



CMDA Policy Statement 11/00

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Guidelines for Stock Exchanges Rule Adoption Procedures

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1.0. Introduction

Stock exchange rules exist to provide appropriate and proper guidelines and procedures for the proper functioning of a stock exchange. As a consequence, these rules must not only be stable and transparent, but also be liable to change to accommodate changes in the market that impact on all market participants. The adoption procedures for such rules should then reflect these characteristics.

This Policy Statement provides guidelines for Rule Adoption Procedures (RAP) for stock exchanges based on the principles of equity, fair-play, stability and transparency, and also in compliance to the stipulations of the Capital Markets Development Authority Act, 1996 (“CMDA Act”) and Capital Markets Development Authority Regulations, 1997 (“CMDA Regulations”).

The Members of the CMDA have agreed that rules submitted to them for approval under section 36 of the Capital Markets Development Authority Act 1996, should be subjected to the rule adoption process outlined below, or a similar process which has been adopted by a securities exchange as its formal RAP and as outlined in its business rules.

2.0. Statutory Stipulations for Rule Adoption Procedures

The following are the relevant parts of the CMDA Act and Regulations pertaining to RAP:

- I. With regard to the functions and powers of the Authority (Part III of the Act, Section 14 (w)):

*“..to consider and suggest reforms of law relating to securities **including** changes to the constitution, rules and regulations of any exchange and its clearing house.”*

- II. With regard to the provisions relating to securities exchanges and central depositories (Part V of the Act, Section 36 (1-6):

- (1) *The rules of an approved securities exchange and central depository in so far as they have been approved by the Authority, shall not be amended, varied or rescinded without the prior written approval of the Authority;*
- (2) *Where the board of directors of an approved securities exchange or central depository wishes to amend its rules, it shall forward the amendments to the Authority for Approval;*
- (3) *The Authority shall, after hearing from the securities exchange and central depository, and within thirty days of receipt of a notice under subsection (2) give written notice to the securities exchange or central depository stating where such amendments to the rules are allowed or disallowed and in the*

event of the rules being disallowed, the Authority shall give reasons for such disallowance;

- (4) *Notwithstanding paragraph (2), a proposed rule change may take effect upon filing with the Authority if designated by the securities exchange or central depository as:-*
- (a) *a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of an existing rule;*
 - (b) *a proposal establishing or changing a fee or other charge; or*
 - (c) *a proposal dealing solely with the administration of the securities exchange or central depository or other matters which the Authority may specify.*
- (5) *In addition to the provisions of subsection (4), the Authority may add other terms, which it determines to be appropriate in fulfilling its objectives under this Act.*
- (6) *Where an approved securities exchange or central depository proposes to alter any particulars already furnished or undergoes or intends to undergo a change from its state specified in the application for approval it shall inform the Authority and obtain its prior consent before such alteration or change is effected.*

III. With regard to the requirements for approval of a securities exchange (Part II of the Regulations, 6(f):

“Unless exempted from any of the following provisions by the Authority, in order to receive approval to operate as a securities exchange:- the applicant’s rules and guidelines shall make provisions satisfactory to the Authority on matters to be prescribed in the form of rules by the Authority.”

IV. With regard to the provisions relating to securities exchanges (Part III of the Regulations, 6(2):

“The Authority may, after consultation with the securities exchange, amend the rules of a securities exchange by written directions specifying the amendments and the dates those amendments shall have force and effect but the Authority may dispense with such consultation if it considers it necessary for the protection of investors.”

Based on the above statutory stipulations:

1. A securities exchange cannot operate without rules as approved by the Authority;
2. The Authority has powers to not only suggest and propose rules for the operation of a stock exchange and/or central depository, but to also enforce such rules as deemed appropriate;

3. The Authority may disallow any other rules it deems fit and as put up by a securities exchange.

3.0. Rule Adoption Procedures

The following is a guideline for the RAP for a stock exchange when it intends to introduce, amend or abolish its rules:

- A discussion paper must be prepared setting out the changes it is proposing and the reasons why these changes are being proposed. Where alternatives have been considered, the exchange should also describe the alternatives and explain why the alternatives are not recommended;
- The consultation process in developing draft rules for the approval of the Authority are to be with all market participants or their representatives, the CMDA, the general public via market announcement or other means, and other interested parties, so as to maximise the circulation of such discussion paper for appropriate comment and feedback. Consultation with government agencies may be necessary for harmonious interactions with existing legislation.
- If required, set a date and a venue for a meeting at which the proposal can be discussed;
- Set a date for the receipt of written comments. Where appropriate, a written commentary must be prepared on the written comments received and why some were accepted and others not. This should be distributed to all interested parties but particularly to those who submitted written comments;
- Such consultation process should not exceed a 30-day period;
- Following the consultation process, the draft rules must be prepared and submitted to the Authority for final consideration and decision, and must include all written comments and feedback.
- As outlined in Part V Section 36 (3) of the CMDA Act, the Authority shall give written notice to the securities exchange stating whether such amendments to the rules are allowed or disallowed and in the event of the rules being disallowed, the Authority shall give reasons for such disallowance.

Where a stock exchange intends to propose a rule change, which is not significant in terms of policy or practice or one that results from a consultation exercise, it should:

- Draft the rule change and set a future date for implementation;
- Publish the draft rule change which should read ‘subject to confirmation by the board of the stock exchange and the CMDA, the following rule will become effective on..... and, written comments are requested by.....’. All written comments and feedback must be taken into account when submitting the final draft rule to the Authority for consideration and decision;

- Make a market announcement of a confirmation or otherwise of the rule on the day before the effective date.

Capital Markets Development Authority

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