respect of dividend payment and corporate actions.
- 14.1.2 The Securities Exchange shall ensure that the last cum-date will be the Entitlement Date (Record Date).
- 14.1.3 Following settlement of all transactions that took place on or before the last cum-date, CDSC will provide the Issuer/ with an Entitlement Schedule with respect to shareholders registered as at the Entitlement Date.
- 14.1.4 CDSC will provide the Entitlement Schedule 4 days after the Entitlement Date.
- 14.1.5 The Issuer will effect payment of dividends to its shareholders and handle other Corporate Actions.

## 15. SUBDIVISION (SPLIT) OF SHARES

This function describes the procedures to be complied with by Issuers for subdivision of shares, whereupon the shares will be posted directly to clients Securities Account.

- 15.1.1 The Issuer and Securities Exchange will inform CDSC in writing of the Subdivision of Shares, the Record Date and the effective date.
- 15.1.2 The Securities Exchange will suspend trading on the shares due for subdivision between the Ex Date and the next Business Day following the Record Date.
- 15.1.3 CDSC will not accept deposit of certificates of this security between the Ex Date and the next Business Day following the effective Date.
- 15.1.4 Following settlement of all transactions that took place on or before the last cum-date, CDSC will provide the Issuer with an Entitlement Schedule with respect to shareholders registered as at Record Date.
- 15.1.5 The issuer will perform the subdivision of the shares and submit to CDSC a test upload file of the allotment for testing at least seven (7) days before the upload date.
- 15.1.6 If the allotment file cannot be processed, CDSC will provide the reason for failure and return it to the Issuer for rectification.
- 15.1.7 Upon confirmation by CDSC of the test file, the Issuer will submit an Allotment upload file for the crediting of Securities Accounts with the additional shares at least a day before the effective date.
- 15.1.8 In the event of a reverse split where the resulting shares will be less than the initial shares CDSC will expire the original security and credit the clients Securities Accounts with the subdivided shares as per the Allotment file provided by the issuer.
- 15.1.9 Following the crediting of accounts, CDSC will provide the Issuer with a list of the shareholders with their respective shareholdings.

## **16. STATEMENTS OF SECURITIES ACCOUNTS**

This function describes the procedures to be complied with regarding submission of statements to Securities Account holders.

16.1.1 CDSC shall make available statements of accounts to holders of active Securities Accounts on a monthly basis

16.1.2 Inactive Securities Accounts shall be declared dormant and no statement will be provided.

16.1.3 CDSC will provide interim statements to a depositor upon request and upon payment of the prescribed fee.

16.1.4 Statements of accounts will be made available, issued or delivered using such means as shall be suitable from time to time to ensure each account holder gets their statement

## 17. FEES AND SURCHARGES

### 17.1 INVESTORS

Type of Fees	CDSC Fees (%)
Transaction Levy	0.08% of the value of each transaction
Change of CDA, transfer of securities between different accounts of the same Depositor.	Kshs. 200 per change
In respect of statements issued upon request from the account holder	Kshs. 50 per page
In respect of withdrawal of securities or register correction	Kshs. 500 per certificate/entry
Fee for recording, releasing, confirming or foreclosing of pledges	Kshs.1, 000 per pledge

### 17.2 CENTRAL DEPOSITORY AGENTS

▪ Appointment Fee for CDAs who are members of a Securities Exchange	Kshs. 20,000
▪ Appointment fee for CDAs who are not members of a Securities Exchange	Kshs. 75,000
▪ Annual Subscription Fee for CDAs	Kshs. 2,500
<b>SURCHARGE</b> ▪ In respect of client re-allocation or acceptance after T+2	2 % of the value of transaction with a minimum of Kshs <u>3,000</u> and a maximum of Kshs <u>10,000.</u> per day

### 17.3 PRIVATE TRANSFER FEES

APPLICATION TYPE	TRANSFER VALUE	RATE	CDSC	BROKER
Settlement of an estate of a deceased person	<Kes.10,000	No fee	Nil	Nil
	>Kes.10,000	Kes.1,500/-	45%	55%
Transfer by gift*	<Kes.10,000	No fee	Nil	Nil
	<Kes.100,000	2.1% of the value of transaction	45%	55%
	>Kes.100,000	Negotiable subject to a maximum of 1.5% of the value.	45%	55%

		The transfer fee to be submitted to CDSC for private transfer where the rate is negotiable shall not go below 0.16%		
Transfers with no change in beneficial ownership otherwise than for purposes of regulation 57(c), (d) of the Capital Markets (Licensing Requirements) (General Regulations 2002 or section 31(1A)(ii) of the Capital Markets Act	>Kes.10,000	Kes.1,500	45%	55%
Transfer, arising out of the re-organisation of the share capital of a listed company, that does not result in a change of beneficial interest in such share capital (transfers under regulation 57 (c ))			0.08% (percentage of the market value of the shares)	NIL
Any other transfer that results in a change of beneficial interest in the share capital of a listed company, including any transfer under a take-over scheme, merger or acquisition, approved by the Authority (transfers under regulation 57 (c ) and (d))			0.16% (percentage of the market value of the shares)	NIL

17.3.1 The reference price for determining the value of consideration for Gift transfers of immobilized securities shall be the previous day's closing price obtained from the Securities Exchange.

17.3.2 All CDAs shall charge the fees stated under procedure 17 and approved by CDSC; failure to which CDSC may impose penalties in accordance to 17.5.5.

#### **17.4 LISTED COMPANIES**

17.4.1 A fee of Kshs 90/= per transaction payable quarterly in arrears commencing on 1<sup>st</sup> April 2005, with a maximum of Kshs 1,000,000/= and a minimum of Kshs 50,000/= per annum

17.4.2 A fee of Kshs 17/= per every shareholder for every Entitlement File, payable in advance commencing on 1<sup>st</sup> April 2022

#### **17.5 PENALTIES AND SURCHARGES**

17.5.1 Where a trade remains unallocated after T+2 5.00 p.m. a fine of 0.14 % of the value of the transaction shall be charged on the defaulting CDA, subject to a minimum of Kshs. 3, 000 and a maximum of Kshs. 10, 000 until buy-in is initiated.

17.5.2 Once buy-in is initiated, a daily penalty of 2% of the value of the unallocated trade shall be levied on the defaulting stockbroker from T+3 until the buy-in process is concluded.

17.5.3 The defaulting Stockbroker will be required to make a cash deposit of 25% of the value of the unallocated trade to CDSC by T+3 12.00noon once a trade is committed to buy-in. If the buy-in is successful, then CDSC will return the cash deposit to the defaulting Stockbroker.

17.5.4 If buy-in is unsuccessful, CDSC will give 15% of the cash deposit paid as per 17.5.3 to the buyer in the failed transaction as compensation and the remaining 10% will be retained by the CDSC as processing fee.

17.5.5 CDSC may levy other pecuniary penalties on CDAs or Issuers for failure to comply with the provisions of the Act and the Rules, Regulations, Guidelines and Circulars issued thereunder.

## **17.6 PAYMENTS**

17.6.1 CDSC will forward a CDSC Fees and Surcharge Statement to CDAs at the end of each week.

17.6.2 All payments will have to be effected to CDSC by CDA before the expiry of 14 days following receipt of statement.

17.6.3 The mode of payment will be by cheque or direct debit to the CDSC bank account.

17.6.4 Any amount due but unpaid will attract interest at the rate of 2% above the rate charged by the Settlement Bank to CDSC on its facilities.

17.6.5 Notwithstanding clauses 19.1 above, all transaction levies and Guarantee fund levies shall be paid together with the daily settlement obligation of each CDA.

## 18. REDEMPTION OF SECURITIES

This function describes the procedures to be complied with by Issuers and CDAs for full redemption of securities, whereupon the redeemed securities will no longer be available in the Securities accounts of clients.

- 18.1.1 The Issuer and the Securities Exchange shall inform CDSC in writing of
  - 18.1.1.1 The redemption
  - 18.1.1.2 The redemption date, and
  - 18.1.1.3 The last trade date which will be fixed at 7 business days prior to the redemption date.
- 18.1.2 CDSC will inform CDAs and the Issuer of the
  - 18.1.2.1 Last date for acceptance of deposits of securities being redeemed, which will be set at 5 business days prior to the last trade date.
  - 18.1.2.2 The last date for any other transactions in the securities, which will be set at 2 business days prior to redemption date.
- 18.1.3 CDSC will verify whether any of the securities being redeemed are pledged.
- 18.1.4 To enable redemption of the pledged securities, CDSC will request pledgee CDA to submit pledge release instruction of the pledgee in accordance with Rule 100.
- 18.1.5 If the pledgee instructs CDSC to release the pledge in favour of the pledgor, CDSC will unfreeze the securities in the pledgor's Securities Account and procedure 10.2 shall apply.
- 18.1.6 If the pledgor instructs CDSC to release the pledge in its favour, then the pledgee CDA must submit the pledgor's confirmation of such instruction. CDSC will then transfer the securities to the pledgee's Securities Account.
- 18.1.7 Any instructions submitted by the pledgor and pledgee must be duly authenticated by their respective CDAs.
- 18.1.8 Following settlement of transactions effected on the last trade date, CDSC will debit clients Securities Accounts and will provide the Issuer with two Entitlement Schedules for the following purposes:
  - 18.1.8.1 Entitlement Schedule to be used for the payment of interests. All pledged Securities will be in the name of the pledgor in this list
  - 18.1.8.2 Entitlement Schedule to be used for redemption. This list will contain the list of securities holders after release of pledge. Securities released from pledge may appear in the name of the pledgor or pledgee depending upon the pledge release instructions received. (Procedure 18.1.5 and 18.1.6 above)
- 18.1.9 CDSC shall ensure that entitlements (dividends, interests, bonus shares, rights and so on) on securities pledged as collateral are transmitted to the depositor as the "owner" of the securities as long as the said securities have not been duly seized by the lender.
- 18.1.10 Where neither the pledgor nor the pledgee submits release instructions, CDSC shall release the pledge and submit the file to the Issuer together with the Entitlement Report. The issuer shall be required to submit the pledge release fee to CDSC and recover the same from the client before effecting payment.

## **19. DE-LISTING OF IMMOBILISED SECURITIES**

- 19.1.1 The Issuer will inform the Securities Exchange which will in turn inform the CDSC in writing of the proposed date of delisting.
- 19.1.2 The CDSC will write to the Issuer within 7 days of the notice of delisting asking for instructions on dealing with the securities accounts.
- 19.1.3 CDSC will submit to the issuer a list of holders showing the details of the holders and the quantities held.
- 19.1.4 Any securities that are held on lien shall be provided on a separate list indicating the pledges for each.
- 19.1.5 If on the 30th day, no instructions are received to transfer the delisted securities to individual holders, CDSC will infer that the issuer intends to have the securities to continue being so held in the CDS.
- 19.1.6 An Issuer of delisted securities held in the CDS will be charged a depository fee in accordance with the Fees and Surcharges Structure
- 19.1.7 An issuer may request CDSC to transfer securities from individuals who have agreed to sell securities to the issuer in case of a delisting. The following procedures will apply;
- 19.1.7.1 The issuers will write to CDSC requesting for transfer of securities from individual holders to the issuer's account. The issuer must indemnify CDSC from any claims that may arise as a result of the transfer.
- 19.1.7.2 The issuer will attach a list the details of all the accounts to be transfer and the quantities for each account to the request.
- 19.1.7.3 CDSC will transfer the securities as per the schedule provided.
- 19.1.7.4 A transfer fee shall apply.
- 19.1.8 Any lien placed on securities must be lifted before securities are transferred. Procedure 10.3 and 10.4 shall apply.

## **20. MISCELLANEOUS**

### **20.1 COMPLAINTS PROCEDURE**

20.1.1 Complaints regarding CDAs or transactions on a CDSC account shall be forwarded to the CDSC in the Complaints Form.

20.1.2 Complaints that cannot be resolved by management shall be heard by the Business Conduct Committee at the earliest opportunity.

20.1.3 Upon hearing both parties, the Business Conduct Committee shall issue directions on what should be done.

### **20.2 RETENTION PERIOD**

The retention period in respect of Service records by CDAs will be 7 years.

### **20.3 NOTICE**

Any Notice to CDSC shall be addressed to: -

Central Depository & Settlement Corporation Ltd.  
10th Floor, Europa Towers  
Lantana Road, Westlands  
NAIROBI  
Tel: (020) 253078  
Fax: (020) 253077

### **20.4 FORMS**

20.4.1 The forms set out in Appendices 1,2,3,7,8,9,10,11 and 12 to the Procedures shall be prescribed Forms to be used for the purposes stated in the Forms.

## **21. LIST OF APPENDICES**

### **21.1 Appendix**

1. Securities Account Opening/Maintenance Form (CDS 1)
2. Securities Account Reactivation Form (CDS 1A)
3. Securities Deposit Form (CDS 2)
4. Initial Settlement Report (Broker & Custodian) - (to be generated from the system)
5. Final Settlement Schedule- (to be generated from the system)
6. Settlement Instruction - (to be generated from the system)
7. Securities Transfer Form (CDS 4A/B)
8. Securities Pledge (CDS 5)
9. Securities Pledge Release/Foreclosure Form (CDS 6)
10. Private Transfer form (CDS 7)
11. Indemnity form for foreclosure of securities held under the issuer (11a)
12. Indemnity form for foreclosure of securities held in the CDS (11b)
13. Entitlement Schedule (ENTITLEMENT) - (to be generated from the system)
14. Statement of Securities Accounts (Generated from the system)
15. Fees and Surcharge Statement (to be generated from the system)
16. Withdrawal Schedule- (to be generated from the system)