

**NOTICE ... OF 2011**

**FINANCIAL SERVICES BOARD**

**FINANCIAL MARKETS ACT, 2011  
(ACT NO. OF 2011)**

**REQUIREMENTS WITH WHICH A CENTRAL SECURITIES DEPOSITORY  
MUST COMPLY WHEN ESTABLISHING A LINK WITH AN EXTERNAL  
CENTRAL SECURITIES DEPOSITORY**

I, Dube Phineas Tshidi, Registrar of Securities Services, hereby determine under section 27(2)(d) of the Financial Markets Act, 2011 (Act No. of 2011), the requirements with which a central securities depository must comply when establishing a link with an external central securities depository as set out in the Schedule

**DP Tshidi**  
**Registrar of Securities Services**

**SCHEDULE**

**1. Definitions**

In this Notice, “**the Act**” means the Financial Markets Act, 2011 (Act No. \_of 2011), and any word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context indicates otherwise-

“**link**” means a set of contractual and operational arrangements between a central securities depository and an external central securities depository that connect them directly or through an intermediary.

## 2. Requirements

When establishing a link with an external central securities depository, a central securities depository must-

- (a) ensure that it only establishes links with external central securities depositories subject to laws which establish a regulatory framework equivalent to that established under the laws of the Republic and more specifically under the Act;
- (b) ensure that it only establishes links with external central securities depositories regulated and supervised by a supervisory authority who is a member of the International Organisation of Securities Commissions;
- (c) ensure that all relevant laws of the Republic, including the Act, the rules and directives of the central securities depository apply to the securities services or functions to be provided to and performed by the external central securities depository;
- (d) have rules, procedures and contracts that are clear, understandable and consistent with all relevant laws and rules that provide a high degree of legal certainty;
- (e) develop rules and procedures that mitigate the risk relating to a conflict of laws by clearly stating the Act and other applicable legislation promulgated in the RSA is applicable to the securities services provided and functions performed under the Act;
- (f) develop processes that identify, assess, monitor and manage all potential risks that could arise from the link arrangement, including but not limited to, operational, business, credit, financial , custody and liquidity risks;

- (g) ensure the protection of existing central securities depository participants in the operation of the proposed link;
- (h) not offer any credit extensions to the external central securities depository;
- (i) assess and monitor the operational reliability of any link it intends to open with an external central securities depository;
- (j) inform the registrar whether the link created will be operated through an intermediary or whether a direct link with the external central securities depository will be established;
- (k) provide for procedures and measures to cater for exchange rate fluctuations;
- (l) ensure that the central securities depository and external central securities depository have adequate default rules, processes and procedures in place for the management of custody, default and liquidity risks;
- (m) ensure that it has adequate systems in place to ensure effective communication with the external central securities depository as well as to provide for the difference in time zones and staff availability;
- (n) ensure that it and the external central securities depository apply robust reconciliation procedures for ensuring the accuracy and integrity of their records or holdings;
- (o) ensure that it and the external central securities depository have adequate and equivalent processes and procedures for the

segregation of assets, and protection of assets in the event of their insolvency or default; and

(p) ensure that provisional or re-transfer of securities is prohibited.

### **3. Commencement**

This Notice comes into operation on the same date on which the Act comes into operation.