

SECURITIES ACT

13th August 2002

This Act is to make provision for the establishment of the Capital Market (Development) Authority, the Maldives Stock Exchange; the licensing of dealers, investment advisers, underwriters and custodians for the purpose of developing and regulating a capital market in the Republic of Maldives and for matters connected therewith or incidental thereto.

PART I
CAPITAL MARKET (DEVELOPMENT) AUTHORITY

Capital Market (Development) Authority

1. There shall be established an Authority which shall be called the Capital Market (Development) Authority (hereafter referred to as “the Authority”).
2. The Authority shall be a body corporate.

Composition, functions and duties of the Authority

3. The composition, functions and duties of the Authority shall be as laid down in a presidential decree.

Objects of the Authority

4. The objects of the Authority shall be:-
 - (a) to develop a market in which securities can be issued and traded in an orderly and fair manner;
 - (b) to *promote* the interests of investors who invest or propose to invest in securities;
 - (c) to regulate and supervise the securities market; and
 - (d) to suppress illegal, dishonorable and improper practices in relation to dealings in securities.

General Powers of the Authority

5. Without limiting any other provisions of any Act, the Authority shall have all such powers as are reasonably necessary to enable it to carry out its functions and duties as provided for by Regulations made under this Act.

Immunity of the Authority, employees and others acting under direction.

6. No action or other legal proceedings shall be against the Authority or any officer or employee of the Authority or any person, including the stock exchange, acting under the direction of the Authority for any act done or purported to be done in good faith in the performance, or intended performance of any duty, or in the exercise of any power under this Act or the regulations made thereunder.

Authority may publish reports

7. The Authority may publish any report or comment made by it in the course of the exercise or intended exercise of its functions.

PART II

INTERIM STOCK TRADING FACILITY

Only an approved interim stock trading facility or stock exchange may establish or maintain a stock market

8. (a) No person shall establish or assist in establishing or maintain or hold himself out as providing or maintaining a stock market unless it is an interim stock trading facility approved under this Part or a stock exchange approved under Part III.

(b) A person who contravenes subsection (a) commits an offence and is liable on conviction to a fine not exceeding MRf 1,000.00 or to imprisonment for a term not exceeding five years or both.

Interim stock trading facility

9. (a) Notwithstanding any provisions of this Act, but subject to this Part, the Authority may permit any person who holds a dealer's licence or persons who hold dealer's licences to establish and maintain an interim stock trading facility in which other holders of dealer's licences may participate until an approved Stock Exchange is established under Part III.
- (b) The Provisions of this Act, other than sections 11 to 16 shall apply mutatis mutandis, in relation to an interim stock trading facility established pursuant to subsection (a) with such modifications as the Minister may from time to time specify by order published in *Gazette*.
- (c) Subject to subsection (b) the Authority may make or, where appropriate, approve such rules as may be required for the purpose of ensuring orderly and fair trading in securities on the interim stock trading facility and the protection of investors in that connection.
- (d) Where an approved Stock Exchange is established under Part III, the management and operation of the interim stock trading facility shall be assumed by the approved Stock Exchange in accordance with the rules under subsection (c).

PART III

STOCK EXCHANGE

Power of Authority to approve Stock Exchange

10. Application for approval as a Stock Exchange may be made to the Authority by a company registered under the Companies Act *in such form and manner and shall be accompanied by such fee as prescribed by Regulations under this Act.*

Establishment of Stock Exchange

11. (a) The Authority may, in consultation with the Minister, approve a company called in this Act “the Stock Exchange Company” which makes application for approval as a Stock Exchange if it is satisfied-

That at least three members of the applicant company are dealers who *will* carry on the business of dealing in securities independently of and in competition with each other;

That the Memorandum of Association and Articles of Associations of the applicant company are in a form which is approved by the Authority and contain provision that they will not be amended except to such extent and in such manner as may be approved or directed by the Authority;

That the rules of the Stock Exchange make satisfactory provision *for the matters referred to in section 16.*

The Stock Exchange Company

1. (1) The Stock Exchange Company shall be incorporated under the Companies Act.
- (2) The Stock Company Shall:
- (a) have the right to operate, manage and maintain the stock exchange and
- (b) comply with the provisions of this Act as to its constitution, objects powers, duties and other obligations.
- (c) have power to establish as a subsidiary a Central Depository Clearing and Settlement Company.

Control and supervision of the Stock Exchange Company

13. (a) The Stock Exchange Company shall:-

- (i) be under the control and supervision of the Authority;
- (ii) be managed by its Board of Directors.

The Authority shall publish in the *Gazette* the notice of approval of the applicant company as a Stock Exchange and every cancellation or suspension of any such approval.

Where the Authority is of opinion that an approval granted to a Stock Exchange should be withdrawn in the public interest, it may serve in the Board of Directors of the Stock Exchange a written notice and after giving an opportunity to the Board of Directors to be heard on the matter, it may cancel the approval made under the subsection (a): provided that such cancellation shall not take effect until after the expiration of three months from the date on which cancellation is published in the *Gazette*.

Objects of the Stock Exchange Company

The objects of the Stock Exchange Company shall be:-

- to provide facilities for buying, selling and otherwise dealing in securities on the Stock Exchange.
- to provide an administer procedures for the disciplining of person of who are involved in dealing in securities on the Stock Exchange.
- to establish a clearing service for securities dealt on the Stock Exchange.

Memorandum and Articles of Association of the Stock Exchange Company

The Memorandum and Articles of Association of the Stock Exchange Company shall be in a form which is approved by the Authority and contain provision that they will not be amended except to such extent and in such manner as may be approved or directed by the Authority.

Rules of the Stock Exchange Company

The Stock Exchange Company shall make rules which include satisfactory provisions with respect to :-

- membership of the company;
- listing of companies on the stock exchange;
- the obligations of issuers of listed securities;
- the conditions governing dealing in securities;
- the conditions governing clearing and settlement of securities.

Authority to approve rules of Stock Exchange Company

The rules of the Stock Exchange Company shall be submitted to the Authority for approval and no rule is to be issued without the prior approval of the Authority.

Authority to approve amendments to rules of the Stock Exchange Company

Where an amendment is made, whether by way of rescission, alteration or addition to the rules of the Stock Exchange Company, the Board of Directors of the Stock Exchange Company shall forward a written notice thereof to the Authority for approval.

Stock Exchange Company to provide assistance to the Authority

The Stock Exchange Company shall provide such assistance to the Authority as it reasonably requires for the performance of its functions and duties, including the furnishing of such returns and providing such information relating to its business or in respect of such dealing in securities or any other specified information as the Authority may require for the proper administration of the Act.

Power to issue directions to the Stock Exchange Company

The Authority may, where it appears to be in the public interest, issue directions to the Stock Exchange Company as specified in the regulations.

Power of court to order observance or enforcement of rules of a Stock Exchange

21. (a) Where a person who is under an obligation to comply with, observe, enforce or give effect to the rules or listing rules of a Stock Exchange fails in performing the duty, the court on application of the Authority, the Stock Exchange Company or a person aggrieved by the failure, and after giving to the person against whom the order is sought an opportunity of being heard, may make an order giving directions to that person to perform the duty.

For the purposes of subsection (a)-

an issuer whose securities have been admitted to listing on a stock exchange and has not been removed from being listed; or

a person associated with an issuer whose securities have been admitted to listing on a stock exchange and have not been removed from being listed,

is under an obligation to comply with, observe and give effect to the listing rules of the Stock Exchange to the extent to which rules apply in relation to it or him.

PART IV

LICENSING OF PERSONS AUTHORISED TO DEAL IN SECURITIES

Dealer's licence

No person shall carry on a business of dealing in securities or hold himself as carrying on such a business unless he is the holder of a dealer's licence issued by the Authority under this Act.

Dealer's Representative's licence

No person shall act as a dealer's representative unless he is the holder of a dealer's representative's licence issued by the Authority under this Act.

Investment Adviser's Licence

No person shall act as an investment adviser or hold himself out to be an investment adviser unless he is the holder of an investment adviser's licence issued by the Authority under this Act.

Application for Licence or Renewal

- (a) An application for a licence or for the renewal of a licence shall be made to the Authority in the form and manner and accompanied by the fees prescribed by the Authority as specified in Regulations.

The Authority may require an applicant to supply it with such further information, as it considers necessary to determine the application.

Where the Authority rejects an application for a licence or the renewal of a licence, the prescribed fee shall be refundable to the applicant but the prescribed fee shall not be refundable on the withdrawal of an application.

Licensing Conditions

- (a) Subject to this Act only a company registered under the Companies Act may hold a dealer's licence.
- (a) Subject to this Act, a dealer's representative licence may be held by an individual over the age of 25 years.
- (b) Subject to this Act, an investment adviser's licence may be held by a company registered under the Companies Act or by an individual over the age of 25 years.

- (c) A dealer's licence or an investment adviser's licence shall only be granted or renewed if the applicant meets such minimum financial requirements as may be prescribed by Regulations made under this Act.
- (d) No person shall be granted a licence under this Part of this Act unless the person is of sound financial means and has not been convicted of any offence involving fraud or other dishonesty and, if the person is a company, unless none of the directors of the company has been convicted of any such offence.
- (e) No person shall be entitled to hold a licence under this Part if that person has been adjudged a bankrupt in the Republic of Maldives or elsewhere or if a company, a resolution has been passed for the voluntary winding up of the company or an order of the Court for the winding up of the company has been made.

Licence granted on terms and conditions Authority thinks fit

Subject to section 25 and 26, the Authority may grant or renew a licence on such terms and conditions as it thinks fit and the Authority may, at any time by written notice to a licence holder, vary or impose any condition or restriction in relation to the licence.

Term of licence

A licence granted or renewed under this Part shall be valid for a period of one year from the date of the grant or renewal as the case may be.

Revocation Or Suspension Of Licence

- (a) A licence shall be deemed to be revoked, in the case of :
 - (a) an individual, if the individual dies; or
 - a company, if it is wound up.
- (a) The Authority may revoke a licence:
 - (i) In the case of a licensed person who is an individual –
 - (2) if a levy of execution in respect of any of his debts has not been satisfied;
 - (3) if he ceases to carry on the business for which he was licensed;
 - (4) if he has been adjudged a bankrupt in any jurisdiction;
 - (5) if, in the case of a representative, the licence of the dealer, in relation to whom the representative's licence was granted, is revoked;

- (6) if the Authority has reason to believe that the licensed person has not performed his duties efficiently, honestly or fairly;
 - (7) If he is convicted of an offence involving fraud or dishonesty punishable by imprisonment; or
 - (8) If the licensed person contravenes or fails to comply with any provision of this Act or regulations made thereunder or any condition or restriction applicable in respect of the licence.
- (ii) In the case of a company:
- if it is being or will be wound up or dissolved;
 - if a levy of execution in respect of it has not been satisfied;
 - if a receiver or a receiver and manager has been appointed whether in the Republic of Maldives or elsewhere by the Court or creditors in respect of the company's property;
 - if it has entered into any composition or arrangement with its creditors;
 - if it ceases to carry on the business for which it was licensed;
 - if the Authority has reason to believe that the licensed person, or any of its directors or employees, has not performed his duties efficiently, honestly or fairly; or
 - if the licensed person contravenes or fails to comply with any provision of this Act or rules or regulations made thereunder or any condition or restriction applicable in respect of the licence.
- (b) In the case to which subsection (b) applies, the Authority may instead of revoking a licence, suspend the licence for such period or periods as may be prescribed and may at any time remove that suspension *[or where the default is capable of being rectified, make a direction requiring the licence holder to take such remedial measures to rectify the default within such time periods as it may specify]*.
- (c) A person :
- (i) whose licence is revoked under this section shall cease to be licensed from the date that the Authority revokes the licence; and
 - (ii) whose licence is suspended under this section shall be regarded as not being licensed during the period of the suspension of the licence.

- (d) A revocation or suspension of a licence of a person shall not operate so as to:

avoid or affect any agreement, transaction or arrangement relating to the trading in securities entered into by such person, whether the agreement, transaction or arrangement was entered into before or after the revocation or suspension of the licence; or

affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

Register of Licences

- (a) The Authority shall keep, in such form as it thinks fit, a register of all licences issued under this Act.

- (a) The register shall contain the following particulars –

the name of the licensee;

the business address of the licensee;

the name under which the licensee carries on his business;

the type of licence held by the licensee; and

the date of grant or renewal and expiry of the licence.

- (b) Any person may, on payment of the prescribed fee, inspect the register, take extracts of it and have any such extract certified by the Authority.

Underwriter's Licence

- (a) A financial institution may make application to the Authority for an underwriter's licence.

- (b) The Authority if it is satisfied that the applicant has sufficient capital to undertake the underwriting of issues of securities and meets such other requirements as may be prescribed by regulations made under this Act, may grant the applicant an underwriter's licence on such terms and conditions as the Authority may think fit.

Underwriting of Securities by Banks

Notwithstanding any provision of this Act, a bank which is authorized by the Maldives Monetary Authority may, subject to such terms and conditions as may be determined by the Authority enter into contracts and engage in transactions to underwrite any issue or offer of securities without holding a dealer's licence or an underwriter's licence.

Other Licences

- (a) In additional to the specific categories of licence referred to in Section 22 to 24, *and section 31* the Authority may with the approval of the Minister grant a licence to financial institutions or other institutions approved by the Minister to carry out custodian services and such other specified services or functions in relation to securities as may be prescribed under Regulations made under this Act.

- (b) Subject to such exceptions as may be specified in Regulations prescribed under this Act, no person shall carry on the business of providing custodian services or such other services or functions specified in the Regulations unless he is the holder of the appropriate licence authorizing the person to do so.

PART V

REGULATION OF SECURITIES TRADING

Disclosure of interests in Securities

- (a) Where a person who holds a licence issued under this Act sends circulars or other similar written communications in which he makes a recommendation, whether expressly or by implication, with respect to securities or a class of securities, he shall cause to be included in each circular or other communication, in type not less legible than that used in the remainder of the circular or other communication, a concise statement of the nature of any interest in, or any interest in the acquisition or disposal of, those securities, or securities included in that class that he or a person associated with him has at the date on which the circular or other communication is sent.
- (b) It is a defence to a prosecution for an offence under subsection (a) in relation to a failure to include in a circular or other communication a statement of the nature of an interest as provided in subsection (a), for the defendant to establish that, at the time at which the circular or other communication was sent, he was not aware and could not reasonably be expected to have been aware:
- (i) that he had an interest in or an interest in the acquisition or disposal of those securities or securities included in a class; or
 - (ii) that the person associated with him had an interest in, or an interest in the acquisition or disposal of, those securities or securities included in that class.

- (a) For the purposes of subsection (a) and (b):

an interest of a person in the disposal of securities includes any financial benefit or advantage that will, or is likely to accrue directly or indirectly to the person upon or arising out of the disposal of the securities;

without limiting the generality of paragraph (i) a person who has entered into an underwriting agreement in respect of securities shall be deemed to have an interest in the acquisition or disposal of those securities; and

a person is not associated with another person by reason only that he is a director of a body corporate of which the other person is also a director, whether or not the body corporate carries on a business of dealing in securities unless the person and other person are acting jointly or together or in accordance with an arrangement made between them, in relation to the sending of the circular or communication or the making of the recommendation.

- (b) Where-

- (i) a person who holds a licence issued under this Act has subscribed for or purchased securities for the purpose of offering all or any of them to the public for purchase; and
 - (ii) he offers any of those securities for purchase, he shall not make a recommendation, whether orally or in writing and whether expressly or by implication, with respect to the securities offered for purchase unless he has informed each person to whom the recommendation is made that he acquired the securities for that purpose.
- (c) Where-
- securities have been offered for subscription or purchase by a person holding a licence issued under this Act; and
- the person has subscribed for or purchased or will or may be required to subscribe for or purchase, any of those securities under an underwriting or sub-underwriting agreement by reason that some or all of the securities have not been subscribed for or purchased;
- the person shall not, during the period of 90 days after the close of the offer, make an offer to sell those securities, otherwise than in the ordinary course of trading through a stock exchange or on a stock exchange outside the Maldives, or make a recommendation with respect to those securities unless the offer or recommendation contains or is accompanied by a statement to the effect that the offer or recommendation relates to securities that he has acquired, or will or may be required to acquire, under an underwriting or sub-underwriting agreement by reason that some or all of the securities have not been subscribed for or purchased.
- (d) A person who holds a licence issued under this Act shall not send to any person a circular or other communication or written offer or recommendation to which subsection (a), (d) or (e) applies unless the circular or other communication or the offer or recommendation is signed by-
- the person, if he is a natural person;
- a director, executive officer or the secretary of the body corporate, if the person is a body corporate; or
- by a partner, if the person is a partnership.
- (e) When a person who is a dealer or a dealer's representative sends to another person a circular or other communication or a written offer or recommendation to which subsection (a), (d) or (e) applies, he shall preserve a copy of the circular or other communication or of the written offer or recommendation, duly signed as specified in subsection (f) for 5 years from the date of signing.

- (f) Reference in this section to an offer of securities shall be construed to include a reference to a statement, however expressed, that is not an offer but expressly or impliedly invites a person to whom it is made to offer to acquire securities.
- (g) For the purpose of this section, a circular or other communication or a written offer or recommendation sent to a person shall, if it is signed by a director, executive officer or secretary of a body corporate, be deemed to have been sent by body corporate and if it is signed by a partner in a partnership be deemed to have been sent by the partnership.

Recommendations by Advisers

- (a) An adviser who-
 - (i) makes a recommendation with respect to securities or a class of securities to a person who may reasonably be expected to rely on the recommendation; and
 - (ii) does not have a reasonable basis for making the recommendation to the person, contravenes this subsection.
- (b) For the purposes of subsection (a), an adviser does not have a reasonable basis for making a recommendation to a person unless-
 - the adviser has, for the purposes of ascertaining that the recommendation is appropriate, having regard to the information possessed by him concerning the investment objectives, financial situation and particular needs of the person, given such consideration to, and conducted such investigation of, the subject matter of the recommendation as is reasonable in all the circumstances; and
 - the recommendation is based on that consideration and investigation.
- (a) Where-
 - an adviser contravenes subsection (a) by making a recommendation to a person;
 - the person, relying on the recommendation, does any particular act or refrains from doing any particular act;
 - it is reasonable, having regard to the recommendation and all other relevant circumstances, for the person to have done that act, or to have refrained from doing that act, relying on the recommendation; and
 - the person suffers loss or damage as a result of doing that act, or refraining from doing that act,

the adviser is liable to pay damages to the person in respect of that loss or damage.

- (b) In this section-
 - (i) a reference to an adviser is a reference to a person who is a dealer, investment adviser or dealer's representative; and
 - (ii) a reference to the making of recommendation is a reference to the making of a recommendation, whether express or by implication.

Power to Prohibit Advertisements

- (a) Where at any time, the Authority is of the opinion that an advertisement-
 - is likely to deceive, mislead, or confuse with regard to any particular contained in the advertisement that is material to the offer of securities to which it relates; or
 - is inconsistent with any registered prospectus referred to in the advertisement; or
 - does not comply with this Act, Companies Act or any other Act;the Authority may make an order prohibiting the distribution of that advertisement or any advertisement which relates to the offer of those securities.
- (b) An order under this section may be made on such terms and conditions as the Authority thinks fit.

Power to Suspend or Cancel a Prospectus

- (a) Where at any time the Authority is of the opinion that a registered prospectus is false or misleading as to a material particular or omits any material particular (whether or not it was so false or misleading, or the omission was material, at the time the prospectus was registered), or does not comply with this Act or the Companies Act, the Authority may exercise either or both of the following powers in respect of the registered prospectus-
 - (i) Where it considers that suspension of the registration of the registered prospectus is desirable the Authority may suspend the registration of the registered prospectus for a period not exceeding 14 days, or such further period as the Court allows;
 - (ii) After giving the issuer named in the registered prospectus not less than 7 days' written notice, and after considering any written submissions made by the issuer, the Authority may cancel the registration of the registered prospectus.

Where the Authority suspends the registration of a registered prospectus pursuant to this section,-

- (i) it shall forthwith notify the issuer named in it, and the Registrar of the suspension and the reasons for the suspension; and
- (ii) the Authority and the Registrar shall not, nor any of its or his officers or employees, except following cancellation of the registered prospectus under this section or in the course of any criminal proceedings, divulge or communicate to any other person the fact of the suspension or any matter relating to the suspension.

Subject to subsection (d), where the registration of a registered prospectus is suspended-

no allotment shall be made of any securities subscribed for whether before or after the suspension of the registration of the registered prospectus; and

all subscriptions received for securities, not being subscriptions for securities which have been allotted before the registration of the registered prospectus is suspended, shall be frozen and shall not be dealt with.

Where the period of suspension of registration of a registered prospectus has not been cancelled under this section, subsection (c) shall cease to have any application.

Where the Authority cancels the registration of a registered prospectus pursuant to this section-

it shall forthwith notify the user named in it, and the Registrar of the cancellation and the reasons for the cancellation; and

it may notify any other person of the cancellation and reasons for the cancellation.

Where the registration of a registered prospectus is cancelled-

no allotment shall be made of any securities subscribed for whether before or after the cancellation of the registration of the registered prospectus; and

all subscriptions received for the securities including subscriptions held pursuant to subsection (c) (ii) shall forthwith be repaid to the subscribers entitled to them.

Subject to subsection (h) , where any subscriptions which are required to be repaid to the subscribers entitled to them are not so repaid within one month after the date of the cancellation of the registration of the registered prospectus, the issuer named in it and all the directors shall be jointly and severally liable to repay the subscriptions with simple interest at such sum that is prescribed by Regulations made under this Act, from the date the subscriptions were received by or on behalf of the issuer.

A director of an issuer shall not be liable to repay any subscriptions and interest pursuant to subsection (g) where that director proves that the default in the repayment of the subscriptions was not due to any misconduct or negligence on his part.

PART VI
REGISTER OF INTERESTS IN SECURITIES

Application of this Part

- (a) This part applies to a person who is-
- a dealer;
 - a dealer's representative;
 - an investment adviser;
 - a financial journalist;
 - a person who holds a licence issued under sections 22 – 24 and 31;
- Directors and Management of listed Companies.

Register of Interest in Securities

- (a) A person to whom this Part applies shall maintain and keep at the principal place of business of that person a register in the prescribed form of the securities in which he has an interest.

Particulars of the securities in which a person to whom this Part applies has an interest and particulars of his interest in those securities shall be entered in the register within 15 days of the acquisition of the interest.

- (i) Where there is a change in the interest or interests of a person to whom this Part applies in securities he shall enter in the register full particulars of the change including the date of the change and the circumstances by reason of which that change has occurred.
- (ii) The entry shall be made within 15 days after the date of the change.
- (iii) For the purposes of this subsection where a person acquires or disposes of securities, there shall be deemed to be a change in the interest or interests of that person.

Production of Register

- (a) The Authority or any person authorised by it in this behalf may require any person to whom this Part applies to produce for inspection the register required to be kept pursuant to section 35 and the Authority or any person so authorised may make extracts from the register.

- (b) Any person who fails to produce a register for inspection or fails to allow any person authorised under subsection (a) to make a copy of or make extracts from the register shall be guilty of an offence.

Particulars of financial journalists

- (a) The Authority or any person authorized by it in that behalf may by notice in writing require the proprietor or publisher of a newspaper or periodical to supply him with the name and address of the financial journalist who has contributed any advice or prepared any analysis or report that has been published in a newspaper or periodical owned or published by that proprietor or publisher or with the names and addresses of all the financial journalists who have contributed any such advice or prepared any such analysis or report within a period specified in the notice.
- (b) A proprietor or publisher of a newspaper or periodical who, without reasonable excuse, fails to comply with a notice under subsection (a) shall be guilty of an offence.

Extract of Register

The Authority may supply a copy of the extract of a register obtained pursuant to section 30 to any person who in the opinion of the Authority, should, in the public interest, be informed of the dealing in securities disclosed in the register.

PART VII

ACCOUNTS AND AUDIT

Duty to furnish returns and information

Every person licensed under this Act shall furnish such returns and provide such information relating to his business as the Authority may require or as may be prescribed by Regulations made under this Act.

Accounts to be kept by dealers

(a) Every dealer shall keep –

such accounting records as will correctly record and explain the transactions and financial position of the business of dealing in securities carried on by him;

his accounting records in such a manner as will enable true and fair profit and loss accounts and balance sheets to be prepared from time to time; and

his accounting records in such a manner as will enable profit and loss accounts and balance sheets of the business of dealing in securities carried on by him to be conveniently and properly audited.

A dealer shall be deemed not to have complied with subsection (a) in relation to records unless those records –

are kept in writing in the English or Dhivehi language or in such a manner as will enable them to be readily accessible and readily converted into writing in the English or Dhivehi language;

are kept in sufficient detail to show particulars of –

(12) all moneys received or paid by the dealer, including moneys paid to, or disbursed from, a separate account kept pursuant to section 45;

(13) all purchases and sales of securities made by the dealer, the charges and credits arising from them, and the names of the buyer and seller, respectively, of each of those securities;

(14) all income received from commissions, interest, and other sources, and all expenses, commissions and interest paid by the dealer;

(15) all the assets and liabilities, including contingent liabilities, of the dealer;

(16) all securities that are the property of the dealer showing by whom the securities, or the documents of title to the securities, are held and, where they are held by some other person, whether or not they are held as security against loans or advances;

- (17) all securities that are not property of the dealer and for which the dealer or any nominee controlled by the dealer is accountable, showing by whom, and for whom, the securities or the documents of title to the securities are held and the extent to which they are either held for safe custody or deposited with a third party as security for loans or advances;
- (18) all arbitrage transactions entered into by the dealer; and
- (19) all underwriting transactions entered into by the dealer;

are kept in sufficient detail to show separately particulars of every transaction by the dealer ;

specify the day on which or the period during which each transaction by the dealer took place; and

contain copies of acknowledgements of the receipt to securities or of documents of title to securities received by the dealer from clients for sale or safe custody clearly showing the names in which the particular securities are registered.

Without prejudice to subsection (c), a dealer shall keep records in sufficient detail to show separately particulars of all transactions by the dealer with, or for the account of –

clients of the dealer;

the dealer himself;

other dealers carrying on business in the Republic of Maldives;

dealers outside the Republic of Maldives;

employees of the dealer.

An entry in the accounting and other records of a dealer required to be kept in accordance with this section shall be deemed to have been made by, or with the authority of the dealer.

Where a record required to be kept by this section is not kept in writing in the English or Dhivehi language, the dealer shall, if required to convert the record into writing in the English or Dhivehi by a person who is entitled to examine the record, comply with the requirement within a reasonable time.

Notwithstanding any other provision of this section, a dealer shall not be deemed to have failed to keep a record referred to in subsection (a) by reason only that the record is kept as part of, or in conjunction with, the record relating to any business other than dealing in securities that is carried on by him.

Where accounting or other records are kept by a dealer at a place outside the Republic of Maldives, the dealer shall cause to be sent to and kept at a place in the Republic of Maldives such particulars with respect to the business dealt with in those records as will enable true and fair profit and loss accounts and balance sheets to be prepared.

Separate bank accounts

- (a) Every dealer shall open and maintain a separate and distinct bank account in which he shall keep all amounts received for the purchase and from the sale of securities (less any brokerage or other proper charges).
- (b) No dealer shall withdraw any money from the bank account mentioned in subsection (a) except for the purpose of making payment-
 - to the person entitled thereto or his agent; or
 - defraying brokerage and other proper charges.

Moneys held in the bank account mentioned in subsection (a) shall not be available for payment of the debts of the dealer or liable to be paid or taken in respect thereof in execution under an order or process of the court.

Appointment of Auditor

Every dealer shall-

appoint a qualified auditor to carry out an audit of the accounts of the dealer;

lodge the auditor's report with the Authority and the Stock Exchange company within 3 months after the end of the financial year or such further period as may be permitted by the Authority and the Stock Exchange Company.

Duties of the auditor

- (a) Where, in the performance of his duties as an auditor of a dealer, an auditor becomes aware-
 - of any matter which, in his opinion, may adversely affect the financial position of the dealer to a material extent;
 - of any matter which, in his opinion, may constitute a breach of any provision of this Act or fraud or other dishonesty; and
 - that irregularities that may have a material effect upon the accounts have occurred, including irregularities that may jeopardize the funds or property of the clients of the dealer, he shall immediately report the matter to the Stock Exchange Company and the Authority.
- (b) No liability, civil or criminal, shall attach to an auditor who complies with subsection (a) in good faith.

PART VIII

REGISTER OF SUBSTANTIAL SHAREHOLDERS

Register of Substantial Shareholders

- (a) Every public company under the Companies Act shall keep a register of substantial shareholders in which it shall enter the particulars specified in subsection (b) in respect of every share held by a substantial shareholder or in which directly or indirectly he has an interest.
- (b) the particulars to be entered in the register of substantial shareholders are –
- the name and address of the substantial shareholder;
 - the number, class and nominal value of the share in which he has an interest;
 - the name of the holder of the share if the substantial shareholder is not the holder;
 - the nature of the substantial shareholder's interest and its duration if it is limited in duration;
 - the date of the acquisition of the interest by the substantial shareholder;
 - the date of the disposal of the interest by the substantial shareholder or of any change in the nature of the interest held by him.

Every person in respect of whom an entry is required to be made in the register of substantial shareholders' holdings shall subject to subsection (d), within 14 days after he becomes a substantial shareholder or after any other matter which requires an entry occurs or arises, give to the company the written notice of the fact together with a statement of the particulars specified in subsection (b).

Where a person is a substantial shareholder on the date on which this Part came into operation, the notice required by subsection (c) shall be given within one month after that date.

Where a person ceases to be a substantial shareholder –

- the entry made in the register of substantial shareholders' holdings shall not be removed from the register; and

- it shall not be necessary to make an entry in the register in respect of a matter which occurs or arises after he ceases to be a substantial shareholder.

A person who gives notice under subsections (c) and (d) to a company shall, on the day on which he gives that notice, serve a copy of the notice on the Authority and on the Stock Exchange Company.

The Authority may, on the application of a person who is required to give a notice under this Part, in its discretion, extend or further extend the time

given for giving the notice, and application for extension of time may be made, and the power of the Authority under this subsection may be exercised, notwithstanding that the period referred to in subsections(c) or (d) has expired.

Every company referred to in subsection (a) shall keep a register in which it shall forthwith enter in alphabetical order the name of every person from whom it has received a notice under subsection (c) and the information given in the notice.

The register of substantial shareholders' holdings shall be kept in the same place as the members' register is required by section 16 of the Companies Act to be kept, and that section shall apply to the register of substantial shareholders' holdings as it applies to the members' register.

A company shall not, by reason of anything done under this section be taken for any purpose to have notice of, or be put upon inquiry as to, a right of a person to or in relation to a share.

Where the directors of a company referred to in subsection (a) have reasonable cause to believe that upon the registration of any share transfer a member will become a substantial shareholder, the directors shall give notice to the member of that belief and direct the attention of the member to the requirements of this section.

PART IX

PROHIBITED DEALINGS

Insider Dealing

- (a) This section applies to –
- (i) any body corporate the securities of which are listed on the official list of a Stock Exchange
 - (ii) a public company under the Companies Act.

A person who has been or is connected with a body corporate to which this section applies shall not deal in any securities of that body corporate if by reason of his so being, or having been, connected with that body corporate he is in possession of information that is not generally available but, if it were, would be likely materially to affect the price of those securities.

A person who has been or is connected with a body corporate to which this section applies shall not deal in any securities of any body corporate if by reason of his so being, or having been, connected with the first-mentioned body corporate he is in possession of information that –

is not generally available but, if it were, would be likely materially to affect the price of those securities; and

relates to any transaction (actual or expected) involving both those bodies corporate or involving one of them and securities of the other.

Where a person is in possession of any such information as is mentioned in subsection (b) or (c) that, if generally available, would be likely materially to affect the price of securities but is not precluded by either of those subsections from dealing in those securities, he shall not deal in those securities if –

he has obtained the information, directly or indirectly from another person and is aware, or ought reasonably to be aware, of facts or circumstances by virtue of which that other person is then himself precluded by subsection (b) or (c) from dealing in those securities; and

when the information was so obtained, he was associated with that other person or had with him an arrangement for the communication of information of a kind to which those subsections apply with a view to dealing in securities by himself and that person or either of them.

A person shall not, at any time when he is precluded by subsection (b) or (c) from dealing in any securities, cause or procure any other person to deal in those securities.

A person shall not, at any time when he is precluded by subsection (b), (c) or (d) from dealing in any securities by reason of his being in possession of any information, communicate that information to any other person if –

trading in those securities is permitted on a stock exchange whether within or outside the Republic of Maldives;

he knows, or ought reasonably to know, that the other person will make use of the information for the purpose of dealing or causing or procuring another person to deal in those securities.

Without prejudice to subsection (d), but subject to subsections (h) and (i), a body corporate shall not deal in any securities at a time when any officer of that body corporate is precluded by subsections (b), (c) or (d) from dealing in those securities.

A body corporate to which this section applies is not precluded by subsection (g) from entering into a transaction at any time by reason only of information in the possession of an officer of that body corporate if-

- (i) the decision to enter into the transaction was taken on its behalf by a person other than the officer;
- (ii) it had in operation at that time arrangements to ensure that the information was not communicated to that person and that no advice with respect to the transaction was given to him by a person in possession of the information; and
- (iii) the information was not so communicated and such advice was not so given.

A body corporate to which this section applies is not precluded by subsection (g) from dealing in securities of another body corporate at any time by reason only of information in the possession of an officer of that first-mentioned body corporate, being information that was obtained by the officer in the course of the performance of his duties as an officer of that first-mentioned body corporate and that relates to proposed dealings by the first mentioned body corporate in securities of that other body corporate.

For the purpose of this section, a person is connected with a body corporate if , being a natural person-

- (i) he is an officer of that body corporate or of a related corporation;
- (ii) he is a substantial shareholder in that body corporate or in a related corporation; or
- (iii) he occupies a position that may reasonably be expected to give him access or information of a kind to which subsections (b) and (c) apply by virtue of-

- (1) any professional or business relationship existing between himself (or his employer or a body corporate of which he is an officer) and that body corporate or a related corporation; or
 - (2) his being an officer of a substantial shareholder in that body corporate or in a related corporation.
- (k) This section does not preclude the holder of a licence issued under sections 18 and 19 from dealing in permitted securities of a body corporate, if-
- the holder of the licence enters into the transaction concerned as agent for another person pursuant to a specific instruction by that other person to effect that transaction;
 - the holder of the licence has not given any advice to the other person in relation to dealing in securities, or rights or interests in securities, of that body corporate that are included in the same class as the first-mentioned securities; and
 - the other person is not associated with the holder of the licence.
- (l) Where the prosecution is instituted against a person for an offence by reason that the person was in possession of certain information and entered into a transaction in contravention of this section, it is a defence if the person satisfies the Court that the other party to the transaction knew or ought reasonably to have known, of the information before entering into the transaction.
- (m) For the purpose of subsection (i), "officer" in relation to a body corporate, includes-
- a director, secretary, executive officer, manager or employee of the body corporate;
 - a receiver, or receiver and manager, of property of the body corporate;
 - a manager of the body corporate appointed by order of any Court;
 - a liquidator of the body corporate; and
 - a person administering a compromise or arrangement made between the body corporate and another person or other persons.
- (n) A person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MRF1,000,000 or to imprisonment for a term not exceeding five years.
- (o) Where an advantage is gained from a dealing in securities in contravention of the provisions of this section, any person who gained that advantage shall, whether or not any person has been prosecuted for or convicted of an offence in respect of the contravention, be liable-

to any other person for the amount of any loss incurred by that other person by reason of the gaining of that advantage;

to the body corporate that issued or made available those securities, for any profit that accrued by him or loss avoided by him by reason of the gaining of that advantage; and

any amount which the Court considers to be an appropriate pecuniary penalty provided that the amount of the pecuniary penalty shall not exceed-

(1) the consideration for the securities; or

three times the amount of the gain made or loss avoided by the person in buying or selling the securities, whichever is the greater.

(p) Where a loss or profit referred to in subsection (o) is incurred by means of an advantage gained from dealing in securities, the amount of the loss or profit shall be the difference between-

the price at which the dealing was effected; and

the price that, in the opinion of the Court before which it is sought to recover the amount of the loss or profit, would have been the market price of the securities at the time of the dealing if the specific information used to gain that advantage had been generally known at that time.

(q) The Authority may bring an action in the name of and for the benefit of a person for recovery of a loss or profit referred to in subsection (o).

(r) An action to recover a loss or profit referred to in subsection (o) may not be brought after the expiry of the period of-

two years next succeeding the dealing in securities to which the action relates; or

six months next succeeding the discovery of the relevant fact by the person who suffered the loss or seeks to recover the profit which ever first occurs.

(s) Nothing in subsection (r) affects any other liability that a person may incur under any other law.

Fraudulent Inducement to Invest

(a) Every person who, by any fraudulent means, induces or attempts to induce another person to enter into or offer to enter into –

an agreement for, or with a view to, acquiring, disposing of, subscribing for or underwriting securities; or

an agreement for the purpose or intended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities.

shall commit an offence and shall, on conviction, be liable to pay a fine which shall not exceed MRF1,000,000 and to imprisonment for a term not exceeding five years.

- (b) For the purposes of subsection (a), fraudulent means shall include-
- any statement, promise or forecast which the person knows to be misleading, false or deceptive;
 - any dishonest concealment of material facts; or
 - any reckless making of any statement, promise or forecast which is misleading, false or deceptive.

False Statements and Transactions

Every person who knowingly or recklessly-

- (a) gives a fictitious price to securities by means of false rumors;
- (b) obtains admission to the official list of a stock exchange by means of a false statement; or
- (c) makes any fictitious dealings in securities which are listed by the Stock Exchange Company.

Shall commit an offence and shall, on conviction, be liable to pay a fine which shall not exceed MRF1,000,000 or to imprisonment for a term not exceeding five years of *both*.

Misleading Documents

Every person who-

distributes or causes to be distributed any documents which, to his knowledge contain-

an invitation to persons to do any of the acts the inducement or attempt inducement to do which by a misleading, false or deceptive statement is an offence under section 47; or

information calculated to lead directly or indirectly to the doing of any of the acts specified in paragraph (i) by the recipient of the information; or

has in his possession for the purpose of distribution any documents which, to his knowledge, are such documents as are specified in paragraph (a),

shall commit an offence and shall, on conviction, be liable to pay a fine which shall not exceed MRf1,000,000 or imprisonment for a term not exceeding five years *or both*.

Stock market Manipulation

- (a) A person shall not, with the fraudulent intent to induce other persons to purchase or subscribe for securities of a body corporate or of a related corporation effect, take part in, be concerned in or carry out, either directly or indirectly, two or more transactions in securities of the body corporate, being transactions that have, or are likely to have, the effect of abnormally or artificially raising the price of securities which are being traded through a Stock Exchange.
- (a) A person shall not, with the fraudulent intent to induce other persons to sell securities of a body corporate or of a related corporation, effect, take part in, be concerned in to carry out, either directly or indirectly, two or more transactions in securities of the body corporate, being transactions that have, or are likely to have, the effect of abnormally or artificially lowering the price of securities of a body corporate the securities of which are being traded through the Stock Exchange Company.
- (b) A person shall not, with the fraudulent intent to induce other persons to sell, purchase or subscribe for securities of a body corporate or of a related corporation, effect, take part in, be concerned in or carry out, either directly or indirectly, two or more transactions in securities of a body corporate, being transactions that have, or are likely to have the effect of abnormally or artificially maintaining the price of securities of a body corporate which securities are being traded through the stock exchange.
- (c) A reference in this section to a transaction, in relation to securities of a body corporate includes:
- a reference to the making of an offer to sell or purchase such securities of the body corporate; and
- a reference to the making of an invitation, however expressed that expressly or impliedly invites a person to offer to sell or purchase such securities of the body corporate.
- (d) Every person who acts in contravention of this section shall commit an offence and shall, on conviction, be liable to pay a fine which shall not exceed MRf1,000,000 *or* to imprisonment for a term not exceeding five years *or both*.

PART X

MISCELLANEOUS PROVISIONS

Penalties

- (a) Every person who fails to comply with any provision of this Act for which no separate penalty is provided, shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding MRf100,000 or to imprisonment for a term not exceeding one year or both.
- (a) Every person who fails to comply with any Regulations made under this Act shall commit an offence and shall, on conviction, or direction be liable to pay a fine not exceeding MRf100,000 or to imprisonment for a term not exceeding one year or both.
- (b) Every person who, without reasonable excuse, fails to comply with any directions given to that person by the Authority under this Act, shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding MRf100,000 or to imprisonment for a term not exceeding one year and the Court may, in addition, order the person to comply with the direction of the Authority.
- (c) A person who, in connection with an application for a licence or for renewal of a licence, willfully or knowingly makes a statement which is false or misleading in a material particular or willfully omits to state any matter or thing without which the application is misleading in a material respect, commits an offence and is liable on conviction to a fine not exceeding MRf 1,000,000 or to imprisonment for a term not exceeding five years or both.
- (d) Any person aggrieved by the refusal of the Authority to grant or review a licence may appeal to the Minister from the decision of the Authority within 30 days of the decision. The Minister's decision shall be final and shall be given effect to by the Authority.
- (e) Any person aggrieved by the revocation or suspension of a licence by the Authority may appeal to the Court against the decision of the Authority within 30 days of the decision. The decision of the Court shall be final and shall be given effect to by the Authority.
- (f) If the Stock Exchange, without reasonable excuse, fails or refuses to comply with a direction given under section 20, it shall be guilty of an offence and is liable on conviction to fine or not less than MRf 100,000 and in addition, every director and every officer of the Stock Exchange who is in such contravention shall be liable to imprisonment for a term of not less than (five) years, unless such director or officer proves that such contravention occurred without his knowledge or consent save that such defense shall not be available if having regard to the duties of his office, the director or officer ought to have known of the contravention.

Regulations

- (a) The Minister may make such regulations as he considers necessary for the purposes of the Act.

In particular and without derogating from the generality of the foregoing power, such regulations may be made for-

providing for the taking of fees and laying of charges;

providing for the regulatory powers of the Authority in relation to the effective carrying out of its statutory functions, including power to conduct investigations, summon persons to give evidence and require the production of books, the searching of the premises and carrying out of the inspections and the power to prohibit trading;

regulating the listing of securities;

providing for the provision of a service for the clearing and settlement of securities;

regulating the conduct of trading operations in relation to the trading of securities;

regulating the activities of and the standards to be maintained by dealers, their representatives and investment advisers;

establishing and maintaining a fidelity or compensation fund for the purpose of compensating persons who suffer pecuniary loss from any defalcation or fraud committed by any licensed dealer, its representative or investment adviser or any employee of such dealer or investment adviser or by any officer or employee of a Stock Exchange;

requiring whether in addition to or as alternative to (vi) the provision and maintenance of fidelity insurance by licensed dealers and investment advisers or other holders of a licence or authorisation under this Act, on terms and conditions approved by the Authority.

Commencement

This Act shall come into operation on such date as the Minister may, by notification in the Gazette, appoint and the Minister may appoint different dates for the coming into operation of different parts or sections of this Act.

Definitions

- (a) In this Act –

“ *Advertisement* ” means any form of communication (not being a registered prospectus under the Companies Act) that is to be or has been distributed to any person by any means and which is authorised or instigated by or on behalf of the issuer or prepared with the co-operation or by arrangement with the issuer, and –

that contains or refers to an offer of securities to the public for subscription; or

that is reasonably likely to induce persons to subscribe for securities of the issuer, being securities to which that communication relates and which have been or are to be offered to the public for subscription,

whether or not consideration is to be or has been paid for the distribution of that communication;

“*Authority*” means the Capital Market (Development) Authority under section 2;

“*book*” includes any register, document or other record of information and any account or accounting record, however compiled, recorded or stored whether in written or printed form of microfilm by electronic process or otherwise;

“*Companies Act*” means the Companies Act No 10/96 or any other amendments made there under;

“*dealer*” means a person who carries on the business of dealing in securities whether he carries on any other business or not;

“*dealing in securities*” means (whether as principal or agent) making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into-

any agreement for or with a view to acquiring, disposing of, subscribing for or, subject to this Act, underwriting securities; or

any agreement the purpose or intended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the price of securities;

“*dealer’s representative*”-

means a person, by whatever name described, who is in the direct employment of, or acting for or by arrangement with, a dealer, and performs for that dealer any of the functions of the dealer (other than work ordinarily performed by accounts, clerks or cashiers), whether his remuneration is by way of salary, wages, commission or otherwise; and

includes any director or officer of a dealer who performs for the dealer any of those functions;

“*debenture*” has the same meaning as in the Companies Act;

“*financial Institutions*” means a bank or any person doing banking business or a person that is regularly engaged in or that intends to or has as its principal objective to regularly engage in a financial business activity as approval by the Authority.

“*financial journalist*” means a person who contributes advice concerning securities or prepares analyses or reports concerning securities for publication in a bona fide newspaper or periodical.

“*investment adviser*” means a person who-

carries on the business of advising others concerning securities;

as part of a regular business issues or publishes analysis or reports concerning securities; or

pursuant to a contract or arrangement with a client, undertakes on behalf of the client (whether on a discretionary authority granted by the client or otherwise), the management of a portfolio of securities for the purpose of investment;

“*issuer*” means a person who issues any security;

“*licence*” means-

a dealer’s licence;

an investment adviser’s licence;

a dealer’s representative’s licence; or

an underwriter’s licence

issued under Part IV and includes any other licence granted under this Act;

“*listed company*” means a company in relation to which securities have been listed for trading under listing rules made by the Stock Exchange Company pursuant to section 16.

“*listing rules*” in relation to a Stock Exchange, means rules governing or relating to-

the admission to the official list of the Stock Exchange of bodies corporate, governments, unincorporated bodies or other persons for the purpose of the quotation on the stock market, or made available by bodies corporate, governments unincorporated bodies or other persons or the removal from that official list and for other purposes; or;

the activities or conduct of bodies corporate, governments, unincorporated bodies and other persons who are admitted to that list, whether those rules-

are made by the body corporate or are contained in any of the constituent documents of the body corporate; or

are made by another person and adopted by the body corporate,

“*Minister*” means the Minister responsible for Finance and Treasury;

“*nominee*” means a person who, in exercising a right in relation to a share, debenture, or other property, is entitled to exercise that right only in accordance with instructions given by some other person either directly or through the agency of one or more persons, and a person is the nominee of another person where he is entitled to exercise such a right only in accordance with instructions given by that other person;

“*official list*” means the list of all securities which have been admitted to quotation by a Stock Exchange;

“*officer*” includes a director, secretary, manager or executive and in the case of a partnership includes a partner;

“*qualified auditor*” has the same meaning as in the Companies Act;

“*Registrar*” means the Registrar of Companies under the Companies Act;

“*related corporation*” in relation to a corporation has the same meaning as in the Companies Act;

“*securities*” means;

debentures, bills or bonds issued or proposed to be issued by a government;

debentures, stocks, shares, bonds or notes issued or proposed to be issued by a body corporate or unincorporated; (please confirm the correctness)

any right warrant or option in respect of any such debentures, stocks, shares, bonds or notes;

any other instruments as the Minister may prescribe to be securities for the purposes of this Act.

“*Stock Exchange*” means a market, exchange or other place at which securities are offered for sale, purchase or exchange, including any clearing, settlement or transfer services therewith which is being conducted by a company approved for the purpose under section 11 by the Authority;

“*stock market*” means a market through which, or a facility by means of which, securities are regularly offered for sale, purchased or exchanged;

“*substantial shareholder*” means a person, whether in the Republic of Maldives or elsewhere, who holds by himself or by his nominee or by an associated person, a share or an interest in a share which entitles him to exercise not less than 5% of the aggregate voting power exercisable at a general meeting of the Company.

‘this Act’ or ‘the Act’ included regulations made under this Act;

“*underwriting*” means the purchase or commitment to purchase or distribute by dealers or other persons of any issue of offer of securities for immediate or prompt public distribution by or through them.

Person Associated with Another Person

(1) A reference in this Act to “a person associated with another person” shall be construed as follows:-

where the other person is a body corporate –

- (i) a director or secretary of the body corporate;*
- (ii) a body corporate that is related to the other person; or*
a director or secretary of such a related body corporate;

Where the matter to which the reference relates is the extent of powers to exercise, or to control the exercise of, the voting attached to voting shares in a body corporate, a person with whom the other person has, or proposes to enter into, an agreement, understanding or undertaking, whether formal or informal and whether express or implied-

- (i) by reason of which either of those persons may exercise, directly or indirectly control the exercise of, or substantially influence the exercise of any voting power attached to a share in the body corporate;*
- (i) with a view to controlling or influencing the composition of the board of directors, or the conduct of affairs, of the body corporate, or*
- (ii) under which either of those persons may acquire from each other shares in the body corporate or may be required to dispose of such shares in accordance with directions of the other person;*

a person in concert with whom the other person is acting, or proposes to act, in relation to the matter to which the reference relates;

where the matter to which the reference relates is a matter, other than the extent of power to exercise, or to control the exercise of, the voting power attached to voting shares in a body corporate –

- (i) subject to subsection (2), a person who is a director of a body corporate that carries on a business of dealing in securities and of which the other person is also a director.*
- (ii) subject to subsection (2), a person who is a director of a body corporate of which the other person is a director, not being a body corporate that carries on a business of dealing in securities; or*
- (iii) a trustee of a trust in relation to which the other person benefits or is capable of benefiting otherwise than by*

reason of transactions entered into the ordinary course of business in connection with the lending of money;

a person with whom the other person is, by virtue of any law regarded as associated in respect of the matter to which the reference relates;

a person with whom the other person is, or proposes to become, associated, whether formally or informally, in any other way in respect of the matter to which the reference relates; or

where the other person has entered into, or proposes to enter into, a transaction, or has done, or proposes to do, any other act or thing, with a view to becoming associated with a person as mentioned in paragraph (a), (b), (c), (d), (e), or (f).

Where, in proceedings under this Act, it is alleged that a person referred to in subsection (1) (d) (i) and (ii) was associated with another person at a particular time, that person shall be deemed not to have been associated in relation to a matter to which the proceedings relate unless the person alleging the association proves that the first mentioned person at that time knew or ought reasonably to have known the material particulars of that matter.

A person shall not be taken to be associated with another person by virtue of subsection (1)(b), (c), (e) or (f) by reason only that one of those person furnishes advice to, or acts on behalf of, the other person in the proper performance of functions that relate to his professional capacity or to his business relationship with the other person.

Persons deemed have an interest in securities

59. (1) *Where any property held in trust consists of or includes securities in which a person knows, or has reasonable grounds for believing, that he has an interest, that person shall be deemed to have an interest in those securities.*
- (2) *A person shall be deemed to have interest in a security where a body corporate has an interest in a security and –*
- () the body corporate is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person in relation to that security;*
 - () that person has a controlling interest in the body corporate; or*
 - () that person is, or the associates of that person or that person and his associates are, entitled to exercise or control the exercise of not less than 30% of the votes attached to the voting shares in the body corporate.*

- (3) *A person shall be deemed to have an interest in a security in any one or more of the following circumstances-*
- where he has entered into a contract to purchase a security;*
 - where he has a right, otherwise than by a reason of having an interest under a trust, who have a security transferred to himself or to his order, whether the right is exercisable presently or in future and whether on the fulfillment of a condition or not;*
 - where he has the right to acquire a security or an interest in a security, under an option, whether the right is exercisable presently or in the future and whether on the fulfillment of a condition or not; or*
 - where he is entitled, otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a body corporate or of a class of its members, to exercise or control the exercise of a right attached to a security, not being a security of which he is the registered holder.*
- (4) *A person shall be deemed to have an interest in a security if that security is held jointly with another person*
- (5) *For the purpose of determining whether a person has an interest in a security, it is immaterial that the interest cannot be related to a particular security*
- (6) *There shall be disregarded –*
- (a) an interest in security if the interest is that of a person who hold the security as bare trustee*
 - (b) an interest in a security of a person whose ordinary business includes the lending of money if he holds the interest only by way of security for the purpose of a transaction entered to into the ordinary course of the business in connection with the lending of money;*
 - (c) an interest of a person in a security being an interest held by him by reason of his holding or prescribed office; and*
 - (a) an interest in a security being a such interest of such person, or of the person included in such class of persons, as may be prescribed*
- (7) *An interest in a security shall not be disregarded by reason only of –*
- (a) its remoteness;*
 - (b) the manner in which it arose; or*
 - (c) the fact that the exercise of a right conferred by the interest is, or is capable of being made subject to restraint or restriction.*