

# **AfriDep Limited**

**("AfriDep")**

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## **SECURITIES FACILITY RULES**

Version 3.1 June 2013

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**LIMITATION OF LIABILITY**

The members of the **Controlling Body** of **AfriDep** Limited, other committees, the **Managing Director** and other **officers** and employees of **AfriDep** Limited are not liable for any loss sustained by damage caused to any **person**, shareholders or **Depository Participants**, as a result of any action or omission of action by **AfriDep** Limited, approved service providers and their agents, contractors and employees, in the *bona fide* or negligent exercise of any power or carrying out of any duty or performance of any function under **the Act, these Rules, or any Directive issued in terms of these Rules**. No failure by **AfriDep** Limited to exercise any of its rights in whole or in part under **these Rules or Directives** shall constitute a waiver of its rights or remedies under **these Rules**.

**DEFINITIONS**

In these Rules, unless otherwise stated or the context requires otherwise, any expression which denotes any gender includes the other genders and the singular includes the plural and *vice versa*.

TERM	MEANING
“AfriClear Limited” or “AfriClear”	means a company incorporated in the Seychelles and licensed under <b>the Act</b> as a <b>clearing agency</b> ;
“AfriClear Participant”	<b>Participant of AfriClear as defined in the AfriClear Rules.</b>
“AfriDep Limited” or “AfriDep”	means a company incorporated in the <b>Seychelles</b> and licensed under <b>the Act</b> as a <b>Securities Facility</b> ;
“ARTECS”	means the <b>AfriDep</b> Real Time Electronic Settlement and Securities Facility System;
“authenticated instruction”	means any instruction sent or received through the <b>ARTECS</b> by a <b>DP</b> ;
“authorising instruction”	means a separate written instruction given by a <b>client</b> to a <b>DP</b> in respect of every entry to be affected by the <b>DP</b> on behalf of the <b>client</b> in that <b>DP’s securities account</b> ;
“business day”	means any day, except for Saturday and Sunday within the meaning of the Public Holidays Act 1976 or any other day on which <b>AfriDep</b> is closed; <b>AfriDep</b>
“certificated securities register”	means the certificated securities portion of the <b>securities ownership register</b> maintained by the Issuer.
“clear” or “cleared” or “clearing”	in relation to a <b>transaction</b> or group of <b>transactions</b> in <b>securities</b> , means:  a) to calculate and determine, before each <b>settlement</b> process:  i) the exact number or nominal value of <b>securities</b> of

each kind to be transferred by or on behalf of a seller;

ii) the amount of money to be paid by or on behalf of a buyer, to enable **settlement** of a **transaction** or group of **transactions**; or

b) where applicable, the process by means of which:

i) the functions referred to in paragraph a) are performed; and

the due performance of the **transaction** is underwritten from the time of **trade** to the time of **settlement**;

**“clearing agency”**

means as defined in **the Act**;

**“clearing agency account”**

means the account of a **clearing agency** which reflects the registered ownership of **securities** in the **securities ownership register**;

**“client”**

means any **person** that uses the service of a **DP**;

**“Companies Act”**

means the Companies Ordinance, 1972 of the **Seychelles** or any subsequent revision thereof, or in the case of a **designated market**, any equivalent legislation of that **recognised jurisdiction**;

**“company secretary”**

means a person appointed by the Board of **Directors** who is as a **company secretary** and manages the compliance of the **issuer** with the **Act** and **these Rules**;

**“Controlling Body”**

means the board of directors of **AfriDep**;

**“corporate actions”**

means actions authorised by the Board of **Directors** of an issuer which have an impact on the valuation of a **security**;

**“custody”**

means the safekeeping of **securities** by a **nominee** or **DP**;

**“dematerialise” or  
“dematerialised”**

means the elimination of physical **securities**, so that all evidence of ownership exists in electronic form, whether evidenced by a physical “dematerialised” receipt or statement of account;

**“depository participants”  
or “DP’s”**

means **issuers** and **AfriClear** or a **clearing agency** in a **recognised jurisdiction** recognised as such by **AfriDep**;

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<b>“director”</b>	means a <b>director</b> or alternate director as defined in the <b>Companies Act</b> or any equivalent legislation in the country of incorporation;
<b>“deposited security”</b>	means <b>eligible securities</b> entered into the <b>securities ownership register</b> maintained by <b>AfriDep</b> ;
<b>“depository services”</b>	means services provided in terms of <b>these Rules</b> in respect of the management and administration of <b>securities</b> ;
<b>“designated market”</b>	means a <b>Seychelles securities exchange</b> or <b>Recognized Overseas securities exchange</b> in a <b>Recognized Jurisdiction</b> as prescribed in and pursuant to <b>the Act</b> ;
<b>“Disciplinary Committee”</b>	means the committee appointed by <b>AfriDep</b> to enforce disciplinary procedures according to <b>these Rules</b> ;
<b>“eligible securities”</b>	means <b>securities</b> which have been deemed or designated as eligible for the provision of registry or <b>depository services</b> by the executive committee of <b>AfriDep</b> and meet the following criteria:  a) being of good delivery and the requisite approvals being provided where necessary.  b) capable of being held on a fungible basis;  c) are not subject to being distinguished by a number;  d) are not subject to any restrictions on foreign ownership, unless otherwise agreed to by <b>AfriDep</b> ; and  e) are not subject to any restrictions on transferability in a book-entry system, unless otherwise agreed to by <b>AfriDep</b> .
<b>“entry”</b>	includes an electronic recording of any deposit, withdrawal, transfer, attachment, pledge, cession to secure a debt or other <b>transaction</b> in respect of <b>securities</b> ;
<b>“Executive Committee”</b>	means the committee appointed to manage the day-to-day affairs of <b>AfriDep</b> ;

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<b>“fees” and “levies”</b>	means the fees or levies published by <b>AfriDep in writing</b> from time to time to <b>DP’s</b> ;
<b>“funds”</b>	means the full monetary consideration due and payable in relation to a particular <b>trade</b> or number of <b>transactions</b> against delivery of <b>securities</b> ;
<b>“Head of Compliance”</b>	means the person who manages and directs the compliance function of <b>AfriDep</b> ;
<b>“ISIN” or “international securities identification number”</b>	means the unique code assigned by <b>Trop-X</b> to each registered or deposited security;
<b>“incorporated”</b>	means the process of formation and registration of a company in terms of company or self-enabling legislation either in the <b>Seychelles</b> or within the country of origin for foreign companies;
<b>“in writing”</b>	means, in relation to anything which, in terms of <b>the Act</b> and <b>these Rules</b> must be done <b>in writing</b> and includes any such correspondence done in electronic form;
<b>“issuer”</b>	means as defined in <b>the Act</b>
<b>“Managing Director”</b>	means the person appointed by the <b>Controlling Body</b> of <b>AfriDep</b> as the <b>Managing Director</b> who manages the day-to-day affairs of <b>AfriDep</b> ;
<b>“market charge”</b>	means a charge, whether fixed or floating, granted in favour of a <b>clearing agency</b> :  a) over property, specified in Part 4, Section 22, subsection (2) of <b>the Act</b> , held by or deposited with the <b>clearing agency</b> ; and  b) to secure liabilities arising directly with the <b>clearing agency</b> facilitating the <b>settlement</b> of a market;
<b>“market collateral”</b>	means property, specified in Part 4, Section 22 subsection (1) and (2) of <b>the Act</b> , held by or deposited with a <b>clearing agency</b> to secure liabilities arising directly with the <b>clearing agency</b> facilitating the <b>settlement</b> of a <b>market contract</b> ;



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“market contract”	means as defined in <b>the Act</b> ;
“Minister”	means as defined in <b>the Act</b> ;
“nominee” or “nominee company”	means a person that acts as the registered holder of <b>securities</b> or an interest in <b>securities</b> on behalf of other persons in terms of Section 62 of <b>the Act</b> and <b>these Rules</b> ;
“notice” or “notification”	means a general announcement published by <b>AfriDep</b> in printed or electronic form to its <b>DP’s</b> and their <b>clients</b> ;
“person”	means an individual, corporation, partnership, association, trust or other entity as the context admits or permits;
“pre-validated trade”	means a <b>trade</b> that is validated by <b>AfriClear</b> prior to execution in order for <b>AfriDep</b> to provide real time <b>settlement services for securities</b> ;
“recognized jurisdiction”	means as defined in <b>the Act</b> ;
“recognized overseas securities exchange”	means as defined in <b>the Act</b> ;;
“records”	means those documents of <b>AfriDep</b> and its <b>DP’s</b> which relate to the business of <b>AfriDep</b> ;
“record date”	means the predetermined date on which the ownership of <b>securities</b> is recorded for the purpose of distributing cash, property or other rights to the <b>registered owner</b> of the <b>security</b> ;
“registered owner” or “registered ownership”	means the <b>person</b> in whose name <b>securities</b> are entered into the <b>securities ownership register</b> held by <b>Issuer</b> or <b>AfriDep</b> . The <b>registered owner</b> must be a natural or juristic <b>person</b> and excludes the following <b>persons</b> :  a) joint ownership not permitted;  b) in the name of a trust not permitted, the ownership in this instance must be in the name of one trustee;
“registered security”	means <b>eligible securities</b> entered into the <b>Securities</b>

	<b>Ownership Register</b> maintained by <b>AfriDep</b> ;
<b>“registry services”</b>	means registry services provided in terms of <b>these Rules</b> in respect of the management and administration of <b>securities</b> ;
<b>“re-materialize” or rematerialized</b>	means the conversion of uncertificated securities to certificated securities through the issuance of a physical securities certificate.
<b>“reporting date”</b>	means the predetermined periodic date on which a <b>DP</b> statement is generated;
<b>“securities”</b>	means for the purpose of <b>these Rules</b> , securities that are included in schedule 1, sections 1 to 4 of <b>the Act</b> ;
<b>“securities account”</b>	means a <b>Securities Facility, client</b> or beneficial owner securities account , depending on the context;
<b>“Securities Authority”</b>	means the Seychelles International Business Authority;
<b>“securities exchange” or “exchange”</b>	means as defined in <b>the Act</b> ;
<b>“Securities Facility”</b>	means as defined in section 41(1) of <b>the Act</b> ;
<b>“securities ownership register”</b>	means the entire securities register kept by the Issuer or AfriDep reflecting the number and <b>registered owner</b> of <b>securities</b> .
<b>“uncertificated securities register”</b>	The uncertificated or dematerialised securities portion of the <b>securities ownership register</b> maintained by AfriDep on behalf of the Issuer.
<b>“service provider”</b>	means any <b>person</b> who provides a service to <b>AfriDep</b> or a <b>DP</b> ;
<b>“settlement”, “settle” or “settled”</b>	means to discharge the obligations arising from a <b>transaction</b> in <b>securities</b> ;

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“Seychelles”	means the Republic of Seychelles;
“the Act”	means <del>the Securities Act 2007 of the Seychelles</del> <b>the Securities Act 2007 of the Seychelles</b> , any regulation prescribed by the <b>Minister</b> or the <b>Securities Authority</b> ;
“the Rules” or “these Rules” or “Rule”	means <b>these Rules</b> of <b>AfriDep</b> as approved by the <b>Securities Authority</b> ;
“trade” or “transaction”	means a matched <b>trade</b> or an off-market trade in respect of a <b>security</b>
“Trop-X”	means <b>Trop-X</b> (Seychelles) Limited, a company <b>incorporated</b> under the <b>Companies Act</b> of <b>Seychelles</b> (Company Number 879858-1) and licensed to operate as a <b>securities Exchange</b> in terms of <b>the Act</b> ;

In **these Rules**, unless otherwise stated or the context requires otherwise, any expression which denotes any gender includes the other gender and the singular includes the plural and *vice versa*.

**SECTION 1**

**GENERAL PROVISIONS OF THE RULES**

**1.1. Legal status of AfriDep**

- a) **AfriDep** is a legal entity with limited liability, registered and **incorporated** in terms of the **Companies Act of Seychelles**; and
- b) **AfriDep** is a licensed **Securities Facility** in terms of **the Act**.

**1.2. Registered business address**

Suite 305  
Capital City Building  
Victoria  
Mahé  
Republic of Seychelles

The physical and postal Address of **Trop-X** is:

Office F28  
1<sup>st</sup> Floor  
Eden Plaza  
Eden Island  
Republic of Seychelles

**AfriDep's** domicilium citandi et executandi is its registered address stated above.

**1.3. Status of the Rules and the Directives**

- a) **These Rules** govern the operations of **AfriDep** as prescribed by **the Act**.
- b) In the event of any conflict:
  - i) between **the Act** and **these Rules**, **the Act** shall prevail;
  - ii) between **the Rules** and any **Directive**, **the Rules** shall prevail; or
  - iii) between **these Rules** and any other rules of another **Securities Facility**, **clearing agency** or **securities exchange**, **these Rules** shall prevail; and

- iv) between **these Rules** and any other rules of a **designated market**, **these Rules** shall prevail.
- c) **These Rules** shall be binding on:
  - i) **AfriDep** and its **DP's**; and
  - ii) the officers and employees of **AfriDep** and its **DP's**.
- d) **These Rules** are binding between **AfriDep** and its **DP's**.

### 1.4. Amendments to the Rules or Directives

- a) The **Executive Committee** may lodge a written proposal to the **Controlling Body** of **AfriDep** in respect of amendments to the existing set of **Rules** or **Directives**.
- b) **DP's** (hereinafter referred to as "the applicant") may lodge a written proposal to **AfriDep** in respect of amendments to the existing set of **Rules** or **Directives**.
- c) Upon receipt of a proposal from an applicant, the **Executive Committee** shall respond in writing to the **applicant** within 20 (twenty) **business days** of receipt of the proposal for the amendment.
- d) Thereafter the **Executive Committee** shall consider the proposed amendment within a further period of 20 (twenty) **business days** and may:
  - i) request further information **in writing** from the **applicant** and upon receipt thereof consider the proposed amendment fully within a further period of 30 (thirty) **business days** and thereafter deal with the proposed amendment in terms of **Rule 1.4 (d) (ii)** or **1.4 (d) (iii)** as the case may be; or
  - ii) reject the proposal and provide reasons for the rejection **in writing** to the **applicant**; or;
  - iii) in the event that the **Executive Committee** considers the proposed amendment to be one which will enhance and/or improve the business efficiency and/or operations of **AfriDep** it may submit the proposed amendment together with a recommendation by the **Executive Committee** to the **Controlling Body** for consideration in which case the **Controlling Body** may;

- a. if the proposed amendment to these **Rules** or **Directives** is accepted and approved by the **Controlling Body**, submit the proposed amendment to the **Securities Authority** in terms of **the Act** for approval, accompanied by an explanation of the reasons for the proposed amendment.; or
- b. reject the proposal and provide reasons for the rejection **in writing**.
- e) **AfriDep** shall issue a **notice** detailing any changes to **these Rules**.
- f) If the **Executive Committee** and/or the **Controlling Body** reject a proposed amendment then this decision will be final.
- g) Any proposed amendments to **the Rules** or **Directives** require the final approval by the **Securities Authority**.

### 1.5. Directives

For the purposes of giving effect to its **Rules**, to achieve all things that are necessary for, incidental or conducive to the proper operation of its business and fulfilling its functions, responsibilities and duties as a **Securities Facility**, **AfriDep** may issue **Directives** in terms of **the Act** and **these Rules** provided such **Directives** are not inconsistent with **the Act**.

### 1.6. Notices

- a) For the purpose of issuing **notices** to **DP's**, every **DP** must notify **AfriDep** of its business address, postal address, facsimile number and electronic mail address where a **notice** issued by **AfriDep** may be delivered.
- b) A notice issued by **AfriDep** must be **in writing**.
- c) A **notice in writing** is deemed to have been received on the date of transmission, unless proved to the contrary by the **DP**.

**SECTION 2**

**AFRIDEP FUNCTIONS AND DUTIES**

**2.1 General**

- a) **AfriDep** shall facilitate the recording in the **uncertificated securities register** and the relevant **securities accounts**, changes in **registered ownership** of **eligible securities** resulting from **transactions** on **designated markets** that have been **cleared** and **settled** by a **clearing agency**.
- b) **These Rules** prescribe the rights and obligations of **DP's** and all requisite matters in relation to the operation and management of **AfriDep**.
- c) **AfriDep** shall keep a list of **eligible securities**.
- d) **Settlements** are executed on either a Delivery versus Payment or Free of Payment basis, based upon **the Rules** of the relevant **securities exchange** and **clearing agency** for which the **securities** are being **settled**.
- e) Ownership changes in the **uncertificated securities register** and **securities accounts** are reflected real time for **pre-validated trades**.
- f) AfriDep shall enforce these rules and any decision taken by committees established hereunder.

**2.2 Registry Services:**

- a) An **issuer** may apply to **AfriDep** for registry services if:
  - i) the relevant **securities** are an **eligible security**;
  - ii) **issuer** has been accepted as a participant of AfriDep; and
  - iii) **issuer** has signed a participant agreement with AfriDep that has been effectively approved via resolution;
- b) **AfriDep** shall provide an electronic register for **securities** it deems to be **eligible securities**.
- c) Notwithstanding that any **security** is designated as an **eligible security**, **AfriDep** may refuse to accept entries into the **Uncertificated Securities Register** or may designate that any **security** is no longer an **eligible security**

upon giving reasons **in writing** for such refusal or designation to its **DPs** and the **Securities Authority**.

- d) For Registry Services, securities are **dematerialised**, per directive 1.
- e) An **issuer** must ensure that its **record** of the **securities ownership register** being presented to **AfriDep** is correct. The **issuer** is responsible for any defect in ownership or number of **securities** presented by it to **AfriDep**.
- f) The reported owners by the **issuer** shall be regarded as the **registered owner** in respect of all the **registered securities** credited to the **uncertificated securities register** maintained by **AfriDep** and **AfriDep** shall be under no obligation to recognise, even where having notice thereof, the interest of any other **person** in the **registered securities**.
- g) The **securities account** shall only be credited with the quantity of **securities** reflected in the **uncertificated securities register** and **AfriDep** shall send the **issuer** a statement showing the quantity of **securities** credited to the **securities account**.
- h) When new **securities** are to be issued, these must be recorded in the **securities ownership register** before the appointed **clearing agencies** can permit **trading, clearing** and **settlement** of those new **securities**.
- i) For Registry Services, **securities** are **re-materialised** per directive 2.

### 2.3 Depository Services:

Reserved

### 2.4 Uncertificated Securities Register

- a) In accordance with the provisions of the **Act**, **AfriDep** shall:
  - i) maintain **records** of **securities** registered or deposited with **AfriDep** and any changes thereto in the **uncertificated securities register**;
- b) Immediately update the **uncertificated securities register** once notified that **settlement** has been effected by the relevant **clearing agency**.

### 2.5 Operation of DP securities accounts

- a) **AfriDep** shall maintain **securities accounts** for its **DP's**.



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- b) **AfriDep** shall deem and treat the **registered owner**, as reported by **DP's** as the absolute owner of **securities** and shall not be bound or compelled in any way to recognise the interest of any other person in respect of the **securities** or any part thereof, even when having notice thereof. For the purposes of **these Rules**, 'interest' includes, without limitation, any beneficial or equitable interests that such **persons** may have in the **securities**.
- c) The **securities** held in a **securities account** shall be recorded by **AfriDep**.
- d) **AfriDep** shall not mortgage, charge, hypothecate, pledge or deposit as collateral the **securities** unless instructed to by the **DP** per rule 2.6.
- e) **Securities accounts** will be debited or credited with **securities** by **AfriDep** pursuant to **transactions** or instructions of the **clearing agency** subject to the approval of **AfriDep**, which shall not be unreasonably withheld, and conditions imposed by **AfriDep**.
- f) **AfriDep** shall have the right to segregate the **securities** into different balances in a **securities account** and such balances will be categorised by **AfriDep**. **deposited securities** in the free balance may be freely transferred or sold by **DP's** upon instruction from their **clients**. **Securities** in any other balance are subject to such conditions as may be determined by **AfriDep** and may not be freely transferable.
- g) At the time of a **settled transaction** of an **eligible security** reported to **AfriDep** by a **clearing agency**, **AfriDep** shall effect book-entry transfers in the **securities accounts** of the seller and the buyer and advise the **clearing agency** of the **settlement** via **ARTECS** or through such method of **notification** as determined by **AfriDep** from time to time.
- h) **AfriDep** shall, on a daily basis, make available to **DP's** via **ARTECS** an electronic statement showing the number of **securities** in the **DP's securities accounts**.
- i) If the **DP** notifies **AfriDep** of any discrepancy in the statement of **securities account** balances or statement of **transactions**, **AfriDep** will investigate and resolve this notified discrepancy.
- j) **AfriDep** shall have the right to rectify any **records** maintained by it in respect of any **securities account** and **AfriDep** shall notify its **DP's** at the time of making such rectification.
- k) **AfriDep** shall not be liable to any **DP** in respect of any such rectification, except such liability as may arise as a result of the negligence or bad faith of **AfriDep**.

### 2.6 Recording of a market charge against deposited securities

- a) Where a **DP** instructs **AfriDep** that a **market charge** be registered to secure a debt in a **securities account**, **AfriDep** must:
  - i) in accordance with **these Rules** and **the Act**, prevent the **securities** from being transferred from the **securities account** except with the written consent of the pledgee or cessionary;
  - ii) in its statements to its **DP's**, indicate which **securities** have been pledged or ceded and specify the nominal amount or number of such **securities**; and
  - iii) it must, when it sends out statements in accordance with **Rule 3.7(b)**, the **DP** must also send a statement to the person to whom the **securities** are pledged or ceded a statement evidencing the existence of the pledge or cession to secure a debt.
- b) **AfriDep** shall be entitled to rely and act upon instructions of a **DP** in dealing with **securities accounts** maintained for it and may assume that the **DP** has been duly authorized to give such instructions, notwithstanding any notice to the contrary.

### 2.7 Corporate Actions

- a) **Issuers** are responsible for advising **AfriDep** of any changes required to the **securities ownership register** as the result of a **corporate action**.
- b) **AfriDep** will record these changes in the **securities accounts**.
- c) **AfriDep** shall assist in the administration of **corporate actions** for its **DP's** that require the distribution of **funds** to **clients** on **record date** by providing details of **registered owners** via **ARTECS**.

### 2.8 Lender of last resort

- a) If a **clearing agency** or **securities exchange** is unable to meet its financial obligations and this inability will result in the failing of a **trade** or financial loss to the counterparty, through no fault on the part of the counterparty, **AfriDep** may decide to act as a lender of last resort.

- b) Either a **securities exchange** or a **clearing agency** may approach **AfriDep** and request that **AfriDep** act as the lender of last resort and **AfriDep** shall review each case individually, at its discretion, regarding whether or not to act as lender of last resort.

### 2.9 Service providers

- a) **AfriDep** may appoint agents and **service providers**, including and without limitation, depositories, sub-custodians and custodians to safe-keep **securities**;
  - i) utilise **settlement** systems designed to support the provision of securities facility **services**; and
  - ii) delegate to any such person the exercise of its rights, powers and discretions and/or the performance of any of its functions or obligations under **these Rules**.
- b) **AfriDep** shall use reasonable care in selecting and appointing agents, **service providers** and in selecting and utilising securities facility systems.
- c) **AfriDep** shall have no responsibility for the performance or non-performance by any securities facility, sub-custodian or custodian appointed in respect of foreign **securities** of functions or obligations so delegated unless **AfriDep** has failed to take reasonable care in their selection.

**SECTION 3**

**DUTIES AND CONDUCT OF DP'S**

**3.1 General duties**

- a) **DP's** must reconcile balances with **AfriDep** on a daily basis and any differences that cannot be reconciled within 24 hours must immediately be:
  - i) reported to **AfriDep**; and
  - ii) investigated and corrected by **AfriDep** or the **DP**.
- b) Any information in terms of **the Act, Companies Act** and **the Rules** may be retained or disseminated in an electronic or any other manner and, where information is retained electronically, such **records** must be subject to back-up and recovery procedures and be able to be reproduced in printed form.
- c) A **DP** must disclose to **AfriDep** any information, upon request, required by **AfriDep** to fulfil its obligations as a **Securities Facility**.
- d) **DP's** must have necessary resources and functionality to ensure that clients are able to contact the **DP** easily and timeously.

**3.2 Undertakings of the DP**

The **DP** undertakes to **AfriDep** that it shall:

- a) unless otherwise agreed with its **client**, keep the **client** duly informed of relevant information which may from time to time be issued in respect of **securities**;
- b) furnish to each **client** such information as **AfriDep** shall specifically direct, promptly after receipt of such direction from **AfriDep**.

**3.3 Registration of company secretary**

- a) Every **issuer** that is a **DP** shall have a **company secretary** who shall:

- i) be responsible for any communication with **AfriDep**, which must be confirmed **in writing** with **AfriDep** and shall receive all **notices** from **AfriDep**;
  - ii) at all times be registered with **AfriDep**; **The company secretary is registered in accordance with the Issuer participant application form.**
  - iii) be responsible for managing issuer compliance with **these Rules**; and
  - iv) report **in writing** to **AfriDep** any breaches by the issuer and its **DP's** of the provisions of **the Act** and **these Rules**.
- b) Where the **company secretary**, is an individual, the issuer can appoint an agent to act on the **company secretary's** behalf, in the event the company secretary is absent.

### 3.4 Disclosure to clients

- a) When a **DP** renders a **securities facility service**, representations made and information provided to a **client** must;
  - i) be factually correct;
  - ii) be provided in plain language, avoid uncertainty or confusion and not be misleading;
  - iii) be adequate and appropriate in the circumstances of the particular **securities facility service**, taking into account the factually established or reasonably assumed level of knowledge of the **client**;
  - iv) be provided timeously so as to afford the **DP** reasonably sufficient time to make an informed decision about the proposed transaction;
  - v) if the **client** so requests, be confirmed **in writing** within a reasonable time after such request or may otherwise be provided orally;
  - vi) if provided **in writing** or by means of standard forms, be in a clear and readable print size, spacing and format;
  - vii) as regards all amounts, sums, values, charges, fees, remuneration or monetary obligations mentioned or referred to therein, be reflected in specific monetary terms provided that where any such amount, sum, value, charge, fee, remuneration or monetary obligation is not reasonably

pre-determinable, its basis of calculation must be adequately described; and

viii) not be duplicated or repeated to the same **client** unless material or significant changes affecting that **client** occur, or the relevant **securities facility** service renders it necessary, in which case a disclosure of the changes to the **client** must be made without delay.

b) A **DP** must:

- i) disclose full and accurate information about the fees and any other charges that may be levied on **clients**;
- ii) not disclose any confidential information acquired or obtained from a **client** or the **registered owner**, unless the written consent of the **client** or the **registered owner** has been obtained beforehand or disclosure of the information is required to further the objects of **the Act** or is required under any law;
- iii) act promptly on and in accordance with the instructions of a **client**, and exercise any discretion in a responsible manner;
- iv) advise the **client** in advance of any restrictions or limitations that may affect the access of that **client** to his **funds** or **securities**;
- v) provide a general explanation of the nature and material terms and risks of a relevant **transaction** to a **client**, so as to enable him to make an informed decision; and
- vi) disclose to the **client** the existence of any personal interest in the relevant service, or of any circumstance which gives rise to an actual or potential conflict of interest in relation to such service, and take all reasonable steps to ensure fair treatment of the **client**.

### 3.5 Record-Keeping

- a) A **DP** must maintain proper, complete, accurate and secure **records**.
- b) A **DP** must have appropriate procedures and systems in place to store and retrieve, in a manner approved by **AfriDep**, a record of all:
  - i) **authenticated instructions** and **authorising instructions** relating to **securities facility services** rendered to a **client**, including verbal instructions given by the **client** to the **DP**; and

- ii) documentation relating to the contractual arrangement between the **DP** and the **client**.
- c) **Records** may be kept in electronic or voice recorded format and **DP's** need not keep the **records** themselves but must be capable of making such **records** available for inspection within 7 (seven) days.
- d) A **record** referred to in 3.5 (b) (i) must be kept for a period of at least 6 (six) months after the instruction has been given.
- e) A **record** referred to in 3.5 (b) (ii) must be kept for a period of at least 7 (seven) years after the contractual relationship has been terminated.
- f) **DP's** must provide AfriDep with updated records on a regular basis.

### 3.6 Bookkeeping and separation of funds and assets

- a) A **DP** must provide for:
  - i) the separation and identification of the assets of a **client** and the assets of the **DP**; and
  - ii) the proper accounting for the assets of each **client**.
- b) A **DP** may not utilise the assets of a **client** to finance its business activities.

### 3.7 Client statements

- a) A **DP** must provide to **clients** a statement **in writing** at least twice a year, unless the **client** consents **in writing** not to receive the statement.
- b) A **DP** statement must contain such information as is reasonably necessary to enable the **DP** to:
  - i) produce a set of financial statements;
  - ii) determine the composition of the **securities** comprising the portfolio held by the **client** and the changes thereto over the reporting period, if applicable; and
  - iii) provide the **client** with the information necessary for them to review the operation of their account.
- c) A **DP** statement must contain at least the following information:

- i) the quantity, description and **ISIN** of each **security** comprising the portfolio held by the **client** or for which the **DP** is accountable to the **client** at the **reporting date**;
  - ii) non-cash **transactions** during the reporting period, including non-cash components of **corporate actions**;
  - iii) **securities** transferred into and out of the account during the reporting period;
  - iv) identification of those **securities** which at the **reporting date** were loaned to any third party but for which the **DP** is still accountable to the **client**;
  - v) the quantity and description of any **securities** held as collateral by the **DP** on behalf of the **client** in respect of any loans made by the **client**;
  - vi) identification of those **securities** which at the **reporting date** were utilised to secure loans to the **DP** or borrowings made on behalf of the **DP**; and
  - vii) identification of those **securities** which at the **reporting date** were utilised as margin in respect of open positions in any **security**.
- d) The information referred to in **Rule 3.7(c)** may be provided to the **client** in separate statements either during the reporting period or as at the **reporting date**.
- e) A statement shall be provided either to the **client** or to an agent or third party nominated by the **client in writing**.

### **3.8 Internal Control and Risk Management**

- a) A **DP** shall employ the resources, procedures and technological systems necessary for the effective conduct of its business.
- b) The system of internal control employed by the **DP** shall be designed to ensure that:
  - i) the relevant business can be carried out in an orderly and efficient manner;
  - ii) financial and other information used or provided by the **DP** is complete and accurate;



- iii) all **transactions** and financial commitments entered into by the **DP** are recorded, reliable and are within the scope of authority of the **DP** or the officer or employee acting on behalf of the **DP**;
  - iv) there are procedures to safeguard the assets of the **DP** and the assets belonging to any other person for which the **DP** is accountable;
  - v) there are procedures to control liabilities; and
  - vi) there are measures, so far as is reasonably practicable to minimise the risk of loss to the **DP** or the **client** from any irregularity, fraud or error and to detect any irregularity, fraud or error should they occur so that prompt remedial action may be taken by the **DP**.
- c) A **DP** shall as far as is reasonable adopt sound risk management principles and procedures.

### 3.9 Inspections

**AfriDep** may inspect the affairs of a **DP**, its officers, employees or any person involved in the provision of **securities facility services** in a **security** at any time and any documentation held on their behalf by third parties.

**AfriDep will provide to the Securities Authority a quarterly industry-wide report detailing the outcome of all such visits.**

### 3.10 Guarantees and Insurance Cover

A **DP** must to the extent required by **AfriDep**, maintain appropriate guarantees or professional indemnity or fidelity insurance cover to mitigate the risks inherent in the business of the **DP**.

### 3.11 Waiver of Rights

A **DP** may not request or induce in any manner a **client** to waive any right or benefit conferred on the **client** by or in terms of **these Rules**, or recognise, accept or act on any such waiver by the **client**, and any such waiver is void.

### 3.12 Fees and Expenses

- a) Each **DP will** pay such **fees**, levies, charges, expenses and disbursements in respect of the operations, services and facilities provided by **AfriDep** as specified by **AfriDep** from time to time, such amounts to be payable at such times and in such manner as shall be specified by **AfriDep**.
- b) **DP's** shall **disclose** to their **clients** the fees that they may charge for their services and transactions.
- c) **DP's** may charge a **different** fee for different categories of transactions.

### 3.13 Resignation of DP

In the event that any **DP** resigns, the **DP** shall, as soon as possible:

- a) give written notice of its resignation to its **clients**; and
- b) prior to the effective date of its resignation, transfer the **deposited securities** of its **clients** to such other **securities accounts** indicated by the **clients**.

**SECTION 4**

**COMPLIANCE AND REGULATORY FRAMEWORK**

**4.1 Objects of the Regulatory Framework**

The chief objective of the **Head of Compliance** is to:

- a) ensure that the deposit with **AfriDep** of **eligible securities** is conducted in an orderly, fair, efficient and transparent manner in line with **the Act** and **these Rules**;
- b) give effect to the surveillance of any matter relevant for the purpose of **the Act** and **these Rules**;
- c) supervise that **AfriDep** and its **DP's** comply with the obligations of **AMLA**; and
- d) supervise that **DP's** comply with any other relevant legislation referred to in **the Act**.

**4.2 Compliance**

- a) The **Head of Compliance** will implement systems and procedures to monitor compliance in terms of **the Act** and **these Rules**.
- b) The **Head of Compliance** will implement surveillance procedures to detect irregularities in **securities facility services** and any conduct that may involve abuse in terms of **the Act** and **these Rules**.

**4.3 Powers, duties and procedures for enforcement**

The **Head of Compliance** or his delegate will have the following powers:

- a) to call for any documentation and / or **records** which it may require from any **person** and / or **DP** (including any **directors**, employees or agents thereof) that are subject to **these Rules**;
- b) to access the premises and / or **records** of any person and / or **DP** (including any **directors**, employees or agents thereof) that are subject to **these Rules**; and

- c) to refer any of its findings (including evidence gathered) to the **Disciplinary Committee** in terms of Section 6 of **The Rules**.

#### 4.4 Co-operation with the Securities Authority and other applicable Regulatory Organisations

The Head of Compliance or his delegate shall:

- a) be responsible for **AfriDep** communications with the **Security Authority** and relevant **securities exchanges** and **clearing agencies**.
- b) report to the **Securities Authority** any breaches arising from disorderly **securities facility services** that arise or may arise in terms of **the Act** and **these Rules**.
- c) assist the **Securities Authority** and any other competent authority with any investigation of such a breach of **the Act** and **the Rules** or any other regulatory requirements required by **AfriDep**.
- d) meet on a regular basis with the **Securities Authority** to assist **the Securities Authority** in detecting irregularities in the **securities facility services** of **securities**.

#### 4.5 Confidentiality

**AfriDep** shall treat as confidential any information received from a **DP** in respect of **securities** when a **transaction** is under investigation except where:

- a) the information is publicly available;
- b) disclosure is required by law and by any other regulatory authority or applicable legislation;
- c) disclosure is expressly permitted by law and **the Act**;
- d) disclosure is required by **these Rules**; or
- e) authority has been granted **in writing** by the **DP** and where appropriate the **client**.

**SECTION 5**

**COMPLAINTS, AND DISPUTE RESOLUTION**

**5.1 Definitions**

For the purposes of this section, the following terms shall have the following meanings:

- a) **“Complainant”** means the person that lodges the **Complaint**;
- b) **“Complaint”** means a complaint by a **Complainant** relating to any agreement with, or a service or product of, a **Defendant** in which it is alleged that the **Complainant** has suffered or is likely to suffer financial prejudice or damage as a result of the **Defendants** actions or inaction:
  - i) having contravened or failed to comply with a provision of any agreement, law or code of conduct subscribed to by the **Defendant**;
  - ii) having wilfully or negligently supplied, or failed to supply, a **securities** service or a product to the **Complainant**;
  - iii) having treated the party unreasonably or inequitably; or
  - iv) having mis-administered the implementation of an agreement for the supply of services in terms of **these Rules**.
- c) **“Defendant”** means the depository participant that is the subject of the **Complaint**;

**5.2 Internal Complaints Resolution Process**

- a) **Depository Participants** shall implement and maintain internal procedures approved by **AfriDep**, hereinafter referred to as the internal **complaint** resolution process for dealing with any **complaints**.
- b) Where the internal complaint resolution process fails to resolve the **Complaint** to the satisfaction of the **Complainant**, the **Complainant** may institute the dispute reporting protocol subject to the requirements of **Rule 5.4** being met.

**5.3 Internal complaint resolution procedures**

The internal procedures to address Complaints shall at a minimum consist of the following:

- a) having the systems in place to record and investigate all client **Complaints**;

- b) written or oral **Complaints** must be dealt with timeously;
- c) the employee responsible for the resolution of **Complaints** must have the necessary authority to resolve **Complaints**;
- d) a notification procedure must be in place for the client; and
- e) any recurring or systematic problems must be remedied.

### 5.4 Disputes

Disputes are categorized and defined as:

- a) unresolved **Complaints** where the financial loss is greater than \$1,500 (one thousand five hundred US Dollars) or equivalent in a different currency between the Complainant and the Defendant; or
- b) a decision or action of **AfriDep** which excludes any decision or action relating to a dispute brought under **Rule 5.4(a)**.

### 5.5 Composition of the Dispute Resolution Body

- a) The Dispute Resolution Body shall not comprise less than 3 (three) persons and shall be appointed by the Executive Committee.
- b) The Dispute Resolution Body shall consist of:
  - i) the **Head of Compliance** who shall act as the Chairperson;
  - ii) the **AfriDep** Legal Officer or the **AfriDep** nominated counsel;
  - iii) an individual appointed by virtue of that individual's knowledge or an expert or experts of the financial markets in the **Seychelles**;
  - iv) a secretary who shall perform all administrative duties and such other functions as entrusted to this individual by the Chairperson, and may be a person already serving on the DRB; and
  - v) the Dispute Resolution Body may co-opt any individual it considers appropriate to assist with administrative duties and functions required by the Chairperson.
- c) Dispute Resolution Body exclusions and exemptions include:

- i) an employee of AfriDep who may not be appointed or co-opted unless required in terms of any statute and the Rules or to perform administrative duties;
  - ii) members of the Dispute Resolution Body shall not have any conflict of interest or potential conflict of interest with the Participant charged; and
  - iii) Controlling Body members, with the exception of the Head of Compliance, who may not be entitled to serve on the Dispute Resolution Body or be present at a hearing provided for in Rule 5.6 unless such member of the Controlling Body is party to the hearing.
- d) The Executive Committee may co-opt an individual or appoint an individual to replace a member because of illness, conflict of interest or otherwise.

### 5.6 Dispute Resolution Body Procedures

- a) All procedures for disputes will be handled in terms of **Rule 5.4** through **5.6**;
- b) All disputes must be presented in writing to the **Head of Compliance**;
- c) A dispute cannot be the subject of any existing litigation.
- d) The **Head of Compliance** will confirm receipt of the dispute in writing.
- e) The **Complainant** shall deliver a written memorandum to the **Head of Compliance** with a clear and concise summary of the matter in dispute as well as the redress sought, and the Head of Compliance shall also circulate this to the other party within 7 (seven) business days.
- f) The **Defendant** shall then have 7 (seven) business days to file a written statement containing its summary of the matter in dispute, which shall again be forwarded to the **Head of Compliance** and the **Complainant** within 7 (seven) business days.
- g) The **Dispute Resolution Body** may request all parties involved in the dispute to provide copies of additional relevant documentation and correspondence required to review the dispute as it deems necessary.
- h) The **Dispute Resolution Body** will investigate the dispute and attempt to facilitate a resolution to the dispute within 15 (fifteen) business days and issue a recommendation notice to the parties.
- i) Where a **Complainant or Defendant** is dissatisfied with the recommendation, it must inform the **Head of Compliance** in writing within 5 (five) business days

of the receipt of the recommendation notice and upon receipt thereof, the dispute shall be dealt with by **AfriDep** pursuant to and in accordance with the following dispute resolution scheme as detailed below. The parties shall receive a notice from the **Head of Compliance** in this regard.

- j) The **AfriDep Executive Committee** reserves the right to refer the matter to the **Disciplinary Committee** at any time after the dispute has been received in writing from the **Complainant**.
- k) Nothing contained in **these Rules** shall be interpreted as subjugating any obligations between the participants of **AfriDep** and **AfriDep** or its appointed **clearing agency** or **securities facility** and all parties to the dispute shall comply promptly and fully with all such obligations notwithstanding the fact that a dispute is submitted under **these Rules**.
- l) The outcome of all disputes, including those of the Dispute Appeals Body will be forwarded to the **Securities Authority**.
- m) All costs associated with the hearing of the dispute before the Dispute Resolution Body relating to venue, recording, refreshments, transcribing and any independent arbitrator shall be borne in equal proportions by the parties respectively.
- n) For the purposes of achieving fairness between the parties, the Dispute Resolution Body shall in its sole discretion be entitled to make an award against the losing party to pay the legal costs that the successful party has incurred in addition to the proportionate costs due by the successful party in terms of Requirement 5.6 (m) above.

### 5.7 Dispute Appeal Body (DAB)

- a) In the event of any unresolved dispute, the party to the dispute may submit all relevant documentation to the Chairperson of the Dispute Resolution Body within 5 (five) **business days** of receipt of the notice in terms of Rule 5.6(i).

The Chairperson of the Dispute Resolution Body shall notify both parties to the dispute of the referral to the DAB and request each party to inform the DAB as to their respective legal representatives, within 10 (ten) **business days**.

- b) The DAB shall be chaired by **Head of Compliance** or his nominee and two other persons to be appointed by the **Executive Committee**
- c) If either or both of the parties to the dispute fail to reply in terms of Rule 5.6(c) above, such party or both as the case may be, will be deemed not to have a legal representative and be deemed to act on their own behalf.



- d) The DAB shall have the following powers:
  - i) to notify the parties or their legal representatives of the time and location of the meeting;
  - ii) to resolve a dispute through mediation, conciliation, recommendation or determination;
  - iii) to act independently in resolving a dispute or in making a determination;
  - iv) to follow informal, fair and cost-effective procedures;
  - v) to, where appropriate, apply principles of equity in resolving a Complaint;
  - vi) to report to the Securities Authority and to a body representative of the relevant category of financial institutions on matters that may be of interest to them;
  - vii) in making any determination, to provide for the effective enforcement of the determination in his discretion;
  - viii) allocate settlement costs as appropriate including costs arising out of this dispute;
- f) in exercising the above powers, the DAB must ensure that the questions, concerns and disputes of the parties are treated equitably and consistently in a timely, efficient and courteous manner; and
- g) any decision arrived at by the DAB shall be final and binding on the parties.

## SECTION 6

### DISCIPLINARY ACTIONS AND SANCTIONS

#### 6.1 General Powers of the Disciplinary committee

- a) The **Disciplinary Committee** derives its powers from its appointment by the **Executive Committee** of **AfriDep** *inter alia*, to oversee and direct all disciplinary matters relating to these **Rules**.
- b) Disciplinary actions and sanctions shall be administered by the **Disciplinary Committee** of **AfriDep** or any person to whom it has delegated its powers. The purpose of any disciplinary actions or sanctions imposed under this section are to facilitate and promote a well regulated and orderly market as well as deter any actions that may increase systemic risk in the market. The powers and functions of the **Disciplinary Committee** as it relates to these **Rules** include the following:
  - i) The Disciplinary Committee may investigate and take disciplinary action at any time against a depository participant (which in this section for the purposes of disciplinary proceedings shall include a depository participant or a depository participant's directors, officers or employees) who contravene or fail to comply with these Rules and any directives hereto.
  - ii) The Disciplinary Committee may suspend or restrict the depository participant's activities as they relate to the services being provided through AfriDep on an interim basis when a matter is under investigation.
  - iii) The Disciplinary Committee has the power to receive, consider and deal with any referrals to it.
- c) Any disciplinary action brought against a **depository participant** by the **Disciplinary Committee** will be brought to the attention of the **Executive Committee** and **Securities Authority** and a report on the disciplinary proceedings shall be furnished to the **Securities Authority in writing** within 30 (thirty) days after the completion of the disciplinary proceedings.

#### 6.2 Co-operation of Depository participants

- a) **Depository participant's** must co-operate with the **Disciplinary Committee** in regard to any investigation pertaining to the contravention or non-compliance with these **Rules**.

- b) The **Disciplinary Committee** may require a **depository participant** to disclose information or produce documents and evidence relevant to the suspected breach of these **Rules**, whether in the **depository participant's** possession or in the custody of any other party.
- c) The **Disciplinary Committee** may prescribe the format required for the purpose of investigating compliance with these **Rules**.
- d) The level of co-operation afforded by the **depository participant** will be taken into account upon the sanctioning of the **depository participant**.

### 6.3 Investigation protocol

- a) The **Disciplinary Committee** may appoint an official, who may be an employee of **AfriDep**, to inspect the affairs of a **depository participant**, or any **director, officer** or employee of a **depository participant**, to ascertain whether the affairs of the **depository participant** comply with these **Rules**.
- b) **AfriDep** shall have the right to:
  - i) gain access to the premises of any Depository participant ;
  - ii) have access to any records, recordings, documents, or any information required to complete the investigation or to make copies of or take extracts of documents and information, including electronic documents and recordings;
  - iii) question any director, officer, or employee or agent of the depository participant; and
  - iv) request information from any third parties providing services to AfriDep or its depository participants.
- c) On completion of an inspection, a report shall be submitted by the **Disciplinary Committee** to the **Executive Committee**.

### 6.4 Burden of proof

The burden of proof rests solely with **AfriDep**, and **the Disciplinary Committee** shall not find an allegation proven unless it is satisfied on a balance of probabilities on consideration of the evidence that the **depository participant** has contravened or not complied with these **Rules**.

**6.5 Composition of the Disciplinary Committee**

- a) The **Disciplinary Committee** shall not comprise less than 3 (three) persons and shall be appointed by the **Executive Committee**.
- b) The **Disciplinary Committee** shall consist of:
  - i) the AfriDep Legal Officer or the AfriDep nominated counsel who shall act as the Chairperson;
  - ii) the Head of Compliance;
  - iii) a person or persons appointed by virtue of that person's knowledge or an expert or experts of the financial markets in the Seychelles;
  - iv) a secretary who shall perform all administrative duties and such other functions as entrusted to this person by the Chairperson; and
  - v) the Disciplinary Committee may co-opt any person it considers appropriate to assist with administrative duties and functions required by the Chairperson.
- c) **Disciplinary Committee** exclusions and exemptions include:
  - i) an employee of AfriDep who may not be appointed or co-opted unless required in terms of any statute and these Rules;
  - ii) members of the Disciplinary Committee shall not have any possible conflict of interest or potential conflict of interest with the depository participant charged; and
  - iii) Controlling Body members may not be entitled to serve on the Disciplinary Committee or be present at a hearing unless such member of the Controlling Body is party to the hearing.
- d) The **Executive Committee** may co-opt a person or appoint a person to replace a member because of illness, conflict of interest or otherwise.

**6.6 Disciplinary Committee protocol**

- a) The **Disciplinary Committee** may vary any of its procedures to adapt to the circumstance of any particular alleged contravention or non-compliance of these **Rules**.
  - b) The **Disciplinary Committee** shall:
-

- i) consider any contraventions by a **depository participant** in respect of a breach of **these Rules**;
  - ii) consider the contravention tabled in respect of the breach;
  - iii) consider the charge tabled against a **depository participant** in respect of the breach; and
  - iv) consider its responsibilities in respect of any allegation that the integrity and reputation of AfriDep has been or may be impaired as a result of the conduct of the depository participant involved.
- c) The **Disciplinary Committee** shall produce a disciplinary report including:
- i) the nature of the disciplinary proceeding;
  - ii) the facts referred to it;
  - iii) the investigations undertaken by it; and
  - iv) any other relevant facts that it has ascertained,

in contemplation of the hearing to be held in terms of 6.7 a) to j).

### **6.7 The hearing**

- a) The hearing of the **Disciplinary Committee** shall commence within 20 (twenty) **business days** after the completion of the initial disciplinary report.
- b) Parties involved in the disciplinary investigation will be given **notice** of the time and place of a hearing.
- c) A representative of the **depository participant** concerned must be present at the hearing.
- d) Disciplinary hearings will be conducted in private.
- e) The Defendant is entitled to legal representation at its own cost.
- f) Evidence admitted from the Defendant may be oral or written.
- g) The Defendant to a disciplinary hearing may submit evidence to the **Disciplinary Committee** at any time up until 10 (ten) days before the hearing.
- h) The **Disciplinary Committee** may in the interest of fairness and transparency require any **director, officer** or employee of the **Defendant** and/or other

parties involved in the investigation to appear before the **Disciplinary Committee**.

- i) The **Defendant** may appear in person or be legally represented at any pre-hearing review or hearing and shall be entitled to:
  - i) be heard in argument;
  - ii) give evidence in their own defence; and
  - iii) give evidence in mitigation.
- j) At a hearing, **AfriDep** may take into account information obtained by the **Securities Authority**.
- k) The **Disciplinary Committee** may grant consent order in respect of any **settlement** negotiated between **AfriDep** and the **Defendant** either prior to the start or before the conclusion of the hearing in relation to any disciplinary outcome on **AfriDep**.

### 6.8 Sanctions

- a) Where the Defendant has been found guilty of a contravention or non-compliance in terms of these **Rules** the **Disciplinary Committee** may:
  - i) issue a warning or reprimand notice in writing to a depository participant;
  - ii) in levy a fine not exceeding \$500,000 (five hundred thousand US Dollars);
  - iii) temporarily suspend the **depository participant** for a period not exceeding 6 (six) months;
  - iv) issue a cease and desist order;
  - v) terminate the registration of the **depository participant**;
  - vi) direct the **depository participant** to terminate the director and/or the employment of an officer or employee found to be party to the contravention or non-compliance;
  - vii) require a **depository participant** to cancel the registration of the employee found to be party to the contravention or non-compliance;
  - viii) issue an order directing restitution to any injured person;

- ix) require a **depository participant** that is the subject of an investigation or a hearing as a result of a contravention or failure to comply with **these Rules**, to pay the costs incurred of such investigation or hearing;
  - x) require the **depository participant** to take steps and give **in writing** an undertaking or any other remedy to prevent the recurrence of the contravention or non-compliance that has given rise to the disciplinary proceeding;
  - xi) in urgent cases, such as criminal activity, refer the matter immediately to the **Executive Committee** of **AfriDep**, who may suspend the depository participant for such period as the **Executive Committee** deems necessary; or
  - xii) at any stage refer the matter to the **Executive Committee** of **AfriDep**, which may in its sole discretion publish by way of a notice or announcement to other **depository participants** the outcome of any disciplinary hearing.
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- b) Where a **depository participant** is aggrieved with the outcome of the disciplinary hearing and/or the sanction imposed, the **depository participant** may appeal against the outcome and/or sanction imposed to the Disciplinary Appeal Committee within 14 (fourteen) **business days** by filing with the Chairperson of the **Disciplinary Committee** a notice of the intention to appeal, setting out the grounds upon which the appeal is founded.
  - c) The Disciplinary Appeal Committee shall convene the appeal hearing within 30 (thirty) **business days** of the notice of appeal being filed and notify the parties to the hearing of the date and time of the appeal hearing.
  - d) In the appeal hearing the appeal shall be limited to the evidence that was adduced in the disciplinary hearing and no new evidence shall be permitted.
  - e) The parties to the appeal hearing shall be entitled to be legally represented and may make submissions orally or **in writing**, which shall be limited to the evidence that was adduced in the disciplinary hearing.
  - f) The Disciplinary Appeal Committee shall be constituted by 3 (three) persons nominated by the Chairperson of the **Disciplinary Committee** who were not members of the **Disciplinary Committee** that is subject to the appeal.

- g) The decision made by the Disciplinary Appeal Committee is final and binding on all parties and may not form the subject matter of any appeal process or litigation process in **Seychelles** or any international jurisdiction.
- h) The level of co-operation afforded by the **depository participant** will be taken into account upon the sanctioning of the **depository participant**.
- i) **AfriDep** may, upon the imposition of any sanctions contemplated in this section, disclose these particulars in the Gazette, other national newspapers in the **Seychelles** or through **ARTECS**.



**SECTION 7**

**FEES AND LEVIES**

In terms of **these Rules**, **AfriDep** may charge **fees** and **levies**:

- a) for any agreed activity, which are to be paid by **DP's** and may be varied from time to time at the discretion of **AfriDep**;
- b) by way of announcement of **fees and levies** that shall be forwarded to the **DP** and **Securities Authority** by way of an announcement at least 20 (twenty) **business days** prior to implementation thereof;
- c) that shall be paid within 30 (thirty) days of notification thereof;
- d) that shall be notified in writing within 5 (five) **business days** of any such arrears and increases; and
- e) that outstanding monies shall include interest to be paid as determined by **AfriDep**.