



**Bahrain Monetary Agency**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE BAHRAIN MONETARY AGENCY**

**AND**

**THE BAHRAIN STOCK EXCHANGE**

*(23<sup>rd</sup> March 2005)*

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# **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE BAHRAIN MONETARY AGENCY**

**AND**

**THE BAHRAIN STOCK EXCHANGE**

This Memorandum of Understanding (MOU) is made on this 23rd day of March, 2005.

## **BETWEEN:**

- (1) The **BAHRAIN MONETARY AGENCY** (hereinafter referred to as the BMA), having its registered office at Building No. 96, Road 1702, Block 317, Diplomatic Area, Manama, Kingdom of Bahrain; and
- (2) The **BAHRAIN STOCK EXCHANGE** (hereinafter referred to as the BSE), having its registered office at Al-Hadaya Building No. 2, Government Avenue, Manama, Kingdom of Bahrain.

REFERRED TO AS THE “PARTY” OR TOGETHER AS THE “PARTIES”.

## **Preamble**

1. **Whereas by Decree Law 4/1987 (hereinafter referred to as the BSE Law) with respect to the establishment and organization of the Bahrain Stock Exchange (BSE), the BSE was established as a Stock Exchange as a separate legal entity. Under the said Law, the BSE was mandated to carry out its activities in accordance with the provision of the BSE Law.**
2. **Whereas Article 3 of the BSE law states that the Stock Exchange’s objective shall include in particular the following:-**
  - i. Seek to develop the securities market in issuing and trading in securities, in a manner that is conducive to the realization of the Kingdom’s economic policy, to serve the development activities therein, and to enhance its economic position, both regionally and internationally.
  - ii. Develop and rationalize trading methods at the Exchange, with a view to ensuring proper and sound dealings and to providing protection for investors.
  - iii. Establish and promote ties and links with other Arab and international security exchange markets, and benefit from their methods of dealing, so as to accelerate the development of the Bahrain Stock Exchange.
  - iv. Encourage savings and further citizens’ investment awareness, in a manner that will ensure that the savings are directed towards the economic sectors, for greater returns to the individual and society as a whole.
  - v. Oversee the organization and regulation of securities trading on the market.

- vi. Provide the necessary finance for supporting the requirements of economic and social development.

**3. Whereas Decree Law No. 21/2002 with respect to the amendment of some Articles of the BSE Law, the following Articles of the BSE Law were amended and which are as follows:-**

- i. To add at the end of Article 1 of Decree Law 4/1987, the following statement: *“follows the Bahrain Monetary Agency”*.
- ii. Article 5 of Decree Law 4/1987 shall be substituted by the following: *“The Stock Exchange shall be administered by a Board, which shall be chaired by the Governor of the Bahrain Monetary Agency and shall comprise of the following:*
  - 1. *Two members representing the Bahrain Monetary Agency, one of which shall be the Deputy Chairman.*
  - 2. *Two members representing the Bahrain Chamber of Commerce and Industry.*
  - 3. *Two members representing national banks, to be selected by the Chairman.*
  - 4. *Two members representing the brokerage firms, as members of the Bahrain Stock Exchange.*

The Board may invite any person concerned with the Stock Exchange to attend any of its meetings. The membership of the Stock Exchange Board shall be determined by a Resolution of the Prime Minister, and the Board members terms of office shall be 3 years, which is renewable.

- iii. The words *“Ministry of Commerce and Agriculture”* shall be substituted by the words *“Bahrain Monetary Agency”* and the words *“Minister of Commerce and Agriculture”* shall be substituted by the words *“Governor of the Bahrain Monetary Agency”* wherever these words are stated in Decree Law 4/1987”.

**4. Whereas the mutual understanding of both the parties under the current law is that the BSE is determining the general strategy and policies of the BSE, setting out the regulatory policies for dealing in its market and also regulating day-to-day operations of the Exchange (BSE). Furthermore, the parties mutually understand that the BMA oversees the sound application by the BSE of its statutory powers.**

**5. Whereas consequent to the said amendment of the BSE Law by Decree No. 21/2002, since August 2002 the BMA and BSE have been following the practices which include:-**

- (a) The BMA, while overseeing the functions of the BSE, performs, *inter alia*, the following: -
  - (i) The BMA has issued guidelines and rules on the capital market, e.g.

- Disclosure Standards - 3<sup>rd</sup> December 2003 - ODG/407/03
  - Guidelines for the Issuing, Offering and Listing of Debt Securities - 10<sup>th</sup> March 2004 - ODG/74/04
  - Directives Relating to the Prevention & Prohibition of Money Laundering at the Bahrain Stock Exchange – 31<sup>st</sup> December 2003 - Resolution No. (1) of 2004
  - Guidelines on Insiders – 7<sup>th</sup> October 2004 – ODG/282/04
- (ii) The BMA has renewed the licences of the all stockbrokers who are members of the BSE.
- (iii) The BMA has inspected all the BSE's brokers.
- (iv) The prospectuses for IPO's and the offer documents for other issues are approved by the BMA.
- (v) The BMA gives the approval for any off-market transactions.
- (vi) All the amendments to the Internal Regulation or rules of the BSE are approved by the BMA.

**6. Whereas the above informal arrangements are now being proposed to be formalized under this MOU for clarity and to avoid any gaps.**

## **1. Interpretation**

### **1.1 Definitions**

Unless the context otherwise requires, the following expressions shall have the following respective meanings:

**"Operational Risk"** Means the risk that improper operation of trade processing or management systems will result in financial loss. Operational Risk encompasses the risk of loss due to the breakdown in controls within the firm, including but not limited to unidentified limit accesses, unauthorized trading, fraud in trading, including inadequate books and records, and a lack of basic internal accounting controls, inexperienced personnel, and unstable and easily accessed computer systems.

**"CSDR"** Means the Clearing, Settlement, Central Depository and Registry System operated by the BSE under BSE Resolution No. (3) of 2000 pertaining to the Clearing, Settlement, Depository and Registry Rules.

**"Exchange/BSE"** Means the Bahrain Stock Exchange established under Amiri Decree No. (4) of 1987 pertaining to the establishment and organisation of the Bahrain Stock Exchange.

<b>"member"</b>	Means a stockbroker or market maker who, in accordance with the rules of the BSE, has been admitted as a member and who may trade through the Exchange System, or who is accepted and permitted by the BSE to effect the transfer of securities and other entries in relation to securities by means of the CSDR System.
<b>"Licencee"</b>	Means a BSE member who is licenced by the BMA.
<b>"Relevant Law"</b>	Means Law No. (23) of 1973, as amended by Law (21) of 2002 in the case of the BMA, and Law No. (4) of 1987 in the case of the BSE, as amended by Law (21) of 2002.
<b>"MOU"</b>	This Memorandum of Understanding.
<b>"BMA"</b>	The Bahrain Monetary Agency established under Law No. (23) of 1973.
<b>"IOSCO"</b>	International Organization of Securities Commissions.
<b>"FSAP"</b>	Financial Services Assessment Programme.
<b>"CIS"</b>	Collective Investment Scheme or Mutual Funds.
<b>"Parties"</b>	Means both the Parties to this MOU, i.e, the BMA and the BSE who are signatory to the MOU.
<b>"SRO"</b>	Self-Regulatory Organization, as referred to in the IOSCO Principles.

## **1.2 Construction**

In the interpretation of any of the provisions of this MOU, such provisions shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the objectives of this MOU, according to its true intent, meaning and spirit.

## **2. Reasons for Memorandum of Understanding**

- 2.1 On 25<sup>th</sup> February 1987, the Bahrain Stock Exchange was established under Amiri Law No. (4) of 1987.
- 2.2 The BSE is responsible, as an Exchange, for overseeing the organization and regulation of securities trading on the BSE. It is the duty of:
  - 2.2.1 The BSE to ensure proper and sound dealings in securities traded on the Exchange;
  - 2.2.2 The BSE and CSDR System/operator to each ensure that risks are managed prudently; and

- 2.2.3 The BSE to ensure that the CSDR System/operator complies with any lawful requirement placed on it under any rule or law or regulation.
- 2.3 The BSE and CSDR operator shall each act in the interests of the public, having particular regard to the interests of the investing public, and ensure that where such interests conflict with any other interests that it is required to serve under any other law, the former shall prevail.
- 2.4 Under Law No. (21) of 2002, the BMA in its capacity as the regulator and supervisor of the capital market in the Kingdom of Bahrain, is responsible for overseeing the activities of the BSE and CSDR System/operator.
- 2.5 The BSE is responsible for the management of operational risk, and the enforcement of its own trading and clearing rules, as well as the front-line prudential and conduct regulation of members at the Exchange.
- 2.6 This MOU is entered into by the Parties in good faith and for the purposes of:
- 2.6.1 Clearly and comprehensively re-enforcing the relationship between the BMA as the regulator of the capital market, and the BSE as a marketplace, as well as the front-line regulator of the Exchange as an SRO, under the oversight of the BMA, and for facilitating a co-operative working relationship between the Parties;
- 2.6.2 The BSE to co-operate with and assist the BMA in effectively performing its functions under the Law No. (21) of 2002 and hereunder, and the BMA to the extent permitted by law co-operating with and assisting the BSE and CSDR System/operator to effectively perform their functions in their capacity as an Exchange or clearing house.
- 2.6.3 Achieve the regulatory objective that all intermediaries carrying out regulated activities in securities in the Kingdom of Bahrain are supervised directly by the BMA or through the BSE, as may be delegated by the BMA to the BSE as the front-line regulator.
- 2.6.4 Setting out the arrangements between the Parties in relation to sharing information, notification, responsibilities and referral of matters in relation to the BMA's functions in its capacity as the regulator of the capital market in the Kingdom of Bahrain, and the BSE's functions performed in its capacity as a front-line regulator of the Exchange or as a delegatee of the BMA; and
- 2.6.5 Clarifying the Parties' understandings in relation to the submission for approval of proposed amendments to the rules, the BSE's Internal Regulation and fees charged by the BSE and clearing house in its capacity as an Exchange or clearing house.

### **3. Status of MOU**

- 3.1 Under Law No. (21) of 2002, the BMA is responsible for the regulation and supervision of the capital market in Bahrain. A comprehensive new law, known as

the Central Bank of Bahrain (CBB) Law, is proposed to be promulgated. A new regulation known as the Securities and Exchange Regulation (SER) is proposed to be issued under the CBB Law, as soon as the CBB Law comes into force. Pending enactment of the above laws, and during this transitory period, both the Parties agree to implement the new regulatory regime under Law No. (21) of 2002 and agree to abide by the terms and conditions of this MOU. The terms and conditions of this MOU are based on FSAP/IOSCO Principles in particular.

- 3.2 This MOU sets forth a statement of intent by the BMA and the BSE regarding the arrangements and procedures for facilitating the performance of their respective functions, particularly during the transitory period, which may be reviewed after the new regulatory regime to be implemented under the CBB Law and the SER comes into force.
- 3.3 Each of the Parties shall use all reasonable endeavour to:
- 3.3.1 maintain a good working relationship with the other in respect to all matters referred to herein;
- 3.3.2 cooperate with the other in complying with the provisions hereof; and
- 3.3.3 perform its obligations hereunder, fully, in good faith and to the best of its ability.
- 3.4 This MOU is a public document and the contents hereof may be disclosed on the website of the Parties and copies may be furnished by any Party hereto to any third Party without the consent of the other Party hereto. However, this MOU does not create any rights, obligations, or liabilities by /or toward any third party.
- 3.5 Nothing in this MOU shall affect the right of the BMA to exercise any of its powers or perform any of its functions under any of the relevant laws and regulations.
- 3.6 Nothing in this MOU shall affect the right of the BSE and CSDR System/operator to exercise their functions under any of the relevant laws and regulations as amended.

#### **4. BMA's Functions**

The BMA agrees and undertakes as follows:

- 4.1 The BMA, in its capacity as the regulator and supervisor of the capital market in the Kingdom of Bahrain, is responsible for the following areas:
1. - Regulation and supervision of the securities market and institutions.
  2. - Determination of the operational principles of the capital market.
  3. - Protection of the rights and interests of the investors.

Within this framework, the BMA is responsible for the regulation and supervision of the following institutions:

1. Corporations offering their securities to the public (IPOs), including venture capital investment companies.

2. The Bahrain Stock Exchange.
  3. The Clearing, Settlement and Central Depository System.
  4. Brokerage firms and securities intermediaries.
  5. Set-up, develop and enforce the Disclosure Standards and corporate governance.
  6. Other related institutions operating in the capital market, such as underwriters, registration and transfer representatives and other capital market service providers operating in the capital market.
- 4.2 The functions and responsibilities of the BMA may be classified into the regulation of the following main groups:
- Primary market
  - Secondary market
  - Securities intermediaries.
- 4.3 The BMA shall endeavour to ensure a transparent, fair and orderly securities market in the Kingdom of Bahrain.
- 4.4 The BMA shall be responsible for enforcing the laws and codes, rules and regulations that it administers relating to the securities market, by referring to prosecution and disciplinary action taken against those in breach of such laws, codes, rules and regulations.
- 4.5 The BMA shall to the extent permitted by law, provide full co-operation and assistance as may be requested by the BSE or provided under this MOU, to assist the BSE and CSDR System/operator to effectively perform their functions under the relevant laws and regulations and hereunder.
- 4.6 The BMA shall as soon as is practicable, notify the BSE or CSDR of any matters designated as serious, as set out in Appendix I.
- 4.7 In carrying out its functions, the BMA shall endeavour not to increase the operating costs of the BSE without reasonable cause, taking into consideration the market development needs and implementation of international standards.
- 4.8 In carrying out its functions, the BMA shall strive to achieve consistency of treatment to any persons, including the BSE or the CSDR System, or any other persons regulated by the BMA who perform similar functions in the securities market in the Kingdom of Bahrain.
- 4.9 The BMA shall institute appropriate surveillance programmes for monitoring and enforcing compliance with statutory, financial resources and other requirements, and ensuring that licencees or members put in place proper systems of risk management and internal controls.

## **5. BSE's Obligations and Functions**

The BSE agrees and undertakes as follows:

- 5.1 The BSE shall extend full co-operation and assistance as may be requested by the BMA or provided under this MOU, to assist the BMA to effectively perform its functions under the relevant law and regulation and hereunder.
- 5.2 The BSE shall be responsible as a front-line regulator of the BSE's trading operations of members conducted on the Trading Floor in the BSE's Automated Trading System. It shall ensure a clear articulation of its standards, which are generally acceptable.
- 5.3 The BSE shall establish and maintain a risk management framework for monitoring and managing the operational risks of the BSE and CSDR System. It shall monitor and control risks on the Exchange with a view to limiting the systemic impact on the securities market in the Kingdom of Bahrain.
- 5.4 The BSE shall ensure that its rules and procedures are continually reviewed and updated, so as to reflect its operations and practices from time-to-time.
- 5.5 The BSE, before framing or amending any of its Internal Regulation, rules and procedures as an SRO, shall obtain the prior approval of the BMA.
- 5.6 The BSE shall maintain an orderly and fair market by putting in place an appropriate system to implement the sound functioning and development of its trading, settlement and operational systems, so as to minimize interruption or systemic impact on the markets operated by the BSE, or in the event of any trading, settlement and operational systems failure.
- 5.7 The BSE shall supervise the activities of members in the trading and clearing systems of the securities and clearing houses, depository or registry in its capacity as a Exchange and/or clearing house. It shall put in place an appropriate system to promote compliance by members with trading and clearing rules, and shall take the necessary action against members for breach of those rules. Where necessary, in accordance with the applicable rules of the BSE and CSDR, it shall be prepared on an urgent basis to exercise its powers to suspend, restrict or otherwise vary the trading or clearing and settlement rights of members and keep the BMA apprised of the same.
- 5.8 The BSE shall promote market transparency by monitoring price and volume movements on the markets operated by the BSE on a real time basis, and by requiring prompt disclosure of price sensitive information to the public.
- 5.9 The BSE shall monitor concentrations in positions and/or unusual price or volume fluctuations of the equities, debt, CIS units, or any other securities traded on the Exchange.
- 5.10 The BSE shall conduct market surveillance in connection with the markets operated by the BSE, by putting in place an appropriate system to implement appropriate risk management measures and monitor compliance with its rules.

- 5.11 The BSE shall consider from time-to-time and to the extent it considers appropriate entering into appropriate co-operative arrangements with other agencies, with approval from the BMA, both local and overseas, to assist itself to effectively manage risk and perform its functions as an Exchange.
- 5.12 The BSE shall administer its rules fairly and efficiently and deal fairly and efficiently with disputes, complaints and enquiries in relation to trading, clearing and settlement matters in the markets operated by the BSE, and shall keep the BMA apprised of the same.
- 5.13 The BSE shall have a disciplinary system that will deal with matters appropriately and impose penalties on its members for proven breach of its rules, as per the procedures laid down in the Internal Regulation.
- 5.14 The BSE, as soon as is practicable, shall notify the BMA of matters designated as serious, as set out in Appendix I.
- 5.15 The BSE shall be responsible for receiving notifications and disseminating such information of changes in shareholding interests of directors, chief executives and substantial shareholders of listed companies that are discloseable under the Disclosure Standards dated 3<sup>rd</sup> December 2003, the Directives on Prevention and Prohibition of Money Laundering issued under Resolution No. (1) of 2004, the Guidelines for Issuing, Offering and Listing of Debt Securities dated 10<sup>th</sup> March 2004, and the Guidelines on Insiders dated 7<sup>th</sup> October 2004, all issued by the BMA. The BSE, as a front-line regulator, shall ensure compliance (or enforcement where authorized) of the above laws, or any other Circulars issued by the BMA to the Exchange.
- 5.16 The BSE shall be responsible for the exercise of powers as may be delegated by the BMA to the BSE.

## **6 Regulatory Rationalization**

The BMA and BSE are co-operating to remove any ambiguity, overlap or gaps, *inter alia*, in respect of the regulation and supervision of the Exchange and its members. Both the Parties have agreed to their respective roles, which are as follows:-

### **6.1 The BMA, the Regulator of the Capital Market and the BSE, the Frontline Regulator**

Both the Parties agree that the BSE shall act as a front-line regulator for the Exchange as an SRO, under the overall supervision and oversight of the BMA. Both the Parties agree that members of the Exchange shall be required to be licenced by the BMA and that the BMA would lay down regulation for licensing, capital adequacy, risk management and internal controls, or prudential regulation or conduct of licencees. This however, shall not affect the rights and powers of the BSE and CSDR in relation to the admission of members to the Exchange as its members and facilities provided by the BSE and CSDR. The BSE shall be responsible for the day-to-day supervision of the Exchange and its members.

### **6.2 Licencing of the BSE**

Both the Parties agree that pending promulgation of the CBB law, the BSE shall take steps to make an application with the BMA on or before the 31<sup>st</sup> March 2005, in order to obtain a licence from the BMA, and the BSE shall be treated as a licensee undertaking the management and operation of the Exchange (marketplace), and as an operator of the Clearing, Settlement, Central Depository and Registry System.

### **6.3 Primary Market to be Regulated and Supervised by the BMA**

Both the Parties agree that the BMA shall regulate, supervise and approve the securities and instruments offered to the public. The BMA, subject to the provisions of the Commercial Companies Law (CCL) and Ministerial Resolution issued thereunder, shall be responsible for the regulation and supervision of the following:

1. To regulate and approve the application of publicly held companies, securities and instruments to be issued or offered to the public.
2. To regulate and approve the issues and public offerings of securities and instruments by overseas issuers issued in/from the Kingdom of Bahrain.
3. Set-up and enforce the standards for prospectuses and circulars published in the public offering of the capital market securities and instruments.
4. To regulate and supervise public offerings and capital market activities and transactions that are made by means of all kinds of electronic communication tools and media, and similar tools, including the Internet.
5. Lay down guidelines for private placements, review and monitoring thereof.
6. Ensure that accurate and complete information dissemination to the market is in conformity with the Disclosure Standards issued by the BMA under Circular No. ODG/407/03 and Guidelines on the Issuing, Offering and Listing of Debt Securities issued under Circular No. ODG/47/04.
7. Review the implementation of the standards applied to the preparation of financial statements and reports prepared by the listed companies, and that the principles and policies for their auditing and publication procedures are in line with international standards.
8. To approve all announcements, advertisements and publications related to the capital market, to avoid dissemination of misleading information.
9. Lay down the principles for proxy voting in the general assembly of the listed companies, as per Resolution No. (2) of 2000.
10. To supervise the business of securities underwriters.

The BSE's responsibility shall commence after no objection is given by the BMA to the issuer for issuing the prospectus.

#### **6.4 BMA is the Listing Authority**

The new CBB Law also seeks to make the BMA a listing authority. Both the Parties agree that the BMA shall perform direct regulatory functions over the listing of securities on the Exchange. The BMA shall by regulation, issue listing rules after consultation with the Exchange. In the meantime, the BSE shall continue to follow the existing listing rules promulgated under the BSE Law and Internal Regulation. The BSE shall continue to be responsible to ensure compliance of listing conditions by the issuer. This will not affect the right and power of the BSE to supervise the trading and settlement of the listed securities on the Exchange.

#### **6.5 Complaints**

If the BMA receives any complaint other than those complaints which come under the jurisdiction of the BSE's Disciplinary Board concerning (a) any member of the BSE, (b) any officer of a member, (c) any listed company or its directors (d) any staff of the BSE, the BMA may refer the complaint to the BSE, seeking explanation and comments if required.

If the BSE receives such complaints directly, or through its members and which comes to the BSE's knowledge, it shall notify the same to the BMA.

All complaint cases forwarded to the BSE's Disciplinary Board and any action taken by such Board shall be notified to the BMA immediately before implementing any decisions or proposed action. The Parties will consult one another as appropriate in relation to complaints, having regard to their statutory functions under the BMA Law and the BSE Law, and the provisions of this MOU.

#### **6.6 BMA Review and Inspections**

The BMA has the responsibility for supervising and monitoring the capital market. In the discharge of its responsibility, the BMA may carry out on-site or off-site inspections or reviews on the operations of the BSE, its trading system, surveillance system, CSDR System, procedures to resolve investor grievances, its dispute resolution system and listing rules, and internal organization and management of the Exchange.

When such reviews or inspections are conducted, the BSE management and staff shall co-operate with the BMA in all reviews or inspections to be conducted by the BMA from time-to-time. The BSE management and its staff shall make accessible all documents or records to the BMA, examiners, or representative.

The BSE shall provide the BMA officers or examiners involved in such reviews or inspection, reasonable access during normal business hours to the BSE offices, relevant personnel, and documents relevant to the BSE's performance in its capacity as an Exchange or clearing house. The BSE, as requested by the BMA, will make accessible all original documents, or make available copies of such documents, to BMA officers or examiners involved in the audit or review or inspection.

The parties shall agree the scope, the time schedule and the documents required of any review or inspection within a reasonable timeframe from the BMA's proposal of a review or inspection. After agreement, the BSE shall have at least 14 days prior to the

commencement of the field work of such review or inspection to prepare the necessary documents required by the BMA. The BMA shall give reasonable notice to the BSE if it requires to interview any relevant BSE staff, including CSDR, in respect of the functions relevant to the interview and shall conduct such interviews at a time convenient to all Parties. However, the BSE shall provide full cooperation and all required facilities when the BMA undertakes inspection or investigation on an exceptional basis without any prior notice.

The BMA agrees to provide the BSE with a draft report on the findings of its review or inspection within 30 days of completion of the review or inspection. The BSE will consider the draft report and endeavour to revert to the BMA with any comments within 14 days or such other timeframe as agreed between the Parties. Upon receipt of the BSE's comments, the BMA will within the next 14 days or such other timeframe as agreed between the Parties, clarify the comments and make any necessary inquiries with the BSE. The BMA, after considering all comments and explanations provided by the BSE, will provide a final report to the BSE within the next 14 days.

The BMA, based on the conclusion arrived at in the final report, may recommend remedial measures or action, or impose conditions etc. The BSE will use its best endeavours to ensure satisfactory and timely implementation of necessary improvements identified in the BMA's review or inspection.

If the case requires, the BMA may conduct such review, inspection, or audit of the Exchange through a third party, such as an independent auditing or consultation firm. The BSE agrees to cooperate with such review, inspection, or audit and furnish all documents or records to such third party as if the review, or inspection, is being conducted by the BMA. The cost of such review, inspection, or audit shall be borne by the BSE.

#### **6.7 BSE to Assist in Inspections of Member/Licencee**

The BMA's Inspections Directorate may conduct on-site inspections of licenced members of the BSE. The BSE shall cooperate with the Inspection Directorate in conducting such inspections of its members, and shall give all necessary information or documents in respect of its members and render all necessary assistance to the Inspection Directorate as may be required by it. All similar provisions as mentioned in para 6.6 above shall be *mutates mutandis* applicable to such inspections.

#### **6.8 Investigation**

The BMA may inquire or investigate suspected transactions, price manipulation or insider trading. The BSE shall assist the BMA in such investigation and furnish trading details, information, documents or records, as may be required.

The BMA may require or mandate the BSE to open a case for investigation. In such case the BSE will:-

- (a) keep the BMA informed of the progress of the investigation;
- (b) after completing and analyzing the investigation report, forward a copy to the BMA stating the BSE's conclusions with regards to the investigation; and

- (c) throughout the process, keep in mind the need to report the matter to the BMA before completing its investigation if, having regard to its and the BMA's respective functions under the BMA Law and the BSE Law. The BSE will bring matters to the BMA's attention which requires advice from the BMA as soon as is reasonably practicable, and the BSE and BMA will consult as appropriate over how best to deal with them.

The BSE and its staff shall maintain strict confidentiality about such investigation and shall not reveal about the same to any person.

## **6.9 Cooperation for Enforcement**

Both the Parties shall be responsible for the enforcement of laws being administered by them. Both the Parties agree to provide each other with the fullest assistance permissible, to secure compliance with the respective laws and regulations. The BSE shall provide all the information, data and documents available or held in the files, records, registers of the BSE which are under inquiry or investigation. The BSE agrees that assistance will not be denied on the grounds that the type of conduct under inquiry or investigation would not be a violation of rules of the BSE, or information is sought in respect of an entity where it has no independent interest.

## **6.10 Disciplinary or Regulatory Actions**

Each Party may consult with the other in respect of any proposed disciplinary action over a member or licensee. The BMA has sole authority to take action against licensees, including revocation and cancellation of the licence. However, the BMA may consult the BSE before exercising its powers to:-

- (a) Suspend or revoke, either partially or wholly, a licensee or its representative.
- (b) Reprimand, fine or issue a prohibition order against a licensee or its representative.
- (c) Suspend or delist any listed security.

The BSE will consult with the BMA before referring any matter to the Disciplinary Board, or exercising its power to:-

- (a) Suspend any member.
- (b) Suspend staff of any member.
- (c) Suspend trading of any listed securities.

This will not affect the power of the BSE to impose administrative fines or take immediate regulatory action to maintain safety and integrity of the market etc. over its members, such as for breaching trading or exposure limit etc. The BMA shall however, be kept apprised by the BSE of such administrative or regulatory action.

Each Party will ensure that it maintains a sufficient record of all communications relating to the recommendations and consultations mentioned above.

## **6.11 International Cooperation**

The BMA, as the capital market regulator, is required under the IOSCO Multilateral MOU concerning cooperation and the exchange of information, to share information or obtain and furnish in respect of entities who are operating in the Kingdom of Bahrain to foreign securities regulatory authorities, and to assist them in their investigation or regulatory action.

Similarly, the BSE may cooperate with other exchanges in respect of cross-border listings or operation of members in other jurisdictions.

It is agreed by the Parties that if any information is required to be obtained at the request of foreign securities regulators or exchanges from an entity which is within the regulatory jurisdiction of the other party to the MOU, then the concerned party shall cooperate to obtain the information from its regulated entities or investigate the matter. The requested Party shall forward to the other party requesting such information, to enable it to furnish such information to the foreign securities regulatory authority or the Exchange.

## **6.12 Rules and Internal Regulation Amendments**

The BSE's internal rules and regulations or rulebook shall be promulgated by a Resolution issued by the Governor of the BMA on a recommendation from the Exchange's Board. Any amendments to the constitution and rules of the BSE, including the CSDR, must be subject to the approval of the BMA (save in respect of rules of a class declared by the BMA not to require such approval).

The BMA acknowledges that in reviewing the proposal for the approval of the Internal Regulation rules, its primary concern will be to ensure that such Internal Regulation, rules and procedures treat all members of the BSE and similarly situated members in a fair and consistent manner, and that such Internal Regulation and rules are consistent with the public policy directives established or issued by the BMA, and such rules and regulations promote investor protection and avoid any conflict of interest.

## **6.13 BSE Rulebook**

The BSE agrees to draft a comprehensive rulebook containing articles, rules etc. on its administration, membership, listing, trading, clearing, settlement, disciplinary action or default procedures etc. The rulebook shall be drafted by the BSE, taking into consideration the consultative paper on the SER. The BSE shall consult the BMA while drafting and finalizing such a rulebook. The BSE agrees to make such a rulebook within **3 months** of entering into this MOU. The BSE shall take approval from the BMA before making, publishing or amending any part of such rulebook.

## **6.14 Implementation of Disclosure Standards and Guidelines on Insiders**

The BMA has issued Disclosure Standards vide Circular No. ODG/407/03 and Guidelines on Insiders vide Circular No. ODG/282/04. It is agreed by the Parties that the BSE shall be responsible for monitoring all the requirements by the listed companies, insiders, BSE staff and brokerage firms, as required under the said Circulars and internal policies. The BSE shall submit monthly reports on such

monitoring and compliance to the BMA and shall also report to the BMA immediately when any gross breach of the said Circulars is observed or notified to it.

#### **6.15 Monitoring and Approval of Exempted Transactions**

The BMA approves all off-market transactions, including exempted transactions, in the securities of listed companies under Article 36 of the Internal Regulation.

It is agreed by the Parties that henceforth, the BSE shall be responsible for monitoring all exempted transactions constituting below 1% of the paid-up capital of listed companies, except for item Nos. 1, 8, 9 and 14 of Article 36. The BSE shall submit a monthly report of such exempted transactions and approval given by it to the BMA.

The BMA shall be responsible for the approval of all exempted transactions exceeding 1% of the paid-up capital of any listed company and for all cases falling under item Nos. 1, 8, 9 and 14 of Article 36. The BSE shall render all information and assistance to the BMA that may be required to monitor and approve such exempted transaction by the BMA.

#### **6.16 Enforcement and Monitoring of Directives on Money Laundering**

The BMA, vide Resolution No. (1) of 2004, issued Directives Relating to the Prevention and Prohibition of Money Laundering at the BSE. It is agreed by the Parties that the BSE shall be responsible for implementation and monitoring of such directives in the BSE. The BSE shall lay down effective procedures to be followed by its staff and members and in addition, shall designate one of its officers to undertake the responsibility of implementation of the said resolution. The BSE shall retain and maintain records relating to transactions in the Exchange for at least five years. The BSE shall also lay down procedures to ensure that members of the BSE retain all records concerning client identification and clients' transactions for at least five years. The BSE shall report any suspicious transactions to the BMA's Compliance Unit, giving all available details.

### **7. Fees and Charges**

Fees or charges to be imposed by the BSE or CSDR in its capacity as an Exchange or clearing house, must be approved in writing from the BMA.

- 7.1 The BSE agrees that proposals for any variation in the current or future fees or charges it levys, as set out in the rules, and any additional new fees or charges thereto shall be with the prior approval of the BMA, and shall be accompanied by an explanatory note containing justification and setting out comparable fees charged by other exchanges or clearing houses.
- 7.2 The BMA acknowledges that, in reviewing proposals for any variation in the fees and the addition of new fees or charges to be levied by the BSE, its primary concerns will be to ensure that the BSE does not abuse its competitive position, whether by way of charging excessive or predatory fees or charges, or otherwise does not unduly discriminate against particular members or class of members.

## **8. Risk Management and Internal Controls**

The BSE shall establish and maintain its own internal policy on establishment and maintenance of risk management and internal controls, in accordance with the Guidelines on Establishment and Maintenance of Risk Management and Internal Controls for Licenced Securities Business Institutions issued by the BMA.

A Risk Management Committee (RMC) shall be established and maintained and a Risk Management Officer (RMO) shall also be appointed by the BSE. The Risk Management Committee shall formulate policies on risk management matters relating to the activities of the BSE and CSDR.

The scope of the RMC shall include:-

- Developing a framework addressing all types of risks covering all the BSE members based on BMA rules on the Establishment and Maintenance of Risk Management and Internal Controls for Licenced Securities Business Institutions.
- Providing a mechanism to declare a member a defaulter, or warning systems of the possibility of the liquidation of a broking firm.
- Mechanism for an automatic disablement on reaching exposure/position limit, or appointment of a receiver when an intermediary is likely to default, or go into liquidation, will be made.
- Comprehensive mechanisms to manage large exposure, default risk and market disruption to be laid down.
- Arrangements to share information with cross-border exchanges on large exposures on common market practices to be made.
- Sources of operation risk arising in the clearing and settlement process to be identified. Contingency plans and back-up facilities to be established for timely recovery of operation and completion of settlement.

The appointed RMO shall liaise directly with the BMA's CMS Directorate's Market Surveillance Superintendent for any abnormal business or transactions associated with a high level of risk. The RMO shall report any surveillance or risk management matters to the BSE management and RMC.

## **9. Enhancement of the Market Infrastructure**

The BSE agrees that it will establish a calendar to put in place a system to periodically review its trading, settlement, depository and registry systems, having regard amongst other things to the recommendations set out in the IOSCO Principles/FSAP standards and relevant PWC recommendations, and endeavour to implement measures to enhance these systems, to achieve these standards and to address the changing needs of the capital market in Kingdom of Bahrain in a cost effective manner.

Without prejudice to the generality of the foregoing provisions, the BSE agrees to establish rules and procedures and to implement on a priority basis the following:-

- The BSE shall ensure and maintain a fair, transparent and efficient securities market.
- Relevant information about all members including names of key personnel, any regulatory action taken etc. in respect of members shall be made available on the BSE website.
- The financial position of members shall be made subject to an independent audit, in accordance with Article 16 of the BSE's Internal Regulation and Article 20 of Resolution No. (2) of 1987.
- An electronic automated market surveillance programme to monitor price, volume movement (volatility), detection of potential market abuses, managing default-risk, and surveillance action and risk management by the Exchange shall be developed. A real-time market surveillance engine or system that aims to protect the integrity of the market from fraud and abusive trading practices, particularly price manipulation associated to trades occurring in the securities market, shall be set-up.

## **10. Serious Matters**

10.1 Whereas the BSE, in the course of performing its functions in its capacity as an Exchange or front-line regulator, or as a result of complaints, becomes aware of a serious matter as set out in Appendix I, will notify the BMA as soon as is practicable. Whereas the BMA, in the course of performing its functions under the relevant laws and regulations, and hereunder becomes aware of a serious matter which may affect the market and system operated by the BSE, including the CSDR, the BMA will, to the extent permitted by law, notify the BSE as soon as is practicable. In respect of such notifications, the following matters are agreed:

- a) The BMA and BSE will agree upon the criteria to determine the matters that are regarded by them as serious matters for the purpose of this MOU, and acknowledge that the designation of these matters may vary from time-to-time. Appendix I sets out a list of serious matters that have been so agreed upon by the BMA and BSE.
- b) Notification of serious matters relating to regulatory compliance and risk management issues shall be reported by the BSE's designated Compliance or Risk Management Officers to the currently designated Officers at the BMA's CMS Directorate. Where the circumstances of the case indicate urgency, notification may be made orally.
- c) The responsible Party shall take the appropriate regulatory action and advise the other Party of the action taken and update the other Party regularly on the progress of its follow-up actions.

## **11. Referrals by the BSE**

11.1 The BSE shall refer to the BMA from time-to-time all alleged or suspected violations of codes, rules and regulations relating to the securities market of which it becomes

aware, either from members, other agencies, or the public, and where the matter in the opinion of the BSE appears to be relevant to the BMA's functions under the relevant laws and regulations or guidelines and hereunder. The BMA does not require a referral to include information that may, in the BSE's view, be regarded as merely anecdotal or which lacks credibility. In respect of such referrals, the following matters are agreed:

- a) The BSE shall notify the BMA of any detected trading malpractices in the market operated by the BSE, or that appear to the BSE to be in breach of guidelines, or rules and regulations that in the BSE's view impugn the fitness and properness of a licensee. The BSE shall provide a brief summary on the matters so detected, to facilitate the BMA's inquiry into the matter or decision.
- b) The BSE shall notify the BMA of all complaints lodged by the public concerning a member or listed company and provide such a brief summary of the matter to facilitate the BMA's investigation and action.
- c) The BSE shall notify the BMA of any suspected serious breach of regulatory provisions in relation to securities and/or clearing by a member, such as money laundering.

## **12. Referrals by the BMA**

The BMA shall, to the extent permitted by law, notify the BSE where it suspects that there has been conduct that may warrant disciplinary or other action by the BSE. The BMA shall provide to the BSE such additional information in relation to any such matter as it may provide, consistent with its obligations under the law.

## **13. Financial Requirements**

Licencees will be required to comply with the minimum capital requirements as specified by the BMA. In order to assist the BMA in monitoring the financial position of a licensee, the BSE shall provide the BMA with relevant data in respect of licencees at an agreed time schedule and interval. The BSE shall notify the BMA of any information having a bearing on a licensee's financial status or exposure or on-going capital adequacy requirement.

## **14. Contingency Arrangements in Market Surveillance**

The BSE agrees to allow authorised personnel of the BMA to access its systems, facilities, or software applications, in relation to market surveillance available at its premises during normal business hours and to make available other facilities for such authorised personnel.

## **15. Filing of Reports and Sharing of Information Between the BMA and BSE**

The BSE shall submit the following reports to the BMA:-

**(a) A copy of the annual audited balance sheet and profit and loss account of the Exchange.**

**(b) A Bi-annual detailed report containing:-**

- I. The Exchange's work and the state of investors.
- II. Any changes in the rules and procedures.
- III. Any changes in the composition of the BSE Board, senior management and committees.
- IV. Resignation, death of members.
- V. Disciplinary action against members.
- VI. Arbitration of disputes.
- VII. Defaults.
- VIII. Action taken to combat any emergency in trading.
- IX. Securities listed and delisted.
- X. Securities suspended from trading.
- XI. The official closing prices for the securities listed.
- XII. The number of shares deposited and withdrawn through the clearing house.
- XIII. Any other matter as may be specified by the BMA.

**(c) Quarterly Reports:-**

- I. Report showing dealings of market intermediaries (such as brokers, custodians, etc.) market wise, sector wise, company wise.
- II. Market intermediaries counterparty dealing, i.e, percentage of dealing of broker A with broker B.

**(d) Monthly reports:-**

- I. Report on directors' qualifications shares, including the name of each director representing any company or entity under the concerned listed company, and the balance of shares deposited. Any change in the balance or director's name to be given in a comparative table showing the current and previous balances.
- II. Report on exemption cases, as per Article 36 of the BSE's Internal Regulation, classified under each exempted case.
- III. Statements on Board of Directors (BOD) transactions classified under each listed company, including date of transaction, number of shares, price, parties and counterparty brokers.
- IV. Report on consolidated balance of interest or ownership in each listed company which constitutes 5% or above in each listed company. The balance figure shall be consolidated with the CSDR and the shareholders balance.
- V. Report on investors' complaints against the BSE and its members received and redressed.
- VI. Report on the business and activities of various committees, i.e. key management, e.g. RMC, Auditor Committee.

- VII. Report showing the CSDR business, including but not limited to:-
- (a) gross total shares deposited;
  - (b) gross total shares withdrawn;
  - (c) number of investors for each listed company;
  - (d) number of investors classified by nationality for each listed company and for the whole market;
  - (e) additional deposited balances due to an increase in the paid-up capital of each listed company.
  - (f) No. of shares pledged for each listed company and whole market showing the parties, date of transaction, and term and condition of such pledge.
  - (g) Statement of corporate action by each listed company related to share depository.
  - (h) Movement of shares deposited in each cross-listed company in Bahrain.
  - (i) Statement showing action taken due to off-market transaction such as auction etc.
  - (j) Statement of transaction reversed or offset transactions, or reasons thereof.
- VIII. Report on the latest outstanding shares and market capitalization of listed companies.
- IX. Report on most actively traded listed companies.
- XI. Report on the trading activities of each listed company nationality wise.
- XI. Status showing the total amount and contribution of each member and other assets of the Guarantee Contribution Fund and utilization and investment of GCF.
- XII. Statement regarding the Bahraini listed companies listed on other exchanges, showing the volume, value, number of transactions and price movement on such companies' shares.
- (e) Weekly report on the trading activity of each listed company including volume, value, price and number of transactions.

In order to assist each other in performing their functions under the relevant laws and regulations and hereunder, the BMA and BSE agree to provide information to the other Party in order for the other Party to carry out such functions. The information that each Party will provide the other with are set out in Appendices II and III. In respect of providing such information, each Party agrees to use reasonable endeavours to give reasonable prior notice regarding any changes made, or enhancements to any of the specified forms and data formats to be provided, in order that the other Party may make changes necessary for data acceptance.

## 16. Market Contingency Plan

The BSE shall formulate and maintain a market contingency plan. The plan shall be reviewed and tested from time-to-time and the BSE shall consult the BMA prior to any material amendments to the plan.

## **17. Consultation In the Event of Certain Matters Affecting the CSDR**

The BSE hereby undertakes to consult the BMA if there is any intention to take certain actions affecting the CSDR as set out in Appendix IV.

## **18. Guarantee Contribution Fund (GCF)**

The BSE shall maintain and operate the GCF in an efficient and effective manner, in accordance with Resolution No. (4) of 2000. In addition, the BSE agrees to use all reasonable endeavours to provide assistance as requested by the BMA in relation to the Guarantee Contribution Fund in the Kingdom of Bahrain.

## **19. BMA and BSE Contacts and Co-ordination**

- 19.1 The BMA and BSE shall meet regularly, and not less than quarterly, in order to discuss matters that are the subject of this MOU, including the progress of matters relating to BMA oversight, risk management, sharing of information, supervision of members, enforcement actions, market surveillance and implementation of IOSCO/FSAP standards.
- 19.2 It shall be the responsibility of both Parties to implement this MOU. The BMA and the BSE shall advise each other (from time-to-time) of the names of the persons to act as the primary and secondary points of contact for each organization. Should either of the primary points of contact be absent, the secondary point of contact should be contacted.
- 19.3 The BSE's Compliance Officer shall contact the CMS Directorate's Compliance Officer regularly and shall hold periodical meetings not less than monthly to discuss the compliance issues.

## **20. Confidentiality**

- 20.1 If requested by the BMA, the BSE shall provide on a confidential basis, relevant information to the BMA.
- 20.2 The provision of information is made on the understanding that such information shall be used only for the purposes of assisting the BMA in the performance of its functions. The BMA shall not disclose such information to any third party (save for its directors, staff, professional advisors or other regulatory bodies where the information is relevant to the performance of their functions), without the consent of the BSE. The BMA shall establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of information provided to it by the BSE.
- 20.3 The BSE shall also be subjected to similar confidentiality requirements in respect of any information furnished by the BMA to the BSE.

20.4 Both the BMA and BSE shall adhere to the guidelines while sharing any confidential or price sensitive information, and endeavour to prevent abuse of confidential information.

## 21. Implementation

21.1 The BMA and BSE shall implement the provisions of the MOU in a manner or time as stipulated in the relevant clause of this MOU. Where no specific manner or time has been specified, the BMA and BSE agree that they will establish an action plan or road map to implement the provision of this MOU, including the formation of a technical committee where it may be required.

## 22. Effective Date and Amendments

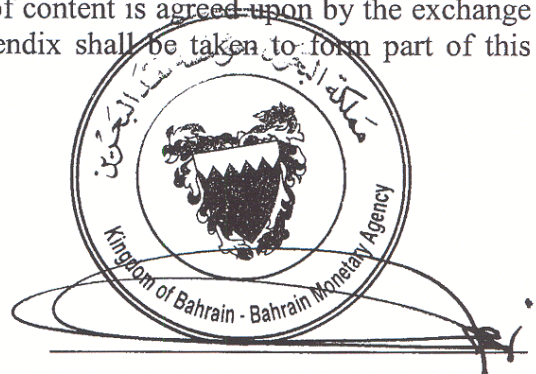
22.1 This MOU shall come into force on the date the MOU is signed by both the Parties, or any such other date as may be mutually agreed upon in writing between the BMA and BSE.

22.2 The BMA and BSE agree to keep the operation of this MOU under review and to consult each other with a view to improving its operation and resolving any matters. In addition, the BMA and BSE agree to review the MOU at least once a year.

22.3 The new regulatory requirements, directives, guidelines, codes relating to the capital market and securities business issued by the BMA from time-to-time shall be considered as a part of this MOU. The BSE agrees to follow and implement them within the timeframe and in the manner as stipulated in such directive, circular, etc.

22.4 This MOU may be amended at any time by written agreement between the BMA and the BSE by the exchange of letters. The content of any Appendix to this MOU may be amended from time-to-time upon terms set out in an exchange of letters between the BMA and the BSE. Where such a change of content is agreed upon by the exchange of letters, such letters, as well as the Appendix shall be taken to form part of this MOU.

SIGNED FOR AND ON BEHALF  
OF THE BAHRAIN MONETARY AGENCY  
BY Ali Salman Thamer  
Director, Capital Markets Supervision Directorate  
of the Bahrain Monetary Agency



SIGNED FOR AND ON BEHALF  
OF THE BAHRAIN STOCK EXCHANGE  
BY Fouad Rashid  
Director of the Bahrain Stock Exchange



On Wednesday, 23<sup>rd</sup> March 2005

## Appendix I

### SERIOUS MATTERS

For the purposes of this MOU, the BMA and BSE agree that “Serious Matters” may include but not be limited to the following:-

#### **Part A - In relation to the Supervision of Trading and Clearing Operations**

**Notification in writing by the BSE to the BMA, when the BSE becomes aware of the matter:**

1. Any material non-compliance with or breach of laws, regulations etc. by the BSE or CSDR.
2. Any termination or suspension of or disruption or change to the normal trading and clearing services provided by the BSE caused by any event or circumstance which may include, but shall not be limited to, failures of major trading or settlement systems, computer systems or communication network, equipment breakdowns, interruptions of power supplies and other utility services, fires, and other emergencies.
3. Immediate notification on any significant rumour floating in the market.
4. Any unusual market activity, e.g. any abnormal movement of price, or abnormal position.
5. Any emergency or extraordinary situation which has triggered the BSE to activate its contingency plans or measures to deal with any matters affecting the market operations of the BSE, including the CSDR.
6. Any emergency decision made or action taken by the BSE to exercise its discretion as stipulated in the relevant rules to change existing policies, practices and procedures relating to the trading, clearing and settlement operations and risk management.
5. In emergency cases and for the interest of or protection of investors:
  - (a) limiting trading to a specific price range;
  - (b) modifying trading days and/or hours;
  - (c) fixing the settlement price at which positions are to be liquidated;
  - (d) requiring any person to act in a specified manner in relation to trading in securities, or any class of securities; and
  - (e) modifying or suspending any of the business rules of the Exchange.
6. Where the Exchange fails to comply with the direction, circulars, instructions, etc. of the BMA, within such time as is satisfied by the BMA:-
  - (a) set emergency margin levels in any securities;
  - (b) set limits that may apply to market positions acquired in good faith prior to the date of any action; or

- (c) take such other action as the BMA considers to maintain or restore orderly trading in any securities, or liquidation of any position in respect of securities.
7. Where the Exchange takes emergency action, the BMA may modify such emergency action after consultation with the BSE, including but not limited to the setting aside of that emergency action.
  8. Any utilization of money or assets of the GCF or any irregularities, malpractices or misuse or mismanagement of the GCF.
  9. Any abuse by BSE staff or breach of any laws, regulations, rules, etc. in general, and in particular, on the Guidelines on Insiders and any confidentiality requirements.
  10. Any agreement or arrangement entered into by the BSE with any third party, in respect of trading, clearing house, settlement, depository and registry systems etc.
  11. Any substantial dispute or litigation between the BSE and other parties.
  12. Any large, exposure and abnormal volumes of trading in specific listed securities or whole market.
  13. For the purpose of this MOU, “emergency” means threatened or actual market manipulations and corners, and includes:-
    - (a) any act of Government affecting the securities market;
    - (b) any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such securities market; or
    - (c) any other undesirable situations or practices which in the opinion of the BMA constitutes an emergency.

## **Part B - In Relation to the Supervision of the members**

- I. Notification by the BSE to the BMA when the BSE becomes aware of the matter:**
1. Declaration of a member in default by the Exchange, or declaration of a clearing participant in default by a clearing house/CSDR.
  2. Rejection by a bank of a Direct Debit Instruction or bouncing of a cheque given by a clearing house in relation to payment by a clearing participant of margin, variation adjustment, or settlement obligations of trades conducted on a market operated by the BSE or CSDR.
  3. Forced liquidation of open positions of a member with a clearing house in relation to a market operated by the BSE or CSDR.
  4. Suspension/revocation of, or imposition/revision of restrictions on a member’s trading or clearing rights, or a breach of such restrictions by the member.
  5. Facts and circumstances that may require the BMA to exercise its power of intervention, including restricting the business and/or the handling of assets by a licensee.

6. Failure by a member to comply with the capital requirement, as stipulated.
7. Cancellation by a bank of credit facilities granted to a member in connection with the trading of securities on the BSE.
8. Reports or allegations, including but not limited to off-market activities undertaken inside or outside the Kingdom of Bahrain relating to securities, concerning a member and/or its related company, which if substantiated would impact materially and adversely on a member's operation and financial integrity.
9. Alleged misuse or misappropriation of client assets by a member, or a member's officer, employee or representative.
10. Resignation or dismissal of an officer, employee, or representative of a member.
11. Unauthorised pledging, disposal or use of securities belonging to a member's client, which if substantiated would be in material breach of provisions relating to client asset protection, or pose a risk to client assets.
11. Alleged conduct by a member, which if substantiated would pose a material risk of default by the member in respect of clearing and settlement obligations, or other financial obligations.
12. Any incidence of suspected business misconduct, such as price manipulation, insider trading, front running, bucketing, etc.

**II. Notification by the BMA to the BSE as soon as is practicable when the BMA becomes aware of the matter:**

1. Decisions taken by the BMA regarding the suspension/revocation of, or imposition/revision of restrictions on a licensee by the BMA.
2. Facts and circumstances that may require the BSE to exercise its power to suspend or impose restrictions on a licensee's trading or clearing right.
3. Failure by a licensee to comply with the minimum capital requirement.
4. Cancellation by a bank of credit facilities granted to a licensee in connection with trading on a market operated by the BSE.
5. Reports or allegations, including but not limited to off-market activities relating to securities, concerning a member and/or its related company, as obtained from market intelligence or otherwise, which if substantiated would impact materially and adversely on a member's operation and financial integrity.
6. Alleged misappropriation of clients assets by a licensee or licensee officer, employee, or representative.

7. Resignation or dismissal of an officer, employee, or representative of a licensee.
8. Unauthorised pledging of securities belonging to a licensee's client, which if substantiated would be in material breach of provisions relating to client asset protection, or pose a risk to client assets.
9. Alleged conduct by a licensee, which if substantiated would pose a material risk of default by the member in respect of clearing and settlement obligations, or other financial obligations due to a third party.
10. Any decision of the BMA directing suspension of trading, trading halts, delisting of securities, restrictions on brokers, members.

## Appendix II

### **PROVISION OF INFORMATION BY THE BSE TO THE BMA**

The sharing of information between the BMA and the BSE should be in writing and within the scope of this MOU between the two Parties, and subject to the applicable laws and regulations. Such information may include but not be limited to the following:-

1. The BSE shall provide the BMA with the agreed reports or information within such timeframe as agreed upon between the BMA and BSE.
2. As and when the BSE becomes aware of, or obtains information on the following, it shall send the information to the BMA as soon as is reasonably practicable:
  - Registration and date of commencement of operation of a licenced member;
  - Acceptance of any member's representative or staff under Exchange rules;
  - Suspension or cessation of any rights of a member;
  - Suspension of a member's representative or staff registered with the Exchange under its rules;
  - Commencement and re-commencement of trading by a member, upon notification by the member; and
  - Commencement, opening, closing, suspension, cessation or revocation of local or overseas trading, clearing, settlement services or activities and the position of a member, upon notification by such participant, if applicable.
3. As and when the BSE becomes aware of, or obtains information on the registration and date of commencement of a clearing participant, it shall send the information in writing to the BMA as soon as is reasonably practicable.
1. The BSE shall be required to provide the BMA with the actual amount of paid-up capital, reserves and retained earnings of each member on a quarterly basis.
5. The BSE shall notify the BMA of all subsequent amendments to any member's paid-up capital, if the BSE has been notified the same by a member.
6. The BSE shall provide the BMA as soon as is reasonably practicable with a copy of an assessment report on a member's future settlement ability, as and when such a report is produced by the BSE, following the member's designated bank's rejection of any cheque or previously issued Direct Debit Instruction, or any default.
7. The BSE shall notify the BMA upon notification of the external auditor of any members regarding any major default or shortfall regarding the risk management and internal controls systems used by such participants.
8. As and when a member files a financial statement with the BSE, and where the BSE considers that such information has significant and material impact on the operation and the financial position of the member, the BSE shall notify the BMA of such a case. The BSE shall, upon the request of the BMA, provide the relevant data in the financial statement to the BMA. The BSE shall, upon the BMA's enquiry, provide an explanation concerning the financial position to the BMA.

9. The BSE shall provide the BMA with any particulars relating to a member's failure in complying with the minimum capital requirement, as and when the BSE becomes aware of the circumstances.
10. As and when the BSE issues a warning letter or institutes disciplinary action in respect of a member, or one of its officers, employees or representatives, the BSE shall as soon as is reasonably practicable pass to the BMA a copy of the letter that it has issued. The BSE shall thereafter inform the BMA of the result of the disciplinary action and any appeal action initiated by the member, its officers, representatives or employees.
11. The BSE shall provide the BMA with real-time electronic access to the trading engine or system, and with daily market surveillance system data in a manner agreed upon and which contains such trading and other information, as agreed between the BSE and the BMA.
12. The BSE shall provide the BMA with real-time electronic access to the CSDR System, as agreed upon, which contains such functions and information as agreed between the Parties.
13. The BSE shall provide the BMA with all circulars that are issued to members and listed companies.
14. The BSE shall provide the BMA with a copy of any final, signed listing agreement whenever entered into with any listed securities for both local and overseas issuers.
15. The BSE shall inform the BMA as and when it initiates an intra-day margin call or mark, including the time when a margin call or mark is initiated, and the number of clearing participants and the amounts involved.
16. As and when any amount in respect of an intra-day margin or mark cannot be collected within the period stipulated by the BSE, the BSE shall inform the BMA of the name of the respective clearing participant and the outstanding amount.
17. The BSE shall provide the BMA with a breakdown of the Guarantee Contribution Fund on a quarterly basis, or upon any change of the respective member's contribution.
18. The BSE shall provide the BMA with a regularly updated organizational chart, containing names of senior executives and their contact telephone numbers.

## **Appendix III**

### **PROVISION OF INFORMATION BY THE BMA TO THE BSE**

The sharing of information between the BMA and the BSE should be in writing and within the scope of this MOU between the two Parties, and subject to the applicable laws and regulations. Such information may include but not be limited to the following:-

1. As and when the BMA becomes aware of, or obtains information on the following, it shall send the information to the BSE as soon as is reasonably practicable:
  - Decision taken on registration, revocation, suspension or cessation of a licencee.
  - Change or cessation of employment of a licencee.
  - Discrepancy in the registration record in relation to a licencee, or upon checking the relevant information received from the BSE; and
  - Failure in paying the annual licence fee by a licencee.
  - Any change in the paid-up capital of a licencee.
  - Any significant or material impact on the operations and financial position of a licencee.
  - Any licencee's failure to comply with the minimum capital requirements.
2. As and when approval is given by the BMA on the following matters, the BMA shall pass to the BSE a copy of the approval letter that is issued to the licencee:
  - BMA approval for modification of provisions relating to capital requirement of a licencee;
  - BMA approval for a licencee regarding the change of the whole or part of the ownership or control of such licencee.
3. As and when the BMA completes an inspection on a licencee, the BMA shall as soon as is reasonably practicable, pass a copy of its letter issued to the licencee participant to the BSE. The BMA shall, upon the request of the BSE, inform the BSE of the extent permitted by law and relevant to the functions of the BSE as a front-line regulator of the follow-up action to be taken by the BSE and the licencees.
4. As and when the BMA exercises its power of intervention restricting the business and/or the handling of assets by a licencee, the BMA shall as soon as is reasonably practicable provide the BSE with particulars relating to the circumstances leading to the intervention, and the financial status of the licencee, including but not limited to details of the amount owed to clients, the status of clients' assets and collateral, the extent of client assets at risk, and the extent of the deficiency in a licencee's assets in meeting its obligations due to the clients.

5. In relation to a licensee's financial statements filed with the BMA, the BMA shall provide the BSE with the same, if such statement has not been received by the BSE.
6. The BMA shall, in a crisis situation outlined in the BMA's contingency plan, inform the BSE about such situation.
7. The BMA shall notify the BSE as soon as is reasonably practicable of any complaint of a serious nature against a licensee to the extent permitted by law, and relevant to the functions of the BSE as a front-line regulator.
8. As and when the BMA issues a warning letter or takes disciplinary action against a licensee or one of its officers, representatives or employees, the BMA shall as soon as is reasonably practicable pass to the BSE a copy of the letter that it has issued. The BMA shall thereafter inform the BSE of the result of the disciplinary action and any appeal action initiated by the licensee, its officers, representatives or employees.
9. The BMA shall provide the BSE as soon as is reasonably practicable with any non-compliance with any laws, regulations, rules, guidelines etc. detected by the BMA in the performance of its functions.
10. As and when the BMA becomes aware of an alleged conduct by a licensee, which if substantiated would be in breach of provisions relating to client asset protection or pose a risk to client assets, the BMA shall notify the BSE of details of the particulars as soon as is practicable.

## Appendix IV

### CONSULTATION IN THE EVENT OF CERTAIN MATTERS AFFECTING THE CSDR

The BSE hereby undertakes to consult the BMA if the CSDR System intends:

- a) To waive any or all of the conditions or requirements of participation in the CSDR of any participant under Resolution No. (3) for the year 2000 with respect to the Clearing, Settlement, Depository and Registry Rules (CSDR Rule);
- b) To enter into arrangements with other clearing entities concerning clearing and settlement services related to the CSDR, or to provide services to Participants other than in respect of eligible securities under CSDR Rules.
- c) To cease or suspend operation of the CSDR, or to restrict any one or more of its services in respect to any eligible securities previously admitted for settlement under the CSDR System;
- d) To allow broker participants to provide the Guarantee Contribution Fund in any form other than cash or bank guarantee under the CSDR Rule.
- e) To establish additional arrangements for the Guarantee Contribution Fund, or appropriate BSE or CSDR own resources to the Guarantee Contribution Fund, or to terminate any Guarantee Contribution Fund. The BSE must also consult with the BMA if the Guarantee Contribution Fund is not or is likely not to be maintained at the minimum level agreed upon by the Parties hereto;
- f) To suspend the whole or any part of the operations of the CSDR or the services and facilities of the CSDR available to all participants;
- g) To revoke or make any material change to any agreement, arrangement or the like between itself and any depository concerning the CSDR;
- h) Distribution of the assets of a person in liquidity, bankruptcy or insolvency, or on the appointment of a liquidator, receiver, or an equivalent officer over any of the assets of any person who deposits his securities, as may be informed by the court.