

**RULES**

**relating to the**

**OVER-THE-COUNTER SHARE TRANSFER FACILITY**

**in respect of Shares of the**

**SOUTH AFRICAN RESERVE BANK**

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## **1. INTERPRETATION**

In these Rules -

1.1 clause headings are for convenience and shall not be used in their interpretation;

1.2 unless the context clearly indicates a contrary intention -

1.2.1 an expression which denotes -

1.2.1.1 any gender includes the other genders;

1.2.1.2 a natural person includes an artificial person and vice versa; and

1.2.1.3 the singular includes the plural and vice versa;

1.2.2 the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings -

1.2.2.1 "Authorised Dealer" - an Authorised Dealer, defined as such in the Exchange Control Regulations;

- 1.2.2.2 "Bank" - The South African Reserve Bank (Incorporated in the Republic of South Africa in terms of The South African Reserve Bank Act, 1989 (Act No. 90 of 1989);
- 1.2.2.3 "Board" - the Board of Directors of the Bank, from time to time;
- 1.2.2.4 "Broker's Transfer Form" - a CM41 form, a copy of which is attached as annexure A;
- 1.2.2.5 "Business Day" - any day other than a Saturday, a Sunday or official Public Holiday in terms of the laws of the Republic;
- 1.2.2.6 "Buy Form" - the form to be completed and submitted by a Buyer by means of post, facsimile or e-mail in connection with a Buy Offer, a copy of which is attached as annexure B;
- 1.2.2.7 "Buy Invoice" - the invoice to be completed by the Transfer Manager and submitted to the Buyer pursuant to a Buy Offer, in the form and content approved by the Bank from time to time;
- 1.2.2.8 "Buyer" - any person who makes a Buy Offer by means of a Buy Form in terms of these Rules;
- 1.2.2.9 "Buy Offer" - an Offer by means of a Buy Form submitted by a Buyer by means of post, facsimile or e-mail to the Transfer Manager at the Office of the Transfer Manager, offering to purchase Shares from a Seller in terms of these Rules;
- 1.2.2.10 "Closing Time" - 15:00 on any Business Day;

- 1.2.2.11 "Common Monetary Area" - the Republic, the Kingdoms of Swaziland and Lesotho and the Republic of Namibia;
- 1.2.2.12 "Emigrant" - an emigrant from the Republic whose domicilium is outside the Common Monetary Area;
- 1.2.2.13 "Exchange Control Regulations" - the Exchange Control Regulations 1961, as amended, promulgated in terms of Section 9 of the Currency and Exchange Act, 1933 (Act No. 9 of 1933);
- 1.2.2.14 "General Counsel" - the General Counsel of the Bank appointed from time to time;
- 1.2.2.15 "Live Trading" - the Live Trading contemplated in these Rules;
- 1.2.2.16 "Match" - a successful match between a Sell Offer and a Buy Offer for Shares in these Rules;
- 1.2.2.17 "Meeting of Shareholders" – an ordinary general meeting of shareholders or extraordinary general meeting of shareholders as envisaged in Section 23 (1) of the SARB Act;
- 1.2.2.18 "Non-Resident" - a person whose registered address is outside the Common Monetary Area and who is not an Emigrant;
- 1.2.2.19 "Offer" - a Sell Offer or Buy Offer, as the case may be, utilising the OTCSTF in these Rules;
- 1.2.2.20 "Offerors" - collectively, the relevant Seller and the relevant Buyer;

- 1.2.2.21 "Offer Period" - a standing offer for a period calculated from the Receipt Sequence of the relevant offer until 15:00 on the first Business Day upon which a period of six calendar months has passed, whereafter the offer shall automatically lapse;
- 1.2.2.22 "OTCSTF" - the over-the-counter share transfer facility contemplated in these Rules;
- 1.2.2.23 "OTCSTF Office" - the office of the Transfer Manager which OTCSTF office shall be the postal or delivery address for all documents in terms of these Rules;
- 1.2.2.24 "Purchase Price" - the relevant purchase price payable by a Buyer to a Seller in respect of a Sale as reflected in the relevant Buy Invoice as envisaged in these Rules;
- 1.2.2.25 "Receipt Sequence" -
- 1.2.2.25.1 in respect of a Sell Offer, shall mean the date and time of receipt of a particular Sell Offer as recorded in the Sell Offer Register held in terms of these Rules;
- 1.2.2.25.2 in respect of a Buy Offer, shall mean the date and time of receipt of a particular Buy Offer as recorded in the Buy Offer Register held in terms of these Rules;
- 1.2.2.26 "Regulations" - the Regulations promulgated in terms of Section 36 of the SARB Act;
- 1.2.2.27 "Republic" - The Republic of South Africa;

- 1.2.2.28 "Rules" - these Rules together with the annexures to these Rules, as amended by the Board from time to time;
- 1.2.2.29 "Sale" - the sale of Shares resulting from a Match in terms of these Rules;
- 1.2.2.30 "Sale Closing Documents" - collectively -
  - 1.2.2.30.1 the Seller's share certificates in respect of the Shares subject to the Sale;
  - 1.2.2.30.2 a Securities Transfer Form duly signed and dated but left blank as to the transferee;
- 1.2.2.31 "SARB Act" - The South African Reserve Bank Act, 1989 (Act No. 90 of 1989), as amended from time to time;
- 1.2.2.32 "Securities Transfer Form" - a CM42 form, a copy of which is attached as annexure C;
- 1.2.2.33 "Seller" - any person who makes a Sell Offer by means of a Sell Form in terms of these Rules;
- 1.2.2.34 "Sell Form" - the form to be completed and submitted by a Seller by means of post, facsimile or e-mail in connection with a Sell Offer, a copy of which is attached as annexure D;
- 1.2.2.35 "Sell Invoice" - the invoice to be completed by the Transfer Manager and sent to the Seller pursuant to a Sale Offer in the form and content approved by the Bank from time to time;
- 1.2.2.36 "Sell Offer" - an Offer by means of a Sell Form submitted by a Seller by means of post, facsimile or e-mail to the

Transfer Manager, at the Office of the Transfer Manager, as contemplated in these Rules;

- 1.2.2.37 "Settlement Date" - 15:00 on the 15<sup>th</sup> (Fifteenth) Business Day following the relevant date of Matching as recorded in the Transaction Register;
- 1.2.2.38 "Shares" - ordinary Shares in the capital of the Bank as contemplated in the SARB Act;
- 1.2.2.39 "Shareholder" - a shareholder of the Bank as defined in Section 1 of the SARB Act;
- 1.2.2.40 "Statutory Information" - in relation to a Buyer or a Seller -
  - 1.2.2.40.1 in the case of a natural person, any official identification document as recognised by the Transfer Manager;
  - 1.2.2.40.2 in the case of a company, a certificate of incorporation, certificate to commence business and memorandum and articles of association;
  - 1.2.2.40.3 in the case of a close corporation, a founding statement or amended founding statement;
  - 1.2.2.40.4 in the case of a trust, the trustees, beneficiaries and Masters' Letters of Authority; or
  - 1.2.2.40.5 any such further information in respect of The Buyer or Seller, albeit a legal or natural person, that the Transfer Manager may in its discretion require;

- 1.2.2.41 "Trading Hours" - the hours between 08:00 - 15:00 inclusive on any Business Day;
  - 1.2.2.42 "Transfer Manager" - the Transfer Manager appointed from time to time by the Bank to manage the operation of the OTCSTF;
  - 1.2.2.43 "Transfer Secretary" - the Transfer Secretary appointed from time to time by the Bank to attend to the administrative functions of the OTCSTF.
- 1.3 should any provision in a definition be a substantive provision conferring rights or imposing obligations on any party or shareholder, then effect shall be given to such provision as if it were a substantive provision in the body of these Rules;
  - 1.4 any reference to an enactment, regulation or by-law is to that enactment, regulation or by-law as at the issue date of these Rules, and as amended or re-amended from time to time;
  - 1.5 when any number of days is prescribed, such number shall exclude the first and include the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding Business Day;
  - 1.6 any schedule or annexure to these Rules shall, save where the context indicates otherwise, form part of these Rules;
  - 1.7 where any term is defined within a particular clause, other than the interpretation clause, the term shall bear the meaning ascribed to it in that clause wherever it is used in these Rules;

- 1.8 the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s;
- 1.9 if any conflict exists between these Rules and the terms of the SARB Act and the Regulations, then the SARB Act and the Regulations shall be binding on the parties and shall be appropriately implemented; and
- 1.10 the expiration or termination of these Rules shall not affect such of the provisions of these Rules as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

## **2. INTRODUCTION**

- 2.1 It is an integral function of the OTCSTF to provide a facility for trading in the Shares.
- 2.2 These Rules set out the manner, terms and conditions upon which transactions shall be concluded utilising the OTCSTF.
- 2.3 It is recorded that use of the OTCSTF is not obligatory and Shareholders may negotiate and transfer their Shares to third parties by private treaty, provided always that any such transfer is dealt with in compliance with the SARB Act and the Regulations. Notice of such transactions must, however, be furnished to the Transfer Secretary.

## **3. OVER-THE-COUNTER SHARE TRANSFER FACILITY TRANSACTIONS**

### **3.1 Live Trading**

3.1.1 The OTCSTF established by these Rules shall operate as a Live Trading facility by means of postal, facsimile or electronic communication.

3.1.2 The OTCSTF shall operate in accordance with the provisions of these Rules.

### 3.2 **Sell Offer**

3.2.1 Any Seller wishing to make a Sell Offer utilising the OTCSTF, shall, by no later than 15:00 on any Business Day, furnish a Sell Form to the Transfer Manager at the address as contemplated in paragraph 19.1.1, which Sell Form shall, *inter alia*, specify -

3.2.1.1 that the Seller wishes to sell a specified number of Shares;  
and

3.2.1.2 the minimum Purchase Price which the Seller is willing to accept per Share expressed in the monetary unit of the Republic of South Africa as contemplated in section 15 of the SARB Act.

3.2.2 On receipt of the Sell Form by the Transfer Manager, the date and time of receipt, together with other relevant particulars pertaining to the Sell Offer shall be recorded in an official register, styled the "Sell Offer Register", held for these purposes by the Transfer Manager.

3.2.3 The date, time and particulars of a Sell Offer as recorded in the Sell Offer Register shall for purposes of the determination of the Receipt Sequence of the Sell Offer and for any other purposes pertaining to these Regulations be deemed as the actual date and time of receipt of the Sell Offer by the Transfer Manager.

### 3.3 Buy Offer

3.3.1 Any Buyer wishing to make a Buy Offer utilising the OTCSTF, shall, by not later than 15:00 on any Business Day, furnish a Buy Form to the Transfer Manager, at the address as contemplated in paragraph 19.1.1, which Buy Form shall, *inter alia*, specify -

3.3.1.1 that the Buyer wishes to purchase a specified number of Shares; and

3.3.1.2 the maximum Purchase Price which the Buyer is willing to pay per Share expressed in the monetary unit of the Republic of South Africa as contemplated in section 15 of the SARB Act.

3.3.2 On receipt of the Buy Form by the Transfer Manager, the date and time of receipt, together with other relevant particulars pertaining to the Buy Offer shall be recorded in an official register, styled the "Buy Offer Register", held for these purposes by the Transfer Manager.

3.3.3 The date, time and particulars of a Buy Offer as recorded in the Buy Offer Register shall for purposes of the determination of the Receipt Sequence of the Buy Offer and for any other purposes pertaining to these Regulations be regarded as correct and as the actual date and time of receipt of the Buy Offer by the Transfer Manager.

## 4. MATCHING OF OFFERS

### 4.1 Allocation

4.1.1 Offers received by the Transfer Manager shall be dealt with by the Transfer Manager for purposes of Matching a corresponding Buy Offer with a Sell Offer.

- 4.1.2 Subject to and in accordance with these Rules, the Transfer Manager shall Match a Sell Offer with a Buy Offer and vice versa, in accordance with their respective requirements and taking into account the Receipt Sequence of the relevant Sell Offer and Buy Offer.
- 4.1.3 Matching of Buy Offers and Sell Offers by the Transfer Manager will be done continuously during Trading Hours upon the receipt of Buy Offers and Sell Offers from Buyers and Sellers respectively.
- 4.1.4 The Transfer Manager shall Match a Buy Offer with a Sell Offer as near as may be practicable to their respective Receipt Sequence on a "first come first Matched" basis, and subject thereto, the Transfer Manager shall, in its discretion, determine the most appropriate Match: Provided that for purposes of Matching the Receipt Sequence of the respective Buy Offer and Sell Offer shall be conclusive.
- 4.1.5 In implementing a Match, the Transfer Manager shall be entitled to Match a Buy Offer quoted at a higher price with a Sell Offer quoted at a lower price. In such event, the Sale shall take place at the higher Offer price.
- 4.1.6 The Transfer Manager shall endeavour to Match Offers in the Transfer Manager's sole and absolute discretion -
- 4.1.6.1 subject to any specified price and quantity of share restrictions;
  - 4.1.6.2 subject to any specific restrictions of these Rules or to any instructions received in writing from the Board;
  - 4.1.6.3 taking into account the following criteria -

- 4.1.6.3.1 the maximum price per share quoted by the Buyer in an Offer;
- 4.1.6.3.2 the number of the Shares which the Buyer is prepared to buy or a Seller is prepared to sell; and
- 4.1.6.3.3 the Receipt Sequence of the respective Sell Offer and Buy Offer.

4.1.7 Should a Buy Offer stipulate a price lower than the minimum price stipulated in a Sell Offer, no Match shall arise, provided always that the Transfer Manager shall be entitled (but not obliged) to advise any Seller who has not been successfully Matched of the lower offer price and the Transfer Manager shall, if so notified in writing by the Seller, be entitled to conclude a Match on the basis of the lower price.

Similarly, should a Sell Offer stipulate a price higher than the maximum price offered by potential Buyers, no Match shall arise, provided always that the Transfer Manager shall be entitled (but not obliged) to advise a potential Buyer of the availability of shares at a higher price than offered, and the Transfer Manger shall, if so notified in writing by the Buyer, be entitled with the consent of the Buyer, to conclude a Match on the basis of the higher price.

## 4.2 **Partial Allocation**

4.2.1 If a Seller has offered to sell more than the number of Shares which a Buyer has agreed to buy or which the Buyer, in law is entitled to buy ("Excess Shares"), such Excess Shares shall for the remainder of the Offer Period remain available for Sale, and failing such Sale, the excess shares shall be returned to the Seller.

4.2.2 Should no Buy Offer be outstanding, then the balance of the shares in the Sell Offer shall be treated as a standing Offer as contemplated in terms of these Rules until such Offer is retracted by the Seller or otherwise such Offer lapses automatically after expiration of the Offer Period.

4.2.3 Should a Buy Offer be Matched to a Sell Offer on terms relating to Purchase Price only, but not as to the quantity of the Shares required to be purchased by the Buyer or to be sold by the Seller, then the Transfer Manager shall be entitled to effect a Match for such part only, unless the Buyer or Seller expressly state otherwise in their Buy Form or Sell Form, as the case may be.

### 4.3 **Recording**

4.3.1 Upon successful Matching, the relevant particulars of the Match shall be recorded in an official register, styled the "Transaction Register" held for these purposes by the Transfer Manager, and the Matching shall be deemed to have been concluded in terms of the particulars thereof.

### 4.4 **Confirmation**

4.4.1 Upon conclusion of the Matching of Offers, the Transfer Manager shall on behalf of the Offerors, confirm the Matching on the basis that -

4.4.1.1 the Buyer shall pay the maximum price per share offered, notwithstanding that the Seller may have specified a lesser minimum acceptance price; and

4.4.1.2 the number of the Shares Matched and sold to the Buyer shall not exceed the number of Shares stipulated by the Buyer in the Buy Form.

4.4.2 Confirmation of a Match shall be communicated to the relevant -

4.4.2.1 Seller, by the Transfer Manager furnishing to the Seller a Seller's Invoice; and

4.4.2.2 Buyer, by the Transfer Manager furnishing to the Buyer a Buyer's Invoice.

#### 4.5 **Miscellaneous**

4.5.1 Should an Offer be rejected for whatsoever reason, the applicant shall be notified by the Transfer Manager accordingly, whereafter a new offer will have to be re-submitted by the applicant in terms of these Rules.

4.5.2 If a standing Offer has lapsed, and an applicant wishes to utilise the OTCSTF during the next Offer Period, the applicant is required to re-submit an Offer.

4.5.3 Any Offer received after Closing Time shall be treated as having been received on the following Business Day.

4.5.4 There shall be no minimum and no maximum limit to the number of Shares that may be offered by a Seller who wishes to utilise the OTCSTF.

4.5.5 The minimum price shall be expressed as a minimum price per Share Offered and/or the minimum aggregate amount required by the Seller on the sale of all of the Shares on Offer.

4.5.6 The Transfer Manager shall have absolute discretion to Match all or part of the Shares specified in the Sell Form.

## 4.6 Restrictions

4.6.1 Notwithstanding anything to the contrary contained herein, a Buyer making a Buy Offer and a Seller making a Sell Offer and concluding a Sale pursuant to the Rules, must nevertheless satisfy the requirements prescribed in the SARB Act and the Regulations for the admission of Shareholders and the Transfer Manager shall be entitled to cancel any Sale should such requirements not be fulfilled. In particular, and without limiting the generality of the foregoing, Sellers and Buyers must comply with the following subsections contained in Section 22 of the SARB Act -

### **"22 Restriction of right to hold or acquire shares in Bank**

(1) Subject to the provisions of subsection (2), no shareholders shall hold more than 10 000 shares in the Bank.

(2) A shareholder holding more than 10 000 shares in the Bank at the commencement of this Act, may continue to hold those shares, but shall not, as long as he holds more than 10 000 of those shares, acquire any further shares in the Bank.

(3) If at any time the number of shares in the Bank held by a shareholder refer to subsection (2) is reduced to 10 000 or less, the restriction laid down in subsection (1) shall apply also to that shareholder.

(4) No shares in the Bank shall be held in the name of or transferred to a nominee unless that nominee is a central securities depository as defined in Section 1 of the Safe Deposit of Securities Act, 1992."

4.6.2 In order to ensure compliance with the provisions of the SARB Act, the Transfer Manager may in writing request any Buyer or Seller,

albeit a legal or natural person, to provide the Transfer Manager with such information pertaining to a share transaction as it may require.

4.6.3 Should it be established that the provisions of the SARB Act and these Rules have been contravened, then the Transfer Manager shall, at any time after the Sale, be entitled to take such appropriate action as it considers necessary to procure compliance, including -

4.6.3.1 the disposal of the Shares purchased by the Buyer in contravention of the SARB Act, the Regulations and/or these Rules, in such manner or on such terms as the Transfer Manager may deem fit, including disposal at a price not exceeding the amount paid by the Buyer; and

4.6.3.2 to cancel the Sale within 30 (Thirty) days of registration of the transfer in the register of Shareholders, and to order repayment by the Seller to the Buyer of the net sale proceeds paid to the Seller.

4.6.4 For purposes of enabling the Bank to give effect to the provisions of the SARB Act, the Regulations and/or these Rules, the Offeror who is in contravention of the said prescriptions, nominates, constitutes and appoints the General Counsel of the Bank as his, her or its attorney and agent and grants to the General Counsel full power and authority to do all acts and sign all such documents as may be necessary to implement any transactions concluded in pursuance of any remedies of the Bank arising from a breach of the provisions of the SARB Act, the Regulations and/or these Rules.

## **5. SETTLEMENT**

5.1 A Buyer shall by no later than the Settlement Date, furnish the Transfer Manager with -

5.1.1 certified copies of the Buyer's Statutory Information;

- 5.1.2 certified copies of the necessary resolutions required to give effect to and/or ratify the Sale; and/or
  - 5.1.3 a Bank Cheque, Bankers Draft or confirmation of an electronic transfer in respect of the Purchase Price due in terms of the Sale as set out in the Buy Invoice, including any brokerage and stamp duty.
- 5.2 The Seller shall, by no later than the Settlement Date, deliver the Sale Closing Documents to the Transfer Manager. Such delivery shall be at the risk of the Seller.
- 5.3 Should -
- 5.3.1 payment of the Purchase Price and other amounts referred to in the Buy Invoice not be received; or
  - 5.3.2 the requisite documents of title not be delivered,
- by the Settlement Date, the Transfer Manager shall, without prejudice to any rights or remedies of either the Buyer or the Seller be entitled to cancel the Sale.
- 5.4 Upon receipt by the Transfer Manager of the Bank Cheque, Bankers Draft or confirmation of an electronic transfer, the net amount due in respect of the Sale to a Seller shall be paid to the Seller at the Seller's risk, either by way of a cheque sent by prepaid registered post or, alternatively, by way of a direct deposit into an account nominated by the Seller, particulars of payment which shall be reflected in the Sell Form.
- 5.5 Subject to timeous receipt of the Bank Cheque, Bankers Draft or confirmation of an electronic transfer, it is anticipated that settlement of the sale proceeds shall be dealt with and payment made to the Seller within 21 (Twenty One) days of the Settlement Date. No representation or warranty is, however, made or given by the Bank or the Transfer Manager in this regard.

5.6 Provided that the Purchase Price has been paid by the Buyer to the Transfer Manager, any Sale concluded by means of the OTCSTF shall be deemed to have been concluded on, and ownership shall be deemed to have vested in the Buyer, with effect from the Settlement Date, from which date all rights and entitlements shall accrue to and be for the benefit of the Buyer.

## **6 AMENDMENTS TO THE SHARE REGISTER**

6.1 Provided that the Seller and the Buyer have complied with these Rules, the Purchase Price has been paid and the Bank has been furnished with the prescribed documentation, the Transfer Secretary shall -

6.1.1 amend the register of Shareholders;

6.1.2 prepare share certificates in the name of the Buyer; and

6.1.3 deliver the relevant share certificate to the Buyer within 21 (Twenty One) days of the Settlement Date.

6.2 With effect from the amendment of the register of Shareholders, by the Transfer Secretary, as contemplated in these Rules, the Buyer shall (subject to Section 23 of the SARB Act), become entitled to exercise all voting rights attaching to the Shares which form the subject of the Sale and to receive all dividends in respect thereof.

6.3 For the sake of clarity, Section 23 of the SARB Act provides -

### **"23. Votes**

(1) Subject to the provisions of subsections (2) and (3), a shareholder shall, at a meeting of shareholders, be entitled to one vote in respect of every 200 shares of which he has been the registered holder for not less than six months prior to the date of the meeting.

(2) No shareholder referred to in subsection (2) or (6) of Section 22 shall either directly or indirectly exercise any vote as a shareholder in respect of the number of shares in the Bank held by him or her in excess of 10 000, and no group of companies with interlocking directorates shall either directly or indirectly exercise any vote as shareholders in respect of the total number of shares in the Bank held by those companies in excess of 10 000.

(3) A shareholder who is not ordinarily resident in the Republic shall not be entitled to any vote at any meeting of shareholders.”

## **7. PROHIBITED ACTIVITIES**

7.1 Trading in options, warrants, futures or any other derivative instruments of any nature in relation to the Bank's Shares are prohibited.

7.2 Bear sales, short selling (namely, selling the Shares when the Seller does not have title to those Shares) and any associated scrip-lending activities are prohibited.

## **8. REPRESENTATION**

8.1 Buyers and/or Sellers are permitted to trade in Shares through a representative, provided that such representative is duly authorised to act as a representative and provides proof of such authority.

8.2 Proof shall be in a form acceptable to the Transfer Manager and shall include -

8.2.1 in the case of a company or close corporation, a certified resolution by the company or close corporation concerned, authorising the representative to trade in the Shares;

8.2.2 in the case of an individual representative, a certified copy of a power of attorney in favour of the representative, issued and executed by the Buyer or Seller concerned;

- 8.2.3 in the case of a trust, a certified resolution of the trustees of the trust authorising the representative to trade in the Shares;
  - 8.2.4 in the case of the estate of a natural person, appropriate letters of executorship or any other similar authority issued by the Master of the High Court; and
  - 8.2.5 such additional information as the Transfer Manager may require.
- 8.3 Any proof of authority provided in terms of paragraph 8.2 shall be deemed to be valid and binding on the Shareholder concerned unless prior written notification has been received by the Transfer Manager from such Buyer or Seller, prior to the Closing Date, providing for the revocation and invalidation of the relevant proof of authority.

## **9. DIRECTORS AND EMPLOYEES OF THE BANK**

- 9.1 Subject to the SARB Act and the Regulations, trading by the directors and employees of the Bank is permitted.
- 9.2 Notwithstanding anything to the contrary herein contained, any trading in the Shares of the Bank by directors or "insiders" as contemplated in the Insider Trading Act, 1998 (Act No. 135 of 1998) (as amended) ("IT Act") whether or not the IT Act is applicable to the Bank, shall be deemed to be trading in a "regulated market" for purposes of the IT Act.

## **10 VOETSTOOTS**

- 10.1 Any Seller utilising the OTCSTF shall be deemed to have given the following warranties to the Bank, the Transfer Manager and the Buyer, namely that -
  - 10.1.1 the Seller is the sole beneficial owner of the shares; or

- 10.1.2 the Seller is lawfully entitled, willing and able to give free and unencumbered title to the Shares to any Buyer.
- 10.2 Save as contemplated in paragraph 10.1, the Seller gives no other warranties or representations of any nature whatsoever, whether express, tacit or implied by law, in relation to the Shares and/or the Bank. The Shares are accordingly sold "voetstoots".
- 10.3 Any Shareholder trading in Shares, does so after having due consideration to the current circumstances of the Bank, in full knowledge, understanding and acceptance of these Rules and will have no recourse as against the Bank, its directors, or officers, or the Transfer Manager for the Shares so traded. Accordingly, all the risks in utilising the OTCSTF and/or reliance on any information not formally and officially issued and approved by the Board, shall be borne by the Buyer or Seller concerned.

## **11. BROKERAGE, ADMINISTRATION AND COSTS**

- 11.1 Unless otherwise determined by the Board, no brokerage shall be levied in respect of any Sale.
- 11.2 All payments in respect of Sales shall be made without set off, bank charges or deductions. Upon settlement of the transaction, the Transfer Manager shall pay to the Seller the net proceeds due to the Seller.
- 11.3 The Buyer shall, in addition to the purchase consideration payable to the Transfer Manager, be responsible and liable for payment of any stamp duty, marketable securities tax, Value Added Tax or any other taxes which may be levied and payable on a Sale from time to time.

## **12. ADMINISTRATION**

- 12.1 The Transfer Manager shall cause a duly updated Sell Offer Register, Buy Offer Register and Transaction Register to be kept and maintained.

- 12.2 The Transfer Manager shall cause the Transfer Secretary to attend to the -
- 12.2.1 administration of the Share Register;
  - 12.2.2 affixing of revenue stamps to the Securities Transfer Form in respect of any stamp duties;
  - 12.2.3 processing of share certificates and Securities Transfer Forms and, if necessary, Broker's Transfer Forms.
- 12.3 The Transfer Manager shall attend to the settlement of payments to the Seller.
- 12.4 The share register shall be updated on a daily basis to account for all Sales.
- 12.5 Share certificates in respect of any Sale shall be sent by the Transfer Secretary to the -
- 12.5.1 Buyer; and,
  - 12.5.2 Seller in respect of any Shares returned to him (in the event of a Sale of part of the Seller's Shares),
- within 21 (Twenty One) days of the Settlement Date.

### **13. WORN-OUT, ILLEGIBLE AND/OR LOST SHARE CERTIFICATES**

- 13.1 Notwithstanding anything to the contrary contained in these Rules, if a Shareholder's Share certificate/s is/are worn-out, illegible or lost, such Shareholder shall not be entitled to make a Sell Offer by means of the OTCSTF until and unless the Shareholder has complied with Regulation 8 of the Regulations. Regulation 8 provides -

"8 If any share certificate is worn-out or is illegible, then upon production of the original worn-out or illegible certificate to the Board, the Board may order such certificate to be cancelled and that a new certificate be issued in place thereof. If any share certificate is lost or destroyed, and such loss or destruction is proved to the satisfaction of the Board, and upon such indemnity being given as the Board may deem adequate, a new certificate in lieu thereof may be issued to the person entitled to such lost or destroyed certificate. The Board may require that the issue of the new certificate shall be advertised. The issue of the new certificate and the particulars of the indemnity shall be noted in the register of shareholders."

## **14. EXCLUSION OF LIABILITY AND INDEMNITIES**

14.1 Without prejudice to any of the rights of the Bank and/or its agents, including the Transfer Manager and the Transfer Secretary ("indemnified parties") at law or in terms of any other provision of these Rules, any Seller or Buyer ("indemnifier") wishing to sell or buy Shares utilising the OTCSTF shall and does hereby indemnify the indemnified parties against and/or waives any rights or remedies against the indemnified parties, arising out of all actual or contingent losses, liabilities, damages, costs (including legal costs on the scale as between attorney and own client and any additional legal costs) and expenses of any nature whatsoever which the indemnified parties may suffer or incur as a result of or in connection with -

14.1.1 the failure by the indemnified parties, or any of them, to adhere to the provisions of these Rules;

14.1.2 any breach of warranty, misrepresentation or non-disclosure of information by any Offeror;

14.1.3 the selection and Matching of Offers as between Buyer and Seller;

- 14.1.4 the Purchase Price achieved in respect of any Sale, subject only to compliance with any minimum or maximum price stipulations by a Buyer or Seller;
- 14.1.5 any reliance by any Offeror on any false representations concerning the ownership in and to the Shares of the Bank;
- 14.1.6 any failure by a Buyer to pay the amounts due in respect of any Sale within the prescribed period or the failure of any Seller to deliver the relevant documents of title on the due date for delivery thereof;
- 14.1.7 any action taken by any third party in respect of any payments made or transactions concluded pursuant to a Sale;
- 14.1.8 the cancellation by the Bank of any Sale or proposed Sale by reason of non-compliance with any provisions of the SARB Act, the Regulations and/or these Rules;
- 14.1.9 any claim arising from improper authorisation given to a representative of a Buyer or Seller;
- 14.1.10 a person purporting to be a representative of a Seller or a Buyer and not having the requisite authority to act;
- 14.1.11 any loss suffered arising out of the reliance by any Offeror of any price recommendations and/or valuations provided by any employee or director of the Bank;
- 14.1.12 any loss suffered by any Offeror arising out of his or her reliance on the validity of any tainted scrip and/or any other falsified documentation. In this regard, neither the Bank nor its agents shall be held responsible for damage arising from such falsified scrip or other documentation and shall, furthermore, not be obliged to verify the authenticity of any scrip or other documents

received by it nor to verify the identity of the person dealing in such documentation;

14.1.13 the incorrect processing or Matching of Offers, save only in the event of fraud on the part of the Bank and/or the Transfer Manager;

14.1.14 non-approval by the Transfer Manager of any transfer of Shares;

14.1.15 any delays in the processing of transactions, delivery of documents or remittances of monies;

14.1.16 the suspension, cancellation and/or postponement by the Board of the OTCSTF.

14.2 The indemnifier shall be obliged to pay the indemnified parties the amount of any indemnified loss suffered or incurred by the indemnified parties as soon as the indemnified parties are obliged to pay the amount thereof (in the case of any indemnified loss which involves a payment by the indemnified parties) or as soon as the indemnified parties suffer the indemnified loss (in the case of an indemnified loss which does not involve a payment by the indemnified parties).

## **15. DISCIPLINARY PROCEDURES**

15.1 It shall be the responsibility of the Transfer Manager to implement a system that will monitor and report on the trading of the Shares.

15.2 The Board shall furthermore be entitled from time to time to implement any disciplinary procedures as it considers appropriate in order to regulate compliance with these Rules.

## 16. DISPUTE RESOLUTION

16.1 Any dispute or disagreement between -

16.1.1 a Seller and a Buyer utilising the OTCSTF; or

16.1.2 an Offeror and the Transfer Manager,

shall be referred for mediation to the General Counsel of the Bank, at the request of the Seller, Buyer or Transfer Manager, as the case may be.

16.2 Notification of the dispute shall be given in writing and shall be served on the Transfer Manager at the registered office of the Bank and the OTCSTF Office.

16.3 The General Counsel, or his nominee, shall endeavour to mediate and resolve any such dispute or difference as soon as reasonably practicable and in any event, within 30 (Thirty) days of receipt of the notice referred to in paragraph 16.2.

16.4 Failing timeous resolution by the General Counsel of such a dispute for any reason whatsoever, the aggrieved party shall be entitled to refer such dispute to arbitration in terms of paragraph 17.

## 17. ARBITRATION

17.1 Subject to paragraph 16, should any dispute or difference arise between the parties relating to or arising out of these Rules, including the implementation, execution, interpretation, rectification, termination or cancellation thereof, the dispute or difference will be referred for arbitration to the Arbitration Foundation of South Africa ("AFSA") in terms of AFSA's arbitration rules.

17.2 The decision of the arbitrator in the arbitration proceedings-

17.2.1 shall be final and binding on the parties to the proceedings;

17.2.2 will be carried into effect; and

17.2.3 may be made an order of any court to whose jurisdiction the parties are subject.

17.3 Notwithstanding the foregoing, nothing in this paragraph shall be construed as precluding any party from applying to court for a temporary interdict or other relief, pending the decision of the award of the arbitrator in terms of this paragraph.

17.4 This paragraph is severable from the rest of these Rules and shall, notwithstanding the termination of these Rules, remain in full force and effect.

## **18. APPLICABLE LAW**

18.1 These Rules (including their validity, existence and implementation, the interpretation and application of their provisions, the respective rights and obligations of the parties in terms of and arising out of the provisions), shall be interpreted and governed in all respects by the laws of the Republic.

## **19. DOMICILIUM AND NOTICES**

19.1 The Bank, the Transfer Manager and the Transfer Secretary choose as their domicilium citandi et executandi ("domicilium") for all purposes relating to these Rules, including the giving of any notice, the payment of any sum, the serving of any process, as follows -

19.1.1 Transfer Manager's office -

19.1.1.1 Physical:	The South African Reserve Bank 370 Church Street Pretoria 0002 Republic of South Africa;
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- 19.1.1.2 Postal: P O Box 427, Pretoria 0001  
Republic of South Africa;
- 19.1.1.3 Telefacsimile: (012) 313 4090; and
- 19.1.1.4 E-Mail: [OTCSTF@resbank.co.za](mailto:OTCSTF@resbank.co.za).

(Marked for the Attention – Transfer Manager: Legal Services Department)

19.1.2 Bank Secretary's office -

- 19.1.2.1 Physical: The South African Reserve Bank  
370 Church Street  
Pretoria  
0002  
Republic of South Africa;
- 19.1.2.2 Postal: P O Box 427, Pretoria 0001  
Republic of South Africa; and
- 19.1.2.3 Telefacsimile: (012) 313 3197.

(Marked for the Attention – Secretary of the South African Reserve Bank)

19.1.3 Transfer Secretary's office -

- 19.1.3.1 Physical: The South African Reserve Bank  
370 Church Street  
Pretoria  
0002  
Republic of South Africa;
- 19.1.3.2 Postal: P O Box 427, Pretoria 0001  
Republic of South Africa; and
- 19.1.3.3 Telefacsimile: (012) 313 4090.

(Marked for the Attention - Transfer Secretary: Legal Services  
Department)

19.2 The Seller and/or the Buyer, as the case may be, shall be deemed to choose as their domicilium for all purposes relating to these Rules, including the giving of any notice, the payment of any sum, the serving of

any process, the domicilium stipulated in the relevant Buy Form or the Sell Form, as the case may be, or in the event of any such form being silent, the last address stipulated in the register of Shareholders of the Bank.

19.3 The Bank, Transfer Manager and/or Transfer Secretary shall be entitled from time to time, by giving written notice to the shareholders, to vary their -

19.3.1 physical domicilium to any other physical address within the Republic;

19.3.2 postal domicilium to any other postal address within the Republic;

19.3.3 facsimile domicilium to any other facsimile number; and/or

19.3.4 e-mail domicilium to any other e-mail address within the Republic.

19.4 Any notice given or payment made to the Bank, the Transfer Manager, the Transfer Secretary, a Buyer and/or a Seller ("addressee") which is -

19.4.1 delivered by hand between the hours of 08:00 and 15:00 on any Business Day to the addressee's physical domicilium shall be deemed to have been received by the addressee at the time of its delivery;

19.4.2 posted by prepaid registered post to the addressee's postal domicilium shall be deemed (unless the contrary is proved) to have been received by the addressee on the 14<sup>th</sup> (Fourteenth) day after the date of posting.

19.5 Any notice given by any party to another which is successfully transmitted by facsimile to the addressee's facsimile domicilium shall be deemed (unless the contrary is proved) to have been received by the addressee on

the day immediately succeeding the date of successful transmission thereof.

19.6 This paragraph shall not operate so as to invalidate the giving or receipt of any written notice which is actually received by the addressee other than by a method referred to herein.

19.7 Any notice in terms of, or in connection with these Rules shall be valid and effective only if in writing and if received or deemed to have been received by the addressee.

## **20. GENERAL**

20.1 These Rules may be amended by the Board from time to time.

20.2 Should there be any conflict between these Rules and the annexures, these Rules shall apply.

20.3 The Board shall have a discretion in respect of any matters arising from time to time and not expressly dealt with in these Rules.

20.4 The Board shall be entitled to suspend, postpone or terminate the operation of the OTCSTF at any time, whether by reason of low levels of activity or otherwise, which suspension, postponement or termination shall be evidenced by a resolution of the Board.

20.5 The Seller and the Buyer shall immediately indemnify the Bank and the Transfer Manager against the amount of any costs, charges and expenses of whatsoever nature incurred by the Transfer Manager in its sole and absolute discretion in securing or endeavouring to secure fulfilment of either of the Seller's or the Buyer's obligations or in otherwise exercising the Transfer Manager's rights in terms of these Rules, including the collection of commission, tracing charges and legal costs on the scale as between an attorney and his or her own client (together with any additional legal costs which may have been paid or are payable by the Seller or the

Buyer for any such purpose), insurance premiums, storage charges, stamp duties, taxes and other fiscal charges, agent's and auctioneer's commissions and all other costs and expenses of valuation, maintenance, advertising and realisation.

20.6 The Bank shall be entitled, without obtaining the consent of the Shareholders, to appoint a new Transfer Manager from time to time.

## **21. EXCHANGE CONTROL REGULATIONS**

21.1 The following summary is intended as a guide and is therefore not comprehensive. If in doubt, a Buyer or Seller should consult a professional advisor.

21.2 In terms of the Exchange Control Regulations applicable to the Common Monetary Area -

21.2.1 an Emigrant may use blocked Rand to purchase Shares in terms of these Rules;

21.2.2 all payments in respect of purchases of Shares by Non-Residents using blocked Rand must be made through an Authorised Dealer in foreign exchange;

21.2.3 share certificates issued pursuant to blocked Rand purchases will be endorsed "Non-Resident" and will be placed under the control of the Authorised Dealer through whom the payment was made; and

21.2.4 if applicable, refund monies payable in respect of partly successful Buy Offers in terms of these Rules, emanating from blocked accounts will be returned (in terms of the applicable Exchange Control Regulations) to the Authorised Dealer administering such blocked accounts, for the credit of the relevant Buyer's blocked accounts.

21.3 Non-Residents should -

- 21.3.1 note that the share certificates will be endorsed "Non-Resident" in terms of the Exchange Control Regulations;
- 21.3.2 seek advice as to whether any governmental and/or other legal consent is required and/or whether any other formality must be observed to enable a Buy Offer to be made in terms of these Rules; and
- 21.3.3 note that these Rules do not apply in any area of jurisdiction in which it is illegal to make such a Buy Offer. In such circumstances, these Rules are for information purposes only.

**BY ORDER OF THE BOARD**

**ISSUE DATE -**

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**ANNEXURE A – CM41 – BROKERS TRANSFER FORM**

**ANNEXURE B – BUY FORM**

**ANNEXURE C – CM42 - SECURITIES TRANSFER FORM**

**ANNEXURE D - SELL FORM**