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# Rule 1

## General Rules

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### Rule 1.1 Definitions

For the purposes of these PCD Rules and the PCD Operating Procedures:

**"Access Codes"**

means both the corporate access code and the authorized user access code which must be keyed in to enable the Participant to gain access to the PCD System.

**"Bank Account"**

means, in relation to PCD, PCD Nominee and each Participant, the bank account maintained with the Disbursing Bank or the Settlement Bank.

**"Bank Limit"**

means the amount of unencumbered and unrestricted credit limit /firmly committed for a Participant by its Disbursing Bank for the payment of fees and charges due PCD, or by its Settlement Bank for the Settlement of the Cash Element of a Transaction.

**"Beneficial Owner"**

means the party to which the beneficial title, as against the legal or registered title, over Securities belongs. The beneficial title of the Beneficial Owner will be referred to as "Beneficial Ownership".

**"Business Day"**

means a day and the hours during which PCD is open for business to Participants.

**"Cash Element"**

means the element of a Transaction intended by the parties to be performed by the payment by one party to the other of a specified amount of money.

**"Certificate"**

means the physical instrument evidencing ownership of or any rights in Securities.

**"Certificated Securities"**

means Securities the legal title to which is required to be evidenced by a Certificate.

**"Clearing"**

means the process of determining accountability and creating obligations for the exchange of the Security Element and/or the Cash Element between counterparties to a Transaction. The terms "clear", "cleared" and "clearing" when used in these PCD Rules shall refer to the verb or adjective forms of Clearing, as the context may imply.

**"Client Securities Account"**

means the Securities Account in which the only Securities that may be held are Securities of which the Beneficial Owners are the clients of a Participant.

**"Corporate Action"**

means an action taken by an Issuer as a corporate entity requiring or involving the participation of the holders of its Securities, such as but not limited to shareholders meetings, dividend declaration and rights offering.

"Corporate Securities"

means the Equity Securities and/or Debt Securities issued by a private Issuer.

"Credit Undertaking"

means an acceptable credit facility or instrument issued to guarantee an obligation.

"Debt Securities"

means notes, bills of exchange, bonds, debentures, commercial papers, and other evidences of indebtedness which are considered as Securities.

"Defective Securities"

means Securities, whether or not evidenced by a Certificate, which are counterfeit, invalid, forged, improperly altered, non-negotiable, subject to an adverse claim, not free from any liens, encumbrances, assessments or charges of any kind, subject to any restriction or prohibition on transfer through the PCD System, or otherwise defective.

"Delivery-Versus-Payment"

means the Settlement of a Transaction by means of the automatic reciprocal delivery of the Security Element and Cash Element.

"Disbursing Bank"

means a banking institution acceptable to PCD through which cash entitlements are distributed by PCD Nominee to Participants, and fees and charges are paid by Participants to PCD.

"Eligible Securities"

means an issue of Securities from time to time accepted as eligible by PCD for Lodgement in the PCD System, and where the context so requires shall include any particular Securities of such an issue.

"Equity Securities"

means shares of stock of any class, certificates of participation, warrants, options or other rights, and other evidences of undivided ownership interest in a corporation.

"Flag"

means the bilateral process of rendering certain Securities in the Securities Account of a Participant ineligible for any Transaction unless entered with the consent and confirmation of the counterparty Participant. The term "flagged" shall refer to the state of the Securities after a Flag, while "unflagged" shall refer to the state of the Securities after the lifting of the Flag.

"Free of Payment"

means the Settlement of a Transaction with no Cash Element by means of the automatic delivery of the Security Element.

"Freeze"

means the process in which PCD renders the Securities in a Securities Account of a Participant ineligible for any Transaction. The term "frozen" shall refer to the state of the Securities after a Freeze, while "unfrozen" shall refer to the state of the Securities after the lifting of a Freeze.

"Fungible"

means that certain Securities are substitutable with the other Securities of the same class by mere reference to a quantity of a particular Security without reference to the name of the holder, certificate number or the like.

"Instruction"

means a directive or authorization given by a Participant in accordance with these PCD Rules and

the PCD Operating Procedures in connection with the use and availability of the PCD System.

"Issuer"

means the Person which is authorized by law to create and be solely liable for fractional interests in its rights or property or in assets held by it, and to issue Securities as evidence of the fractional interests.

"Lodgement"

means the deposit of Eligible Securities into the PCD System without consideration rendering the Securities eligible for book-entry Settlement within the PCD System. The terms "lodge", "lodged" and "lodging" when used in these PCD Rules shall refer to the verb or adjective forms of Lodgement, as the context may imply.

"Non-PSE Transaction"

means a transaction on Securities between Participants other than a PSE Trade.

"Participant"

means a Person whose Participation Application has been accepted by PCD and who remains or is reinstated as a Participant pursuant to Rule 2.

"Participation Agreement"

means the form which an applicant must duly accomplish, sign and deliver to PCD to become a Participant in the PCD System.

"Participant's Indemnity"

means the obligation of a Participant to make indemnifications in accordance with Rule 5.2.

"Payment Date"

means the date when entitlements pertaining to lodged Securities are paid to or through the PCD System for distribution to their Beneficial Owners.

"PCD"

means the Philippine Central Depository, Inc. including, where the context so requires, PCD Nominee and their respective directors, officers, employees, shareholders, agents and assigns.

"PCD Board"

means the duly elected board of directors of PCD, including a committee appointed by the board of directors to exercise any of its duties or powers under the PCD Rules.

"PCD Nominee"

means the wholly-owned subsidiary of PCD with the single purpose of holding legal title to (but not Beneficial Ownership of) all Securities lodged in the PCD System.

"PCD Operating Manual"

means the manual describing PCD operations, services, facilities and the use thereof, and setting forth the procedures and prescribing the forms and manner to be followed by Participants and PCD, and including circulars and replacement pages issued to Participants periodically.

"PCD Operating Procedures"

means the PCD Operating Manual and the User Guides as may be amended from time to time.

"PCD Rules"

means these PCD Rules, and includes the PCD Operating Procedures and PCD Operating Manual as may be amended, supplemented or modified from time to time.



"PCD System"

means the system as defined in Rule 1.3.

"Person"

means a juridical person, whether private or public, or domestic or foreign.

"Pledge"

means an accessory contract intended as a collateral to a principal obligation, involving the delivery of the Security and the instrument evidencing such Security in the PCD System. The term "pledge" shall refer to the act of pledging lodged Securities, while the term "pledged" shall refer to the state of the Securities after a Pledge.

"Principal Securities Account"

means the Securities Account to which the only Securities that may be held are Securities of which the Participant as dealer is the Beneficial Owner.

"PSE"

means the Philippine Stock Exchange and its trading facilities.

"PSE Trade"

means a transaction on the PSE for the sale or purchase of an Eligible Security which is reported to a clearing agency for Clearing and Settlement.

"Record Date"

means the date when certain rights or entitlements pertaining to Securities accrue.

"SCCP"

means the Securities Clearing Corporation of the Philippines registered by the SEC as a clearing agency.

"SEC"

means the Securities and Exchange Commission of the Philippines.

"Scripless Securities"

means Securities title to which is not required to be evidenced by a Certificate.

"Securities"

means Securities as defined in The Revised Securities Act (Batas Pambansa Blg. 178), as may be amended from time to time.

"Securities Account"

means the account, as subdivided into Sub-Accounts, to which a Participant's lodged Securities are credited, from which uplifted or retired Securities are debited, to which Securities entitlements are credited, and to or from which Securities are credited, debited or otherwise marked as a result of a Transaction.

"Security Element"

means the element of a Transaction which is intended by the parties to be performed by the transfer by one party to the other of a specified Security lodged in the PCD System.

"Settlement"

means the completion of a Transaction through the PCD System effected by the delivery of the Securities Element and/or the payment of the Cash Element in the quantity or amount determined by the Clearing of the Transaction. The terms "settle", "settled" and "settling" when used in these PCD Rules shall refer to the verb or adjective forms of Settlement, as the context may imply.

"Settlement Bank"

means a banking institution acceptable to PCD which performs the Settlement of the Cash Element of a Transaction.

"Settlement Date"

means a Business Day when the Settlement of a Transaction must be effected pursuant to law, regulations, these PCD Rules, contract or established industry practice.

"Settlement Sub-Account"

means the main Sub-Account in a Participant's Securities Account which is used exclusively for the purpose of Settlement.

"System Cash Account"

means the account of a Participant in the PCD System to or from which the Cash Element of a Transaction, entitlement, and fees and charges, are credited or debited.

"Trade"

means a Transaction, whether Delivery Versus Payment or Free of Payment, involving an agreement for the transfer and disposition of Eligible Security from one Beneficial Owner to another.

"Transaction"

means any transaction in the PCD System affecting Beneficial Ownership to or any other beneficial right or interest in Eligible Securities lodged in the PCD System.

"Transaction Date"

means the date when a Transaction is perfected.

"Transfer Agent"

means the party authorized and appointed by the Issuer to issue and transfer the Certificated Securities of the Issuer in favor of their registered or legal owner.

"Uplift"

means the withdrawal of Certificated Securities from the PCD System. The terms "uplift", "uplifted" and "uplifting" when used in these PCD Rules shall refer to the verb or adjective forms of Uplift, as the context may imply.

"User Guide"

means the guide describing the PCD computer hardware, software and use thereof.

"Warranty"

means the unconditional and irrevocable commitment and undertaking of a Participant to hold PCD free and harmless for any loss or damage that PCD or the PCD System may sustain due to causes attributable to the Participant.

## **Rule 1.2 Interpretation**

### **1.2.1 Legal Terminologies**

Legal words or phrases with established statutory or jurisprudential meanings which are not otherwise expressly defined in these PCD Rules shall be used in accordance with such meanings. (1.3.1)

### **1.2.2 Technical Meanings**

Words or abbreviations which have well-known technical or trade meanings and which are not expressly defined in these PCD Rules shall be used in accordance with such recognized meaning.

Unless otherwise provided herein, all terms of accounting used herein shall be construed in accordance with generally accepted accounting principles in effect in the Philippines on the date applied. (1.3.2)

### **1.2.3 Persuasive Authority**

Widely accepted and established terminologies and practices in other jurisdictions where the book-entry system has been in operation shall have persuasive effect in the resolution of any questions arising from these PCD Rules. (n)

### **1.2.4 Titles and Subtitles**

Titles of the articles, sections, subsections, paragraphs and subparagraphs are placed herein for convenient reference only and shall not to any extent have the effect of modifying, amending or changing the express terms and provisions of these PCD Rules. (1.3.3)

### **1.2.5 Words and Gender or Number**

Unless the context clearly indicates the contrary, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. (1.3.4)

### **1.2.6 Precedence**

In case of conflict between:

- (a) the Participation Agreement and the PCD Rules or Operating Procedures, the Participation Agreement shall prevail; and
- (b) the PCD Rules and the Operating Procedures, the PCD Rules shall prevail. (1.3.5)

### **1.2.7 Interpretation**

Unless expressly provided herein to the contrary, all questions concerning the interpretation or application of or any other matter in connection with the Rules and the Operating Procedures (including, without limitation, any order, direction or note issued by PCD) shall be determined by PCD. (1.3.6)

## **Rule 1.3 Book-Entry System**

### **1.3.1 PCD System**

The PCD System is a system for the central handling of Securities by which all Securities of a particular class or series of any Issuer may be transferred, loaned, pledged or subjected to other Transactions, all by book-entries in the records of PCD without physical delivery of Certificates, or otherwise to permit or facilitate the Settlement of Transactions without physical delivery of Certificates. (n)

### **1.3.2 Service Standard**

The PCD shall provide a prompt, accurate and reliable Depository and/or Settlement System for Eligible Securities in accordance with these PCD Rules and the PCD Operating Procedures. (n)

## **Rule 1.4 PCD Rules and PCD Operating Procedures**

### **1.4.1 Scope of PCD Rules**

The PCD Rules adopted by PCD which govern the provision and the use of the Service provided by PCD to Participants are:

- (a) **Rule 1**, the **General Rules** which apply to the provision by PCD of the services in the PCD System and their use by Participants;
- (b) **Rule 2**, the **Participation Rules** which apply to Participants in connection with the PCD System;
- (c) **Rule 3**, the **Depository Service Rules** which apply to Depository Service Participants;
- (d) **Rule 4**, the **Settlement Service Rules** which apply to Settlement Service Participants;
- (e) **Rule 5**, the **Risk Management Rules** which apply to the Depository and/or Settlement Service Participants.

#### **1.4.2 Amendment of PCD Rules**

The PCD Board may from time to time amend the PCD Rules. PCD shall promptly notify Participants of any proposal to change, revise, add or repeal any PCD Rule and of the text of the proposed rule and a brief description of its purpose and its effectivity date. Participants may, within the time prescribed by the PCD Board, submit to PCD for its consideration their comments with respect to any such proposal. Such comments shall be filed with the PCD records and copies thereof delivered to the SEC upon request of the latter. (1.9.1)

#### **1.4.3 PCD Operating Procedures**

PCD may prescribe and from time to time amend the PCD Operating Procedures. Participants shall be bound by the PCD Operating Procedures and amendments thereto in the same manner as they are bound by the PCD Rules. (1.9.2)

#### **1.4.4 User Advisory Committee**

The PCD Board may appoint a committee, to be known as the User Advisory Committee, to review and advise PCD with respect to the PCD System, PCD Operating Procedures, pricing and related matters. The Committee shall be comprised of representatives of Participants, Issuers or their Transfer Agents, and Disbursing Banks and/or Settlement Banks. Such review and recommendations shall not be necessary if in the opinion of PCD the circumstances require prompt or immediate action or if the matter subject to consideration by the Committee is of a routine or inconsequential nature. (1.9.3)

#### **1.4.5 Forms**

In connection with any Transaction or matter handled through, with, or by PCD under or pursuant to the PCD Rules and PCD Operating Procedures, such forms, lists, instructions, requests, notices, and other documents shall be used as PCD may from time to time prescribe. Additions to, changes in, and elimination of any forms may be made by PCD at any time in its discretion. (1.9.4)

#### **1.4.6 Notice**

PCD shall make available to each Participant a copy of the PCD Rules and PCD Operating Procedures, and promptly give notice to Participants of any amendment or change thereto and its effective date. The effective date of an amendment shall not be less than 10 days from the date of such notice, unless the PCD Board determines that circumstances require prompt or immediate action and specifies a shorter period of time for its effectivity. (1.9.5)

### **Rule 1.5 Provision of Services**

#### **1.5.1 Sufficient Instructions**

PCD shall extend the provision of, and Participants shall use, the PCD System only in accordance with the PCD Rules and PCD Operating Procedures. (1.10.1)

### **1.5.2 Depository and Settlement Services**

PCD shall provide the Settlement Services and the Depository Service as two separate Services which carry separate and distinct rights, obligations and responsibilities. Where a Participant uses more than one Service and PCD has determined an actual or imminent default of Participant in one Service, PCD shall be entitled to treat all of that Participant's rights, obligations and liabilities as if Participant were also in default in the other Service used by Participant. (1.10.2)

### **1.5.3 Other Services**

PCD may provide such other services with respect to Securities or Transactions of a nature commonly performed by a clearing agency, as PCD may from time to time determine. (1.10.3)

### **1.5.4 Services to non-Participants**

PCD may from time to time act in delivering Securities to and receiving Securities from persons, firms, or organizations which are not Participants, and paying to and receiving from such persons, firms or organizations amounts payable in connection with such receipts and deliveries. (1.10.4)

### **1.5.5 Cessation of Services**

PCD, notwithstanding anything herein contained, may in its discretion, upon prompt notice, cease to provide, temporarily or indefinitely, services for any Transaction, class of Transactions or Securities. (1.10.5)

### **1.5.6 Participant Identifier**

A Participant shall be allocated a unique identification code, and each Account shall be allocated a unique identification code, which shall be used on the face of all forms used by Participant in connection with the PCD System. (1.10.6)

### **1.5.7 Waiver**

The time fixed by or pursuant to the PCD Rules and PCD Operating Procedures for the performance of any act may be extended, or the performance of any act required by the PCD Rules and Operating Procedures may be waived, modified or suspended by PCD whenever in its judgment such extension, waiver, modification or suspension is necessary or desirable. A written report of any such extension, waiver, or suspension stating the pertinent facts, the identity of the persons who authorized such extension, waiver or suspension, and the reason for such extension, waiver or suspension, shall be promptly made and filed with the PCD records and shall be available for inspection by any Participant during regular business hours on Business Days. (1.10.7 & 1.10.8)

## **Rule 1.6 Eligible Securities**

### **1.6.1 Eligibility Policy**

PCD shall determine from time to time which Securities are eligible to the PCD System. It shall be the policy of PCD to accept Securities as eligible, *motu proprio* or upon the request of an interested party, to the maximum extent consistent with its operational capabilities. (1.12.1)

### **1.6.2 Exceptions to Policy**

PCD may refuse to accept a Security as eligible or may discontinue the eligibility of any Security previously accepted as eligible, for any reason including any of the following:

- (a) PCD lacks the operational capability with respect to such Security;
- (b) the Security is neither traded nor likely to be traded on the PSE or on an organized market, nor subject to quotations (representing *bona fide* offers to Participants to buy and sell in reasonable

- quantities at stated prices);
- (c) the trading of the Security has been suspended by an order of the SEC, PSE or any other authority having the power to suspend trading in such security;
  - (d) the market for the Security has not demonstrated reasonably sufficient liquidity;
  - (e) the Issuer of the Security has been in default on payments of declared dividends, interest or face value of the Security;
  - (f) during the preceding six consecutive months, the level of activity in PCD of the Security or the level of service provided by the Transfer Agent or the Issuer in connection therewith has been insufficient to render the continued eligibility of the Security practical;
  - (g) the continued eligibility of the Security may adversely affect the financial condition of PCD or of a Participant;
  - (h) the refusal or discontinuance of eligibility of the Security is deemed by PCD as necessary or appropriate in the public interest in view of similar circumstances. (1.12.2)

### **1.6.3 Conditions**

PCD may, in its discretion and at any time, impose or remove conditions on any Security, including constraints or prohibitions in respect of any Transaction provided that:

- (a) PCD shall, acting in good faith, take into consideration the best interests of all Participants;
- (b) prior to imposing or removing such condition, PCD shall take reasonable steps to give a Participant sufficient prior notice to enable the Participant to take alternate means to carry out its Transactions, including the Uplift of lodged Securities or to refrain from lodging those that may become subject to the condition. (1.12.3)

### **1.6.4 List**

PCD's list of Eligible Securities shall, for a prescribed fee, be made available to Participants upon request. The list shall be updated from time to time to reflect Securities whose eligibility has been discontinued or on which conditions have been imposed, including the effectivity of the discontinuance or condition. (1.12.4)

## **Rule 1.7 Securities Accounts**

### **1.7.1 Securities Account**

A Participant shall open and maintain with PCD one or more Securities Accounts which shall reflect the balance of Securities held by Participant resulting from all Lodgments, Uplifts, Corporate Action Entitlements as well as Transactions. A Participant which acts both as dealer and broker shall be provided and shall maintain with the System at least three Securities Account to be known as the Principal-Local or Principal-Foreign Securities Account, the Client-Local Securities Account and the Client-Foreign Securities Account. In the event that a Broker-Participant has foreign clients, it shall properly segregate and maintain their holdings in the Client-Foreign Securities Account. The Securities Account/s shall be within the exclusive control of the Participant. (3.2.1)

### **1.7.2 Sub-Accounts**

A Participant's Securities Account shall be subdivided into a Settlement Sub-Account and such other Sub-Accounts as the Participant may apply for and PCD may allow. Every Sub-Account, including the Settlement Sub-Account, shall, at the time of opening, be designated in a clearly distinctive manner by way of numbering, lettering, naming or any combination of these. In the event that a Participant has foreign clients, it shall open and maintain a separate Client-Foreign Securities Sub-Account for that purpose and properly segregate and maintain said holdings in the specific Sub-Account. (3.2.2)

### **1.7.3 Presumption on Settlement Sub-Account**

Transactions within the PCD System by a Participant shall be automatically effected in the Settlement Sub-Account of such Participant, without prejudice to the right of the Participant to appropriately move the Securities to another Sub-Account. (3.2.3)

### **1.7.4 Sufficient Securities in Settlement Sub-Account**

Only Securities in the Settlement Sub-Account of a Participant shall be eligible for Transactions in the PCD System. No Transaction shall be effected by the PCD System unless the Securities subject of the Transaction are held in sufficient kind, class and amount in Participant's Settlement Sub-Account. (3.2.4)

### **1.7.5 Transfer of Securities**

A Participant may appropriately transfer Securities from one Sub-Account to another Sub-Account within the same Securities Account, or from one Securities Account to another Securities Account, subject to compliance by the Participant with the nationality segregation requirement of Rule 1.7.1 and 1.7.2 and such applicable laws or regulations on the transfer of Securities between and segregation of Principal Securities Account and Client Securities Account. (3.2.5)

### **1.7.6 Separation of Securities**

A Sub-Account may be used by the Participant to set aside and segregate:

- (a) the Participant's available and unencumbered Securities, from those which have been encumbered;
- (b) Securities held by the Participant for its clients on credit, from those which have been fully paid by the clients;
- (c) Securities held by the Participant for its Filipino clients, from those held for its non-Filipino clients;
- (d) Securities pledged by a non-Participant to a Participant;
- (e) Securities pledged by a Participant to another Participant and held by PCD for and subject only to the joint Instructions of the Participants; or
- (f) any other Account required by Participant and available from PCD.

### **1.7.7 Book-Entry Delivery**

The book-entry delivery of a Security pursuant to an Instruction of Participant is effected by making appropriate entries in the PCD System for debiting and crediting the Securities Sub-Accounts of the delivering and the receiving Participants in accordance with their Instructions. (3.4.2)

### **1.7.8 Finality and Irrevocability**

The making of entries in the Securities Accounts of Participants reflecting a Transaction occurs when the projected balances of Securities are converted into actual Securities Account balances. The making of appropriate entries in the Securities Accounts effects final and irrevocable delivery of Securities to or from Participants in whose Securities Accounts the entries are made. (3.4.3)

### **1.7.9 Constructive Delivery**

The making of an appropriate book-entry in the Securities Accounts of Participants to effect a delivery of a Security constitutes conclusive evidence of the agreement of Participants that such Security has been constructively delivered to the transferee-Participant and is held for the transferee-Participant. (3.4.4)

## **Rule 1.8 System Cash Account**

### **1.8.1 Bank Account**

The Participant shall open and maintain with its Disbursing Bank a Bank Account to be used solely for effecting the (i) cash credits arising from the distribution of cash entitlements and (ii) cash debits arising from the actual payment of fees and charges to PCD (unless authorized by PCD to pay the fees and charges through other acceptable means.)

Likewise, unless the counterparty Participants opt that their Transactions be settled Free of Payment, then the Participants shall open and maintain with their Settlement Bank a Bank Account to be used for effecting the cash credits and debits arising from the Settlement of the Cash Element of a Transaction. (4.02.02)

### **1.8.2 Bank Limit**

A Participant with a Bank Account may obtain from its Disbursing Bank and/or Settlement Bank a credit facility commitment in the form of an unencumbered and unrestricted Bank Limit, for the respective purpose of paying the fees and charges to PCD and the Settlement of the Cash Element of its Transactions. The Bank Limit shall remain in effect until revoked, increased or decreased, but any revocation or decrease shall not take effect until after the obligations of the Participant already effected and completed in the System are fulfilled under the existing Bank Limit. A Participant's net obligations on any day shall not exceed the applicable Bank Limit, unless the Participant obtains an increase or override of its Bank Limit. Nevertheless, the Participant shall be solidarily liable with the Disbursing Bank or Settlement Bank to honor the Bank Limit. (10.03, 10.06, 12.02, 12.06, 14.02)

### **1.8.3 System Cash Account**

A Participant shall have at least one System Cash Account in the PCD System in which all the entries for the distribution of cash entitlements, payment of fees and charges, and Settlement of the Cash Element of a Transactions will be reflected. The System Cash Account will correspond to any Bank Account which the Participant may have with the Disbursing Bank and/or the Settlement Bank. (1.13.2)

### **1.8.4 Debit and Credit of Accounts**

Any debit or credit between the Participant on the one hand and PCD, PCD Nominee or another Participant on the other hand, for the payment of fees and charges, distribution of cash entitlements, and/or Settlement of the Cash Element of Transactions, shall be reflected in the proper System Cash Account and made in the proper Bank Account with the Disbursing Bank and/or Settlement Bank. (10.07, 12.07, 21.05, 21.06]

### **1.8.5 Actual Funds Payment**

At the time prescribed, the actual net debit or credit amounts in the System Cash Account shall be communicated by PCD to the Disbursing Bank and/or Settlement Banks for immediate posting to each Participant's Bank Account. PCD is hereby irrevocably authorized by the Participant to give instructions to the Disbursing Bank and/or Settlement Bank to effect the debit or credit on the Participant's Bank Account. The Participant hereby covenants that it has made the necessary arrangements with the Disbursing Bank and/or Settlement Bank to enable PCD to utilize the authorization, and that it will not give any instructions to the Disbursing Bank and/or Settlement Bank that will defeat or undermine the authorization of PCD. (10.05, 12.05, 16.04)

### **1.8.6 Accountability**

Payment by or on behalf of a Participant shall be made without prejudice to the right of the Participant and other Participants to an accounting after such payment of the amounts properly owing between the Participant and other Participants. (n)



### **1.8.7 Payment Final and Irrevocable**

A payment by a Participant or made by a Disbursing Bank and/or Settlement Bank shall be final and irrevocable. The Participant and Disbursing Bank and/or Settlement Bank cannot revoke, countermand, cancel, return through the payments clearing system or otherwise refuse to pay or attempt to prevent any payment. (12.05, 13.06, 16.06)

## **Rule 1.9 Records**

### **1.9.1 Reports**

The format, medium, contents and release of the reports to Participants evidencing the records of PCD shall be determined by PCD and set forth in the PCD Operating Procedures. (1.5.1)

### **1.9.2 Confirmation**

Before the close of the Business Day following the Business Day on which a report or record is made available in the PCD System to a Participant, the Participant shall verify the accuracy, completeness and correctness of such report or record and raise with PCD any discrepancy with the Participant's internal records. After that period, the Participant is deemed to have confirmed the accuracy, completeness and correctness of such report or record. (1.5.2]

### **1.9.3 Accuracy**

The Participant shall assume full responsibility for the truth, accuracy and validity of the records and entries in its Securities and System Cash Accounts, and represents that the contents of any print-outs of such records and entries that it may generate are accurate reproductions of its internal records and the records and entries in its Securities and System Cash Accounts. (1.5.3)

### **1.9.4 Correction**

PCD may, with the consent and cooperation of the Participant, or on orders of competent authority, correct or adjust any entry in any report or record in the PCD System, including any manifest error after the confirmation period, provided that the correction does not prejudice PCD or any other Participant. A Participant shall make its records conform to the records of PCD, which shall prevail over the Participant's records in case of any discrepancy. (1.5.4)

### **1.9.5 Best Evidence**

The reports and records of the PCD System shall prevail over the Participants' internal records and shall constitute, with respect to any and all Transactions, the best evidence of such Transactions, without prejudice to the right of the Participants' clients to prove their rights, title and entitlements. (1.5.5)

### **1.9.6 Retention**

PCD shall retain its service records for 10 years after the date on which the entry was made. The records can be retained in microfilm or microfiche form. After that period, such records can be discarded or destroyed. (1.5.6)

### **1.9.7 Required Reports**

PCD may require each Participant to provide a periodic report to PCD verifying the existence and maintenance of orderly records of the Participant's Transactions. (1.5.7)

### **1.9.8 Confidentiality**

Any information about a Participant or its Securities Accounts and System Cash Accounts in the PCD System obtained by PCD in the course of its operations shall be kept confidential by PCD, unless:

- (a) required by law, or an order of a court, judicial or quasi-judicial body, or government agency exercising jurisdiction over the Participant or the Transaction;
- (b) the Participant for justifiable grounds authorizes and directs the PCD to disclose the information;
- (c) made to directors, employees, agents, auditors or legal counsel of PCD, to the extent required to perform their duty;
- (d) the disclosure is statistical or summary in nature without identifying the Participant; or
- (e) limited to Securities held for a Participant, as required by any person concerning the influence of the votes of Security holders, the offer to acquire or exchange Securities or any other matter related to the affairs of the Issuer of such Securities.

Before disclosing the information under any of the foregoing, PCD shall notify the Participant concerned unless PCD is specifically prohibited to do so. (1.6)

## **Rule 1.10 Audit**

### **1.10.1 Annual Financial Audit**

The annual financial statements of PCD shall be audited by a firm of independent public accountants selected by the PCD Board. The audit shall be conducted in accordance with Philippine generally accepted auditing standards. Within 120 days from the close of its fiscal year, PCD shall file the audited financial statements with the SEC and make them available to Participants for inspection. (1.7.3)

### **1.10.2 System Audit**

A study and examination shall be conducted periodically by PCD of the suitability of the system of internal controls of the PCD System, including:

- (a) the security of PCD's premises and physical facilities;
- (b) the integrity of the data processing and other functions of the PCD System, including the processing of Transactions in accordance with the Participant's Instructions and the maintenance of security and confidentiality of the data therein;
- (c) the accounting of lodged Securities and Participant's Securities Account and System Cash Account; and
- (d) the validity and reliability of Certificates registered in the name of PCD Nominee. (1.7.2)

## **Rule 1.11 Notices**

### **1.11.1 To Participants**

Unless otherwise specified in the PCD Operating Procedures, a notice to be given by PCD to a Participant under the Participation Agreement and the PCD Rules shall be deemed as validly given to the Participant when made in writing and personally delivered or sent through the PCD System or by confirmed facsimile transmission or recorded telecommunication, to the address, telephone or facsimile number provided by the Participant. (1.4.1)

### **1.11.2 To PCD**

Unless otherwise specified in the PCD Operating Procedures, a notice to be given by a Participant to PCD under the Participation Agreement and the PCD Rules shall be deemed as validly given to PCD when given to the President or Chief Operating Officer or any of the senior officers of PCD in writing and delivered at the head office of PCD or sent by confirmed facsimile transmission at the number specified by PCD from time to time. (1.4.2)

## **Rule 1.12 Fees and Charges**

### **1.12.1 Formula**

The PCD Board shall establish and revise a reasonable and non-discriminatory basis for the determination by PCD of the amounts of fees and charges due PCD. (1.8.1)

### **1.12.2 Joining Fee**

PCD shall determine the joining fee to be paid by a Person applying for participation. PCD shall not be obligated to consider an application until it has received payment of the applicant's joining fee, which shall be non-refundable except only if an application is finally rejected. (1.8.2)

### **1.12.3 User Fees**

PCD shall determine the kind, amount and manner of payment of fees to be paid for the use of the PCD System. (1.8.3)

### **1.12.4 Other Fees**

When circumstances so warrant, PCD may impose such other fees for extraordinary services and expenses incurred for or on account of a Participant. PCD shall determine the amount and manner of payment of such other fees. (n)

### **1.12.5 Charges**

PCD shall determine the amount, manner and time of payment of charges for late or non-compliance with the provisions of the PCD Rules and PCD Operating Procedures or for any conduct deemed by PCD to be contrary to the interest or integrity of PCD, the Participants and their respective affairs. (1.8.4)

### **1.12.6 Publication**

The amount and manner of payment of fees and charges as determined by PCD shall be notified to Participants through the PCD System 30 days prior to its effective date or such shorter period as PCD may prescribe. Unless otherwise provided, such fees and charges shall be payable monthly. (1.8.6)

### **1.12.7 First Lien**

All outstanding fees and charges payable to PCD shall have first priority in the Settlement process, and shall constitute a first lien on all System Cash Accounts and Bank Accounts of a Participant, notwithstanding any regulation to the contrary. (n)

## **Rule 1.13 Appeal and Arbitration**

### **1.13.1 Appeal to PCD Board**

A Participant who is adversely affected by any decision of PCD management may appeal the decision to the PCD Board within 10 Business Days from the date the decision is made known to the Participant, stating therein the grounds for the appeal. Within 20 Business Days from the date PCD is notified, the PCD Board shall give the Participant the opportunity to be heard. The PCD Board shall not be bound by the technical rules of evidence in the conduct of the hearing and deliberation of the decision under appeal. No final decision shall become effective until affirmed by a majority of the members of the PCD Board and the Participant has been notified of the decision. (2.4)

### **1.13.2 Settlement by Arbitration**

Subject to prior compliance with the procedure in Rule 1.13.1. if applicable, any controversy or claim arising out of or relating to these PCD Rules, except any appeal on disciplinary actions imposed by the PCD pursuant to Rule 2.3, shall be resolved solely and exclusively by means of arbitration in accordance with the CONCORD Rules of Mediation and Arbitration and its implementing rules and regulations. The arbitration shall be conducted in Metro Manila applying Philippine law, and any decision promulgated thereunder shall be enforceable in any court having competent jurisdiction. (n)

# Rule 2

## PCD Participation Rule

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### Rule 2.1 Admission of Participants

#### 2.1.1 Participant Eligibility

A Person is eligible to apply for participation in one or more of the Services if it is:

- (a) a broker or dealer trading or dealing in Securities;
- (b) a bank;
- (c) an insurance company ;
- (d) an investment house;
- (e) a fund, including a Mutual Fund;
- (f) a trust company;
- (g) a trust fund;
- (h) an Issuer of Securities and/or its Transfer Agent, if applicable;
- (i) the PCD Nominee;
- (j) a central securities clearing agency; or
- (k) such other Person which demonstrates to PCD that its affairs and capabilities are such that it reasonably needs to be a Participant;

which is incorporated, established or formed, and regulated under laws of the Philippines. (2.1.1)

#### 2.1.2 Qualifications and Standards

An eligible Person qualifies as a Participant if it:

- (a) is in good standing under the Philippine laws pursuant to which it is established and regulated, as certified by the appropriate government regulatory agency exercising jurisdiction over it;
- (b) owns, manages, controls, has custody of, or otherwise transacts on its own or on behalf of another in, Eligible Securities;
- (c) has adequate trained personnel, premises, hardware, software and data processing capabilities, telecommunications link-up, books and records enabling it to fulfill its obligations and operational requirements promptly and accurately;
- (d) has opened and maintains, where appropriate, the proper Bank Account/s with a Disbursing Bank and/or Settlement Bank;
- (e) meets such other standards and possesses such other qualifications satisfactory to PCD for the protection of PCD and other Participants, such as non-conviction of a Securities-related crime, non-injunction from any Securities-related transaction, non-suspension or non-expulsion from a Securities exchange or a clearing corporation, or non-misrepresentation or non- omission of a material fact to PCD. (2.1.2 & 2.1.3)

#### 2.1.3 Waiver

The PCD Board may, in its discretion, waive the compliance by a Person with any eligibility criteria, qualification or standard, conditionally or temporarily, if the same is found to be unduly severe and against the best interests of PCD and the Participants. (2.1.4)

#### 2.1.4 Intervening Ineligibility

A Participant as well as an applicant whose Participation Agreement has been submitted to PCD shall

give immediate notice to PCD upon ceasing to satisfy the applicable eligibility criteria, qualifications or standards. (2.1.5)

## **Rule 2.2 Application Procedure**

### **2.2.1 Participation Application**

An applicant shall sign and deliver to PCD in duplicate originals a Participation Agreement in the form made available by PCD. (2.2.1)

### **2.2.2 Deficiencies in Application**

If an applicant fails to submit all the proper information and documents that may be required by PCD, PCD may, depending on the nature and gravity of the deficiency, deny the application outright or allow the applicant to correct the deficiency within 15 days from receipt of notice from PCD. If the applicant fails to sufficiently correct its deficiencies during the period, the application shall be deemed abandoned. On the other hand, if the applicant submits the required information or corrects its deficiencies during the period, then the application shall be deemed amended accordingly. (n)

### **2.2.3 Deferral**

The PCD Board may defer its approval of an application until such time as PCD has adequate personnel, facilities, data processing or such operational capability to provide its services to additional Participants without impairing its ability to service existing Participants, to assure the prompt and efficient settlement of Transactions, to safeguard the funds and Securities in its custody, and to carry out its functions in the normal course of business. However, the applicant whose application has been deferred pursuant hereto shall be accepted as Participant as soon as the capabilities of PCD permit. The applications shall be approved in the order in which the applications were filed with PCD. (2.2.3)

### **2.2.4 Approval**

Upon receipt of the notice of PCD's approval of an application, the applicant shall be deemed a Participant entitled to and responsible for all the rights and privileges and obligations of a Participant to the PCD System for the Services specified in the Participation Agreement. (2.2.4)

## **Rule 2.3 Suspension and Termination**

### **2.3.1 Causes for Suspension or Termination**

A Participant may be suspended or terminated from the PCD System, depending on the existence and the gravity of the following grounds as determined by PCD in its sole discretion:

- (a) material or persistent breach by the Participant of the provisions of the PCD Rules or the PCD Operating Procedures;
- (b) repeated acts or omissions for which charges have been levied;
- (c) ineligibility, loss of qualification or non-compliance of the Participant with applicable participation standards;
- (d) adverse effect on the integrity or interests of PCD or the other Participants by the financial or operating condition, or continuation of the participation, of the Participant;
- (e) revocation of the registration or license, expulsion or suspension of the Participant by the regulatory or competent authority having jurisdiction over it;
- (f) order or decision of a competent judicial or administrative authority to enjoin the Participant from engaging in or continuing any conduct or practice related to Securities or Transactions; or
- (g) determination by the PCD Board of the existence of other similar adequate causes for suspension

or termination. (2.3.1)

### **2.3.2 Procedure for Suspension or Termination**

A Participant shall be notified in writing at its last registered address of the existence of any ground for suspension or termination. The notice shall state in reasonable detail the nature of the violation and the facts constituting the violation. Within five Business Days from receipt of the notice, the Participant may file its written response, explaining, clarifying or commenting on the matters stated in the notice. The Participant may be required to be present in a hearing for an opportunity to further explain, clarify or comment on matters touched upon in its written response. The Participant may, if so desired, be assisted by counsel during such hearing. (2.3.5)

### **2.3.3 Preventive Suspension**

Notwithstanding the foregoing, PCD may, in order to avoid grave and irreparable damage to the PCD System, order the immediate suspension of the Participant pending notice, hearing and final decision on its suspension or termination, until PCD determines that the ground no longer exists, at which time PCD shall lift the preventive suspension. (n)

### **2.3.4 Decision of Suspension or Termination**

Any final decision suspending or terminating the Participant shall be in writing, stating the grounds for violation and the facts constituting the violation, the period of suspension or the effective date of termination. A charge may be meted out concurrently with suspension or termination. No decision of suspension or termination shall take effect until the Participant has received the written decision of the PCD or its authorized representatives. (n)

### **2.3.5 Appeal to Decision**

A Participant may contest any final decision of suspension or termination by filing an appeal with the SEC within 10 days from receipt of the decision. The suspension or termination of a Participant shall remain effective pending the resolution of the appeal. (2.4.2)

### **2.3.6 Effects of Suspension or Termination**

A suspended or terminated Participant, during the effectivity of the suspension or upon the effectivity of the termination, shall be prohibited from gaining access to and using the facilities of the PCD System. PCD shall determine what actions shall be taken with respect to Transactions of a suspended or terminated Participant which have not settled or completed, as well as Securities held by the Participant in its Principal Securities Account and Client Securities Account. PCD may take any action it deems necessary to maintain the provision of Services and the integrity of the PCD System. (n)

### **2.3.7 Resignation**

A Participant may resign from the PCD System by submitting a written resignation letter to PCD not less than 15 Business Days from the intended date of resignation. Such resignation shall be effective only upon its acceptance by PCD, which acceptance shall be made no earlier than the date stated in the resignation letter, and, at the discretion of PCD, only after due notification to the government agency and self-regulatory organization having jurisdiction over Participant. (2.3.6)

### **2.3.8 Effect of Resignation**

Upon receipt by PCD of the resignation letter, the resigning Participant shall be prohibited from using the PCD System except to settle all outstanding Transactions entered into on or before the day of submission of the resignation letter and to pay unpaid fees and charges to the PCD. Upon the Settlement of all pending Transactions and the payment of all unpaid fees and charges all Securities in the Securities Account of the Participant shall be disposed of upon the proper instruction of the Participant or its clients as the case may be. (n)

### **2.3.9 Survival of Obligations**

The suspension, termination or resignation of a Participant shall not in any way reduce its duties, liabilities or obligations under these PCD Rules or PCD Operating Procedures which have otherwise accrued or existed as of the date of such suspension, termination or resignation, or which may thereafter arise by reason of transactions, facts or circumstances occurring or in existence on or before such date. (2.3.7)

### **2.3.10 Civil and Criminal Liability**

The suspension, termination or resignation of a Participant shall not prejudice the right of PCD and the other Participants to take civil and/or criminal action against the suspended, terminated or resigned Participant. (2.3.4)

## **Rule 2.4 Authorization and Access**

### **2.4.1 Authorized Agents**

Each Participant shall file with PCD a list in the form required by PCD including a designation, signed by at least two of the Participant's senior officers, of the name, office, telephone and telecopier numbers, and specimen signature of the employees duly authorized to legally and validly act on behalf of the Participant in all matters regarding the PCD System, including the ability of such designated personnel to access computer processing activities for on-line functions and facilities. Such designation shall become effective upon receipt by PCD thereof as evidenced by a signed duplicate copy furnished to the Participant. PCD is hereby authorized and instructed by the Participant to rely on such appointment or designation and on any replacement thereof. (2.5.1)

### **2.4.2 Security**

A Participant shall strictly comply with all security measures of PCD with respect to its premises, employees and computer processing facilities. Participant shall also be responsible for taking appropriate and diligent security measures concerning its own personnel, the preservation of Access Codes and passwords to the PCD's computer processing facilities, network access, and its operations with PCD. (2.5.2)

### **2.4.3 Participant Action**

Subject to the requirement of PCD for further confirmation before acting on an instruction from the Participant, PCD is hereby authorized and directed by the Participant to rely on and accept any written instruction, telecopied, telephoned or electronic message from any designated personnel of Participant. PCD shall not be required to verify the source of a telecopied, telephone or electronic message given in accordance with the PCD Rules and PCD Operating Procedures. PCD shall not be responsible or liable for any act performed by it in good faith in reliance on any erroneous, unauthorized, forged or unclear message given in accordance with the PCD Rules or PCD Operating Procedures. (2.5.3)

## **Rule 2.5 Participant Warranties and Representations**

### **2.5.1 Authority to Transact**

The Instructions given by a Participant to PCD to effect a Lodgement, Uplift or Transaction constitute the representation and warranty of Participant to PCD that the Participant has full power, right and authority to make the Lodgement, Uplift or Transaction in accordance with its Instructions. Any Instruction given by a Participant to PCD for the Settlement of a Transaction, or the book-entry delivery of Securities, or the taking of any steps as the holder of Securities held for the Participant, constitutes the representation and warranty of the Participant to PCD that the Participant has and will



continue to maintain a balance in its Securities Account sufficient to support such Instruction. (2.6.1)

### **2.5.2 Authority from Client**

A Participant is deemed to warrant to PCD that the Participant has obtained the accession of its clients to the PCD Rules and PCD Operating Procedures, and any amendments, supplements or modifications thereto, and that the clients have agreed that:

- (a) Securities under the clients' control, custody or Beneficial Ownership shall be held by the Participant in the PCD System; and
- (b) the clients shall abide by the Participant's Instructions with respect to said Securities. (3.1.7)

### **2.5.3 Segregation of Securities**

The Participant shall lodge all Securities held on behalf of its clients in a separate Client Securities Account, and shall segregate, keep complete records of, and account for all such Securities including their fruits and rights at all times. (n)

### **2.5.4 Authority from Third Party**

Whenever a Participant acts for or on behalf of a third party in relation to lodged Securities, such Participant shall be deemed to warrant to PCD that it has notified such third party and has the special power and full authority of such third party to accept the PCD Rules so as to bind such third party. Nevertheless, PCD shall not be bound to act on the instructions of any such third party, and all deliveries of such lodged Securities will be made to, or to the order of, such Participant. (2.6.2)

### **2.5.5 Irrevocable Authority**

Each Participant irrevocably and by special power authorizes PCD to be its attorney-in-fact to do such acts and to exercise such powers on behalf of the Participant as may be delegated to the PCD by the PCD Rules, together with such powers as are necessary or incidental thereto. PCD is not obligated in any event to determine the legal or other requirements to be followed in the pursuit of such rights or actions, or the desirability or necessity of taking any such steps. (2.6.4)

### **2.5.6 Execution of Other Acts**

Upon request from PCD, a Participant shall promptly perform such required acts and shall execute such required documents as PCD may be reasonably required to enable PCD to comply with the provisions of the Services. (2.6.5)

### **2.5.7 Reporting of Fraud**

To the extent of its knowledge of such matters, a Participant shall report to PCD:

- (a) any violation of the PCD Rules or misuse of the PCD System;
- (b) any error regarding any data in the PCD System;
- (c) any fraud or criminal activity committed or about to be committed in connection with the PCD System;
- (d) any unauthorized or criminal access to or use of any Service; or
- (e) any negligent, fraudulent or willful act or omission by any Participant or staff of PCD. (2.6.8)

### **2.5.8 Guaranty Compliance**

Where a Participant is a member of PSE, such Participant shall comply with all requirements pertaining to any applicable guaranty or warranty so as to make effective the provision to PCD of the applicable guaranty or warranty to satisfy a loss attributable to a Participant who is or was a PSE member. (2.6.6)

### **2.5.9 Submission to Disciplinary Action**

A Participant shall abide by all disciplinary measures imposed by PCD on such Participant, including charges, suspension and termination, and hereby waives all its other rights to remedies inconsistent with the PCD Rules. (2.6.9)

### **2.5.10 Verification of Warranties**

PCD may rely on any representation or warranty, express or implied, made or deemed made by a Participant by its accession to the PCD Rules. Nevertheless, PCD may take steps to verify the representation or warranty and, for such purpose, require the Participant to provide such information or document as may be relevant to the verification, without in any way being considered as having waived its right to rely on the representation or warranty of Participant. (2.6.3)

### **2.5.11 Constraints**

A Participant shall not knowingly permit any Transaction in Securities in the PCD System to be held in contravention of any applicable charter, by-law, legislation, regulation or order. (3.9.1)

### **2.5.12 Declarations**

A Participant shall provide or cause to be provided, as and when required, a declaration containing such information with respect to any Security in its Securities Account to comply with:

- a) a lawful request of the Issuer of the Security in order to comply or facilitate compliance with any legislation, rule, regulation, order of a court or administrative or regulatory body, by-law or provision to which the Issuer is subject; or
- b) any legislation, regulation, or order of a court or administrative, taxing or regulatory body. (3.9.2)

# Rule 3

## Depository Service

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### Rule 3.1 The Depository Service

#### 3.1.1 Securities Depository

The Depository Service is the Service provided by PCD where PCD acts as the central depository of Eligible Securities lodged in the PCD System. Without prejudice to the obligation of the Participant to account for Defective Securities, all Eligible Securities of an Issuer when lodged within the System shall be deemed Fungible and may be sold, transferred, pledged, encumbered, cleared and settled or otherwise dealt with through book-entries without physical delivery of any Certificate. (3.1.1)

#### 3.1.2 Presumption on Beneficial Title

Securities lodged in PCD shall be immobilized by transferring the legal title thereto in the name of PCD Nominee. Without prejudice to the obligation of the Participant to segregate Securities held on behalf of its clients in a separate Client Securities Account and to account for the Beneficial Ownership of such Securities to its clients, the Participant shall, as far as the PCD is concerned, be deemed as the Beneficial Owner of all Securities in its Securities Accounts. (3.1.5)

#### 3.1.3 Custody

PCD shall hold the Securities in the Depository Service as depository (and as nominee and/or trustee through PCD Nominee) of the Participants to whose Securities Accounts such Securities are credited from time to time, subject to their Instructions. The transfer of legal title over lodged Securities to PCD Nominee is without consideration. PCD is not a fiduciary of Participants. All the terms and conditions of the deposit are contained in the PCD Agreement.

#### 3.1.4 Function as Depository

PCD gives value to a Participant by crediting the Participant's Securities Account for the Securities lodged, by assuming the obligation to safekeep and return such Security to the Participant upon its Instruction, and by permitting the Securities to be held in the Depository Service and made available for Transaction in the Depository Service and Settlement Service. (3.1.4)

#### 3.1.5 Obligation to Deliver

PCD shall deliver to the Participant on request those Securities held by PCD Nominee for the Participant as shown in the records of PCD for the Participant's Securities Accounts. The obligation of PCD to deliver Securities to a Participant is subject to any restrictions, constraints or conditions on uplifts imposed in accordance with the Rules and to the security interests, if any, granted pursuant to the Rules. (3.1.3)

#### 3.1.6 Operations

The Depository Service and its facilities are extended by PCD and made available to Depository Participants and Settlement Participants who maintain the relevant Accounts under these PCD Rules. Participation in the Depository Service is mandatory for Settlement Participants, but participation in the Settlement Services is not mandatory for Depository Participants. (3.1.6)

## **Rule 3.2 The Depository Service for Corporate Securities**

### **3.2.1 Lodgement**

#### **3.2.1.1 Lodgement of Corporate Securities and Surrender of Certificates**

Before a Participant may use the PCD System, it must lodge its Eligible Securities. To lodge Securities into the PCD System, a Participant shall enter the proper Lodgement Instruction and deliver the Certificates covering the Securities, duly endorsed for the transfer of legal title in favor of PCD Nominee, for transfer in the name of PCD Nominee and immobilization by PCD. The Certificates shall be conspicuously marked on their face with the legends prescribed in the PCD Operating Procedures. (3.3.2)

#### **3.2.1.2 Participant's Lodgement Representations**

The delivery of the Certificates for Lodgement constitutes an unqualified representation and warranty of Participant that:

- (a) the Beneficial Owner of the Securities intends to lodge the Securities into the PCD System;
- (b) the Participant and the Beneficial Owner of the Securities have, and can be presumed by PCD to have, unconditionally acceded to the PCD Rules and unqualifiedly submitted to the PCD System;
- (c) the Certificates surrendered and the Securities represented thereby are Fungible and are not Defective Securities, and that any defect shall be rectified and/or indemnified by the Participant. (n)

#### **3.2.1.3 Acknowledgement and Confirmation**

Upon due acknowledgement by PCD of proper receipt of all the Certificates, the Securities lodged may be conditionally credited in the Securities Account of the Participant and become eligible for Transactions. PCD may, however, require the posting of a Credit Undertaking as a condition for the grant of immediate credit. (3.3.5 & 3.3.6)

#### **3.2.1.4 Defective Certificates**

Confirmation by the Transfer Agent that the Securities surrendered by the Participant are not Defective Securities renders the crediting of such Securities final and irrevocable. On the other hand, Defective Securities which have been subject to immediate credit shall, within one Business Day, and without prejudice to the right of PCD to call on any applicable Warranty, be uplifted from the PCD System. If there is an insufficient amount of Securities in the Securities Account to be uplifted, the Participant shall deliver to PCD a sufficient quantity of such Securities to eliminate the insufficiency. (n)

#### **3.2.1.5 Buy-In**

If the Participant cannot deliver sufficient Securities, PCD may give Instructions to debit the Participant's System Cash Account and Bank Account for an amount equal to the value of such Securities plus any amount reasonably determined by PCD to protect PCD, the other Participants and the integrity of the Depository Service, and hold the amount as collateral security until such time as Participant eliminates the insufficiency. PCD may, through its agent, then purchase a sufficient quantity of said Securities required to meet the insufficiency due to the Defective Securities, under such terms as PCD shall consider as reasonable taking into consideration the need for prompt delivery of such Securities. The purchase price and related costs and surcharges shall be for the account of the defaulting Participant.

#### **3.2.1.6 Suspension of Lodgement**

PCD may for cause suspend or prohibit the Lodgement of certain Corporate Securities in the PCD System. (n)

## **Rule 3.2.2 Pledge of Corporate Securities**

### **3.2.2.1 Pledge of Corporate Securities**

A Pledge of lodged Corporate Securities is effected by the pledgor-Participant, on its own or on behalf of its client, and the pledgee-Participant, on its own or on behalf of its client, entering the proper Pledge Instructions for the quantity or face value of Securities to be pledged. PCD shall have no obligation to verify the terms of the Pledge or compliance therewith by either party thereto. (3.5.1 & 3.5.2)

### **3.2.2.2 Flagged Securities**

Securities that have been pledged are flagged and are not eligible for any Transactions or Settlement unless confirmed by the pledgee-Participant. (n)

### **3.2.2.3 Foreclosure of Pledge**

In the event that the pledged Securities are foreclosed, the pledgor-Participant shall transfer the pledged Securities to the Securities Account of the pledgee-Participant for proper delivery to the party entitled thereto. In the event that PCD determines that the pledgor-Participant unjustly refuses to transfer the pledged Securities to the Securities Account of the pledgee-Participant, PCD shall be deemed to have been authorized by pledgor-Participant to transfer the Securities without any liability to either Participant. (3.5.7)

### **3.2.2.4 Right or Equity of Redemption**

Each Participant shall ensure that any right or equity of redemption over the pledged Securities shall be maintained and kept valid and enforceable. PCD shall in no way be required to ascertain or ensure that any right or equity of redemption has been validly reserved to the pledgor and shall not be held liable for any loss, damage or claim arising from the failure of any party to maintain any such right or equity. (3.5.8)

### **3.2.2.5 Release of Pledge**

Promptly after the termination of the Pledge due to the payment and performance of the principal obligation or any other reason, the pledgor-Participant and pledgee-Participant shall enter the necessary Instructions to unflag the pledged Securities. (3.5.6)

### **3.2.2.6 No Other Voluntary Liens**

Except for Pledge, no other voluntary Liens involving lodged Securities may be effected in the PCD System, without prejudice to the right of a Participant to uplift the Securities for the proper constitution of such other voluntary Liens. (3.5.9)

### **3.2.2.7 No Involuntary Liens**

In case of any involuntary Lien (such as an attachment, injunction, sequestration, levy, notice of *lis pendens* or judgment, expropriation, and other similar encumbrances), the Participant concerned shall uplift the Securities for the proper constitution of such involuntary Liens. (3.5.10)

### **3.2.2.8 Entitlements of Pledged Securities**

All dividends, rights and entitlements of pledged Securities shall pertain to the pledgor-Participant, without prejudice to the obligation of the pledgor-Participant to constitute a Pledge over the dividends, rights and entitlements if so stipulated by the pledgor-Participant and pledgee-Participant.

## **Rule 3.2.3 Securities Borrowing and Lending**

### **3.2.3.1 Loan Post**

All loans of Securities from one Participant to another shall be considered as contracts between Participants and shall be made through a PCD loan post. Unless otherwise provided in the PCD Operating Procedures, the PCD loan post shall be a facility whereby PCD releases the name of any Participant willing to lend Securities through the PCD System. (3.6.1)

### **3.2.3.2 Client's Authorization**

A Participant having authority to do so from a client may loan to another Participant marginable Securities held for such client, provided that nothing in such authorization justifies the Participant in loaning more of such Securities than is fair and reasonable in view of the indebtedness of such client. To determine what is fair and reasonable, the Participant shall maintain a separate list identifying the client and the Securities loaned. PCD makes no representation or warranty whatsoever with respect to the authority of the lending Participant, the fairness and reasonableness of the amount of the loan, and other related matters. (3.6.2)

### **3.2.3.3 Borrowing Procedure**

A Participant wishing to borrow Securities shall contact the Participant prepared to make such loan directly and shall enter into an agreement under terms determined entirely by the parties thereto and for their sole benefit and account, without any intervention of PCD. (3.6.3)

### **3.2.3.4 Deposit of Money with Lender**

A loan may be made against a deposit by the lender-Participant of a sum equal to the current market price of the said Securities as determined by the lender-Participant or of such greater sum, if any, as agreed upon, and may be made either with or without interest or premium, as agreed upon by the borrower- and the lender-Participants. The lender-Participant shall not be held accountable to his client for any interest on the money deposited with the lender-Participant as aforesaid. (3.6.4)

### **3.2.3.5 Marking to Market**

The lender-Participant may at any time on any clearing day require the borrower-Participant to furnish margin equivalent to the amount by which the then current market price exceeds the sum of money on deposit with the lender-Participant, and the borrower-Participant may require the lender-Participant to refund such money as is necessary to reduce the amount of deposit for the loan to such current market price. (3.6.5)

### **3.2.3.6 Repayment**

Subject to any special time arrangement agreed upon, the borrower-Participant may repay the loan and the lender-Participant may call the loan at any time upon notice to the other Participant. If a Transaction is involved, a trade that is not completed by the return of the Securities and money deposited may be terminated. (3.6.6)

### **3.2.3.7 Lender's Right to Dividend**

Unless otherwise agreed upon by the Participants, during the continuance of the loan, all dividends, rights and other entitlements pertaining to the Securities shall pertain to the borrower-Participant. Claims should be requisitioned from the borrower-Participant. (3.6.7)

## **Rule 3.2.4 Corporate Actions**

Unless provided for in specific procedures for corporate actions of shares lodged in the PCD System as may be amended from time to time, the following are the applicable rules:

#### **3.2.4.1 Notice of Corporate Action**

PCD shall, upon official receipt of the proper official notice from the Issuer or the PSE of any Corporate Action, promptly advise all Participants of the Corporate Action including its Record Date, Payment Date and other relevant data and send all proper documents in accordance with the PCD Operating Procedures. (3.8.1)

#### **3.2.4.2 Formula for Entitlements**

The amount of entitlement in respect of a Corporate Action shall be determined based on the total number, as of Record Date, of the proper Equity Securities registered in the name of PCD Nominee and the number, as of Record Date, of the proper Equity Securities in the Securities Account of each Participant, as computed and confirmed by the Transfer Agent and reconciled by PCD, rounded down to the nearest whole number or centavo as the case may be. (n)

#### **3.2.4.3 Shareholders Meetings**

In any meeting of an Issuer in which Equity Security holders are entitled to vote, all Equity Securities registered in the name of PCD Nominee which are entitled to vote shall not be represented nor voted on by PCD Nominee or PCD. Instead, PCD Nominee shall execute a proxy in favor of the Participants for the Equity Securities in their Securities Account as of Record Date, without prejudice to the obligation of the Participants to promptly account to the Beneficial Owners of the Equity Securities in the Participant's Client Securities Account in accordance with applicable regulations. (n)

**3.2.4.3.1** Participants who vote, intend to vote or execute further proxies on the Equity Securities in the Participant's Client Securities Account warrant that each of them has obtained, and maintains on file the prior written authorization of the Beneficial Owners of the Equity Securities to vote and/or execute further proxies on said Securities in accordance with applicable laws and regulations.

**3.2.4.3.2** All proxies covering Equity Securities in the Participant's Client Securities Account shall be accomplished, returned and delivered directly to the relevant Transfer Agent in accordance with applicable laws and regulations.

#### **3.2.4.4 Cash Dividends**

All cash dividends pertaining to lodged Equity Securities shall be paid and distributed through the PCD System by crediting the amount of such dividend in the Participant's System Cash Account and its corresponding Bank Account with the Disbursing Bank upon verification by PCD of receipt of good funds from the Issuer at least one Business day prior to payment date. Upon receipt by a Participant of the cash dividends (less withholding tax, if any), it shall immediately distribute the amount of cash dividends to the Beneficial Owners thereof in accordance with law, regulations or contract. (3.8.1)

#### **3.2.4.5 Stock Dividends**

All stock dividends pertaining to Equity Securities in the PCD System shall be distributed through the PCD System by crediting the amount of such dividend in the Participant's Securities Accounts after confirmation by the Transfer Agent of the Stock Dividend listing date or payment date, whichever is later, and the issuance of a new Certificate in the name of PCD Nominee that includes the total number of stock dividends. Upon receipt by a Participant of the stock dividends, it shall immediately allocate or deliver them to the Beneficial Owners thereof in accordance with law, regulations or contract. (3.8.4)

#### **3.2.4.6 Rights Offering**

Unless PCD allows the processing of Rights Offerings within the PCD System in accordance with

applicable procedures, each Participant shall, immediately upon receipt from the Transfer Agent, distribute the subscription forms covering a rights offering to the Beneficial Owners of the Securities and thereafter return the same to the Transfer Agent of the Issuer for recording in the books of the Issuer and the conclusion of the rights offering, unless another arrangement has been stipulated with the Beneficial Owners. Equity Securities issued pursuant to a rights offering shall be eligible for Lodgement upon their full payment. (n)

#### **3.2.4.7 Other Corporate Actions**

PCD may from time to time provide for supplemental rules governing other types of Corporate Actions through the PCD Operating Procedures. (3.8.7)

### **Rule 3.2.5 Uplift**

#### **3.2.5.1 Uplift Instruction**

A Participant intending to uplift Certificated Securities from the PCD System shall enter and confirm an Uplift Instruction and send to PCD a duly-signed Uplift Instruction, stating the kind, class and amount of Securities to be uplifted and indicating all the relevant details about the transferee of the Securities. Upon entry of the Uplift instructions by the Participant, the Securities sought to be uplifted shall be frozen in the Participant's Securities Account and shall no longer be eligible for Settlement through the PCD System. The Uplift Instruction may be cancelled by the Participant at any time prior to its confirmation by PCD. (3.7.2)

#### **3.2.5.2 Liability for Failed Settlement**

A Participant requesting Uplift shall ensure that the Uplift will not result in the failure of Settlement of its relevant Transactions. (3.7.4)

#### **3.2.5.3 Effectivity of Uplift**

Upon confirmation of the Uplift instructions by PCD, the Securities shall be uplifted from the PCD System. PCD shall forward the PCD Uplift Instruction(s) to the relevant Transfer Agent together with the PCD jumbo certificate for cancellation thereof by the Transfer Agent, and subsequent issuance of new certificates in the names of PCD and the uplifting Beneficial Owner concerned. (3.7.5)

### **Rule 3.3 The Depository Service for Scripless Debt Securities**

#### **3.3.1 Lodgement**

##### **3.3.1.1 Instructions for Scripless Debt Securities**

To lodge Eligible Scripless Debt Securities, the Participant shall enter the proper Lodgement Instruction of the Scripless Securities. Eligible Scripless Debt Securities shall be approved by PCD before they may be lodged in the PCD System using the proper Instructions. Once the Instructions are entered and accepted by the PCD System, legal title to the Scripless Debt Securities shall be deemed transferred to PCD Nominee and the Scripless Debt Securities immobilized by PCD.

##### **3.3.1.2 Participant's Lodgement Representations**

The entry of Instructions by the Participants for the lodgement of Scripless Debt Securities constitutes an unqualified representation and warranty of Participant that:

- (a) the Beneficial Owner of the Securities intends to lodge the Securities into the PCD System; and
- (b) the Participant and the Beneficial Owner of the Securities have, and can be presumed by



PCD to have, unconditionally acceded to the PCD Rules and unqualifiedly submitted to the PCD System.

### **3.3.1.3 Warranty on Fungibility of Scripless Debt Securities**

Lodgement of Scripless Debt Securities in the PCD System shall constitute an unqualified representation and warranty by the party lodging that the Securities lodged are Fungible and not Defective Securities, and that any defect shall be rectified and/or indemnified.

### **3.3.1.4 Suspension of Lodgement**

PCD may for cause suspend or prohibit the Lodgement of certain Scripless Debt Securities in the PCD System. (n)

## **Rule 3.3.2 Pledge of Scripless Debt Securities**

### **3.3.2.1 Pledge of Scripless Debt Securities**

A Pledge of lodged Scripless Debt Securities is effected by the pledgor-Participant, on its own or on behalf of its client, and the pledgee-Participant, on its own or on behalf of its client, entering the proper Pledge Instructions for the quantity or face value of Scripless Debt Securities to be pledged. PCD shall have no obligation to verify the terms of the Pledge or compliance therewith by either party. (3.5.2)

### **3.3.2.2 Flagged Securities**

Securities that have been pledged are flagged and are not eligible for any Transaction or Settlement unless confirmed by the pledgee-Participant. (n)

### **3.3.2.3 Foreclosure of Pledge**

In the event that the pledged Securities are foreclosed, the pledgor-Participant shall transfer the pledged Securities to the Securities Account of the pledgee-Participant for proper delivery to the party entitled thereto. In the event that PCD determines that the pledgor-Participant unjustly refuses to transfer the pledged Securities to the Securities Account of the pledgee-Participant, PCD shall be deemed to have been authorized by pledgor-Participant to transfer the Securities without any liability to either Participant. (3.5.5)

### **3.3.2.4 Right or Equity of Redemption**

Each Participant shall ensure that any right or equity of redemption over the pledged Securities shall be maintained and kept valid and enforceable. PCD shall in no way be required to ascertain or ensure that any right or equity of redemption has been validly reserved to the pledgor and shall not be held liable for any loss, damage or claim arising from the failure of any party to maintain any such right or equity. (3.5.8)

### **3.3.2.5 Release of Pledge**

Promptly after the termination of the Pledge due to the payment and performance of the principal obligation or any other reason, the pledgor-Participant and pledgee-Participant shall enter the necessary Instructions to unflag the pledged Securities. (3.5.6)

### **3.3.2.6 No Other Voluntary Liens**

Except for Pledge, no other voluntary Liens involving lodged Securities may be effected in the PCD System, without prejudice to the right of a Participant to uplift the Securities for the proper constitution of such other voluntary Liens. (3.5.9)

### **3.3.2.7 No Involuntary Liens**

In case of any involuntary Lien (such as an attachment, injunction, sequestration, levy, notice of *lis pendens* or judgment, expropriation, and other similar encumbrances), the Participant concerned shall uplift the Securities for the proper constitution of such involuntary Liens. (3.5.10)

### **3.3.2.8 Interest and Maturity Proceeds of Pledged Scripless Debt Securities**

All interest due on Pledged Scripless Debt Securities in the System shall pertain to the pledgor-Participant, without prejudice to the obligation of the pledgor-Participant to constitute a Pledge over the interest if so stipulated by the pledgor-Participant and pledgee-Participant.

While pledged in the PCD System, all proceeds of a Scripless Debt Security which has matured on which redemption moneys have been fully paid and distributed by the Issuer shall be held in suspense for the account of the proper party.

## **Rule 3.3.3 Proceeds and Retirement of Scripless Debt Securities**

### **3.3.3.1 Distribution of Proceeds and Fruits**

All proceeds and fruits of lodged Scripless Debt Securities, including cash payments for interest and principal, may be distributed by the Issuer through the PCD System or through such other means as the Issuer may provide. (3.8.2)

### **3.3.3.2 Crediting of Bank Account**

Whenever proceeds and fruits of Scripless Debt Securities are distributed through the PCD System, the Participant shall, upon receipt of the interest and/or principal of the matured Scripless Debt Securities in its corresponding Bank Account, immediately distribute the amount (less withholding tax, if still unwithheld) to their Beneficial Owners in accordance with law and the agreement with the client. (n)

### **3.3.3.3 Effect of Maturity of Scripless Debt Securities**

Unless pledged in the PCD System, a Scripless Debt Security which has matured on which redemption moneys have been fully paid and distributed by the Issuer shall be retired from the PCD System. (n)

# Rule 4

## Settlement Service

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### Rule 4.1 The Settlement Service

#### 4.1.1 Settlement

The Settlement Service is the Service in which PCD provides Participants with facilities for the comparison of data respecting the terms of Settlement of Transactions, for the allocation of Settlement responsibilities arising from Transactions, and for the making of payments of the Cash Element and/or deliveries of the Security Element of a Transaction. (4.1.1)

#### 4.1.2 Settlement Participants and Operations

The Settlement Service and its facilities shall be extended by PCD and shall be made available to Depository and Settlement Participants who maintain the relevant Accounts under these PCD Rules. Participants may apply for participation in the specific Settlement Service for the Settlement of their Transactions. No Settlement can be effected through the Settlement Service if a party to the Transaction is not a Depository Participant and a Settlement Participant in that specific Settlement Service. A non-Settlement Participant may appoint a Settlement Participant to act as the attorney of such non-Settlement Participant. Participation in the Depository Service shall be mandatory for Settlement Participants, but participation in the Settlement Services shall not be mandatory for Depository Participants. (4.1.2 & 4.2.1)

### Rule 4.2 PSE Trades

#### 4.2.1 Clearing and Settlement of PSE Trades

The Clearing and Settlement of PSE Trades is undertaken by SCCP based on the results of Trades in the PSE. On Settlement Date, PCD will transfer Securities from the Securities Account of one Participant to another Participant based on the results of Clearing as contained in the Instructions of SCCP. PCD is hereby authorized by the Participant to transfer Securities to or from its Securities Account based on the Instructions of SCCP.

#### 4.2.2 Failed PSE Trades

In the event that there are insufficient Securities in the Securities Account of a Participant as of the close of Settlement Date, then the Settlement of the affected PSE Trade will fail in the PCD System, and the failed PSE Trade will be promptly reported by PCD to the SCCP. No further action will be taken by PCD with respect to the failed PSE Trade until further Instructions are received from SCCP.

### Rule 4.3 Non-PSE Transactions

#### 4.3.1 Instructed Settlement

Non-PSE Transactions between Participants (such as but not limited to transfers between custodians and brokers, donations, hereditary transfers, and sales on attachment, foreclosure or execution, as well as Transactions not concluded in the PSE) may be settled within the PCD System upon Instruction by the Participants involved, subject to all applicable laws and regulations which may govern such transfers. (3.4.1)

#### **4.3.2 Mode of Settlement**

Non-PSE Transactions may be settled by means of Delivery Versus Payment, Free of Payment, or such other modes as may be agreed upon by the Participants concerned. The Participants shall ensure that there are sufficient Securities in the Settlement Sub-Account of the transferor-Participant and sufficient unavailed Bank Limit or system cash credits in the System Cash Account of the transferee-Participant upon Settlement in case of Delivery versus Payment, or that there are sufficient Securities in the Settlement Sub-Account in case of Free of Payment. (4.2.4 & 4.2.6)

#### **4.3.3 DVP Settlement**

The Delivery versus Payment Settlement of Non-PSE Transactions in the Settlement Service shall be effected by means of debiting the delivering Participant's Securities Account with the Securities being the object of the Transactions, and the corresponding payment therefor by the Participant through its Settlement Bank. The affected Participants shall ensure that simultaneous with the crediting of the receiving Participant's Securities Account with the Securities being the object of the Transactions, the corresponding payment therefor is made by the appropriate delivering Participant through the appropriate Settlement Bank. (4.2.4 & 4.2.6)

#### **4.3.4 FOP Settlement**

The Free of Payment Settlement of Non-PSE Transactions in the Settlement Service shall be effected by means of debiting the delivering Participant's Securities Account with the Securities being the object of the Transactions. (n)

#### **4.3.5 Payment of Settled Transfers**

All net money payment obligations arising on Settlement Date shall be settled through the appropriate Settlement Bank of each Participant at the end of Business Hours on Settlement Date through the crediting and/or debiting by the Settlement Bank of the respective Bank Accounts of the Participants based on the net position of each Participant as a result of Settlement. (4.2.6)

#### **4.3.6 Tax Clearances**

The Participants to Non-PSE Transactions shall ensure that all taxes have been paid and all tax clearances have been obtained prior to the Settlement of the Non-PSE Transactions on Settlement Date. (n)

#### **4.3.7 Failed Trades**

Non-PSE Transactions which cannot be settled at the close of business on Settlement Date shall not be automatically resubmitted for settlement. A new Settlement Instruction shall first be entered by a Participant before it can pursue to settle a previously failed Trade. (n)

#### **4.3.8 Effect of Settlement**

Upon Settlement of a Non-PSE Transaction, the Non-PSE Transaction shall be deemed final and irrevocable and no unwinding thereof shall be allowed notwithstanding any laws and regulations of general application relating to the matter. (4.2.7)

# Rule 5

## Risk Management

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### Rule 5.1 Types of Risks

#### 5.1.1 Theft or Destruction of Securities

There is a "Loss of Securities" when PCD cannot deliver to a Participant any or all Securities held by PCD on its behalf due to the theft, destruction, loss or mysterious disappearance, while in the custody or control of PCD, of any Securities or the Certificate or other instrument evidencing the Securities.

#### 5.1.2 Defective Lodgement

There is "Defective Lodgement" when it is determined that:

- (a) any Security for which immediate credit was given by PCD to the lodging Participant is a Defective Security; or
- (b) the registration of any Security in the name of PCD is or would be invalid, improper, defective, ineffective, wrongful, subject to any adverse claim or privilege, or cannot be effectively and rightfully transferred.

#### 5.1.3 System-Related Loss

There is a "System-Related Loss" when a Participant suffers actual loss or damage due to an interruption, disruption, malfunction, or defect in the PCD System.

#### 5.1.4 Operation-Related Loss

There is an "Operation-Related Loss" when a Participant suffers actual loss or damage due to fraud, error or omission directly attributable to PCD or its duly authorized agents.

#### 5.1.5 Counterparty Risk

The failure of a Participant to meet any obligation to deliver the Security Element and/or the Cash Element of a Non-PSE Transaction due to its insolvency or illiquidity problems is solely a "Counterparty Risk", for which PCD shall not in any way be liable.

### Rule 5.2 Participant Warranty and Indemnity

#### 5.2.1 Participant Depository Warranty

A Participant hereby gives its Warranty to PCD that it shall, in the first instance upon demand by PCD, indemnify and hold PCD free and harmless from and against any loss, damage, cost, expense, liability or claim (including without limitation the cost of legal counsel to advise on or defend against such claims) suffered arising from:

- (a) A Loss of Securities, System-Related Loss, or Operation-Related Loss, to the extent caused or contributed by any erroneous, negligent, wrongful, reckless, willful, fraudulent or dishonest act or omission of the Participant or of any of its directors, trustees, officers, partners, employees, contractors, agents or other privies;
- (b) Defective Lodgement.

### **5.2.2 Participant Settlement Warranty**

A Participant shall hold PCD as well as another Participant which is its counterparty in a Non-PSE Transaction free and harmless from and against any loss, damage, cost, expense, liability or claim (including cost of legal counsel) suffered arising from:

- (a) a Failed Trade due to the inability of the Participant to have sufficient Securities in its Securities Account and/or funds in its System Cash Account and Bank Account on Settlement Date;
- (b) any erroneous, negligent, wrongful, reckless, willful, fraudulent or dishonest act or omission of the Participant or of any of its directors, trustees, officers, partners, employees, contractors, agents or other privies.

### **5.2.3 Other Indemnities**

PCD shall be indemnified for any loss, damage, cost, expense, liability or claim suffered because of, without limitation:

- (a) The performance by PCD of any procedure which it must or may perform under the PCD Rules or PCD Operating Procedures, including without limitation making corrections of any book-entry, transferring pledged Securities, enforcing any lien on lodged Securities, debiting the Securities Accounts for Defective Lodgement, freezing of a Securities Account, and otherwise;
- (b) The inability of PCD to effect a Lodgement, transfer, Pledge, Uplift or other Transaction on its records to the extent that PCD has taken reasonable corrective action or acted in accordance with the PCD Agreement. (3.1.8)
- (c) Any calls, assessments, taxes (except for taxes measured by the income of PCD) and other governmental charges, and any other expenses related to the ownership of Securities while lodged in the PCD System;
- (d) The reliance by PCD on any declaration, representation, warranty, information or documentation provided by a Participant
- (e) Any breach of a Participant's obligations, representations or warranties. (2.6.6)

### **5.2.4 Principal Liability**

A Participant acting on its own behalf or on behalf of another Person shall be liable as principal for all obligations incurred with respect to such action. (2.6.6)

### **5.2.5 Credit Undertaking**

For purposes of gaining immediate credit for its Lodged Securities, each Participant may obtain and maintain any acceptable form of Credit Undertaking or such other acceptable form of liquid instrument in favor solely of PCD to cover any loss brought about by Defective Lodgement. Such Credit Undertaking shall be in the amounts and under such terms and conditions as the PCD Board shall determine. (n)

### **5.2.6 Other Credit Undertaking**

The PCD Board may also require the extension of other Credit Undertakings by each Participant for the Depository Service and/or the Settlement Service in such amounts, terms and conditions as may be prescribed by PCD for Participants of a certain Service. The PCD Board may group the Participants into classes for purposes of prescribing the type and amount of credit undertaking that each Participant may be required to extend to satisfy a loss caused by Participant's failure to satisfy its obligations in the Depository Service or in the Settlement Services. Upon default by any Participant in its obligations in a particular Service, PCD may collect directly on the credit undertaking. (2.8.1)

## **Rule 5.3 PCD Loss Indemnity**

### **5.3.1 Insurance**

PCD shall maintain an insurance policy in such amounts and for such coverage as may be reasonably determined by the PCD Board. The policy shall be open to inspection by any Participant at PCD's office during regular office hours on Business Days. The Participants shall be notified of any material reduction in the amount or coverage of the insurance.

In the event of a Loss of Securities, System-Related Loss or Operation-Related Loss not covered by a Participant Warranty under Rule 5.2.1, then PCD shall file a claim on the insurance policy and against any other Person responsible for the loss.

In the event of a Loss of Securities, Defective Lodgement, System-Related Loss or Operation-Related Loss for which the Participant Warranty in Rule 5.2.1 is insufficient to fully cover, PCD shall file a claim on the insurance policy.

In the event of Defective Lodgement, PCD shall file a claim on the insurance policy should any applicable Participant Warranty under Rule 5.2 is insufficient, and any applicable Credit Undertaking is still insufficient. (111.1)

### **5.3.2 Limitation of Participant Recovery**

The maximum total amount payable by PCD to all Participants for a Loss of Securities, Defective Lodgement, System-Related Loss or Operation-Related Loss shall be limited to actual damages or losses suffered by the Participant, and shall not exceed the net amount recovered by PCD from the insurance policies or any other responsible Person in respect of the loss, except to the extent covered by Rule 5.3.4. If more than one Participant is affected by a loss, the amount recovered by PCD shall be pro-rated among the Participants.

The amount payable by PCD for any loss shall be limited to the amount payable pursuant to this Rule and shall not be exceeded in any circumstances or for any reason whatsoever, including without limitation loss arising from or in any way connected with any negligent or reckless act or omission of PCD or any fraudulent, negligent, reckless or wilful act or omission of any director, officer, employee, agent or contractor of PCD, whether or not the possibility of such loss was disclosed to or reasonably could have been foreseen by PCD. (1.11.6)

### **5.3.3 Exclusion of Liability**

PCD, PCD Nominee, a director, officer, shareholder, employee or agent, shall have no personal liability to a Participant for:

- (a) any loss of opportunity, profit, market, goodwill, interest or use of money or Securities, or any other special, indirect or consequential loss, damage, cost, expense, liability or claim suffered or incurred by any Participant, any Participant Loss or any Loss of Securities; or
  - (b) any loss, damage, cost, expense, liability or claim suffered or incurred by a Participant which arises from any action taken by PCD in accordance with a lawful direction given by a regulatory authority having jurisdiction over PCD, its Participants and the Issuers and its contractors.
- (1.11.8)

### **5.3.4 Payment from Reserves**

If the payment made by PCD to Participants pursuant to this Rule 5.3 is less than the amount required to make good the loss suffered by Participants, then the PCD Board, taking into consideration the best interests of PCD and of all Participants, and the need to preserve the integrity of PCD and the PCD System, may elect to allocate all or any portion of the retained earnings or any contingency reserves of PCD to make good the Participant Loss. If more than one Participant is affected by a loss, the net amount allocated by PCD pursuant to this Rule shall be allocated to each Participant proportionately.

(1.11.7)

### **5.3.5 Exclusive Liability**

PCD shall not be liable for the performance of any function which is due to be performed by SCCP pursuant to its SCCP Rules. Neither shall PCD be liable for any loss, damage, cost, expense and liability suffered by a Participant arising from the use of the SCCP System under its SCCP Rules. (n)

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