

## **NOTIFICATION**

**This has been superseded by Notification No. CCIL/FXS-CLS/15/69 dated 02-Dec-2015 on Changes to the CLS Segment Regulations**

**Date: July 2, 2014**

**Notification No.: CCIL/FX-CLS/14/24**

**All Members  
CLS Segment**

Dear Sir/Madam,

### **Re: Changes to the CLS Segment Regulations**

Members are hereby advised that the CLS Regulations have been modified to include:

- i. Process for transfer of USD funds due to a member in the USD-INR segment towards its payable in the CLS segment as point no (c) as per Notification no: CCIL/FX-CLS/07/13 dated May 7, 2007
- ii. Prefunding process in the CLS Segment as per Notification no: No CCIL/FX-CLS/08/20 dated June 25, 2008
- iii. Chapter XII Dispute Resolution/Arbitration replaced with new clauses drafted on the lines of the RBI Circular dated 24th September, 2010
- iv. Annexure 1 pertaining to Digipass token has been updated as per current business process and;
- v. Minor changes to certain clauses of the said Regulations.

We append the changes to the Regulations of the CLS Segment as **Annexure**. The updated Regulations are available on our website ([www.ccilindia.com](http://www.ccilindia.com)) under Membership section.

We advise that the changes to the CLS Segment Regulations shall come into effect from **August 2, 2014**.

Yours faithfully,  
**for The Clearing Corporation of India Ltd.,**

sd/-  
**Managing Director**

**Annexure to Notification No.CCIL/FX-CLS/14/24**

**THE CLEARING CORPORATION OF INDIA  
LIMITED**

**CHANGES TO REGULATIONS  
(CLS SEGMENT)**

## CHAPTER I: BACKGROUND FOR CLS REGULATIONS

Continuous Linked Settlement (“CLS”), which went live on 9<sup>th</sup> September 2002, is a key development in the banking industry in recent years. CLS essentially is a global settlement system that allows a significant portion of the foreign exchange transactions across the world allows a significant portion of the world’s foreign exchange transactions to be settled on a payment vs payment basis, thereby eliminating settlement risk. CLS settlement is not a guaranteed settlement and it only ensures that the settlement happens on a Payment versus payment (“PVP”) basis.

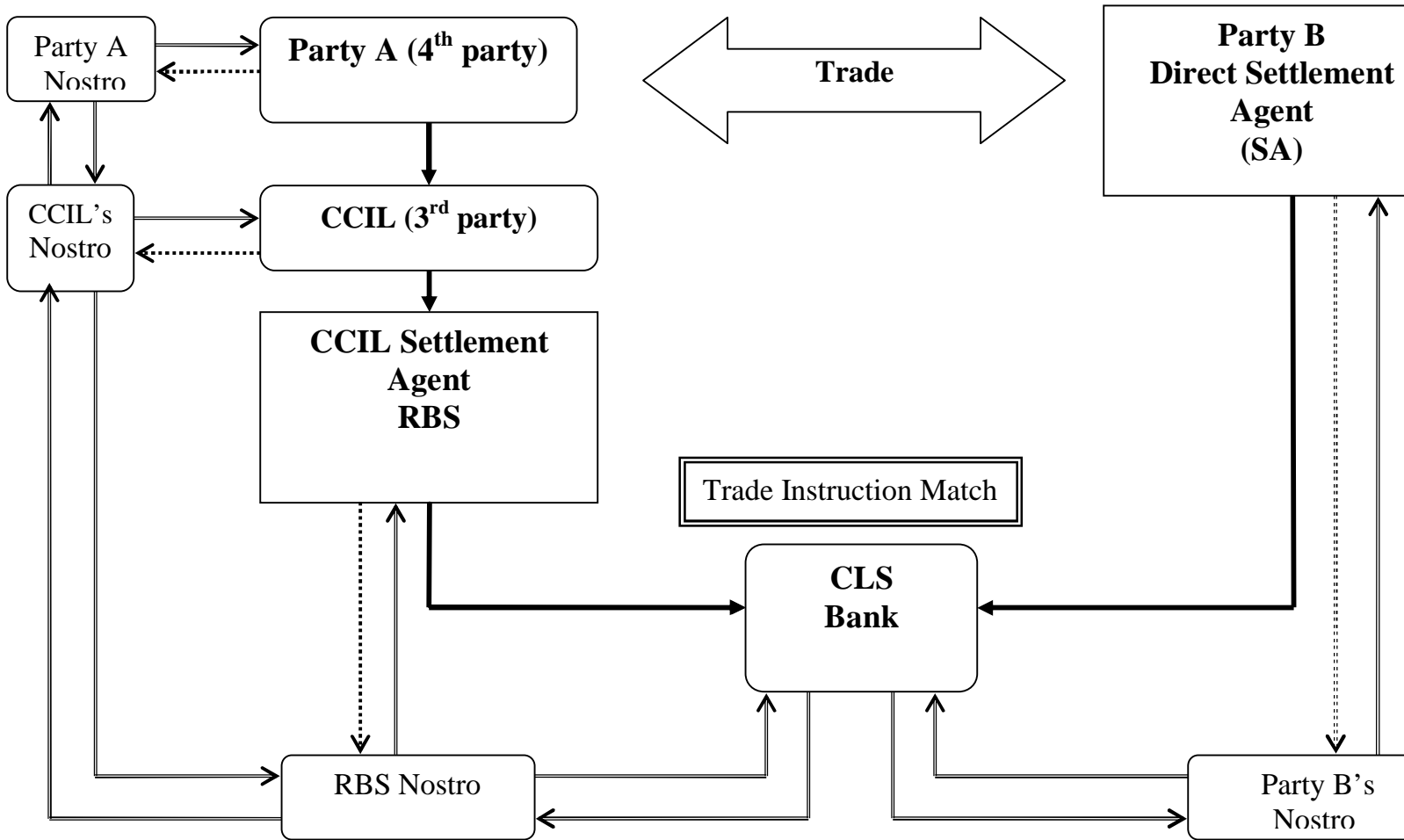
The CLS Bank works on a tiered membership, with ~~about 51~~ major international banks operating as direct “Settlement Members” of CLS. These Settlement Members can settle both their own deals as well as deals offered by their constituents (collectively “third parties”). These third party arrangements are between Settlement Members and their customers. The CLS Bank does not become directly involved in these arrangements.

The Bank currently undertakes to settle transactions in 175 CLS eligible currencies, which are Australian Dollar, Canadian Dollar, Danish Krone, Euro, Hongkong Dollar, Japanese Yen, Korean Won, New Zealand Dollar, Singapore Dollar, Swedish Krona, South African Rand, Swiss Franc, UK Pound Sterling, Norwegian Krone and US Dollar. Israeli Shekel and Mexican Peso. New currencies may be added and notified by CLS Bank

Clearing Corporation of India (“CCIL”) facilitates settlement of inter bank Cross Currency Deals through CLS Bank by availing the third party services of a Settlement Member. ~~ABN AMRO Bank,~~ Royal Bank of Scotland, which is a Settlement Member of CLS ~~currently provides such CLS third party services to CCIL.~~ CCIL has the right to change the Settlement Member at its own discretion subject to such contractual terms that CCIL may have agreed with the Settlement Member, after due notification to its members.

CCIL aggregates trades reported by all member banks. ~~The higher volumes enable CCIL to drive for better pricing and improved limit management,~~ enabling members to collectively enjoy the benefits of cross currency settlement through CLS Bank and to avail the benefits arising out of advanced product capabilities, economies of scale due to volume aggregation and simplified ~~uniform~~ processing ~~using existing formats and minimizing changes.~~

# CLS PROCESS FLOW



- .....> **Net Payment Message**
- > **Trade Flow**
- ====> **Fund Flow**

## **CHAPTER I: INTRODUCTION**

(1) These Regulations may be called The Clearing Corporation of India Ltd., Continuous Linked Settlement Segment Regulations, 2009, (As amended in June 2014).

## **CHAPTER II: DEFINITIONS**

In these regulations the definitions contained hereunder shall prevail in the event of any conflict between the definitions contained herein and the definitions in the CCIL Bye Laws, and unless, the context otherwise requires:-

(a) **“Acceptance for settlement”** and its cognate and agnate expressions shall mean the acceptance of a Member’s request by the CLS Bank to process a transaction and to assume responsibility for settlement of the same in accordance with CLS Bank Rules;

(b) **“Amend Instruction”** means an instruction submitted directly by Clearing Corporation on behalf of the Member or directly by the Member to the Settlement Member to cancel and replace a previously submitted Instruction;

(c) **“Approved Payment System”** means a payment system for effecting payments in and out of CLS Bank's account with a central bank;

(d) **“Approved Payment System Closing Time”** means, in respect of an Eligible Currency, the time at which the Approved Payment System for that Eligible Currency is regularly scheduled to cease operations on a Banking Day;

(e) **“Bank Guarantee”** is a contract in which the bank issues a guarantee on behalf of its clients in favor of Clearing Corporation committing itself to pay the sum mentioned therein if the client requesting such issue of bank guarantee does not perform or if any other form of default occurs;

(f) **“Bank Regulatory Filter ”** means the regulatory filter operated by CLS Services, as agent for CLS Bank, which electronically scans Instructions to identify Instructions which might be prohibited from Settlement or require blocking or notification to relevant

authorities by economic sanctions legislation, regulations or executive orders in the United States;

(g)“**Base Currency**” means the U.S. dollar, or such other Eligible Currency as Clearing Corporation may designate as the Base Currency; ~~from time to time~~;

(h)“**BEI Code**” means, in respect of an entity, a “Business Entity Identifier”, identified with such entity in the most recent BIC Directory issued by S.W.I.F.T.;

(i)“**BIC** ” means, in respect of an entity, a Bank Identifier Code identified with such entity in the most recent BIC Directory issued by S.W.I.F.T.;

(j)“**Business Day**” means, for an Eligible Currency, a calendar date on which the applicable Approved Payment System in respect of such Eligible Currency is regularly scheduled to be operational;

(k)“**CLS Bank**” means CLS Bank International, an Edge corporation organized under the laws of the United States of America;

(l)“**CLS Bank Documents** ” means the Rules in the Member Handbook between the Settlement Member, CLS Bank and CLS Services Ltd.;

(m)“**CLS Bank Rules**” means the Rules of the CLS System;

(n)“**CLS Operational Day**” : means a day during which settlement takes place from 7.00 to 12.00 CET.;

(o)“**CLS Server**” refers to the fully integrated delivery channel and interface with the Settlement Member used to transmit trade instructions to the Settlement Member and to request, receive and process real time information on the processing of such trade instructions;

(p)“**CLS Services Ltd** ” means CLS Services Ltd, a private limited company incorporated under the laws of England and Wales or any other entity fulfilling the same or a similar role to CLS Services Ltd in relation to CLS Bank;

~~CLS System” means the computer hardware and software system used by CLS Services, on behalf of CLS Bank or the Settlement Members, as the case may be, to deliver the services described in the CLS Bank Documents;~~

(q) "**CLS System**" means all functions performed by CLS Bank in respect of any transactions, in accordance with the CLS Bank Documents;

(r) "**Collateral**" means such collateral as may be specified from time to time by the Clearing Corporation;

(s) "**Confidential information**" means any information that Clearing Corporation obtains about the member in connection with providing the Digipass security services to the member (including any information about any account) other than information which is publicly available;

(t) "**Custodian**" means a bank, financial institution or other entity that has the responsibility to manage or administer the custody or other safekeeping of assets for other persons or institutions;

(u) "**Cut-off Time**" means the deadline for the various operations referred to in these Regulations, notified by Clearing Corporation; from time to time.

(v) "**Digipass security services**" means the services ~~as further described in the user manual~~ which will enable the member to place member's electronic signature upon member's instructions;

(w) "**Digipass token**" means the ten key package hardware which creates an electronic signature enabling Clearing Corporation to verify member's identity or the identity of member's authorised representative;

(x) "**Direct Debit Mandate Agreement**" means the agreement between Clearing Corporation and the Member for issue of direct debit instruction to the Correspondent Bank of the Member to debit Member Bank account, for fulfilling settlement obligations of the member in the CLS Eligible Currencies;

(y) **“Electronic Signature”** means data in electronic form which is attached to or logically associated with an instruction or other electronic data and which serves to authenticate such instruction or data;

(z) **“Eligible CLS Currency”** means a currency designated in respect of which CLS Bank will offer Settlement services;

(aa) **“Eligible Government Securities”** means securities created, issued and guaranteed by the sovereign authority of a country, denominated in INR or any eligible CLS currency;

(bb) **“Forex Trades”** refers to all kinds of foreign exchange Trades for the buying and selling of one currency against another currency, and includes trades in CLS eligible currencies;

~~“Forex Trades” refers to all kinds of foreign exchange Trades for the buying and selling of one currency against another currency, and includes trades in CLS eligible currencies~~

(cc) **“Foreign Exchange Swaps”**: An agreement to exchange stipulated amounts of one currency for another currency at one or more future dates;

(dd) **“Haircut”** with respect to ~~of~~ an Eligible Currency means , the percentage increase of a short position or reduction of a long position and is based on the volatility of the historic foreign exchange movements in the applicable Eligible Currency, as determined by Clearing Corporation; from time to time;

(ee) **“Insolvency Event”** means, in relation to a person, the occurrence of one or more of the following in respect of that person:

(a) it is, or is deemed for the purposes of any law to be, unable to pay its debts as they fall due or to be insolvent, or admits its inability to pay its debts as they fall due; or

(b) it suspends making payments on all or any class of its debts or announces an intention to do so, or a moratorium is declared in respect of any of its indebtedness; or



(c) it, by reason of financial difficulties, begins negotiations with one or more of its creditors with a view to the readjustment or rescheduling of any of its indebtedness;

or

(d) any step (including petition, proposal or convening a meeting) is taken with a view to a composition, assignment or arrangement with any of its creditors; or

(e) a meeting of that person is convened for the purpose of considering any resolution for (or to petition for) its winding-up or for its administration or any such resolution is passed; or

(f) any person presents a petition for its winding-up or for its administration; or (g) an order for its winding-up or administration is made; or

(h) any other step (including petition, proposal or convening a meeting) is taken with a view to its rehabilitation, administration, custodianship, liquidation, winding-up or dissolution or any other insolvency proceedings involving it; or

(i) there occurs, in relation to it, any event anywhere which appears to correspond with any of those mentioned in paragraphs (a) to (h) above (inclusive),

**(ff)"Instruction"** means an instruction submitted by Clearing Corporation on behalf of the Member or directly by Member to the Settlement Member, directing the Settlement Member to submit a corresponding Instruction to CLS Bank. Clearing Corporation of India / Member may also submit Instructions, Amend Instructions and/or Rescind Instructions to the Settlement Member in respect of Transactions entered into by that Member;

**(gg)"Long Position"** means, in respect of a net position in an eligible currency that is greater than zero, the amount by which such net position is greater than zero.

**(hh)"MT204"** means the message that is sent by an exchange or clearing house, or another financial institution to a SWIFT member or sub member, to instruct the receiver of the message to debit the account(s) of a third party specified in the message and to pay or credit the corresponding amount in favor of the Sender of the message;

(ii)“**MT300**” means the message exchanged by or on behalf of the institutions or corporates, party A and party B, which have agreed to a foreign exchange contract either to:

Confirm the details of a new contract between the parties; or

Confirm an exercised foreign currency option; or

Confirm the details of an amendment to a previously sent confirmation or

Cancel a previously sent confirmation;

(jj)“**MT396**” means the message sent by one financial institution to another financial institution to respond to an MT 395 Queries or MT 392 Request for Cancellation and other messages where no specific message type has been provided for the response;

(kk)“**Matched Instructions**” means two Instructions in which the information set forth in Rule Book (ll) below is matched in accordance with the parameters specified;

(ll) “**Matching Instructions**” Means CLS Services, as agent for the Submitting Members (and, if applicable, any relevant Designated Settlement Member), shall match a pair of Instructions on the basis of the following information in each Instruction:

- the Identification Codes of the Submitting Members of the Instructions referencing the same Transaction;
- the Value Date;
- the amounts and identities (within the permitted tolerances specified in the Member Handbook) of buy and sell Eligible Currencies; and
- Identification Codes of the Transaction Counterparties.

Each pair of Instructions which match such criteria will be designated Matched Instructions.

An Instruction that has not been matched or becomes unmatched, or is not designated as a Settlement Eligible Instruction or is no longer designated as such, will remain in the CLS System for processing until the applicable Currency Close Deadline on Value Date for at least one Eligible Currency specified in the Instruction, at which time such Instruction will be rejected by the CLS System.

(mm)“**Member Handbook**” means the Member Handbook of CLS Bank;

(nn)“**Pay-In**” means a payment made by Member in accordance with the “final pay-in schedule”;

(oo)“**Pay-In Schedule**” means a schedule delivered by Clearing Corporation/ Settlement Member indicating the currency amounts that Member must Pay-In on or before specified times on a given Settlement Day. A Pay- In Schedule may also include other information relevant to a Member, and shall include estimated pay-Outs to be made to a Member on such Settlement Day in each Eligible Currency assuming Settlement of all its Settlement Eligible Instructions with a Value Date equal to such Settlement Day;

(pp)“**Pay-Out**” means a payment made by Clearing Corporation to Member in accordance with the “pay-in schedule”.

(qq)“**PIN code**” means in relation to the Digipass security services, a four digit numeric code;

(rr)“**Rejection**” means a process through which Clearing Corporation would convey the inability of itself and / or Settlement Member and / or the CLS Bank to accede to a Member’s request for processing a Trade.

(ss)“**Rescind Instruction**” means an instruction submitted by Clearing Corporation on behalf of the Member or directly by the Member to the Settlement Member to cancel a previously submitted Instruction.

(tt)“**Security details**” means Digipass token(s), PIN code or other information established between Clearing Corporation which enables Clearing Corporation to verify member’s identity or the identity of member’s authorised representative;

(uu)“**Settlement Account**” means an account maintained with the financial institution that acts as agent for Clearing Corporation to facilitate payments from or to Settlement Member’s / Member’s Account in an Eligible Currency;

(vv)“**Settlement Day**” means, for an Eligible Currency, a calendar date on which the applicable Approved Payment System in respect of such Eligible Currency is regularly scheduled to be operational;

(ww)“**Settlement Disruption Event**” means any event which in the good faith or judgment of either the Settlement Member Bank or CLS Bank makes it impossible, impracticable or inadvisable to proceed with the settlement of Instructions, as the case may be, including an event of force majeure;

~~(xx)“**Settlement Eligible Instructions**” means Matched Instructions which are designated as eligible for Settlement~~

(xx)“**Settlement Eligible Instructions**” means Matched Instructions which are designated as eligible for Settlement under the CLS Bank Rules

(yy)“**Settlement Member**” means an entity that has been approved as a Settlement Member of CLS Bank to be appointed by Clearing Corporation for providing CLS Third Party service;

(zz)“**Settlement Member Validation Process**” means the validation process as agreed between the Settlement Member and Clearing Corporation and any other validation process of the Settlement Member's agents;

(aaa)“**Short Position**” means, in respect of a net position in an eligible currency that is less than zero, the amount by which such net position is less than zero;

(bbb)“**Software**” means any computer programs provided by Clearing Corporation to the member in order to use the ID-Key security services;

(ccc)“**Submission Process**” means the process by which a Member /Clearing Corporation of India may submit Instructions, Amend Instructions and Rescind Instructions and other data to Clearing Corporation /Settlement Member in the mode prescribe;

(ddd)“**Transaction**” means a single foreign exchange tom, spot or forward transaction, a single leg of a foreign exchange swap transaction, a single exercised foreign exchange option

and any similar single foreign exchange transaction or any other type of foreign exchange transaction; provided that a Transaction may not be the result of an agreement to novate or other agreement to combine the legal obligations associated with two or more Transactions into a single Transaction;

~~“User manual” means the Digipass security services user manual as may be amended from time to time which Clearing Corporation shall make available to the member whether electronically or by post and which contains information, procedures and requirements about the Digipass security services (as applicable);~~

(eee)“Value Date” means the date specified in an Instruction as the date on which such Instruction is scheduled for Settlement by CLS Bank;

(fff)“Web Interface Service” means the front – end interface provided by the Settlement Member through Clearing Corporation containing the information set out in the Regulations.

(ggg)“Working day” means the same as Business day;

## **CHAPTER III : MEMBERSHIP**

### **A. APPLICATION FOR MEMBERSHIP**

1. Every entity desirous of seeking membership of CLS segment of Clearing Corporation shall submit an application in the prescribed format to Clearing Corporation complete in all respects together with all requisite enclosures as required to be submitted in terms of the Application Form;
2. The application shall clearly specify that the applicant desires to seek Membership to the CLS Segment of Clearing Corporation;
3. The application form shall be submitted along with the requisite fees if any, ~~(as notified by Clearing Corporation from time to time)~~ as provided for Membership into the CLS Segment.

### **B. PROCESSING OF APPLICATIONS**

1. Every such application received in terms of Regulation (A) above shall be

submitted to the Approving Authority for consideration;

2. Clarifications and/or additional information sought by the Approving Authority shall be conveyed to the applicant. Such applications shall be processed further only upon receipt of complete particulars called for by the Approving Authority;
3. Mere submission of completed application forms and/or additional information sought by the Approving Authority does not by itself constitute any privilege for any applicant to claim grant of Membership to Clearing Corporation;
4. Upon receipt of approval of the Approving Authority, Clearing Corporation shall communicate such approval to the applicant with a request to complete the other formalities outlined in these Regulations
5. Every applicant upon receipt of approval for membership shall execute required documentation, in such form and manner as may be prescribed by Clearing Corporation from time to time. Such execution shall be required to be carried out by duly authorized signatory (ies) after obtaining the necessary statutory and internal approvals and authorizations for the purpose. A certified copy of such statutory and internal approvals and authorisations shall be submitted to Clearing Corporation at the time of submission of original documents as prescribed.
6. A member can commence operations in Clearing Corporation's CLS segment only upon activation of its membership, which shall be subject to completion of such formalities as may be advised by Clearing Corporation in its various communications to the member as part of its admission process.

### **C. MEMBER ID**

1. Every applicant, who is already a Member of the forex segment of Clearing Corporation, **and upon its** admission as a member of CLS segment, shall use the Membership ID that has already been allotted to it, unless specifically advised otherwise by Clearing Corporation.
2. Every Member shall incorporate the Member Id in all its communications to Clearing Corporation; Every member shall incorporate its SWIFT BIC code in all its communications designed to go over SWIFT.
3. Non-incorporation of Membership ID / SWIFT BIC code, as applicable, in any communication by the member shall absolve Clearing Corporation of **all**

liabilities or consequences, if any, arising out of such non-action by Clearing Corporation

4. Every member shall ensure that the use of its Membership ID is restricted to its authorized personnel only
5. Clearing Corporation and/or any of its officials shall not in any way be liable for any loss or consequences that may arise on account of unauthorized and/or wrongful use of Membership ID.

**D. DISCIPLINARY PROCEEDINGS, PENALTIES, SUSPENSION AND EXPULSION/TERMINATION :**

**1. DISCIPLINARY JURISDICTION**

Clearing Corporation may expel or suspend under censure and/or warn and/or withdraw all or any of the Membership rights of a Member if it be guilty of contravention, non-compliance, disobedience, disregard or evasion of any of Regulations of Clearing Corporation or of any resolutions, orders, notices, directions or decisions or rulings of Clearing Corporation or of any other Committee or officer of Clearing Corporation authorised in that behalf or of any conduct, proceeding or method of business which the Board in its absolute discretion deems inconsistent with just and equitable principles or detrimental to the interests, reputation of Clearing Corporation or prejudicial or subversive to its objects and purposes.

**2. PENALTY FOR BREACH OF BYE-LAWS, RULES AND REGULATIONS**

- 2.1 Every Member shall be liable to suspension, expulsion or withdrawal of all or any of its membership rights and/or to payment of fine and/or to be censured, reprimanded or warned for contravening, disobeying, disregarding or willfully evading any of Regulations or any resolutions, orders, notices, directions, decisions or rulings hereunder of Clearing Corporation, or of the Board, Executive Committee, Managing Director or any officer of Clearing Corporation;
- 2.2 Clearing Corporation may at its discretion charge such penalty as it may deem fit for delayed and/or non-payments arising out of default, close out and liquidation by a Member;

2.3 The Member declared as defaulter shall reimburse Clearing Corporation all out of pocket expenses including legal and any other expenditure incurred by Clearing Corporation in connection with a default or any other activity undertaken by Clearing Corporation with or on behalf of such a Member.

### **3. MEMBERSHIP SUSPENSION**

3.1 A Member shall be liable for immediate suspension from Membership upon it's:

- (a) Act of default in delivery of funds for more than six occasions in a financial half year which in the opinion of Clearing Corporation warrants immediate suspension;
- (b) Being suspended/ordered for suspension from undertaking activity by a regulatory body, Court, Law Enforcement Agency or any other statutory body/agency authorised to do so;
- (c) Being wound up or ordered to be wound up under extant Laws or where the winding up has commenced against such Member;
- (d) Being suspended from any business segment of Clearing Corporation;
- (e) Failure on more than one occasion to meet its default obligation on the day after settlement which in the opinion of Clearing Corporation would warrant immediate suspension;
- (f) Failure to abide by any or all Bye -Laws, Rules and Regulations of Clearing Corporation;
- (g) Becoming liable for disciplinary proceedings or such proceedings as are initiated and/or proposed to be initiated against a Member.
- (h) Failure to operate within Risk Exposure Limits on more than the six occasions in a financial half year which in the opinion of Clearing corporation may warrant san immediate suspension;
- (i) An Insolvency Event, then, on or at any time after the occurrence of such an event or after a notice has been given by the Clearing Corporation



A Member shall also be liable for immediate suspension of its membership rights for any other cause which in the opinion of Clearing Corporation warrants such suspension;

Such suspension may be in force till such time as the same is specifically removed by Clearing Corporation on ~~Clearing Corporation~~ being satisfied that the conditions for suspension no longer exist.

3.2 Suspension may be of two types – (a) temporary i.e., for a period of a maximum of seven business days or such number of days as may be decided by Clearing Corporation: (b) long term i.e., for a period exceeding the one mentioned under (a) above;

3.3 Upon suspension of membership, Clearing Corporation shall notify such suspension to other Members;

3.4 Notwithstanding the non-receipt of notice relating to suspension of a Member by another Member, the obligations of such other Members towards Clearing Corporation shall continue to subsist. Clearing Corporation shall not in any manner be liable for any Trades that may have taken place between the suspended Member and other Members;

3.5 Managing Director of Clearing Corporation or a Committee of not less than two officials nominated by the Managing Director (MD) shall be empowered to pass an order to may disable a Member from accessing ~~to~~ the facilities of Clearing Corporation if in the opinion of the MD or the Committee of officials such circumstances exist that warranting disablement of the concerned Member pending its suspension.

Provided that, within 4 hours after such disablement, the MD or the Committee of officials, as the case may be shall record in writing the reasons for such disablement ~~provided however that~~ and the same shall be reported at the next Board or the Committee meeting whichever is earlier, and further that- aAfter such disablement, Clearing Corporation shall communicate the information to other members.

3.6 Notwithstanding anything contained in these Regulations, if a Member is

restrained by any regulatory/statutory body, court, from undertaking any activity including the dealing in securities, ~~by any regulatory/statutory body, court,~~ such Member, ~~he~~ shall ipso facto stand suspended from the ~~M~~membership of Clearing Corporation.

3.7 In the event of suspension of a member, Clearing Corporation may:

- i) Declare all amounts owing by ~~members~~ the suspended members under these Regulations- to- be immediately due and payable; and /or
- ii) By notice to members, declare that all or any of the obligations of the Clearing Corporation to provide the Services to the suspended Member under these Regulations are suspended; and/or
- iii) By notice to members, terminate the services to the suspended Member with immediate effect subject to the terms of Chapter ~~IX~~ (E); and/or
- iv) Without notice to the suspended Member, block any credit balances due to that members from the Clearing Corporation, pending the exercise of the rights of setoff under Chapter ~~IX~~ (E)
- v) Exercise all or any rights under this Regulation.

3.8 Following the giving of notice by the Clearing Corporation to suspend the member in accordance with ~~Clause 3-~~ Regulation 3(1) above, all outstanding Instructions shall be cancelled by the Clearing Corporation to the extent that the Clearing Corporation/Settlement Member is able to effect, and CLS Bank complies with, any corresponding Rescind Instructions submitted by the Settlement Bank.

#### 4. TERMINATION

The Member may, at any given time, by giving at least 30 business days prior notice, terminate the membership to CLS segment of Clearing Corporation to that effect and the Clearing Corporation may, following the end of that 30 days period, exercise its rights under ~~Clause~~ Regulation 3 (1) as if an event of the kind set out in ~~Clause~~ Regulation 3(1) above had occurred. The member shall submit no additional Instructions to Clearing Corporation/Settlement Member that specify a Value Date after the date the notice of voluntary termination becomes effective.

Upon acceptance of such notice, Clearing Corporation shall refund to the member collateral contributed by such member towards CLS operations as per Chapter **III-IV** (F) after adjusting all outstanding obligations of such member to Clearing Corporation.

These Regulations are subject to the CLS Documents (CLS Bank Rules and members Handbook between the Settlement Member, CLS Bank and CLS Services Ltd).

#### **5. RECONSIDERATION/REVIEW**

The Board may, on its own or on appeal by the Member concerned, reconsider and rescind, revoke or modify its order fining, censuring, warning or withdrawing all or any of the membership rights of the Member. In like manner, the Board may rescind, revoke or modify a resolution expelling or suspending any Member rights .

#### **6. CONSEQUENCES OF SUSPENSION**

The suspension of a clearing Member shall among others, have the following consequences:

##### **(a) Suspension of Membership Rights**

A suspended Member shall during the terms of its suspension, be deprived of and excluded from all rights and privileges of membership but may be proceeded against by Clearing Corporation for any offence committed by it before suspension in such manner as may be necessary to protect the interest of Clearing Corporation;

##### **(b) Rights of creditors unimpaired**

Suspension shall not affect the rights of a Member(s) who is a creditor of the suspended Member(s) on account of Trades settled/to be settled through Clearing Corporation and rights of Clearing Corporation;

##### **(c) Fulfillment of Deals and Obligations**

The suspended Member shall be bound to fulfill all its obligations under and complete settlement of all the Trades outstanding against its name in the books of Clearing Corporation at the time of its suspension.

#### **7. CONSEQUENCES OF EXPULSION**

The expulsion of a Member shall, among others, have the following consequences namely:

**(a) Membership Rights forfeited**

The expelled Member shall forfeit its right of membership to Clearing Corporation and all rights and privileges as a Member of Clearing Corporation including any right to enforce any claim or any interest in any property or funds against Clearing Corporation but the liabilities of such a Member to Clearing Corporation shall continue and remain unaffected by such expulsion;

**(b) Rights of creditors unimpaired**

Expulsion shall not affect the rights of a Member who is a creditor of the expelled Members on account of Trades settled/to be settled through Clearing Corporation or rights of Clearing Corporation;

**(c) Fulfillment of Deals and Obligations**

Expelled Member shall be bound to fulfill its obligations under and complete the settlement of Trades outstanding against its name in the books of Clearing Corporation at the time of its expulsion.

**CHAPTER IV : COLLATERAL**

**A. PURPOSE**

1. Clearing Corporation shall be entitled to call for and maintain Collateral in respect of the CLS Segment to cover risk exposure limits.
2. Such Collateral may be utilized for such purposes as provided in the Bye- Laws, Rules and Regulations including towards meeting default obligations/ shortfalls/ deficiencies and/or any other dues arising out of normal Clearing and Settlement operations undertaken by Clearing Corporation as part of its normal day to day operations.
3. A member shall, upon admission, be required to contribute Collateral before Clearing Corporation accepts trades from the member for clearing and settlement.

**B. COMPOSITION**

1. Collateral contributed by members may be in the form of cash, Bank Guarantee as specified by Clearing Corporation or eligible Government Securities, or any other form as may be notified by Clearing Corporation from time to time.

2. The cash contributions referred to in section B.1 above may be in the form of either in INR or in any of CLS eligible currency(ies) as may be notified by Clearing Corporation from time to time.
3. Clearing Corporation may at its absolute discretion require Members to deposit their entire contribution(s) to Collateral in the form of cash in INR or any other eligible CLS currencies.
4. Clearing Corporation shall ~~at its absolute discretion~~ be authorized to invest the cash contribution received from the Members ~~in such manner as may be decided by Clearing Corporation from time to time.~~ in Government Securities, **bank deposits or such other instruments in accordance with the Investment Policy of the Clearing Corporation.**
5. Clearing Corporation shall specify the list of eligible securities which shall qualify for contribution to Collateral. The list of securities eligible for such contribution shall be notified **to the Members** by Clearing Corporation from time to time;
6. Clearing Corporation may at its absolute discretion specify the type of security including the maximum contribution to be made in a single security towards the Collateral.
7. Clearing Corporation may at its absolute discretion and upon being so authorized by a member consider the unutilized portion of Settlement Guarantee Fund tendered by a member for Securities Segment, towards collateral for CLS Segment. Such provisions of Securities Segment Regulations pertaining to members' SGF Contributions as decided by Clearing Corporation shall be applicable to such collateral which shall be notified to the Member from time to time.
8. A Member shall at all times ensure that its contributions to Collateral are adequate to cover Exposure Limits (in terms of Chapter ~~VH~~ **VIII** relating to Risk Management in these Regulations) on the outstanding trades reported for settlement.

### **C. INTEREST ON CONTRIBUTIONS TO COLLATERAL**

1. Members shall be entitled to receive interest on eligible Government Securities contributed as Collateral as per coupon **rate** payable on the respective securities,

net of costs and taxes if any, and any other charges levied by RBI / custodian.

2. Members shall not normally be entitled to any interest on cash amounts contributed to Collateral except as provided in para (3) below;
3. In the event of Clearing Corporation requiring its members to make their entire contributions to Collateral in the form of cash in INR or any CLS eligible currencies, Clearing Corporation shall invest, either directly and/or through its Custodian in such manner as may be decided by Clearing Corporation from time to time and distribute earnings arising out of such investments as per its approved policy (excluding revaluation gains/loss, net of costs / taxes if any), on the basis of average daily cash balances to the Members at half-yearly rests;

#### **D ADMINISTRATION**

1. Clearing Corporation shall have absolute discretion/control over the administration, manner and mode of investment of cash margins deposited by member including appointment of a Custodian for management and/or deployment of such contributions;
2. The collateral security contributions made by members and held by Clearing Corporation in its CSGL account with RBI shall be governed by RBI's rules and regulations governing CSGL accounts and such other instructions as are issued by them in this regard from time to time.
3. In the event of Clearing Corporation appointing a Custodian to manage Member contributions denominated in any CLS eligible Currencies as Collateral, all terms and conditions governing such arrangement with the Custodian shall automatically be binding on its members;
4. The contributions made by the Members as Collateral in the form of eligible Government securities and/ or the investments made by Clearing Corporation on behalf of the Members in such securities shall be held with the Custodian appointed by Clearing Corporation
5. Clearing Corporation shall have the absolute right to utilize any of the securities held by it on behalf of members with RBI / Custodian to meet shortfalls and/or deficiencies in the Clearing and Settlement process arising either out of a default by the Members in such sequence of application as may be determined at the sole discretion of Clearing Corporation to be appropriate.

6. Clearing Corporation shall also be authorized to pledge, hypothecate, **appropriate**, create any charge and/or encumbrance over securities deposited as Collateral for availing line of credit / repo or any other facilities both in INR or any CLS eligible currencies from RBI, Banks, Institutions and/or any other entities either in India and/or abroad;
7. Clearing Corporation shall have paramount lien on contributions made by any of its members as Collateral for any amount due from such members towards recovery of losses, charges, penalties or any other amount due to Clearing Corporation from such members.

#### **E. WITHDRAWAL FROM COLLATERAL**

Members shall be entitled to withdraw their contributions to collateral in excess of their obligations to cover their margin requirements and/or any other amount payable to Clearing Corporation, by giving prior advance notice as per the workflow process notified by Clearing Corporation from time to time.

#### **F. RECEIPTS AND DELIVERIES OF SECURITIES**

1. Securities contributed by Members towards Collateral shall be only in multiples of market lots, if any.
2. Members shall arrange to deposit their contributions of eligible securities as Collateral as per the workflow process notified by Clearing Corporation from time to time.
3. Members shall ensure that all relevant details as required by RBI/Custodian/Clearing Corporation to carry out such transactions are furnished.
4. Clearing Corporation shall reckon the credit to the Member's account only on receipt of confirmation of credit to its account with RBI/ Custodian. Such credit shall normally be reckoned for purpose of collateral computation in respect of a Member upon receipt of actual deposit intimation from RBI/ Custodian;
5. Members shall be entitled to withdraw from their collateral contributions by giving prior notice as per the workflow process notified by Clearing Corporation from time to time.

Provided that if such notice for withdrawal is received in respect of a security

where delivery of the securities is rendered impossible, then such notice shall be invalid;

6. Withdrawal of securities by a Member shall result in reduction from its Collateral balance as and when instructions to transfer such securities to the concerned Member are issued to the RBI/ Custodian by Clearing Corporation;
7. Members shall be entitled to substitute securities deposited as contribution to Collateral by giving prior notice to the Clearing Corporation as per the workflow process notified by Clearing Corporation from time to time.

Provided that if such notice for substitution received in respect of either of the securities renders such substitution impossible, then such notice shall be considered to be invalid;

8. Members shall at the time of making requests for substitution ensure that the security being offered in replacement for the security proposed to be withdrawn forms part of the securities eligible for contribution to Collateral at the time of replacement.

#### **G. CASH CONTRIBUTION TO COLLATERAL – PAYMENTS AND RECEIPTS**

1. Members shall effect cash contribution as Collateral in INR or any other CLS eligible currencies as notified by Clearing Corporation from time to time in relation to their respective settlement obligations;
2. Members shall arrange to directly deposit their contributions as Collateral as per the workflow notified by Clearing Corporation from time to time.
3. Clearing Corporation shall not in any manner be responsible for any consequences that may arise on account of non-receipt of deposits from Members towards their cash contributions to Collateral;
4. Members shall be entitled to receive credit for their cash deposits as Collateral upon receipt of confirmation from RBI/Custodian. Such credit shall normally be reckoned for the purpose of collateral in respect of a member upon receipt of actual deposit intimation from RBI/Custodian.
5. Members shall be entitled to withdraw from their cash collateral contributions by giving prior notice as per the workflow process notified by Clearing Corporation from time to time.
6. Withdrawal of cash contributions by Members shall be reduced from their Collateral balances as and when instructions to transfer such amounts to the



Members are issued by Clearing Corporation to RBI and/or Custodian

## **H CORPORATE ACTIONS ON SECURITIES/FUNDS CONTRIBUTED AS COLLATERAL**

1. Periodical interest receivable by the Members on their securities contributed / invested by Clearing Corporation on their behalf from cash contributions to Collateral shall be received by Clearing Corporation for and on behalf of Members in the manner and mode prescribed by the RBI / Custodian;
2. Interest received by the Clearing Corporation shall be subsequently remitted to the concerned Member at the earliest net of costs, if any. Clearing Corporation shall not be responsible for any delay in receipt of interest by a Member and no claim shall rest on the Clearing Corporation on this account.

Members shall monitor their securities contributions as Collateral to ensure that securities falling due for redemption are withdrawn from Collateral well in advance before the redemption date and substituted by eligible securities and other collateral of equivalent value. In the event of their failing to do so, redemption proceeds receivable by the members on such securities shall be received by Clearing Corporation for and on behalf of the members in the manner and mode prescribed by RBI / Custodian as applicable;

3. Redemption proceeds received by Clearing Corporation shall be treated as additional funds contribution to Collateral.

## **I. BANK GUARANTEES AS COLLATERAL**

1. Clearing Corporation may accept Bank Guarantees submitted by its members towards collaterals for such margins ~~and/or~~ subject to such limits as may be notified by Clearing Corporation from time to time;
2. The Bank Guarantees submitted by members shall be issued by a Bank approved by Clearing Corporation;
3. The Bank Guarantee shall be issued in a CLS eligible currency as may be notified by Clearing Corporation;
4. The Bank Guarantees shall be issued in the manner and format prescribed by and/or acceptable to Clearing Corporation;

5. The Bank Guarantee shall have a minimum validity period of one year from the date of issuance with claims there under being lodge able, where necessary, within a minimum period of fifteen days from the date of expiry of validity period;
6. Members shall monitor the validity of the Bank Guarantees submitted by them to ensure that the Bank Guarantees are renewed well in advance before the expiry of validity date;
7. Members shall ensure that renewals/amendments of Bank Guarantees submitted by them are in the manner and format prescribed by and/or acceptable to Clearing Corporation;
8. Bank Guarantees shall be excluded for the purpose of computing collateral/margin contribution three business days before the expiry of the validity period of the concerned Bank Guarantee.

#### **J. PREFUNDING IN CLS SEGMENT**

1. Member desirous of prefunding shall give in writing an advance notice to Clearing Corporation seeking prefunding in the CLS segment. Clearing Corporation shall consider such application for approval subject to the Member agreeing to arrange an amount equal to 100% of the additional limit sought by it in CLS eligible currencies. The CLS currencies eligible for prefunding shall be notified to members.

2. Upon obtaining approval, the member shall arrange to credit the Account of Clearing Corporation maintained with the correspondent Bank for an amount equal to 100% of the additional limit sought within the prescribed cut-off time as per process notified for the relevant settlement day. For credits made prior to the settlement day, interest earned by Clearing Corporation on such credit, if any, net of costs, charges and taxes etc., shall be paid to the member.

3. Provided that if it comes to the notice of Clearing Corporation that the amount referred to in para J(2) above has not been credited to its account with the correspondent bank by the closure of RTGS in the relevant currency, Clearing Corporation shall be entitled, to withhold eligible counter value funds due to the concerned member to the extent of the prefunding sought. Withheld counter currency amount shall be paid to the

Member upon receipt of the prefunded amount or counter value funds in CLS currencies. Members will pay to Clearing Corporation overdraft interest charges, if any, as notified by Clearing Corporation and no interest claim shall lie against Clearing Corporation on this account.

4. Clearing Corporation may, at the specific request of a Member, consider relaxation in the notice period or such other alteration of the terms of prefunding subject to such terms and conditions as it may decide.

5. Clearing Corporation shall return the prefunded amount deposited as provided in Para J(2) above to the Member upon fulfilment of its obligations in regard to the settlement for the respective settlement date or shall allow the Member to utilize this amount for fulfilment of the settlement obligation for the respective settlement date.

## **CHAPTER V : TRADE SETTLEMENT**

Clearing Corporation shall enable the settlement of eligible instructions of Members through CLS Bank by availing the third party services of a Settlement Member of CLS Bank. Settlement of all trades shall be governed by rules of CLS Bank in this regard.

CLS Bank does not guarantee to settle every transaction. Any transaction remaining unsettled at the close of the CLS settlement day, i.e., 12 noon CET shall be returned to the parties to the transaction. Settlement of transactions through CLS bank may be deemed final at the close of the CLS settlement day, i.e., 12 noon CET.

### **A) ELIGIBLE CLS CURRENCIES:**

1. Clearing Corporation shall attempt to settle through Settlement Member at CLS Bank all transactions submitted by members by way of instructions which are denominated solely in a CLS eligible Currency.
2. Clearing Corporation may suspend or remove a currency as an eligible currency for CLS settlement at any time and with immediate effect in order to reflect a corresponding decision of CLS Bank in relation to that Eligible currency. The members shall be notified of any such suspension or removal as soon as reasonably

practicable provided that any failure to notify shall not affect the validity of such suspension or removal

3. Clearing Corporation may reinstate a previously suspended or removed currency or add a new currency as CLS eligible currency at any time in order to reflect a corresponding decision of CLS Bank in relation to that CLS eligible currency. Clearing Corporation will notify the member of such reinstatement or addition as soon as it is reasonably practicable after its occurrence.

#### **B) ELIGIBLE CLS TRADES:**

- 1) Clearing Corporation shall facilitate settlement of CLS eligible trades.
- 2) The trades would be classified as CLS eligible trades where:
  - a) both sides of the forex deal are in CLS currencies
  - b) where the trade is:
    - i. a single foreign exchange tom and spot or
    - ii. forward transaction or
    - iii. a single foreign exchange swap transaction or
    - iv. a single exercised foreign exchange option and
    - v. any similar single foreign exchange transaction or any other type of transaction authorized by the CLS Bank.
  - c) the counter-party to the trade has a Bank Identifier Code or Business Entity Identifier and is settling through CLS Bank.
- 3) Clearing Corporation shall facilitate the settlement on all such value dates which are defined as eligible value dates by CLS Bank for respective currencies.
- 4) Clearing Corporation shall not be responsible for any failure of the transaction to which instruction relates to settle and shall have no liability to the member in respect of that transaction.

#### **C) TIMINGS**

1. Members are advised to submit the trade instructions for settlement through CLS Bank within two hours of the relevant Transaction being executed.
2. Clearing Corporation shall notify the time schedules for the reporting of Trades by Members to Clearing Corporation/Settlement Member as also for various other

activities incidental to the Settlement process through CLS Bank;

3. Clearing Corporation may, in its absolute discretion, alter, modify, add, and delete time schedules for the various activities prescribed in sub-Regulation (2) above, and notify the Members of such changes at least 7 days before such changes shall take effect;
4. The Members shall adhere to the time schedules prescribed by Clearing Corporation. Clearing Corporation shall not be liable to the member in relation to any trade which does not settle following a failure on the part of the member to provide such information to the Clearing Corporation / Settlement Member before the prescribed cut-off time.

#### **D) SUBMISSION AND PROCESSING OF INSTRUCTIONS**

##### 1. Methods of transmitting Instructions:

Members may use one of the following options to transmit CLS eligible instructions to be settled at CLS Bank:

- a) Swift MT300 (T-copy or direct submission to the Settlement Member).
- b) **MT300/IFN 300** to Clearing Corporation (using ~~INFINET connectivity~~) for onward submission by Clearing Corporation to the Settlement Member.
- ~~e) IFN300 to Clearing Corporation (using INFINET connectivity) for onward submission by Clearing Corporation to the Settlement Member.~~
- ~~d~~c) Any other mode of communication as may be notified by Clearing Corporation ~~from time to time~~.

##### 2. At the request of a Member and upon the Member complying with the terms and conditions as stipulated in Annexure I of the Regulations, Clearing Corporation may permit the installation of Web Front-end by its Settlement Member to facilitate direct entry and submission of instructions to the Settlement Member.

- a. Prior to submission of trade confirmations, Members shall notify Clearing Corporation in writing about the preferred mode of submission;
- ~~b. Members shall not undertake any change in the mode of submission without prior written intimation of at least 1 business day to Clearing Corporation and confirmation of the same from Clearing Corporation.~~
- ~~eb~~. Clearing Corporation shall intimate Members of any change in the format      and/or procedure for capture for submission of Transaction confirmations

\_\_\_\_\_ by giving prior notice of 15 days;

**ed.** Instructions submitted by Members are subject to terms and conditions of this chapter and other terms and conditions contained in these Regulations.

**ed.** All Member Instructions, Amend Instructions and Rescind Instructions shall be irrevocable by the Member once received by the Settlement Member.

### 3. Validation Of Instructions

3.1 The Settlement Member shall perform validation checks on the trades captured.

3.2 a. The validation checks may include the following:

- i) there is no duplication of the Transactions reported
- ii) there are no syntax errors
- iii) there are no ineligible currencies
- iv) both the counter-parties to the trade are members/ third party / fourth party members of CLS Bank.
- v) the Instruction meets cut-off time stipulated by Clearing Corporation
- vi) the Counterparty's Bank Identifier Code is valid
- vii) the Settlement date for relevant currencies is a business day

b. As a result of the instruction, member's exposure limit is not exceeded.

c. Member's Instruction is not prohibited from settlement at CLS Bank or requires blocking or notification to relevant authorities by economic sanctions, legislation, regulations or executive orders in the United States or otherwise.

d. Any instruction that fails the above validations shall be rejected by the Settlement Member/CLS System. Upon receipt of the **advicse** from the Settlement Member/CLS System, Clearing Corporation shall notify the same to the concerned Members.

## **E) MATCHING OF FOREX TRADES**

1. The CLS System shall attempt to match a pair of valid instructions based on the criteria which shall include identification/SWIFT code of submitting members,

value date, amount and identities of eligible currencies purchased and sold, exchange rate, Trade date etc.

2. All the instructions which are not matched or are submitted beyond the cut - off time will be rejected by the CLS System and or its Settlement Member.
3. Clearing Corporation/Settlement Member shall furnish each Member with various Reports in pre-defined formats through the mode as notified by Clearing Corporation from time to time.

#### **F) AMENDMENT AND RESCIND OF INSTRUCTIONS**

1. Members may submit Amend Instructions or Rescind Instructions at any time prior to the Cut off time as notified by Clearing Corporation from time to time, failing which Clearing Corporation shall not be deemed liable for not having processed the said modification or cancellation;
2. Upon receipt of a valid Member Amend Instruction in accordance with these Regulations, the Settlement Member shall:
  - i) cancel the original corresponding Instruction by submitting a Rescind Instruction to the CLS Bank; and
  - ii) Submit a correspondingly revised Instruction to CLS Bank;
3. Upon receipt of a valid Member Rescind Instruction in accordance with these Regulations, Settlement Member shall cancel the original corresponding Instruction by submitting a Rescind Instruction to CLS Bank.
4. The Clearing Corporation/Settlement Member shall use its best endeavours to comply with ~~Clause~~ **Regulation** F(2) and (3) above and shall have no liability where the Member submits a Amend Instruction or Rescind Instructions. However, the Clearing Corporation/Settlement Member shall inform the Member of its inability to comply with ~~Clause~~ **Regulation** F(2) & (3) above as soon as reasonably possible.
5. Clearing Corporation may also decide to cancel an instruction in exceptional circumstances (for e.g. in the event of the recognition on day S-1 of a breach of limit on a position to be settled on day S) or following a cancellation by CLS Bank, on the basis of its own checks.

#### **G) EXPOSURE CONTROL**

1. All trades reported by the members shall be subjected to exposure check process as described below. Only trades that pass through exposure check shall be submitted to CLS Bank for settlement
2. Exposure check process shall occur on a settlement date-wise basis.
3. For arriving at the exposure on a member for a settlement date, currency-wise net outstanding long and/or short positions of the member for the said settlement date shall be arrived at. The resultant net outstanding currency-wise position shall be converted into equivalent base currency (US Dollar) by applying the applicable exchange rates to be used for such conversion. Haircuts shall then be applied on such net positions in the base currency by inflating the short positions with the haircut factor and deflating long positions with the haircut factor. These amounts shall then be aggregated to arrive at a net value in terms of the base currency (US Dollar). If the net value is negative, the amount shall be construed as exposure of the Clearing Corporation on the concerned member for the said settlement date.
4. For the purpose of exposure check, the exposure of the Clearing Corporation on the member shall be compared against the limit allocated to the member for the respective settlement date. If the exposure amount is found lower than the available limit; such trades shall be treated as having passed exposure check.
5. For the purpose of exposure check, the available limit for a member for a settlement date shall be taken as the aggregate of the base limit and the additional limit applicable for the member for the said settlement date.
6. In case of a rescind of any trade by a member, the exposure check process may not allow such rescind to be submitted to CLS bank if the submission of such rescind results in the exposure on the concerned member for the settlement date exceeding the limit allocated to the member for the said settlement date.
7. For the exposure check process, early payout to a member in a currency shall be considered as increasing the exposure on the member by the Base Currency (US Dollar) equivalent, at the applicable exchange rate, of the amount of the early payout as inflated by the haircut.



8. The Trades which result in a breach of Base limits for a member shall remain in queue till they are finally rejected at the cut off time Clearing Corporation retains the right to rescind the trade if the member fails to bring in such additional collateral (as may be necessary to increase that member's limit) within the specified Cut -Off time notified from time to time.
9. The trades pending acceptance for reason of exposure violation shall be checked for acceptance upon receipt of additional trades from the member for the same settlement date.

## **H) REJECTION OF TRADES**

Trades received for settlement may be rejected under the following conditions:

1. Trades fail validation either by CLS Bank or Settlement Member.
2. If an instruction is refused following the Bank Regulatory Filter check carried out by CLS Bank.
3. If a trade reported by member has caused the Clearing Corporation's exposure on the member for a settlement date to exceed the limit allocated to the member for the said settlement date (i.e. aggregate of base limit and additional limit for the day for which settlement process has started and only base limit for other days) and the exposure on the member for the said settlement date has not been brought within the limit before the cut off time set by the Clearing Corporation for the said settlement date.
4. When trades are rescinded by a member or its counter-party or by Clearing Corporation.
5. When trades remain unmatched at the cut-off time stipulated by CLS bank

## **I) INFORMATION ON TRADE STATUS**

Information on trade status shall be made available by Clearing Corporation / Settlement Member through one or more of the following modes;

- The Web-based Front-end Interface.
- Swift MT396 status updates.
- Through Clearing Corporation's Report Browser or
- In any other mode / format as may be agreed upon by

Clearing Corporation and the member.

**J) SETTLEMENT OBLIGATIONS OF MEMBER**

1. Members shall receive from Clearing Corporation/Settlement Member pay-in/pay-out schedule showing the members net short or net long position in each CLS eligible currency in respect of instructions of that member accepted for settlement for a settlement date(hereinafter referred to as “relevant instructions”) at the time notified by Clearing Corporation;
2. Members shall receive from Clearing Corporation /Settlement Member a provisional pay-in/pay-out schedule in respect of the relevant transactions for the next settlement date at the time notified by Clearing Corporation from time to time.
3. Members shall receive from Clearing Corporation/ Settlement Member a final pay-in/pay-out schedule confirming their net short or net long position in each CLS eligible currency in respect of the relevant transactions for the settlement date at the time notified by Clearing Corporation from time to time;
4. Settlement Obligations in CLS eligible currencies of all Trades shall be settled by debiting or crediting, as appropriate, the respective nostro accounts of the member through its designated correspondent bank as per details furnished to Clearing Corporation.

**K) PAY-IN (MEMBER’S NET SHORT POSITION)**

1. A Member having a net short position in a CLS currency shall:
  - (a) Have executed a Direct Debit Mandate (MT204) to enable Clearing Corporation to raise a direct debit with the Member’s Correspondent Bank in the respective currency short positions; or
  - (b) shall send the necessary payment instructions to its correspondent bank for its foreign currency payment obligation and confirm, to Clearing Corporation in the format prescribed.

(c) Clearing Corporation may, upon a specific request received from a member, in the format prescribed and on confirmation of successful completion of the INR settlement by the member, transfer the USD funds receivable (in part or full) from the Forex Settlement Segment (USD-INR segment) to the CLS

segment for a given value date subject to the conditions as notified by Clearing Corporation- The member shall however continue to be liable to effect the payment for the balance, if any due towards settlement of the short position through the debit mandate or by effecting necessary payment instructions as above.

Settlement of all trade obligations by a member shall be deemed to have been completed by that member upon actual receipt of payment by Clearing Corporation into its nostro account(s) on the settlement date within the cut-off time prescribed for the purpose;

2. (a) A Member shall ensure that there are adequate funds in its Nostro account with the correspondent bank to meet payment obligations in each currency at the time as notified by Clearing Corporation from to time;

b) Where, on any settlement Day, the available funds in all or any of the Member's Nostro account(s) are insufficient to meet its liabilities to Clearing Corporation, then, without prejudice to the Clearing Corporation's other rights under these Regulations and for direct debit arrangement as per terms set out in the Direct Debit Mandate agreement between the member and Clearing Corporation, Clearing Corporation shall notify the Member and may at its sole and absolute discretion, fund such shortfall from such sources as the Clearing Corporation deems fit (including, without limitation, any long balances which would otherwise be payable to the Member on that settlement day pursuant to ~~Clause~~ Regulation L below.

3. If on any settlement Day, a member has paid such sums as are required to settle its net short position with respect to a Transaction, and that Transaction is not settled by the CLS Bank, Clearing Corporation shall, Subject to Chapter ~~IX~~ X – (E) of these Regulations, return such sum to the member on the next Banking Day after receipt by Clearing Corporation from Settlement Member. Clearing Corporation shall not be responsible for such failure to settle by CLS Bank and no liability shall rest on Clearing Corporation on this account.

**Direct Debit arrangement:**

1. A Member authorizing the Clearing Corporation to raise a direct debit shall execute the debit mandate in such form and manner as may be prescribed ~~by Clearing Corporation~~. Such execution shall be carried out by duly authorized signatory/ies after having obtained necessary internal approvals for the said purpose.
2. Clearing Corporation shall, for such Member, directly debit such sums from the relevant nostro accounts of the member as are required to settle the member's net short positions in each CLS eligible currency at the cut-off times notified for the currency in respect of the relevant transactions on that settlement day.
3. If the member's nostro account is in breach of its obligations under the Direct Debit Mandate, the member shall pay Clearing Corporation the relevant amount on that banking day.

If on any settlement day, any direct debit requests made by Clearing Corporation for the purpose of settling Relevant Transactions on that settlement day are not complied within the times as notified by Clearing Corporation, Clearing Corporation may but is not obliged to, satisfy the relevant pay-in obligations by using any long balances which would otherwise be paid to the member on that banking day pursuant to ~~Clause~~ **Regulation** L below or based on collateral deposited by members pursuant to Chapter ~~III-IV~~ **Regulation** A.

4. The direct debit arrangement shall be governed by the terms set out in the Direct Debit Mandate agreement between the Member and Clearing Corporation.

#### **L) PAY-OUT (MEMBER'S LONG POSITION)**

1. Clearing Corporation shall credit the Member's nostro account with the net long position in CLS eligible currencies for which a member is entitled to receive under all the relevant transactions on that settlement date.
2. The payments by Clearing Corporation to the member towards its settlement obligation for such net long positions shall be subject to:
  - a. The limit enjoyed by the member as per Chapter ~~VII~~ **VIII** -Risk Management of this regulation; and

- b. The pay-ins received from the member in terms of the final Net Position.

**Early Pay-out:**

- a. Clearing Corporation may, in its absolute discretion, credit a member's nostro account up to the amount in a CLS eligible Currency which the member is entitled to receive under all the relevant transactions on that settlement date before receiving pay-ins from the member.
  - b. Pending receipt by Clearing Corporation of all such Pay-ins from the Member Banks, any such amount so credited shall constitute an early pay-out by Clearing Corporation and entail utilization of member's limit till receipt of pay-ins by Clearing Corporation from the members.
  - c. At no time shall the amount of such early pay-out exceed the counter-value of Collateral deposited by such member and the limit assigned to such member.
  - d. Clearing Corporation is under no obligation to make any payment in excess of the limit assigned to the Member, or otherwise to compensate the member for any loss, cost or liability it may suffer or incur as a result of any shortfall in the pay-outs received from Settlement member.
  - e. In the event of Clearing Corporation being unable to effect a pay-out to a member before the closure of the RTGS hours for the currency concerned on account of
    - i) Insufficiency of limit; or
    - ii) Non-receipt of pay-ins in terms of the final Net Position.
- Such** pay-outs may be made by Clearing Corporation on the next settlement date subject to fulfillment by the member of its obligations and no claim shall rest against Clearing Corporation.
- f. If Clearing Corporation makes out a early pay-out with respect to a Transaction and does not receive the corresponding pay-in from the Member before the time specified, Clearing Corporation
    - i) may withhold the long position owing to such member in other CLS eligible currencies; and
    - ii) shall block the concerned member's Collateral utilized for the early pay-outs

- g. If Clearing Corporation makes out an early pay-out with respect to a Transaction before the settlement is termed final by CLS Bank, i.e., before the end of the CLS operational day at 12 noon CET
- i) such pay-out made shall be liable to be cancelled by Clearing Corporation and shall be repayable by the member upon demand by the Settlement Member in the event of failure to settle of these transactions at the CLS Bank.
  - ii) In the event the member has paid in the counter value short positions, Clearing Corporation shall return such sums to the member on the next Settlement day after receipt by Clearing Corporation from Settlement Member.

#### **M) SETTLEMENT FAILURE AND DISRUPTION:**

1. If a member becomes aware that it is not, or it is reasonably likely that it will not be, able to fulfill its obligations under this agreement or that insolvency event has occurred or it is reasonably likely to occur in relation to it, it shall notify Clearing Corporation promptly of the relevant facts.
2. If at any time settlement of instructions cannot be processed by CLS Bank, due to a settlement disruption event, as set out in Chapter X Regulation Clause (B) of these regulations, Clearing Corporation shall as soon as practicable notify the Member that its Settlement could not be completed
3. If at any time Settlement of Instructions cannot be processed because an Approved Payment System is unexpectedly or temporarily not operational on a settlement date, Clearing Corporation shall as soon as practicable notify its Members upon receipt of such information from Settlement Member. In such circumstances the Member's Instructions may be settled on that settlement day, if the Approved Payment System becomes re-operational or the settlement date of the original Instruction may be changed to the next business day that is a settlement date on which the Approved Payment System is operational. Where the settlement date of such Instruction is changed, upon notification of such changes by the Settlement Member to Clearing Corporation, the Clearing Corporation shall as soon as reasonably practicable notify its Members of such change.

## N) MODES OF PAYMENT

Clearing Corporation may from time to time prescribe different modes of payments and the condition(s) to which such payments may be subject to. Without prejudice to the generality of the above, the modes of payments for all Trades are specified as under:

- 1) CLS eligible currency payments shall be effected through the nostro account maintained by the Member with its correspondent bank. Member shall designate a single nostro account for each currency for the purpose;
- 2) Member shall notify any change in settlement instructions at least 7 business days before such changes take effect;

## O) REPORTS

Members can view the status of their transactions and net positions arising thereof online through the web-based front end interface. Clearing Corporation shall also generate and provide to each member reports as notified from time to time.

### **Final Net Position Report**

1.
  - a) This report shall give details of the net position of the Member in all CLS eligible currencies for a settlement date and shall include all Trades taken into account for arriving at such position;
  - b) Shall be deemed to be a Member's confirmation of ~~the~~ all the Trades for which funds are to be received from and/or paid to the Member on the settlement date;
  - c) Shall be deemed to constitute instruction to the Member for issuance of necessary payment instructions to its correspondent bank for effecting these payments in its nostro account.
2. Clearing Corporation may also provide separate interim reports containing provisional net position of the member covering trades accepted for settlement. For avoidance of any doubts, such interim reports shall be considered only as a matter of guidance.

3. Members shall be notified of the above reports by such mode and in such form **as may be** notified by Clearing Corporation from time to time.

Clearing Corporation shall not be liable for any loss, cost or damages suffered or incurred by the member as a result of:

- a) The failure by Clearing Corporation to provide information in accordance with this ~~Clause~~ **Regulation** O unless such failure is a result of negligence or willful misconduct.
- b) Any omission or inaccuracy with respect to the information provided under this ~~clause~~ **Regulation** unless such omission or inaccuracy is a result of negligence or willful misconduct.
- c) A third party accessing or using any information or data of the member unless such access or use is a result of the failure of the Clearing Corporation / Settlement Member to comply with its security requirements with respect to the Web Interface Service.

#### **P) FAILURE IN PAYMENT**

If a Member fails to pay CLS eligible currencies on the settlement date or at the time as specified in the Window of Operations on the settlement date, it shall be considered an act of default by that Member. Such default shall be dealt with as provided for in the Chapter ~~VI~~ **VII** relating to "Defaults" in these Regulations.

### **CHAPTER VI: BASE LIMITS, ADDITIONAL LIMITS**

#### **A) LIMITS:**

1. The limits for CLS eligible currencies will be denominated in USD as base currency

##### **a) BASE CLS LIMIT:**

It is a settlement date wise limit that the Clearing Corporation shall set for a member, at the request of such member and on its providing necessary collaterals, for covering the Mark-to-Market and Haircut requirements for the trades of the concerned Member.

##### **b) ADDITIONAL CLS LIMIT:**



It is the limit that the Clearing Corporation, at its sole discretion, allows a Member to avail for a settlement day for which the settlement process has started for receiving early pay-outs and/or for covering additional haircut and mark to market requirements, if any on the day of settlement. Such limits will be allowed by the Clearing Corporation for such part of a settlement day as necessary for ensuring early pay-outs or for ensuring uninterrupted normal settlement. A Member shall avail such additional limits by providing necessary collateral for such time the limit is in place as required by Clearing Corporation

**B) PROCESS:**

The Base Limit set for the members may be reviewed periodically and Clearing Corporation may alter the limits based on such review under advice to the concerned Member.

1. Notwithstanding anything stated above, Clearing Corporation may reduce or cancel (set it at NIL) the Base Limit for any member, under advice to the concerned member, when Clearing Corporation, based on any adverse market report or other adverse information available to it or on the Member's failure to fulfill any settlement obligation, is of the view that reduction/cancellation of such Limit shall be necessary to protect its own interest and/or the interest of its members.

**C) LIEN ON COLLATERALS:**

1. A Member's collateral contribution, either in the form of cash or government securities, shall be subject to a first and paramount lien for all sums due to Clearing Corporation.
2. Such collaterals shall be available in preference to all other claims against the member for due fulfillment of its obligations and liabilities arising out of, or incidental to, any trades reported for settlement subject to Bye-Laws, Rules and Regulations of Clearing Corporation or anything done in pursuance thereof.

## **CHAPTER VII : DEFAULTS**

### **A) DECLARATION OF DEFAULT**

A Member failing to deliver and/or pay funds due from it shall be treated as a defaulting member.

### **B) DELIVERIES DUE TO THE DEFAULTING MEMBER**

Clearing Corporation shall have the right to withhold the funds due in the CLS eligible currencies to a defaulting Member in the event of non-delivery by that Member of its settlement obligations due to Clearing Corporation.

### **C) FAILURE TO GIVE OR TAKE DELIVERY**

Clearing Corporation shall recover from the defaulting **entity**, the Lines of Credit and any other charges incurred for the overnight usage of such funds. Clearing Corporation shall have the right to block the collateral for value equivalent to the default amount and/or withhold the net long positions due to the member until the funds are received.

### **D) SHORTAGE HANDLING PROCEDURE**

#### **1. Default on CLS Pay-in obligation**

- a. When a Member fails to deliver the required amount of its pay-in obligation to the credit of and in the account of Clearing Corporation ~~with the Settlement Member~~ before the **closing times of** Approved Payment System ~~closing times of~~ **for** the respective eligible currency on the settlement date, such failure shall be termed as default and shall be settled as follows:
- b. Subject to the other provisions of these Regulations, Clearing Corporation shall attempt to make good, the shortfall that has arisen in its settlement account with its designated Settlement Member, either by availing of a line of credit or overdraft facility available if any, or by borrowing from an Indian or overseas bank or by purchase of such currency against any other counter value currency funds available or any other source of funding as Clearing Corporation may deem fit. Such costs as may be incurred in this regard, shall be recovered from the defaulting member;

- c. The defaulting Member shall repay the amount of its default obligation in the currency of default before the stipulated time or before the closure of the respective business hours of the concerned currencies, for this purpose, on the next business day (i.e., the business day immediately following the default date) to the credit of the specified account of Clearing Corporation with the Settlement Member.

Provided that Clearing Corporation shall, in its absolute discretion, be authorized to amend the prescribed cut-off time by giving advance notice to all Members;

- d. Clearing Corporation shall, pending fulfillment of settlement obligations by the defaulting Member, withhold the counter value of funds to be paid to the defaulting Member on the settlement date, or block the collateral deposited by such member.
- e. In the event of the defaulting Member being unable to pay the amount due to Clearing Corporation before the cut-off time prescribed in Sub-Regulation(c) above, Clearing Corporation may, at its discretion and without further notice to the defaulting Member utilize the amount debited to the Member's account or the counter value withheld including collateral to purchase the amount of default currency for settlement on cash/tom basis i.e., for same day/next settlement date to liquidate the arrangements that had been made by Clearing Corporation to meet the default. The foreign currency shall be bought at the prevailing inter-bank exchange rate that Clearing Corporation is able to obtain in the inter-bank forex market at the time of conversion. The exchange loss, if any, arising on account of such conversion, shall be borne by the defaulting Member. Clearing Corporation's decision in this regard shall be final and binding on the defaulting Member together with all costs and penalties relating thereto;
- f. The defaulting Member shall repay the interest, charges and penalties arising on account of the default before the stipulated time on the next business day (i.e., the business day immediately following the default date)

## **E) DEFAULT OBLIGATIONS**

- 1) The limit available to a defaulting Member shall be withdrawn/ reduced pending settlement of the default obligation;

- 2) The defaulting member shall be liable to make payment equivalent to the shortfall within the cut-off time notified.
- 3) The defaulting member shall be liable to make payment equivalent to the interest, charges, penalties and other levies as per the notification issued by Clearing Corporation from time to time and within the cut-off time as notified by Clearing Corporation from time to time;
- 4) The Collateral contribution of the defaulting Member shall be blocked pending settlement of default obligation;
- 5) In the event of the defaulter not making payment equivalent to the shortfall together with interest, charges, penalties and other levies as described above, Clearing Corporation shall have the absolute right to appropriate the with-held currency from delivery or appropriate the collateral used to back the limit to the defaulting member towards fulfillment of the default obligation;
- 6) In the event that the corresponding funds recovered, in terms of sub-Regulation 5 above, are insufficient to cover the default obligation, Clearing Corporation shall be authorized to appropriate any other funds that may be due to that defaulting Member towards the recovery of its default obligation;
- 7) In the event of the defaulter not making payment as described in clause Regulation 5 above, Clearing Corporation shall have the right to rescind trades accepted for settlement through CLS bank and refuse to accept for processing further trades from such defaulting member.

## **CHAPTER VIII : RISK MANAGEMENT**

### **A) SCOPE**

The provisions of this Chapter are outlines of the risk management practice policy of Clearing Corporation for its CLS Segment. Clearing Corporation shall have the sole discretion to review its practices policies relating to risk containment measures from time to time

Clearing Corporation shall cover the risk through a prescription of

1. Limit, for each Member as defined in Sub regulations A in Chapter ~~V~~ **VI**
2. Currency specific Haircut as defined in Sub regulations C in Chapter ~~V~~ **VI** and Collateral in the form of, cash and/or securities deposited by the members

or bank guarantees arranged for by the members as cover for the limits granted to them.,

## **B) PROCESS**

The base limit utilization of each member in respect of each of its outstanding trades shall be computed by calculating the mark to market loss, if any, and the hair cut value. Clearing Corporation shall advise the net position to the members of their obligation in CLS eligible currencies in respect of the matched trades pertaining to such Member for the respective settlement date. A member shall be liable to maintain collateral in respect of such mark-to-market and hair cut value. Clearing Corporation shall retain the right to reject trades exceeding such limit.

The exposure check process has been described in Chapter ~~IV~~ V Clause Regulation G.

## **C) UNILATERAL RESCIND OF TRADES BY CLEARING CORPORATION**

Exposures of the Clearing Corporation on the members for the trades for a settlement date which are already submitted to CLS Bank for settlement, shall be compared, on a business day prior to the said settlement date, against the then available limits to such members. If the exposure of the Clearing Corporation on a member is found to exceed the limit applicable for such member, the Clearing Corporation may, at its sole and absolute discretion, unilaterally rescind any or all trades of such member without any further reference to it, so as to bring the exposure within the limit. Any decision taken by the Clearing Corporation in this regard shall be final and binding on the member and the Clearing Corporation shall not be held responsible for any loss, damage, cost and charges that the member may suffer on account of such rescind of trade(s).

## **D) VALUATION OF SECURITIES IN SGF**

- 1) ~~The securities contributed by the members as Collateral shall be subjected to valuation exercise at the end of each valuation day at the then prevailing mark to market prices of these securities in the Clearing Corporation's Securities Settlement Segment. Members' contributions to Collaterals shall also be subjected to a valuation exercise at the end of the day of any deposit and/or withdrawal of securities from their Collaterals. Clearing Corporation shall be~~

entitled, at its absolute discretion, to change the frequency of such valuation.

1.1 The securities contributed by Members to SGF shall be subject to a valuation exercises on each valuation day i.e. at the end of day and intra-day. Clearing Corporation may change the frequency of such valuation after due notification.

1.2 Clearing Corporation shall specify hair-cuts on the respective market value as per rates decided for eligible securities. Such haircut rates shall be notified by Clearing Corporation.

1.3 Members' contribution to SGF shall be subjected to a valuation exercise at every instance of deposits and / or withdrawals from its SGF at the end of the business day at the then prevailing mark to market prices.

1.4 Valuation for USD securities given by members as contribution to SGF shall be computed by the Clearing Corporation based on the valuation provided by the Custodian.

- 2) Clearing Corporation shall, in its absolute discretion, specify hair-cuts on the respective market value as per rates prescribed for eligible securities from time to time. USD/Rupee Reference Rate announced by RBI will be the basis for computing the USD equivalent of the securities (after application of appropriate haircut)

## **CHAPTER IX : CHARGES**

### **A) SCHEDULE OF FEES AND CHARGES**

1. The Board or any Committee appointed by the Board or other official(s) of Clearing Corporation authorized by the Board in that behalf shall prescribe the scale of fees, charges, levies, fines and/or penalties payable by member for services provided by Clearing Corporation from time to time;
2. The Board or any Committee appointed by the Board or any other official(s) of Clearing Corporation authorized by the Board in that behalf shall be empowered to review the various fees, charges, levies, fines and/or penalties and effect such changes in the same as it considers necessary;
3. The schedule of such charges payable by members shall be notified by Clearing Corporation from time to time.

## **B) BILLS FOR FEES AND CHARGES**

1. Clearing Corporation shall render to members monthly bills relating to its Settlement fees and charges
2. Clearing Corporation shall, upon receipt of relevant information from its Settlement Member, notify its Members at monthly intervals, the fees and charges payable by that member for the immediately preceding month.
3. The Members shall verify their monthly bills and notify Clearing Corporation of discrepancies, if any, with all necessary details latest within two days from the date of notification of the relative bill. Upon receipt of such discrepancies, if any, the same shall be taken up by Clearing Corporation with its settlement member and responses thereto shall be provided after receipt of necessary clarifications from the settlement member.

## **C) RECOVERY OF FEES AND CHARGES**

1. Member shall effect payment of the fees and charges payable by them to Clearing Corporation in terms of their monthly bills (as per sub-Regulation (B) above by depositing the same to the Bank Account of Clearing Corporation or as may be notified from time to time, before the cut-off date notified for the purpose quoting their Member ID and key words as specified in the statement; failing which Member shall be liable to pay penalty on delayed payment of charges as notified by Clearing Corporation from time to time;
2. Fines, penalties and/or other levies shall be payable by the Member separately as and when such demand is made on a Member by Clearing Corporation;
3. All payments by the Member shall be made without deduction of tax, set-off or counterclaim. If any tax or amounts in respect of tax must be deducted, or any other deductions must be made, from any amounts payable or paid by the Member to the Clearing Corporation, the Member shall pay such additional amounts as may be necessary to ensure that the Clearing Corporation receives a net amount equal to the full amount which it would have received had payment not been subject to tax or any other deduction.

## **CHAPTER X : THIRD PARTY TERMS AND CONDITIONS**

The CLS services are rendered by Clearing Corporation by availing the third party services of a CLS Settlement member and entering into a clearing agreement with the Settlement Member.

Settlement of aggregated positions of all members will be carried out between the Clearing Corporation and the Settlement Member.

The terms agreed to between Clearing Corporation and the Settlement Member shall be in turn binding on the members by virtue of their becoming Members of CLS segment.

The specifics of the responsibilities of the members arising on account of the third party agreement are detailed in this Chapter.

### **A) Documentation.**

The Member shall comply with all systems and procedural requirements of the Settlement Member as notified by Clearing Corporation from time to time and shall undertake to provide Clearing Corporation with any pertinent information on changes in its financial positions, and which shall include, but may not be restricted to the following documents and data:

1. its audited balance sheet and income statements as well as the notes to the financial statements detailing inter alia any off-balance sheet transactions, within six months of the close of the financial year;
2. any changes in its share ownership structure within fifteen days of informing its regulatory authority;
3. the names of the corporate officers and the make-up of the board of directors or the executive board as well as any changes to the same.
4. the names together with the specimen signatures of the officers authorized to give notices and instructions
5. any other information regarding its financial condition and operations to be submitted within a reasonable time following a request from Clearing Corporation
6. all information concerning the business and affairs which is relevant for the provision of services under these Regulations and in particular as may be



required by any regulatory agency or authority or any persons appointed by such agency or authority for the purposes of any inquiry, inspection or investigation.

## **B) SETTLEMENT FAILURE AND DISRUPTION**

1. Neither party shall be liable for any loss, damage or failure to perform any obligation resulting from any of the following circumstances:
  - a) A legal enactment, decree or moratorium or any regulation, rule, practice or guideline of a public authority (de jure or de facto) (including, without limitation, exchange control or currency restrictions and taxes, levies or imposts applicable to any account balance (or part of it) attributable to the member), and Clearing Corporation need not perform any obligation which might be in breach of any of the foregoing; or
  - b) An intervention of a public **regulatory** authority (de jure or de facto), an act of nationalization, confiscation or expropriation, an act of war or violent or armed action or inaction: or
  - c) A failure of a payment or communications system, caused directly or indirectly by a power, equipment, software or systems failure;
  - d) A strike, a lock-out, a boycott or blockade by or amongst staff of Clearing Corporation/Settlement Member/CLS Bank or any other person or
  - e) A disaster (whether natural or manmade).
  
2. Without in any way limiting, reducing or otherwise qualifying the obligations of the members under these Regulations, each of the parties shall take such reasonable steps which it considers in its sole opinion to be available to it to mitigate any of the adverse effects on the other party of any of those circumstances listed in Paragraph (a) to (e) (inclusive) of **Clause Regulation** – 1

## **C) **LIMITATION OF** LIABILITY OF CLEARING CORPORATION**

1. Save as otherwise specifically provided in the Regulations by Clearing Corporation in respect of Clearing and Settlement arrangement, Clearing Corporation shall ~~not~~ be deemed to have incurred **no any** liability, and accordingly no claim or recourse in respect of or in relation to any trading/dealing in Eligible CLS Currency transactions, or any matter connected therewith shall lie against

Clearing Corporation, its Directors, employees, officers or any authorised person(s) acting for Clearing Corporation in good faith.

2. Except as expressly provided in the Regulations, the Clearing Corporation shall have no obligation to the member to submit Instructions or effect Settlement of any Instructions. Clearing Corporation shall not be liable for any punitive, special or consequential losses, costs or liability suffered or incurred by the Member, including without limitation, any loss of business or profits;
3. The services of Clearing Corporation under these Regulations are subject to CLS Bank's and Settlement Member Bank's documents. Hence, Clearing Corporation shall have no liability to the Member as a result of any breach of the CLS and or Settlement Bank's Documents or any error or failure by CLS, CLS Services Ltd. and/or Settlement Bank;
4. Notwithstanding anything contained herein, Clearing Corporation shall not be deemed to guarantee the title, ownership, genuineness, regularity or validity of any security or any document passing through Clearing Corporation and shall not in any manner whatsoever be and/or deemed to be associated with and/or be responsible for, the underlying transactions of the relatives Trades;
5. The only obligation of Clearing Corporation shall be to facilitate clearing, settlement, delivery and payment of funds between Members in consideration of the Member's fulfilling all the requirements of these Regulations and Bye-Laws and such other Rules and other requirements prescribed by Clearing Corporation from time to time. Provided that no claim, liability and/or responsibility shall rest with Clearing Corporation and/or any of its officials in the event of such clearing, settlement, delivery and payment of securities and/or funds not being facilitated for reasons beyond the scope and control of Clearing Corporation;
6. No Claim, suit, prosecution or other legal proceeding shall lie against Clearing Corporation its Directors, employees, officers or any authorised person(s) acting for Clearing Corporation in respect of anything which is done or intended to be done in good faith in pursuance of any order or other binding directive issued to Clearing Corporation under any law or delegated legislation for time being in force or anything done pursuant to the provisions of the Regulations.
7. Neither party shall be liable for any loss, damage, delay or failure to perform any obligation resulting from any Force Majeure or Settlement Disruption Event;

8. The services provided by the Clearing Corporation under these Regulations shall be available to the Member only to the extent that the Clearing Corporation is able to access and operate the systems required for the provision of such services (whether internally, at CLS Bank, CLS Services Ltd., Settlement Bank or otherwise) any time. Where the Clearing Corporation is unable to access and operate any such system, the Clearing Corporation shall not be liable for any punitive, special or consequential damages, including without limitation, loss of business or profits unless the Clearing Corporation was unable to access and operate the systems due to its negligence or willful misconduct, or that of its directors, officers or employees;
9. Notwithstanding any other provision of the Bye-Laws or these regulations, the Member acknowledges that:
  - (a) in all its dealings under these Regulations, the Member is acting on its own account as principal with CLS System, and CCIL is not an agent, trustee or otherwise be in any fiduciary capacity in relation to the Member;
  - (b) in all the Member's dealings with CLS Bank and CLS Services Ltd (including, without limitation, in relation to Instructions and Settlements arising from Instructions), the Member is acting on its own account as principal and is not acting as the Clearing Corporation's agent, trustee or otherwise in a fiduciary capacity in relation to the Clearing Corporation and;
- 10 Unless due to the Clearing Corporation's negligence or willful misconduct, the Clearing Corporation shall not be liable for any loss, cost or damages suffered or incurred by the Member as a result of:
  - a) the Clearing Corporation's failure to provide information in accordance with these Regulations,
  - b) any omission or inaccuracy with respect to the information provided under or in accordance with these Regulations;
11. Clearing Corporation shall have the unfettered discretion to part with/disclose or disseminate such information concerning the Members transactions settled through Clearing Corporation as deemed necessary to Regulatory, Governmental or other agencies. Clearing Corporation may also provide aggregated information to the press and media.

12. Member shall indemnify Clearing Corporation and shall keep Clearing Corporation indemnified and harmless from and against any and all losses, liabilities, costs, claims, actions, damages, expenses or demands which Clearing Corporation may suffer or incur or which may be made against Clearing Corporation by CLS Bank, CLS Services Ltd., another Member of CLS Bank, Settlement Member or any other person arising out of or in connection with i) The Rules and Regulations ii) Bye laws iii) SWIFT CLS Third/fourth party service and/or iv) any undertakings, except to the extent such losses are finally adjudged to have directly resulted from Clearing Corporation's negligence, willful misrepresentation, willful misconduct or fraud. Where a Member submits Instructions to Clearing Corporation/Settlement Member, such member shall indemnify Clearing Corporation against any losses, liabilities, costs, claims, actions, damages, expenses or demands Clearing Corporation may suffer or incur in respect of such Member Instructions (and, if applicable, in the provision of the Services) arising from the involvement of that Member.
13. No failure or delay on the part of Clearing Corporation in the exercise of any power, right or privilege here under shall operate as a waiver thereof, nor shall any failure or delay in exercise of such power, right or privilege preclude Clearing Corporation from further exercise thereof.

**D) CONFIDENTIALITY:**

The Clearing Corporation shall ensure that the settlement Bank establishes and appropriate organizational Chinese walls to maintain the confidential information concerning the transactions which are the subject of member instructions in order to ensure that such confidential information is not improperly used in any trading capacity or otherwise by the settlement bank.

**E) SET -OFF:**

In addition to any rights of set-off the Clearing Corporation or the Settlement Member may have, as a matter of law or otherwise, Clearing Corporation may (but is not obliged to), without prior notice to the member or any other person, set off any obligation due and owing to the Clearing Corporation (whether or not arising under

~~any of Clearing Corporation's Regulations, whether or not matured, whether or not~~  
contingent and regardless of the currency, place of payment or booking office of the obligation) against any obligation owing by the Clearing Corporation to the member. If the obligations are denominated in more than one currency, the Clearing Corporation may make such currency conversions as it considers reasonable in order to be able to exercise its right of set-off to the fullest extent possible. If an obligation is unascertained, the Clearing Corporation may in good faith estimate that obligation and set off in respect of the estimate, subject to the relevant party accounting to other when that obligation and set off in respect of the estimate, subject to the relevant party accounting to the other when that obligation is ascertained. Nothing in this provision will be deemed to create a charge or other security interest.

## **CHAPTER XI: NOTICES**

1. Members shall furnish requests for deposits, withdrawal, substitution, amendment, and cancellation etc. of their collateral contributions to Clearing Corporation in the Notice formats as notified ~~notified~~ **prescribed** by Clearing Corporation from time to time.
2. The members shall furnish such notices to Clearing Corporation with in the cut-off time limits prescribed for the same as notified by Clearing Corporation from time to time.
3. Clearing Corporation shall, in its absolute discretion, decide the mode and manner of delivery/receipt of notice to/from its Members;

## **CHAPTER XII: DISPUTE RESOLUTION / ARBITRATION**

1. All claims, differences or disputes between the Members inter - se arising out of or in relation to operation of payment system including in relation to dealings, contracts or transactions executed or reported as specified by Clearing Corporation and made subject to the Byelaws, Rules and Regulations or with reference to anything incidental thereto or in pursuance thereof or relating to their validity, construction, interpretation, fulfillment or the rights, obligations and liabilities of the parties thereto and including

any question of as to such dealings, transactions and contracts have been entered into or not shall be submitted to dispute resolution in accordance with the provisions of these Regulations.

2. All claims, differences or disputes between the Member(s) on one hand and the Clearing Corporation on the other hand arising out of or in relation to operation of payment systems including in relation to settlement of dealings, contracts or transactions executed or reported as specified by Clearing Corporation or with reference to anything incidental thereto or in pursuance thereof or relating to their validity, construction, interpretation, fulfillment or the rights, obligations and liabilities of the parties thereto and including any question of whether such dealings, transactions and contracts have been entered into or not shall be submitted to the Reserve Bank of India. The reference of such dispute shall be to the Officer-in Charge, Department of Payment and Settlement Systems, Central Office, Reserve Bank of India. The decision of such officer of Reserve Bank of India shall be final and binding on the parties to the dispute.
  
3. In the event of any claims, differences or disputes between the Members submitted to dispute resolution as set out in ~~Byelaw~~ Regulation 1 above of this Chapter, such claim, difference or dispute shall be referred to the Panel for Resolution of Disputes (PRD) consisting of not less than five Members other than the Members who are parties to the dispute. The decision of the PRD shall be final and binding on the parties to the dispute. A Member, if not satisfied with the decision of the PRD may refer the dispute to the Appellate Authority at the Reserve Bank of India. The reference of such dispute shall be to the Officer-in Charge, Department of Payment and Settlement Systems, Central Office, Reserve Bank of India. The Appellate Authority shall dispose of the appeal within 15 working days of submitting the appeal. The decision of such Appellate

Authority shall be final and binding on the parties to the dispute.

4. In case of disputes where the Reserve Bank of India is an involved party, the dispute shall be referred to the Central Government which may authorize an officer not below the Rank of Joint Secretary for settlement of the dispute and the decision of such officer shall be final and binding on all parties.
5. Clearing Corporation may, from time to time prescribe Rules or Regulations for the matters which in the opinion of Clearing Corporation are required to be dealt with in the Rules or Regulations to facilitate dispute resolution between the members of the Clearing Corporation including the procedure to be followed by the parties in dispute, the procedure to be followed by the PRD in conducting the Dispute Resolution proceedings etc. Clearing Corporation from time to time may amend, modify, alter, repeal, or add to the provisions of the Rules.

#### **6. DISCLOSURE BY PERSONS TO BE APPOINTED AS PRD**

Every Member who is approached in connection with his possible appointment as a member on the PRD shall disclose to Clearing Corporation in writing any circumstances likely to give rise to justifiable doubts as to his independence and impartiality more particularly when a dispute is referred to the PRD. If the person discloses any circumstances which in the opinion of Clearing Corporation are likely to give rise to justifiable doubts as to his independence and impartiality, then he shall not be Member of PRD in respect of such dispute.

#### **7. DISCLOSURE BY PERSONS APPOINTED AS MEMBERS OF PRD**

A Member, from the time of his appointment on the PRD and throughout the dispute resolution proceedings, shall, without delay, disclose

to the parties and Clearing Corporation in writing any circumstances referred to in Regulation (6) above which have come to his knowledge after his appointment as a member to the PRD.

#### **8. TERMINATION OF TENURE OF THE MEMBER ON THE PRD**

The tenure of member on the PRD shall terminate :

- (a) if such member withdraws from office for any reason; or
- (b) where such member is unable to perform in accordance with the Byelaws and Rules; or
- (c) on completion of one year from the date of appointment; or
- (d) such member discloses any circumstances referred to in Regulation (6) or (7);

#### **9. ADMINISTRATIVE ASSISTANCE**

To facilitate smooth conduct of the dispute resolution proceedings, the Clearing Corporation shall provide such administrative assistance as may be necessary for proper conduct of dispute resolution with respect to all claims, differences or disputes which are submitted to PRD as per the provisions of these Byelaws and Rules,

#### **10. VENUE OF DISPUTE RESOLUTION:**

All the proceedings in relation to dispute resolutions shall be conducted in Mumbai, unless otherwise specified by Clearing Corporation after consultation in this regard with the PRD.

#### **11. DIRECTIONS OF RBI:**



Notwithstanding anything contained herein, any Direction or Circular or Rule or Guideline issued by the Reserve Bank of India under the PSS Act, 2007 or Regulations there under in respect of Dispute Resolution Mechanism shall be deemed to be part of this Chapter and in the event of any inconsistency with the provisions of this Chapter, such Direction or Circular or Rule or Guideline shall prevail over the other provisions set out in this Chapter.

## **12. DISPUTE RESOLUTION PROCEEDINGS**

### **1. APPLICABILITY**

The Dispute Resolution Proceedings given herein under shall apply only to dispute/claim /difference by a Member with/against any other Member(s) of Clearing Corporation.

### **2. PANEL FOR RESOLUTION OF DISPUTES (PRD)**

- (i) For the purpose of Dispute Resolution, the Clearing Corporation shall by Notification constitute the “Panel for Resolution of Disputes” (PRD) by nominating four members on the PRD out of its Members, and a Senior Official/Managing Director/ Authorised Representative of Clearing Corporation as the fifth member on PRD, who shall be the Chairman of PRD.
- (ii) In case of any dispute involving any Member(s) of the Clearing Corporation who is/are also Member(s) of the PRD, Clearing Corporation shall by Notification replace such member(s) of the PRD by other members for the limited purpose of looking into such dispute.
- (iii) The tenure of membership of the members in the PRD shall be one year from the date of appointment. However, if one or more Office(s) of the Member(s) on the PRD falls vacant after the appointment thereto, the Clearing Corporation shall be Notification fill up the vacancy.

### **3. PROCEDURE FOR DISPUTE RESOLUTION**

- (a) The aggrieved Member shall submit a written application in duplicate to the PRD, at the registered office address of the Clearing Corporation for dispute resolution setting out all the relevant facts of the case along with the requisite documents in support of the same, the business segment in which the dispute has arisen and any other additional information.
- (b) The applicant shall simultaneously send a copy of the application seeking dispute resolution addressed to PRD along with its supporting documents to the respondent.
- (c) Upon receipt of the documents from the parties a PRD meeting shall be arranged immediately for the purpose of Dispute Resolution.
- (d) The PRD shall dispose of the dispute within 15 working days of submitting the dispute.
- (e) The PRD for the purpose of disposing of the matter may ask for such information/ documents as it may deem necessary from the parties or Clearing Corporation and may give the parties to the dispute an opportunity of being heard, if it deems fit, and for that purpose shall determine the date and time of hearing and shall give notice to all the parties concerned.
- (f) The decision of the PRD shall be in writing and made in three originals duly dated and signed by each of the Members on the PRD.

### **4. ENFORCEMENT OF THE DECISIONS OF THE PRD:**

The PRD shall stipulate the period within which the order of the PRD is to be complied with by the Members concerned. In case of non-compliance, the aggrieved party can

approach the Appellate Authority for redressal. Non-compliance of the order of the Appellate Authority would attract the penalty prescribed under sub-section (6) of Section 26 of the PSS Act.

In case where any party aggrieved by the order of the PRD approaches the Appellate Authority for review, the order passed by the PRD would be held in abeyance. It shall, however, be appropriate for PRD to decide levy of the refund/compensation and such amounts to be held in an interim account or in trust, until disposal of the appeal by the Appellate Authority, only after which shall the amount be accordingly appropriated.

## **5. ADMINISTRATIVE ASSISTANCE WHICH MAY BE PROVIDED BY THE CLEARING CORPORATION**

The Clearing Corporation shall

- (a) maintain a register of references;
- (b) receive all applications for dispute resolution and communications addressed by the parties before or during the course of dispute resolution proceedings or otherwise in relation thereto;
- (c) communicate to the parties all orders and directions of the PRD;
- (d) receive and record all documents and papers relating to the reference and keep in custody all such documents and papers except such as the parties are allowed to retain;
- (e) communicate the decision on behalf of the PRD;
- (f) generally do such things and take all such steps as may be necessary to assist the PRD in the execution of their function.

## ANNEXURE I

~~1 Clearing Corporation agrees to make the Digipass security services available to the member subject to the following terms and conditions :~~

~~2 The member agrees to comply with all procedures and requirements as set out in the user manual when using the Digipass security services. Unless previously agreed by the Clearing Corporation, the member also agrees not to disclose the contents of the user manual to any third party.~~

### ~~3 Software Licence~~

~~3.1 In order to use the Digipass security services, the member is granted a non-exclusive, non-transferable licence to use the Digipass token on the following terms and conditions:~~

~~(a) the member agrees to only use the Digipass token in accordance with the terms listed here and in the user manual;~~

~~(b) the member will not copy, publish, sell, rent, lease, sub-lease, distribute, loan, modify, merge, translate, decompile or reverse compile the Digipass token (or any part of it);~~

~~(c) the member will treat the Digipass token as confidential and not make the same available to any third party and;~~

~~(d) the member will not do anything which would result in any infringement or unauthorised use of any intellectual property rights in the Digipass token or the user manual.~~

~~3.2 The member will not acquire any title, ownership interest or intellectual property right in the Digipass token or any related user manual.~~

#### **4 Revocation**

~~4.1 The member may request that any Digipass token be revoked at any time and for any reason as set out in the user manual.~~

~~4.2 Clearing Corporation may revoke any Digipass token if the member fails to meet its obligations of use of the Digipass token as set out here and in the user manual.~~

#### **5 Security Manager and Systems Administrator**

~~The member shall appoint one or more individuals as security manager(s) (as defined and set out in the user manual). The member may change any such appointment upon providing Clearing Corporation with written notice.~~

~~Security Manager will be the contact point for forwarding requests to Clearing Corporation for procuring tokens. Clearing Corporation shall act only on request received from the Security Manager.~~

#### **6 Evidence/Records**

~~6.1 An abstract from our written or electronic records shall be, in the absence of manifest error, prima face evidence of the matters to which it relates.~~

~~6.2 Clearing Corporation will maintain records of all Digipass tokens as well as related data for a period of at least one year after the date of expiry or revocation of the same.~~

#### **7 Security**

~~7.1 The member shall comply with all security procedures provided by Clearing Corporation to the member whether supplied electronically, by post or by hand, including, where relevant, those set out in the user manual. In addition, the member shall take all reasonable precautions to prevent fraudulent or unauthorised use of or access to its security details and of the Digipass security services.~~

~~7.2 The member shall contact Clearing Corporation immediately by telephone (and shall confirm the telephone call by giving written notice within twenty four hours of such call) if the member has grounds to suspect any unauthorised disclosure of its security details or any breach of security procedures prescribed by Clearing Corporation (including unauthorised access to its security details or the Digipass security services).~~

## **~~8 Legal Effect~~**

~~The member agrees that all instructions authenticated by a Digipass token shall have the same legal effect, validity and enforceability as if the instruction had been in writing signed by the member. Accordingly, the member shall agree not to challenge the legal effect, validity or enforceability of an instruction authenticated by a Digipass token.~~

## **~~9 Liability and Indemnity~~**

~~9.1 Clearing Corporation shall not be liable for any loss incurred by the member in connection with the Digipass security services, including but not limited to any security breach, unless caused by Clearing Corporation's gross negligence or wilful misconduct. In no circumstances shall Clearing Corporation be liable for any consequential, indirect, economic, special or punitive losses.~~

~~9.2 Clearing Corporation shall not be liable to the member for any loss whatsoever if Clearing Corporation does not act on the member's instructions or is prevented from providing the Digipass security services because of any cause that Clearing Corporation cannot reasonably control.~~

~~9.3 The member agrees to indemnify and keep indemnified Clearing Corporation from and against all and any loss for all acts of and omissions by the member or any of its authorised representatives under this agreement including, but not limited to any breach of the terms agreed herewith, any violation by the member of any applicable law, any failure to maintain the safety of its security details and any third party claim arising out of or relating to the use of, or failure to use, the Digipass security services unless caused by gross negligence or wilful misconduct by Clearing Corporation.~~

## **~~10 Changes to Terms~~**

~~10.1 Clearing Corporation may change, and/or suspend or discontinue any aspect of the Digipass security services at any time in order to take into consideration a material development in its business, the introduction of new products and services or reflect a change of law. Clearing Corporation will endeavour to provide the member with at least 30 days' prior notice of any such change or addition, unless this is not reasonably practicable in the circumstances. All such changes and additions will be binding on the member and the Clearing Corporation.~~

~~10.2 Amendments to reflect a change of law may take effect immediately. Other amendments will take effect on the date notified to the member.~~

## **~~11 Notices~~**

~~11.1 Any notice to the member may be given by electronic mail, or through the report browser provided by Clearing Corporation, or through the courier to the address as mentioned by the member in its membership application form.~~

~~11.2 If sent by electronic mail to the member, any notice will be deemed delivered when received in the relevant electronic mail box. If sent by courier, any notice will be deemed delivered on actual receipt.~~

## **~~12 Confidentiality and Use of Information~~**

~~12.1 Clearing Corporation shall not communicate confidential information provided by the member to third parties without member's consent unless required by law or for the purpose of the legal proceedings or for the purpose of credit rating.~~

~~Clearing Corporation shall use its reasonable endeavours to advise the other parties to whom Clearing Corporation disclose member's confidential information under this clause, of the confidential nature of such information.~~

## **~~13 Termination~~**

~~13.1 Clearing Corporation may terminate the Digipass Security Services or product at any time by giving a 3 business day notice to the member.~~

~~13.2 If the CLS membership of a member is terminated as per Chapter (II) (D) for the reasons mentioned therein or for any other reasons thereof, Clearing Corporation may revoke the Digipass security services immediately by giving notice to the member.~~



## **ANNEXURE I**

1. Clearing Corporation agrees to make the Digipass security services available to the member subject to the following terms and conditions :

(a) the member will not, sell, rent, lease, sub- lease, distribute, loan, modify, merge, translate, decompile or reverse compile the Digipass token (or any part of it);

(b) the member will treat the Digipass token as confidential and not make the same available to any third party and;

(c) the member will not do anything which would result in any infringement or unauthorised use of any intellectual property rights in the Digipass token.

1.2 The member will not acquire any title, ownership interest or intellectual property right in the Digipass token or any related document thereof.

### **2 Allocation /Assignment of digipass tokens**

The member shall give written request (email /letter) to CCIL giving details of individuals to whom digipass tokens should be assigned

The member shall give written request to CCIL in case of changes/modification/revocations to tokens assigned

### **3 Security**

3.1 The member shall take all reasonable precautions to prevent fraudulent or unauthorised use of digipass token

3.2 The member shall contact Clearing Corporation immediately by telephone (and shall



confirm the telephone call by giving written notice within twenty four hours of such call) if the member has grounds to suspect any unauthorised use/access of digipass tokens.

#### **4 Legal Effect**

The member agrees that all instructions authenticated by a Digipass token shall have the same legal effect, validity and enforceability as if the instruction had been in writing signed by the member. Accordingly, the member shall agree not to challenge the legal effect, validity or enforceability of an instruction authenticated by a Digipass token.

#### **5 Liability and Indemnity**

5.1 Clearing Corporation shall not be liable for any loss incurred by the member in connection with the Digipass security services, including but not limited to any security breach, unless caused by Clearing Corporation's gross negligence or willful misconduct. In no circumstances shall Clearing Corporation be liable for any consequential, indirect, economic, special or punitive losses.

5.2 Clearing Corporation shall not be liable to the member for any loss whatsoever if Clearing Corporation does not act on the member's instructions or is prevented from providing the Digipass security services because of any cause that Clearing Corporation cannot reasonably control.

5.3 The member agrees to indemnify and keep indemnified Clearing Corporation from and against all and any loss for all acts of and omissions by the member or any of its authorised representatives under this agreement including, but not limited to any breach of the terms agreed herewith, any violation by the member of any applicable law, any failure to maintain the safety of its security details and any third party claim arising out of or relating to the use of, or failure to use, the Digipass security services unless caused by gross negligence or wilful misconduct by Clearing Corporation.

#### **6 Changes to Terms**

6.1 Any changes or additions to terms of digipass security services by CCIL's service provider will be binding on its members..Clearing Corporation will endeavour to provide

the member with at least 30 days' prior notice of any such change or addition, unless this is not reasonably practicable in the circumstances.

6.2 Amendments to reflect a change of law may take effect immediately. Other amendments will take effect on the date notified to the member.

## **7 Notices**

7.1 Any notice to the member may be given by electronic mail, or through the report browser provided by Clearing Corporation, or through the courier to the address as mentioned by the member in its membership application form.

7.2 If sent by electronic mail to the member, any notice will be deemed delivered when received in the relevant electronic mail box. If sent by courier, any notice will be deemed delivered on actual receipt.

## **8 Confidentiality and Use of Information**

8.1 Clearing Corporation shall not communicate confidential information provided by the member to third parties without member's consent unless required by law or for the purpose of the legal proceedings or for the purpose of credit rating.

8.2 Clearing Corporation shall use its reasonable endeavours to advise the other parties to whom Clearing Corporation disclose member's confidential information under this clause, of the confidential nature of such information.

## **9 Termination**

9.1 Clearing Corporation may terminate the Digipass Security Services or product at any time by giving a 3 business day notice to the member.

9.2 If the CLS membership of a member is terminated as per Chapter (II ) (D) for the reasons mentioned therein or for any other reasons thereof, Clearing Corporation may revoke the Digipass security services immediately.