

AMC REPO CLEARING LIMITED

REPO SEGMENT REGULATIONS

INDEX*(Index to be inserted upon finalization)*

CHAPTER – I	PRELIMINARY AND DEFINITIONS	
CHAPTER – II	REPO SEGMENT	
CHAPTER – III	DEALS	
CHAPTER – IV	COLLATERAL/MARGIN CONTRIBUTIONS	
CHAPTER – V	LIMITS AND MARGINS	
CHAPTER – VI	RISK MANAGEMENT	
CHAPTER – VII	CLEARING AND SETTLEMENT OF DEALS	
CHAPTER – VIII	CLEARING BANK	
CHAPTER – IX	SHORTAGE HANDLING	
CHAPTER – X	FEES AND CHARGES	
CHAPTER – XI	CONDUCT OF BUSINESS BY CLEARING MEMBERS	
CHAPTER – XII	CODE OF CONDUCT FOR CLEARING MEMBERS	
CHAPTER – XIII	RECORDS, ANNUAL ACCOUNTS & AUDIT	
CHAPTER – XIV	INSPECTION	
CHAPTER – XV	ARBITRATION OTHER THAN BETWEEN MEMBERS	
CHAPTER – XVI	SUDDEN EVENT HANDLING	

CHAPTER – I PRELIMINARY AND DEFINITIONS

PRELIMINARY

Short Title

These Regulations shall be called “Repo Segment Regulations”.

Applicability

These Regulations of the Clearing Corporation shall be applicable to clearing and settlement of Tri-party Repo transactions in the manner and subject to the provisions of the Tri-party Repo Segment Regulations.

1. DEFINITIONS

In these Repo Segment Regulations, unless the context otherwise requires, the following terms (whether capitalised or not) will mean as under:

- 1.1 **“Bye-Laws”** will mean the Bye-Laws framed by AMC Repo Clearing Limited under and pursuant to the Securities Contracts Regulations Act, 1956 or under any other law for the time being in force.
- 1.2 **“Books of Accounts”, “Records” and “Documents”** will mean and include books of accounts, records and documents which are required to be maintained under the Rules, Bye-Laws and Regulations of the Clearing Corporation and includes records maintained in an electronic or in any magnetic form.
- 1.3 **“Clearing Corporation”** means AMC Repo Clearing Limited (any change in its name and/or re-constitution thereof included).
- 1.4 **“Delivery”** means the tender and receipt of securities or any other documents evidencing the title to the securities as mentioned by the Clearing Corporation from time to time.
- 1.5 **“Demat Account”** is a bond ledger account of the entity or a person with the Depository for the purpose of maintaining securities in dematerialized form. Dematerialisation is the process by which the securities in physical form are converted into an equivalent number of securities in electronic form.
- 1.6 **“Depository”** shall have the same meaning as in the Depositories Act, 1996.

- 1.7 **“Depository Participant”** (DP) shall have the same meaning as the term “participant” in the Depositories Act, 1996.
- 1.8 **“Exchange” or “Specified Exchange”** means any recognized stock exchange with whom the Clearing Corporation has entered into an arrangement for clearing and settlement of Repo Transactions.
- 1.9 **“Notification, Notice or Communication”** will mean an intimation that can be served at the ordinary business address and/or at the ordinary place of residence and/or last known address of the party in any one or more or all of the following ways:
- (a) delivering it by post;
 - (b) sending it by Registered Post;
 - (c) sending it under Certificate of Posting;
 - (d) sending it by express delivery post / courier services;
 - (e) sending it by telegram;
 - (f) affixing it on the door at the last known business or residential address;
 - (g) oral communication to the party in the presence of a third person;
 - (h) advertising it at least once in any prominent daily newspaper;
 - (i) sending a message through the Trading System;
 - (j) sending a message through the Clearing System; and
 - (k) an electronic mail or fax or any other electronic network.
- 1.10 **“Repo Segment”** is a segment of the Clearing Corporation on which Repo Transactions including Tri-party Repo that are traded on a Specified Exchange are admitted for Clearing and Settlement.
- 1.11 **“Regulations”** will mean these regulations of the Clearing Corporation, and will include business rules, code of conduct and such other procedures and regulations, circulars, directives and orders that may be issued by the Relevant Authority from time to time thereunder or under the Rules and Bye-Laws of the Clearing Corporation.
- 1.12 **“Tri-party Repo”** is a type of Repo contract where a third entity (apart from the borrower and lender), called a tri-party agent, acts as an intermediary between the two parties to the Repo to facilitate services like collateral selection, payment and settlement, custody and management during the life of the transaction.

1.13 Unless the context otherwise requires, the words, terms and expressions used in these Regulations but not defined herein shall have the meaning assigned to such terms in the following:

- (a) The Rules and Bye-Laws of AMC Repo Clearing Limited;
- (b) The Securities Contracts (Regulation) Act, 1956 and the rules thereunder;
- (c) The Securities and Exchange Board of India Act, 1992, the rules and regulations thereunder;
- (d) The Payment and Settlement Systems Act, 2007;
- (e) The Companies Act, 2013;
- (f) The Depositories Act, 1996.

If any such term/s is/are defined in more than one of the above statutes, then and in that event, the meaning assigned to such term in the statute preceding in order shall prevail over the meaning assigned to such term in the subsequent statute.

CHAPTER – II REPO SEGMENT

2.1 Repo Segment

The Relevant Authority may from time to time admit to the Repo Segment different types of Deals of Repo Transactions traded on the Exchange.

2.2 Categories of Clearing Members

The Relevant Authority may specify from time-to-time different categories of Clearing Members and shall prescribe such terms and conditions as it may deem fit in its sole and absolute discretion with regard to eligibility, admission and cessation for each such categories of Clearing Member. The following are some of the categories of Clearing Members.

- (a) **Self Clearing Member:** Self Clearing Member means a trading member of an Exchange who may clear and settle Deals on its own account by effecting Delivery and making and receiving payment for the same in the manner prescribed in these Regulations.
- (b) **Trading-cum-Clearing Member:** Trading-cum-Clearing Member means a trading member of an Exchange who may clear and settle Deals either on its own account or on account of his Constituents by effecting Delivery and making and receiving payment for the same in the manner prescribed in these Regulations. For the purpose of this clause, Constituent includes Trading Members of a Specified Exchange.
- (c) **Professional Clearing Member:** Professional Clearing Member means a clearing member of the Clearing Corporation who may clear and settle Deals on account of its Constituents by effecting Delivery and making and receiving payment for the same in the manner prescribed in these Regulations. For the purpose of this clause, Constituent includes Trading Members of a Specified Exchange

2.3 Collection of Securities Transaction tax, SEBI Turnover Fees and other statutory levies

The Clearing Corporation shall, on behalf of the Exchange or otherwise directed, collect the Securities Transaction Tax, SEBI turnover fees and other statutory levies from its Clearing Members. Every Clearing Member shall remit to the Clearing Corporation the Securities Transaction Tax, SEBI turnover fees and statutory levies payable by the Trading Member of the Exchange in respect of the transactions entered into by him on the Exchange either on his own behalf or on behalf of his Constituents and cleared and settled through such Clearing Member in accordance with the procedures prescribed by the Relevant Authority from time to time for the calculation and collection of such tax and fees. Any Clearing Member who fails to make the payment in accordance with the procedures prescribed by the Relevant Authority in that behalf from time to time would be liable for such

consequences of non-payment including but not limited to suspension of clearing facility provided by the Clearing Corporation, appropriation thereof from the amount of the Clearing Member lying with the Clearing Corporation, withholding pay-outs of Clearing Member/s etc. as may be decided by the Relevant Authority in its sole and absolute discretion.

CHAPTER – III DEALS

3.1 Deals, Transactions, Dealings and Contracts

For the purpose of these Regulations, the terms “Deals”, “transactions”, “Repo Transactions” “dealings” and “contracts” shall have one and the same meaning unless the context indicates otherwise.

3.2 Kind Of Deal

Save as otherwise provided, Deals may be of the “Clearing” i.e., clearance and settlement in the manner prescribed in these Regulations;

3.3 Deals Deemed to be for Current Clearing

Unless otherwise permitted or stipulated by the Relevant Authority whilst entering into any transaction or subject to any special stipulations that the Relevant Authority may specify from time to time, all Deals shall be deemed to be for the current clearing.

3.4 Extension or Postponement of Contracts by the Relevant Authority

Notwithstanding anything to the contrary contained in these Regulations, the Relevant Authority may for reasons to be recorded from time to time extend or postpone the time for performance of contracts in any deal or deals whenever in its opinion such action is called for in public interest or by just and equitable principles of trade or when the circumstances beyond the control of either or both the contracting parties make such action desirable.

Notwithstanding anything to the contrary contained in these Regulations, the Relevant Authority may in its discretion extend or postpone in any particular case the time for the performance of a contract from any one clearing to the ensuing clearing.

3.5 Composition of Capital and Margins

The Relevant Authority may from time to time specify the requirements of capital including Collateral, Margin and deposits for the Clearing Members or Participants of the Clearing Corporation.

CHAPTER – IV
COLLATERAL/MARGIN CONTRIBUTIONS

4.1 Collaterals / Margin Contribution

- 4.1.1 A Clearing Member desirous of borrowing shall transfer eligible Collateral to the Demat Account of the Clearing Corporation with the Depository system as per the workflow process notified by the Clearing Corporation;
- 4.1.2 Clearing Corporation shall specify the list of Eligible Securities which shall qualify for Collateral contribution to the Repo Segment from time to time. The list of Eligible Securities together with the hair-cuts applicable to them shall be notified by Clearing Corporation from time to time. Securities declared as ineligible for this purpose shall not be reckoned for Collateral contribution by the said Clearing Member from the effective date of such ineligibility;
- 4.1.3 Clearing Corporation may, as a measure of prudent risk management, specify the maximum amount of a single security or group of securities that a Clearing Member may deposit by way of Collateral contribution;
- 4.1.4 It shall be the responsibility of the Clearing Member to ensure that its exposures on the outstanding deals are fully secured by the value of the Collaterals maintained by it with Clearing Corporation, as provided under the relevant Regulations.
- 4.1.5 A Clearing Member desirous of lending shall provide initial Margin at the rate as specified by Clearing Corporation and such initial Margin shall be provided by Clearing Members in the form of cash or such other form as specified by Clearing Corporation from time to time.

4.2 Interest

- 4.2.1 A Clearing Member shall be entitled to the interest received on securities transferred to the Demat Account of Clearing Corporation as per coupon payable on the respective securities;
- 4.2.2 Clearing Corporation may pay interest on cash margin maintained by a Clearing Member as notified by Clearing Corporation from time to time.

4.3 Administration

- 4.3.1 Clearing Corporation shall have absolute discretion/control over the administration, manner and mode of investment/utilization of securities / cash contributed by a Clearing Member towards Collaterals /Margins;

- 4.3.2 Clearing Corporation shall have a paramount lien on Collateral/Margin contribution made by any of its Clearing Members towards any amount due from such Clearing Members towards recovery of losses, charges, penalties or any other amount due to Clearing Corporation;
- 4.3.3 Clearing Corporation shall have the absolute right to utilize, at its sole discretion, any/all of the securities contributed by a Clearing Member towards Collateral/Margins to meet shortages and/or deficiencies of funds arising out of defaults by the said Clearing Member in terms of its Bye-Laws, Rules and Regulations;
- 4.3.4 Clearing Corporation shall be deemed to be irrevocably authorized to sell, assign, transfer, pledge, hypothecate, create any charge and/or encumber or dispose of securities deposited by a Clearing Member with the Clearing Corporation for recovery of losses, charges, additional charges or any other amount due to Clearing Corporation, from the said Clearing Member in terms of its Bye-Laws, Rules and Regulations;

4.4 **Withdrawals**

- 4.4.1 A Clearing Member shall be entitled to withdraw its Collateral contributions in excess of its obligations to cover its outstanding borrowings requirements and/or any other amount payable to Clearing Corporation, by giving prior notice as notified by Clearing Corporation from time to time in the format prescribed for this purpose;
- 4.4.2 A Clearing Member shall ensure at the time of lodging such requests for withdrawal of excess Collateral that such reduced balance is sufficient to collateralize its outstanding borrowing to the extent of forward leg consideration.

4.5 **Receipts and Deliveries of Collaterals / Margins**

Cash

- 4.5.1 A Clearing Member shall effect cash margin contributions in relation to its respective Margin obligations;
- 4.5.2 A Clearing Member shall arrange to deposit its cash margin contributions as per the Work Flow Process notified by Clearing Corporation from time to time;
- 4.5.3 Clearing Corporation shall not in any manner be liable for any consequences that may arise on account of non-receipt of deposits from the Clearing Member towards its cash margin contributions;
- 4.5.4 A Clearing Member shall be entitled to receive credits for its cash margin deposits upon receipt of confirmation from the concerned bank about credits into the Current Account of Clearing Corporation;

- 4.5.5 Withdrawal of cash margin contributions by a Clearing Member shall be with prior notice as notified by Clearing Corporation from time to time in the format prescribed for the purpose. Such withdrawal shall result in a corresponding reduction in the said Clearing Member's cash Margin balance as and when instructions to transfer such amounts to the said Clearing Member are issued to bank by Clearing Corporation. Such withdrawal shall be allowed only if the Margin requirement does not fall below the minimum cash that may be prescribed by the Clearing Corporation;
- 4.5.6 Issuance of instructions to transfer funds from the current account of Clearing Corporation with the bank to the current account of the Clearing Member shall be construed as due and proper delivery of funds to the said Clearing Member by Clearing Corporation.

Securities

- 4.5.7 A Clearing Member shall contribute securities (in multiples of Rs. One Lakh of face value, if so prescribed by Clearing Corporation) in relation to its respective Collateral obligations;
- 4.5.8 A Clearing Member shall arrange to deposit its Collateral contributions of Eligible Securities as per the Work Flow Process notified by Clearing Corporation from time to time. Clearing Corporation shall not in any manner be liable for any consequences that may arise on account of non-receipt of securities deposits from the Clearing Member towards its Collateral contributions;
- 4.5.9 A Clearing Member shall be entitled to receive credit for deposits of securities upon receipt of confirmation from Depository/ies that the securities have been credited into the account of Clearing Corporation;
- 4.5.10 A Clearing Member shall be entitled to withdraw securities from its Collateral contributions by giving prior notice as notified by Clearing Corporation from time to time in the format prescribed for the purpose. Provided that if such notice for withdrawal is received in respect of a security at a time when it would be falling into shut period and rendering such delivery impossible, then such notice shall be considered to be invalid;
- 4.5.11 Withdrawal of securities by a Clearing Member shall result in a corresponding reduction in its securities balances as and when instructions to transfer such securities are issued to the Depository/ies by Clearing Corporation or any clearing agency engaged and authorized by the Clearing Corporation. Such withdrawal shall be allowed only if the Collateral requirement of the said Clearing Member remains fully covered by the reduced balance;

4.5.12 Issuance of instructions to transfer securities from the account of Clearing Corporation with Depository/ies to the account of the Clearing Member shall be construed as due and proper delivery of securities to a Clearing Member by Clearing Corporation;

4.5.13 A Clearing Member shall be entitled to substitute securities deposited as Collateral contribution by giving prior notice as notified by Clearing Corporation or any clearing agency engaged and authorized by the Clearing Corporation from time to time in the format prescribed for the purpose. Provided that if such notice for substitution is received in respect of such securities as are falling into shut period and rendering such substitution impossible, then such notice shall be invalid. Such substitution shall be allowed only if the Collateral requirement of the Clearing Member remains fully covered with the substitution of securities.

4.6 **Corporate actions on securities**

4.6.1 Periodical interest receivable by a Clearing Member on their securities contributed shall be received by Clearing Corporation for and on behalf of such Clearing Member in the manner and mode prescribed by the Clearing Corporation;

4.6.2 Interest received by Clearing Corporation shall be subsequently transmitted to Clearing Member at the earliest. Clearing Corporation shall not be responsible for any delay in receipt of interest by the Clearing Member and no claim shall lie against Clearing Corporation on this account;

4.6.3 Clearing Corporation shall not be responsible for servicing corporate actions on such securities held by Clearing Member in its account with Clearing Corporation which have been declared as ineligible for Collateral contribution;

4.6.4 A Clearing Member shall monitor its securities contributions to ensure that the securities falling due for redemption are withdrawn well in advance before the redemption date and substituted by Eligible Securities of equivalent value. In the event of its failing to do so, redemption proceeds receivable by the Clearing Member on such securities shall be received by Clearing Corporation for and on behalf of such Clearing Member in the manner and mode prescribed by the Clearing Corporation;

4.6.5 Redemption proceeds received by Clearing Corporation shall be treated as cash Collateral contribution;

4.6.6 Issuance of instructions to transfer funds representing coupon payments from the Current Account of Clearing Corporation with the bank to the Current Account of a Clearing Member with the Bank shall be construed as due and proper delivery of funds to the said Clearing Member by Clearing Corporation.

4.7 Unless the context otherwise indicates, for the purpose of this Chapter IV, the word 'Clearing Member' includes its Constituents or the Participants wherever the Margins or Collateral are deposited by such Constituents or Participants directly with the Clearing Corporation.

CHAPTER – V

LIMITS AND MARGINS

5.1 Borrowing Limits

- 5.1.1 Clearing Corporation shall at the end of the day determine the borrowing limits for its Clearing Member after valuation of securities in their account with Clearing Corporation, applying appropriate haircuts. The limit so worked out would be available for borrowing by the Clearing Member for the next Business Day.
- 5.1.2 The securities contributed by the Clearing Member shall be subjected to a valuation exercise at the end of each Business Day in order to ensure that the borrowings of the Clearing Member are fully collateralised at any point of time. Clearing Corporation may enter into arrangement with a valuation agency for providing the price, accrued interest and such other details as required for valuation of Collateral. The value of securities contributed by the Clearing Member, net of Haircut as described in sub-clause 6.2.2 shall be the basis for fixing borrowing limits as described above.
- 5.1.3 Clearing Corporation, after computing the borrowing limit for the Clearing Member at the end of each Business Day, shall communicate the same to the respective Clearing Member in such manner as may be decided by Clearing Corporation from time to time.
- 5.1.4 Clearing Corporation however may allow value of securities deposited during the day, net of appropriate Haircut, to be added to the borrowing limit of a Clearing Member in respect of deposits of securities and/or cash received for this purpose from such member. Clearing Corporation may also allow withdrawal of securities by the Clearing Members during the day by reducing the value of securities, as the case may be from the borrowing limit of the Clearing Members.
- 5.1.5 Clearing Members will be allowed by Clearing Corporation to borrow in the Repo Segment for face value of upto the borrowing limits set for such Clearing Members.

5.2 Margin

5.2.1 Initial Margin

Initial Margin constitutes the Margin obligation required to be fulfilled by a Clearing Member in relation to the risk exposures on the matched deals pertaining to its position in repo transactions. A Clearing Member willing to lend in repo transaction shall deposit cash or such other forms as specified by Clearing Corporation towards initial Margin in advance before putting up any lend order on the system.

5.2.2 **Mark-to-Market Margin**

5.2.2.1 Mark-to-Market Margin for Repo segment constitutes the Margin obligation to be fulfilled by a Clearing Member in the event of the value of securities offered by it as Collateral, net of Haircut falling short of the forward leg consideration of the Trades of the said Clearing Member representing its borrowings. The Clearing Member having obligation to pay mark-to-market Margin shall ensure deposit of mark-to-market Margin in the form of securities to meet the shortage latest by 8.30 a.m. on the next Business Day;

5.2.2.2 In case the mark-to-market Margin shortage as stated above is not deposited before the stipulated time on next Business Day, Clearing Corporation may, at its sole discretion, suspend the rights of the concerned Clearing Member to operate in the Repo Segment and also to intimate the Exchange to suspend the rights of the concerned Clearing Member to its trading platform.

5.4.2.3 A Clearing Member shall be liable to pay to Clearing Corporation penal charges as notified by Clearing Corporation from time to time for the period of delay in fulfilling its shortage in mark-to-market Margin;

5.4.2.4 Clearing Corporation shall subject to notification have the sole discretion to revise, from time to time, the rate of penal charges payable for the shortage/default;

5.4.2.5 The temporary suspension of rights of Clearing Member to transact in Repo and/or the Membership may be revoked by Clearing Corporation at its sole discretion on fulfillment of the Margin obligations and on recovery of penal charges.

5.2.3 **Lien on Margins**

5.2.3.1 A Clearing Member's contribution by way of Margins either in cash or in such other form as specified by the Clearing Corporation shall be subject to a first and paramount lien for all sums due to Clearing Corporation;

5.2.3.2 Margin shall be available in preference to all other claims against the Clearing Member for the due fulfillment of its obligations and liabilities arising out of or incidental to any dealings made, subject to the Bye-Laws, Rules and Regulations of Clearing Corporation or anything done in pursuance thereof.

5.2.4 **Suspension on failure to pay Margin**

5.2.4.1 If a Clearing Member fails to fulfill its Margin obligations, Clearing Corporation shall be entitled to temporarily suspend the membership rights of such Clearing Member.

- 5.2.4.2 A Clearing Member in the event of its Margin shortage shall be deactivated from the trading system of the Exchange. Exchange may reactivate such member on the trading system upon receiving intimation from the Clearing Corporation about replenishment of such Margin shortage.
- 5.2.4.3 A Clearing Member having shortage in initial Margin, intra-day or at the end of the day shall be liable to replenish such Margin shortage as determined by Clearing Corporation together with charges at the rate as notified by Clearing Corporation from time to time.
- 5.2.4.4 In the event of any form of Margin shortage, Clearing Corporation shall have the absolute authority to dispose of the securities deposited with it as Collateral/Margins, by way of sale (including through private arrangement) or otherwise and hold the sale proceeds till the final repayment of the borrowings made by such Clearing Member. No interest shall be payable on such amount and the Clearing Member shall remain liable to make good any shortage in repayment of its borrowings or meeting any shortage related liability. Any surplus after adjusting repayment of borrowings and other charges shall become payable to the Clearing Member. In case the shortage in any of the Margins as stated above is not replenished by the Clearing Member within the stipulated time Clearing Corporation may, at its sole discretion, suspend the rights of the concerned Clearing Member to deal and/or operate in the Repo Segment.
- 5.3 Unless the context otherwise indicates, for the purpose of this Chapter V, the word 'Clearing Member' includes its Constituents or the Participants wherever the Margins or Collateral are deposited by such Constituents or Participants directly with the Clearing Corporation.

CHAPTER – VI RISK MANAGEMENT

- 6.1 This Section outlines the risk management policy of Clearing Corporation in respect of the transactions undertaken by its Clearing Member in the Repo Segment. Notwithstanding anything contained herein, Clearing Corporation shall, however, have the sole discretion to effect changes in its policies relating to risk containment measures from time to time.
- 6.2 Clearing Corporation shall adopt the following risk management policies:
- 6.2.1 Clearing Corporation shall cover its risk through fixation of borrowing limits and through prescription of initial Margin, mark-to-market Margin. The securities in the accounts of the Clearing Member offered as Collateral for allocation of borrowing limit shall be subjected to a valuation exercise at the end of each Business Day in order to ensure that the borrowings of the Clearing Member are fully collateralised at any point of time. The valuation is carried out using the Mark-to-Market price as described in clause 6.3 below;
- 6.2.2 Clearing Corporation may, at its absolute discretion, specify rates of haircut in percentage terms for all securities which would be acceptable to it as Collateral or for deposit towards initial Margin in terms of clause 5.2. Such Haircut rates shall be applied on the mark-to-market price of such securities. Clearing Corporation shall have the absolute authority to modify such rates at such periodicity as it may deem fit;
- 6.2.3 Clearing Corporation may, at its discretion and after due notification, set different set of Haircut rates for different class of Clearing Members, based on their nature of business, net worth or such other factors as may be decided by the Clearing Corporation from time to time;
- 6.2.4 Clearing Corporation may, after due notification, set prudential limit for each Clearing Member in terms of its aggregate outstanding trades. Such limit may be set based on their nature of business, net worth or such other factors as may be decided by the Clearing Corporation from time to time.
- 6.3 **Mark-to-Market Price**
- 6.3.1 The Clearing Corporation may use its own methodology of computing mark-to-market prices for Eligible Securities or may engage a valuation agency for getting the mark-to-market prices of Eligible Securities on a regular basis. Clearing corporation shall take into account the guidelines issued by SEBI for valuation of debt instruments.
- 6.4 **Initial Margin**

- 6.4.1 The Margin rates for initial Margin for repo transactions shall be arrived at based on Value at Risk or such other means as may be decided by Clearing Corporation from time to time and such factors shall be expressed as a percentage of the forward leg consideration. Clearing Corporation may however set different initial Margin rates for trades in repo having different maturity periods. Clearing Corporation may, however, at its discretion, set uniform Margin factor for all Repo contracts;
- 6.4.2 Clearing Corporation may, at its discretion and after due notification, set different initial Margin rates for different Clearing Members, based on their nature of business, net worth or such other factors as may be decided by the Clearing Corporation from time to time.
- 6.5 **Mark-to-Market Margin**
- 6.5.1 The securities in the account of the Clearing Member for allocation of borrowing limits shall be subjected to mark-to-market valuation at the end of each Business Day as described in sub-clause 6.3 above;
- 6.5.2 In the event of mark-to-market value of the securities, if any, deposited for the purpose of allocation of borrowing limit falling short of the forward leg consideration of the repo representing the borrowing of the Clearing Member at the end of the day, Clearing Corporation shall make a Margin call on such Clearing Members in respect of whom such shortage occurs;
- 6.5.3 The mark-to-market valuation done by Clearing Corporation at the end of each Business Day shall be valid till its computation as at the end of the subsequent day and any deposit of Collateral during the day shall be taken up for valuation at the end of the day of such deposit.
- 6.6 Unless the context otherwise indicates, for the purpose of this Chapter VI, the word 'Clearing Member' includes its Constituents or the Participants wherever the Margins or Collateral are deposited by such Constituents or Participants directly with the Clearing Corporation.

CHAPTER – VII
CLEARING AND SETTLEMENT OF DEALS

7.1 General

- 7.1.1 Clearing Corporation shall clear and settle Repo Transactions executed on Exchanges with which the Clearing Corporation has entered into an arrangement.
- 7.1.2 Clearing Corporation shall notify the cut-off time for taking up the matched Deals in respect of different settlement numbers for Clearing and Settlement;
- 7.1.3 Settlement of Deals shall be effected through a process of novation. Such settlement may be on a multi-lateral netting basis or gross basis, or deal by deal basis or any other basis as may be specified by Clearing Corporation from time to time.
- 7.1.4 The Clearing Corporation may engage recognized clearing corporation(s) as clearing agency(ies) for the purpose of outsourcing its Clearing and Settlement activities as permitted by SEBI. However, the Clearing and Settlement of Deals shall be only as per the Bye-Laws, Rules and Regulations of the Clearing Corporation.
- 7.1.5 The Clearing Corporation may prescribe different process, procedure including the formats, reports, etc. in respect of Repo Transactions originating from different Exchanges and to be admitted for clearing and settlement.

7.2 Settlement Number

Clearing Corporation may, from time to time, notify to its Clearing Members the settlement calendar for settlement of Repo Transactions.

7.3 Settlement Process

- 7.3.1 Without prejudice to the generality of the above, the settlement of funds shall be carried out on a multi-lateral netting basis;
- 7.3.2 Funds obligation of a Clearing Member shall comprise of the obligation in respect of Deals concluded for a given settlement date and forward leg obligation due on that date;
- 7.3.3 Unless and otherwise specified, the settlement of funds in respect of Clearing Members shall take place at Clearing Banks;
- 7.3.4 Settlement of funds shall be effected through Current accounts maintained by the Clearing Member at Clearing Bank;
- 7.3.5 Clearing Corporation shall generate and provide to each Clearing Member funds obligation report which
- (a) shall comprise of funds payable and/or receivable by the Clearing Member for Deals matched and falling due for settlement on the settlement date;

- (b) shall be deemed to be Clearing Member's/confirmation of different Deals for which funds are to be received from and/or paid to the Clearing Member on settlement date;
 - (c) shall be deemed to be Clearing Member's instructions to Clearing Bank for effecting settlement in its Current account.
- 7.3.6 A Clearing Member shall ensure availability of sufficient funds in their Current account with Clearing Bank. If a Clearing Member fails to provide the same on the settlement date to meet its fund obligations arising out of its Deals, it shall be considered as funds shortage which shall be dealt with as provided in Chapter IX (*Shortage Handling*) of these Regulations.
- 7.4 Unless the context otherwise indicates, for the purpose of this Chapter VII, the word 'Clearing Member' includes the Participants.

CHAPTER – VIII
CLEARING BANK

- 8.1 Clearing Corporation may at its discretion appoint one or more banks as Clearing Bank for settlement of funds for the Clearing Members.
- 8.2 Clearing Corporation shall notify from time to time the settlement process, time frame for carrying out instructions and other operations that the Clearing Bank shall be required to follow for funds settlement in Repo Transactions in an orderly manner.
- 8.3 The Clearing Bank duly authorized shall ensure funds settlement, collection of Margin money, charges, levies, additional charges, redemption proceeds, servicing of corporate action like payment interest etc., and any other funds movement between a Clearing Member and Clearing Corporation as notified by Clearing Corporation from time to time.
- 8.4 The Clearing Bank shall take instruction from Clearing Corporation and act as per instructions received from Clearing Corporation or any clearing agency engaged and authorized by the Clearing Corporation in regard to those funds settlement.
- 8.5 Instructions of Clearing Corporation or any clearing agency engaged and authorized by the Clearing Corporation for debits and credits to Clearing Member's Current accounts by the Clearing Bank shall be deemed to be irrevocable and final.
- 8.6 A Clearing Member shall authorize the Clearing Bank to access its Current account for debiting and crediting their current accounts as per instructions received from Clearing Corporation or any clearing agency engaged and authorized by the Clearing Corporation.
- 8.7 Clearing Bank shall, based on the instructions of Clearing Corporation or on the instructions of any clearing agency engaged and authorized by the Clearing Corporation, carry out debits and credits to the current accounts of all such Clearing Members availing funds settlement through them and advise Clearing Corporation of the net difference payable or receivable.
- 8.8 The difference if any as per clause 8.7 above shall be settled by Clearing Corporation by inter-bank transfer through RTGS instructions with concerned Clearing Banks.
- 8.9 In the process of funds settlement at the Clearing Bank, if there is any funds shortage arising out of settlement instructions received from Clearing Corporation, the Clearing Bank shall inform the same to Clearing Corporation and act as per the instructions given by Clearing Corporation from time to time to meet such shortages.

- 8.10 Information relating to any change in the Clearing Bank by a Clearing Member shall be advised to Clearing Corporation at least 15 (fifteen) Business Days in advance. The Clearing Member shall submit the no objection certificate of the existing Clearing Bank and the bank account details of new Clearing Bank to the Clearing Corporation.
- 8.11 The Clearing Bank shall put in place adequate controls and risk management systems to facilitate smooth and effective settlement of mutual obligations.
- 8.12 The Clearing Bank shall be obliged to provide all information regarding the Clearing Members as and when required to do so by the Clearing Corporation.
- 8.13 The Clearing Corporation shall be entitled to authorize recognized clearing corporation(s) engaged as clearing agency for outsourcing its Clearing and Settlement activities to operate the accounts opened with the Clearing Bank and any instructions of debits and credits issued by such recognized clearing corporations shall be accepted by the Clearing Bank.
- 8.14 Unless the context otherwise indicates, for the purpose of this Chapter VIII, the word 'Clearing Member' includes the Participants.

CHAPTER – IX
SHORTAGE HANDLING

- 9.1 A shortage may arise on account of failure on the part of a Clearing Member to deliver funds due from it on the settlement date.
- 9.2 Clearing Corporation shall have the absolute discretion to decide on the mode of handling shortages and the decision of Clearing Corporation shall be binding on all the Clearing Members.
- 9.3 Clearing Corporation shall adopt the funds shortage handling procedure as set out hereinafter.
- 9.4 Clearing Corporation shall initiate all measures that are prudent, practicable and necessary to meet the funds shortage in order to ensure that the deals are settled and all the non-defaulting Clearing Members receive funds due to them.
- 9.5 In case Clearing Corporation is able to meet funds shortage:
- 9.5.1 The Clearing Member in whose account shortage has occurred shall be liable to make payment within the timelines as specified by Clearing Corporation, the amount of shortage together with interest, penal charges and levies as notified by Clearing Corporation from time to time;
- 9.5.2 Clearing Corporation shall, upon receipt of confirmation from Clearing Bank about replenishment of funds arrange to release borrowing limit and initial Margin withheld;
- 9.5.3 In the event of the Clearing Member not making payment equivalent to shortage together with interest charges, penal charges and other levies within the time limit as described above, the same shall be deemed to be a default committed by the said Clearing Member. In such event, Clearing Corporation shall have the absolute right to sell and/or dispose off, in any manner it may deem fit, the securities (in market lots and adequate to cover the default obligation) and use the proceeds towards discharge of the obligation of such Clearing Member. Excess amount, if any, realised from such sale/disposal shall be payable to the Clearing Member and the excess securities, if any, shall be released to concerned Clearing Member;
- 9.5.4 In case the sale proceeds of securities and initial Margin withheld are not sufficient to cover the shortage obligation, Clearing Corporation shall be entitled to use the other securities of the Clearing Member;

- 9.5.5 Clearing Corporation may decide to initiate sale/disposal of withheld securities on the same day or next Business Day depending on the amount of shortage and the underlying Collateral.
- 9.6 In case Clearing Corporation is not in a position to meet the funds shortage, the shortage shall be allocated to Clearing Members in proportion to their funds receivable position as on the concerned settlement date as per the shortage handling process notified by the Clearing Corporation.
- 9.7 Clearing Corporation may conduct auction of the position in case shortage is on account of a net lender and the procedure of conducting auction and the settlement procedure shall be notified by Clearing Corporation.
- 9.8 The Clearing Members, who are allocated such funds shortage, shall be repaid along with the compensation at such rate as may be notified by Clearing Corporation, from time to time, on the shortage amount allocated to them.
- 9.9 In case of funds shortage of a Clearing Member who has net borrow position, Clearing Corporation shall withhold the Collateral in respect of the concerned Clearing Member.
- 9.10 The Clearing Members in whose account shortage has occurred shall be liable to pay to Clearing Corporation, the amount of shortage together with interest and penal charges at such rates as may be notified by Clearing Corporation from time to time.
- 9.11 Unless the context otherwise indicates, for the purpose of this Chapter IX, the word 'Clearing Member' includes the Participants.

CHAPTER – X
FEES AND CHARGES

10.1 Schedule of Fees and Charges

- 10.1.1 The fees and charges payable by the Clearing Member shall be notified by Clearing Corporation from time to time.
- 10.1.2 Clearing Corporation shall forward to its Clearing Member the monthly bills relating to usual fees and charges;
- 10.1.3 Clearing Corporation shall notify to its Clearing Member at monthly intervals on the 1st Business Day of every month, the fees and charges in respect of the transactions in Repo Segment for the immediately preceding month;
- 10.1.4 The Clearing Member shall verify their monthly billings and notify Clearing Corporation of discrepancies, if any, with all necessary details, not later than 2 (two) days from the date of notification of the relative bill.

10.2 Recovery of Fees and Charges

- 10.2.1 The Clearing Member shall effect payment of fees and charges payable by them to Clearing Corporation by the 10th day of the subsequent month in the manner notified by Clearing Corporation from time to time (or by the subsequent Business Day in the event of 10th being a non-Business Day).
 - 10.2.2 Non-payment of fees by due date shall attract penal charges by the said Clearing Member at the rate notified from time to time in addition to any other disciplinary action as decided by Clearing Corporation;
 - 10.2.3 The penal charges shall be payable by the Clearing Member in such manner as notified by Clearing Corporation from time to time.
- 10.3 Unless the context otherwise indicates, for the purpose of this Chapter X, the word 'Clearing Member' includes the Participants.

CHAPTER – XI
CONDUCT OF BUSINESS BY CLEARING MEMBERS

11.1 Office Related Procedure

11.1.1 Every Clearing Member shall ensure that all persons acting on his behalf shall subscribe at all times to high standards of professional expertise and integrity.

11.1.2 Each Clearing Member shall at all times maintain such infrastructure, staff, communication facilities and records so as to be able to service his Constituents satisfactorily and as per the requirements enumerated in the Clearing Corporation Bye-Laws, Rules and Regulations, or any other relevant act(s) for that time being in force.

11.1.3 Where the Clearing Corporation feels it necessary, in the public interest to do so, it may at its own instance or on a complaint from another Clearing Member or Client, seek explanation from the Clearing Member regarding the level of service or professional conduct of the Clearing Member or any of his staff where such service or conduct has been found unsatisfactory or contrary to principles enumerated in the Clearing Corporation's Bye-Laws, Rules and Regulations, or notifications, directions or circulars issued thereunder.

11.2 Supervision

11.2.1 Procedures to be followed

(i) Each Clearing Member shall establish, maintain, and enforce procedures to supervise its business and to supervise the activities of its employees that are reasonably designed to achieve compliance with the Clearing Corporation's Bye-Laws, Rules and Regulations and any notifications, directions etc. issued thereunder as well as the relevant statutory acts.

(ii) The Clearing Member shall maintain an internal record of the names of all persons who are designated as supervisory personnel and the dates for which such designation is or was effective. Such record shall be preserved by the Clearing Member for a period of not less than 3 (three) years.

(iii) Every Clearing Member shall specifically authorise in writing person or persons, who may be authorised to transact on behalf of the Clearing Member and to do such acts which Clearing Member may wish to delegate to such person and make available a copy of such power of attorney to the Clearing Corporation before such person transacts any business on the Clearing Corporation.

(iv) A Clearing Member shall maintain such records and make available for inspection to any person authorised in this behalf by the Clearing Corporation, the information

related to such Clearing Member's financial condition as prescribed by the Clearing Corporation for this purpose.

- (v) The Clearing Member shall pay such fees, charges and other sum as the Clearing Corporation may notify from time to time, in such time and manner as required by the Clearing Corporation.
- (vi) The Clearing Member must inform the Clearing Corporation of any change in the status and constitution, operation, activities of the Clearing Member's entity.

11.2.2 **Internal inspections**

Unless otherwise specified by the Relevant Authority, each Clearing Member shall conduct a review, at least annually, of the business in which it engages, which shall be reasonably designed to assist in detecting and preventing violations of and achieving compliance with Rules, Bye-Laws and Regulations of the Clearing Corporation.

11.2.3 **Written Approval**

Each Clearing Member shall establish procedures for the review and endorsement by an appropriate senior officer in writing, on an internal record, of all transactions and all correspondence of its employees pertaining to the solicitation of any securities transaction.

11.3 **Relation with the Constituents**

- 11.3.1 When establishing a relationship with a new client, Clearing Members must take reasonable steps to assess the background, genuineness, financial soundness of such person, and his objectives.
- 11.3.2 Clearing Member shall make the Constituent aware of the precise nature of the Clearing Member's liability for business to be conducted, including any limitations on that liability and the capacity in which the Clearing Member acts and the Constituents liability thereon.
- 11.3.3 The Clearing Member shall provide extracts of relevant provisions governing the rights and obligations of Constituents as Constituents of Clearing Members as prescribed in the Bye-Laws, Rules and Regulations, relevant manuals, notifications, circulars any additions or amendments thereto, etc. of the Clearing Corporation, or of any regulatory authority, to the extent it governs the relationship between Clearing Members and Constituents, to the Constituents at no extra cost. The Clearing Member shall also bring to the notice of his Constituents, any indictments, penalties, etc. imposed on him by the Clearing Corporation or any other regulatory authority.

11.4 Recommendations to the Constituents

11.4.1 A Clearing Member shall make adequate disclosures of relevant material information in its dealing with his Constituents.

11.4.2 No Clearing Member or person associated with the Clearing Member shall guarantee a Constituent against a loss in any securities transactions effected by the Clearing Member with or for such Constituent.

11.5 Unless the context otherwise indicates, for the purpose of this Chapter XI, the word 'Clearing Member' includes the Participants.

CHAPTER – XII
CODE OF CONDUCT FOR CLEARING MEMBERS

12.1 General Principles

12.1.1 Professionalism

A Clearing Member in the conduct of his business, shall observe high standards of commercial honour of just and equitable principles of trade. A Clearing Member shall have and effectively employ the resources and procedures which are needed for the proper performance of his business activities.

12.1.2 Adherence to clearing practices

Clearing Members shall adhere to the Rules, Regulations and Bye-Laws of the Clearing Corporation and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the Relevant Authority as may be applicable from time to time.

12.1.3 Honesty and fairness

In conducting his business activities, a Clearing Member shall act honestly and fairly, in the best interests of his Constituents.

12.2 Settlement Principles

12.2.1 Clearing Members shall ensure that the fiduciary and other obligations imposed on them and their staff by the various statutory acts, Rules and Regulations are complied with.

12.2.2 Clearing Members shall ensure that employees are adequately trained in the practices of the relevant clearing segment in which they deal, clear and settle, are aware of their own, and their organisation's responsibilities as well as the relevant laws governing the Clearing Member, the Rules, Bye-Laws and Regulations of the Clearing Corporation including any additions or amendments thereof.

12.2.3 When entering into transactions on behalf of Constituents, the Clearing Members shall ensure that they abide by the Code of Conduct and regulations as enumerated in the current chapter of these regulations.

12.2.4 No Clearing Member or person associated with a Clearing Member shall make improper use of the Constituents' securities or funds.

12.2.5 When entering into or arranging transactions, Clearing Members must ensure that, at all times, great care is taken not to misrepresent in any way the nature of transaction. No Clearing Member shall exercise any discretionary power in respect of a Client's Account unless such Client has given prior written authorisation to the Clearing Member in that behalf.

12.3 **General Guidelines**

A Clearing Member shall desist from the following practices while conducting business on the Clearing Corporation:

12.3.1 **Shielding or assisting**

No Clearing Member shall shield or assist or omit to report any Clearing member whom he has known to have committed a breach or evasion of any Rules, Bye-Laws or Regulations of the Clearing Corporation or of any resolution, order, notice or direction thereunder of the Relevant Authority or Clearing Corporation in that behalf.

12.3.2 **Use of information obtained in fiduciary capacity**

A Clearing Member who in the capacity of paying agent, transfer agent, trustee, or in any other similar capacity, has received information as to the ownership of securities, shall under no circumstances make use of such information for the purpose of soliciting business except at the request and on behalf of the issuer.

12.4 Unless the context otherwise indicates, for the purpose of this Chapter XII, the word 'Clearing Member' includes the Participants.

CHAPTER – XIII
RECORDS, ANNUAL ACCOUNTS & AUDIT

13.1 Records

- 13.1.1 Every Clearing Member shall comply with all relevant statutory acts, including Securities Contracts (Regulation) Act, 1956 and Rules thereunder of 1957, and Securities Exchange Board of India Act, 1992 and Rules, Regulations and guidelines thereunder, and the requirements of and under any notifications, directives and guidelines issued by the Central Government and any statutory body or local authority or any body or authority acting under the authority or direction of the Central Government relating to maintenance of accounts and records.
- 13.1.2 In addition to the requirements as per regulation, every Clearing Member shall comply with the following requirements and such other requirements as the Clearing Corporation may from time to time notify in this behalf relating to books of accounts, records and documents in respect of his membership to the relevant clearing segment of the Clearing Corporation. Further, where a Clearing Member holds membership of any other Exchange(s) or Clearing Corporation, or in a different segment of the Exchange or Clearing Corporation, such Clearing Member shall maintain a separate set of books of accounts, records and documents for each Exchange and clearing corporation.
- 13.1.3 Every Clearing Member of the Clearing Corporation shall maintain the following records relating to its business for a period of 8 (eight) years:
- (i) Statements of fund and securities obligations received from the clearing(s).
 - (ii) Record of all statements received from the settling agencies and record of all correspondence with them.
 - (iii) Copies of all instructions obtained in writing from the Constituents.
 - (iv) Records in respect of interest received on securities of the Constituents, monies borrowed and loaned including monies received.
 - (v) Records in respect of clearing charges collected separately from the Constituents.
 - (vi) A Register of transaction (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, showing for each such deal cleared, the name of securities, value of securities, clearing charges and name of the Constituents.
- 13.1.4 Every Clearing Member shall keep such records and books of accounts, as may be necessary, to distinguish Client's securities from its own securities. Such records for Client's securities shall inter-alia, provide for the following:

- (i) Securities fully paid for, pending delivery to Clients;
- (ii) Securities received for transfer or sent for transfer by the Clearing Member, in the name of Client or his nominee(s) in respect of Deals;
- (iii) Securities that are fully paid for and are held in custody by the Clearing Member as security / Margin, etc. proper authorisation from Client for the same shall be obtained by Clearing Member;
- (iv) duly paid for Client's securities registered in the name of Clearing Member, if any, towards Margin requirements, etc.
- (v) instructions from Clearing Members to Depository Participants to effect accounts transfers;
- (vi) such other records as the Relevant Authority may prescribe from time to time.

13.1.5 Every Clearing Member shall keep for a period of 5 (five) years (unless a dispute has arisen, in which case the Clearing Member shall maintain for a period of 5 (five) years after the final settlement or adjudication of the dispute) or for such period as may be prescribed, the books of accounts, as will be necessary, to show and distinguish, in connection with his business as a Clearing Member:

- (i) The moneys/securities received from or on account of and the moneys paid and securities delivered to or on account of each of its Constituents and Trading Members whose trades the Clearing Member has undertaken to clear and settle,
- (ii) The moneys/securities received and the moneys paid and securities delivered on the Clearing Member's own account.
- (iii) It shall be compulsory for all Clearing Members to keep the money of the Constituents and Trading Members in a separate account and their own money in a separate account. No payment or delivery for a transaction in which the Clearing Member is taking a position as a principal will be allowed to be made from the Constituents or Trading Members account.

13.1.6 Notwithstanding anything contained in this Chapter, every Clearing Member shall preserve the originals of the documents, copies of which have been collected by enforcement agencies like the CBI, Police, Crime Branch, etc., during the course of their investigation till the trial is completed.

13.2 **Transfers to and from Client Accounts**

The transfer from Client's Account to Clearing Member's account shall be allowed under circumstances provided herein in the concerned Regulation.

13.3.1 **Obligation to pay money into Clients' Account**

Every Clearing Member who holds or receives money on account of a Client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the Clearing Member in the title of which the word “Clients” shall appear (hereinafter referred to as “**Clients’ Account**”). A Clearing Member may keep one consolidated Clients’ Account for all the Clients or accounts in the name of each Client, as he thinks fit; provided that when a Clearing Member receives a cheque or draft representing in part money belonging to the Client and in part money due to the Clearing Member, he shall pay the whole of such cheque or draft into the Client’s Account and effect subsequent transfer as laid down in the concerned Regulation herein.

13.3.2 **Moneys to be paid into Clients’ Account**

No money shall be paid into Clients’ Account other than:

- (i) money held or received on account of Clients;
- (ii) such moneys belonging to the Clearing Member as may be necessary for the purpose of opening or maintaining the account;
- (iii) money for replacement of any sum which may by mistake or accident have been drawn from the account;
- (iv) a cheque or draft received by the Clearing Member representing in part money belonging to the Client and in part money due to the Clearing Member.

13.3.3 **Moneys to be withdrawn from Clients’ Account**

No money shall be drawn from Clients’ Account other than:

- (i) money properly required for payment to or on behalf of Clients for or towards payment of a debt due to the Clearing Member from Clients or money drawn on Client’s authority, or money in respect of which there is a liability of Clients to the Clearing Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for each such Client;
- (ii) such money belonging to the Clearing Member as may have been paid into the Client account as mentioned in the regulation above;
- (iii) money which may by mistake or accident have been paid into such account.

13.3 **Right to Lien, Set-Off Not Affected**

Nothing in this Section shall deprive a Clearing Member of any recourse or right, whether by way of lien, set-off, counter-claim charge(s) or otherwise against moneys standing to the credit of Clients’ Account.

13.4 **Record Maintenance**

- 13.4.1 Every Clearing Member shall maintain permanently copies of agreements executed with each of its Constituent in accordance with the Clearing Corporation's requirements.
- 13.4.2 Every Clearing Member shall maintain permanently copies of agreements executed with each of the settling agencies or banks.
- 13.4.3 Every Clearing Member shall maintain for a period of 5 (five) years or such other prescribed period after the closure of the account originals of all communications received and copies of all communications sent by such Clearing Member (including inter-office memo and communications) relating to its business as such. If a dispute has arisen, the Clearing Member shall maintain the aforesaid records for a period of 5 (five) years or for such other prescribed period after the final settlement or adjudication of the dispute.
- 13.4.4 Every Clearing Member shall maintain for a period of 5 (five) years after the closure of the account all guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any account and copies of resolutions empowering an agent to act on behalf of the Clearing Member. If a dispute has arisen, the Clearing Member shall maintain the aforesaid records for a period of 5 (five) years after the final settlement or adjudication of the dispute.
- 13.4.5 Every Clearing Member shall maintain for a period of 5 (five) years after the termination thereof, of all written agreements (or copies thereof) entered into by that Clearing Member relating to its business as such, including agreements with respect to any account. If a dispute has arisen, the Clearing Member shall maintain the aforesaid records for a period of 5 (five) years after the final settlement or adjudication of the dispute.
- 13.4.6 Every Clearing Member shall preserve, for a period of not less than 5 (five) years after the closing of any Constituent's account, any records which relate to the terms and conditions with respect to the opening and maintenance of such account, date of entering into agreement with the Constituent, date of modification thereof, date of termination and representatives of such Constituent who signed in each case.
- 13.4.7 A Clearing Member shall intimate to the Clearing Corporation the place where these records are kept and available for audit/inspection.

- 13.4.8 Each Clearing Member shall keep and preserve a record of all written complaints of its Constituents showing the reference number of Constituent, date, Constituent's name, particulars of the complaints, action taken by the Clearing Member and if the matter is referred to arbitration of the Clearing Corporation then the particulars thereof.
- 13.4.9 Every Clearing Member shall maintain details of securities which are the property of a Clearing Member showing with whom they are deposited and if held otherwise than by the Clearing Member, whether they have been lodged as Collateral security for loans or advances.
- 13.4.10 The above requirements relating to maintenance of records shall apply not only to records of the Clearing Member's principal office but also to those of any branch office and to any nominee company owned or controlled by a Clearing Member for the purpose of conducting the business of the Clearing Member.
- 13.5 **Annual Accounts and Audit**
- 13.5.1 Each Clearing Member shall prepare annual accounts for each financial year ending on 31st March or such other date as advised to the Clearing Corporation.
- 13.5.2 The assets and liabilities of the Clearing Member's business shall be brought into account in the balance sheet at such amounts and shall be classified and described therein in such manner that the balance sheet gives a true and fair view of the state of affairs of such business as at the date to which it is made up.
- 13.5.3 Each Clearing Member shall furnish to the Clearing Corporation, its audited financial statement and such report shall be furnished not later than 6 (six) months after the end of the Clearing Member's financial year; provided that when the Clearing Corporation is satisfied that circumstances warrant an extension of time, it may grant an extension of such time as it may deem fit in this behalf.

CHAPTER – XIV

INSPECTION

14.1 Inspection Authority

- 14.1.1 Where it appears to the Clearing Corporation so to do, it may appoint one or more persons as inspecting authority to undertake inspection of books of accounts, other records and documents of the Clearing Members including for any of the purposes specified in the concerned Regulation.
- 14.1.2 The inspecting authority appointed by the Clearing Corporation may be either its own officials or outside professionals.
- 14.1.3 When the Clearing Corporation appoints outside professionals as an inspecting authority, it shall notify the Clearing Member the names and addresses of the professionals or firms so appointed as an inspecting authority at the time of inspection.
- 14.1.4 When outside professionals are appointed as an inspecting authority in respect of a Clearing Member and such professionals are already related in any other capacity with the Clearing Member, then such Clearing Member shall forthwith inform the Clearing Corporation of such relationship.
- 14.1.5 Where after appointment of any outside professional as an inspecting authority in respect of a Clearing Member, the Clearing Member or any of its associates engages the inspecting authority for its services in any other capacity, the inspecting authority shall not engage itself in such other professional capacity with the Clearing Member or any of its associates without prior consent of the Clearing Corporation.

14.2 Reasons For Inspection

The Clearing Corporation may cause a Clearing Member to be inspected for purposes which may include the following:

- 14.2.1 to ensure that the books of accounts and other books are being maintained in the manner required;
- 14.2.2 to ensure that the provisions of SEBI Act, Rules and Regulations thereunder are being complied with;
- 14.2.3 to ensure that provisions of the Securities Contracts (Regulation) Act and the Rules made thereunder are being complied with

- 14.2.4 to ensure that various provisions of the Clearing Corporation's Bye-Laws, Rules and Regulations and any directions or instructions issued thereunder are being complied with;
- 14.2.5 to investigate into the complaints received from investors, other Clearing Members of the Clearing Corporation or any other person on any matter having a bearing on the activities of the Clearing Member;
- 14.2.6 to investigate suo-moto, for any reason where circumstances so warrant an inspection into the affairs of the Clearing Member in public interest;
- 14.2.7 to examine whether any notices, circulars, instructions or orders issued by the Clearing Corporation from time to time relating to trading and other activities of Clearing Members are being complied with;
- 14.2.8 to comply with any of the directives issued in this behalf by any regulating authority including Government of India.

14.3 **Notice**

Before undertaking any inspection as above, the Clearing Corporation shall give a reasonable notice to the Clearing Member for that purpose. Notwithstanding anything contained above, where the Clearing Corporation is of the opinion that no such notice should be given, it may direct in writing that the inspection of the affairs of the Clearing Member be taken up without such notice.

Clearing Corporation officials or the inspecting authority who is directed by the Clearing Corporation to undertake the inspection, shall undertake the inspection and the Clearing Member against whom an inspection is being carried out shall be bound to discharge his obligations as provided in the relative Regulation herein.

14.4 **Obligations of a Clearing Member on Inspection**

- 14.5.1 It shall be the duty of every director, officer and employee of the Clearing Member, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control or arrange to produce where such books, accounts and other documents when they are in any other person's custody or control and furnish him such statements and information within such time as the said inspecting authority may require.

- 14.5.2 The Clearing Member shall allow the inspecting authority to have reasonable access to the premises occupied by him or by any other person on his behalf and also extend reasonable facilities for examining any books, records, documents and computerised data in his possession or any other person and also provide copies of documents or other materials which in the opinion of the inspecting authority are relevant.
- 14.5.3 The inspecting authority, in the course of inspection shall be entitled to examine or record statements of any Clearing Member, director, officer and employee of the Clearing Member or of any associate of such Clearing Member.
- 14.5.4 It shall be the duty of every director, officer and employee of the Clearing Member or where an associate is examined, such associate to give to the inspecting authority all assistance in connection with the inspection which the Clearing Member may be reasonably expected to give.
- 14.5.5 The inspecting authority shall be entitled to examine the records relating to the Clearing Member's financial affairs held with its bankers or any other agency which the inspecting authority may find it relevant.
- 14.5.6 The inspecting authority shall have access to accounts and other records relating to the Clearing Member or such access as authorised by the Clearing Corporation to accounts and other records relating to any associate of the Clearing Member as are within the power of the Clearing Member to provide.
- 14.5 **Submission Of Report**
- 14.6.1 The inspecting authority shall, as soon as possible submit an inspection report to the Clearing Corporation.
- 14.6.2 All documents, papers, returns or their copies submitted to the inspecting authority may be retained by it on behalf of the Clearing Corporation. It shall maintain complete confidentiality thereof and no disclosure of any information contained therein shall be made to any person, firm, company or authority unless required by any law for the time being in force and without approval of the Clearing Corporation in this regard.
- 14.6.3 The Clearing Corporation shall after consideration of the inspection report communicate the findings to the Clearing Member to give him an opportunity of

being heard before any action is taken by the Clearing Corporation on the findings of the inspecting authority.

- 14.6.4 On receipt of the explanation, if any, from the Clearing Member, the Clearing Corporation may call upon Clearing Member to take such measures as the Clearing Corporation may deem fit in public interest.
- 14.6.5 Notwithstanding anything contained as above, where the Clearing Corporation is of the opinion that no such hearing should be provided in certain circumstances, it may take action forthwith without giving any opportunity in such Clearing Member of being heard.

CHAPTER – XV
ARBITRATION OTHER THAN BETWEEN MEMBERS

15.1 Forms

The forms to be used in connection with a reference to arbitration under shall be such as are prescribed by the Clearing Corporation from time to time.

15.2 Application for Arbitration

In every case when a claim, difference or dispute required to be referred to arbitration under the Rules, Bye-Laws and Regulations of the Clearing Corporation has arisen any of the parties concerned may submit to the concerned Regional Arbitration Centre of the Clearing Corporation an application for arbitration as per the forms prescribed stating therein the value of the claim for jurisdiction.

15.2.1 The Application for Arbitration shall be filed by the Applicant at the concerned Regional Arbitration Centre covering the State or Union Territory of India, within which the most recent address / registered office address of the Constituent, as duly communicated in writing to the Clearing Member in accordance with law, is located. Provided in respect of a non-resident Indian Constituent, the Seat of Arbitration shall be Regional Arbitration Centre which covers the States and Union Territories, in which lies the address or the registered office address, as the case may be, of the Clearing Member, depending upon corporate or non-corporate membership of the Clearing Member. The hearings shall be held in the concerned Regional Arbitration Centre in which the Applicant has duly filed the Application for Arbitration

The Regional Arbitration Centre for filing Arbitration Reference shall be decided by the Clearing Corporation in consultation with the relevant Exchange from time to time.

JURISDICTION OF COURTS

The Courts in Mumbai shall have exclusive jurisdiction in respect of all proceedings to which the Clearing Corporation is a party, and in respect of all other proceedings, the Courts having jurisdiction over the area in which the respective Regional Arbitration Centre is situated, shall have jurisdiction.

15.2.2 Pecuniary Jurisdiction of Arbitral Tribunals

An arbitration reference shall either be filed before the sole arbitrator or the three arbitrators on the basis of the parameters / pecuniary limits as provided by SEBI/Clearing Corporation from time to time.

Provided however that in the event of the arbitration reference where the claim and the counter claim is such that it cannot be heard either by a single arbitrator or the three arbitrators in accordance with the parameters laid down by SEBI / Clearing Corporation, such arbitration reference shall be placed before the arbitrator/s who is/are otherwise eligible to hear such reference on the basis of claim made therein, to determine the arbitral tribunal which will be eligible to hear such arbitration reference.

15.3 **Nomination and Notice of Appointment**

An application for arbitration shall be accompanied by -

- 15.3.1 In the case of a sole arbitrator, duly completed notice proposing three names for appointment as arbitrators, from the concerned panel of arbitrator(s) prepared by the relevant authority, and calling upon the other parties to consent to the appointment of any of them as an arbitrator;
- 15.3.2 In case of three arbitrators duly completed notice appointing an arbitrator from the concerned approved panel of Arbitrator(s) and calling upon the respondent(s) to appoint an arbitrator from the concerned approved panel of arbitrator(s) (attached therewith) within such period as may be provided by the Clearing Corporation of the receipt of the notice.
- 15.3.3 (i) In case of sole arbitrator concise statement of the case in triplicate including certified true copies of statement of account, bills, contracts, documents pertaining to receipt/delivery of shares in triplicate;

(ii) In case of three arbitrators, five sets of statement of the claim including five sets of certified true copies of the statement of account, bills, contracts, documents pertaining to receipt/ delivery of shares.
- 15.3.4 In case of a claim for an amount above Rs.10,000/- or a claim against a defaulter, a copy of the applicant's income tax return, pan no. and balance sheet duly certified by a chartered accountant.
- 15.3.5 Institution and Arbitration fees.

15.3.6 An accurate list of the documents produced.

15.4 Reply to Arbitration and Counterclaim

On receipt of an application for arbitration the Clearing Corporation shall forward the notice of appointment or the proposed names of the arbitrators together with a copy of the statement of the case including a copy of the statement of account to the other party or parties to the claim, differences or dispute. The other party or parties shall within such period as may be provided by the Clearing Corporation after service of written notice of appointment forward to the Clearing Corporation a reply to the application accompanied by–

- (a) In the case of a sole arbitrator, duly completed form of nomination consenting to the appointment of any of the three proposed arbitrators;
- (b) In the case of three arbitrators, duly completed form appointing an arbitrator from the panel of arbitrators.
- (c) (i) In case of a sole arbitrator, a statement in triplicate of the case in reply; and
(ii) In case of three arbitrators, five sets of a statement of the case in reply.
- (d) (i) In case of sole arbitrator, a statement in triplicate of the set-off or counter claim (if any) including, in triplicate, a certified true copy of the statement of account, and certified true copies of bills, contracts, pertaining to receipt/delivery of shares, in triplicate;
(ii) In case of three arbitrators, five sets of a statement of the setoff or counter claim (if any) including five sets of certified true copies of the statement of account, bills, contracts, documents pertaining to receipt / delivery of shares.
- (e) In case of more than one applicant/respondent additional sets of the abovementioned statements, copies and documents in the same proportion

15.5 Reply to Counterclaim

A copy of the statement of the case in reply and of the set-off or counterclaim, if any, shall be forwarded by the concerned Regional Arbitration centre of the Clearing Corporation to the party making the application for arbitration who shall submit his reply to the set-off or counterclaim, if any, within 7 (seven) days.

15.6 Appointment of Arbitrator(s)

- 15.6.1 (i) In case of a sole arbitrator, where the other party or parties consent(s) to any of

the three proposed arbitrators, then the consented arbitrator; and on refusal or failure to consent to any arbitrator, any person from the concerned panel of Arbitrators may be appointed as a Sole arbitrator by the Relevant Authority.

- (ii) If a party to an arbitration reference is declared as a defaulter before such party has nominated or consented to the appointment of an arbitrator then such party shall not be entitled to nominate or consent to the appointment of an arbitrator. In such cases the Relevant Authority will appoint an Arbitrator in the reference.
- (iii) In case of three arbitrators, if the other party refuses or neglects to appoint an arbitrator within the stipulated time or within the extended time, the Relevant Authority may appoint an arbitrator from the concerned approved panel of arbitrators.
- (iv) In case of three arbitrators, the Relevant Authority shall appoint a person from the panel of arbitrators as the third arbitrator, who shall act as the presiding arbitrator.
- (v) If a party to an arbitration reference is declared as a defaulter after such party has nominated or consented to the appointment of an arbitrator then the arbitrator already Nominated/Appointed by such party may continue with the Arbitration Proceedings unless changed or substituted by the Relevant Authority in his discretion in consultation with the Chairman of the Defaulters" Committee.

15.6.2 **Grounds for Challenge**

The arbitrator(s) before entering into reference, shall disclose in writing any circumstances likely to give rise to justifiable doubts as to his/their independence or impartiality; and shall through-out the arbitral proceedings without any delay, disclose to the parties in writing any circumstances referred to above unless they have already been informed by him/them and shall keep a record thereof in the arbitration proceedings.

15.6.3 **Challenge Procedure**

- (i) A party who intends to challenge an arbitrator(s) shall within 15 (fifteen) days after becoming aware of the constitution of arbitral tribunal or after becoming aware of any circumstances referred to above send a written statement of the reasons for the challenge to the arbitral tribunal.

- (ii) Unless the arbitrator challenged under sub-clause (i) withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.
- (iii) If the challenge is not successful, the arbitral tribunal shall continue the arbitral proceedings and make an arbitral award.
- (iv) Where an arbitral award is made under sub-clause (iii), the party challenging the arbitrator may make an application for setting aside such an arbitral award in accordance with Section 34 of the Arbitration and Conciliation Act, 1996.

15.6.4 **Failure or Impossibility to act**

The mandate of an arbitrator shall terminate if -

- (i) he becomes *dejure* or *defacto* unable to perform his functions or for other reason fails to act without undue delay.
- (ii) he withdraws from his office or the parties agree to the termination of his mandate.
- (iii) if the controversy remains concerning any of the grounds referred to in the sub - clause (i) above, a party may, unless otherwise agreed to by the parties, apply to the Relevant Authority to decide on the termination of the mandate and his decision shall be final.

15.7 **Intimation Regarding Substitutes and Other Appointments**

Any party to a reference, arbitrator/s may give an intimation to the concerned Regional Arbitration centre whenever circumstances arise in which the Relevant Authority may appoint an arbitrator but the Relevant Authority may make such appointment irrespective of whether such an intimation has been received or not.

15.7.1 **Notice of Hearing**

The arbitrator(s) shall fix the date, time and place for each hearing, notice of which will be given to the parties by the concerned Regional Arbitration centre of the Clearing Corporation. In arranging the hearings the time within which the award is required to be made and the time necessary to enable the parties to attend the hearing if they so desire shall be taken into consideration

- 15.7.2 The arbitrator(s) shall fix the date, time and place for each hearing in advance. The arbitrator(s) shall endeavour to chalk out the programme of hearings in the first meeting

by fixing various dates of hearing as the arbitrator(s) deem fit and proper. If the dates of hearings are announced at the meeting, no fresh notice of hearing shall be required to be given to any party who was present at the meeting where the dates were announced. The parties to the arbitration proceedings shall be bound to attend the hearing of the arbitration proceedings of all these dates without service of fresh notice for each hearing. The arbitrators shall endeavour to maintain a continuity of hearing without a substantial gap between the dates of hearings with a view to facilitate early disposal of arbitration proceedings. The arbitrators shall endeavour to ensure that to the extent possible the gap between two hearings is not more than one week.

15.8 **Adjournment of Hearings**

15.8.1 The arbitrator(s) may adjourn the hearings from time to time upon an application of any party or at their or his own instance for sufficient cause. While adjourning the hearing, in case the arbitrator(s) informs the parties of the next date of hearing, it shall not be necessary for the arbitration secretary to give notice of the adjourned date.

- 15.8.2 (i) The arbitrator(s) shall discourage unnecessary applications for adjournment even on payment of cost.
- (ii) The arbitrator(s) shall endeavour to complete the arbitration proceedings expeditiously and without unnecessary delays.

15.8.3 **Evidence**

The arbitrator(s) shall be entitled to decide a reference without recording oral evidence in such cases as the arbitrator(s) deem appropriate and may decide the reference on the basis of documents, books of accounts and the record of the case.

15.9 **Extension of Time for Making Award**

The arbitrator(s) may from time to time apply to the Relevant Authority for extension of time for making the award.

15.10 **Appearance**

The parties to the reference shall attend at the time and place appointed for the hearing of the reference either in person or subject to the provision in that behalf in these Bye-Laws and Regulations by any person duly authorised by them acquainted with all the matters in dispute or in question and shall answer all material questions relating to the dispute or question.

15.11 **Further Information**

The arbitrator(s) shall have general authority to require from either or both of the parties to the reference such further statements, explanations and other information, evidence and material as they or he may consider necessary for the adjudication of the dispute or question.

15.12 Duties of Parties and Witnesses

The parties to the reference and any witness on their behalf shall -

- 15.12.1 submit to be examined by the arbitrator(s) on oath or affirmation in relation to the matter in dispute;
- 15.12.2 produce before the arbitrator(s) all books, deeds, papers, accounts, bills, contracts, writings and documents in the possession or power which may be required or called for; and
- 15.12.3 generally do all other things which during the pendency of the reference the arbitrator(s) may require.

15.13 Assistance in taking Evidence

- 15.13.1 The arbitral tribunal or a party with the approval of the arbitral tribunal, may apply to the court for assistance in taking evidence.
- 15.13.2 The application shall specify -
 - (i) the names and addresses of the parties and the arbitrators.
 - (ii) the general nature of the claim and the relief sought.
 - (iii) the evidence to be obtained in particular –
 - A. the name and address of any person to be heard as witness or expert witness and a statement of the subject matter of the testimony required;
 - B. the description of any document to be produced or property to be inspected.
 - C. the Court may, within its competence and according to its rules on taking evidence, execute the request by ordering that the evidence be provided directly to the arbitral tribunal.
 - D. The Court may, while making an order under sub-clause (C) issue the same process to witnesses as it may issue in suits tried before it.
 - E. Persons failing to attend in accordance with such process, or making any other default or refusing to give their evidence, or guilty of any contempt to the

arbitral tribunal during the conduct of arbitral proceedings, shall be subject to like disadvantages, penalties, and punishments by order of the Court on the representation of the arbitral tribunal as they would incur for the like offences in suits tried before the Court.

- F. The expression “processes” includes summonses and commissions for the examination of witnesses and summonses to produce documents.
- G. The arbitral tribunal may require any one or both the parties to deposit such documents, and may require any one or both the parties to deposit such fee or fees to cover the costs of any such process as the arbitrator (s) shall consider necessary and in the event of any party who has been called upon to deposit such fees failing to do so may discuss such party’s case or deal otherwise with the matter as the arbitrator (s) may think just.

15.14 Penalty for Obstruction

The parties to a reference shall do all acts necessary to enable the arbitrator(s) to make a just award and shall not willfully do or cause or allow to be done any act to delay or to prevent the arbitrators from making an award and if any party shall do or cause or allow to be done any such act that party shall pay the other party or parties such costs as are deemed reasonable by the arbitrator(s).

15.15 Powers of Arbitrator(s)

The arbitrator(s) may -

- 15.15.1 retain or return copy or all of the books, documents or papers produced in any proceedings and may direct at any time that the books, documents or papers produced be returned to the parties or any of them on such terms and conditions as may in the absolute discretion of the arbitrator(s) be deemed proper;
- 15.15.2 administer oath or affirmation to the parties or witnesses appearing and giving evidence;
- 15.15.3 admit such evidence only as may in the absolute discretion of the arbitrator(s) be deemed proper;
- 15.15.4 administer to any party to the reference such interrogatories as may in the opinion of the arbitrator(s) be necessary;

- 15.15.5 make an interim award;
- 15.15.6 make any award conditional or in the alternative;
- 15.15.7 correct in an award any clerical mistake or error arising from any accidental slip or omission;
- 15.15.8 may award adjournment cost to be paid by the party seeking adjournment, to the other party.

15.16 Expert Evidence

- 15.16.1 The arbitrator(s) may with the permission of the Relevant Authority at any time or times before making the final award consult and adopt the advice of counsel, attorney or advocate upon any question of law, evidence, practice or procedure arising in the course of the reference. The remuneration of such counsel, attorney or advocate shall be paid in advance by the parties to the reference and it shall be borne by them in the proportion stated in the award.
- 15.16.2 (i) Unless otherwise agreed by the parties, the arbitral tribunal may –
 - (A) appoint one or more expert to report to it on specific issues to be determined by the arbitral tribunal; and
 - (B) require a party to give the expert any relevant information or to produce or to provide access to, any relevant documents for his inspection.
- (ii) Unless otherwise agreed by the parties, if a party so requests or if the tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in an oral hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue
- (iii) Unless otherwise agreed by the parties, the expert shall, on the request of a party, make available to the party for examination all documents, in the possession of the expert with which he was provided in order to prepare his report.

15.17 Ministerial Assistance

Unless the Relevant Authority specifically permits no person other than the Secretary or an employee or employees of the Clearing Corporation acting under his authority shall be present to assist the arbitrators in a ministerial or any other capacity during the hearing or determination of a reference.

15.18 Scale of Arbitration Fees and Charges

15.18.1 The fees, including institution fees, arbitration fees, clerkage, cost, charges and expenses of and incidental to the reference and the award (if any) shall be such and shall be payable in such manner as are prescribed by the SEBI and/or the Clearing Corporation from time to time.

The Arbitrator hearing the matter shall decide whether the reference has been filed within 6 (six) months or within such other period as may be prescribed by SEBI / Clearing Corporation from time to time for the purpose of calculating the fees and shall direct the party/s to pay the additional amount, if any, to the Clearing Corporation.

15.18.2 The party requesting adjournment will be required to pay Rs.500/-, per adjournment, in case of a sole arbitrator and Rs.1500/-, per adjournment, in the case of three arbitrators, by a cheque/demand draft payable to the Clearing Corporation, along with the request for adjournment to the arbitrators.

15.18.3 In an exceptional situation, the arbitrator(s) may grant adjournment without imposing the cost under clause 15.18.2 on the party applying for adjournment

15.18.4 In addition to the institution fees, arbitration fees and adjournment costs the Relevant Authority shall have power to direct that such further sum of money as may be deemed fit shall be paid to or deposited with the Clearing Corporation as security for the fees, costs and expenses of the arbitration including photocopying expenses, postage charges and other out of pocket expenses incurred by the Clearing Corporation.

15.18.5 Refund on withdrawal of Cases

In case the party instituting a reference withdraws it before a meeting of the arbitrator(s) has been summoned, the payments made by party (s) except Institution Fees shall be refunded.

15.18.6 Other Charges

In addition to the fees mentioned hereinabove, the parties shall pay as and when demanded by the Clearing Corporation all other fees or charges incurred or to be

incurred during the arbitration including photocopying expenses, postage charges and other out of pocket expenses incurred by the Clearing Corporation.

15.18.7 Fees and Charges payable in Advance

All fees and charges shall be payable in advance and when there is failure, neglect or refusal on the part of a party or parties to pay accordingly the other party {may make} such payment in advance without prejudice however to his right if any to recover the same from such party or parties failing, neglecting or refusing to pay. It shall be condition precedent to the hearing of any reference that the prescribed fees and charges shall have been paid in advance to the concerned Regional Arbitration Centre of the Clearing Corporation by the party or parties to the reference.

15.18.8 Collection and Payment of Fees and Charges

The concerned Regional Arbitration Centre of the Clearing Corporation shall collect all fees and charges and pay the fees to the arbitrators and make disbursements in connection with the other costs and expenses of the reference provided always that no larger sum shall be paid than actually collected.

15.18.9 Appeal against Arbitral Award

(a) **Form of Appeal:** what to accompany memorandum:

- (i) Every appeal shall be preferred in the form of memorandum signed by the appellant or his authorised representative and presented to the Arbitration Secretary. The memorandum shall be accompanied by;
 - (A) A copy of the award appealed from
 - (B) Seven true copies of the appeal memo.
 - (C) Seven true copies of the award.
- (ii) Contents of Memorandum: The memorandum shall set forth concisely and under distinct heads, the grounds of objections to the award appealed from and such grounds shall be numbered consecutively. The memo of appeal shall be as per the prescribed form.

(b) **Time for preferring Appeal:**

The appeal memo shall be submitted by the party appealing or his authorised representative to the Arbitration Secretary within 30 (thirty) days of the receipt of the award of the Arbitral Tribunal. The appellant shall not be entitled to prefer an appeal from the arbitral award after the expiry of the aforesaid period of 30 (thirty)

days and the appeal, if any, filed after the expiry of the said period of 30 (thirty) days shall not be taken cognizance of by the Appeal bench.

(c) **Deposit of the amount and delivery of the securities as per the award of the arbitral tribunal:**

(i) An appeal shall not operate as stay of execution of the award of Arbitral Tribunal. The party appealing against the award, unless exempted by the Appeal Bench on application being made in that behalf, from paying the whole or part of the amount due under the award or the securities to be delivered thereunder, shall be required to deposit with the concerned Regional Arbitration Centre of the Clearing Corporation, the amount due under award or deliver the securities or the value thereof at the ruling market price of the securities. The party placing the deposit shall be deemed to have agreed that such deposit or the securities shall be handed over by the Clearing Corporation to the other party in accordance with the terms of decision in appeal.

(ii) An application for exemption to pay or deposit the amount or deliver the securities under the award of the Arbitral Bench shall be submitted along with the appeal memo and after notice to the other side it shall be disposed of by the Appeal Bench as far as possible within 15 (fifteen) days and the order passed thereon, in case it is not allowed wholly, shall be complied with by the appellant within 7 (seven) days of such order being communicated to him. In case the appellant fails to deposit the amount awarded or to deliver the securities or price thereof as per the award of the Arbitral Tribunal or to act as per the order passed by the Appeal Bench on his application for exemption, the appeal shall stand rejected.

(d) **No stay of execution of award:**

The Appeal Bench shall not stay execution of the award appealed from unless the amount due under the award is deposited and in case of order for delivery of securities, such securities or the value therefore is deposited with the concerned Regional Arbitration Centre of the Clearing Corporation or solvent security for the compliance thereof to the satisfaction of the Appeal Bench, is furnished by the Appellant. Such deposit or security shall not have the effect of stopping the accrual of interest ordered by the award till the amount is actually paid or the securities delivered to the party in whose favour the award stands.

(e) **Constitution of Appeal Bench:**

None of the arbitrators who heard the reference and passed the award nor any arbitrator interested or having dealings with any of the parties to the appeal shall be a member of the Appeal Bench and on such disclosure by the member or any of the parties to the appeal, the Relevant Authority, if satisfied of the validity of the objection, may replace him with another arbitrator.

(f) **Hearing of appeal and cross objection:**

After all preliminaries are over and the appeal has been admitted for hearing, the notice of appeal in Form as prescribed shall be given to the respondent. The respondent on receiving notice, may put in his memo of appearance in Form as prescribed. The respondent within 15 (fifteen) days of the service of notice of appeal may submit cross objections and such cross objections shall be in form as prescribed. The Arbitration Secretary shall place the appeal papers and the record of reference out of which the appeal has arisen before the Appeal Bench, and the parties shall be given notice of the day, time and place of hearing in Form as prescribed. The Appeal Bench may hear the appeal on the same day or on some adjourned date of which due notice shall be given to the parties and the Appeal Bench shall make the award in writing giving reasons for the award. The award made by the Appeal Bench shall be deemed to be final and binding on the parties unless set aside by the Court on an application made under Section 34 of the Arbitration and Conciliation Act, 1996.

(g) **Hearing of cross objection in case the appeal is withdrawn or dismissed in default:**

Where in any case in which the respondent has filed a memorandum of objection, the original appeal is withdrawn or is dismissed for default, the objection so filed may nevertheless be heard and determined after such notice to the other party as the Appeal Bench thinks fit.

(h) **Restoration of appeal dismissed in default of the appellant:**

Without prejudice and subject to the maximum period provided in the Bye-Laws for hearing and disposal of the appeal, in case the appeal is dismissed in default of the appellant at the hearing of the appeal, the Appeal Bench on application supported by an affidavit filed by the appellant within 15 (fifteen) days of the dismissal of appeal, may restore the appeal on its original number, after notice to the other side, on such terms as the Appeal Bench considers proper including the

payment of costs to the other side; and may hear the appeal on the date of which notice shall be given to the respondent.

(i) **Setting aside ex-parte decision and rehearing of appeal:**

Without prejudice and subject to the maximum period provided in the Bye-Laws for hearing and disposal of the appeal, in case the appeal is heard ex-parte on failure of the respondent to appear and is decided ex-parte, the ex-parte decision may be set aside by the Appeal Bench and the appeal may be reheard, if the respondent files an application supported by affidavit within 15 (fifteen) days of the date of the ex-parte award when respondent was served with the notice of the appeal; and in case of notice of appeal is not served, within 15 (fifteen) days of the knowledge of the ex-parte award. When the respondent was not served with the notice and had no knowledge of the date of hearing of the appeal, the Appeal Bench may set aside the ex-parte award on such terms as it considers proper and may rehear and decide the appeal afresh.

(j) **Date and contents of award in Appeal:**

- (i) The award of the Appeal Bench shall bear the date on which the judgment was pronounced.
- (ii) The award shall contain the number of the appeal, the names, the place and description of the appellant and respondent, and a clear specification of the relief granted or other adjudication made.
- (iii) The award shall also state the amount of the costs incurred in the appeal and by whom the costs in appeal and the costs in the Arbitral Tribunal from whose award the appeal was preferred, are to be paid.
- (iv) The award shall be signed and dated by the members who passed it. The dissenting members may not sign the award.

(k) **Copies of judgement and award to be furnished to the parties**

The certified copies of the judgement and award shall be furnished to the parties and their acknowledgement with the date of the receipt of the copies shall be obtained.

(l) **Register of Appeals:**

The Arbitration Secretary shall maintain a register of appeals in Form as may be prescribed or amended from time to time by the Relevant Authority.

(m) **Form of Notices in Appeals:**

The various notices to be issued in appeal to the parties may be in such Forms as prescribed by relevant Authority from time to time

15.19 Request for Representation by an Advocate

15.19.1 Any party to a reference, may make a request in form as prescribed to the arbitrator(s) for allowing an advocate to represent it in the arbitration proceedings. The arbitrator(s) may allow or disallow the advocate to represent the party in the arbitration proceedings.

15.19.2 The decision of the arbitrator(s) shall be conveyed to the party making the request for representation through an advocate after the same is decided by the arbitrator(s). The decision of the Arbitrator(s) on the application to the reference for making representation by or through an advocate shall be final. In case one of the parties to a reference is permitted to be represented by an Advocate, the other party may also appoint an advocate to represent him.

In all cases where the Arbitrator(s) have permitted the parties to be represented by an advocate, the advocate shall be required to give an undertaking in form as prescribed to the effect that advocate shall continue to appear in the arbitration proceedings till the proceedings are complete and the advocate shall not withdraw from the proceedings.

15.19.3 The claimant may make an application for permission to engage an advocate to represent his case at the time of institution of arbitration proceedings and not later on. The respondent may make similar application, if so, desired, along with his statement of defence and not later on. Provided that the arbitrator(s) may permit the claimant or the respondent to make such application subsequently if the arbitrator(s) is/are satisfied that there is good cause to permit the claimant or the respondent to do so.

15.19.4 No party shall be entitled to seek an adjournment for appointing an advocate.

15.19.5 No adjournment shall be granted by the arbitrator(s) on the ground that the advocate representing a party has been recently appointed or is not present at the hearing.

15.19.6 Where one or more parties are represented by an advocate, the, Relevant Authority may, at the request of the arbitrator(s), appoint an advocate who may remain present at the hearings and who the arbitrator(s) may consult for independent and impartial advice and assistance on any question of law. In all such cases, the parties to the arbitration proceedings shall be required to bear reasonable expenses of engaging such advocate as fixed by the Relevant Authority.

15.19.7 Where the advocate withdraws from the proceedings with the permission of the Arbitrator(s), the arbitrators may not permit the concerned party to be represented by engagement of another advocate. The Arbitrators shall ensure that the proceedings are not delayed in the absence of Advocate.

15.20 Filing of Additional claims/ Counter Claims and/or Amendment of Claim/Counter Claim

15.20.1 The arbitrator(s) shall not allow a party to incorporate an additional claim or to amend a claim already filed except in an exceptional situation where the arbitrator(s) is/are of the opinion that the proposed incorporation or amendment is necessary in the interest of justice and the application for incorporation or amendment of the claim is made without undue delay.

15.20.2 The arbitrator(s) shall not allow a party to file an additional defence or to amend a defence already filed except in an exceptional situation where the arbitrator(s) is of the opinion that the proposed filing or amendment is necessary in the interest of justice and the application for filing or amendment of the defence is made without undue delay.

15.21 Arbitration in Case of Defaulters

Where a party to an arbitration is declared a defaulter before the award is made:-

15.21.1 The arbitrator(s) shall not make a consent award but shall be bound to inquire into and adjudicate upon the disputes on merits after serving notice on the defaulters" committee and scrutinizing the relevant records.

15.21.2 The Defaulters' Committee shall be entitled to represent the defaulter in the arbitration proceedings through authorized representatives of the Defaulters' Committee and

15.21.3 The defaulter may also remain present and make suitable representations before the arbitrator (s).

15.22 Issue of Procedural Guidelines

The Relevant Authority may from time-to-time issue procedural guidelines to the arbitrator(s) in respect of the conduct of arbitration(s) with a view to ensure proper, orderly and expeditious disposal of arbitrations. The guidelines shall relate to the conduct of arbitration(s) generally and shall not relate to any particular arbitration or arbitrations.

15.23 Service by Advertisement

The arbitrator/s appointed by default shall before proceeding with the arbitration, direct the applicant/s to advertise notice in form as prescribed in at least one daily newspaper published where the last known address of the respondent is located, stating that upon expiry of the period specified in the notice if the respondent does not appear before the arbitrator/s at the time and place stated therein then such arbitrator shall proceed with the reference.

Provided however that in case the respondent appears before the Arbitrator, the arbitrator/s appointed by default shall be entitled to hear and determine the issue with regard to his/their appointment and the decision of the arbitrator/s on this issue shall be final and binding on the party raising such objection.

15.24 Register of Destroyed Documents:

The Secretary to Arbitration shall keep a Register of the destroyed documents in pursuance as provided in Bye-Laws, and in the manner specified by the Relevant Authority from time to time.

CHAPTER – XVI
SUDDEN EVENT HANDLING

- 16.1 Due to the occurrence of any unforeseen event or circumstance beyond the control of Clearing Corporation, it may be required to abruptly suspend the Clearing and Settlement of Trades by declaring an unscheduled holiday.
- 16.2 An unscheduled holiday may be declared on the happening of events that lead to the total disruption of transactions coming to a halt, like due to general bandh / strike, disruption of public utility services due to heavy rains or a system failure or any other factor beyond the control of Clearing Corporation which shall have impact on the overall system. It is expected that events occurred which affects one or few Clearing Members participating in securities market would not adversely affect the settlement process at Clearing Corporation.
- 16.3 Clearing Corporation may, under such circumstances, decide to continue its activities from the alternate site i.e., disaster recovery site.
- 16.4 In case Clearing Corporation is not able to continue its operations from the disaster recovery site under business continuity planning, Clearing Corporation may shift the settlement to the next Business Day and accordingly the obligation shall be recomputed by including interest for the number of day(s) by which the settlement is shifted. The interest shall be collected from the Clearing Members or Participants having payable position and paid to Clearing Members or Participants having receivable position. The rate of interest applicable for such extended period may be as notified from time to time.
- 16.5 Clearing Corporation shall not be held liable in the event of force majeure, strikes or any other unavoidable event that prevents Clearing Corporation from carrying out its duties pursuant to judicial orders, regulatory provisions, war (declared or undeclared) riots or civil commotion, terrorist acts, general mobilization, earthquakes or any other natural disaster.