



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 5 May 1999

No. 2098

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### Government Notice

#### MINISTRY OF FINANCE

No. 81 1999

#### NOTIFICATION OF APPLICATION FOR APPROVAL OF AMENDMENT OF RULES OF THE NAMIBIAN STOCK EXCHANGE

In terms of section 12 (6) of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), I hereby give notice that the Namibian Stock Exchange has applied for approval of the amendment of the Namibian Stock Exchange Rules set out in the Schedule.

I hereby call upon all interested persons (other than members of the Namibian Stock Exchange) who have any objections to the amendments to lodge their objections with the Registrar of Stock Exchanges, Private Bag 13295, Windhoek, Namibia, within a period of 30 days from the date of publication of this notice.

**U. MAAMBERUA**  
**REGISTRAR OF STOCK EXCHANGES**

Windhoek, 9 April 1999

#### SCHEDULE

1. In these rules "the Rules" means the Namibian Stock Exchange Rules, 1995 promulgated by Government Notice No. 151 of September 1995, as amended by Government Notice No. 145 of 15 July 1997.

**Amendment of Rule 1 of the Rules**

2. Rule 1 of the Rules is amended -
- ✓ (a) by the substitution of the following definition for the definition of "incidental accrual":
- "'incidental accrual' means any one or more of the rights or benefits which flow from the ownership of the securities with which the rights or benefits are integrated and any other rights or benefits accruing in respect of such securities other than the right to ownership of the securities themselves (see rule 5.12.6);";
- ✓ (b) by the insertion of the following definition after the definition of "securities, shares or stock":
- "'securities trader' means an employee of a member authorised by the member to enter on and to execute orders through the Jet system on behalf of the member;";
- ✓ (c) by the substitution of the following definition for the definition of "securities transfer stamp":
- "'securities transfer stamp' means a stamp referred to in 5.8.11;"; and
- ✓ (d) by the insertion of the following definition after the definition of "temporary document of title":
- "'the Jet system' means the Johannesburg equities trading system operated in terms of rule 2.4.2(s);".

**Amendment of Rule 2 of the Rules**

- ✓ 3. Rule 2.4.2 of the Rules is amended by the addition of the following paragraph:
- "(s) to operate an automated trading system and a clearing and settlement system to facilitate the buying and selling of securities.".

**Amendment of Rule 3 of the Rules**

- ✓ 4. The following rule is substituted for rule 3.1.3 of the Rules:
- "3.1.3 The Committee shall have the power -
- 3.1.3.1 to decide on the hours of business of the Jet system and reduce or extend such hours as circumstances may dictate;
- 3.1.3.2 to close the Jet system for trading purposes at any time and for any period. The Committee must cause the Registrar to be advised forthwith of any such closure; and
- 3.1.3.3 to declare, in exceptional circumstances, that a transaction effected by or through the Jet system is void. Such a declaration shall bind a member, a client of such member, or a counter party with whom such transaction was effected.".

**Substitution of Section 5 of the Rules**

- ✓ 5. The following section is substituted for Section 5 of the Rules:

**“SECTION 5  
TRANSACTIONS, TRADING PROCEDURES AND DISPUTES**

**5.1 Transactions**

- 5.1.1 Every member shall transact its business in a just and equitable manner and every transaction, whether for the account of the member effecting it, or for the account of a client, or with a counterparty must be fulfilled according to the provisions of the Act, these rules, NSX directives, Committee decisions and usage of the NSX in force at the time a bargain is struck.
- 5.1.2 A member may not stop payment of any cheque given to another member or to a NSX settlement system.
- 5.1.3 A buying member and a selling member are both responsible for the due fulfilment of all transactions in securities entered into between them. Compliance with a NSX settlement system procedure shall constitute such fulfilment.
- 5.1.4 A member is responsible to its client or counterparty for the due fulfilment of all transactions in securities entered into on behalf of the client or with such counterparty. A member shall at all times guarantee the fulfilment of the bargain by the counterparty to the transaction in question.
- 5.1.5 Any action by a client or a counterparty in respect of a stock exchange transaction shall be against the member which entered into the transaction on the instruction of such client or with such counterparty, and not against any other member or a client or counterparty of such member.
- 5.1.6 A member must ensure that buyers and sellers of listed securities are aware of their material obligations in terms of the Act and these rules.
- 5.1.7 A member may not transact any business on the account of a client if such business is being executed in terms of a power of attorney, unless the power of attorney has been attested by a commissioner of oaths or notary public.
- 5.1.8 A member represents and warrants to the NSX and to persons with or on behalf of whom the member executes transactions in securities, that any person employed by the member to deal with such persons in relation to such transactions, has full authority to act on the member's behalf.
- 5.1.9 A member may record any telephone conversation between the member, one of its stockbrokers, or employees and any client or potential client. Such tape recordings or transcripts of them may be submitted in evidence in any disciplinary proceedings involving the member or one of its stockbrokers, or employees.

**5.2 Recording of Transactions**

Every member must, in the manner prescribed by the Committee, record, report and retain details of every transaction in securities entered into by it or on its behalf and it is the duty of every person executing a transaction on behalf of a member to ensure compliance with these rules.

**5.3 Unreasonable Transactions**

Where, from a lack of clarity in the published information available at the time of the transaction, a member deals in a quantity or at a price which in the opinion of the Committee is unreasonable, the Committee may declare such bargain void. Such declaration shall be binding on the members who entered into such bargain and on the clients on whose behalf, or counterparties with whom, the transaction was executed.

#### 5.4 Prohibition of Dealings

The Committee may prohibit dealings by members in any particular security, either for a specified or an indefinite period.

#### 5.5 Jet system

5.5.1 The Jet system is a centralised order driven electronic market providing for agency trading in securities.

5.5.2 Trading in securities shall only be effected through the Jet system and all transactions in securities, unless otherwise stipulated by the Committee, shall be effected through the system.

5.5.3 The Committee, after consultation with the Registrar, shall prescribe by directives published in the *NSX Gazette* -

5.5.3.1 the conditions which shall govern the operation of the Jet system;

5.5.3.2 the procedures which members must follow in the entering and execution of transactions through the Jet system; and

5.5.3.3 the hours of business of the Jet system.

5.5.4 Notwithstanding any other provision of the rules or any directive, the General Manager may -

5.5.4.1 with due regard to circumstances, reduce the hours of business of the Jet system at any time and for any period;

5.5.4.2 with due regard to circumstances, and without notice to any person, close the Jet system for trading at any time and for any period;

5.5.4.3 if there has been any failure of the Jet system, or any part thereof, for any reason, or if the Jet system has been closed pursuant to 5.5.4.2, and with due regard to the prevailing circumstances, declare any transaction effected by or through the Jet system to be void. Such a declaration shall bind a member, a client of such member, or a counterparty with whom such transaction was effected; and

5.5.4.4 exercise such further powers and take such further action as may be exercised or taken by the Committee in terms of rules 2.5, 3.1 or any other relevant rule, provided such exercise or action is necessary to resolve any immediate issue which may arise from the closure or failure of the Jet system, or any part of it.

#### 5.6 Disputes

5.6.1 In regard to disputes between members arising out of stock exchange transactions, including the interpretation or application of any rule in connection with members' rights and obligations, no member shall institute any legal, arbitration or other proceedings against another member without first obtaining the consent of the Committee and subject to the provisions of the Act.

5.6.2 No person shall institute any legal proceedings against the Committee or any member thereof which is likely to have the effect of altering or rescinding any decision of the Committee relating to a dispute in regard to a matter referred to in 5.6.1.

5.6.3 The Committee shall have the power to intervene in any legal or arbitration or other proceedings relating to a matter referred to in 5.6.1 or any other matter affecting the NSX other than a civil dispute instituted by a member of the public.

5.6.4 The Committee may refuse to adjudicate or may, on hearing any case, make any order, other than an order for monetary damages, as it deems fit.

5.6.5 A member who refers a matter to the Committee for adjudication shall -

5.6.5.1 state clearly in writing the issues involved and the nature of the dispute;

5.6.5.2 be represented by its compliance officer at a hearing if so required;

5.6.5.3 not be entitled to be represented by a legal representative; and

5.6.5.4 pay the fee prescribed by the Committee for an adjudication.

5.6.6 The Committee may in its sole discretion determine the type of dispute in which it will adjudicate.

5.6.7 Every stock exchange transaction shall be subject to the condition that no client or counterparty shall be entitled to claim or demand from a member scrip which can be related to or identified with any specific transaction, nor may a client or counterparty of a selling member insist that the scrip it delivers shall be delivered to a specific member in settlement of a particular transaction.

## **5.7 Publication of Prices**

5.7.1 The publication and distribution of stock exchange prices are the prerogative of the Committee and shall be effected in a manner which the Committee considers fit.

5.7.2 The Committee may enter into such agreements for the publication and distribution of prices as it considers necessary.

5.7.3 Except with the consent of the Committee, no member may report prices to persons other than clients of such member.

## **5.8 Good Delivery**

5.8.1 A member is responsible for the authenticity and regularity of every document, including a document of title, delivered by it in respect of a stock exchange transaction.

5.8.2 It is the duty of a seller to ensure that good delivery of securities is made and the duty of a buyer on behalf of a client or counterparty to make good delivery to such client or counterparty or to his or her order.

5.8.3 For the purpose of these rules "good delivery" means the delivery of every document, including a document of title, required by the buyer to effect transfer into his or her name of the securities bought, without the further assistance of the seller.

5.8.4 The NSX settlement system is not responsible for rectifying or ensuring rectification of faulty or tainted scrip delivered to it.

5.8.5 Any return and replacement of faulty or tainted scrip must be effected through the relevant settlement system.

5.8.6 The Committee may from time to time prescribe -

5.8.6.1 a document to be used and the procedure to be followed by a member for the transfer and good delivery of securities; and

5.8.6.2 the quantities and denominations in which securities are to be delivered and accepted as full or part delivery.

- 5.8.7 A member must refer any dispute regarding good delivery to the General Manager for a ruling.
- 5.8.8 If a member has reason to believe that any document of title relating to any securities in its possession or which it has dealt with in any way, has been stolen or otherwise misappropriated, such member shall forthwith report that fact in writing to the General Manager. Such report must be accompanied by a schedule of the securities concerned and must give all such particulars and other relevant information relating thereto as may be known to the member, including the approximate date of the theft or misappropriation. The information and particulars will in each case be reported to the members by means of the *NSX Gazette*, and members shall forthwith cause a search of their registers and other records to be made. Should any member discover that any such document of title is in its possession or has in any way been dealt with by it, the member shall forthwith advise the General Manager in writing of that fact, furnishing all relevant information.
- 5.8.9 5.8.9.1 A member which receives faulty or tainted scrip shall have recourse against the member which delivered such scrip to it.
- 5.8.9.2 If a member has introduced faulty or tainted scrip and, before replacing such scrip, has been declared a defaulter, or if a member by reason of death or expulsion, ceases to operate as such, the NSX must replace such scrip to the member which first received it against -
- 5.8.9.2.1 delivery to the NSX of the transfer defective scrip and deeds; and
- 5.8.9.2.2 cession to the NSX of all rights of the member which first received the faulty or tainted scrip in respect of such scrip, whether against the member which delivered such scrip to it or that member's insurers or against any other party.
- 5.8.10 Where any securities are sold which cannot be acquired or cannot be transferred without the consent or approval of the directors or of any representative of the company or association concerned, the buying member is responsible for obtaining such consent or approval.
- 5.8.11 For the purpose of these rules, "securities transfer stamp" means the rubber stamp which is used on transfer forms and similar documents by the member or other agent whose name and authorised signature it bears, and which indicates that the member or agent warrants -
- 5.8.11.1 the authenticity of the signature of the transferor or other signatory;
- 5.8.11.2 the power of the transferor or other signatory to sign and to contract;
- 5.8.11.3 the validity of any power of attorney;
- 5.8.11.4 the authority of signatories of any company to sign on its behalf.
- 5.8.12 The signature by or on behalf of the deliverer or seller in the appropriate blank space provided in a securities transfer stamp shall be either autographic or a facsimile signature.
- 5.8.13 Where another agent such as a bank, accountant or legal practitioner, has placed its or his or her stamp on the face of the securities transfer form, the member which introduces such scrip to the market shall place its stamp on the back of the form in the same approximate position.
- 5.8.14 No member shall use upon or cause to be used upon any transfer form or similar document any securities transfer stamp unless the dimensions and text thereof conform to the following:

4.5cm	5cm
	<b>STAMP APPROVED FOR USE ON TRANSFER DEEDS</b>
	(Full Name of Member)
	..... Member of The Namibian Stock Exchange
	..... (Postal Address)
..... (Authorised Signature)	

### 5.9 Part Deliveries

All persons entering into a transaction on the NSX shall be obliged to accept a part delivery of a settlement system delivery instruction or of a purchase transaction and the Committee shall determine the conditions and extent to which part deliveries shall be made.

### 5.10 Settlement of Transactions

The procedures for settlement transactions shall be as prescribed by the Committee by directives published in the *NSX Gazette* after consultation with the Registrar.

### 5.11 NSX Settlement Systems

The procedures for settlement systems shall be as prescribed by the Committee by directives published in the *NSX Gazette* after consultation with the Registrar.

### 5.12 Incidental Accruals

- 5.12.1 Where delivery following a bargain, transacted cum an incidental accrual, takes place at a time that allows the receiver reasonable opportunity to lodge the security for registration on or before the record date, such transaction shall be regarded as closed, and the deliverer shall have no responsibility to the receiver in connection with the incidental accrual. The latter's claim, if any, shall be against the registered holder.
- 5.12.2 Where delivery following a bargain, transacted cum an incidental accrual, takes place on or before the record date but the receiver does not have a reasonable opportunity to lodge the security for registration on the record date, the receiver shall advise the deliverer that he or she was unable to obtain registration, whereupon responsibility for delivery of such accrual shall rest with the deliverer. Such transaction shall then be deemed to be partially completed and the following shall apply:
- 5.12.2.1 If the incidental accrual is a Monetary Accrual - the deliverer shall pay the receiver such monetary accrual on the first day of the settlement period following the date of payment by the company.
- 5.12.2.2 If the incidental accrual is a Scrip Accrual - the deliverer shall deliver the scrip accrual to the receiver during the settlement period following the date on which the relevant document is ready for issue by the company.
- 5.12.3 The time of delivery of scrip shall be deemed to be the time at which the envelope containing the scrip was delivered to the receiver.

5.12.4 Where cum incidental accrual transactions are due for settlement after the record date of such an incidental accrual, the seller or deliverer shall be responsible for such incidental accrual which shall be implemented as follows:

5.12.4.1 If the incidental accrual is a Monetary Accrual - payment shall be made on the first day of the settlement period following the date of payment by the company to the purchaser;

5.12.4.2 If the incidental accrual is a Scrip Accrual it shall become the subject of a new and separate bargain between members which shall be settled in terms of such bargain provided that such bargain shall be due for settlement not earlier than the next settlement period following the date upon which the relevant document of title will be ready for issue. Subject to 5.12.5 the provisions of this rule apply to all scrip accruals.

5.12.4.3 The provisions of the rules which relate to letters of right shall apply, *inter alia*, to any bargain in nil paid letters of right which arises in circumstances set out in 5.12.4.2.

5.12.5 In the case of a rights issue where no renounceable letter of right is issued or where the renounceable letter of right is not listed, the purchaser must advise the seller in writing if the purchaser desires to exercise such right and, if so, must tender the subscription money in sufficient time for the right to be protected. Delivery of such letter of right shall be made within seven days of its issue or on completion of the original bargain whichever is the later date.

5.12.6 The provisions of 5.12.7 shall govern the procedure for dealing with and the record date for any of the undermentioned benefits, rights, events and other incidental accruals which flow from the ownership of securities:

- |           |                           |
|-----------|---------------------------|
| 5.12.6.1  | dividend                  |
| 5.12.6.2  | bonus                     |
| 5.12.6.3  | return of capital         |
| 5.12.6.4  | liquidation distribution  |
| 5.12.6.5  | interest                  |
| 5.12.6.6  | rights                    |
| 5.12.6.7  | conversion right          |
| 5.12.6.8  | capitalisation issue      |
| 5.12.6.9  | reconstruction of capital |
| 5.12.6.10 | take-over bid             |
| 5.12.6.11 | offer to purchase         |
| 5.12.6.12 | exchange of securities    |
| 5.12.6.13 | amalgamations             |

In the event of an incidental accrual which is not provided for above, the security in question will be declared ex such incidental accrual in such manner as the Committee may determine.

5.12.7 Unless otherwise determined by the Committee, the General Manager shall quote a listed security ex an incidental accrual as follows:

5.12.7.1 Where the record date is a date subsequent to the date of declaration and in cases where, in addition, the declaration is subject to confirmation subsequent to the record date, the security shall be declared ex the incidental accrual on the first business day following the record date or the day of receipt of the confirmation by the General Manager whichever is the earlier: provided that if notification or confirmation from the company is not received by the General Manager in sufficient time for it to be dealt with at the opening of the market on that day, the security shall be declared ex on the following day.



- 5.12.7.2 Where the record date is a date prior to the date of declaration the security shall be declared ex the incidental accrual on the first business day following the day of receipt by the General Manager of the company's notification of the declaration or confirmation, but the security may be declared ex the incidental accrual on the day of receipt of notification of the declaration or confirmation, provided it is received in sufficient time for it to be dealt with prior to the opening of the market.
- 5.12.7.3 Where there is an exception to the procedures contained in 5.12.7.1 and 5.12.7.2 it shall be dealt with in such manner as the Committee may determine.
- 5.12.8 A purchaser of a security cum an incidental accrual shall be entitled to such accrual unless it was specifically excluded at the time of the transaction.

### **5.13 Partly Paid Securities**

- 5.13.1 A security, other than a letter of right, which has been partly paid for on subscription shall be designated as a partly paid security.
- 5.13.2 The settlement price of a contract in partly paid securities shall be determined by deducting from the contract price the unpaid portion of the subscription price as at the date of delivery.
- 5.13.3 No partly paid securities shall be good delivery unless all calls due at the time of delivery have been paid.
- 5.13.4 Before any bargain in partly paid securities is concluded the selling member shall inform the buying member of any calls that have been paid in advance.
- 5.13.5 Where any calls on partly paid securities have been paid in advance any interest or dividend due on such securities by virtue of such payment in advance shall be added to the contract price. Where any calls have been paid after due date any interest or dividend forfeited by virtue thereof shall be deducted from the contract price.
- 5.13.6 Where partly paid securities are sold on call or on time, the selling member shall be responsible for paying all calls falling due before delivery.

### **5.14 Safe Custody Scrip**

The procedures for the safe custody of scrip shall be as prescribed by the Committee by directives published in the *NSX Gazette* after consultation with the Registrar.

### **5.15 Minimum Cover - Pledges**

The procedures for providing minimum cover in terms of section 23(1) and (3) of the Act shall be as prescribed by the Committee by directives published in the *NSX Gazette* after consultation with the Registrar.

### **5.16 Advice Notes and Broker's Notes**

The procedures for advice notes and broker's notes shall be as prescribed by the Committee by directives published in the *NSX Gazette* after consultation with the Registrar.

### **5.17 Managed Accounts**

The procedures for managed accounts shall be as prescribed by the Committee by directives published in the *NSX Gazette* after consultation with the Registrar.

### **5.18 Arrangements other than Managed Accounts**

Where a member and a client or counterparty (other than a foreign dealer or another member) enter into an arrangement whereby the member holds on behalf of the client or counterparty securities for the purpose of selling (and where such arrangement is not a managed account or one whereby securities are held as minimum cover or in safe custody) and where the proposed sale has not been transacted by the close of business on the last day of the settlement period during which such securities were received, such arrangements shall be named Arrangements other than Managed Accounts and the Committee, after consultation with the Registrar, shall, by directives published in the *NSX Gazette*, prescribe procedures for the keeping of such accounts.

### **5.19 Cash Dividends and other Monetary Accruals**

Where a member receives a cash dividend or other monetary accrual on behalf of a client or counterparty whose account is not a managed account, such dividends or accruals shall be dealt with in accordance with the depositing procedures prescribed by the Committee, after consultation with the Registrar, by directives published in the *NSX Gazette*.

### **5.20 Money Broking Funds**

The procedures for the handling of money broking funds shall be as prescribed by Committee by directives published in the *NSX Gazette* after consultation with the Registrar.

### **5.21 Reserved**

### **5.22 Monies to Cover Bond Exposure and Margins**

The procedures for the handling of monies to cover bond exposure and margins, shall be as prescribed by the Committee in the *NSX Gazette*, after consultation with the Registrar.

### **5.23 Corporate Finance Transaction Funds**

5.23.1 If a member accepts monies on behalf of a client in terms of a corporate finance transaction to be held on deposit pending the consummation of the transaction, such monies shall be deposited with NSX Trustees (Pty) Limited for same day value.

5.23.2 Deposits referred to in 5.23.1 shall be made only in terms of a written agreement between the clients which are parties to the transaction and for such period as the agreement may stipulate.

5.23.3 Monies to which the provisions governing a managed account apply, shall not be dealt with in terms of this rule.

### **5.24 Borrowing, Lending or Use of Clients' or Counterparties' Scrip**

5.24.1 A member shall not borrow or lend or use any securities or bonds referred to in directives prescribed under 5.14 or referred to in 5.25, except that a member may deliver such securities or bonds to the client or counterparty on whose behalf they are being held, or to the order of the client or counterparty, or to satisfy a sale made on behalf of the client or counterparty, or to satisfy securities or bonds sold to a counterparty, or may accept an offer on behalf of a client or counterparty where such offer flows from the securities or bonds held, or may otherwise deal with the securities or bonds in a manner set forth in the mandate signed by the client or counterparty and held by the member in terms of directives prescribed under 5.14 or any pledge held in terms of directives referred to in 5.15. Notwithstanding anything contained in this rule a member shall have the right to sell the securities or bonds which are being held on behalf of a client or

counterparty or which have been allocated to a client or counterparty under any of the circumstances set forth in sections 22, 23, 25 and 27 of the Act or 5.31 or in any pledge.

- 5.24.2 Notwithstanding the provisions of 5.24.1, a member may, in isolated cases, be permitted by the Committee with the written agreement of the client or counterparty (which shall not be required by the member as a condition precedent to transacting business on behalf of the client) to utilise the client's or counterparty's securities or bonds for specified purposes. The agreement shall be subject to the prior approval of the Committee and shall stipulate the number of bonds or nominal value of bonds which may be used by the member, the name of the issuer of such securities or bonds and the purposes for which such securities or bonds may be used.

## **5.25 Allocation of Securities**

- 5.25.1 All securities purchased on behalf of clients or sold to a counterparty which come into the possession of a member shall be allocated as soon as is practicable so as to establish the identity of the purchaser entitled thereto and such securities, being fully paid for and not the subject of any lien or charge in favour of the member, (other than those referred to in directives prescribed in terms of 5.14), shall -

5.25.1.1 be delivered to the purchaser without delay in terms of such delivery instructions as may be agreed between the client or the counterparty and the member; or

5.25.1.2 in the absence of any delivery instructions, be held by the member in safe custody in terms of 5.14 pending the receipt of delivery instructions or collection of the securities by the client or counterparty.

- 5.25.2 The provisions of directives referred to in 5.14.5 shall not apply to securities held in safe custody in terms of 5.25.1.2.

## **5.26 Pledge, Cession or Assignment of Debt or Assets**

- 5.26.1 A member may not, without the consent of the Committee -

5.26.1.1 pledge, cede or assign any debt owing or which may become owing to it in terms of any Stock Exchange business; or

5.26.1.2 pledge, cede, assign or in any way encumber the whole or any part of the assets in its stockbroking business in respect of any debts or liabilities incurred by it outside its stockbroking business,

and no member shall without the consent of the Committee accept any such pledge, cession, assignment or encumbrance.

## **5.27 Reserved**

## **5.28 Money-Broking Transactions**

- 5.28.1 No member shall conduct money-broking transactions on behalf of any persons without the prior written approval of the Committee which approval shall be granted on such conditions as the Committee may impose from time to time. The Committee may at any time review and withdraw such approval.

- 5.28.2 For the purpose of this rule "money-broking transaction" means the effecting of a money-lending transaction directly between a lender and a bank as borrower -

5.28.2.1 through the intermediation of a member that does not act as a principal to the transaction;

- 5.28.2.2 in which the funds to be lent in terms of the money-lending transaction and entrusted by the lender to the member are subject to a prescribed written contract of agency;
  - 5.28.2.3 the subsequent pooling of funds entrusted by such lender to such member with funds entrusted to such member by other lenders; and
  - 5.28.2.4 the depositing of such pooled funds in either a call or a fixed deposit account with a bank.
- 5.28.3 A member granted authority to conduct money-broking transactions in terms of 5.28.1 shall conduct such transactions strictly in accordance with and subject to such conditions as the Committee, after consultation with the Registrar, may prescribe by directives published in the *NSX Gazette*.

## **5.29 Transactions in Money Market Instruments**

5.29.1 In purchasing or selling money market instruments a member -

- 5.29.1.1 may act either as principal or as an agent on behalf of clients on condition that the minimum requirements stipulated in directive IB are complied with;
  - 5.29.1.2 may not deal with a client either as an agent or as a principal in commercial paper (including promissory notes), unless such commercial paper complies with the general conditions for the issue of commercial paper as may from time to time be prescribed by the Bank of Namibia by notice in the *Government Gazette*.
- 5.29.2 Money market instruments include, but shall not be limited to, negotiable certificates of deposit, bankers acceptances, bridging bonds issued by municipal and public corporations, other bills of exchange, treasury bills and other similar money market instruments.
- 5.29.3 The syndication of monies for the purpose of purchasing a money market instrument is not permissible.
- 5.29.4 Money market instruments purchased on behalf of a client shall either be forwarded to the client or his or her order forthwith or be held in a safe custody account with a bank in terms of the provisions of any directives as contemplated in rule 5.14 on behalf of the client. The member's records and the BDA statement sent to clients shall reflect such a holding.
- 5.29.5 A member acting for a client on a discretionary basis or retaining money market instruments in safe custody shall record the contract made with the client in one or more agreements of agency in a form approved by the Committee. Such agreements of agency shall contain not less than the minimum requirements prescribed by the Committee and shall be signed by the client and the member before any transactions in money market instruments are conducted on behalf of the client. Such agreements of agency shall -
- 5.29.5.1 be signed jointly on behalf of the member by the persons referred to in 5.33. The names of the persons authorised, from time to time, to sign such agreements of agency shall be advised to the General Manager; and
  - 5.29.5.2 be retained by the member, a signed copy being delivered to the client. (A faxed agreement of agency is acceptable subject to receipt of the original agreement of agency signed by the client being received and signed by the members within 21 days of receipt of the initial transaction).

### 5.30 Operation of Trust Accounts

Every member shall open and maintain a separate trust account at a bank.

### 5.31 Minimum Cover

5.31.1 No member shall return securities (which for the purpose of this rule shall include bonds) deposited with it or held by it as minimum cover under section 23 of the Act, or any part thereof, to the depositor or person on whose behalf the securities are so held as minimum cover, or deliver them to any other person to be held or dealt with on behalf of or for the benefit of the depositor or person on whose behalf the securities are so held as minimum cover, if the effect of the return or delivery of the securities would be to reduce the value of the securities held by the member concerned in respect of the amount owing to it by the depositor or person on whose behalf the securities are so held as minimum cover, below the value necessary to provide minimum cover in respect of the said amount.

5.31.2 If securities are held by a member as minimum cover in relation to an amount owing to it, and if -

5.31.2.1 by reason of a fall of the buyers' price, as contemplated in the definition of "minimum cover" in section 1 of the Act, of those securities, the securities concerned are insufficient to be minimum cover for that amount; and

5.31.2.2 the person owing that amount does not within a period of three business days after those securities have become insufficient so to be minimum cover, by a reduction of the amount owing by him or her or by the provision of additional securities provide minimum cover for the amount owing by him or her,

the member shall on the next succeeding business day after the day of the expiration of the period referred to in 5.31.2.2 or as soon thereafter as the Committee may allow in the particular case, sell for the account of that person so much of those securities as is necessary to make, as far as possible, the securities not so sold sufficient to provide minimum cover in relation to the amount still owing to it after the sale.

### 5.32 Restrictions on Loans by Members

5.32.1 No member shall in the course of the member's business lend money to any person against any security other than listed securities or bonds.

5.32.2 No member shall in the course of the member's business -

5.32.2.1 lend any amount to any person unless that person has deposited with it such securities or bonds as may be necessary to provide minimum cover in respect of that amount; or

5.32.2.2 if any person is indebted to it in respect of a previous loan made in the course of its business, lend any amount to that person, unless that person has deposited with it such securities or bonds as (either alone or together with other securities or bonds which may be held by the member) may be necessary to provide minimum cover in respect of the aggregate of that amount and of the debt.

5.32.3 The provisions of 5.31.1 shall *mutatis mutandis* apply to the securities or bonds so deposited.

5.32.4 The provisions of this rule shall not apply -

5.32.4.1 if the lender and the borrower concerned are members;

- 5.32.4.2 with reference to a deposit made by a member with a bank;
- 5.32.4.3 with reference to a loan made to the NSX by a member; and
- 5.32.4.4 with reference to a loan made by a member for purposes other than the buying and selling of securities.

### **5.33 Signing Authorities**

5.33.1 For the purposes of rules 5.14 and 5.29 the joint signatories referred to therein shall be -

- 5.33.1.1 two partners or executive directors or a partner or executive director and a stockbroker of the member; or
- 5.33.1.2 a partner or executive director or stockbroker and a senior officer in the employ of the member in whose favour a power of attorney has been granted by the member; or
- 5.33.1.3 a partner or executive director or stockbroker and such other person as the Committee may in special circumstances and for such period as it may determine approve and in whose favour a power of attorney has been granted by the member.

### **5.34 Suspension of Securities**

Except with the consent of the Committee, no member may deal in securities in respect of which the listing has been suspended.

### **5.35 Foreign Investments**

5.35.1 A member authorised in terms of 5.17 to operate managed accounts on behalf of clients, shall not buy or sell securities listed on a foreign exchange unless -

- 5.35.1.1 the member has entered into a written mandate with the client. The mandate shall stipulate if the member is authorised to invest in foreign investments and if so, the conditions in terms of which and the manner in which such investments will take place, including a full description of the risk profile pertaining to such investments; and
- 5.35.1.2 the client has obtained the prescribed tax clearance certificate from the Namibian Revenue Service.”.

### **Amendment of rule 6 of the Rules**

6. The following rule is substituted for rule 6.2 of the Rules:

#### **“6.2 Rates of Brokage**

The brokage rates and other charges that may be levied shall be prescribed by the Committee by directives published in the *NSX Gazette* after consultation with the Registrar.”.

### **Amendment of rule 8 of the Rules**

✓ 7. The following rule is substituted for rule 8.1.8 of the Rules:

- “8.1.8 Rules 8.1.1 to 8.1.7 shall apply in respect of securities and other items which may be dealt in through the Jet system.”.

### **General amendment of Rules**

✓ 8. The Rules are amended by the substitution of the abbreviation “NSX” for the abbreviation “NSE” wherever it appears.