



2023

# The Bahamas Government Securities Depository (BGSD) Business Rules

A REGULATORY DOCUMENT ON THE USE OF THE BAHAMAS GOVERNMENT  
SECURITIES DEPOSITORY BY THE CENTRAL BANK OF THE BAHAMAS.

**THE BAHAMAS GOVERNMENT SECURITIES DEPOSITORY**

**BUSINESS RULES**

**ARRANGEMENT OF CHAPTERS**

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## **CHAPTER I: PREAMBLE**

The Bahamas Government Securities Depository (hereinafter referred to as “the **BGSD**”) makes the following Business Rules, namely:

- 1.1. These Business Rules shall be known as “**The Bahamas Government Securities Depository Business Rules**” and are for the sake of brevity and convenience, herein referred to as “**these Business Rules**” or “**the BGSD Business Rules**”.
- 1.2. These Business Rules shall come into force with effect from January 3, 2023.
- 1.3. These Business Rules shall be in addition to the applicable provisions of the Public Debt Management Act, 2021 (“**PDMA**”) and the regulations and directions made thereunder by the Central Bank of The Bahamas or the Government of The Bahamas and the provisions of the Central Bank of The Bahamas Act, 2020 (“**CBOB Act**”). These Business Rules shall at all times be read subject to the guidelines of the BGSD (“**Guidelines**”), the PDMA, and the CBOB Act.
- 1.4. The CBOB shall have authority to interpret the Business Rules and their interpretations shall be final and binding.

## **CHAPTER II: APPLICABILITY**

These Business Rules shall be read in conjunction with the Guidelines of the BGSD and shall be applicable to all the Users of the BGSD, including Members/Participants of the BGSD as well as the Clients to the extent specified therein.

### CHAPTER III: DEFINITIONS

- 3.1. “**Account Code**” has the meaning as ascribed to it under the Guidelines.
- 3.2. “**Beneficial Owner**” means investors who have the ultimate right, title and interest over the Government Securities held by them in the accounts maintained with the BGSD, including beneficial interest in Government Securities with respect to coupons and maturity proceeds.
- 3.3. “**BGSD**” means The Bahamas Government Securities Depository, operated by the CBOB for the purpose of carrying on depository business in Government Securities in The Bahamas.
- 3.4. “**BGSD Software Application**” means the software at the BGSD. BGSD Software Application shall form part of the BGSD System.
- 3.5. “**BGSD System**” means the electronic system of the BGSD used for the purposes of, including but not limited to, safe and accurate creation, storage, maintenance, cancellation, transfer, Clearing and Settlement of Government Securities and for creation and removal of third party rights in the nature of pledge, charge, etc.
- 3.6. “**SOD**” means start of business of each Working Day by the BGSD.
- 3.7. “**CBOB**” or “**Central Bank**” means the Central Bank of The Bahamas.
- 3.8. “**CBOB Act**” means the Central Bank of The Bahamas Act, 2020, as amended from time to time.
- 3.9. “**Clearing and Settlement**” or “**Cleared and Settled**” or “**Clearing and Settling**” or “**Clear and Settle**” means clearing and settlement of Trades in such manner and subject to such conditions as may be specified by the Management Committee, from time to time, unless the context indicates otherwise.
- 3.10. “**Client**” or “**Constituent**” means an entity or a person who has opened an account with the BGSD through a Member/Participant, for availing services offered by the BGSD in relation to Government Securities.
- 3.11. “**Client Application Form**” means forms referred to in Business Rule 4.3.1.
- 3.12. “**Disciplinary Action Committee**” means a sub-committee appointed by the Management Committee to deal with any disciplinary matters relating to the Members/Participants and/or Clients.
- 3.13. “**Encumbrance Holder**” means a person in whose favour third party rights in the Government Securities have been created including through pledge, lien, charge, mortgage, etc.
- 3.14. “**EOD**” means close of business of each Working Day by the BGSD.
- 3.15. “**EOD Processing**” means the processing which is carried out at the close of each Working Day by the BGSD and the Member/Participant. Such processing shall commence at such time as may be notified by the BGSD.
- 3.16. “**Exchange**” means the Bahamas International Securities Exchange operated by the Bahamas International Securities Exchange Limited and includes any other exchange that may be established for the purposes of trading of Government Securities.
- 3.17. “**First Leg**” has the meaning ascribed under Business Rule 7.3.1.1.
- 3.18. “**Government Securities**” has the meaning as ascribed under Section 2 of the PDMA.
- 3.19. “**Guidelines**” means the guidelines of the BGSD.
- 3.20. “**IPF**” means Investor Protection Fund as provided under the Guidelines.
- 3.21. “**IPF Committee**” shall have the meaning as ascribed to it under Business Rule 8.1.1.
- 3.22. “**Issuer**” means the Government of The Bahamas, Central Bank of The Bahamas or any other

person who is authorized to issue Government Securities under Applicable Law.

- 3.23. “**KYC**” has as ascribed to it under Business Rule 4.3.1.
- 3.24. “**Management Committee**” means a committee constituted by the CBOB pursuant to the Guideline 4.1 of the Guidelines.
- 3.25. “**Market Trades**” are Trades concluded on the Exchange and Cleared and Settled through the BGSD.
- 3.26. “**Markets Unit**” means the market unit of the banking department of the CBOB and has such responsibilities as may be decided by the CBOB.
- 3.27. “**Member**” or “**Participant**” means an entity admitted as such by the BGSD under the Guidelines and these Business Rules.
- 3.28. “**Member Software Application**” means the software installed on the hardware system of the Member/Participant. Member Software Application shall form part of the BGSD System.
- 3.29. “**Off Market Trades**” are Trades that are concluded outside the Exchange but are Cleared and Settled through the BGSD.
- 3.30. “**Risk Exposure Limits**” means the maximum amount of risk expressed in terms of monetary value in respect of a Member/Participant which the BGSD may be willing to accept for Clearing and Settlement of Trades entered into by a Member/Participant and its Constituents.
- 3.31. “**Repo**” means an instrument for borrowing funds by selling Government Securities with an agreement to repurchase the said Government Securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed.
- 3.32. “**Repo Arrangement**” has the meaning ascribed to it under Business Rule 7.3.1.
- 3.33. “**Second Leg**” has the meaning ascribed to it under Business Rule 7.3.1.2.
- 3.34. “**Securities Account**” means the account opened by eligible Member/Participant with the BGSD for holding Government Securities acquired in its own name.
- 3.35. “**Trades**” means, unless the context indicates otherwise, buying and/or selling of Government Securities by a Member/Participant for itself or its Constituents and reported to the BGSD for Clearing and Settlement. Wherever the terms “deals”, “Trades”, “Transactions” or “contracts” occur in these Business Rules, they shall have one and the same meaning, unless the context indicates otherwise. For the purpose of these Business Rules, a trade of a Constituent shall be deemed and construed as a Trade of the Member/Participant.
- 3.36. “**User Hardware System**” means the hardware set up of the User based on the hardware specifications supplied by the BGSD.
- 3.37. “**VPN**” has the meaning ascribed to it under Business Rule 6.1.3.3.
- 3.38. “**Working Day**” means a calendar day when the BGSD is open for conduct of business.

Any of the capitalized terms used herein and also defined in the Guidelines shall be deemed to be amended as per any amendment to the Guidelines, from time to time. Words, terms and abbreviations, used but not defined herein, shall have the meaning assigned to those terms in the Guidelines.

## CHAPTER IV: ISSUANCE AND TRADING

### 4.1. Issuance of Government Securities

- 4.1.1. The Government Securities shall be issued in dematerialized form in the BGSD System.
- 4.1.2. The method, procedure and mechanisms for issue of Government Securities, shall include auction, private placement, syndication, offer for sale by tender and offer for sale at fixed price or any other method as may be prescribed under Applicable Laws. The terms and conditions of the Government Securities, including the payment events such as coupon/interest payments, partial redemptions, optional redemptions, redemptions at maturity shall be as prescribed by the Issuer.
- 4.1.3. A register of holders of Government Securities shall be maintained by the Registrar. For this purpose, the record/register of Beneficial Owners maintained by the BGSD shall be deemed to be the register of holders of Government Securities.

### 4.2. Admission of Member/Participant

- 4.2.1. The applicant shall submit a form as specified by the BGSD, from time to time, along with the following documents:
  - (i) Business history of the applicant for the last 3 (three) years;
  - (ii) Net worth as per the latest audited accounts certified by such person and in the manner specified by the BGSD, from time to time;
  - (iii) Copies of the annual reports of the last 3 (three) years; and
  - (iv) License to operate in case of Insurance company, Government Corporation, Issuer, Mutual Funds, Financial Institution etc.
- 4.2.2. Clarifications and/or additional information may be sought by the BGSD from the applicant and such applications shall be processed further only upon receipt of complete particulars requested by the BGSD.
- 4.2.3. Mere submission of completed application forms along with the prescribed documents and/or additional information as may be sought by the BGSD does not by itself constitute any privilege/right for any applicant to claim grant of membership to the BGSD.
- 4.2.4. The applicant shall have appropriate safekeeping measures as specified by the BGSD, from time to time, (such as vaults and other security measures) to store electronic and physical records.
- 4.2.5. The Member/Participant shall not transact business on the BGSD System unless it has paid the security deposit and other fees as stipulated by the BGSD for this purpose.
- 4.2.6. The Member/Participant shall install the hardware and software which shall be in conformity with the configurations specified by the BGSD, from time to time.

### 4.3. Admission of Client

- 4.3.1. Any person desiring to become a Client of a Member/Participant shall make an application as per the Know Your Client (“**KYC**”) application forms and any other forms as prescribed by the BGSD, from time to time, (collectively, “**Client Application Form**”) and in accordance with the instructions/checklist for filling the Client Application Form as prescribed by the BGSD, from time to time.
- 4.3.2. Without prejudice to the Business Rule 4.3.1, the KYC requirements shall include *inter alia* the following:
  - 4.3.2.1. Two forms of identification (“**ID**”) (passport or NIB with driver’s license, national identity card, voter’s card, permanent residence permit, other national



passport, or spousal permit.)

4.3.2.2. Banking information for interest and maturity payments.

4.3.3. The Member/Participant shall ensure that the Client Application Forms submitted by the Client are completely filled, including the bank account particulars of the Client, and properly signed.

4.3.4. The Member/Participant shall open/activate an account of a Client in the BGSD System only after receipt of completed Client Application Form including the KYC form and supporting documents as specified by the BGSD, from time to time, and when such application of the Client has been found to be valid and accepted by the Member/Participant, the Member/Participant shall enter the data (as given in the Client Application Form) into the Member Software Application and activate the Constituent Account in the BGSD System.

4.3.5. The Account Code generated in the BGSD System through Member Software Application shall be referenced by the Client for all its transactions in the BGSD System.

4.3.6. The applicant may open an account either alone or with one or more joint holders.

#### **4.4. Termination/suspension of services of Member/Participant**

4.4.1. No Member/Participant shall accept any fresh application from any person for opening a new Constituent Account, or any form for creation of third party rights, including through pledge or charge or lien or mortgage, with effect from the date of receipt of notice of the termination of membership, issued by the BGSD to the Member/Participant; or from the date incorporated in the notice of termination of membership issued by Member/Participant to the BGSD; or from the effective date of the order of Member/Participant's expulsion passed by the BGSD, or from the date of the receipt of the order of Member/Participant's expulsion passed by the BGSD whichever is later; or from the date of the receipt of the order of cancellation of a Member/Participant's registration passed by the CBOB or a court, tribunal or pursuant to any written law.

4.4.2. The Member/Participant shall notify each of its Clients that it intends to close down its depository operations, within a period of 7 (seven) calendar days or such other period as may be prescribed by the BGSD, from time to time, from the date of receipt of notice of the termination of membership, issued by the BGSD to the Member/Participant; or from the date incorporated in the notice of termination of membership issued by the Member/Participant to the BGSD; or from the effective date of the order of the Member/Participant's expulsion passed by the BGSD, or from the date of the receipt of the order of the Member/Participant's expulsion passed by the BGSD, whichever is later; or from the date of the receipt of the order of cancellation of the Member/Participant's registration with the BGSD passed by the CBOB or a court, tribunal or pursuant to any written law.

4.4.3. The Member/Participant shall, along with the notice referred to in Business Rule 4.4.2 above, provide each of its Clients a copy of the Client's most recent transaction statement, with a direction to confirm their holdings, if any, and shall inform them that after 30 (thirty) calendar days or such further period as may be prescribed by the BGSD, from time to time, from the date of receipt of such direction by the Clients from the Member/Participant, the Member/Participant shall not entertain any instruction from the Client except for transfer of Government Securities to their accounts held with the other Member(s)/Participant(s), as the case may be, for the purpose of closing such Client's Constituent Account. Provided that the Member/Participant shall send the said direction in the form of a letter to each of its Clients.

4.4.4. The Member/Participant shall close all zero balance Constituent Accounts held with it after giving a notice in writing of not less than 30 (thirty) calendar days or such further period as

may be prescribed by the BGSD, from time to time, to such Client as well as to the BGSD.

- 4.4.5. The Member/Participant shall, issue a public notice within a period of 15 (fifteen) calendar days or such other period as may be prescribed by the BGSD, from time to time, from the relevant date stated in Business Rule 4.4.2 above, declaring thereby to the public its intention to close down its depository operations as a Member/Participant from the date specified in the public notice.
- 4.4.6. The Member/Participant shall appoint an auditor to conduct the concurrent audit of all its transactions, pertaining to the closure of its operations within a period of 15 (fifteen) calendar days or such other period as may be prescribed by the BGSD, from time to time, from the relevant date as stated in the Business Rule 4.4.2 above and shall further confirm the said appointment of the auditor to the BGSD. If the Member/Participant expresses its inability to appoint an auditor or fails to appoint the auditor within the stipulated time, then the BGSD shall on behalf of the Member/Participant, appoint an auditor to conduct the concurrent audit of all of the Member/Participant's transactions, at the cost of the Member/Participant.
- 4.4.7. The Member/Participant shall furnish to the BGSD the following on a monthly basis, by the 10<sup>th</sup> calendar day of the following month, till the Member/Participant successfully closes down its entire depository operations as a Member/Participant a report on:
  - (a) The status of the closure of accounts giving details as specified by the BGSD, from time to time, including the Account Code, date and reference number of the letter furnished to the Clients pursuant to Business Rule 4.4.3; the status of the closure of the account (if closed, provide details of target account of the Member/Participant where the Government Securities have been transferred); and details of investor grievances and the action taken.
  - (b) Back-up of the Member Software Application as of the end of every month; and
  - (c) Concurrent audit report.
- 4.4.8. Without prejudice to any other rights of its Clients, when a Member/Participant is unable to close all Constituent Accounts, the Member/Participant may request the BGSD to manage the accounts of such Clients on its behalf as per the terms and conditions prescribed by the BGSD, from time to time.

Provided that the BGSD may, on its own, decide to manage the accounts of the Clients of such Member(s)/Participant(s), or may nominate one or more Member(s)/Participant(s) to whom such Constituent Accounts shall be transferred.
- 4.4.9. Without prejudice to any other rights of its Clients, on receipt of a request from the Member/Participant to manage its account and submission of all necessary documents by the Member/Participant as prescribed by the BGSD, the BGSD may direct the Member/Participant to transfer the Government Securities held by it in the Constituent Accounts, to the system set-up by the BGSD and thereafter, the BGSD shall freeze such accounts.
- 4.4.10. Without prejudice to any other rights of its Clients, the Member/Participant shall within a period of 7 (seven) calendar days or such other period as may be prescribed by the BGSD, from time to time, from the date of transfer of the Government Securities as referred to in Business Rule 4.4.9 notify its Clients about such transfer and shall further inform them about the procedure to have their Government Securities transferred to their Constituent Accounts held with other Member(s)/Participant(s).
- 4.4.11. The BGSD shall transfer the Government Securities from the account(s) of the Client(s) held in the BGSD System, to account(s) maintained with other Member(s)/Participant (s) and close such Constituent Accounts subsequent to such transfer, on receipt of the necessary documents, to the satisfaction of the BGSD.

- 4.4.12. The Member/Participant shall surrender the original registration as a Member/Participant to the BGSD.
- 4.4.13. The Member/Participant shall, upon the cancellation of the registration with the BGSD, whether such registration being cancelled by the BGSD or any statutory body having jurisdiction in this regard, as the case may be, issue a public notice in the manner as specified by the BGSD, from time to time, thereby informing the public about the closure of the depository operations and in case of termination of operations of the Member/Participant by the BGSD, such public notice may be issued by the BGSD, at the cost of the Member/Participant.
- 4.4.14. The Member/Participant shall meet all its outstanding obligations to the BGSD while the Member/Participant was acting as such.
- 4.4.15. Any Member/Participant who is required to follow the aforesaid Business Rules, but fails to follow them, or commits a breach of any of the said Business Rule, it shall be liable to a penalty as be decided by the Central Bank.

#### **4.5. Freezing and Unfreezing of Accounts**

##### **4.5.1. Freezing of Accounts**

4.5.1.1. A Client may freeze its account and/or specific Government Securities and/or specific number of Government Securities by making a request:

- (a) in the form specified by the BGSD, from time to time, to its Member/Participant; or
- (b) electronically, to its Member/Participant or to the BGSD in the form and manner as may be prescribed by the BGSD, from time to time.

Provided however that the Client shall submit such a request to its Member/Participant or to the BGSD, at least 1 (one) clear Working Day or such other number of days as may be prescribed by the BGSD, from time to time prior to the date of freezing its account (for example, if the Client wishes to freeze its account with effect from Friday, such instruction must be given latest by Wednesday).

4.5.1.2. The Member/Participant, before executing the instruction received from its Client to freeze his/her account and/specific Government Securities and/or a specific number of Government Securities in accordance with these Business Rules via the Member Software Application, shall ensure that the form is duly filled in and the signature(s) of the Client(s) is/are valid.

4.5.1.3. The Member/Participant shall freeze the account of its Client and/or specific Government Securities and/or specific number of Government Securities through the Member Software Application, on receipt of:

- (a) instructions received from its Client as per Business Rule 4.5.1.1; or
- (b) written instructions from the BGSD; or
- (c) orders received from the relevant authority stated under PDMA and/or Government of The Bahamas; or
- (d) any order, direction or instruction issued by a court, tribunal, or pursuant to any written law.

4.5.1.4. The BGSD shall freeze the account of a Client and/or specific Government Securities and/or specific number of Government Securities through the BGSD Software Application:

- (a) on receipt of instruction from a Client as per Business Rule 4.5.1.1; or
- (b) on receipt of orders, direction or instruction received from the relevant authority stated under PDMA and/or Government of The Bahamas or any order passed by a court, tribunal, or pursuant to any written law; or
- (c) at the request of a Member/Participant.

4.5.1.5. The BGSD shall, on its own through the BGSD Software Application, freeze the Member/Participant's Own Account and/or the specific Government Securities and/or specific number of Government Securities, to the extent of the Government Securities held in the Member/Participant's name or advise the Member/Participant to do so through its Member Software Application under the following circumstances:

- (a) on the basis of the orders received from the relevant authority stated under PDMA and/or Government of The Bahamas or any order issued by a court, tribunal, or pursuant to any written law; or
- (b) the Member/Participant has become insolvent, bankrupt or in case the Member/Participant is a body corporate, is being wound up.

#### 4.5.2. Unfreezing of Accounts

4.5.2.1. The Client may unfreeze its account and/or the specific Government Securities and/or specific number of Government Securities frozen:

- (a) as per Business Rule 4.5.1.1(a), only by making such request in the form as specified by the BGSD, from time to time, to its Member/Participant;
- (b) as per Business Rule 4.5.1.1(b), only by making a request electronically to its Member/Participant or to the BGSD, as the case may be, in such form and manner as may be prescribed by the BGSD.

Provided however that, the Client shall submit such a request to its Member/Participant or to the BGSD, at least 1 (one) clear Working Day or such other number of days as may be prescribed by the BGSD, from time to time, prior to the date of removal of the freeze (for example, if the Client wishes to unfreeze its account with effect from Friday, such instruction must be given latest by Wednesday).

4.5.2.2. The Member/Participant, before executing the instruction received from its Client to unfreeze his/her account and/or the specific Government Securities and/or a specific number of Government Securities in accordance with these Business Rules via the Member Software Application, shall ensure that the required form is duly filled in and the signature(s) of the Client(s) is/are valid.

4.5.2.3. The Member/Participant may unfreeze an account and/or the specific Government Securities and/or specific number of Government Securities, frozen under these Business Rules through the Member Software Application on the basis of instructions received from the Client or on receipt of written instructions from the BGSD or on receipt of an order to that effect received from the statutory authority having jurisdiction in this regard.

4.5.2.4. The BGSD may also unfreeze an account and/or the specific Government Securities and/or specific number of Government Securities, frozen under these Business Rules through the BGSD Software Application, on the basis of instructions from the Client or on receipt of orders received from the statutory authority having jurisdiction in this regard.

#### 4.6. Closure of Constituent Account

- 4.6.1. A Client wanting to close a Constituent Account shall make an application in the form specified by the BGSD, from time to time.
- 4.6.2. The Member/Participant shall ensure that the form has been duly completed and the signature of the Client is valid.
- 4.6.3. The Member/Participant shall execute the request for closure via the Member Software Application within 30 (thirty) calendar days or such other period as may be prescribed by the BGSD, from time to time, from the date of receipt of request for closure.
- 4.6.4. The Member/Participant shall notify the BGSD within 7 (seven) calendar days of receipt of application for closure of Constituent Account.

#### **4.7. Transfer of Government Securities**

- 4.7.1. The transfer of Government Securities shall be effected in the manner prescribed by the BGSD, from time to time.
- 4.7.2. The transfer of title to Government Securities shall become final only upon the execution of the instrument of transfer prescribed by the BGSD, from time to time, and upon the registration of the transferee as the holder by the Registrar.
- 4.7.3. A Member/Participant or Client may request a transfer of title of Government Securities or transfer of Member/Participant on Government Securities from the BGSD. The required application as may be specified by the BGSD, from time to time, must be submitted to the Markets Unit and accompanied by the following:
  - 4.7.3.1. Signed letter of intention for transfer of title of Government Securities or transfer of Member/Participant;
  - 4.7.3.2. Two forms of ID's (passport or NIB with driver's license, national identity card, voter's card, permanent residence permit, other national passport, or spousal permit) are required for individual clients only.
- 4.7.4. Once such application has been reviewed and verified by the Markets Unit, the transfer of title of Government Securities or transfer of Member/Participant shall be processed on the BGSD System.
- 4.7.5. Market Trades
  - 4.7.5.1. A Member/Participant shall complete Market Trades on the Exchange unless otherwise agreed or approved by the BGSD.
  - 4.7.5.2. The Member/Participant shall effect a debit or credit to the accounts of its Clients only on receipt of proper authorization from the Clients in the form of application along with proof of identification as specified by the BGSD, from time to time. Alternatively, a Client may give standing instructions to its Member/Participant to credit its account. In case the Client does not have sufficient balance in its account, the debit to the account shall be effected to the extent of balance available.
  - 4.7.5.3. The application submitted by the Client shall be checked by the Member/Participant to ensure the completeness of the form and validity of the signature of the Client before the requests on these forms are executed.
  - 4.7.5.4. Market Trades executed on the Exchange by Members/Participants shall be sent from the Exchange to the BGSD via its interface connect or via instruction by email. Such Market Trades shall not be considered final unless they have been settled in the BGSD.
- 4.7.6. Over the counter trade (“OTC”) or Off Market Trades:

- 4.7.6.1. A Member/Participant, who wants to buy or sell Government Securities, may contact another Member/Participant directly and negotiate the price and quantity of securities.
- 4.7.6.2. The details of all trades undertaken on the OTC market shall be inputted in the BGSD System within 1 (one) Working Day.
- 4.7.6.3. All OTC trades will be Cleared and Settled by the BGSD in such manner as may be prescribed by the BGSD, from time to time.
- 4.7.6.4. Transfer of Government Securities by a Client in respect of off-market trades shall be inputted in the BGSD System by a Member/Participant on receipt of a Government Securities transfer instruction, in the form as may be prescribed by the BGSD, from time to time, from the Client for delivery and/or receipt, as the case may be, of Government Securities. In the case of a transfer of Government Securities held by the Member/Participant, the Member/Participant shall itself input the trading details in the BGSD System.
- 4.7.6.5. Transfer of Government Securities in respect of Off Market Trades shall be effected on receipt of a duly filled in Government Securities transfer instruction form from the Clients for delivery as well as a Government Securities transfer instruction form from the Clients for receipt. The specimen of these forms shall be in the form as may be prescribed by the BGSD, from time to time. Alternatively, a Client may give standing instructions to its Member/Participant to credit its account.

Provided that in case the Client has a joint account and either of the joint account holder hold the power of attorney too operate the account, then any one of such holders may sign the Government Securities transfer instruction form. In case the Client has a joint account and both the joint account holders are empowered to operate such account, then both the joint account holders shall be required to sign the Government Securities transfer instruction form.

- 4.7.6.6. The Member/Participant shall check for the completeness of the form and validity of the signature of the Client before effecting such transfers.

#### **4.8. Account Transfers in case of Transmission**

- 4.8.1. Transmission of Government Securities held jointly in the BGSD
  - 4.8.1.1. In case of death of one of the Clients in a joint account, the surviving Client(s) shall request the Member/Participant to transmit the balances lying in the Client account to the account of the surviving Client(s). The surviving Client(s) shall make an application to the Member/Participant in the form as specified by the BGSD, from time to time along with a certified copy of the death certificate duly attested by the Registrar General or such authority as may be prescribed by the BGSD.
  - 4.8.1.2. The Member/Participant shall verify the death certificate and the signature of the surviving Client(s) before effecting the transmission.
  - 4.8.1.3. In case of death of one or more of the Clients in a joint account if the surviving Client(s) wish to open a new account with the same Member/Participant, then the Member/Participant will open the new account in the name(s) of the surviving Client(s), in the same order as in the original account, on the basis of the existing documents already in the possession of the Member/Participant, provided that the said documents meet the prevailing requirements for opening a Constituent Account.
  - 4.8.1.4. The Member/Participant after being fully satisfied on all aspects, shall then effect transfer of the balances to the Constituent Account of the surviving Client(s). For

this purpose, the Member/Participant may conduct such further enquiries as may be deemed necessary.

4.8.1.5. After effecting the transmission, the Member/Participant shall close the Constituent Account of the deceased.

4.8.2. Transmission of Government Securities held singly in the BGSD

4.8.2.1. In case of the death of a Client, the estate of the Client to be probated or administered, and the legal heir(s) or legal representative(s) so determined (“**Legal Heirs**”) shall become the new Beneficial Owner.

4.8.2.2. Such new Beneficial Owner shall submit to Member/Participant the necessary documents as prescribed by the BGSD, from time to time, for transferring the balances lying in the deceased Client’s account to the Constituent Account of the Legal Heirs.

4.8.2.3. The Member/Participant shall ensure that the documents submitted by the Legal Heirs are in order, satisfy itself about identity of the Legal Heirs mentioned in the documents and shall then effect a transfer of the balances to the Constituent Account of the Legal Heirs.

4.8.2.4. After effecting the transmission, the Member/Participant shall close the account of the deceased Client.

## **CHAPTER V: CLEARING AND SETTLEMENT**

### **5.1. Settlement of Trades**

#### 5.1.1. Acceptance of Trades

5.1.1.1. Upon receipt of Trades for Clearing and Settlement, the BGSD shall accept such Trade/s after verification of Risk Exposure Limits in respect of each individual Member/Participant and its Client as may be prescribed by the BGSD, from time to time.

5.1.1.2. Trades accepted shall be classified as

(a) Trades guaranteed for settlement:

Trades that fall within Members'/Participants' Risk Exposure Limits will be accepted and guaranteed for settlement by the BGSD.

(b) Trades not guaranteed for settlement:

(i) Trade(s) that exceed Members'/Participants' Risk Exposure Limits will not be guaranteed for settlement by the BGSD.

(ii) Such Trade(s) shall be accepted by the BGSD at its discretion.

(iii) Acceptance of such Trade(s) by the BGSD shall not constitute any obligation on its part to accept such Trade(s) on a future date nor will it bestow any right on the Member/Participant to insist on acceptance of such Trades on a future date.

(c) If the settlement of the Trades fails due to any default by the Member/Participant or Client, then the Trades shall not be executed further and will be cancelled. Any failure of delivery and settlement of Government Securities by the Member/Participant or Client shall be subject to such penalty as may be prescribed by the BGSD, from time to time.

#### 5.1.2. Rejection of Trades

In addition to the conditions as prescribed under the Guidelines, the BGSD shall have the discretion to reject Trade(s) received by it for settlement under the following conditions:

5.1.2.1. When the Trade has been received by the BGSD after cut-off timing, as prescribed by the BGSD, from time to time, rendering the Clearing and Settlement of the relative Trade for that settlement date impossible, for example, if the Trade(s) has been received after the commencement of the Clearing and Settlement process for that settlement date, it shall not be possible to accept such a Trade;

5.1.2.2. All Trades in 'when issued' instruments shall be rejected on cancellation of auction by the CBOB;

5.1.2.3. If the Member/Participant fails to make the payments for the Trades within the time prescribed by the BGSD;

5.1.2.4. In the event of disruption of any kind which has prevented the BGSD from carrying out its functions pursuant to any judicial orders, regulatory provisions, disruption in internet services, war (declared or undeclared), riots or civil commotion, earthquakes or any other natural disaster;

5.1.2.5. Any other conditions as may be prescribed by the BGSD, from time to time.

#### 5.1.3. Obligation Reports

The BGSD shall generate and provide to each Member/Participant the following obligation



reports:

5.1.3.1. Security Holdings Reports:

- (a) These reports shall comprise of security-wise position of a Member/Participant for its outright and Repo, when issued Trades on its Own Account or for its Clients, for which deliveries are to be given and/or received by it in its Securities Account and/or Constituent Account, as the case maybe, on a settlement date;
- (b) These reports shall be deemed to be Member/Participant's confirmation of security-wise position for which deliveries are to be given and/or received by the Member/Participant on a settlement or payment date;
- (c) These reports shall be deemed to be the Member/Participant's instruction to the BGSD, for effecting these transactions in its Securities Account or the Constituent Account, as the case may be.

5.1.3.2. Interest Reports:

- (a) These reports shall comprise of net interest payable and/or receivable by a Member/Participant for its own Trades and its Constituents' Trades made by it for all outright, Repo, when issued, falling due for settlement on the settlement date as determined by the BGSD;
- (b) This report shall be deemed to be a Member/Participant's confirmation of the interest payments for which, funds are to be received from and/or paid to the Member/Participant on a settlement or payment date;
- (c) This report shall be deemed to be a Member/Participant's instructions to the BGSD for effecting these transactions in its Funds Settlement Account.

**5.2. Settlement and Cycle**

Save as otherwise provided, Trades are contracts relating to outright sales including when issued, Repo, type with delivery and payments shall be as under:

- (a) For "T+ 0" i.e., for delivery and payment on the same day as the date of the Trade;
- (b) For "T+ 1" i.e., for delivery and payment on the Working Day following the date of the Trade;
- (c) For "T+ N" i.e., for delivery and payment on any Working Day greater than "T+1" as specified by the BGSD, from time to time.

## **CHAPTER VI: CUSTODY**

### **6.1. The BGSD System**

- 6.1.1. The BGSD System consists of computer systems operating at the Central Bank and at each of the User institutions, and communication networks that are linking the computer systems.
- 6.1.2. The BGSD System includes Member Software Application, BGSD Software Application and the User Hardware System.
- 6.1.3. The BGSD System uses four main components:
  - 6.1.3.1. The central system with its associated workstation facilities for interactive and straight through payment processing;
  - 6.1.3.2. The Member/Participant system with its associated BGSD workstation module for generation of MT5xx series messages and web-station functionality for interactive services;
  - 6.1.3.3. Virtual Private Network (“VPN”) for interconnection of Members/Participants to the BGSD System; and
  - 6.1.3.4. System Interfaces with the Exchange and SWIFT.
- 6.1.4. The central BGSD component provides the Government Securities’ full management and settlement functions, along with access for the CBOB to maintain the system, manage the business day and provided enquiry, charting and reporting facilities.
- 6.1.5. The workstation component, which resides on the Member/Participant and the CBOB workstation provides facilities for Members/Participants to submit and receive SWIFT MT5xx series messages for the full management of Government Securities related operations.
- 6.1.6. The BGSD billing module provides the CBOB with management of Member/Participant billing and charges.
- 6.1.7. The User shall carry out transactions relating to the BGSD only through the approved User Hardware System located at approved locations of the office of the User. No other workstation, computer system or hardware may be connected to the User Hardware System without the prior approval of the BGSD.
- 6.1.8. Each User shall have a unique identification number provided by the BGSD in the following manner:
  - 6.1.8.1. Member/Participant ID for the Members/Participants, and
  - 6.1.8.2. Account Code for the Clients which is issued under the Member/Participant ID of the Member/Participantwhich shall be used to identify them by the BGSD and by other Users.
- 6.1.9. A User shall have a non-exclusive permission to use the BGSD System as provided by the BGSD in the ordinary course of its business as such User.
- 6.1.10. The permission to use the BGSD System shall be subject to the payment by the User of such charges as may be specified by the BGSD, from time to time.
- 6.1.11. A User shall not use or permit any other person to:
  - 6.1.11.1. use the software provided by the BGSD for any purpose other than the purpose as approved and specified by the BGSD;
  - 6.1.11.2. use the software provided by the BGSD on any equipment other than the User

Hardware System;

- 6.1.11.3. copy, alter, modify or make available to any other person, the software provided by the BGSD;
  - 6.1.11.4. use the software in any manner other than the manner as may be specified by the BGSD;
  - 6.1.11.5. attempt directly/indirectly to decompile, disassemble or reverse engineer the same.
- 6.1.12. A Member/Participant shall not, by itself or through any other person(s) on its behalf, publish, supply, show or make available to any other person or reprocess, retransmit, store or use any information provided by the BGSD for any purpose other than in the ordinary course of its business as a User of the BGSD, except with the explicit approval of the BGSD.

## **6.2. Manner of Dealings by Users**

- 6.2.1. Only those persons who are approved as Users in accordance with the provisions of the Guidelines and the BGSD Business Rules may be approved as Users of the BGSD System.
- 6.2.2. The release of transactions for execution on the BGSD System for any Working Day must be completed by the User in the minimum time period, before the EOD process is initiated at the BGSD System. This minimum time period shall be specified by the BGSD.
- 6.2.3. At the EOD Processing by the BGSD, the BGSD System shall electronically notify to the User the SOD for the next Working Day. Any release of transactions for execution made thereafter shall be recorded for the next Working Day.
- 6.2.4. Any transactions entered into by the User after such period can be released for execution on the BGSD System only on the next Working Day.
- 6.2.5. The electronic communication link with the BGSD System must be maintained by the User at all times unless otherwise agreed upon by the BGSD.

## **6.3. Supervision by Member/Participant**

- 6.3.1. Each Member/Participant shall establish, maintain and enforce procedures to supervise its business and to supervise the activities of its employees that are reasonably designed to achieve compliance with the Guidelines, these Business Rules, notifications and directions issued thereunder by the BGSD.
- 6.3.2. The Member/Participant shall maintain an internal record of the names of all persons who are designated as supervisory personnel and dates for which such designation is or was effective. Such records shall be preserved by the Member/Participant for a period not less than 3 (three) years from the date of cessation of appointment as supervisory personnel.
- 6.3.3. Each Member/Participant shall conduct a review, at least annually, of its business relating to the operations of the BGSD, which shall be reasonably designed to assist in detecting and preventing violation of and achieving compliance with the Guidelines and the BGSD Business Rules.
- 6.3.4. The Member/Participant shall bring to the notice of its Clients, and other Members/Participants, any indictments, orders or penalties etc. issued against it by the Government of The Bahamas, the BGSD or other competent regulatory authority having jurisdiction in this regard within 7 (seven) calendar days or such other days as may be prescribed by the BGSD, from time to time, from the date of such indictment or order.
- 6.3.5. The Member/Participant shall bring to the notice of the BGSD, any indictments orders or penalties that may have been issued against it by the Government of The Bahamas or by any competent regulatory authority having jurisdiction in this regard within 7 (seven) calendar days or such other days as may be prescribed by the BGSD, from time to time,

from the date of such order, indictment or penalty.

#### **6.4. Working Days**

- 6.4.1. The Working Days of the BGSD shall be during such time as may be decided by the Management Committee, from time to time.
- 6.4.2. Where no Working Days calendar has been issued, the internal system of the BGSD's calendar shows, for each week and each month, Monday to Friday inclusive as business days and Saturday and Sunday as holidays.
- 6.4.3. The Management Committee may close office on days other than and in addition to the scheduled holidays originally declared under Business Rule 6.4.1 or 6.4.2, to be called unscheduled opening or closing of the BGSD and the decision of Management Committee in this regard shall be final and binding.

#### **6.5. Working Hours**

- 6.5.1. The BGSD shall announce the normal working hours for every Working Day in advance.
- 6.5.2. The BGSD may extend, advance or reduce the working hours by notifying the Users as and when it deems fit and necessary in this regard.

#### **6.6. Daily Schedule**

- 6.6.1. The Working Day is driven by the timetable for the day. The BGSD default timetable is set centrally.
- 6.6.2. The default timetable will apply every day; any changes performed on the default timetable will apply from the next day of the default timetable modification approval. The default timetable will hold the normal BGSD daily schedule.
- 6.6.3. The current timetable is initialized every day to the value of the default timetable; any changes to the current timetable will apply only for the current Working Day and the changes will not be carried over to the next day; for the next Working Day the BGSD System will, again, set the current timetable to the values available in the default timetable. The current timetable will hold a particular BGSD daily schedule as a result of deviation from the normal schedule.

#### **6.7. System access**

##### **6.7.1. Member Hardware and Software Requirements/Technical Requirements**

- 6.7.1.1. The Member/Participant shall install the hardware and software which shall be in conformity with the configurations specified by the BGSD, from time to time.
- 6.7.1.2. The technical implication is that Members/Participants need to have VPN access to connect to the central BGSD System.
- 6.7.1.3. The BGSD shall provide a Member Software Application to the Member/Participant and any up gradations or modifications to such software on payment of such fees as may be determined by the BGSD, from time to time.
- 6.7.1.4. The Member/Participant shall install at its computer center, client server, hardware configuration with system database, communication and application software as prescribed by the BGSD.
- 6.7.1.5. Unless otherwise supplied directly by the BGSD, all hardware and software in accordance with prescribed configuration shall be procured by the Member/Participant from the BGSD empaneled brands only.
- 6.7.1.6. The above hardware and software set-up shall be dedicated for the BGSD specific application module and even if there is spare processing/data storage capacity, the

same shall not be used for any other application including the Member/Participant's back-office system.

6.7.1.7. The Member/Participant shall carry out modification, upgradation, replacement and deletion for the above-mentioned configuration, from time to time, as may be prescribed by the BGSD.

6.7.2. Access Administration

6.7.2.1. All Users must be identified to the BGSD System before they can sign in.

6.7.2.2. User access controls are designed to restrict the access of each User to certain functions only.

6.7.2.3. Access to the BGSD System will not be obtained without the appropriate security certificates and a valid username and password.

6.7.3. Ownership Rights

6.7.3.1. The Users shall acknowledge that the software underlying BGSD System is the legal property of the BGSD and the CBOB.

6.7.3.2. The permission given by the BGSD and the CBOB to access the BGSD System will not convey any proprietary or ownership rights in the above software.

6.7.3.3. The User shall not attempt to modify, translate, disassemble, decompile or reverse engineer the software underlying the BGSD System or create any derivative product based on that software.

**6.8. Failure of Member/Participant's Terminal**

6.8.1. Where the BGSD undertakes functions on behalf of the Member/Participant, the Member/Participant shall be accountable for the functions executed by the BGSD on behalf of the Members/Participants and shall indemnify the BGSD against any losses or costs arising out of the same.

**6.9. Reconciliation and Records**

6.9.1. Reconciliation of the records of a Member/Participant or a Client shall be completed by the BGSD, from time to time. Members/Participants shall provide required documentation for completion of such reconciliation as specified by the BGSD, from time to time.

6.9.2. Records to be maintained by Member/Participant

Records shall be maintained by the Member/Participant in the manner required in these Business Rules and as may be provided by the BGSD, from time to time.

6.9.2.1. Every Member/Participant of the BGSD shall maintain the following records relating to its business for a period of 5 (five) years or such other period as may be prescribed under Applicable Laws, whichever is earlier:

(a) Records of all the transactions entered into by a Member/Participant and between a Member/Participant and its Client

(b) Records in the required format submitted by the Clients to a Member/Participant in respect of-

- Opening of accounts with the Member/Participant;
- Closing of accounts with the Member/Participant;
- Freezing of accounts with the Member/Participant;
- Unfreezing of accounts with the Member/Participant;

- (c) Copies of correspondence from the Clients on the basis of which Clients details were updated in the BGSD System;
  - (d) A register showing details of grievances received from the Clients and their present status. The following details may be specified in this regard:
    - name of the Client;
    - reference number of the Client;
    - date;
    - particulars of complaints; and
    - actions taken by the Member/Participant;
  - (e) If the matter is referred to arbitration, then the particulars of the arbitration including the present status thereof;
  - (f) Records of approval, notice, entry and cancellation of third party rights or holds as the case may be.
  - (g) Records in the required format received in respect of transmission of Government Securities and holds of Government Securities.
- 6.9.2.2. The Member/Participant shall notify to the BGSD, the place where the above records are kept and available for audit/inspection.
- 6.9.2.3. The above requirements relating to maintenance of records shall apply not only to the records of the Member/Participant's principal office but also any branch office and to any nominee company owned or controlled by the Member/Participant for the purpose of conducting the business of the Member/Participant relating to the operations of the BGSD.
- 6.9.2.4. The Member/Participant shall also maintain such other records as may be prescribed by the BGSD or such other relevant statutory authority having jurisdiction in this regard, from time to time.
- 6.9.3. Records maintained by the BGSD with respect to Government Securities
- 6.9.3.1. The BGSD System records and processes the following operations:
- (a) Settlement of auction results on the primary market;
  - (b) Outright sales (Delivery versus Payment);
  - (c) Transfer of portfolio (Free of Payment);
  - (d) Repo Arrangement;
  - (e) Pledges;
  - (f) Full management of registration, release & execution operations;
  - (g) Event-driven operations;
  - (h) Coupon payments;
  - (i) Total redemption.

the BGSD will store records in relation to the aforesaid matters in electronic form for such period as may be prescribed under Applicable Laws or as may be determined by the Management Committee, from time to time.

- 6.9.3.2. the BGSD may maintain the following records with respect to Government

Securities for such period as may be prescribed under Applicable Law or as may be determined by the Management Committee, from time to time:

- (a) Such records as may be submitted by the Client to the BGSD in the format prescribed, from time to time.
- (b) A register showing details of grievances received from Clients and their present status.

#### 6.9.4. Manner of keeping records

The records specified in Business Rule 6.9.2 and 6.9.3 above, may be maintained in electronic form. Where the records are kept by the Member/Participant in electronic form, it shall do so with the prior approval of the BGSD and shall ensure that the integrity of the data processing systems is maintained at all times and take all precautions necessary to ensure that the records are not lost, destroyed or tampered with and ensure that sufficient backup of records is available at all times at a location other than its principal office. However, the prior approval of the BGSD is not required if the Member/Participant has been permitted to receive instructions from the Client in an electronic form in the specified manner.

#### 6.9.5. Manner of advice, statements and reports

##### 6.9.5.1. To Members/Participants

- (a) The BGSD may send advises, circulars or statements directly to the Members/Participants relating to operational issues, on an ad hoc basis.
- (b) The BGSD System provides, periodically or upon request, a minimum number of reports on the following issues to the Members/Participants:
  - Summary of transactions;
  - Summary of pledges;
  - Summary of rejected transactions;
  - Cancelled transactions, upon request or automatically by the BGSD System;
  - Summary of transactions to be settled at a subsequent date;
  - Government Securities stock for the Member/Participant; and
  - The updated (current) value of Government Securities;

##### 6.9.5.2. To Client(s)

- (a) The Member/Participant shall furnish a statement of accounts including transaction statement and holdings statement to each Client, who has opened an account with it, giving details of the security-wise transactions and balances, in the accounts of the Clients. Such a statement shall be furnished to the Clients at monthly intervals or such other intervals as may be prescribed by the BGSD, and to the Clients opting for basic services demat account at quarterly intervals or such other intervals as may be prescribed by the BGSD, unless the Client and the Member/Participant have agreed for provision of such statements at shorter intervals.

Provided however, if there is no transaction in the account, or if the balance has become nil during the year, the Member/Participant shall send one physical statement of holding annually to such Clients and shall resume sending the transaction statement as and when there is a transaction in the

account.

- (b) The Member/Participant may provide statement of accounts including transaction statement and holdings statement to the Clients in electronic form, if this option is selected by the Client. However, if the Client is desirous of receiving such statements in physical form, Member/Participant shall be duty bound to provide the same.

Provided that, if a Member/Participant does not have the facility for providing such statements in an electronic mode, then the Member/Participant shall be obliged to forward such statement in physical form.



## **CHAPTER VII: THIRD-PARTY RIGHTS/ENCUMBRANCE ON GOVERNMENT SECURITIES AND REPO ARRANGEMENT**

### **7.1. Creation, invocation and cancellation of third-party rights /encumbrance on Government Securities**

The holder of Government Securities may create third party rights in respect of Government Securities held by them, in the nature of a pledge, charge, lien, mortgage, etc. in accordance with the Applicable Laws.

- 7.1.1. The Member/Participant may create third party rights in respect of Government Securities held in the Securities Account acquired in its own name and/or on behalf of Clients held in a Constituent Account.
- 7.1.2. The Member/Participant may create third party rights in respect of Government Securities by submitting a request through the BGSD System, in the prescribed format as may be applicable in respect of Government Securities held in a Securities Account or Constituent Account, as the case may be.
- 7.1.3. The BGSD may on receipt of the request:
  - 7.1.3.1. approve the creation of third party rights in its records and confirm the same and such confirmation shall be conclusive proof of the hold created; and
  - 7.1.3.2. where any discrepancy is found in the request, issue a return notification on stating the reasons for not recording the third party rights.
- 7.1.4. The Encumbrance Holder may, at any time, invoke the rights referred to in Business Rule 7.1.3.1, as follows:
  - 7.1.4.1. Submit a request through the BGSD System, to the BGSD for transferring the Government Securities in his/her favour.
  - 7.1.4.2. The BGSD shall update record in its books, the invocation of third party rights and transfer of the Government Securities in favour of the Encumbrance Holder and confirm the same.
  - 7.1.4.3. The BGSD shall issue a return notification to the Encumbrance Holder, if any discrepancy is found, stating the reasons for not transferring the Government Securities in the name of the Encumbrance Holder.
- 7.1.5. The Encumbrance Holder may, at any time, before the registration of transfer of the Government Securities in the books of the BGSD in his/her favour, apply to the BGSD for cancellation of the application to register such third party rights BGSD shall:
  - 7.1.5.1. Record the cancellation of third party rights registered in its books and confirm the cancellation; or
  - 7.1.5.2. Issue a return notification to the Encumbrance Holder, stating therein the reasons for not cancelling the third party rights.
- 7.1.6. General provisions relating to creation, invocation or cancellation of third party rights:
  - 7.1.6.1. The BGSD shall not be responsible to any person creating third party rights for any loss caused to him/her on account of the invocation of the third party rights by the Encumbrance Holder in violation of the creation of terms of third party rights or the provisions of any other law for the time being in force.
  - 7.1.6.2. No transfer by the holder of any Government Securities in respect of which third party rights is in force shall be effected by the BGSD without the prior concurrence of the Encumbrance Holder, as the case may be.

- 7.1.6.3. Where Government Securities in respect of which third-party rights have been recorded in the books of the BGSD, matures for repayment, the maturity proceeds shall not be payable to the holder of the Government Securities, without the written concurrence of the Encumbrance Holder.

## **7.2. Redemption or Repurchase**

- 7.2.1. In case the Issuer gives an option to the Client for repurchase or redemption of Government Securities held in dematerialised form, the Client on exercising his option, shall submit a request to the Member/Participant in the format as prescribed by the BGSD, from time to time.
- 7.2.2. The Member/Participant shall ensure that the Client submits a separate request for each Government Security and for each account maintained by the Client with the Member/Participant.
- 7.2.3. The Member/Participant shall ensure that the request submitted by his Client is completed in the prescribed manner and duly signed. The Member/Participant shall verify the details mentioned in the request with the details of Constituent Account and ensure that the request is in order.
- 7.2.4. The Member/Participant shall verify the signatures on each request with the signatures on the records held with it.

## **7.3. Repo Arrangement**

- 7.3.1. Repo operation shall include various types of repo transactions between two Members/Participants on the terms and conditions as prescribed by the BGSD with regard to (“**Repo Arrangements**”). The Repo Arrangements could comprise of buy-sell back repo, classic repo, bond borrowing and lending and tripartite repos. It is composed by two DvP operations linked together usually called:
  - 7.3.1.1. “**First Leg**” – means the sale operation, and
  - 7.3.1.2. “**Second Leg**” – means the repurchase operation.
- 7.3.2. Repo operations can be intra-day (Second Leg the same day as First Leg) and long term (Second Leg on a future value date).
- 7.3.3. In case of Repo operations between two Members/Participants in the BGSD, if the First Leg is not settled by EOD, then the whole transaction is cancelled automatically by the BGSD System.
- 7.3.4. The Second Leg is automatically generated at the time the First Leg is successfully completed, and it will be automatically processed at the moment shown in the initial message. If the Second Leg is not settled by EOD, the automatic execution of the Second Leg is cancelled. In case of default, the parties to the transaction must agree outside the BGSD System on how the Second Leg is to be carried out and what the terms of the arrangement are (according to the local set of rules and procedures).
- 7.3.5. The penalties for failure to execute the Second Leg shall be such as may be prescribed under Applicable Law and/or the CBOB and/or Government of The Bahamas.
- 7.3.6. If interest payment occurs in the period between the First Leg and Second Leg, the recipient of the interest shall be the current holder of the Government Securities.
- 7.3.7. Repos for Government Securities on which redemption is due between the First Leg and Second Leg are not permitted by the BGSD System, in accordance with market practice. The BGSD System will validate that such Repo Arrangement cannot be registered.

#### **7.4. Repo with settlement outside RTGS**

##### **7.4.1. Repo with settlement outside RTGS:**

7.4.1.1. These are Government Securities operations in which the cash leg being is settled outside RTGS, such as:

- (a) Operations between two Clients of the same Member/Participant (since Government Securities are moved between two accounts of the same Member/Participant, just one SWIFT message is needed);
- (b) Operations between the Securities Account and a Constituent Account (since Government Securities are moved between two accounts of the same Member/Participant, just one SWIFT message is needed), or
- (c) Operations between two Members/Participants that have the same Settlement Agent.

7.4.1.2. The BGSD will treat these operations as Repo Arrangement without the cash leg in RTGS and will use appropriate messages to generate the operations.

7.4.1.3. Repo between accounts of the same Member/Participant are single message operations whereby the delivering and receiving accounts cannot be the same account.

##### **7.4.2. Repo without cash leg:**

7.4.2.1. These are Repo operations between a Member/Participant and its Settlement Agent, or between two Members/Participants that have the same Settlement Agent.

##### **7.4.3. Intra-day/Overnight Repos with Central Bank:**

7.4.3.1. The BGSD accommodates a special type of Repo operation that is used to manage the fully collateralized liquidity provision in RTGS.

7.4.3.2. The subject types of operations are intra-day Repos where the First Leg seller/sender of Government Securities, is one the Members/Participants holding them and the buyer/receiver of Government Securities is always the CBOB. Only the Government Securities that are set as eligible for collateralized operations with the CBOB (parameter in the security profile) can be used for the subject type of Repo operations.

7.4.3.3. The First Leg of a collateralized Repo Arrangement with the CBOB will never be queued waiting for Government Securities. If the Government Securities are not available on the account of the Member/Participant, the operation is automatically rejected.

7.4.3.4. The BGSD validates that:

- (a) The First Leg cash amount (transferred from the Central Bank account to the Member/Participant's Funds Settlement Account) must be less or equal to the accepted cash value (applying the corresponding haircut for the instrument).
- (b) The Second Leg cash amount (transferred from the Central Bank account to the Member/Participant's Funds Settlement Account) must be greater or equal to the accepted cash value.
- (c) Member/Participant's Repo operations should be authorized and approved by the CBOB.

7.4.3.5. In the cases where at least one of the rules detailed above is not complied with, the BGSD System will automatically reject the message of the

Member/Participant.

- 7.4.3.6. Collateralized Repo Arrangement with the CBOB are single message operations.
- 7.4.3.7. The Second Leg of the Repo Arrangement is to be processed during the same day for intraday operations and at:
  - (a) the exact time specified in the message, or
  - (b) as part of the DvP Model 1, closing procedure in the cases where there is no time specified in the message.
- 7.4.3.8. Overnight loans Second Leg will be automatically generated to be processed the next day with the corresponding overnight rate applied for the repurchase cash amount.
- 7.4.3.9. In the cases where the Member/Participant does not have enough funds in its Funds Settlement Account in order to buy back the Government Securities used as collateral, the BGSD System will automatically:
  - (a) Cancel the Second Leg of the Repo Arrangement and retain the Government Securities used as collateral in the Securities Account of the CBOB.
  - (b) Create a new Second Leg operation that is clearly identified as an overnight operation, where the repurchase cash amount will be the original one plus the overnight interest calculated using the specified formula.

7.4.4. Outright Sale Repos with Central Bank

The BGSD may, at its discretion, accommodate a special outright sale operation with the CBOB that allows Member/Participant to sell or buy Government Securities from or to the CBOB.

## CHAPTER VIII: MARKET BREADTH

### 8.1. Investor Protection Fund

8.1.1. The BGSD may establish an Investor Protection Fund (“**IPF**”). Contribution to the IPF will be the amounts that may be decided by the Management Committee, from time to time. The amounts in the IPF shall be utilised to make good the claims, which may be submitted by the Clients who have suffered pecuniary losses arising from the negligence of the BGSD or by the Members/Participants while carrying out the instructions of the Client. The IPF may be operated and administered by a committee (“**IPF Committee**”), which will have a maximum of 5 (five) members to be appointed by the Management Committee, from time to time.

#### 8.1.2. Sources of IPF

Contribution to the IPF will be the amounts that may be decided by the Management Committee, from time to time.

#### 8.1.3. Nature of claims

8.1.3.1. The IPF shall be utilised to compensate the following:

- a) for any loss suffered by a Client arising from the negligence of the Members/Participants and/or the BGSD while carrying out the instructions of the Client.
- b) for any losses a Client might incur, as a result of failure of delivery or settlement of Government Securities or any other non-performance by the Member/Participant.

#### 8.1.4. Claims not to be admitted

8.1.4.1. Claims of persons who have not availed the services of the BGSD by opening an account with any of its Member/Participant, shall not be admitted.

8.1.4.2. Claims, which are above the limit determined by the IPF Committee, from time to time.

#### 8.1.5. Procedure for making claims

8.1.5.1. Any Client who has suffered any loss arising from negligence and/or as a result of non-performance by the Member(s)/Participant(s) while carrying out the instructions of the Client shall first approach the concerned Member/Participant to make good the loss.

8.1.5.2. The claim(s) of the Clients shall be admitted under IPF only as a last recourse, when a Member/Participant is no longer able to fulfill his financial obligation.

8.1.5.3. A claim for compensation shall be in writing, giving full details of all relevant facts of the case duly supported by copies of documents relevant thereto.

8.1.5.4. Any person wishing to make a claim shall also give an undertaking in writing in the prescribed format by the BGSD, to be bound by the decision of the IPF Committee, whose decision shall be final and binding.

8.1.5.5. Any Client whose claim has been admitted, may be required by the IPF Committee to produce and deliver any documents and statements of evidence as may be necessary to establish or support his/her claim.

8.1.5.6. In the event of the failure of such Client to produce the document or statements of evidence requested, the IPF Committee may at its discretion disallow or reject the claim either wholly or in part as they may deem fit.

- 8.1.5.7. The IPF Committee while disallowing (whether wholly or partly) a claim for compensation shall serve notice of such disallowance on the claimant.
- 8.1.5.8. The IPF Committee, if satisfied that the loss was actually caused by the Member/Participant's non-performance or negligence or breach of contract or breach of fiduciary duty, may allow the claim and act accordingly.
- 8.1.5.9. The IPF Committee shall have an absolute discretion as regards the mode and method of assessing the nature of the claim including its genuineness and shall likewise at its discretion accept, reject or partially grant or allow claims and make payment thereof subject to the limits herein mentioned, as it may deem fit and proper.
- 8.1.5.10. While the IPF Committee may settle the claims of the Clients out of the IPF, the Management Committee may initiate necessary legal proceedings to recover the amount from the Member/Participant and replenish the IPF.
- 8.1.6. Quantum of compensation
  - 8.1.6.1. The IPF may be utilised by the IPF Committee to compensate any loss suffered by any Client arising from negligence of the Members/Participants and/or the BGSD up to a limit as determined by the IPF Committee, from time to time.
  - 8.1.6.2. The IPF Committee may, from time to time, either generally or in respect of a particular claim determine the limit. However, where the limit is raised in respect of a particular claim, the IPF Committee shall record in writing, its reasons thereof.
  - 8.1.6.3. The amount of compensation payable in respect of any claim shall be reduced by the amount or value of any compensation or benefits received by the Client from any other source in respect of such claim.
  - 8.1.6.4. In case the Client receives compensation from any other source and the IPF Committee also pays the compensation without the knowledge of the payment by any other source in respect of the same claim, the IPF Committee shall recover from such Client an amount equivalent to the compensation received by him from such other source provided that the amount so recovered shall not exceed the amount of compensation received by such Client from the IPF.
  - 8.1.6.5. In the event that any Client has received compensation from the IPF in respect of a claim based on the negligence on the part of a Member/Participant, the IPF Committee shall take all steps necessary to recover from such Member/Participant the amount of compensation so paid together with interest thereon from the date of payment of compensation to the Client at such rate as the IPF Committee may decide, from time to time.
  - 8.1.6.6. A decision by the IPF Committee in regard to any claim made by a Client shall be conclusive and binding.
- 8.1.7. Claim not to affect legal proceedings
  - 8.1.7.1. The rejection or partial acceptance of any claim by the IPF Committee or grant of any compensation to a claimant shall not preclude or debar such claimant to pursue his claim for compensation against the Member/Participant in any court of law or otherwise howsoever or from taking other legal action on other grounds or causes of action of whatsoever nature.
  - 8.1.7.2. Provided however that, the net claim of any such claimant against the Member/Participant shall stand reduced to the extent of the compensation received by him from the IPF. The IPF Committee shall have the right to be

subrogated to the extent of compensation so paid by the Member/Participant. In the event of the claimant receiving his full compensation from any source other than the IPF, the claimant shall refund the amount of claim received by him from the IPF and in the event of the claimant not so refunding the money, the IPF Committee shall have the right to recover the same from the claimant.

8.1.8. Alteration of procedure

8.1.8.1. The IPF Committee may, in their discretion alter, modify or repeal the procedure for reviewing claims submitted to the Committee and paying compensation to claimants, as they may consider necessary.

**8.2. Transparency**

8.2.1. Fees and Costs

Members/Participants have access to the functionality available for displaying rates and reports. The billing module of the BGSD produces two reports that are available for both the CBOB and Members/Participants:

8.2.1.1. Bill invoice: The invoice provides the total amount to be charged (broken down by transaction type) according to the calculation performed on charge date (these values are to be debited in RTGS).

8.2.1.2. Bill statement: This statement provides the total amount of charges accumulated since the last collect of charges up to the previous business date (informative only).

## **CHAPTER IX: PARTICIPATION STANDARDS**

### **9.1. Code of ethics for Members/Participants**

#### 9.1.1. General Principles

- 9.1.1.1. Professionalism: A Member/Participant in the conduct of its business shall observe high standards of commercial ethics and integrity and just and equitable principles of business.
- 9.1.1.2. Adherence to these Business Rules: Member/Participant shall adhere to the Guidelines and the BGSD Business Rules and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the BGSD as may be applicable, from time to time.
- 9.1.1.3. Honesty and fairness: In conducting its business activities, a Member/Participant shall act honestly and fairly in the best interests of its Clients.
- 9.1.1.4. Capabilities: A Member/Participant shall have and employ effectively the resources and procedures which are needed for the proper performance of its business activities.

#### 9.1.2. Operational Principles

##### 9.1.2.1. Members/Participants shall ensure that:

- (a) any employee who commits the Member/Participant to a transaction has the necessary authority to do so;
- (b) employees are adequately trained in operating in the relevant areas they are assigned to and are aware of their own, and their organisation's responsibilities as well as the Applicable Laws governing the Member/Participant, the Guidelines and these Business Rules including any additions or amendments thereof;

9.1.2.2. No Member/Participant or person associated with a Member/Participant shall make improper use of Clients' Government Securities or funds.

9.1.2.3. While performing any transaction in the Constituent's Accounts, the Member/Participant must ensure that great care is taken at all times not to misrepresent in any way, the nature of the transaction.

9.1.2.4. No Member/Participant shall exercise any discretionary power in respect of a Client's account unless such Client has given prior written authorisation in this regard.

9.1.2.5. No Member/Participant shall shield or assist or omit to report about any other Member/Participant who knows to have committed a breach or evasion of any Business Rules, Guidelines, or directions, circulars or guidelines issued by the BGSD or of any resolution, order, notice or direction thereunder of the Management Committee or officer of the BGSD authorised.

### **9.2. Member/Participant's obligations and responsibilities**

9.2.1. It shall be the responsibility of each Member/Participant to promptly check and reconcile with its own records the details of such advices, statements and reports from the BGSD and to promptly notify the BGSD of any error or omission contained in such advices, statements and reports within the time specified by the BGSD.

9.2.2. Each Member/Participant shall indemnify the BGSD and its officers and employees and hold each of them harmless against all costs, fees, expenses, liabilities, taxes, actual losses and damages of any nature whatsoever suffered or incurred by any of them directly or



indirectly as a result of or in connection with the following matters:

- 9.2.2.1. the participation in the BGSD System by the Member/Participant and/or its activities in the BGSD including the provision of services by the Member/Participant to the Client and the provision of services by the BGSD to the Member/Participant and all matters relating thereto as contemplated in the Guidelines and these Business Rules;
  - 9.2.2.2. the failure by the Member/Participant to comply with the provisions of the Guidelines, these Business Rules and any circulars, notices, notifications as may be issued by the BGSD, from time to time, or to comply with any directions or procedures of the BGSD;
  - 9.2.2.3. the acts by the BGSD or its officers and employees done by placing reliance upon instructions or communications believed in good faith by any of them to have been given by or on behalf of the Member/Participant (including, but not limited to, the giving of effect to such instructions or communications by any of them) or the failure of the Member/Participant to give instructions to the BGSD as contemplated in the Guidelines and/or these Business Rules;
  - 9.2.2.4. the acceptance by the BGSD of Government Securities deposited by the Member/Participant and giving effect to transactions relating thereto by the BGSD in accordance with the Guidelines;
  - 9.2.2.5. the failure by the Member/Participant to deliver Government Securities, or to perform such other duties or obligations contemplated in the Guidelines and/or these Business Rules.
- 9.2.3. Nothing contained in the Business Rule 9.2.2 shall apply to the extent the BGSD or its employees are guilty of negligence, willful misconduct or fraud on their part and are responsible for any resulting losses.
- 9.2.4. For the purpose of determining whether a Member/Participant is liable for any acts or omissions under the Guideline or these Business Rules, the acts or omissions, whether done intentionally or not, by its officers, employees, agents and representatives, shall be deemed to be acts or omissions of the Member/Participant.
- 9.2.5. Notwithstanding anything to the contrary in the Guidelines or these Business Rules, the BGSD shall not be bound to effect any transaction or take any other action upon the instructions of a Member/Participant if it would violate any Applicable Laws, decree, court order, regulation or order of any government or other competent authority having jurisdiction in this regard or if the BGSD determines that it will not be in the interests of the BGSD, Member/Participants or the general investors.
- 9.2.6. Notwithstanding anything to the contrary in the Guidelines or these Business Rules, the BGSD shall have the right to initiate a transaction or to take any other action in order to give effect to the order or judgment of a court of law or the Government of The Bahamas or any other competent statutory authority having jurisdiction in this regard.
- 9.2.7. The BGSD reserves the right to rectify any erroneous transaction made to the accounts of Members/Participants and shall thereafter inform the concerned Members/Participants of such rectification.
- 9.2.8. Without prejudice to any other right the BGSD may have, if as a result of rectification by the BGSD of any erroneous credit entries to the accounts of a Member/Participant pursuant to the Guidelines and/or these Business Rules, a negative balance arises, the BGSD may:
- 9.2.8.1. require the Member/Participant to replace the relevant Government Securities in this connection;

- 9.2.8.2. require the Member/Participant to pay to it forthwith a cash sum of such amount as the BGSD considers appropriate as collateral and the only obligation of the BGSD in respect of such sum so paid by the Member/Participant shall be to pay such Member/Participant an amount equal to the balance remaining after satisfaction of all obligations and liabilities (actual or contingent) of such Member/Participant to the BGSD. The BGSD may itself, at any time, purchase as replacement, Government Securities on behalf of the Member/Participant, at such price as may be determined by the Management Committee to be the best prevailing market price and terms, if any, or in other cases at its discretion on the terms available. The cost and other expenses in connection with purchase shall be borne by the Member/Participant.
- 9.2.8.3. No Member/Participant shall assign its business as a Member/Participant to any other person except with the prior approval of the Management Committee which may, from time to time, notify the terms and conditions subject to which it may assign its business as a Member/Participant to any other person.

### **9.3. Code of Conduct of Members/Participants**

- 9.3.1. A Member/Participant shall make all efforts to protect the interests of Clients.
- 9.3.2. A Member/Participant shall always endeavour to:
  - (a) render the best possible advice to its Clients having regard to the Clients' needs, the economic environment and the professional skills of its employees;
  - (b) ensure that all professional dealings are effected in a prompt, effective and efficient manner;
  - (c) ensure that inquiries from investors are adequately dealt with in a timely manner; and
  - (d) ensure that grievances of Clients are redressed without any delay.
- 9.3.3. A Member/Participant shall maintain high standards of integrity in all of its dealings with its Clients and other intermediaries, in the conduct of its business.
- 9.3.4. A Member/Participant shall be prompt and diligent in the opening of a Constituent Account, dispatch of all forms required for the Member/Participant to conduct its operations and in all the other activities undertaken by it on behalf of the Clients.
- 9.3.5. A Member/Participant shall endeavour to resolve all complaints against it or in respect of the activities carried out by it as quickly as possible, and not later than 1 (one) month following of receipt of the complaint or such further time period as may be specified by the BGSD, from time to time.
- 9.3.6. A Member/Participant shall not increase charges/fees for the services rendered without proper advance notice of at least 7 (seven) calendar days to the Clients.
- 9.3.7. A Member/Participant shall not indulge in any unfair competition and/or such other similar instances as decided by the BGSD, from time to time, which is likely to harm the interests of other Members/Participants or Clients or is likely to place such other Members/Participants in a disadvantageous position while competing for or executing any assignment.
- 9.3.8. A Member/Participant shall not make any exaggerated statement whether oral or written to its Clients either about its qualifications or capability to render certain services or about its achievements in regard to services rendered to other Clients.
- 9.3.9. A Member/Participant shall not divulge to other Clients, press or any other person any information about a Clients which has come to its knowledge to other Clients, the press or any other person except with the approval/authorisation of the Clients or when it is required

to disclose the information under the requirements of any Applicable Laws, decree, court order, regulation or order of any government or other competent authority.

- 9.3.10. A Member/Participant shall co-operate with the CBOB and other relevant regulatory authorities as and when required.
- 9.3.11. A Member/Participant shall maintain the required level of knowledge and competency and abide by the provisions of the Guidelines, these Business Rules and Applicable Laws.
- 9.3.12. A Member/Participant shall not make any untrue statement or suppress any material fact in any documents, reports, papers or information furnished to the Management Committee and/or the CBOB and/or any other relevant statutory authority having jurisdiction in this regard.
- 9.3.13. A Member/Participant shall not neglect or fail or refuse to submit to the Management Committee and/or the CBOB, such books, documents, correspondence, and papers or any part thereof as may be demanded/requested, from time to time.
- 9.3.14. A Member/Participant shall ensure that the Management Committee is promptly informed about any action, legal proceedings, etc., initiated against it in respect of its material breach of or non-compliance by it, with the Guidelines, these Business Rules or any Applicable Laws.
- 9.3.15. A Member/Participant shall maintain proper internal system for receipt of physical and electronic mail.
- 9.3.16. A Member/Participant shall take adequate and necessary steps to ensure that continuity in data and record keeping is maintained and that the data or records are not lost or destroyed. It shall also ensure that for electronic records and data, up-to-date back up for such records is always conducted.
- 9.3.17. A Member/Participant shall provide adequate freedom and powers to its compliance officer and Money Laundering Reporting Officer for the effective discharge of his duties.
- 9.3.18. A Member/Participant shall ensure that it has satisfactory internal control procedures in place as well as adequate financial and operational capabilities which can be reasonably expected to take care of any losses arising due to theft, fraud and other dishonest acts, professional misconduct or omissions.
- 9.3.19. A Member/Participant shall be responsible for the acts or omissions of its employees and agents in respect of the conduct of its business.
- 9.3.20. A Member/Participant shall ensure that the senior management, particularly decision makers, have access to all relevant information about the business on a timely basis.
- 9.3.21. A Member/Participant shall ensure that good corporate policies and corporate governance are in place.

## CHAPTER X: DISCIPLINARY ACTION COMMITTEE

### 10.1. Disciplinary Action Committee

- 10.1.1. A Disciplinary Action Committee shall be appointed by the Management Committee to deal with any disciplinary matters relating to the Members/Participants and/or Clients.
- 10.1.2. The Disciplinary Action Committee shall have no more than 5 (five) members.
- 10.1.3. The Disciplinary Action Committee shall consist of such members as may be decided by the Management Committee, from time to time, who may include:
- (a) an officer of the BGSD selected by the Management Committee who shall be the Chairman of such Committee;
  - (b) persons selected in that behalf by the Management Committee from amongst the Members/Participants, or other entities or intermediaries interfacing with the BGSD, to be known as 'User Representatives';
  - (c) persons with expertise in the field of finance, accounting, law or any other discipline and amongst Clients, as decided by the Management Committee.

### 10.2. Powers of the Disciplinary Action Committee

- 10.2.1. The Disciplinary Action Committee shall have such responsibilities and powers as may be delegated to it by the Management Committee, from time to time, which may *inter alia* include the following responsibilities and powers to be discharged in accordance with the provisions of these Business Rules:
- (i) suspension of a Member/Participant;
  - (ii) expulsion of a Member/Participant;
  - (iii) freezing the account of the Member/Participant;
  - (iv) powers to conduct inspection; and
  - (v) power to conduct an investigation/inquiry, call for records, to issue show cause notice to Members/Participants for suspension/expulsion.

### 10.3. Member/Participant's Responsibility for partners, agents and employees

A Member/Participant shall be fully responsible for the acts and omissions of its authorised officials, authorised representatives and employees and subject to any of the penalties as provided by the BGSD, from time to time, for the breach of these Business Rules or the Guidelines.

### 10.4. Suspension of a Member/Participant

- 10.4.1. The Disciplinary Action Committee shall require a Member/Participant to suspend its business when it fails to meet the continuing requirements for fulfilling criteria of admission as provided in the Guidelines and/or these Business Rules thereunder and the suspension of business shall continue until Member/Participant furnishes satisfactory evidence of meeting with the requirements.
- 10.4.2. The Disciplinary Action Committee may require a Member/Participant to suspend its business in part or in whole *inter alia* where:
- (i) in the opinion of the Disciplinary Action Committee, the Member/Participant's financial condition is such that it has gone below the net worth norms or the Member/Participant has failed to maintain it as specified by the BGSD, from time to time;
  - (ii) the Member/Participant violates the provisions of the Guidelines and/or these

Business Rules and/or Applicable Laws;

- (iii) the Member/Participant does not comply with the instructions of the Client and is required to do so under the provisions of the Guidelines and/or these Business Rules.

#### **10.5. Expulsion of a Member/Participant**

10.5.1. The Disciplinary Action Committee shall expel a Member/Participant from the BGSD under the following circumstances:-

- (i) if the Member/Participant commits repeated breaches of the provisions of the Guidelines and the Business Rules, in spite of repeated reminders from the BGSD in this regard;
- (ii) if the Member/Participant consistently exposes itself to risks which in the opinion of the Disciplinary Action Committee is not commensurate with the Member/Participant's net worth;
- (iii) if the quality of services rendered by the Member/Participant is not satisfactory in the opinion of the Disciplinary Action Committee as evidenced by the complaints of their Client(s); and
- (iv) if the Member/Participant carries on its business in a manner which is detrimental to the interests and continued existence of the BGSD as well as the interests of its Clients.

#### **10.6. Revocation of Suspension**

The suspension of business under these Business Rules as stated above shall continue until the Member/Participant has been allowed by the Disciplinary Action Committee to resume business on its paying such deposit or on its doing such act or providing such evidence as the Disciplinary Action Committee may require.

#### **10.7. Procedure for Expulsion/Suspension or other Disciplinary Action**

10.7.1. A Member/Participant shall appear and testify before and cause its partners, authorised representatives and employees to appear before the Disciplinary Action Committee or such members of the Disciplinary Action Committee authorised in this behalf by Disciplinary Action Committee, or officer(s) of the BGSD authorised in that behalf by the Disciplinary Action Committee and shall produce before the Disciplinary Action Committee or officer of the Depository as the case may be, such books, correspondence, documents, papers and records or any part thereof which may be in its possession and which may be deemed relevant or material to any matter under inquiry or investigation.

10.7.2. The Disciplinary Action Committee shall issue a show cause notice to the concerned Member/Participant who shall be required to reply within such time as may be specified in the show cause notice or within such extended time as may be granted by the Disciplinary Action Committee on an application made to it.

10.7.3. The concerned Member/Participant shall be entitled to a hearing before the Disciplinary Action Committee. The Member/Participant may appear through its counsel, attorney, advocate or other representative at any hearing held by the Disciplinary Action Committee.

10.7.4. The Disciplinary Action Committee shall after taking into account the documentary evidence witness testimonies and arguments made on behalf of the Member/Participant, shall issue its decision. The Disciplinary Action Committee shall send a copy of its decision to the Member/Participant and the Management Committee.

10.7.5. The Member/Participant shall have the right to appeal to the Management Committee against a decision of the Disciplinary Action Committee.

#### **10.8. Imposition of Penalties**

The Disciplinary Action Committee may issue a decision to suspend or expelling a

Member/Participant for such period or on such terms and conditions as the Disciplinary Action Committee deems fit.

### **10.9. Consequence of Suspension**

10.9.1. The suspension of a Member/Participant shall have the following consequences namely :

- (i) Suspension of Member/Participant rights: The suspended Member/Participant shall during the terms of its suspension be deprived of and excluded from all the rights and privileges of a Member/Participant of the BGSD.
- (ii) Rights of Clients unimpaired: The suspension shall not affect the rights of the Clients of the suspended Member/Participant.
- (iii) Rights of creditors unimpaired: The suspension shall not affect the rights of the Member/Participant who are creditors of the suspended Member/Participant.
- (iv) Fulfillment of obligations: The suspended Member/Participant shall be bound to fulfill its outstanding obligations at the time of its suspension as directed by the Disciplinary Action Committee. The BGSD shall have the power to fulfill all outstanding obligations of the suspended Member/Participant to its Client at the time of suspension of such Member/Participant.
- (v) Further business prohibited: The suspended Member/Participant shall not during the terms of its suspension transact any depository business with or through another Member/Participant.
- (vi) Member/Participant not to deal: No Member/Participant shall transact business for or with the suspended Member/Participant during the terms of its suspension except with the prior written permission of the Disciplinary Action Committee.

10.9.2. In case of the suspension of a Member/Participant, its Clients shall have the option of having their securities held with the Member/Participant transferred to another Member/Participant.

### **10.10. Consequences of Expulsion**

10.10.1. The expulsion of a Member/Participant shall have the following consequences namely:-

- (i) Member/Participant rights forfeited: The expelled Member/Participant shall forfeit, its rights as a Member/Participant and all rights and privileges as a Member/Participant of the BGSD including any right to the use of or any claim upon or any interest in any property or funds of the BGSD; but any liability of any such Member/Participant to the BGSD or to any other Member/Participant of the BGSD shall continue and remain unaffected by its expulsion.
- (ii) Office vacated: The expulsion of a Member/Participant shall create a vacancy in any office or position held by the expelled Member/Participant in the BGSD;
- (iii) Rights of Clients unimpaired: The expulsion shall not affect the rights of the Clients who are Clients of the expelled Member/Participant.
- (iv) Rights of Creditors unimpaired: The expulsion of a Member/Participant shall not affect its Clients.
- (v) Fulfillment of obligations: The expelled Member/Participant shall be bound to fulfill transactions outstanding at the time of its expulsion and it may with the permission of the Disciplinary Action Committee close such outstanding transactions with or through a Member/Participant. The BGSD shall have the power to fulfill all obligations of an expelled Member/Participant to the Clients of the expelled Member/Participant outstanding at the time of expulsion of such

Member/Participant.

- (vi) Members/Participants not to deal: No Member/Participant shall transact business for or with an expelled Member/Participant except with the prior written permission of the Disciplinary Action Committee.
- (vii) In case of the expulsion of a Member/Participant, its Client shall have the option of having their Government Securities held with the Member/Participant transferred to another Member/Participant.

#### **10.11. Expulsion Rules to Apply**

When a Member/Participant ceases to carry on business all provisions relating to expulsion contained in these Business Rules shall apply to such concerned Members/Participants in all respects.

#### **10.12. Notice of Suspension of Business**

Notice shall be given to all other Members/Participants by a notice on the BGSD System of the suspension of the business operations of a Member/Participant in relation to the operations of the BGSD or the expulsion of the Member/Participant from the BGSD System or of any other charges imposed on the Member/Participant, on its partners, authorised representatives or other employees. The Disciplinary Action Committee may, in its absolute discretion and in such manner as it thinks fit, notify or cause to be notified to the Members/Participants of the BGSD or to their Clients and to the public, that any person who is named in such notification has been expelled, suspended or has suspended its business or ceased to be a Member/Participant. No action or other proceedings shall, in any circumstances, be maintainable by such suspended/expelled Member/Participant against the BGSD or the Disciplinary Action Committee, or any member of the Disciplinary Action Committee or any employee of the BGSD for the publication or circulation of such notification.

#### **10.13. Appeal**

10.13.1. Any Member/Participant aggrieved by the decision made by the Disciplinary Action Committee shall have the right of appeal to the Management Committee against the said decision of the Disciplinary Action Committee.

10.13.2. Procedure for Appeal

- (i) An appeal may be filed by a Member/Participant within 30 (thirty) calendar days or such other days as may be prescribed by the BGSD, from time to time, of receipt of the decision of the Disciplinary Action Committee. The appeal may be filed by filing with the Management Committee a note and memorandum of appeal stating the reasons and grounds of the appeal against the decision of the Disciplinary Action Committee and must also state the relief sought, if any.
- (ii) The Management Committee shall have the power to stay the operation of the final decision issued by the Disciplinary Action Committee for such period and on such terms and conditions as the Management Committee or sub-committee of the Management Committee deems fit.

10.13.3. Consideration of Appeal

- (i) The appeal will be heard by the Management Committee or sub-committee of Management Committee to whom the power to hear the appeal is delegated. At such hearing, the appellant shall be entitled to be represented by its advocates, counsel, attorneys and other representatives.
- (ii) The time limit for the disposal of an appeal preferred to the Management Committee shall be 2 (two) months from the date of making such appeal or such other extended time as may be decided by the Management Committee.

10.13.4. Record

A copy of the record of the Disciplinary Action Committee and the Management Committee, relating to the appeals, shall be furnished to the CBOB within 14 (fourteen) calendar days of a request being made by the CBOB.



## **CHAPTER XI: CONCILIATION AND ARBITRATION**

### **11.1. Conciliation**

In all claims, differences and disputes, irrespective of whether the BGSD is a party or not, arising out of or in relation to dealings on the BGSD System including any agreements, contracts and transactions made subject to the Guidelines and/or the BGSD Business Rules 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 thereof and including any question of whether such dealings, transactions, agreements and contracts have been entered into or not, the parties shall be free to adopt conciliation proceedings.

### **11.2. Arbitration**

The BGSD may establish a panel of arbitrators from amongst persons who have relevant qualifications and experience in handling arbitration matters. The BGSD may appoint from amongst the panel of arbitrators one or more persons to resolve disputes arising out of or in relation to dealings on the BGSD System including any agreements, contracts and transactions made subject to the Guidelines and/or the BGSD Business Rules 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 thereof and including any question of whether such dealings, transactions, agreements and contracts have been entered into or not and the arbitration proceedings shall be held in the manner as specified by the Arbitration Act, 2009.

## **CHAPTER XII: PENALTIES**

- 12.1. In the event of non-compliance with the provisions of the Guidelines and/or the Business Rules and/or any directions, circular or order of the BGSD/CBOB/Management Committee by Members/Participants, the BGSD may impose penalties on such defaulting Members/Participants as may be prescribed, from time to time.
- 12.2. Where penalties are levied on a defaulting Member/Participant, the penalty will be communicated to the Member/Participant in writing and the Member/Participant shall pay the penalty within 15 (fifteen) calendar days or such other days as may be prescribed by the BGSD, from time to time, of such communication. In addition, the Member/Participant would be required to report its compliance within a stipulated time frame. In case a Member/Participant continues to default after paying the penalty, such matter shall be addressed in the manner as prescribed by the Management Committee, from time to time.
- 12.3. A Member/Participant's report of its compliance as referenced in Business Rule 12.2 will be verified by the BGSD. If the compliance reported by the Member/Participant is found to be false, the matter shall be decided in the manner as prescribed by the Management Committee, from time to time.

### **CHAPTER XIII: MISCELLANEOUS**

- 13.1. Any failure to observe or comply with any requirement of these Business Rules, where applicable, may be dealt with by the Management Committee as a violation of such Business Rules.
- 13.2. No claim, suit, prosecution or other legal proceedings shall lie against the BGSD and/or any authorized person(s) acting for the BGSD, in respect of anything which is in good faith done or intended to be done in pursuance of the Guidelines and/or these Business Rules and/or any order or other binding directive issued to the BGSD under any law or delegated legislation for the time being in force.
- 13.3. All the records, correspondence, data, information, proceedings, minutes, decisions of the BGSD shall be confidential and the BGSD shall not be required to disclose the same to any party or person, save and except when called upon to do so by a regulatory authority or by under an order of any competent court/tribunal or any other competent relevant authority having jurisdiction in this regard.
- 13.4. In case of any difficulty in implementing the provisions of the Guidelines and/or these Business Rules, or in case of a conflict, the BGSD has the power to provide clarification, if the circumstances demand, and such clarification shall be final and binding on all persons.
- 13.5. The Guidelines and/or these Business Rules made or prescribed by the Management Committee, including all alterations, amendments and modifications thereto, shall be subject to the rules/regulations/directives/notifications/circulars issued by the Government of The Bahamas, Central Bank or any other relevant authority, from time to time, and all such rules/regulations/directives/notifications/circulars that are issued by the Government of The Bahamas, Central Bank or any other relevant authority for or in relation to the BGSD shall be deemed to be incorporated in the Guidelines and/or these Business Rules prescribed by Management Committee and the Guidelines and/or these Business Rules prescribed by the Management Committee shall be deemed to be altered/amended/modified to that extent, which amendment/modification/alteration shall be effective from the date notified by the Government of The Bahamas, Central Bank or any other relevant authority in that behalf.