

LEGAL NOTICE NO. 107

## THE CENTRAL DEPOSITORIES ACT, 2000

(No. 4 of 2000)

IN EXERCISE of the powers conferred by section 65 of the Central Depositories Act, the Capital Markets Authority makes the following Rules:—

THE CENTRAL DEPOSITORIES (REGULATION  
OF CENTRAL DEPOSITORIES) (AMENDMENT)  
RULES 2013

1. These Rules may be cited as the Central Depositories (Regulation of Central Depositories) (Amendment) Rules, 2013.

Citation.

2. Rule 11 of the Central Depositories (Regulation of Central Depositories) Rules (hereinafter referred to as "the principal Rules") is amended by adding the following new paragraph immediately after paragraph 2—

Sub. Leg

(2A). A body corporate shall qualify to be appointed as a central depository agent under section 9 (2) (d) of the Act, if that body corporate meets the criteria set out in the Third Schedule to these Regulations.

3. The principal Rules are amended by adding the following new Schedule immediately after the Second Schedule—

THIRD SCHEDULE (r.11 (2A)).

CRITERIA FOR APPOINTMENT AS CENTRAL DEPOSITORY  
AGENT

1. A body corporate which intends to apply for an approval as a central depository agent shall submit to the central depository—

- (a) an overview of the current or proposed business of the body corporate establishing the need for the appointment as a central depository agent;
- (b) specific details on the functions of a central depository agent as stipulated under the Act, the Principal Rules and the rules of the central depository which it intends to carry out;
- (c) evidence that the directors and the management of the body corporate are fit and proper persons;
- (d) evidence of adequate systems, procedures, facilities and technical capacity that will enable the body corporate fulfill its obligations and operational requirements in accordance with the rules of the central depository as well as the terms and conditions of the agency agreement entered with the central depository;
- (e) an assessment of all potential risks and proposed mitigation measures; and
- (f) evidence of arrangements in place for the proper supervision of its compliance with the rules of the central depository.

2. (1) The central depository shall, in considering an application by a body corporate to operate as a central depository agent, have regard to whether the—

- (a) proposed functions of the applicant fall within the approved functions of central depository agents under its rules;
  - (b) applicant can meet any requirements or conditions to be imposed, if any, prior to the appointment;
  - (c) applicant has capacity to and has committed to comply with all the continuing obligations imposed on central depository agents under the central depositories rules; and
  - (d) applicant demonstrates capacity and commitment to comply with Capital Markets (Conduct of Business) (Market Intermediaries) Regulations, 2011 as far as they are relevant to the activities of the central depository agent;
- (2) A central depository shall consult the Authority when determining compliance under paragraph 3(1)(d).

3. A body corporate which qualifies for appointment as a central depository agent and is subsequently appointed as such, shall comply with the Central Depositories Act, the principal Rules and all rules of the central depository which it is appointed to act as an agent.

Made on the 18th June, 2013.

KUNG'U GATABAKI,

*Chairman, Capital Markets Authority.*

PAUL MUTHAURA,

*Acting Chief Executive, Capital Markets Authority.*