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COMMODITIES ACT

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COMMODITIES ACT

PART 1

PRELIMINARY

1 Short title

This Act may be cited as the Commodities Act 2023.

2 Interpretation

In this Act —

“accredited” means accredited to deal with the commodity exchange market intermediary on the commodity exchange or with commodity exchange trading adviser in the capacity of principal as stated in this Act;

“clearing facility” means a facility for —

- (a) clearing or settlement of traded commodity contracts;
- (b) making adjustments to the contractual obligations arising out of those commodity contracts;

“clearing house” means a company that is licenced by the Commission under this Act;

“client assets” means money received, retained by, or any other property deposited with a commodity exchange market intermediary for which the intermediary is liable to account to the intermediary’s client and any money or other property accruing therefrom;

“commodities” means—

- (a) agricultural, livestock, fishery, forestry, mining or energy goods and any other products that are manufactured or processed from any such goods;
- (b) any other products as may be determined by the Commission, and published in the Official Gazette to be the subject of a commodity contract;

“commodity contract”—

- (a) spot commodity contract;
- (b) forward commodity contract;
- (c) commodity derivatives trading contract;
- (d) such other commodity contract or class of commodity contracts as may be prescribed by the Commission;

“commodity derivatives trading contract” —

- (a) a contract by which one contracting party agrees to deliver to the other party a commodity specified in the contract, or a specified quantity of that commodity, at a specified future time and at a specified price payable at that time, pursuant to the terms and conditions of the rules of the commodity exchanges specified in that contract;
- (b) a contract by which the parties must discharge their obligations under the contract by settling the difference between the value of a specified quantity of a specified commodity agreed at the time of the making of the rules and at a specified future time, such difference being determined in accordance with regulations governing the commodity exchange governed by that contract;

“commodity exchange trading” means trading in, or advising on trading in commodity contracts on a commodity exchange;

“commodity exchange market” means a market at which, or a facility, whether electronic or otherwise by means of which, offers or invitations to sell or purchase commodity contracts are regularly made, being offers or invitations that are expected to result, directly or indirectly, in the acceptance or intention to sell, purchase or come up with commodity contracts, whether through that market, facility or otherwise, but does not include —

- (a) the office or facilities of a commodity dealer;
- (b) the office or facilities of a clearing house;

“commodity contracts trading” means trading, whether as principal or agent, by —

- (a) making or offering to make with other person, or inducing that person to enter into any agreement for or with a view to the purchase or sale of a commodity contract;
- (b) soliciting or accepting trading in accordance with commodity contract;

“commodity exchange” means a company that is licenced by the Commission as a commodity exchange under this Act;

“commodity contracts dealer’s representative” means an individual who acts on behalf of the commodity and related contracts dealer under a contract between both parties;

“commodity exchange market intermediary” means —

- (a) commodity and related contracts dealer;
- (b) a commodity exchange trading adviser;
- (c) a representative of a commodity and related contract dealer or a commodity exchange trading adviser;
- (d) any other person who is commissioned by the Commission to be a commodity and related contracts market intermediary;

“commodity exchange trading adviser’s representative” means an individual who represents the commodity exchange trading adviser under a contract between both parties;

“commodity exchange dealer” means a person who, by way of business, whether as principal or agent —

- (a) makes or offers to make with, or entices any person to enter into any agreement for the purchase or sale of commodities and related contracts in accordance with applicable contracts;
- (b) solicits or accepts any order for any transaction in connection with a commodity contract;

“commodity exchange trading advice” means a person who, by way of business in respect of trading in commodity contracts —

- (a) gives advice on the time at which or the terms or conditions of which, commodity contracts are to be entered into;
- (b) issues explanations or reports, for the purposes of facilitating the recipients thereof to make decisions on the time at which, or the terms or conditions on which, commodity contracts are to be entered into;

“Commission” means the Financial Services Commission established under the Financial Services Act 2007;

“director” has the same meaning as in section 128(1) of the Companies Act 2001;

“Independent Review Panel” means the Independent Review Panel established under [];

“licenced person” means a person licenced under this Act;

“market rules” means rules, by-laws or such similar body of statements, by whatever name called, that govern the activities and conduct of —

- (a) the commodity exchange or clearing house and its members or clearing members, as the case may be;
- (b) other parties concerned, whether or not those rules, by-laws or a similar body of statements are made by the commodity exchange or clearing house or are contained in its articles of association;

“member” means a person who holds membership of any class or description of a commodity exchange, whether or not he holds any shares in the share capital of the commodity exchange;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“principal” means a person on whose behalf the representative directly engage in commodity and related contracts trading under the contract between both parties.

“Regulations” means regulations made under this Act;

“representative” means a commodity and related contracts dealer’s representative or a commodity exchange trading adviser’s representative;

“substantial shareholder” means —

- (a) in relation to a company, a person who has shares in the company, the nominal value of which is equal to or more than twenty-five percent of the issued share capital of the company or which entitles the person to exercise or control the exercise of more than twenty-five percent or more of the voting power at the company’s general meeting;

“unimplemented market contract” means —

- (a) a contract subject to the rules of a clearing house entered into by the clearing house with a clearing member under a novation which is both in accordance with those rules and for the purpose of the clearing and settlement of transactions using the clearing facility in line with the rules of a clearing house whether before or after default proceedings have commenced;
- (b) transaction which cleared or settled using the clearing facility and subject to the rules of a clearing house, whether or not a novation referred to in paragraph (a) is to take place;

“warehouse” means any building, structure or other protected enclosure licenced by the Minister, to be used for the storage or conditioning of commodities for the purposes of buying and selling commodities;

“warehouse operator” means a person duly licenced to operate a warehouse for receiving, storing, shipping or conditioning commodities under the rules of buying and selling;

“warehouse inspector” means a person empowered to inspect warehouses and commodities kept therein to ensure that the warehouse operator complies with the regulations and the conditions of the operator’s licence;

“warehouse receipt” means a receipt issued by a licenced warehouse operator in respect of the storage, handling or shipment of a commodity for the purposes of commodity exchange trading;

PART 2

LICENCE TO OPERATE AS A COMMODITY EXCHANGE AND REGULATION

3 Licence to operate as a commodity exchange

- (1) A person shall not operate as a commodity exchange unless that person holds a licence granted by the Commission
- (2) An application for a licence to operate as a commodity exchange shall be in the form approved by the Commission and shall be accompanied by payment of the fee prescribed by the Commission.
- (3) The Commission may require an applicant for a licence to operate as a commodity exchange to provide it with such further information as it considers necessary in relation to the application.
- (4) Subject to the provisions of this Act, a licence to operate as a commodity exchange is granted for a continuous period provided that the commodity exchange pays the prescribed annual licence fee not later than the anniversary of the date of the granting of its licence.

4 Responsibilities of the commodity exchange

The responsibilities of the commodity exchange are the following —

- (a) to make its rules of procedure, proceed to admission of its members, sanction its members under the provisions of this Act, its rules of procedure, and in the powers of the Commission;
- (b) to put in place an orderly, informed, fair and transparent market in commodity contracts trading market;
- (c) to wisely manage all the risks associated with its business and operations;
- (d) to run its business in accordance with both its own rules and those established by the Commission;
- (e) to inspect its operations, performance and conduct of its members, their employees and representatives in accordance with the rules, policies, procedures and practices of the commodity exchange;
- (f) to keep necessary records for the proper recording of each transaction on the commodity exchange;
- (g) to preserve confidentiality with regard to all information in its possession concerning its members and their customers, except that such information may be disclosed by the commodity exchange when required in writing to do so by the Commission or clearing house, or if it is ordered by the Court;
- (h) to publish its rules of procedure, fees due and charges receivable;
- (i) to identify and manage any conflict of interest;
- (j) to provide a channel for the resolution of disputes between members themselves and between members and their customers;
- (k) to ensure that only licenced warehouses and warehouse operators are used in connection with commodity and related contracts trading;
- (l) to provide access to a robust mechanism for clearing and settlement;
- (m) to notify the Commission if it becomes aware —

- (i) of any material change in the information provided to the Commission in an application for a licence under section 3, whether or not the change occurs before or after the licence is granted;
 - (ii) of a financial irregularity or other matter which in the opinion of the commodity exchange may indicate that the financial standing or integrity of a member is in question, or that a member may not be able to meet his or her legal obligations;
- (m) to avail and ensure proper management of adequate and properly equipped premises and competent personnel for the smooth conduct of its business.

5. Provisions of the rules of the commodity exchange

The rules of the commodity exchange must, to the satisfaction of the Commission, make provisions in relation to the following —

- (a) creation, powers and functions of the governing body of the commodity exchange;
- (b) appointment of directors and the proper representation of non-mems and investors on that governing body;
- (c) qualifications for membership;
- (d) exclusion from membership of persons who are not of good character and high business integrity;
- (e) expulsion, suspension or disciplining of members for conduct inconsistent with just and equitable principles in connection with commodity contracts trading, or for a contravention of the rules of the commodity exchange;
- (f) terms and conditions under which commodity contracts are made;
- (g) class or classes of commodity contracts that may be traded by members and the terms and conditions governing commodity contracts trading;
- (h) fair and properly supervised trading practices;
- (i) measures to prevent manipulation, market rigging, artificial markets and excessive speculation in its commodity exchange, for preventing the excessive use of credit by way of initial or maintenance of margin in respect of the purchase of commodity contracts;
- (j) prohibition of dealers, their employees and representatives from trading, either directly or indirectly, for their own account or account of associated persons, except in accordance with the rules of the commodity exchange;
- (k) recording and publishing of details of trading;
- (l) clearing and other arrangements made, and the financial condition of the commodity exchange, the clearing house of the commodity exchange and members of the commodity exchange, such as to provide reasonable assurance that all obligations arising out of the commodity contracts trading will be met;
- (m) measures for proper handling of complaints from investors and to ensure that any appropriate remedial action on those complaints is promptly taken;
- (n) warehouse receipts issued by licenced warehouse operators, and those receipts may constitute negotiable instruments in accordance with laws;
- (o) where a member who appears to be unable, or likely to become unable to meet his or her obligations in respect of one or more commodity contracts, provides binding conditions for him or her to close out his or her position in relation to all unsettled commodity contracts to which he is a party and settlement terms thereof;
- (p) general commodity and related contract trading operations to protect investors and their interests;
- (q) statement of any other provision that the Commission may consider necessary.

- (2) The rules of a commodity exchange must be applied to the representatives and other employees of commodity exchange dealers and each member is responsible for ensuring his or her compliance with such rules.

6. Making or amendment of the rules of a commodity exchange

- (1) The Commission may, by notice in writing served on a commodity exchange, require it —
 - (a) to make rules, not inconsistent with this Act, specified in the notice within the period specified in the notice;
 - (b) to amend rules referred to in the manner and within the period specified in the notice.
- (2) Where the Commission notices that a commodity exchange has not complied with such a requirement within the period specified in the notice, the Commission may make or amend the rules specified in the notice instead of the commodity exchange.

7. Approval of rules made or amended

- (1) The rules of a commodity exchange and every amendment thereto must be approved by the Commission and shall not have effect unless approved by the Commission.
- (2) A commodity exchange shall submit to the Commission for its approval the rules and every amendment thereto, together with an explanatory note of their purpose and likely effect, including their effect on the investing public, in sufficient detail to enable the Commission to decide whether to approve them or refuse to approve them.
- (3) The Commission shall approve, or refuse to give its approval of, the rules or amendment of the rules or any part thereof and shall give reasons for a refusal.

8. Members' duties to comply with the rules of the commodity exchange

Members of the commodity exchange are required to comply with the rules of that commodity exchange.

9. Facilitation of the Commission's access to information about the commodity exchange

A commodity exchange must provide assistance to the Commission as the Commission may require for the performance of its functions, including the furnishing of returns and relevant books and other information relating to the business of the commodity exchange or in respect of commodity contracts trading or any other specified information as the Commission may require for the proper enforcement of this Act.

10. Review of disciplinary actions taken by the commodity exchange

- (1) Where a commodity exchange imposes sanctions, fines, suspends any person or otherwise takes disciplinary action against one of its members in accordance with its rules, it immediately informs the Commission in writing of the name of the member, the reason for and nature of the action taken, the amount of any fine and the period of any suspension.
- (2) The Commission may, on its own motion or on application by a penalised person, review any disciplinary action taken by a commodity exchange and may affirm, modify or set aside the decision of the commodity exchange after giving the member and the commodity exchange an opportunity of being heard.
- (3) This section does not preclude the Commission, in any case where a commodity exchange fails to act against a member, from revoking or suspending the licence of, or otherwise

disciplining, a member of the commodity exchange, but before that decision, the Commission gives the member and the commodity exchange an opportunity to be heard.

- (4) Any action taken by a commodity exchange is without prejudice to the power of the Commission to take such further action as it sees fit regarding the member or his or her licence.

11. Provision of directions about commodity exchange trading

- (1) The Commission may, if it considers it necessary or expedient, issue directions to a commodity exchange by notice in writing either of a general or specific nature, to —
 - (a) ensure fair and orderly running of commodity exchange, or ensure fair, orderly and expeditious clearing and settlement of transactions on commodity exchange;
 - (b) ensure transparency and integrity in commodity exchange, proper management and prevention of systemic risks on commodity exchange.
- (2) The directions issued by the Commission may relate to —
 - (a) the clearing or settlement of commodity contracts and the making of adjustments of contractual obligations arising out of such commodity contracts;
 - (b) the trading or the termination of trading through the facilities of the commodity exchange;
 - (c) the manner in which the commodity exchange carries on its business, and the manner of reporting off-market trades by members;
 - (d) the removal of a person from office or employment in the commodity exchange;
 - (e) requiring the commodity exchange to deliver to it reports of transactions on the exchange in such form as may be notified;
 - (f) any other matter that the Commission considers necessary for the effective administration of this Act.

12. Emergency powers of the Commission

- (1) Where the Commission has reason to believe that an emergency exists, the Commission may, in the interests of the public, direct by notice in writing a commodity exchange to take such action as it considers necessary to —
 - (a) maintain or restore orderly trading in commodity contracts or any class of commodity contracts;
 - (b) liquidate any position in respect of any commodity contract or any class of commodity contracts including —
 - (i) terminating trading on a commodity exchange;
 - (ii) suspending trading on a commodity exchange;
 - (iii) confining trading to liquidation of all existing commodity contracts positions;
 - (iv) ordering the liquidation of all positions or part thereof or the reduction in such positions;
 - (v) limiting trading to a specific price range;
 - (vi) modifying trading days or hours;
 - (vii) altering conditions of delivery;
 - (viii) fixing the settlement price at which commodity contract positions are to be liquidated;

- (ix) requiring any person to act in a specified manner in relation to trading in commodity contracts or any class of commodity contracts;
 - (x) requiring margins or additional margins for any commodity contracts;
 - (xi) modifying or suspending any of the rules of a commodity exchange.
- (2) The commodity exchange is required to comply with that direction.
 - (3) Where the Commission suspends trading on a commodity exchange, the suspension is for a period not exceeding three (3) months; but the Commission may, if it considers it necessary, extend the suspension for one further period not exceeding three (3) months, at the expiry of which the Commission either notifies the commodity exchange in writing that the suspension has expired, or proceed to revoke the licence of the commodity exchange, as it considers appropriate.
 - (4) Where a commodity exchange fails to comply with a direction of the Commission within such time as specified by the Commission, the Commission may —
 - (a) set margin levels in trading in commodity contracts or class of commodity contracts;
 - (b) set limits that apply to any market positions acquired in good faith before the date of the Commission's direction;
 - (c) take other action as the Commission considers fit to maintain or restore orderly trading in any commodity contracts or class of commodity contracts, or liquidation of any position in respect of commodity contracts or class of commodity contracts.
 - (5) In this section, emergency is noticed where —
 - (a) an act of government affects a commodity;
 - (b) any other major market disturbance that may prevent the exchange from reflecting the forces of supply and demand for such commodity;
 - (c) the exchange is threatened or there are unfair speculations and cornering;
 - (d) any other situation or practice which in the opinion of the Commission, constitutes an emergency.

13. Fixing of position and trading limits in commodity contracts

- (1) For the purpose of diminishing, eliminating or preventing excessive speculation in any commodity on the commodity exchange, the Commission may, by notice in writing from time to time, fix such limits as it considers necessary on the amount of trading which may be done or positions which may be held by any person, generally or specifically, under a commodity contract traded on a commodity exchange.
- (2) To fix limits upon positions and trading apply to positions held by, and trading done, by one or two persons acting pursuant to an express or implied agreement or understanding, as if the positions were held by, or the trading done by, a single person.
- (3) A person shall not, directly or indirectly —
 - (a) buy, agree to buy or sell a commodity contract, or any number of such contracts, on a commodity exchange, in excess of the trading limits fixed for one business day, or any other stated period set by the Commission, or by a commodity exchange with the approval of the Commission;
 - (b) hold or control a net buy or sell position under a commodity contract traded on a commodity exchange in excess of any position limit fixed by the Commission, or by the commodity exchange with the approval of the Commission.
- (4) Subject to subsections (1), (2) and (3), the other provisions of this section, the Commission may fix different trading or position limits for different commodity contracts, different

delivery months, or for different days remaining until the last day of trading in a commodity contract.

14. Revocation of the licence of the commodity exchange

- (1) The Commission may, by notice in writing served on the commodity exchange, revoke the licence of the commodity exchange granted under this Act if it —
 - (a) ceases to operate as a commodity exchange contrary to the scope of the licence granted to it;
 - (b) does not have suitable clearing and settlement facilities for the clearing and settlement of commodity contracts traded on the commodity exchange;
 - (c) is being wound up;
 - (d) it has failed to comply with certain requirements of this Act, the Regulations and the Commission's rules;
 - (e) fails to provide the Commission with information as required, or provides false or misleading information;
 - (f) is operating in a manner detrimental to the public interest;
 - (g) requests the Commission to do so.
- (2) A commodity exchange is considered to have ceased to operate if —
 - (a) it has ceased to operate for more than thirty (30) days unless it has obtained the prior written approval of the Commission to do so;
 - (b) it has ceased to operate under a direction issued by the Commission under this Act.
 - (c) The Commission may, by the notice, permit the commodity exchange to continue, after the date on which the revocation is to take effect, to carry on such activities affected by the revocation as the Commission may specify in the notice for the purpose of —
 - (d) closing down the operations of the commodity exchange;
 - (e) protecting the public interest.
- (3) The Commission shall not revoke the licence of the commodity exchange without first giving the commodity exchange an opportunity to be heard, except where responding to a request for revocation.
- (4) Where the Commission revokes the licence of the commodity exchange under this section, it must publish that revocation.

15. Effects of revocation

A revocation of the licence of the commodity exchange under this Act shall not affect —

- (a) any agreement, transaction or arrangement entered into on the commodity exchange operated by the commodity exchange where the agreement, transaction or arrangement was entered into before the revocation of the licence of the commodity exchange;
- (b) any right, obligation or liability arising under such agreement, transaction or arrangement.

16 Accounts and audit

A commodity exchange must —

- (a) keep its books of accounts and records of its income and expenditure, assets and liabilities and all other transactions of the commodity exchange for a period of five (5) years after the transaction is made;

- (b) prepare, after the end of each financial year, the statement of accounts for the financial year of the commodity exchange, including an income and expenditure account and balance sheet;
- (c) submit the statement of accounts prepared for the financial year to its auditors for audit in a period not exceeding one (1) month after the end of each of its financial years.

17. Hiring external auditors

- (1) The commodity exchange must hire external auditors.
- (2) The external auditors must within three (3) months of the end of the financial year of the commodity exchange prepare a report on the accounts and send the report to the commodity exchange which forthwith after receipt thereof sends a copy of the report and a copy of the statement of accounts to the Commission.
- (3) The external auditors must include in their report —
 - (a) a statement whether, in their opinion, the income and expenditure account for the financial year to which the report relates gives a true and fair view of the surplus and deficit of the commodity exchange;
 - (b) a statement whether, in their opinion, the balance sheet for the financial year gives a true and fair view of the financial situation of the commodity exchange at the end of that financial year.
- (4) The external auditors have the right of access at all reasonable times to the books, accounts, vouchers and other records of the commodity exchange market and are entitled to require from officers of the commodity exchange such information and explanations as they consider necessary for the performance of their duties as external auditors.

18. Appointment of an auditor by the Commission

- (1) Where the Commission is satisfied that it is in the public interest to conduct an audit, it may appoint in writing an auditor, without prior consultation with the commodity exchange to examine and audit and reports, either generally or in relation to any matter in connection with the books, accounts and records of a commodity exchange.
- (2) Commodity exchange must cover charges pertaining to an audit under subsection (1).

19. Annual report

- (1) A commodity exchange must, in a period not exceeding six (6) months after the end of its financial year, give to the Commission an annual report that includes —
 - (a) the description of the activities undertaken by the commodity exchange in the financial year;
 - (b) movables and immovables and human resources that the commodity exchange had available, and used, to ensure compliance with its obligations and, in particular, its obligation to ensure that it operates in a fair, orderly and transparent manner;
 - (c) an analysis of the extent to which the commodity exchange considers that the activities undertaken, and resources used, have resulted in full compliance with all of its obligations under this Act, regulations and the rules of the commodity exchange.
- (2) A commodity exchange must ensure that the annual report is accompanied by such other information and statements as may be specified by the Commission.

- (3) An annual report must be accompanied by an audit report where required by the Commission.
- (4) The Commission may, by giving written notice to a commodity exchange, require the commodity exchange to obtain an audit report to be prepared by a person approved by the Commission, on the annual report and any information or statements accompanying it.

PART 3

CLEARING HOUSES

20. Licence to operate as a clearing house

- (1) A licence to operate as a clearing house is granted by the Commission under this Act.
- (2) A person shall not establish or operate a clearing facility for a commodity exchange unless he is granted a licence to operate as a clearing house.
- (3) A person who contravenes subsection (2) commits an offence and is liable to commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees together with imprisonment for a term not exceeding 8 years.

Granting of licence to operate as a clearing house

- (1) A company may apply to the Commission to be licenced as a clearing house in such form and manner as may be prescribed by this Act.
- (2) The application for a licence to operate as a clearing house is accompanied by proof of payment of the fee prescribed by the Commission.
- (3) The Commission may require an applicant for a licence to operate as a clearing house to provide the Commission with such further information as it considers necessary in relation to the application, in such form or verified in such manner as the Commission's rules may direct.
- (4) The Commission may, in writing, subject to such conditions as it may consider fit to impose, licence a company as a clearing house if the Commission is satisfied by both the application and the compliance with the Commission's rules by the company.
- (5) A clearing house shall not change its substantial shareholders, directors, chief executive or other key personnel, except with the prior written confirmation of the Commission that it has no objection to the proposed change and is subject to compliance with any condition that may be imposed by the Commission.
- (6) Where the Commission considers it necessary to impose a regulation, or object to a proposed change, the Commission gives reasons for its decision and gives the person concerned a right to be heard before a final decision is made.
- (7) A clearing house must be exclusively engaged in its clearing and settlement business under its licence.
- (8) A clearing house may only perform such other matters as are ancillary or incidental thereto as may be expressly permitted by the Commission.
- (9) Subject to the provisions of this Act, a clearing house licence is granted for a continuous period provided that the clearing house pays the prescribed annual fee on or before the anniversary of the date of the granting of its licence.

- (10) In this section “substantial shareholder” means a person holding more than twenty-five percent (25%) of the shares of a company.

22. Responsibilities of a clearing house

- (1) The responsibilities of a clearing house are the following —
- (a) to ensure self-regulation subject to the provisions of this Act, its rules and the overriding powers of the Commission;
 - (b) to prudently remedy all the risks associated with its business and operations;
 - (c) to operate in accordance with its rules;
 - (d) to formulate and implement appropriate procedures for ensuring that its clearing members comply with its rules;
 - (e) to regulate the operations, standards of practice and business conduct of its members, employees and representatives in accordance with the rules, policies, procedures and practices of the clearing house;
 - (f) to keep necessary records for the proper recording of the clearing house’s transactions;
 - (g) to publish its rules, fees and charges;
 - (h) to indicate in writing and resolve a conflict of interests;
 - (i) to establish a means for the resolution of disputes;
 - (j) to match and verify trades in a timely manner;
 - (k) to arrange for secure payment and final settlement;
 - (l) to put in place risk management arrangements to minimise the effect of any payment default;
 - (m) to provide monitoring facilities that can detect the build-up of positions that may threaten the system;
 - (n) to preserve confidentiality with regard to all information in its possession concerning its clearing members and their clients, except where such information is disclosed by the clearing house upon a written request by the Commission or the commodity exchange, or when a court orders to do so;
 - (o) to notify the Commission if it becomes aware —
 - (i) that a clearing member is unable to comply with any rule of the clearing house;
 - (ii) of a financial irregularity or other matter which in the opinion of the clearing house may indicate that the financial standing or integrity of a clearing member is in question, or that a clearing member may not be able to meet their obligations provided for by its rules.
- (2) A clearing house must at all times have adequate and properly equipped premises as well as competent personnel for the proper conduct of its business.

23. Major contents of the rules of a clearing house

- (1) The rules of a clearing house must make provisions for the following —
- (a) determination of the powers and functions of the governing body of the clearing house;
 - (b) appointment of directors;
 - (c) required qualifications for clearing membership;
 - (d) exclusion from membership for those members with improper practices;
 - (e) suspension or expulsion of members due to their failure to comply with the rules of the clearing house;

- (f) keeping of commodity contracts;
- (g) settlement of transactions involving commodity contracts;
- (h) guaranteeing to its members the performance of commodity contracts;
- (i) the novation of commodity participants;
- (j) provide for the novation of contracts to a clearing house;
- (k) require participants to abide by decisions of the clearing house to reduce business threats posed by particular exposures;
- (l) require all participants in the clearing house to adequately meet their obligations;
- (m) specify qualifications for applicants for membership and provisions for accepting applicants as trading participants;
- (n) establish the code of conduct and other requirements where necessary;
- (o) remove trading participants from the clearing house either temporarily or permanently, in a fair and equitable manner;
- (p) provide for the governance of the conduct of activity of participants, including their responsibility to act with integrity and in the interests of maintaining a proper market, paying such fees and charges as may be applicable and abiding by the regulations of the clearing house;
- (q) prohibit conduct that amounts to insider dealing, and other forms of abusive trading or the creation of a false market and other forms of market rules abuse;
- (r) provide mechanisms for effectively investigating breaches of and enforcing the rules;
- (s) provide for the procedure for bringing an action or imposing penalties against a member where the member has failed or appears to be unable, or likely to become unable, to meet, to the satisfaction of the clearing house, their obligations for the unsettled or open commodity market contracts to which the member is a party.

(2) The rules of a clearing house must apply to its clearing employees.

24. Request for making or amending rules for the clearing house

- (1) The Commission may, by notice in writing served on a clearing house require the latter —
 - (a) to make rules specified in the notice within the period specified in the notice;
 - (b) to amend rules referred to in the notice in the manner and within the period specified in the notice.
- (2) Where the clearing house has not complied with a requirement set out in the notice within the period specified, the Commission may make or amend the rules specified in the notice

25. Approval of rules that are made or amended

- (1) The rules of a clearing house and every amendment thereto must be approved by the Commission and shall not have effect unless approved by the Commission.
- (2) A clearing house must submit to the Commission for approval the rules or amendment thereto, together with explanations of their purpose and likely effect, including their effect on the investing public, in sufficient detail to enable the Commission to decide whether to approve them or refuse to approve them.
- (3) The Commission, by written notice served on the clearing house, gives its approval or refuse to give its approval to the rules or amendment of the regulations or any part thereof. For the refusal, the reasons thereof are provided in such a notice.

26. Obligation of clearing members to comply with regulations

Members of a clearing house must comply with the rules of that clearing house.

27. Assist the Commission to access information about a clearing house

A clearing house shall provide assistance to the Commission as the Commission may require for the performance of its functions, including the furnishing of such returns and the provision of books and other information relating to the business of the clearing house or in respect of any trading in commodity contracts, any clearing arrangements for commodity contracts or any other specified information as the Commission may require for the proper administration of this Act.

28. Review of disciplinary actions taken by a clearing house

- (1) Where a clearing house imposes sanctions, fines, suspends or otherwise takes disciplinary action against a clearing member in accordance with its rules, the clearing house immediately informs the Commission in writing of the name of the clearing member, the reason for the action taken, the amount of any fine and the period of any suspension.
- (2) The Commission may, on its own motion or upon request by the person subject to sanction, review any disciplinary action taken by a clearing house and may affirm, modify or set aside the decision of the clearing house after giving the clearing member and the clearing house an opportunity of being heard.
- (3) This section does not preclude the Commission, in any case a clearing house fails to act against a clearing member, from revoking or suspending the licence of, or otherwise disciplining, a clearing member, but before doing so the Commission gives the clearing member an opportunity to be heard.
- (4) Any action taken by a clearing house is taken without precluding the power of the Commission to take such further action as it sees fit with regard to the clearing member or their licence.

29. Possibility for the Commission to issue directions to a clearing house

- (1) Where the Commission considers it is appropriate to ensure the protection of investors or to carry out proper regulation of a clearing house, the Commission may issue directions by a written notice to the clearing house to —
 - (a) ensure a fair and orderly commodity exchange markets, and ensure fair, orderly and expeditious clearing and settlement of transactions in commodity contracts;
 - (b) ensure proper management of systemic risks in commodity exchange;
 - (c) require the removal of a person from office with, or employment in the clearing house;
 - (d) require the clearing house to deliver to it its reports of transactions in such form as it may specify;
 - (e) ensure the clearing house complies with this Act, the Regulations or any other provisions that the Commission considers necessary.

30. Emergency powers of the Commission in case of clearing operations

- (1) In emergency and where the Commission considers it necessary in the interests of the public, the Commission may direct by a written notice a clearing house to take such action as it considers necessary including the following —
 - (a) altering conditions of delivery;
 - (b) fixing the settlement price at which commodity markets and related contracts are to be liquidated;
 - (c) requiring margins or additional margins for any commodity contracts;

- (d) modifying or suspending any of the rules of the clearing house.
- (2) Where a clearing house fails to comply with a direction of the Commission, within such time as it is specified by the Commission, the Commission may —
 - (a) set emergency margin levels in any commodity contracts or class of commodity contracts;
 - (b) take other action, including those actions specified above, as the Commission considers fit to maintain or restore orderly clearing and settlement of transactions in commodity contracts or any class of commodity contracts.
- (3) Under this section , emergency occurs where —
 - (a) any act of government affecting a commodity;
 - (b) any other major market disturbances which prevent the market from accurately reflecting the forces of supply and demand for such commodity;
 - (c) a threatened or actual market manipulation or corner;
 - (d) any other situations or practices which in the opinion of the Commission constitute an emergency.

31. Revocation of the licence of a clearing house

- (1) The Commission may, by a written notice served on the clearing house, revoke a clearing house licence granted under this Act if the clearing house —
 - (a) ceases to operate its clearing facility;
 - (b) is being wound up;
 - (c) fails to comply with the requirements of this Act;
 - (d) fails to comply with a direction of the Commission;
 - (e) fails to provide information required by the Commission, or provides false or misleading information;
 - (f) is operating in a manner detrimental to the public interest;
 - (e) requests the Commission to do so.
- (2) Where the Commission revokes the licence of a clearing house under this section, it provides the reasons for such revocation in writing.
- (3) A clearing house is considered to have ceased to operate as a clearing house if —
 - (a) it has ceased to operate its clearing house facility for more than thirty (30) days unless it has obtained the Commission’s written prior approval to do so;
 - (b) it has ceased to operate its clearing facility under a direction issued by the Commission under this Act.
- (4) Except where responding to a request for revocation, the Commission shall not revoke a clearing house licence without first giving the clearing house an opportunity of being heard.
- (5) The Commission may, by a written notice permit the clearing house to continue or after the date on which the revocation is to take effect, to carry on such activities as the Commission may specify in the written notice for the purpose of —
 - (a) closing down the operations of the clearing house;
 - (b) protecting the public interest.

32. Effect of revocation

A revocation of licence of the clearing house under the provisions of this Act shall not —

- (a) affect any agreement, transaction or any arrangement entered into on the commodity and related contracts exchange where such agreement, transaction or arrangement was entered into before the revocation of the licence of a clearing house;
- (b) affect any rights, obligations or liability arising under such agreement, transaction or arrangement.

33. Accounts and audit

- (1) A clearing house must keep proper books of accounts and records of its income and expenditure, assets and liabilities and all other transactions of the clearing house.
- (2) The clearing house must keep accounts and prepare its statements of accounts for such a financial year after the end of each financial year, including an income and expenditure account and balance sheet.
- (3) A clearing house must, within one (1) month after the end of each financial year, submit the statement of accounts prepared for the financial year to external auditors for audit.

34. Hiring of external auditors

- (1) A clearing house must hire external auditors.
- (2) External auditors must prepare an audit report and submit it to the clearing house which, in turn, and without delay, submit to the Commission a copy of such a report and that of the statement of accounts in accordance with the Commission's rules.
- (3) The external auditors include in their report —
 - (a) a statement whether, in their opinion, the income and expenditure account for the financial year to which the report relates gives a true and fair view of the clearing house's surplus or deficit;
 - (b) a statement whether, in their opinion, the financial statements for the financial year gives a true and fair view of the clearing house's financial affairs.
- (4) External auditors must have the right of access at all reasonable times to the books, statement of accounts, vouchers and other records of the clearing house and are entitled to require from officers of the clearing house such information and explanations as they consider necessary for the performance of their duties as auditors.

35. Appointment of an auditor by the Commission

- (1) Where it is necessary in the public interest, the Commission may, by notice provided in writing to the clearing house, appoint an auditor to examine and audit, either generally or in relation to any matter, the books of accounts, accounts and other records of a clearing house.
- (2) The clearing house must bear expenses at a reasonable rate related to such an audit.

36. Annual report

- (1) A clearing house must, in period not exceeding three (3) months after the end of its financial year, submit to the Commission an annual report that includes —
 - (a) a description of the activities undertaken by the clearing house in the financial year;
 - (b) movable and immovable assets that the clearing house had available, and used, in order to ensure compliance with its obligations;
 - (c) an analysis of the extent to which the clearing house considers that the activities undertaken, and resources used, have resulted in full compliance with all of its obligations under this Act and the rules of the clearing house.

- (2) A clearing house must ensure that the annual report is accompanied by such other information and statements as may be specified by the Commission.
- (3) An annual report must be accompanied by an audit report where required by the Commission.
- (4) The Commission may, by giving written notice to the clearing house, require the clearing house to obtain an audit report by a person to be approved by the Commission either on the annual report or any information or statements accompanying it.

37. Validity of the proceedings of clearing used by a clearing house by using the assets of a person having become insolvent due to any reason

- (1) While conducting the proceedings of clearing and in case there are assets of a person who became insolvent due to any reason, the following elements are taken into account —
 - (a) commodity contract;
 - (b) the rules of a clearing house relating to the settlement of a commodity contract;
 - (c) any proceedings or transaction carried out under the rules of a clearing house relating to the settlement of commodity contracts;
 - (d) a market charge;
 - (e) the default rules of a clearing house;
- (2) No person may exercise any power to prevent or interfere with the settlement of a commodity contract in accordance with the rules of a clearing house.

38. Conducting certain transactions as principal

- (1) Where a clearing member enters into any transaction including commodity contracts with a clearing house, the clearing member shall not be considered, whether in terms of civil or criminal actions, as an agent in that transaction but rather as principal.
- (2) Where two or more clearing members enter into any transaction including a commodity contract with a clearing house, they shall not be considered, whether in terms of civil or criminal actions, as agents in that transaction but rather as principals.

PART 4

COMMODITY EXCHANGE DEALERS, COMMODITY EXCHANGE TRADING ADVISERS AND REPRESENTATIVES

39. Requirements for conducting commodity exchange trading and related contracts

- (1) A person, whether as principal or agent, shall not carry on commodity exchange trading and related contracts as a commodity exchange dealer or hold himself or herself out as carrying on such a trading, unless they hold a commodity exchange trading and related contracts licence granted by the Commission in accordance with the provisions of this Act.
- (2) A person shall not carry on commodity exchange trading and related contracts as a commodity trading adviser or hold himself or herself out as carrying on such a trading, unless they hold a commodity exchange dealer's licence granted by the Commission in accordance with the provisions of this Act.

- (3) A person shall not act as, or hold himself or herself out as, a representative of a commodity exchange dealer unless they hold a commodity exchange dealer's licence granted by the Commission in accordance with the provisions of this Act.
- (4) A person shall not act as, or hold himself or herself out as, a commodity exchange trading adviser's representative unless they hold a commodity exchange dealer's licence granted by the Commission in accordance with the provisions of this Act.
- (5) A commodity exchange dealer's licence shall only be granted to a company incorporated under the Companies Act 2001.
- (6) A commodity exchange trading adviser's licence is granted to an individual or to a company.
- (7) A licence to act as a commodity exchange dealer's representative is only granted to an individual.
- (8) A representative shall not be licenced as a commodity exchange dealer unless he is accredited to a principal.
- (9) A company which is licenced as a commodity exchange dealer or commodity exchange trading adviser must at all times employ at least one individual who is licenced as a commodity exchange dealer's representative in accordance with the provisions of this Act.
- (10) A company which is licenced as a commodity exchange dealer or commodity exchange trading adviser is exclusively engaged in that commodity exchange trading and related contracts except only in respect of such other matters as are ancillary or incidental to its commodity exchange trading and related contracts or otherwise as may be expressly permitted by the Commission.
- (11) If the applicant is a bank or a microfinance institution, a commodity exchange dealer's licence is granted to a subsidiary of the bank or the microfinance institution incorporated for that purpose.

40. Accreditation of a representative

- (1) A representative is accredited to a principal for purposes of this Act only if the licence to act as a commodity exchange dealer's representative states that he is accredited to the principal.
- (2) The Commission shall not issue a licence to act as a commodity exchange dealer's representative unless both the representative and the principal have notified the Commission in writing that he is, or is to be, accredited.
- (3) Where the accreditation of the representative is terminated whether by the principal or by the representative —
 - (a) the principal must immediately notify the Commission in writing of such termination;
 - (b) the principal must publish in the Gazette and two (2) daily newspapers in wide circulation in Mauritius a notice explaining matters related to such termination.
- (4) The Commission must remove the representative from the register of commodity exchange dealers.

41. Application for a commodity exchange dealer's licence

- (1) An application for a commodity exchange dealer's licence must be made to the Commission.
- (2) The applicant for a commodity exchange dealer's licence shall —
 - (a) give the Commission information it requires about —
 - (i) the services which the applicant provides or is able to provide if the application is allowed;
 - (ii) the business that the applicant proposes to carry on or carries on, and information about any person whom the applicant proposes to employ or with

- whom the applicant intends to be associated in the course of carrying on the business;
- (b) specify the location of all premises at which the records or other documents of the commodity exchange trading and related contracts in respect of which the application is made are to be kept, except for an application for a licence to act as a commodity exchange dealer's representative;
 - (c) provide receipt of payment of application fee determined by the Commission.
- (3) The Commission may require an applicant of a commodity exchange dealer's licence and any other person associated with the application, to provide such further information as the Commission considers necessary.
- (4) An application for the grant of a licence to act as a commodity exchange dealer's representative must be supported in the prescribed manner by a principal who is the holder of, or who has applied for, a commodity exchange dealer's licence.

42. Grant of a commodity exchange dealer's licence

- (1) The Commission may grant or refuse to grant a commodity exchange dealer's licence.
- (2) The Commission may, by a written notice, grant a commodity exchange dealer's licence where the applicant fulfils the following requirements —
 - (a) in the case of an application for a commodity exchange dealer's licence, the applicant shall be registered in the trade register pursuant to relevant laws;
 - (b) in the case of an application by a company for a commodity exchange dealer's licence, the applicant must be registered in the trade register pursuant to relevant laws;
 - (c) the directors of the applicant are fit and proper persons to be granted commodity exchange dealer's licence;
 - (d) the applicant has, and shall maintain at all times, such capital as may be specified by the Commission's rules;
 - (e) the applicant shall establish adequate strategies and procedures that are sufficient to ensure compliance by the commodity exchange market intermediary, including its managers and employees;
 - (f) the applicant shall maintain and operate effective organisational and administrative requirements with a view to taking all reasonable steps to prevent conflicts of interest from adversely affecting the interests of its clients;
 - (g) the applicant shall take all reasonable strategies to ensure continuity and regularity in the performance of his or her commodity exchange trading and in particular will employ modern systems, resources and effective procedures;
 - (h) the applicant has sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information technology systems;
 - (i) the applicant has arrangements for records to be kept of all documents and transactions undertaken in an appropriate way to enable the Commission to monitor compliance with the requirements of this Act, and in particular to ascertain that the commodity exchange market intermediary has complied with all obligations with respect to clients and potential clients;
 - (j) when holding clients' property, the applicant must make adequate arrangements to safeguard clients' ownership rights, especially in the event of its insolvency, and to prevent the use of a clients' property on own account except with the client's express consent;

- (k) when holding clients' funds, the applicant must make adequate arrangements to safeguard the client's rights and to prevent the use of clients' funds for its own account;
 - (l) where it is a company employing at least one individual who is licenced to operate as a representative in accordance with the provisions of this Part 4;
 - (m) the applicant specifies the location of premises that are suitable for keeping records or other documents if the application is not for representative licence;
 - (n) the applicant has passed such examination and undertaken such training in accordance the regulations of the Commission, in the case of an application for carrying out commodity exchange as representative;
 - (o) the applicant satisfies any other condition which may be considered necessary or required by the Commission.
- (3) Subject to provisions of this section and section 41, the Commission may grant a licence for dealing in commodity exchange as a commodity exchange market intermediary in accordance with this Act to a person duly licenced as a commodity exchange market intermediary in another jurisdiction in such manner, and subject to conditions as may be prescribed.

43. Commodity exchange dealer's licence validity period

Subject to the payment of the prescribed fees, the Commission may grant or renew commodity exchange dealer licence subject to such conditions or restrictions as it thinks fit and for such period as the Commission may determine.

44. Establishing conditions and restrictions on granting a commodity exchange dealer's licence

- (1) The Commission may establish the necessary conditions and restrictions subject to which a commodity exchange dealer's licence is granted.
- (2) The Commission may, by written notice transmitted to a holder of a commodity exchange dealer's licence, amend, remove or revoke any requirements or attach new conditions.
- (3) The holder of a commodity exchange dealer's licence as a representative shall not be allowed to trade in commodity contracts for his or her own account.

45. Issuance of directives to a commodity exchange market intermediary

- (1) The Commission may by a written notice give a commodity exchange market intermediary a direction where it appears to the Commission that —
 - (a) the protection of investors is needed;
 - (b) the commodity exchange market intermediary is contravening, has contravened or is about to contravene, or has failed to comply with any provision or requirement under this Act or regulations or, in purported compliance with any such provision or requirement has provided the Commission with information that is false or misleading.
- (2) Directions under subsection (1) may contain the following requirements or prohibitions —
 - (a) to require a commodity exchange market intermediary to desist from the contravention;
 - (b) to prohibit a commodity exchange market intermediary from entering into transactions of a class or description specified in a written notice;

- (c) to prohibit a commodity exchange market intermediary from soliciting trading from a person of a class of business or people in another category;
 - (d) to prohibit a commodity exchange market intermediary from carrying on a specified business or in a specified manner.
- (3) In respect of any assets whether in Mauritius or elsewhere and whether they are the assets of the commodity exchange market intermediary or not, directives may also indicate the following —
- (a) to prohibit the commodity exchange market intermediary from transferring, alienating or otherwise disposing of such assets or from dealing with them in a manner which is not specified;
 - (b) to require the commodity exchange market intermediary to deal with such assets only in a manner specified in a written notice;
 - (c) to require a commodity exchange market intermediary to maintain in Mauritius assets of such value as appears to the Commission to be desirable with a view to ensuring that he will be able to meet their liabilities in respect of their business;
 - (d) require a commodity exchange market intermediary to transfer control of assets of a specified class or description to a trustee approved by the Commission;
 - (e) to require a commodity exchange market intermediary to comply with other instructions as the Commission considers necessary for the protection of investors.
- (4) A commodity exchange market intermediary must comply with directives provided for in this section
- (5) Directives must be for such specified period as the Commission considers necessary and this period may be extended where necessary.
- (6) The Commission may, by written notice either of its own motion or on the application of a commodity exchange market intermediary on whom a prohibition or requirement has been imposed under this Article, revoke or remove the prohibition or requirement if it appears to the Commission that it is no longer necessary for the prohibition or requirement to take effect or continue in force or that it should take effect or continue in force in a different form.

46. Register of licenced persons

- (1) The Commission must maintain a register of commodity exchange market intermediaries in electronic form and in any other form it considers appropriate.
- (2) For each commodity exchange market intermediary other than a licenced representative, the register must record —
 - (a) the name and address of the commodity exchange market intermediary;
 - (b) the date on which the licence was granted to him or her;
 - (c) the type of business for which the licence was granted;
 - (d) the conditions attached to the licence;
 - (e) the name and address of an accredited representative, manager and agent;
 - (f) the location of the premises at which the records or other documents of the commodity exchange market intermediary shall be kept;
 - (g) if the commodity exchange market intermediary is a company, the name of each director, the secretary of the company and the names and respective shareholdings of each shareholder;
 - (h) any order of revocation or suspension for a short period;
 - (i) other particulars as the Commission considers necessary in the public interest.
- (3) For each licenced representative, the register must record —

- (a) his or her name and address;
 - (b) the date on which the licence was granted to him or her;
 - (c) the name and address of the principal to whom he is accredited;
 - (d) other particulars as the Commission considers necessary in the public interest.
- (4) The register of licenced persons must be published or electronically accessible to the public so that any interested person accesses the information and where necessary an inspection takes place.

47. Notification of change in particulars contained in a register

- (1) If a commodity exchange market intermediary ceases to carry on the business to which the licence relates or a change occurs in any particulars of which are required to be entered in the register, a commodity exchange market intermediary must, within a period not exceeding seven (7) days, provide the Commission with a written notice thereof.

48. Revocation of the licence of a commodity exchange market intermediary

- (1) The Commission may revoke the licence of a commodity exchange market intermediary if —
- (a) a commodity exchange market intermediary is an individual who —
 - (i) holds a medical certificate ascertaining that he is suffering from a mental or physical illness which prevents him or her from performing activities for which the licence was granted;
 - (ii) has gone bankrupt in Mauritius or elsewhere;
 - (iii) is convicted, whether in Mauritius or elsewhere, of fraud or other offences involving a breach of trust;
 - (iv) is in breach of this Act, the Regulations or any rule made by the Commission under this Act;
 - (v) contravenes, or fails to comply with, any condition of the Commission applicable in respect of his licence;
 - (vi) is no longer able to comply with directives of the Commission;
 - (vii) is no longer able to provide the Commission with information required, or provides false or misleading information;
 - (viii) has ceased to carry on his or her business for which he is licenced;
 - (ix) is the holder of a representative's licence and the licence of the principal to whom he is accredited was revoked or suspended;
 - (x) is no longer a fit and proper person to hold a licence;
 - (b) the commodity exchange market intermediary is a company which —
 - (i) goes into liquidation or is ordered to be wound up;
 - (ii) has a receiver appointed to manage all or part of the property of the company;
 - (iii) ceases to carry on the business for which the licence was granted;
 - (iv) has directors or any employees who have not performed their duties fairly;
 - (v) contravenes, or fails to comply with, any condition applicable in respect of the licence;
 - (vi) does not continue to employ at least one person who holds a representatives licence granted in accordance with this Act;

- (vii) is in breach of this Act, the Regulations or any rule by the Commission under this Act;
 - (viii) fails to comply with directives of the Commission;
 - (ix) fails to provide the Commission with information required, or provides false or misleading information;
 - (x) is no longer a fit and proper person to hold a licence.
- (2) The Commission may revoke a licence upon a request by a commodity exchange market intermediary.
 - (3) If the Commission revokes the licence of a commodity exchange market intermediary in accordance with this section, the Commission must provide the reasons thereof in writing.

49. Suspension of the licence of a commodity exchange market intermediary

- (1) If the Commission suspends the licence of a commodity exchange market intermediary in accordance with this Law, the suspension must be for a period not exceeding three (3) months.
- (2) Where the Commission finds it necessary, it may extend such a period but such a period may not exceed another three (3) months period.
- (3) After six (6) months, the Commission may either lift the suspension of the licence or proceed to revoke the licence under section 48
- (4) The Commission may suspend the licence of a commodity exchange market intermediary if he fails to pay the prescribed fee and the suspension remains in force until such time as the Commission considers it appropriate that his or her licence should no longer be suspended and informs the commodity exchange market intermediary to that effect by notice in writing.
- (5) If a licence is suspended and the prescribed fee has not been paid within thirty (30) days after the day on which the suspension becomes effective or such further period as the Commission may specify by notice in writing to the commodity exchange market intermediary, the licence shall be revoked.
- (6) The Commission may suspend a licence upon request of the commodity exchange market intermediary.
- (7) If the Commission suspends a licence of a commodity exchange market intermediary in accordance with this Act, such a temporary suspension shall not exceed a period of three (3) months.
- (8) Where the Commission finds it necessary, it may extend the period in subsection (7) but such a period may not exceed another three (3) months period.

50. Cases where a commodity exchange market intermediary is considered to have ceased business

A commodity exchange market intermediary is considered to have ceased to carry on the business for which the licence was granted to the commodity exchange market intermediary if —

- (a) the commodity exchange market intermediary has ceased to carry on that business for more than thirty (30) days unless commodity exchange market intermediary has obtained the prior approval of the Commission to do so;
- (b) the commodity exchange market intermediary has ceased to carry on that business in accordance with a directive issued by the Commission.

51. Effect of revocation or suspension of the licence of a commodity exchange market intermediary

- (1) The revocation or suspension of a licence in accordance with this Act shall not have the effect of —
 - (a) affecting an agreement, transaction or arrangement entered into on a commodity exchange where the agreement, transaction or arrangement was entered into before the revocation or suspension;
 - (b) affecting a right, obligation or liability arising under the agreement, transaction or arrangement entered into.
- (2) If a licence is revoked or suspended in accordance with this Act, the Commission shall inform the commodity exchange market intermediary through a written notice and the general public through publication in the Gazette, two daily newspapers in wide circulation in Mauritius and any other media and electronic channels.
- (3) The Commission —
 - (a) requires the commodity exchange market intermediary to transfer to his or her client such records relating to client property or affairs held at any time for the client, in such manner as the Commission may specify in the written notice;
 - (b) permits the commodity exchange market intermediary to —
 - (i) in the case of a revocation, carry on business operations for the purpose of closing down the business connected with the revocation;
 - (ii) carry on essential business operations for the purpose of protecting interests of clients during the period of suspension, in accordance with such conditions as the Commission may specify in the written notice.

52. Standards of conduct of trading on commodity exchange

- (1) In the conduct of trading on commodity exchange, a commodity exchange intermediary shall at all times act in accordance with the principles of best practice.
- (2) Without prejudice to the generality of subsection (1), a commodity exchange intermediary shall —
 - (a) observe a high standard of integrity and fair trading;
 - (b) act with due skill, diligence and quick service;
 - (c) observe standards of market conduct;
 - (d) seek information about clients, their working methods and their investment objectives which might reasonably be expected to be relevant in enabling him or her to fulfil his or her duties to the client;
 - (e) take reasonable steps to give every client the advice relating to the commodity exchange market intermediary, in a comprehensible way, and any information needed to enable the client to make a balanced and informed investment decision;
 - (f) avoid any conflict of interest with clients and, where such a conflict unavoidably arises, inform fairly the client or refrain from acting immediately;
 - (g) furthermore, the interests of the commodity exchange market intermediary should never be unfairly placed above those of the client;
 - (h) protect properly, by way of segregation and identification of those client assets that he is responsible to manage properly;

- (i) maintain adequate financial resources to meet his or her business commitments and withstand the risks to which the business is subject;
- (j) organise and control his or her affairs in an adequate and clear manner;
- (k) keep proper records;
- (l) ensure that its staff meet the appropriate standards with respect to the qualifications, experience and training for their position, and are properly supervised, and remain in compliant with the rules made under section 83;
- (m) cooperate with the Commission in an open manner;

53. Risk disclosure statement of problems related to trading on commodity exchange

No commodity exchange dealer shall open a commodity exchange trading account for a client unless he—

- (a) furnishes to the client a separate risk disclosure statement which shall contain such information as may be prescribed;
- (b) directly receives the risk disclosure statement from the client along with an acknowledgement signed and dated by the client, confirming that the client has received and understood the nature and contents of the risk disclosure statement.

54. Client agreement

No commodity exchange market intermediary shall act for any client other than the one who abides by the terms of a written client agreement which contains such matters as may be prescribed.

55 Issue of trade contract confirmation note

- (1) A dealer must, not later than two (2) working days after any commodity transaction, furnish to his or her client a written confirmation note that commodity contract was executed by the commodity exchange market intermediary on behalf of that client.
- (2) A contract confirmation note must include such information as may be prescribed.

56 Client assets

- (1) A commodity exchange market intermediary must —
 - (a) manage and deal with all client assets including capital, guarantee or guaranteed business, that he has or received from a client for carrying out his or her business, and the profit from that business as the assets belong to the client;
 - (b) open a separate trust account, designated or evidenced as such, for all the client assets received from the client or that he has pursuant to paragraph (a), and shall not commingle those client assets with his or her funds.
- (2) The Commission may make rules with respect to the segregation and safekeeping of client assets managed by a commodity exchange market intermediary.
- (3) Rules made under this section may —
 - (a) require client money to be paid forthwith into segregated bank accounts opened for client money and designated as trust accounts;

- (b) make arrangements with respect to the opening and keeping of bank accounts and specify when and how client money is to be paid into such accounts, and how the client required the money to be used and accounted for, in the manner specified in the rules ;
 - (c) require the maintenance of records in relation to such accounts in the manner specified in the rules;
 - (d) require the submission to the Commission, upon request or at specified intervals, of specified information, records and documents for the purpose of enabling the Commission to ascertain readily whether the rules are complied with;
 - (e) address any other issue relating to client assets.
- (4) Client assets held by a commodity exchange market intermediary on account of a client shall not be available for payment of the debts of the commodity exchange market intermediary or liable to be paid in execution of court judgements against the commodity exchange market intermediary.
- (5) A payment made in contravention of this section is void, unless otherwise provided for in the rules made by the Commission under this section.

PART 5

RIGHTS AND LIABILITIES OF LICENCE HOLDERS

57. Rights of applicants and holders of licence

- (1) Without first giving the applicant or licensee an opportunity to be heard the Commission shall not —
- (a) refuse to grant the applicant a licence referred to under this Act;
 - (b) revoke or suspend a licence granted under this Act;
 - (c) impose any directives or requirements relating to such a licence.
- (2) The Commission must, if it refuses an application, notify the applicant in writing of the refusal and the reasons for it.
- (3) The Commission must, if it revokes or suspends a licence, notify the licensee in writing of the revocation or suspension and indicate —
- (a) the reasons for doing so;
 - (b) the date on which the revocation or suspension takes effect;
 - (c) the duration of a suspension, or the requirement for its reuse.
- (4) The Commission shall make providing the procedures for a person to be given an opportunity to be heard.

58. Appeal against the decision of the Commission

- (1) A person aggrieved by the final decision of the Commission may appeal against the decision to the Independent Review Panel.

- (2) The Independent Review Panel may, on an appeal made to it, reverse or vary the decision of the Commission or provide fair guidelines.
- (3) A person aggrieved by the decision of the Independent Review Panel may appeal to the Supreme Court for a judicial review of the decision.
- (4) The decision of the Commission is not stayed before the decision on any appeal under subsection (1).

59. Liability of licenced person for acts of his or her representative

Poor performance or omission of a representative, agent or other person acting on behalf of a licenced person within the scope of his or her office or employment is attributable to the licenced person, his or her representative, the agent or other person.

PART 6

**ACCOUNTS AND AUDIT CARRIED OUT BY A COMMODITY EXCHANGE
MARKET INTERMEDIARY**

60. Accounts and records to be kept

- (1) A commodity exchange market intermediary other than a representative must keep accounting records and other documents as indicated and explain clearly the transactions whether effected on his or her own behalf or on behalf of others, and financial position of his or her commodity exchange trading so as to —
 - (a) disclose with accuracy, at any time, his or her financial position;
 - (b) enable him or her to prepare a true and fair balance sheet and profit and loss account at any time;
 - (c) demonstrate whether he has adequate financial resources to meet his or her commodity exchange trading requirements and withstand the risks to which his or her business is subject.
- (2) The balance sheet, the profit and loss account and other records must be maintained as may be prescribed.
- (3) The obligations referred to under this Act are continuing obligations and continuous fulfilment of them is required so as to ensure that records are updated daily.
- (4) Information required to be recorded in accounting records in accordance with this Act must —
 - (a) be recorded in such a way as to enable a particular trading to be identified at any time and traced through from initiation of the order to final payment;
 - (b) be arranged, filed, indexed and cross- referenced to permit easy access to the information.
- (5) The accounting records and other documents required to be maintained in accordance with this section must be preserved by the commodity exchange market intermediary for a period of not less than ten (10) years from the date on which they are carried out and are at all reasonable times open to inspection by the Commission or by an auditor appointed by the Commission.

61. Appointment of an auditor by a commodity exchange market intermediary

- (1) Within one (1) month after becoming licenced, a commodity exchange market intermediary other than a representative must appoint an auditor to perform the functions required of an auditor of a commodity exchange market intermediary.
- (2) A person to be qualified for appointment as the auditor of a commodity exchange market intermediary must be an experienced and practising chartered accountant.
- (3) An auditor of a commodity exchange market intermediary shall be eligible for appointment if he is not —
 - (a) a director general, a director, an agent, a shareholder or a partner of the commodity exchange market intermediary;
 - (b) a partner or agent of one of such persons.
- (4) A commodity exchange market intermediary must —
 - (a) notify the Commission in writing of the name and address of the auditor, within a period not exceeding seven (7) days of the appointment of an auditor;
 - (b) notify the Commission in writing of the removal or resignation of an auditor within a period not exceeding seven (7) days of removal or resignation.

62. Audited accounts report to be lodged with the Commission

- (1) A commodity exchange market intermediary must, for the financial year beginning on the day on which he commences to carry on commodity exchange trading and for subsequent years, prepare a profit and loss account, a balance sheet and a cash flow statement made up to the last day of the financial year which are clear and true, and contain required information.
- (2) Those documents are lodged with the Commission not later than six (6) months after the end of the financial year, together with an auditor's report which expresses his or her opinion on those balance sheets and accounting records as may be prescribed.

63. Communication from the auditor to the Commission of information which he noted at the audit

If, during the performance of his or her duties, an auditor becomes aware of any matter which in his or her opinion adversely affects the financial position of the commodity exchange market intermediary to a material extent or discovers evidence of a contravention of the provisions of this Act relating to the management of client assets, or to the balance sheet, profit and loss account and accounting records to be kept, he must, within a period not exceeding seven (7) days as of the date on which he was aware of the matter, report it in writing to the Commission, with a copy to the commodity exchange market intermediary.

64. Appointment of an auditor by the Commission

- (1) Where the Commission is satisfied that it is in the public interest to do so, it may appoint in writing an auditor without consulting the commodity exchange market intermediary to examine, audit, and report, either generally or in relation to any matter relating to records, balance sheet and other documents of the commodity exchange market intermediary, and to money, securities or other property held on account of any other person by the commodity

exchange market intermediary or by a person approved by the commodity exchange market intermediary, if—

- (a) the commodity exchange market intermediary has failed to lodge an auditor's report;
- (b) the Commission has received an auditor's report which does not fulfil all requirements referred to in section 62.
- (c) the Commission has reason to believe that the commodity exchange market intermediary has failed to comply with the provisions of this Act relating to the management of client assets or the keeping of asset accounts and records.

PART 7

INFORMATION, INSPECTION AND INVESTIGATION

65 Request for information by the Commission

- (1) The Commission may, by notice in writing, require a licenced person to provide it with accurate information as it may require for the exercise of its functions within such period as the Commission may specify.
- (2) The duty to supply information must be fulfilled in accordance with this Act.

66. Inspection

- (1) For the purpose of ascertaining whether a person who is, or at any time has been, a licenced person is complying or has complied with any provision of or requirement of this Act, the Regulations, rules made by the Commission under this Act, or the terms and conditions of his or her licence, the Commission may inspect any record or document relating to the trad to which the licence applies.
- (2) The Commission may authorise in writing any person to exercise the powers of the Commission referred to under this section.
- (3) In the exercise of the powers of the Commission referred to under this section, an authorized person may —
 - (a) enter the premises of the licenced person;
 - (b) require the licenced person or any other person whom he believes is in possession of or has under his or her control, any record or document referred to above, to produce it to him or her;
 - (c) make inquiries of a licenced person or any other person whom he has reasonable cause to believe has information relating to any record or document, referred to above, concerning any transaction or activity which was undertaken in the course of, or which may affect, the business conducted by the licenced person;
 - (d) inspect and, where necessary, make copies of such documents.
- (4) For the purpose of an inspection referred to under this section, the licenced person or other person mentioned above must afford an authorized person access to the records or documents as may be required for the inspection and must produce to the authorized person such records or documents as he may require.

67. Investigation

- (1) The Commission may in writing direct its employee or any other person to investigate any of the matters referred to in section 66 and to report the results of the investigation to the Commission, if the Commission has reasonable cause to believe, either on its own motion or as a result of a complaint received, that —
 - (a) an offence has been committed under this Act or the Regulations;
 - (b) a licenced person may have engaged in defalcation, fraud, unlawful acts or other misconduct in connection with his or her commodity exchange business;
 - (c) the manner in which a licenced person has engaged or is engaging in his commodity exchange trading is not in the interest of the consumer or the public interest.
- (2) Any person who is reasonably suspected by the investigator to have under his or her control any document which contains, or which is likely to contain, information relevant to the investigation under this section, or who is so suspected by the investigator of otherwise having such information in his possession or under his control, must —
 - (a) produce to the investigator, within the time and at the place as the investigator requires in writing, any document specified by the investigator which is, or may be, relevant to the investigation, and which is in his possession or under his control;
 - (b) if required by the investigator, give him or her an explanation or further particulars in respect of any record or document referred to under paragraph (a);
 - (c) attend before the investigator at the time and place the investigator requires in writing, and answer truthfully and to the best of his or her ability any question relating to the matters under investigation as the investigator may put to him or her and as he committed in writing;
 - (d) provide the investigator all assistance in connection with the investigation which he is reasonably able to give, including responding to any written question raised by the investigator.
- (3) The investigator must submit to the Commission the investigation report within the time specified by the Commission in the direction under subsection (1).

68. Destruction of documents

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Any person who destroys, falsifies, conceals or disposes of, or causes or permits the destruction, falsification, concealment or disposal of, any document, information stored on a computer or other device or other thing that the person knows or ought reasonably to know is relevant to an inspection or an investigation referred to under this Act or relevant to the Commission, shall commit an offence.

PART 8

ABUSE OF COMMODITY EXCHANGE

69. False trading

- (1) A person shall not create or cause to be created or do anything that is calculated to involve false or misleading trading in a commodity contract on a commodity exchange, or a false trading with respect to false price in commodity contracts on commodity exchange.
- (2) A false and misleading trading in a commodity contract is created as provided for in this section, if a person holds himself or herself out as having executed an order for the purchase or sale of a commodity contract on commodity exchange, without having effected a bona fide purchase or sale of the commodity contract in accordance with the rules and practices of the commodity exchange.

70. Bucketing

A person shall not execute or hold himself out as having executed a commodity contract on the commodity exchange, without having effected a bona fide purchase or sale of the commodity contract in accordance with the rules and practices of the commodity exchange.

71. Manipulation of price in a commodity contract and cornering

A person shall not, directly or indirectly —

- (a) manipulate or attempt to manipulate the price in a commodity contract that may be dealt with on the commodity exchange, or of any commodity which is the subject of such commodity contract;
- (b) corner, or attempt to corner, any commodity which is the subject of a commodity contract.

72. Employment of fraudulent or deceptive devices

A person shall not, directly or indirectly, in connection with any commodity contract transaction with any other person —

- (a) employ any device or means to defraud another person;
- (b) engage in any act or course of business which operates as a fraud and a deception against another person;
- (c) make any untrue statement or omit to provide important information likely to cause operations to be considered as true while they are false.

73. Fraudulently inducing a person to trade in commodity contracts

A person shall not, directly or indirectly, induce or attempt to induce another person to trade in a commodity contract —

- (a) by making or publishing, in case the trade is made, any false, misleading or deceptive document, contract or projection which he knows is false, misleading or deceptive;

- (b) by making or publishing any document, contract or projection which, by reason of the omission of a material fact, renders his or her acts misleading or deceptive and which he knows or ought reasonably to have known, are false, by reason of omission of that fact;
- (c) by recording or storing by means of any mechanical, electronic or other storing information system that is clearly false or misleading.

74. Liability to pay damages

A person who is responsible for loss at the commodity exchange must be liable for loss sustained by any person as a result of having purchased or sold at a false price and pays for the loss he caused without delay in accordance with the rules made by the Commission under this Act.

PART 9

ADMINISTRATIVE SANCTIONS FOR COMMODITY EXCHANGE MARKET INTERMEDIARIES

75. Administrative sanctions in respect of commodity exchange market intermediary

- (1) The Commission may impose administrative sanctions according to the requirements of this Act, where —
 - (a) a commodity exchange market intermediary demonstrates or is guilty of misconduct;
 - (b) the Commission is of the opinion that a commodity exchange market intermediary is no longer competent or fit to remain a commodity exchange market intermediary.
- (2) Administrative sanctions imposed on the commodity exchange market intermediary are the following —
 - (a) to publicly or privately reprimand the commodity exchange market intermediary;
 - (b) to suspend his or her licence for such period or until the truth is revealed as the Commission may specify;
 - (c) to revoke his or her licence;
- (3) The Commission may impose the following additional sanctions —
 - (a) to pay to the Commission an administrative fine prescribed in the Regulations;
 - (b) to pay to the Commission an amount equal to the amount of profit gained or loss caused by him or her;
 - (c) to pay to the Commission a sum equivalent to the costs and expenses that the Commission has reasonably incurred in relation to the investigation.
- (4) A commodity exchange market intermediary ordered to pay a fine must pay the fine to the Commission within a period not exceeding thirty (30) days or such further period as the Commission may specify by notice.
- (5) A fine under subsection (1) is given to a person or company that sustained the loss caused by the commodity exchange market intermediary.

- (6) In this section, misconduct is manifested by the following —
- (a) a contravention of any of the provisions of this Act, the Regulations or Rules made by the Commission under this Act;
 - (b) a contravention of any of the terms or conditions of a licence;
 - (c) failure to comply with directions of the Commission;
 - (d) an act or omission by a commodity exchange market intermediary in relation to his or her commodity exchange trading which, in the opinion of the Commission, is likely to be prejudicial to the public interest.

76. Procedural requirements for exercise of disciplinary powers

- (1) The Commission shall not exercise any power referred to under this Act without first giving the concerned commodity exchange market intermediary a reasonable opportunity of being heard.
- (2) The Commission establishes the manner in which the commodity exchange market intermediary is given an opportunity to be heard.
- (3) If the Commission decides to exercise any power referred to under this Part, the Commission shall inform the concerned commodity exchange market intermediary of its decision to do so by notice in writing.
- (4) Such a notice must include the following —
 - (a) the reasons for which the decision is made;
 - (b) the time at which the decision must take effect;
 - (c) in an appropriate manner the terms to be complied with during the revocation of the decision;
 - (d) the terms and conditions under which the commodity exchange market intermediary is to be punished under the decision;
 - (e) in so far as applicable, the amount of any pecuniary penalty to be imposed under the decision and the period within which it is required to be paid.
- (5) A fine referred to under subsection (4)(e) is paid upon receipt as irrefutable proof of payment of such a fine.

77. Disciplinary Committee

The Commission must establish a standing Disciplinary Committee to hear commodity exchange market intermediaries and determine disciplinary proceedings brought against them pursuant to this Act.

PART 10

OTHER ADMINISTRATIVE SANCTIONS

78. Contravening this Act and related regulations

- (1) Without prejudice to the provisions of the Criminal Code Act 1838, an individual who contravenes or fails to comply with any provision of this Act or any related regulations is liable to an administrative fine of [].
- (2) In the case of a company, it is liable to an administrative fine of [].

79. Furnishing untrue or misleading information

- (1) A person who furnishes under this Act any document in respect of income or any other document the contents of which are, to his or her knowledge, untrue, incorrect or misleading, is liable to penalties provided for in the Criminal Code Act 1838.
- (2) In the case of a company, it is liable to an administrative fine of [].

80. Obstructing someone to fulfil his or her duties

- (1) A person who wilfully obstructs any officer or director of the Commission, or an authorized person or investigator, in the performance of his or her duties under this Act, is liable to penalties provided for in the Criminal Code Act 1838.
- (2) In the case of a company, it is liable to an administrative fine of [].

PART 11

MISCELLANEOUS AND FINAL PROVISIONS

81. Non-liability of the Commission

The Commission, directors and officers of the Commission shall not be liable for any action likely to cause damage done or omitted in the exercise of any power or duty provided for under this Act unless the act or omission is shown to have been in bad faith, upon competent court decision.

82. Warehouses and warehouse receipts

The Commission issues licences to warehouses, warehouse operators and warehouse inspectors for the purposes of commodity exchange.

83. Powers of the Commission to make rules

- (1) The Commission may make rules for the implementation of this Act.
- (2) Without prejudice to subsection (1), the Commission may make rules regulating or with respect to —
 - (a) the application for licences, the issue of licences and incidental matters;

- (b) the standards for the qualifications, experience and training of applicants for obtaining licences;
 - (c) the conditions for the conduct of commodity exchange trading including in particular margin requirements and position limits on a commodity exchange;
 - (d) the form and content of commodity contracts, confirmation notes, client agreements and risk disclosure statements;
 - (e) the form, content and distribution of written, printed or visual advertisement material for commodity exchange;
 - (f) the information to be contained in auditor's report on the annual financial statements of commodity exchange market intermediaries;
 - (g) the remuneration of an auditor appointed in accordance with this Act and the costs of accounting carried out according to this Act;
 - (h) the display of licences and the issue of duplicates;
 - (i) the drafting of annual report or other documents submitted to the Commission by licenced persons;
 - (j) the fees to be paid in respect of any matter required in accordance with this Act;
 - (k) the practices and procedures of the Disciplinary Committee;
 - (l) the approval of warehouses, warehouse operators and warehouse inspectors, and the issue of warehouse receipts;
 - (m) contract notes;
 - (n) client agreements;
 - (o) risk disclosure statement;
 - (p) the use of misleading or deceptive advertisements by or on behalf of a commodity exchange market intermediary;
 - (q) the disclosure to his or her advised client of the financial risks in respect of trading on commodity exchange;
 - (r) the avoidance of any conflict of interest between the client and the commodity exchange market intermediary;
 - (s) implementation of recommendations made by the Commission;
 - (t) special attention and priority to client's orders;
 - (u) trading against a client;
 - (v) cross trading;
 - (w) any other matter relating to the practices and standards relating to the type of business required of a commodity exchange market intermediary in conducting the business for which he is licenced.
- (2) All rules made by the Commission in accordance with this Act must be published in the Gazette and in two daily newspapers in wide circulation in Mauritius and take effect immediately upon such publication.

84. Directives issued by the Commission

- (1) Where the Commission considers that, for the protection of investors, there is a need for action with regard to the conduct by a commodity exchange market intermediary in respect of his or her commodity exchange trading, the Commission may issue directives of a general or special nature by notice in writing to the commodity exchange market intermediary.
- (2) A directives issued by the Commission must relate to any activity concerning the conduct of commodity exchange trading by a commodity exchange market intermediary.
- (3) Where a commodity exchange fails to comply with a direction of the Commission the Commission may suspend or revoke the commodity exchange's licence.

85. Complaints committee

- (1) The Commission may establish a standing complaints committee for the purpose of making recommendations to the Commission subject to such terms and conditions specified the Commission.
- (2) The standing complaints committee may make recommendations to the Commission regarding complaints including recommendations in respect of compensation.

86. Cooperation with regulators outside Mauritius

- (1) If the Commission receives, from a regulatory Commission outside Mauritius, a request for assistance for the purposes of the exercise of its functions or for the purposes of investigating whether a person specified by the regulatory Commission has contravened or is contravening legal or regulatory requirements which the regulatory Commission has laid down or administered, in relation to commodity exchange, the Commission may provide such assistance and the assistance to investigate the matter by exercising any of its powers for collection of information, inspection and investigation in accordance with this Act or by providing other assistance as the Commission considers appropriate.
- (2) For the purpose of assistance to regulatory authorities, the provisions of this Act in respect of collecting information, inspection and investigation must, with such force as may be necessary, be complied with and have effect as if the contravention requirements by regulatory authorities or laws and regulations of those countries were a misconduct under this Act.
- (3) Requirements referred to in subsection (1) are the following —
 - (a) it is necessary and expedient that the assistance requested should be provided in order to meet the Commission's objectives referred to under this Act;
 - (b) the assistance will enable or assist the recipient of the assistance to perform his or her duties;
 - (c) the Commission is satisfied that the regulatory Commission outside Mauritius will provide any non-public information with confidentiality protection and appropriate security.
- (4) In deciding whether the requirements are met, the Commission must ensure whether the foreign regulatory Commission —
 - (a) will pay to the Commission any of the costs and expenses incurred in providing the assistance;
 - (b) will be able and willing to provide reciprocal assistance within its jurisdiction in response to a comparable request for assistance from the Commission;
 - (c) is a signatory to the multilateral memorandum of understanding of the International Organization of Securities Commissions.

87. Guidelines

- (1) The Commission may issue such guidelines as it considers appropriate for providing guidance in relation to —
 - (a) its regulatory objectives referred to under this Act;
 - (b) any of the functions of the Commission referred to under this Act;

3° the manner under which any provision of this Act is applied.

(2) The Commission may publish guidelines in such manner as it considers appropriate.

88. Regulations

The Minister may make regulations in respect of any matter that is required or permitted to be prescribed or which are necessary to be prescribed to give effect to this Act.

89. Commencement

This Act comes into operation on a date to be fixed by Proclamation and provides for different dates to be fixed for the coming into operation of different provisions of this Act.