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# CREST Rules

December 2020



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<b>Document title: Version:</b>	CREST Rules 2020-03
<b>Effective date:</b>	08 December 2020
<b>Changes made:</b>	EUI authorisation as a recognised CSD

# Introduction

## 1 Definitions and interpretation

1.1 The CREST Rules are written in terms appropriate to any security which is, or is to be, a participating security under the UK Regulations and, as such, the terminology used in the CREST Rules is generally based on the UK Regulations and applicable to the relevant system established thereunder. The Rules are also separately applicable in relation to the relevant systems established under the Irish Regulations, the Isle of Man Regulations, the Jersey Regulations and the Guernsey Regulations, subject to paragraphs 1.2 to 1.6 below and for certain other securities.

1.2 In relation to any security which is or is to be a participating security under the Irish Regulations, terms used in the CREST Rules which are defined by reference to the UK Regulations shall have the meanings ascribed to them in the Irish Regulations.

1.3 In relation to any security which is or is to be a participating security under the Isle of Man Regulations, terms used in the CREST Rules which are defined by reference to the UK Regulations shall have the meanings ascribed to them in the Isle of Man Regulations.

1.4 In relation to any security which is or is to be a participating security under the Jersey Regulations, terms used in the CREST Rules which are defined by reference to the UK Regulations shall have the meanings ascribed to them in the Jersey Regulations.

1.5 In relation to any security which is or is to be a participating security under the Guernsey Regulations, terms used in the CREST Rules which are defined by reference to the UK Regulations shall have the meaning ascribed to them in the Guernsey Regulations.

1.6 Save where stated to the contrary, references to particular provisions of the UK Regulations shall be taken to include the corresponding provision (where one exists) in the other CREST Regulations.

1.7 Terms used in the CREST Rules which are not defined in the CREST Rules shall have the meaning given to them in the CREST Glossary.

## 2 General

2.1 The Act defines the rules of a recognised central securities depository as:

*rules made, or conditions imposed, by [it] with respect to -*

- (a) recognition requirements;*
- (b) admission of persons to, or their exclusion from the use of, its facilities; or*
- (c) matters relating to its constitution.*

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2.2 The UK Regulations define the rules of an Operator as:

*rules made or conditions imposed by him with respect to the provision of the relevant system*

2.3 In addition, EUI may make rules as operator of a designated system under or pursuant to Directive 98/26/EC on settlement finality in payment and securities settlement systems in accordance with the UK Settlement Finality Regulations and the Irish Settlement Finality Regulations (as each such term is defined in CREST Rule 13); and as operator of a recognised payment system under or pursuant to Part 5 of the Banking Act 2009.

2.4 The principal provisions which fall within the scope of such rules are those set out in the CREST Terms and Conditions (which apply to CREST members) and in the agreements entered into by other types of participant. The CREST Rules (this document) are in addition to the provisions contained in the CREST Terms and Conditions and other participant agreements and primarily represent those rules and requirements of an operational nature which EUI believes are necessary and appropriate for the proper functioning of the CREST system. Other documents issued by EUI may also constitute rules within the meaning of the Act or the CREST Regulations; in particular, the provisions of the CREST Manual relating to the transfer of uncertificated units of a security, termination of participation and EUI's central intervention powers constitute rules within the meaning of the CREST Regulations, as do the netting rules described in Chapter 4, Section 4 of the CREST Reference Manual and the provisions of Chapter 20 of the Central Counterparty Service Manual.

2.5 The CREST Rules should be read, and are intended to be construed, with due regard to their underlying purpose as well as to the letter of the drafting. EUI reserves the right to modify or disapply (in whole or in part) the application of any particular rule where the rule is inappropriate to the circumstances.

2.6 The CREST Rules are not concerned with the enforcement of any matters which are the subject of commercial or other contracts entered into by any CREST users or participants.

2.7 EUI has certain powers to suspend or terminate users or participants, for example where a member is in breach of any provision of the CREST Terms and Conditions or has not complied with any provision of the CREST Manual or Rules or where, in the opinion of EUI, any such breach or non-compliance is or appears to be threatened or likely to occur.



# Part I: Users and participants

## **Rule 1 Admission of users and participants**

### **Admission (general)**

1 As a condition for admission, users and participants which are incorporated outside the United Kingdom or who is an individual who is resident outside the United Kingdom must:

1.1 appoint an agent for service of process who is a body corporate incorporated in England or Wales; and

1.2 if required to do so by EUI, provide a legal opinion from an external legal adviser in terms acceptable to EUI regarding, inter alia, the user's or participant's capacity to execute and be bound by the provisions of the CREST Terms and conditions or equivalent agreements executed by the user or participant from an independent legal adviser acceptable to EUI.

### **Admission of users**

2 As a condition for admission as a CREST user (whether a sponsor or any participant which is to operate its own interface to the CREST system), the user must:

2.1 (where he is not regulated by an Appropriate Regulator) provide written confirmation of his regulated status in a manner satisfactory to EUI;

2.2 install and thereafter maintain its gateway computer in one of the following jurisdictions:

- Belgium;
- France;
- Germany;
- Guernsey;
- Ireland;
- the Isle of Man;
- Jersey;
- the Netherlands;
- Spain;
- Sweden;
- Switzerland;
- one of the United Kingdom jurisdictions;
- one of the jurisdictions of the United States of America;
- the province of Ontario, Canada;

or (subject to EUI's prior consent) another EU Member State<sup>1</sup> not listed above; and

2.3 complete trialling in all relevant functions.

### **Admission of sponsors (other than CREST central sponsors)**

#### *General*

3 As a condition for admission as a CREST sponsor (other than a CREST central sponsor), the sponsor must:

3.1 (where he is not regulated by an Appropriate Regulator) provide written confirmation of his regulated status in a manner satisfactory to EUI;

3.2 thereafter, carry out all money laundering vetting and checks on any persons who are or may become CREST members and for whom he acts or is to act as a sponsor and to confirm to EUI in a manner satisfactory to EUI, including but not limited to any statement or declaration made by the sponsor in the CREST Money Laundering Form, that the appropriate controls and checks have been undertaken; and

3.3 in respect of any persons who are, or may become, CREST members and for whom he acts, or is to act, as a sponsor, obtain and keep up-to-date all identification evidence in accordance with all legal and regulatory requirements applicable to the sponsor, retain such identification evidence and supply to EUI on the CREST Money Laundering Form a reference number that will permit the actual evidence obtained to be re-obtained by EUI, at its absolute discretion, in satisfaction of 'Know Your Customer' best practice.

#### *Sponsors of Personal Members*

4 A current or prospective sponsor who acts or is to act as a sponsor for one or more Personal Members must:

4.1 [intentionally left blank]

4.2 only provide sponsorship services to individuals who are resident in an EEA state, Jersey, Guernsey or the Isle of Man;

4.3 obtain EUI's written consent before reproducing and/or distributing any reproduction (other than hard copies as received from EUI directly) of any CREST documentation;

<sup>1</sup>The requirement to obtain EUI's prior consent is not intended to prohibit or obstruct the location of a gateway computer in a Member State. However, it would be necessary in the case of each new jurisdiction to determine whether or not there are any particular legal or technical issues which need to be addressed, either by contract or within the CREST system (for example, some jurisdictions have particular provisions regarding the sending of electronic messages in encrypted form).

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4.4 ensure that any prospective Personal Member for whom the sponsor proposes to provide sponsorship services has had an opportunity to read the latest versions of all of the documents comprised in the CREST Personal Member Admission Document including the CREST Personal Member Terms and Conditions before signing the CREST Personal Member Admission Agreement:

*Sponsors using Internet application facilities*

4.5 A current or prospective sponsor who acts or is to act as a sponsor for one or more Personal Members and who wishes to enable the Personal Members for whom he is to act as sponsor to execute a CREST Personal Member Admission Agreement electronically by means of his website must:

- 4.5.1 obtain EUI's written consent (on such terms and conditions as EUI may specify) before offering to enable the Personal Members for whom he is to act as sponsor to execute a CREST Personal Member Admission Agreement electronically by means of his website;
- 4.5.2 (where EUI has given the consent referred to in subsection 4.5.1) at all times display and draw attention to electronic copies of the latest versions of all the documents comprised in the CREST Personal Member Admission Document on his website and comply with such terms and conditions as EUI may have specified;
- 4.5.3 (where EUI has given the consent referred to in subsection 4.5.1) ensure that no individual is able to sign a hard copy of the CREST Personal Member Admission Agreement before he has had an opportunity to read all of the documents comprised in the CREST Personal Member Admission Document.

*Note: The sponsor's obligations set out in paragraphs 4.4 and 4.5.3 above may be discharged by the following means:*

- *sending a hard copy of the latest versions of the CREST Personal Member Admission Document to the prospective Personal Member;*
- *sending a hard copy of the latest versions of the CREST Personal Member Admission Agreement and stating where the CREST Personal Member Admission Document may be obtained (in hard copy form) or viewed (on a website).*

**Money laundering and prevention of financial crime**

5 All users and participants are required both prior to their admission and at all times thereafter, to provide EUI with such information, confirmations, access to and copies of records as EUI may require in connection with the prevention of money laundering or other financial crime or otherwise in connection with compliance by EUI with requirements imposed on it by the Bank of England, other regulatory body or by law, including any

requirement to provide such information as may apply to EUI or to the activities of EUI under the laws of the United States of America, including any Federal or State laws.

### **Admission of VSPs**

#### *General*

6 As a condition for admission as a CREST VSP, the VSP must (where he is not regulated by an Appropriate Regulator) provide written confirmation of his regulated status in a manner satisfactory to EUI.

#### *VSPs acting for Personal Members*

7 A current or prospective VSP who acts or is to act as a VSP for one or more Personal Members must:

7.1 [intentionally left blank];

7.2 only provide services as a VSP to individuals who are resident in an EEA state, Jersey, Guernsey or the Isle of Man.

### **Admission of CREST central sponsors**

#### *General*

8 As a condition for admission as a CREST central sponsor, the sponsor must (where it is not regulated by an Appropriate Regulator) provide written confirmation of its regulated status in a manner satisfactory to EUI.

#### *Confidentiality*

9 A person shall not disclose to any third party, or otherwise use, information about a member or his activities which that person receives or to which it has access as a CREST central sponsor, unless:

9.1 the member has consented to such disclosure or use;

9.2 such disclosure is required by law or in order for that person to meet its obligations to any UK or other regulatory authority to whose jurisdiction it is subject;

9.3 such disclosure is required or permitted under or pursuant to that person's participant agreement with EUI; or

9.4 such disclosure or use is necessary for the performance of its function as a CREST central sponsor.

### **Personal data and data protection**

10 EUI holds information on participants and users and their respective activities (whether provided directly or indirectly by the relevant participant or user) by virtue of its operation of the EUI systems and the provision of the CREST services. Such information may include corporate and personal data.

Each user and participant (whether admitted or prospective) shall comply with the terms of Applicable Data Protection Law when processing such personal data.

EUI shall process any such personal data in accordance with Applicable Data Protection Law.

### **US CREST members**

11 All participants are required, both prior to their admission and at all times thereafter, to provide EUI with such information, confirmations, access to and copies of records as EUI may require in connection with compliance with applicable laws, including any requirement to provide such information as may apply to EUI or to the activities of EUI under the laws of the United States of America, including any Federal or State laws.

12 In order to enable EUI to establish whether a participant is a 'US CREST member', participants must provide EUI with their address, and where applicable any principal place of business, executive office and/or registered office. Participants must also confirm to EUI if they are, or cease to be:

12.1 a US bank (including non-US branches thereof); and/or

12.2 a broker-dealer registered with the SEC (including non-US branches thereof);

in each case wherever resident.

### **CSD links**

13 All participants must notify EUI where they act or cease to act:

13.1 as a CSD in respect of a CSD link; or

13.2 as a third party on behalf of a CSD for the purposes of a CSD link (including an indirect link).

14 All such participants are required, both prior to their admission and at all times thereafter, to provide EUI with such information, confirmations, access to and copies of records as EUI may require in connection with compliance with applicable laws, including any requirement to provide such information as may apply to EUI or to the activities of EUI under applicable laws.

15 For the purposes of this Rule, the following definitions applies:

CSD	as defined in the CSD Regulation, a legal person that operates a securities settlement system referred to in point (3) of Section A of the Annex to the CSD Regulation and provides at least one other core service listed in Section A of the Annex to the CSD Regulation;
CSD link	as defined in the CSD Regulation, an arrangement between CSDs whereby one CSD becomes a participant in the securities settlement system of another CSD in order to facilitate the transfer of securities from the participants of the latter CSD to the participants of the former CSD or an arrangement whereby a CSD accesses another CSD indirectly via an intermediary. CSD links include standard links, customised links, indirect links, and interoperable links;
indirect link	as defined in the CSD Regulation, an arrangement between a CSD and a third party other than a CSD, that is a participant in the securities settlement system of another CSD. Such link is set up by a CSD in order to facilitate the transfer of securities to its participants from the participants of another CSD.

#### **Provision of Identifier Information**

16 As a condition for admission, all users and participants must provide EUI with their Legal Entity Identifier for bodies corporate or a Unique National Identifier for personal members and the account types for Member accounts. All bodies corporate must ensure and provide EUI with evidence that its Legal Entity Identifier status is current during the entire time it remains admitted into the CREST system.

#### **Completion of risk and framework assessments**

17 All participants that are a CSP, KSP or KP must prior to admission and on an annual basis, or as otherwise required from EUI from time to time, complete a risk assessment in the form specified by EUI, and in a manner satisfactory to EUI.

18 All participants that are a CSP, KSP or KP are required to provide EUI with such information, confirmations, access to and copies of records as EUI may require in order to determine the assessment has been completed in the form specified by EUI, and to a standard satisfactory to EUI.

#### **Management of poor performance**

*Note: In the event that any participant and/or sponsor's performance does not fulfil one of the CREST Requirements, EUI may take any of the following steps depending on the frequency and seriousness of the failure:*

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- *Individual incident follow-up: If appropriate, EUI will follow up with the participant and/or sponsor for further information on an incident, its root cause and any technical or operational solutions required (if necessary).*
- *Telephone discussion: EUI may hold a minuted telephone discussion with the participant and/or sponsor to acquire further information about the incident(s) and their general poor performance.*
- *Written letter: EUI may write a letter to the participant and/or sponsor, detailing how they are failing to adhere to the required standards and also seeking assurances that performance will improve.*
- *Senior representatives meeting: EUI may arrange a meeting with senior representatives of the participant and/or sponsor to explain in detail the evidence of their poor performance and to agree a schedule for its improvement.*
- *Inform regulator and/or issuers: EUI may choose to share details of the participant and/or sponsor's poor performance with their regulator or, in the case of registrars, with their issuers. The information to be shared will be presented to the participant and/or sponsor in advance.*
- *Publication of poor performance on Euroclear website: EUI may choose to publicise the details of the participant and/or sponsor's poor performance by publishing details on the Euroclear website. The information to be published will be presented to the participant and/or sponsor in advance of it going online*
- *Terminate participation: As the ultimate sanction for sustained poor performance, EUI may terminate the participant and/or sponsor's membership of CREST.*



## Rule 2 Claims transactions

Members must check the calculation of any claim (CLA) (other than a CLA to which a CCP participant is a party) raised against them by the CREST system for accuracy and must allege a deletion of any claim which they do not wish to settle in the CREST system (e.g. because it is inaccurate or because they intend to settle the claim outside the CREST system) no later than the close of business on the fourth business day following the intended settlement date of the claim instruction in the case of cash claims or the third business day in the case of securities claims.

*Note: This Rule does not apply to CLA transactions raised to which a CCP participant is a party. Such transactions are raised with a priority of 50 (whereas other CLAs are raised with a zero priority). Members should note that a clearing house's rules may prohibit the deletion of CLAs to which the clearing house is a party.*

## Rule 3 Termination of participation

### Orderly exit

1 Where the participation in the CREST system of a user or participant is being terminated (either upon notice given by EUI or by the user or participant), the user or participant must take all reasonable steps to ensure that the termination of its participation minimises the disruption to other CREST users, participants and participating issuers, and it must cooperate with EUI in whatever matters EUI requires in the period before the date of termination.

### Special resolution measures

2.1 Section 48Z of the Banking Act 2009 and certain other law(s) outside England and Wales which is or are analogous to, or has or have a substantially similar effect to, section 48Z of the Banking Act 2009 require certain special resolution measures and actions taken in relation to an entity or a member of the same group as that entity (and the occurrence of any event directly linked to the application of such a measure or action) to be disregarded in determining whether a default event provision in a contract or other agreement applies, so long as substantive obligations provided for in the contract or agreement (including payment and delivery obligations) continue to be performed.

2.2 As a consequence, EUI may be required to disregard certain special resolution measures and actions, and the occurrence of any event directly linked to the application of such a measure or action, in considering whether it is able to exercise its powers of suspension and termination in respect of CREST users, participants or securities. Additionally, the Bank of England may exercise other resolution powers which could require EUI not to exercise its powers of suspension or termination.

*Note: EUI has rights and powers reserved to it in its agreements with each user and participant which enable EUI to suspend or terminate the participation of that user or participant upon the occurrence of certain events. Additionally, EUI has rights and powers to suspend a security or remove it from the CREST system (or, in the case of an eligible debt security, disable the Issuer ID of the issuer concerned).*

*Provisions under Part 1 of the Banking Act 2009 (specifically section 48Z of that Act) require EUI to disregard, so long as the user's, participant's or issuer's substantive obligations continue to be performed, certain special resolution measures and actions taken in relation to the user, participant or issuer or a member of the same group as the user, participant or issuer, and the occurrence of any event directly linked to the application of such a measure or action, in considering whether it is able to exercise those powers of suspension and termination. Additionally, the Bank of England may exercise other resolution powers which could require EUI not to exercise its powers of suspension or termination.*

## **Rule 4 Transfer of sponsored participants between sponsors; change of issuing agent or paying agent**

1 Where a sponsored participant notifies EUI that it is to transfer the operation of its sponsored participant to a different sponsor, both sponsors affected must take all reasonable steps to ensure that the transfer is achieved in an orderly manner which minimises the disruption to other CREST users, participants and participating issuers and must cooperate with EUI in whatever manner EUI requires during the transfer and with each other.

2 Where a participating issuer of eligible debt securities notifies EUI that it is to change its issuing agent or paying agent in respect of a participating security, both CREST IPAs affected must take all reasonable steps to ensure that the change is achieved in an orderly manner which minimises the disruption to other CREST users, participants and participating issuers, and must cooperate with EUI in whatever manner EUI requires during the change and with each other.

## Rule 5 Registrars service standards

### Introduction and operation of the standards

1 Article 36 of CSDR requires that

*For each securities settlement system it operates a CSD shall have appropriate rules and procedures, including robust accounting practices and controls, to help ensure the integrity of securities issues, and reduce and manage the risks associated with the safekeeping and settlement of transactions in securities.*

and Article 37 (Integrity of the issue) of CSDR requires that

*1. A CSD shall take appropriate reconciliation measures to verify that the number of securities making up a securities issue or part of a securities issue submitted to the CSD is equal to the sum of securities recorded on the securities accounts of the participants of the securities settlement system operated by the CSD and, where relevant, on owner accounts maintained by the CSD. Such reconciliation measures shall be conducted at least daily.*

*2. Where appropriate and if other entities are involved in the reconciliation process for a certain securities issue, such as the issuer, registrars, issuance agents, transfer agents, common depositories, other CSDs or other entities, the CSD and any such entities shall organise adequate cooperation and information exchange measures with each other so that the integrity of the issue is maintained.*

*3. Securities overdrafts, debit balances or securities creation shall not be allowed in a securities settlement system operated by a CSD.*

These requirements form the statutory basis of the Registrars Service Standards.

2 To give effect to these requirements, registrars undertake in Clause 3.1.1 of the CREST Registrars Agreement to

*comply, and operate in accordance, with the service level standards applicable to CREST Registrars that are set out in the CREST Manual.*

In support of these requirements, registrars undertake in clause 3.1.4 of the CREST Registrars Agreement that they

*will provide to EUI such information in its possession as EUI may require from time to time in order for EUI to meet its obligations under the CREST Regulations (or any other relevant legislation) or to any regulatory authority to whose jurisdiction it is subject.*

and undertake in clause 3.1.5 of the CREST Registrars Agreement that they

*will make available to EUI such information and/or records as EUI may from time to time reasonably request for the purposes of carrying out its functions as Operator of the CREST relevant system and/or as a recognised central securities depository and which relate to the Registrar's participation as a CREST Registrar or any business undertaken by it in connection therewith.*

3 The following sections detail what these standards are, how they are monitored and what the level of the relevant sanctions are.

A number of principles underlie these Standards:

- the Standards should be framed in such a way as recognises and encourages the contribution which registrars can make towards the maintenance of orderly securities markets;
- compliance with the Standards should be measurable; and
- the penalties to be applied for breach of a Standard should reflect the magnitude of the breach, generally by reference to the disruption caused to other system users and/or the damage to the integrity of the settlement process (whether legally or systemically).

4 EUI will monitor compliance with these Standards from the date on which a registrar is admitted to the CREST system. EUI will not levy fines for non-compliance with the Standards for a period of 60 calendar days after the date of admission.

5 EUI reserves the right to amend, delete or introduce new Standards. Pursuant to Clause 3.3.8 of the CREST Registrars Agreement any changes to the Standards will be made in accordance with the consultation procedures set out in the CREST Manual.

#### *Fines*

6 Non-compliance with these Standards results in the registrar concerned incurring a liability to pay a fine to EUI. The full details of the fines due are set out in each Standard.

7 EUI may, in its absolute discretion, reduce or waive a fine where a Standard has not been met. No such reduction or waiver shall operate as a reduction or waiver of any repetition of any breach of a Standard.

8 EUI shall not apply fines due under Standards 1 to 4 where non-compliance with the Standards results from:

8.1 the inability of the registrar to communicate with the CREST system, where that inability results from circumstances reasonably outside the registrar's control (such as a failure by a network provider affecting the registrar which has not been contributed to by the negligence or default of the registrar) for the duration of that inability to communicate,

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provided that the registrar affected notifies EUI in writing of the relevant circumstances and has taken reasonable steps to avoid a single point of failure; or

8.2 a relevant failure of, or deterioration of performance in, the central settlement process (whether or not attributable to the performance of the CREST system) which materially impedes the registration process, for the duration of that failure or deterioration of performance.

9 Fines arising from Standards 1 to 3 are expressed per deposit set, RUR or stock withdrawal. In calculating the total fines due under any Standard against the target compliance rates, EUI does not round to the nearest whole deposit set, RUR or stock withdrawal.

10 EUI may, in its absolute discretion, review the fines detailed in Standards 1 to 6. Any proposal to alter a fine will be published to all registrars with one months' notice prior to implementation.

#### *Payment of fines*

11 A registrar will be notified on an annual basis in writing when a fine has become due. No fine shall be invoiced to a registrar with a total value of less than £100

12 Fines to be levied on registrars will be subject to maximum amounts determined by reference to the number or character of registers maintained by each registrar. For these purposes, registrars will be banded according to whether they are considered as supporting EUI's Critical Economic Functions. Registrars in Band 1 will be considered as Critical Service Providers (CSPs), whilst Band 2 will incorporate all registrars who are not classified as CSPs, and therefore known as Key Service Providers. The banding will be reviewed two times per year, although bands will only change if a registrar meets the requirements of a different band for two consecutive review cycles. Registrars will be subject to maxima on fines as follows:

Band 1: Critical Service Providers (CSPs), registrars with 5 or more FTSE100/Irish Equivalent 100 and/or 10 or more FTSE250/Irish Equivalent 250 issues and/or 1 or more UK gilt issues (£50,000 per year); and

Band 2: Key Service Providers, all non-CSP registrars (£20,000 per year);

13 Payment must be made within one calendar month of the date of EUI's notice unless the registrar notifies EUI in writing that it intends to appeal against the fine, in accordance with the Appeals Procedures.

#### *Escalation procedures*

14 Where a registrar's performance results in fines being due which would exceed the annual cap set for it, a EUI committee consisting of at least two non-executive directors and one or more senior members of EUI staff shall specify to the registrar a target average level of performance to be met by that registrar by a specified date and for a specified period of time and thereafter. The EUI committee may agree with a request by the registrar (in writing or in a meeting) not to proceed with the targets and date set if it can be demonstrated to their satisfaction that the failure to meet the Standards was an isolated incident. EUI shall publish the details of any target and dates set for the registrar.

15 Where the registrar's subsequent performance fails to meet the target notified to the registrar EUI shall specify a further period during which the target average level of performance notified to the registrar shall be met. EUI will at the same time notify the registrar's client companies that failure to meet the targets is likely to result in EUI concluding that its powers to terminate the registrar's participation in the CREST system under clause 9.1.3 of the CREST Registrars Agreement have become exercisable<sup>2</sup>.

16 Where the registrar's subsequent performance fails to meet the target notified to the registrar EUI may notify the registrar that it considers that its powers have become exercisable under clause 9.1.3 of the CREST Registrars Agreement and that it intends to give the registrar notice of termination pursuant to clause 9.4 of the CREST Registrars Agreement. The registrar may appeal in accordance with the relevant appeals procedures. Where no appeal is received or where an appeal is lodged but rejected, EUI shall give the registrar not less than 30 days' notice of termination. In selecting the date, EUI shall give the registrar's clients an adequate period in which to transfer their registers to another registrar.

#### *Publicity concerning non-compliance*

17 EUI may also give publicity to a registrar's non-compliance with the Standards in other circumstances where it considers it appropriate. The format and content of the information to be publicised are at the sole discretion of EUI. EUI will give the registrar an advance copy of the information to be publicised.

## **1 Deposit sets**

*Note: Standard 1 applies to 'unencumbered' deposit sets only. For these purposes, a deposit set is unencumbered if it consists of a transfer form or dematerialisation form supported by a certificate or a certified transfer or a deposit set relating to a share exchange.*

1.1 The CCSS Operator is required to deliver deposit sets to registrars by 09.00, at the latest, on each business day. The registrar must sign a receipt for the sealed pouch. The

<sup>2</sup> Clause 9.1.3 states that EUI may suspend or terminate a registrar:

*if, in the opinion of EUI, the Registrar's participation is disruptive to other CREST members or system-participants or to participating issuers or the Networks.*

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registrar must examine the deposit set and either update the register or reject and notify EUI by using the RUR Action Response (message type LRRR) by 12.00 on the following business day (27 hours after the receipt of the deposit set).

1.2 Rejected deposit sets are collected by the CCSS on the business day following rejection.

1.3 If a registrar receives a stock deposit in respect of a security for which it is not the registrar, the CCSS Operator must be informed by telephone by 12.00 at the latest on the business day following receipt.

1.4 If the registrar does not receive a deposit set for which an EDC has been received, the CCSS Operator must be informed by telephone by 12.00 at the latest on the business day following the day on which the deposit set should have arrived.

1.5 Where a deposit set is received later than 09.00, EUI will treat all deposit sets delivered to the registrar on that day as having been delivered as at the time of the latest delivery. The registrar shall process deposit sets in these circumstances within 27 hours of the time of the last delivery by the CCSS Operator.

#### *Compliance*

The CREST system timestamps each LRRR. EUI can therefore determine the period taken for processing.

EUI will express the number of unencumbered deposit sets which fail to be processed in accordance with Standard 1.1 as a percentage of the total number of unencumbered deposit sets delivered to the registrar for each calendar year.

#### *Fines*

Registrars shall pay fines for failing to process deposit sets in accordance with Standard 1.1 based on the percentage compliance rate calculated as above and according to the following schedule.

Percentage compliance rate	Fine (per deposit set)
>98%	Nil
90%-98%	80p
<90%	£2.75



## 2 Member to member deliveries

### *Guernsey, Irish, Isle of Man and Jersey securities*

2.1 Register Update Requests (RURs) are time stamped at the point of settlement and the Network Providers Communications Host allocates a further timestamp on the receipt of the RUR Action Response (message type LRRR). EUI uses these two timestamps to calculate the time taken by the registrar to process RURs and respond to the CREST system that either the RURs have been applied to the register or have been rejected. For LRRAs which are time stamped after 09.00, the RUR timestamp must be no more than two hours earlier than the LRRR timestamp<sup>3</sup>.

2.2 Registrars shall not refuse to register a transfer of title from one member's uncertificated holding to another member's uncertificated holding (a bad delivery, notified to EUI in an LRRR) save in the circumstances expressly provided in the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations or the Jersey Regulations (as appropriate).

### *Compliance*

EUI will monitor the performance of each registrar by comparing the relevant time stamps of the RUR and the LRRR.

EUI will express the number of RURs which fail to be processed in accordance with Standard 2.1 as a percentage of the total number of RURs for the registrar for each calendar year.

### *Fines*

Registrars shall pay fines for failing to process RURs in accordance with Standard 2.1 based on the percentage compliance rate calculated as above and according to the following schedule.

Percentage compliance rate	Fine (per RUR)
>98%	Nil
90%-98%	80p

<sup>3</sup> For the avoidance of doubt, RURs generated the previous business day are regarded as overdue.

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<90%	£2.75
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Registrars shall pay fines for non-compliance with Standard 2.2 of £250 per incident. For the avoidance of doubt, multiple RURs rejected within the one circle of RURs shall be treated as a single incident.

*Note: Pursuant to the UK Regulations, the uncertificated register of securities which are governed by the UK Regulations is constituted by reference to the CREST system records and, accordingly, title is transferred upon the debit and credit of relevant stock accounts in the CREST system. For this reason, Standard 2 does not apply to such securities.*

*However, registrars are required to poll for, apply to their records and successfully respond to the CREST system for all member to member RURs (in respect of UK securities) created up to the point of final equity settlement (Diary Event 160 – Stop FoP Equity settlement) or final gilts settlement (Diary event 170 – Stop FoP Gilt settlement) prior to submitting reconciliation data. EUI will not take into account the effect of outstanding RURs for which a response has not been received by the CREST system. Therefore, failure to comply with this requirement will result in reconciliation error, which is covered by Standard 4.*

*Registrars are unable to bad deliver transactions in UK securities. Any attempt to do so will be rejected and subject to penalty under Standard 2.2.*

### **3 Stock withdrawals**

*Guernsey, Irish, Isle of Man and Jersey securities*

3.1 RURs in respect of stock withdrawals ('STWs') are time stamped at the point of settlement and the Network Providers Communications Host allocates a further timestamp on the receipt of the RUR Action Response (message type LRRR). EUI uses these two timestamps to calculate the time taken by the registrar to process STWs and respond to the CREST system that either the STWs have been applied to the register or have been rejected. For LRRAs which are time stamped after 09.00, the STW timestamp must be no more than two hours earlier than the LRRR timestamp<sup>4</sup>.

3.2 For the purposes of this Standard and for the avoidance of doubt, a registrar may *reject* an STW where there are insufficient transferee name and/or address details to enter the transferee on the certificated part of the register<sup>5</sup> or where otherwise permitted by UK Regulation 28. Insufficient transferee details would include, for example, a first name without a surname or an incomplete address (i.e. one which would make it impossible for

<sup>4</sup> For the avoidance of doubt, STWs generated the previous business day are regarded as overdue.

<sup>5</sup> See UK Companies Act 2006 s113.

the issuer to send documents to the shareholder). The absence of, for example, the suffix 'Plc' or a post code would *not* render the transferee details insufficient for these purposes.

3.3 A registrar may, if he wishes, *delay* the application of an STW to the register where this is necessary to confirm the status as a legal person of a transferee which appears to be a body corporate (e.g. where the transferee's name appears to be that of a body corporate but which does not have a suffix 'Plc', 'Limited', 'Ltd', 'SA', 'AG', 'Pty' etc.) by reference to a certificate of incorporation or equivalent constitutional document. The requirements of Standard 3.1 will not apply in these circumstances.

*Note: pursuant to UK Regulation 35(4)(a) a registrar is permitted to accept that the information contained in the STW is correct and pursuant to UK Regulation 35(7) a registrar has no liability for relying on matters which he is so permitted to accept. Consequently, in broad terms, a registrar is entitled to apply an STW to the register in the circumstances envisaged in Standard 3.3 and UK Regulation 35 rather than choose to delay registration.*

3.4 STWs which are delayed in the circumstances envisaged in Standard 3.3 must, within two months of the creation of the STW by the CREST system and in accordance with UK Regulation 32(7), either be applied to the register and a certificate produced or be rejected (where so permitted by UK Regulation 28).

#### *Compliance*

EUI will monitor compliance with Standards 3.1 and 3.4 by comparing the relevant time stamps of the STW and the LRRAs.

There is no system mechanism for marking an STW as 'delayed pending investigation'. In the circumstances envisaged in Standard 3.3 the registrar must notify EUI by the close of business on the business day following the creation of the STW that the transferee details contained in the STW are subject to investigation; such notification must include any relevant Transaction IDs. EUI will apply Standard 3.1 to all STWs *not* so notified.

EUI will express the number of STWs which fail to be processed in accordance with Standard 3.1 as a percentage of the total number of STWs for the registrar for each calendar year.

#### *Fines*

Registrars shall pay fines for failing to process STWs in accordance with Standard 3.1 based on the percentage compliance rate calculated as above and according to the following schedule.

Percentage compliance rate	Fine (per STW)

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>98%	Nil
90%-98%	80p
<90%	£2.75

*Note: Pursuant to the UK Regulations, the uncertificated register of securities which are governed by the UK Regulations is constituted by reference to the CREST system records and, accordingly, title is transferred upon the debit and credit of relevant stock accounts in the CREST system. For this reason, Standard 3 does not apply to such securities.*

*However, registrars are required to poll for, apply to their records and successfully respond to the CREST system for all member to member RURs (in respect of UK securities) created up to the point of final equity settlement (Diary Event 160 – Stop FoP Equity settlement) or final gilts settlement (Diary event 170 – Stop FoP Gilt settlement) prior to submitting reconciliation data. EUI will not take into account the effect of outstanding RURs for which a response has not been received by the CREST system. Therefore, failure to comply with this requirement will result in reconciliation error, which is covered by Standard 4.*

#### **4 Integrity of the issue**

4.1 EUI requires that a registrar passes to EUI each business day data showing the total CREST system balance for each participating security (message type MRSQ) together with a balance for each stock account that has been amended that day (message type MRCQ).

4.2 At least every two weeks, EUI requires that full reconciliation of all stock accounts is undertaken (message type MRAQ). In this case, all stock account balances are passed to EUI as well as the data specified in Standard 4.1.

4.3 EUI may require a full reconciliation (message type MRAQ) at any time on giving reasonable notice to the registrar concerned.

4.4 Registrars must submit daily reconciliation data (message types MRSQ and MRCQ) after close of settlement (event 160 for equities and 170 for gilts) but before the end of day (Event 1005) in the CREST Daily Timetable.

4.4A Registrars must conduct a full reconciliation of a participating security before the end of day, prior to determining the entitlements to the proceeds of a corporate action.

4.5 Registrars must retrieve changes to the standing data of persons holding the securities for which it is the CREST Registrar (message type QFCQ) each day and update their records (or, as appropriate, registers) of uncertificated securities to reflect such

changes before the commencement of CREST system processing on the following business day.

4.5A Registrars and EUI shall analyse any mismatches and inconsistencies resulting from the reconciliation process and endeavour to solve them before the beginning of settlement on the following business day.

4.6 Where discrepancies identified either intra-day or as a result of the reconciliation process are attributable to the registrar's records, the registrar must resolve such discrepancies (demonstrated either by a successful reconciliation or with the consent of the CREST System Controller) by 22:00 or, if later, the end of day (Event 1005) in the CREST Daily Timetable on that business day or such later time as the CREST System Controller may agree.

4.7 EUI has the discretion to disable any security for settlement which is still unreconciled at by the end of day (Event 1005) in the CREST Daily Timetable (or any later time pursuant to Standard 4.5) and not to re-enable that security for settlement until reconciliation is completed.

4.8 Where an undue creation or deletion of securities is identified (whether revealed by the reconciliation process or otherwise), and the Registrar and EUI are not able to solve this problem by the end of the following business day, EUI shall suspend the securities issue for settlement until the undue creation or deletion of securities has been remedied.

4.9 In the event of suspension of the settlement in these circumstances, EUI shall inform without undue delay its participants, the Bank of England and any other relevant authorities.

4.10. The CREST Registrar and EUI shall take without undue delay all the necessary measures to remedy the undue creation or deletion of securities and EUI shall inform the Bank of England and any other relevant authorities with regard to the measures taken.

4.11 EUI shall inform without undue delay its participants, the Bank of England and any other relevant authorities when the undue creation or deletion of securities has been remedied.

4.12 The CREST system shall resume settlement of the relevant securities issue as soon as the undue creation or deletion of securities has been remedied.

### *Compliance*

EUI will monitor the reconciliation process to ensure that all securities are reconciled each business day. EUI will also monitor whether a full reconciliation has occurred on the Security Reconciliation Date.

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*Fines*

Registrars shall pay fines for failing to reconcile in accordance with Standard 4 according to the following schedule.

Standard breached	Fine (per security)
4.4: Failure to submit or successfully complete reconciliation for a FTSE100, FTSE250 (or Irish equivalent) security or a UK gilt	£2,000
4.6: Failure to submit or successfully complete reconciliation for all other securities	£750

## 5 Contingency arrangements

5.1 Registrars must notify EUI by telephone as soon as practicable after identifying a system fault or site disaster which may require the registrar to invoke contingency arrangements<sup>6</sup>.

5.1A Registrars must have in place appropriate contingency arrangements and provide EUI upon request with all information necessary for EUI to evaluate the appropriateness of the contingency arrangements.

5.2 Where the registrar has notified EUI that its systems will be interrupted, due to a system failure, Band 1 registrars (i.e. Critical Service Providers) should resume operations within two hours following the disruptive event. Band 2 registrars (i.e. Key Service Providers) will have four hours to achieve a full system recovery (in the case of a system failure). The operation of Standards 1 to 4 will be suspended during this period.

5.3 Where the registrar has notified EUI that its systems will be interrupted, due to a site disaster, Band 1 registrars (i.e. Critical Service Providers) will have one business day to achieved a full system recovery. Band 2 Registrars (i.e. Key Service Providers) will have two business days to achieve full system recovery. The operation of Standards 1 to 4 will be suspended during this period.

5.4 Once a full systems recovery has been completed, registrars must be able to process all deposit sets, RURs and STWs and perform reconciliations in accordance with the requirements of Standards 1 to 4.

<sup>6</sup> For the avoidance of doubt, this Standard also applies to situations in which the registrar's standby system is maintained by another registrar under a sharing arrangement on another site.

5.5 The time of the completion of full systems recovery does not affect this Standard. Where any security remains unreconciled by the start of the next business day, EUI has the discretion to disable the security for settlement and not to re-enable that security for settlement until reconciliation is completed.

5.6 Registrars must test their system contingency arrangements every six months and must provide EUI with documentary evidence, in a form satisfactory to EUI, from either internal audit or inspection or from the firm's auditors that such a test has taken place, its scope and outcome. Registrars must give EUI one week's notice of the testing of their contingency arrangements and EUI reserves the right to be present at any of these tests.

### *Compliance*

EUI will record the time of the initial contact and note the time by which a further update must be given. This will be done for each update.

Upon notification of a move to standby, EUI will compare the time of the move with the time of the first RUR Request.

### *Fines*

Registrars shall pay fines for failing to operate in accordance with the contingency arrangements in Standard 5 up to a maximum of £1,250 per failure, at the discretion of EUI.

## **6 Transfer between registrars**

6.1 Any change of registrar must take place over a weekend unless EUI agrees otherwise.

6.2 The current registrar will process, as described in Standard 1, all deposit sets (received by the registrar up to and including the last day on the last business day prior to the move) by the Static Balances diary event on the last business day prior to the move<sup>7</sup>.

6.3 The current registrar shall reject any deposit sets that may be delivered to it after the move.

6.4 The current registrar will reverse any forward dated transactions prior to the transfer of the records to the new registrar.

<sup>7</sup> As a procedural matter, the current registrar should not deliver any EDCs received on the transfer date which are not covered by a fast track agreement.

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6.5 The current registrar will perform a full reconciliation, as described in Standard 4 on the last business day.

6.6 The current registrar will pass a copy of the register to the new registrar in the manner agreed between them.

6.7 The new registrar performs a full reconciliation and provides EUI with written confirmation that the CREST system balances have been agreed. The new registrar will perform a full reconciliation, as described in Standard 4 at the end of the first business day after the move.

#### *Compliance*

EUI will record the date notified by the registrars as being the date on which the register is to be transferred and will monitor compliance by each registrar.

#### *Fines*

Registrars shall pay fines for failing to transfer a register in accordance with Standard 6 according to the following schedule.

Standard breached	Fine
6.2: failure to complete processing of deposit sets	£12.50 per deposit set
6.3: processing deposit sets after the date of the transfer	£12.50 per deposit set
6.4: failure to reverse forward dated transactions prior to the date of the transfer	£325 per transaction
6.5: failure to reconcile by old registrar	Up to £1,250 per security
6.7: failure to reconcile by the current registrar	Up to £1,250 per security



## Rule 6 Settlement discipline

### 1 Introduction

#### *General*

1 The CREST Settlement Discipline Rules have been devised in close consultation with industry user groups. Membership of the user groups comprised users and participants from a representative range of business activities.

2 The Rules seek to ensure high standards of input, matching and settlement of transactions through the CREST system and are intended to benefit all users and participants. The principal benefits envisaged are that they will:

2.1 enhance the integrity of the settlement process by providing a high degree of certainty of the timeliness of settlement;

2.2 reduce the need for manual intervention in relation to unmatched and unsettled transactions;

2.3 provide a firm basis for member's cash management; and

2.4 reduce the position risk and counterparty risk to members which can arise from late settlement.

3 EUI reserves the right to amend, delete or introduce new Rules. Pursuant to clause 19 of the CREST Terms and Conditions (and the equivalent clause in the agreements entered into by other users and participants) any changes to the Rules will be made in accordance with the consultation procedures set out in the CREST Manual.

#### *Regulators*

4 The Financial Conduct Authority has indicated to regulated firms that they regard the Settlement Discipline Rules as conducive to achieving and maintaining high standards in settlement. Accordingly, in considering a firm's fitness and propriety, they will take in to account any finding by EUI that the firm has failed to comply with these Rules.

5 Under their Rules, the Irish Stock Exchange and London Stock Exchange may institute disciplinary proceedings against a member firm which is the subject of an adverse finding of EUI.

#### *Payment of fines*

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6 A member will be notified in writing of fines due. Each such notification will cover a period of two calendar months. No fine shall be invoiced to a member with a total value of less than £250 for any two month period.

7 Payment of fines is collected by direct debit from the bank accounts nominated by each user in respect of the CREST members for whom they act as user within one calendar month unless the user or member notifies EUI in writing that it intends to appeal against the fine in accordance with the relevant appeals procedures. It is for the user to determine whether and to what extent he passes on any fines levied upon him to the members for which he acts as user.

8 Income from fines will be used to finance the monitoring and enforcement of these Rules. Any surplus income above that needed to fund such costs will be treated as part of EUI's general income and therefore capable of being rebated to users (note that entitlement to rebates will be calculated solely by reference to fees and tariffs paid by the user).

*Waivers of sanctions or fines etc.*

9 EUI may, in its absolute discretion, reduce or waive a sanction or fine due under these Rules. No such reduction or waiver shall prejudice EUI's ability to impose a sanction or levy a fine for any subsequent non-compliance with the Rules.

10 EUI shall ordinarily disapply fines due under these Rules where non-compliance with the Rules results from:

10.1 the inability of the member to communicate with the CREST system, where that inability results from circumstances reasonably outside the member's control (such as a failure by a network provider affecting the member which has not been contributed to by the negligence or default of the member) for the duration of that inability to communicate, provided that the member affected notifies EUI in writing of the relevant circumstances;

10.2 a failure of, or deterioration of performance in, the central settlement process (whether or not attributable to the performance of the CREST system) which materially impedes matching and settlement performance, for the duration of that failure or deterioration of performance; or

10.3 the suspension from settlement of the security the subject of the transaction.

*Publicity concerning non-compliance*

11 Clause 4.3 of the CREST Terms and Conditions (and the equivalent clause in the agreements entered into by other users and participants) states that:

*EUI may publicise from time to time, in such manner as it may determine, information relating to compliance by the Member with any of the CREST Requirements. EUI shall not be liable to the Member in respect of any Liabilities suffered or incurred by the Member as a result of any such publicity or any errors in any such publicity made in good faith by EUI.*

12 Where, in EUI's opinion, a member's non-compliance with the Rules has been persistent or has had a material impact upon settlement by CREST members, EUI will consider publicising the member's non-compliance. The format and content of the information to be publicised are at the sole discretion of EUI. EUI will give the member an advance copy of the information to be publicised.

**2 Matching of transactions**

1 These Matching Rules apply to the matching of deliveries (DELs), residual deliveries (RESs) and stock loans (SLOs) relating to the following security categories:

- FTSE 100;
- FTSE mid 250;
- Irish Equivalent 100;
- Irish Equivalent 250;
- Other UK and Irish settleable; and
- Residual UK and Irish,

excluding the following:

- transactions which carry an 'NC' flag;
- transactions where a trade date is not reported;
- transactions in eligible debt securities; or
- for a specific period of time, certain transactions subject to corporate actions that create a change in the security to reflect the matching issues that can arise in the context of a corporate action (as specified on the Euroclear website [www.euroclear.com](http://www.euroclear.com)).

2 Deliveries, residual deliveries and stock loans may match in the CREST system up until Input Disable (the close of input and matching in the Daily Timetable).

3 For the purpose of the Matching Rules, the following definitions apply:

trade date	the date on which the trade was executed, as recorded in the 'trade date' input field;
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unmatched transaction a transaction which has a transaction status of 'A' at the close of business on the relevant day.

*Matching of deliveries and residual deliveries*

4 All CREST members shall match 100% of their transactions by the time of Input Disable in the CREST system on trade date + 1. Non-compliance with this target is calculated retrospectively at the end of each two month period and in respect of transactions which have matched by that time. Non-compliance with the target results in the last party to input or amend an instruction incurring a liability to pay a fine to EUI of £2 for each day the transaction remained unmatched.

*Matching of stock loans*

5 All CREST members shall match 100% of stock loans for stock loans against payment by timetable event 120 (Stop DVP Equity Settlement) on Intended Settlement Date. Non-compliance with this target is calculated retrospectively at the end of each two month period and in respect of transactions which have matched by that time. Non-compliance results in the last party to input or amend an instruction incurring a liability to pay a fine to EUI of £2 for each day the transaction remained unmatched.

**3 Settlement of transactions**

1 These Settlement Rules apply to the settlement of:

1.1 deliveries (DELs) and stock loans (SLOs) against payment;

1.2 (where the transaction carries a trade system of origin flag) deliveries and stock loans free of payment;

1.3 in the case of failed sold transactions, FTSE 100, FTSE mid 250, Irish Equivalent 100 and Irish Equivalent 250 security categories only<sup>8</sup>, where the security is three days or more after its enablement date; and

1.4 in the case of failed bought transactions, FTSE 100, FTSE mid 250, Irish Equivalent 100, Irish Equivalent 250 and other UK (other than eligible debt securities) and Irish Settleable security categories.

2 Deliveries and stock loans against payment may settle in the CREST system up until Timetable Event 102 (Stop DVP Equity Settlement). For deliveries and stock loans free of payment the deadline is Timetable Event 160 (Stop FoP Equity Settlement).

<sup>8</sup> Other security categories are excluded for reasons of illiquidity.

3 For the purposes of the Settlement Rules, the following definitions apply:

unsettled transaction	a DEL or SLO transaction with a transaction status of 'D' or, where the CREST member has insufficient securities to settle any transaction, of 'E' at the close of settlement on or after Intended Settlement Date (ISD);
failed bought transaction	an unsettled transaction, for which the 'Failure Reason' field in the transaction details indicates an insufficient resource under the control of the securities credit party or his settlement bank;
failed sold transaction	an unsettled transaction, for which the 'Failure Reason' field in the transaction details indicates an insufficient resource under the control of the securities debit party or his settlement bank or that the net settlement limit set by the securities debit party has caused the transaction to fail to settle.

4 The technical appendix to these Settlement Rules sets out the methodology used in determining the amount of any fine for failed sold transactions and forms part of these Rules.

#### *Failed bought transactions*

5 The CREST system raises interest claim payments (INTs) in respect of failed bought transactions. The interest claim payment is calculated as a percentage of the consideration of the failed bought transaction, the percentage being based on the prevailing LIBOR for the relevant currency.

6 The interest claim payment is sent to the single settlement engine for settlement provided that it is for a value in excess of £10. Where the claim calculated is less than £10 it is held in reserve. The claim may accrue on subsequent days if the transaction continues to remain unsettled due to the inadequate headroom of the buyer and is added to the buyer's cash queue once its value exceeds £10.

7 INTs are created with a priority of 91 and an ISD of 10 days from the date on which the claim arose.

8 The interest claim payment may be match deleted before settlement.

9 The interest claim payment is a tariffable transaction with a tariff of two tariffable units, levied on the paying member.

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*Failed sold transactions*

10 All CREST members shall settle transactions by the close of settlement in accordance with the targets specified in the schedule below. Non-compliance with these targets is calculated retrospectively at the end of each two month period and results in a fine which is the higher of the monetary amount and ad valorem amount specified for the relevant band in the schedule below.

Date	Target settlement Rate	Monetary fine per transaction	Ad valorem fine per transaction
ISD	85%	£5	0.05%
ISD + 1	90%	£5	0.05%
Each of ISD + 2 To ISD + 9	95%	£5	0.05%
each of ISD + 10 to ISD + 15	98%	£5	0.05%
Each of ISD + 16 To ISD + 20	99%	£5	0.05%

## Rule 6A: Participant Reconciliation Standards

### 1 Introduction

1.1 Article 64(3) of the CSDR RTS requires:

*A CSD shall require its participants to reconcile their records with the information received from that CSD on a daily basis*

This requirement forms the legal basis of the participant reconciliation standards.

### 2 Reconciliation

2.1 Participants must reconcile their records with the information received from the CREST system on a daily basis.

2.2 Participants must obtain from the CREST system the information necessary for them to reconcile their records.

EUI expects participants to use the following GUI requests to obtain the information necessary to conduct reconciliations of their records:

- Stock account balances - Stock Account Balance Request (BSBL);
- Changed balances - Changed Balance Request (BSCL);
- Stock posting - Stock Posting Request (DSPL).

EUI expects participants to use the following FT requests to obtain the information necessary to conduct reconciliations of their records:

- Stock Account Balance Request (BSBQ) - a User level request for all account balances for all participants of the User;
- Changed Balance Request (BSCQ) - a Participant level request for all the accounts belonging to the Participant where the balance changed on the current date;
- Stock Posting Request Message (DSPQ) - a Participant level request for all the stock postings in all stock accounts for the current date.

EUI expects participants to use the following ISO requests to obtain the information necessary to conduct reconciliations of their records:

- MT535 - Statement of Holdings (for Stock Balances);
- MT536 - Statement of Transactions (for Stock Postings).

2.3 EUI will monitor usage to ensure that participants are requesting the information necessary to conduct their reconciliations on a daily basis.

2.4 All users and participants are required to provide EUI with such information, confirmations, access to and copies of records as EUI may require in connection with participant reconciliation requirements or otherwise in connection with compliance by EUI with requirements imposed on it by the Bank of England, other regulatory body or by law.

## Part II: Securities and payments



## Rule 7 Admission and removal of securities

*Note: The provisions of the CREST Regulations are additional to this Rule 7. Issuers', registrars', issuing and paying agents' and product providers' attention is drawn to the terms of the Admission Procedures for Securities set out in Appendix 1, Appendix 2 and Appendix 3 to the CREST Rules. In respect of a security which is an eligible debt security, a reference in the CREST Rules to the 'issuer' of the security is a reference to each person who is an issuer of the security in accordance with regulation 3(4) of the UK Regulations. In respect of an investment fund participating in the Investment Funds Service, this Rule 7 applies subject to the modifications set out in paragraph 8. Paragraph 9 relates to processing instruments utilised by the CREST system for the purposes of facilitating certain corporate actions.*

### Introduction

An issuer who is applying for its securities to be admitted to the CREST system and its registrar or, as the case may be, its issuing and paying agent or product provider must adhere to the terms of the Application Procedures for Securities (see Appendix 1, Appendix 2 and Appendix 3), provide its Legal Entity Identifier and cooperate with EUI in whatever other matters EUI requires in order to process the application. An issuer must make separate applications for each individual class of security which is to be admitted to the CREST system. The method by which each such application is made is determined by the type of the security concerned.

For securities other than eligible debt securities or units of an investment fund participating in the Investment Funds Service, application must be made by the completion and submission of a Security Application Form in respect of each individual class of the security (see paragraph 9 and Appendix 1). For eligible debt securities, application must be made by a combination of an Issuer Application Form (which is completed and submitted on a 'one-off' basis in respect of each issuer-IPA relationship) and an IPA issuance message<sup>9</sup> in respect of each individual class of the eligible debt security (see Appendix 2). For investment funds participating in the Investment Funds Service, application must be made by a combination of an Investment Fund Application Form (which is completed and submitted on a 'one-off' basis in respect of each investment fund) and a subsequent request by the relevant product provider on behalf of the issuer for a particular class of units to participate in the Investment Funds Service.

An application must be made:

- when a security which currently exists only in certificated form is to be admitted to the CREST system;

<sup>9</sup> An IPA issuance message is an issuer-instruction attributable to the issuer of an eligible debt security and its issuing agent. Upon validation in accordance with the procedures described in the CREST Reference Manual, the CREST system will in response to an IPA issuance message automatically create the security details (including the ISIN allocated to the security) and, on the security start date specified in the IPA issuance message, credit units of the security (via an adjustment (ADJ) transaction) to the issuing agent's stock account.

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- where an issuer proposes to issue further units of a security which has already been admitted to the CREST system, and the new units are not in all respects identical to the existing issued units; and
- when a new security is to be created and admitted to the CREST system.

EUI may make the admission of a security the subject of any special condition which EUI considers appropriate. EUI will notify the issuer concerned of any such condition before admitting the security. EUI may, in its absolute discretion, waive or modify any condition in relation to any applicant, issuer or security.

*Note: EUI may determine not to apply the Application Procedures to CDIs.*

## **1 Conditions relating to applicants**

1.1 The issuer must be duly incorporated or otherwise validly established according to the relevant laws of its place of incorporation or establishment.

1.2 There must be no legal or regulatory impediment to the security concerned being admitted to the CREST system and to the issuer giving the acknowledgements, declarations and undertakings required by the Security Application Form or, as the case may be, the acknowledgements, warranties, declarations and undertakings required by the Issuer Application Form or the Investment Fund Application Form.

*Note: without limiting the generality of paragraph 1.2, in the context of Depository Interests, the issuer of a Depository Interest must ensure that there is no legal or regulatory impediment to the relevant Depository Interest being admitted to the CREST system under or pursuant to the laws applicable to the securities to which the Depository Interest relates.*

*For the avoidance of doubt, paragraph 1.2 applies to all securities being admitted to the CREST system.*

1.3 Where the security is a class of shares to which UK Regulation 16 (or a corresponding provision of the Guernsey Regulations, Irish Regulations, the Isle of Man Regulations or the Jersey Regulations) applies, a directors' resolution must have been passed and be effective in relation to that class of shares.

1.4 An issuer incorporated or established outside the United Kingdom must (unless it is a body corporate incorporated within the EU, an individual resident within the EU or a state or other public authority or agency issuer established in the EU) appoint an agent for service of process who is a body corporate incorporated in England or Wales and notify EUI of that appointment and any alteration in that appointment.

1.5 Irrespective of the issuer's place of incorporation or establishment, an issuer must maintain the register of securities which are to be admitted to the CREST system (including, where one is maintained, the certificated register):

- 1.5.1 in the United Kingdom, where the securities are subject to the UK Regulations;
- 1.5.2 in Ireland, where the securities are subject to the Irish Regulations;
- 1.5.3 in the Isle of Man, where the securities are subject to the Isle of Man Regulations;
- 1.5.4 in Jersey, where the securities are subject to the Jersey Regulations; and
- 1.5.5 in Guernsey, where the securities are subject to the Guernsey Regulations.

## **2 Conditions relating to all securities**

2.1 The security must be duly authorised according to the requirements of the issuer's memorandum and articles of association (or equivalent constitutional document) and all necessary statutory and other consents to the issue of units of the security must have been given and be in force.

2.2 All conditions to the application for the security to be admitted to the CREST system must be satisfied.

*Note: An application for a security to be admitted to the CREST system may be conditional on, for example, admission to listing for the security becoming effective. In such a case, the condition in this Rule will not be satisfied unless and until listing becomes effective.*

2.3.1 Where the security is admitted pursuant to the UK Regulations, the issue of any uncertificated units of that security may not be effected other than by means of:

- (a) an issuer-instruction to credit the stock account of the persons who are to be the holders of the security; or
- (b) an issuer-instruction to credit the stock account of the issuer's receiving agent or issuing agent (or, in the case of CDIs, the CSD or its nominee) followed by a delivery of those units to the stock accounts of the persons who are to be holders of the security.

2.3.2 Where the security is enabled for settlement in the CREST system, EUI must not be instructed, by means of an issuer-instruction, to credit any stock account of a person who is, or is to be, a holder of a unit of the security concerned unless the unit concerned has been unconditionally issued in uncertificated form or will have been so issued not later than the time at which, in accordance with the issuer-instruction, EUI is to credit the stock account concerned.

*Note: Where a security has been admitted to the CREST system (and accordingly enabled for settlement in the CREST system), further units of the security may thereafter be issued subject, for example, to listing for the further units becoming effective. In such cases,*

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*CREST members' stock accounts must not be credited in respect of the relevant units until the condition concerned has been satisfied. The Rule also applies on original admission to the CREST system, but does not inhibit a credit to the account of a receiving agent or an issuing agent acting on behalf of the issuer as a preliminary to crediting the accounts of holders of the new units.*

2.4 The security must be freely transferable.

*Note: In exceptional circumstances, a security may be permitted to be transferred through the CREST system where the security is transferable in limited circumstances, for example, where the security comprises the right to subscribe for shares in an open offer and is transferable only to satisfy market claims. In such cases EUI does not supervise compliance with the limitations. In addition, the requirement in paragraph 2.4 does not restrict a CREST member's ability to hold and/or transfer Restricted Securities (as defined in the Glossary to the CREST Manual) provided they are able to provide the relevant certifications, as described in Chapter 4, section 2 of the CREST Reference Manual, where required.*

2.5 In respect of a security other than an eligible debt security, there must be, at all times, a CREST Registrar who is able to carry out appropriate registrar functions in relation to the security. In respect of an eligible debt security, there must be, at all times, a CREST IPA who is able to carry out issuing and paying agent functions in relation to the security.

*Note: It is permissible for an issuer to appoint one CREST IPA to perform the functions of an issuing agent and a different CREST IPA to perform the functions of a paying agent in respect of an eligible debt security of the issuer.*

2.6 Where any right, benefit or privilege attaching to or arising from a unit of the security is to be exercisable by means of the CREST system, the mode of exercise must be valid and effective under the terms of the security and comply with any other legal or regulatory requirement which may from time to time apply to the exercise of such right, benefit or privilege.

2.7 All units of the security must be in all respects identical. Identical means in this context:

2.7.1 all units of the security must be of the same nominal value with the same amount called up or paid up;

2.7.2 all such units must be entitled to dividend, interest and other distributions at the same rate and for the same period, so that at the next ensuing distribution, the dividend, interest or other distribution payable per unit will amount to exactly the same sum (gross and net);

2.7.3 all such units must carry the same rights as to transfer, attendance and voting at meetings and must be *pari passu* in all other respects; and

2.7.4 the security must have an ISIN separate from that applying to any other security.

*Note: Options to receive scrip dividends are not treated as inconsistent with this rule.*

2.8 The units of the security must not be numbered or otherwise identifiable individually.

*Note: It is not possible for partly-paid shares (required to be numbered by virtue of section 543 of the Companies Act 2006) to be transferred through the CREST system.*

2.9 The articles of association, trust deed or equivalent constitutional document or record must:

2.9.1 permit at least four joint holders of the security;

2.9.2 (except in relation to Scottish issuers or as required by law) not permit notice of trusts or other interests to be entered on the register of the security;

2.9.3 (in respect of UK securities, other than shares, general public sector securities, CDIs or eligible debt securities, admitted after the coming into force of the Uncertificated Securities Regulations 2001 and where there is no statutory requirement for a register) require the issuer to maintain a register of persons holding the securities in the United Kingdom;

2.9.4 (in respect of UK securities) not contain any provision which purports to impose any obligations on EUI in relation to the maintenance of the Operator register of securities under the UK Regulations (or which makes any other provision in relation to that register, save for any provision which merely reflects the provisions of the said Regulations); and

2.9.5 (in respect of eligible debt securities) not require the issuer to maintain in the United Kingdom or elsewhere a register of persons holding the securities.

*Note: The requirement of paragraph 2.9.1 reflects the fact that a CREST membership may comprise up to four joint members. In view of the requirement of paragraph 2.4 of this Rule that a security be freely transferable, paragraph 2.9.1 is necessary to ensure the conformity of the CREST Requirements with those of the terms of issue of each security.*

2.10 No sub-division or consolidation of the security shall become effective while the CREST system is open for settlement.

2.11 In respect of an eligible debt security which is denominated in a currency other than a designated currency (i.e. other than sterling, euro or US dollars), no unit of the security shall be issued into the CREST system unless EUI has confirmed that the appropriate exchange rate data is maintained in the system to permit the valuation of units of the security.

### **3 Conditions relating to securities other than shares**

*Note: The attention of issuers of securities other than shares is drawn in particular to Regulation 19 of the UK Regulations (and the corresponding provision of the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations and the Jersey Regulations).*

3.1 The security must be, and must remain, validly constituted notwithstanding it being admitted to the CREST system.

3.2 The security must be transferable free from any equity, set-off or counter-claim between the issuer and the original or any intermediate holder of the security.

### **4 Conditions relating to convertible or redeemable securities**

4.1 Where the security is convertible into another security and/or redeemable, there must be a valid means by which redemption and/or conversion rights or obligations may be exercised by, or in relation to units of the security held, or to be held, by, CREST members.

*Note: It is the responsibility of the issuer of the security to determine whether the articles of association, trust deed or equivalent constitutional document adequately provide for a valid means by which conversion and/or redemption rights may be exercised by, or in relation to units of the security held by, CREST members. EUI has issued specimen wording for inclusion in:*

- *the constitutional document of a convertible security to provide for the exercise of conversion rights by means of the CREST system; and*
- *a conversion notice to be sent by the issuer of a convertible security to the relevant holders.*

*The specimen wording is available on the EUI website ([www.euroclear.co.uk](http://www.euroclear.co.uk)).*

### **5 Condition relating to payment arrangements**

Any provisions in articles of association, resolutions of the issuer in general meeting or other constitutional documents or any agreement, instrument, deed or record relating to any payments to be made to or by an issuer or its receiving agent or its issuing and paying agent using the CREST system's payment mechanisms must be compatible with the CREST payment mechanisms set out in the agreements entered into by CREST users and participants and in the CREST Manual.

### **6 Conditions relating to wholly dematerialised securities**

If the terms of issue of a security admitted to the CREST system on or after 1 December 2001 provide that the security is to be held and transferred only in uncertificated form, the issuer must provide in the terms of issue for appropriate steps to be taken, consistent with the applicable CREST Regulations and the CREST Requirements, to protect the rights and interests of the holder(s) of units of the security in the event that:

- (a) a holder ceases to be a CREST member; or
- (b) the security ceases for any reason to be a participating security capable of being held in the CREST system.

*Note: Appropriate steps might include one or more of the following:*

- *arranging for the units of the security (or those affected) to be converted and/or reconstituted so as to be held in certificated form outside the CREST system;*
- *arranging for the cancellation of units of the security and the issue or transfer to the CREST member(s) (or his legal personal representatives or successors) of units of a like security, to be held outside the CREST system in their place; (note that this would not be permissible for shares in UK incorporated companies, but might be appropriate in relation to depository interests where the underlying securities could be delivered to the holder);*
- *if (and only if) permitted by the applicable CREST Regulations, the effecting of a mandatory transfer to a CREST member of the units of the security held by the person who has ceased to be a CREST member, to be held as nominee for that person (or his legal personal representatives or successors); such a transfer might be capable of being implemented by EUI through the CREST system following instructions from the issuer, but EUI may require a satisfactory indemnity in such circumstances. The identity of a CREST member to whom securities may be transferred shall be notified to EUI, together with such further details of such member as EUI may require.*

## **7 Cessation and termination of participation of securities**

7.1 The conditions set out in CREST Rules 7 – 9 (as appropriate) must remain satisfied at all times while the security concerned is admitted to the CREST system. If any of the conditions ceases, in the opinion of EUI, to be satisfied, EUI may suspend the security or remove it from the CREST system. In addition, in respect of an eligible debt security, EUI may disable the Issuer ID of the issuer concerned. It is the responsibility of issuers to ensure that the relevant conditions set out in Rules 7 – 9 are satisfied at all times and issuers are obliged to notify EUI immediately if they become aware that any of the conditions cease, or are likely to cease, to be satisfied.

7.2 Without prejudice to the generality of paragraph 7.1 above, EUI may suspend a security or remove it from the CREST system (or, in the case of an eligible debt security, disable the Issuer ID of the issuer concerned) where:

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- 7.2.1 in the opinion of EUI, circumstances have arisen in connection with the security which could be prejudicial to EUI or represent a threat to the security, integrity or reputation of the CREST system or involve EUI in material expense or legal proceedings;
- 7.2.2 EUI becomes aware of the commencement of the winding-up, within the meaning of the Insolvency Act 1986, or of the appointment of a receiver or an administrator to the issuer of the security concerned, or believes the same to be imminent or likely to occur;
- 7.2.3 EUI becomes aware of the occurrence under the laws of any applicable jurisdiction of anything analogous to or having a substantially similar effect to the event described in paragraph 7.2.2 above in relation to the issuer of the security concerned, or believes the same to be imminent or likely to occur;
- 7.2.4 EUI becomes aware of the occurrence of any event affecting or which, in the opinion of EUI, may affect its ability or, as appropriate, the ability of the issuer of the security concerned to register transfers of title to the security concerned held in uncertificated form by CREST members (or participating in the Investment Funds Service); or
- 7.2.5 any of the conditions under which EUI permitted the security concerned to be transferred through the CREST system ceases, in the opinion of EUI, to be satisfied.
- 7.3 EUI shall:
  - 7.3.1 suspend a security or remove it from the CREST system (or, in the case of an eligible debt security, disable the Issuer ID of the issuer concerned) where the issuer of the security (or securities) concerned requests EUI in writing to suspend or withdraw (as appropriate) such permission (or disable such Issuer ID); and
  - 7.3.2 remove a security from the CREST system where the issuer of the security concerned delivers to EUI a copy of a resolution of the members of that issuer passed by virtue of UK Regulation 16(6)(d) (or a corresponding provision of the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations or the Jersey Regulations).
- 7.4 A participating issuer shall deliver a copy of any resolution of the members of that issuer passed by virtue of UK Regulation 16(6)(d) (or a corresponding provision of the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations or the Jersey Regulations) to EUI within two business days of its being passed.
- 7.5 An issuer shall notify EUI immediately upon becoming aware of the occurrence of:



- 7.5.1 the presentation of a petition for the winding-up of the issuer;
  - 7.5.2 the taking of any step with a view to the voluntary winding-up of the issuer;
  - 7.5.3 the occurrence under the laws of any applicable jurisdiction of anything analogous to or having a substantially similar effect to any of the events described in subparagraphs 7.5.1 and 7.5.2 above in relation to the issuer;
  - 7.5.4 the occurrence of any other event affecting the ability of the issuer (or, as appropriate, EUI) to register transfers of title to any of its securities held in uncertificated form by CREST members; or
  - 7.5.5 in relation to the Investment Funds Service, where a class of units relates to a separate portfolio of assets, the occurrence of any of the events referred to in this clause in relation to that portfolio (or anything analogous to or having a substantially similar effect to such an event).
- 7.6 Any suspension of a security (or, in the case of an eligible debt security, any disablement of the relevant Issuer ID) pursuant to these Rules:
- 7.6.1 may be with immediate effect, or with effect from such time and date as EUI may, in its absolute discretion, determine; and
  - 7.6.2 shall continue for such period, and end on such date and on or subject to such conditions (if any), as EUI may in its absolute discretion determine.
- 7.7 EUI may suspend or withdraw its permission for title to units of a security to be transferred by means of the CREST system (or, in the case of an eligible debt security, disable the Issuer ID of the issuer concerned) on the basis of information supplied to or received by EUI (whether orally or in writing) which EUI bona fide believes to be true.

*Procedures for cessation of participation of a security*

- 7.8 Where EUI has decided that the relevant conditions for admission of a security are no longer satisfied, EUI shall, as soon as reasonably practicable, select a date to be the last date on which the security concerned shall remain a participating security ('the cessation date'). Where necessary to protect the integrity of the system, EUI may determine that the relevant security shall be suspended and/or removed from the system (or, in the case of an eligible debt security, the Issuer ID of the issuer concerned be disabled) with immediate effect.
- 7.9 Upon selecting the cessation date, EUI shall amend the security end date of the security concerned and inform all CREST Members by broadcast message, including the registrar or (as the case may be) the issuing and paying agent for the issuer concerned, of the cessation date selected.

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7.10 EUI, the issuer concerned and its registrar or (as the case may be) its issuing and paying agent or product provider shall each provide the other with such information as shall be necessary, and shall co-operate to ensure that the register of securities of the security concerned (or, in the case of an eligible debt security, such other record or evidence of title of the security reconstituted in certificated form) reconciles with EUI's own records as at the cessation date.

7.11 As soon as practicable after the cessation date, EUI shall issue one or more instructions to the issuer concerned requiring the issuer to change all units of the security concerned from uncertificated to certificated form.

*Note: If the security is one to which paragraph 6 applies (wholly dematerialised securities), the instruction(s) to the issuer shall be taken to require the issuer to take the steps provided for in the relevant terms of issue on the security ceasing to be a participating security capable of being held in the CREST system. Paragraph 7.11 shall not apply in relation to units in an investment fund participating in the Investment Funds Service.*

*Note 2: Provisions under the Banking Act 2009 require EUI to disregard certain special resolution measures and actions taken in relation an issuer or a member of the same group as an issuer, and the occurrence of any event directly linked to the application of such a measure or action, in considering whether it is able to exercise its powers of suspension and termination. See further CREST Rule 3 paragraph 2.*

## **8 Conditions relating to the Investment Funds Service**

### *General*

8.1 The provisions of this CREST Rule 7 apply in relation to securities participating in the Investment Funds Service subject to the modifications set out in this paragraph.

8.2 Notwithstanding that entries relating to units within the CREST system are merely notional and without legal effect (as described in Chapter 13 of the CREST Reference Manual) and that transfers of units do not take place through or by means of the CREST system, this Rule 7 shall apply as if it is the units (and not the notional units) which are admitted to the Investment Funds Service. It is therefore the actual units (and not the notional units) which must meet the criteria specified in this Rule 7.

8.3 The Introduction, Paragraph 1 (Conditions relating to applicants), paragraph 5 (Condition relating to payment arrangements), paragraph 7 (Cessation and termination of participation of securities) and Appendix 3 apply as if:

8.3.1 references to securities were to units of an investment fund participating in the Investment Funds Service;

8.3.2 references to the issuer were to the investment fund;

8.3.3 references to transfers through the CREST system were to transfers of notional units; and

8.3.4 "investment fund", "participating investment fund", "unit" and "class" were interpreted in accordance with Chapter 13 of the CREST Reference Manual.

8.4 Paragraph 2 (Conditions relating to all securities), paragraph 3 (Conditions relating to securities other than shares), paragraph 4 (Conditions relating to convertible or redeemable securities) and paragraph 6 (Conditions relating to wholly dematerialised securities) do not apply in relation to the Investment Funds Service.

*Conditions relating to investment funds*

*Note: the following conditions apply to the class of units of a particular investment fund to be admitted to the Investment Funds Service.*

8.5 The units must be duly authorised according to the requirements of the investment fund's memorandum and articles of association, trust deed and/or prospectus (or equivalent constitutional documents as applicable) and all necessary statutory and other consents to the issue of units of the investment fund must have been given and be in force.

8.6 All conditions to the application for the units to be admitted to the CREST system in notional form must be satisfied.

8.7 There must be, at all times:

8.7.1 a CREST Registrar who is able to carry out appropriate registrar functions in relation to the investment fund; and

8.7.2 a CREST Product Provider who is able to carry out appropriate product provider functions in relation to the investment fund.

8.8 The units must be, and must remain, validly constituted notwithstanding it being admitted to the CREST system.

8.9 The memorandum and articles of association, trust deed and/or prospectus (or equivalent constitutional document or record) must not contain any provision which purports to impose any obligations on EUI in relation to the maintenance of any record of units or notional units, or any records of electronic instructions relating to such units or notional units.

8.10 The units must be freely transferable.

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*Note: Paragraph 8.10 does not restrict a CREST participant's ability to hold and/or transfer Restricted Funds (as defined in the Glossary to the CREST Manual) provided that they, and any transferee, are flagged in the CREST system as authorised to hold such Restricted Funds.*

8.11 The security must be transferable free from any equity, set-off or counterclaim between the issuer and the original or intermediate holder of the security.

8.12 The units must not be numbered or otherwise identifiable individually.

8.13 The memorandum and articles of association, trust deed and/or prospectus (or equivalent constitutional document or record) must permit at least four joint holders of the security.

8.14 All units must be in all respects identical. Identical means in this context:

8.14.1 all units must be of the same nominal value and be fully paid;

8.14.2 all units must be entitled to dividend, interest and other distributions at the same rate and for the same period, so that at the next ensuing distribution, the dividend, interest or other distribution payable per unit will amount to exactly the same sum (gross and net);

8.14.3 all such units must carry the same rights as to transfer, attendance and voting at meetings and must be *pari passu* in all other respects; and

8.14.4 the units must have an ISIN separate from that applying to any other class of units or security.

*Note: classes of units having the following characteristics shall not be treated as inconsistent with this paragraph 8.14:*

- (i) units in respect of which distributions will be of an equal amount but in respect of which the treatment of the amount (either as capital or income) may differ for an initial period, typically dependant on the time of issue of the unit;*
- (ii) units transferable with, in relation to the holding transferred, an additional fraction of a unit.*

8.15 Where any right, benefit or privilege attaching to or arising from a unit is to be exercisable by means of the CREST system, the mode of exercise must be valid and effective under the terms of the class of units and comply with any other legal or regulatory requirement which may from time to time apply to the exercise of such right, benefit or privilege.

8.16 In respect of an investment fund which is denominated in a currency other than a designated currency (i.e. other than sterling, euro or US dollars), no units shall be

admitted to the CREST system in notional form unless EUI has confirmed that the appropriate exchange rate data is maintained in the system to permit the valuation of units.

8.17 Without prejudice to paragraph 7 above, EUI may suspend a class of units or remove it from the CREST system where the Registrar Service Standards referred to in Chapter 13, section 4 of the CREST Reference Manual are not met (including where the class of units remains unreconciled).

## **9 CREST system processing instruments used for the purposes of facilitating corporate action processing in the CREST system**

9.1 The CREST system utilises dedicated processing instruments to facilitate the processing of certain corporate actions. Dependant on their individual characteristics, these processing instruments (such processing instruments include nil paid rights and assented lines) may or may not be securities. Irrespective of their characteristics, EUI requires the completion and submission of a Security Application Form in respect of certain processing instruments.

9.2 Each of the processing instruments are also subject to varying conditions outlined in this CREST Rule 7 as determined by EUI and as communicated, as appropriate, to members.

## **Rule 8 Admission of Guernsey securities**

This Rule is no longer in effect.

*Note: Prior to 30 August 2013 (the "CREST effective date") Guernsey securities were admitted to the CREST system and could be held and transferred in the CREST system pursuant to Rule 8. Following adoption of the Guernsey Regulations (which are equivalent to the UK Regulations, the Irish Regulations, the Isle of Man Regulations and the Jersey Regulations) and recognition of EUI as an "operator of a computerised settlement system" for the purposes of the Guernsey Regulations, Guernsey securities are now admitted to the CREST system, and can be held and transferred in the CREST system, pursuant to the Guernsey Regulations. Rule 8 has therefore been deleted.*

*Guernsey issuers and CREST participants should note that Guernsey securities that were admitted as participating securities pursuant to Rule 8 before the CREST effective date are treated as securities admitted pursuant to the Guernsey Regulations as of the CREST effective date, and any holding of such securities in the CREST system is a holding for the purposes of the Guernsey Regulations.*

*Guernsey issuers wishing to apply for admission to the CREST system of Guernsey securities (not admitted as participating securities prior to the CREST effective date) should refer to the provisions of Rule 7, the CREST Regulations and the Application Procedures for Securities.*

## Rule 9 Depository interests

*Note: The attention of issuers of securities other than shares is drawn in particular to Regulation 19. This Rule 9 is in addition to the provisions of Rule 7. This Rule applies to securities (termed 'Depository Interests') which comprise rights under depository receipts or other interests in a security which comprise the interests or rights of persons for whom a security is held by a custodian or depository (such custodian or depository being the issuer)*

- 1 The terms of issue of the Depository Interests must require the holders of rights or interests to be recorded in a register of securities.
- 2 Entries on the register must constitute evidence of title to the units of the Depository Interests concerned.
- 3 Subject to paragraph 8 below, the register of securities for the Depository Interests must be maintained in the United Kingdom.
- 4 Subject to paragraph 8 below, a custodian or depository which is the issuer must maintain a place of business in the United Kingdom at which performance by it of its obligations is carried out.
- 5 Subject to paragraph 8 below, the proper law of the terms of issue must be the law of England and Wales, Northern Ireland or Scotland.
- 6 The issuer of the Depository Interests must confirm in writing to EUI prior to the admission of the Depository Interests to the CREST system that it is an authorised person under the Act (as amended) in relation to its custodian and any other activities to be carried on by it in relation to the Depository Interests, and must maintain that status and/or any corresponding status under any legislation or regulatory requirement which may from time to time apply to the carrying on of such activities in addition to or in substitution for the requirements of the Act.

*Note: If the Depository Interests are to be admitted as participating securities pursuant to the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations or the Jersey Regulations, the provisions of this paragraph will be taken to refer to any regulatory requirements applying to the issuer of the Depository Interests in the relevant jurisdiction.*

- 7 In relation to Depository Interests (not being CREST Depository Interests) which are created to represent underlying securities and are admitted as participating securities to the CREST system:
  - 7.1 the terms of issue of the Depository Interests and/or the terms of the custody arrangements in respect of the securities which the Depository Interests represent must be structured in such a way that:

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- 7.1.1 at all times the issuer of the Depository Interests must hold on trust for the sole benefit of the holders of Depository Interests, all rights pertaining to the underlying securities to which the Depository Interests relate and all money and benefits that it may receive in respect of them, subject only to the payment of proper expenses of the issuer; and
- 7.1.2 neither the securities to which the Depository Interests relate nor any such rights, monies or benefits may be (or be liable to be treated as) assets of the issuer of Depository Interests under the law (including insolvency law) of the respective jurisdictions of:
- (a) the issuer's place of incorporation;
  - (b) the underlying issuer's place of incorporation;
  - (c) the place where the register of the securities to which the Depository Interests relate is maintained; and
  - (d) the place of administration of the trust under which the securities are held;
- 7.2 the legal advisors to the issuers of the Depository Interests must confirm in writing (by an opinion in form satisfactory to EUI) to EUI prior to admission of the Depository Interests to the CREST system and from time to time thereafter when requested by EUI, that paragraph 7.1 is satisfied;
- 7.3 if the Depository Interests are to bear the same ISIN in the CREST system as the securities which they represent, the London Stock Exchange Limited or other relevant body must have agreed that the same ISIN may be applied to the Depository Interests as is applied to the underlying security;
- 7.4 EUI must remain satisfied at all times that the use of the same ISIN as contemplated in paragraph 7.3 continues to be appropriate; and
- 7.5 the Depository Interests shall not be described as CREST Depository Interests or any similar expression or otherwise represented as associated in any way with EUI or the CREST system.

*Note: Paragraph 2.7.4 of Rule 7 does not apply if the provisions of paragraphs 7.3 and 7.4 are satisfied.*

- 8 In relation to Depository Interests to be admitted as participating securities under:
- 8.1 the Irish Regulations, paragraphs 3 and 4 of this rule shall apply as if 'Ireland' were substituted for the reference to 'the United Kingdom' and paragraph 5 of this rule shall apply as if 'Ireland' were substituted for the reference to 'England and Wales, Northern Ireland and Scotland'.



8.2 the Isle of Man Regulations, paragraphs 3 and 4 of this rule shall apply as if 'Isle of Man' were substituted for the reference to 'the United Kingdom' and paragraph 5 of this rule shall apply as if 'Isle of Man' were substituted for the reference to 'England and Wales, Northern Ireland and Scotland'.

8.3 the Jersey Regulations, paragraphs 3 and 4 of this rule shall apply as if 'Jersey' were substituted for the reference to 'the United Kingdom' and paragraph 5 of this rule shall apply as if 'Jersey' were substituted for the reference to 'England and Wales, Northern Ireland and Scotland'.

8.4 the Guernsey Regulations, paragraphs 3 and 4 of this rule shall apply as if 'Guernsey' were substituted for the reference to 'the United Kingdom' and paragraph 5 of this rule shall apply as if 'Guernsey' were substituted for the reference to 'England and Wales, Northern Ireland and Scotland'.

9.1 Subject to paragraph 9.2, in relation to Depository Interests where the underlying securities to which the Depository Interests relate are constituted under the laws of an EEA Member State:

(a) at all times the issuer of the Depository Interests must hold, directly or indirectly, the securities to which the Depository Interests relate in a CSD which has been authorised pursuant to the CSDR or a third country CSD which has been recognised pursuant to the CSDR;

(b) the issuer of the Depository Interests must notify EUI immediately if paragraph 9.1(a) ceases to be satisfied.

9.2 Notwithstanding the terms of paragraph 9.1, EUI may (in its absolute discretion) permit Depository Interests which do not meet the terms of 9.1(a) to be admitted to, or to continue to settle in, the CREST system. Any such decision may be subject to conditions, including (without limitation) that it is on a time limited basis and/or otherwise subject to the condition that the issuer of the relevant Depository Interests must ensure that the securities to which the Depository Interests relate are admitted to another CSD by a certain date.

## Rule 10 Stock deposits

### General

1 A stock transfer form comprised in a deposit set must be a form prescribed under the Stock Transfer Act 1963 for use where units of a security are transferred to a system-member to be held by him as uncertificated units of that security, or such other form as EUI may, from time to time, permit.

### 'Conversion rules'

2 A request in writing referred to in UK Regulation 33(2)(a)(i) must be in the form set out in the CREST Dematerialisation Form.

*Note: The CREST dematerialisation form and stock transfer form are not suitable for the deposit into the CREST system of provisional allotment letters issued in connection with a rights issue. An alternative form approved by EUI and forming an integral part of the provisional allotment letter should be used for the deposit of such securities.*

### Requirement to make stock deposits via the CCSS

3 Save

3.1 as provided by paragraph 5 below in the case of UK, Guernsey and Isle of Man securities only; and

3.2 in relation to deposit sets comprising a CREST Dematerialisation Form and any relevant document of title,

CREST members shall deliver deposit sets to the relevant registrar via the CCSS.

4 Pursuant to UK Regulation 33(2)(b)(iii) a participating issuer:

4.1 may accept that a CREST Member to whom a unit of a security is to be transferred wishes to hold the unit in uncertificated form where the issuer receives a deposit set either by means of the CCSS or (in the case of UK, Guernsey and Isle of Man securities only) as provided by paragraph 5 below; and

4.2 may *not* accept that a CREST Member to whom a unit of a security is to be transferred wishes to hold the unit in uncertificated form where either the issuer receives a deposit set by means *other than* the CCSS or as provided by paragraph 5 below (as applicable).

**Stock deposits in the context of certain types of corporate action**

5 Members may deliver deposit sets direct to the office of the relevant registrar without using the CCSS where the relevant registrar and EUI have agreed that deposit sets may be delivered direct to the relevant registrar and EUI has notified members of such by means of an Operational Bulletin or Corporate Actions Bulletin.

*Note: It is envisaged that EUI might give such consent in connection with corporate actions which are likely to result in significant volumes of deposit sets being delivered (e.g. some flotations or the demutualisation of a large building society) and certain placings and schemes of arrangement.*

## Rule 11 Rectification of registers

1 When a registrar wishes to rectify an uncertificated register maintained by it (or, in relation to securities admitted to the CREST system pursuant to the UK Regulations, an issuer register of securities if such rectification would also require the rectification of an Operator register of securities) in respect of names or addresses of registered holders or of numbers of securities recorded on the register, it must inform EUI immediately in writing. Its notification must state the full circumstances of the proposed rectification, including:

- 1.1 the names and Participant IDs of any CREST members affected;
- 1.2 the identity of the security involved;
- 1.3 the times of any relevant events surrounding the situation;
- 1.4 any relevant audit trail data concerning the situation;
- 1.5 any other relevant systems information concerning the situation, including such as may relate to clerical or other similar systems error;
- 1.6 full details of any disputes concerning the situation, including such as may relate to actual or alleged forgery or fraud; and
- 1.7 full details of any other circumstances giving rise to the situation.

2 EUI may request the registrar to provide any further information which it may reasonably require to establish the circumstances of the case.

3 Where EUI is satisfied that the circumstances giving rise to the registrar's request are solely those of clerical or other similar systems error it may, at its complete discretion, give its written consent to the registrar's request. The registrar may then rectify the register and make a registrar's adjustment to the relevant stock account balances.

4 Where the circumstances giving rise to the registrar's request are disputed or involve actual or allegedly forged or fraudulent transfers (whether involving uncertificated transfers or transfers made by means of stock transfer forms), EUI shall in all cases first consult the members affected by the proposed rectification. If any member affected by the proposed rectification disputes it or indicates that the matter is, or may be, the subject of judicial proceedings, then EUI shall inform the registrar that it is not willing to consent to the proposed rectification.

5 Where giving effect to a proposed rectification would result in a cap being breached (by reason of the securities the subject of the rectification being held in an account linked to a cap), EUI shall, in addition to the procedures set out above, seek the prior consent of the settlement bank associated with that cap before giving its consent to the proposed rectification.

6 In all cases, EUI will use reasonable endeavours to respond to the registrar's request within one business day, either confirming that rectification may proceed or informing the registrar that the matter has been referred to the members affected. Where EUI consults the members affected, the members shall use reasonable endeavours to respond to EUI within five business days.

## Rule 12 Bad deliveries

*Note: This rule applies to securities which have been admitted to the CREST system pursuant to the Guernsey Regulations, the Irish Regulations, Isle of Man Regulations or the Jersey Regulations. It may also (at EUI's discretion) be applied to securities admitted to the CREST system pursuant to the UK Regulations if it were to become necessary to rectify an Operator register of securities. This rule also applies in relation to the Investment Funds Service, as described in Chapter 13 of the CREST Reference Manual.*

### Introduction and definitions

1.1 These rules concern the action to be taken when a bad delivery occurs. For the purpose of these rules the following phrases shall have the following meanings:

bad delivery	means a transfer of title from one member's uncertificated holding to another member's uncertificated holding which cannot be effected on the register in response to an RUR;
the Original Transferee	the member identified as transferee in a bad delivered RUR or, where there has been more than one bad delivery, means the member identified in the first of such bad delivered RURs;
the Original Transferor	the member identified as transferor in a bad delivered RUR or, where there has been more than one bad delivery, means the member identified in the first of such bad delivered RURs; and
Price	means the amount by which the Cash Memorandum Account of the Original Transferee was debited in respect of the bad delivered securities.

1.2 If a stock deposit is bad delivered, then no credit is made to a stock account and the deposit set is returned to the CCSS for collection by the depositing member. If a stock withdrawal is bad delivered, then the CREST system automatically recredits the withdrawing member's stock account with the number of securities which were bad delivered. Neither of these scenarios is addressed in this Rule 12.

1.3 It is not possible to predict the entire range of circumstances which could occur in a bad delivery situation. Consequently, EUI shall have the discretion to adapt this Rule 12 or not to apply any particular provision of the Rule in any particular case as it deems appropriate in order to give effect to its underlying purpose. Where practicable, EUI will

discuss any alteration to the application of the Rule with the members affected. The underlying purposes of Rule 12 are:

- 1.3.1 to restore the stock account balances in the CREST system to reconcile with the balances which appear on the relevant register of securities;
- 1.3.2 to restore, where possible, the position on the cash memorandum accounts of members affected by the bad delivery; and
- 1.3.3 to limit, so far as practicable, the disruption which may be caused to any members as a result of the bad delivery.

### **Notification of bad delivery**

- 2.1 In the event of a bad delivery, the registrar shall immediately notify EUI by means of an RUR Action Response (LRRA) instruction and, where possible, by telephone.
- 2.2 EUI shall immediately:
  - 2.2.1 disable the relevant security until it has taken the action described in one of subparagraphs 3, 4, 5 or 6 (as the case may be);
  - 2.2.2 take such steps as are necessary to prevent any further bad deliveries involving the Original Transferor (which may include either or both of suspending the participation of the Original Transferor and transferring any other securities of any kind held by the Original Transferor to an escrow balance for which EUI shall act as escrow agent); and
  - 2.2.3 notify the Original Transferor and the Original Transferee by telephone and/or fax of the bad delivery.
- 2.3 The registrar shall register all outstanding RURs (insofar as it is able to do so) and shall notify EUI of any further RURs which cannot be given effect using an RUR Action Response (LRRA).

### **Bad delivery reversal**

#### *Scenario 1*

- 3 Where the number of the relevant securities credited to the relevant stock account of the Original Transferee is the same or more than were bad delivered and where it is possible to determine the Price, EUI shall:
  - 3.1 input such instructions to the system as are necessary to reverse the system transfer of the relevant securities at the Price;

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3.2 re-enable the relevant security; and

3.3 notify the Original Transferor and Original Transferee by telephone and/or fax.

*Scenario 2*

4.1 Where the number of the relevant securities credited to the relevant stock account of the Original Transferee is the same or more than were bad delivered and where it is *not* possible to determine the Price, EUI shall:

4.1.1 input such instructions to the system as are necessary to transfer the relevant number of securities in the stock account of the Original Transferee to an escrow balance (for which EUI shall act as escrow agent);

4.1.2 re-enable the relevant security;

4.1.3 notify the Original Transferor and Original Transferee of its intention, subject to paragraph 4.1.4, to input such instructions as are necessary to reverse the system transfer of the relevant securities at the start of the following business day and to reverse a payment at the reference price prevailing on that day or such other price and/or such earlier time as the Original Transferor and Original Transferee shall jointly notify to EUI;

4.1.4 in the event of any dispute between the Original Transferor and Original Transferee as to the relevant price, have the discretion to take no further action and the relevant securities shall remain in the escrow balance of the Original Transferee;

4.1.5 where there is no dispute between the Original Transferor and Original Transferee as to the relevant price, input such instructions to the system as are necessary to reverse the system transfer and to reverse a payment at the agreed price; and

4.1.6 notify the Original Transferor and Original Transferee by telephone and/or fax.

*Scenario 3*

5.1 Where the number of the relevant securities credited to the relevant stock account of the Original Transferee is less than were bad delivered and where it is possible to determine the Price, EUI shall input such instructions to the system as are necessary to transfer any available relevant securities in the stock account of the Original Transferee to an escrow balance (for which EUI shall act as escrow agent) and to facilitate the reversal of the system transfer at the relevant proportion of the Price.

5.2 Where the bad delivery prevents the registration of other transfers, EUI shall:



- 5.2.1 identify the stock accounts which have been credited with stock attributable to the bad delivery by reference to the information provided by the registrar pursuant to paragraph 2 above by using the tracing methodology described in paragraph 7 below;
- 5.2.2 input such instructions to the system as are necessary to transfer any bad delivered securities to an escrow balance (for which EUI shall act as escrow agent) until either the Original Transferor has fulfilled its obligation to procure delivery of registrable securities to the Original Transferee as provided by paragraph 5.3 below or until EUI otherwise has lawful authority to release the securities from the escrow balance;
- 5.2.3 re-enable the relevant security; and
- 5.2.4 notify the Original Transferor and the Original Transferee and any other members affected by telephone and/or fax.

5.3 The Original Transferor shall procure the free delivery (if necessary from a third party) to the Original Transferee of the relevant amount of registrable securities within two hours of being notified by EUI of the bad delivery. Any payment to be made by the Original Transferee shall not be through the CREST payment procedures and the Original Transferor shall not be entitled to delay delivery of registrable securities pending agreement as to the amount or method of payment.

5.4 If in the judgement of EUI the Original Transferor proves unable to procure the delivery of registrable securities within two hours (or such other period as EUI may allow) EUI shall notify the members affected pursuant to paragraph 5.2 and provide those members with whatever information is in its possession concerning the bad delivery and its consequences so as to enable them to make such applications (whether to the court or otherwise) as they think fit.

#### *Scenario 4*

- 6.1 Where the number of the relevant securities credited to the relevant stock account of the Original Transferee is less than were bad delivered and where it is *not* possible to determine the Price, EUI shall input such instructions to the system as are necessary to transfer any available relevant securities to an escrow balance (for which EUI shall act as escrow agent).
- 6.2 Where the bad delivery prevents the registration of other transfers, EUI shall:
  - 6.2.1 identify the stock accounts which have been credited with stock attributable to the bad delivery by reference to the information provided by the registrar pursuant to paragraph 2 above by using the tracing methodology described in paragraph 7 below;

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6.2.2 input such instructions to the system as are necessary to transfer any relevant securities to an escrow balance (for which EUI shall act as escrow agent) until either the Original Transferor has fulfilled its obligation to procure delivery of registrable securities to the Original Transferee as provided by paragraph 6.4 below or until EUI otherwise has lawful authority to release the securities from the escrow balance;

6.2.3 re-enable the relevant security; and

6.2.4 notify the Original Transferor and the Original Transferee and any other members affected by telephone and/or fax.

6.3 EUI shall:

6.3.1 notify the Original Transferor and Original Transferee and any members affected pursuant to paragraph 6.2 of its intention, subject to paragraph 6.3.2, to reverse the relevant system transfers at such time as is possible in the circumstances envisaged in paragraph 6.4 below and to reverse any payments at the reference price prevailing at that time or such other price as the Original Transferor and Original Transferee and any subsequent transferors and transferees shall, in respect of the system transfers to which they are party, jointly notify to EUI;

6.3.2 in the event of any dispute between the Original Transferor and Original Transferee and any subsequent transferors and transferees as to the relevant price relating to the system transfers to which they are party, have the discretion to take no further action and the relevant securities shall remain in the relevant escrow balances;

6.3.3 where there is no dispute between the Original Transferor and Original Transferee and any subsequent transferors and transferees as to the relevant price, input such instructions to the system as are necessary to reverse the system transfers and to reverse any payments at the agreed price; and

6.3.4 notify the Original Transferor and the Original Transferee and any subsequent transferors and transferees by telephone and/or fax.

6.4 The Original Transferor shall procure the free delivery (if necessary from a third party) to the Original Transferee of registrable securities within two hours of being notified by EUI of the bad delivery. Any payment to be made by the Original Transferee shall not be through the CREST payment procedures and the Original Transferor shall not be entitled to delay delivery of registrable securities pending agreement as to the amount or method of payment.

6.5 If in the judgement of EUI the Original Transferor proves unable to procure the delivery of registrable securities within two hours (or such other period as EUI may allow) EUI shall notify the members affected pursuant to paragraph 6.2 and provide those members with whatever information is in its possession concerning the bad delivery and its

consequences so as to enable them to make such applications (whether to the court or otherwise) as they think fit.

### **Tracing methodology**

7 If it is necessary to take the action envisaged in paragraphs 5.2 and 6.2, the following principles shall apply in order to trace the flow of the bad delivered securities along the chain of transferees:

7.1 where the Original Transferee or any subsequent transferee has made system transfers in the security the subject of the bad delivery only to one other member, the securities to be treated as 'bad' shall be determined by the order in which those system transfers were settled.

7.2 where the Original Transferee or any subsequent transferee has delivered 'bad' stock to more than one other member, EUI shall treat such deliveries in the order of size of each delivery, starting with the largest first and completing the processing of each 'generation' of deliveries before moving to the next generation. EUI shall transfer to an escrow balance (for which EUI shall act as escrow agent) as many of the relevant security as are in each relevant stock account up to the number of each bad delivery until the total of the number of securities in all the affected members' escrow balances equals the number of securities which were the subject of the original bad delivery. Where the number of securities transferred to any member's escrow balance is the same as were delivered to that member by the previous transferor, no further tracing will apply to subsequent transfers made by that member.

### **General**

8.1 The settlement of the reversal of a bad delivered system transfer is subject to the settlement times set out in the Daily Timetable.

8.2 No participant affected by the Rules shall attempt to interfere with or prevent their operation.

8.3 Any participant affected by the Rules shall cooperate in any respect required by EUI so as to ensure that any bad deliveries do not disrupt CREST settlement. In particular:

8.3.1 an Original Transferor shall take whatever steps are necessary (which may include procuring any increase in its debit cap) to ensure that a bad delivery reversal is settled within 24 hours of the notification to it of the bad delivery; and

8.3.2 an Original Transferee shall take whatever steps are necessary (which may include procuring any increase in its debit cap) to ensure that a transfer to escrow is settled promptly or that a bad delivery reversal is settled within 24 hours of the notification to it of the bad delivery.

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8.4 This Rule 12 is without prejudice to any other rights or remedies which persons affected by a bad delivery may have, save that EUI shall incur no liability to any person as a result of the operation of these Rules.

8.5 The transfer of any securities to an escrow balance for which EUI is to act as escrow agent shall not confer on EUI any proprietary right or other interest in such securities and is purely a procedural mechanism for giving effect to this Rule 12. EUI shall have no duty in respect of the exercise of any rights or benefits associated with any securities held within an escrow balance in accordance with this Rule 12.

8.6 In some situations (such as those which may arise under the Trading with the Enemy Act 1939), it is possible that the cause of a bad delivery may rest with an Original Transferee rather than an Original Transferor. In such cases, this Rule 12 shall apply *mutatis mutandis*.

8.7 EUI may, at its total discretion, fine any user or participant whose acts or omissions contributed to the occurrence of a bad delivery or which impeded its resolution a sum of up to £1,000.

# Rule 13 Settlement finality

## Introduction

The CREST UK system (as defined below) has been designated in the UK by the Bank of England pursuant to the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999 No. 2979) as amended from time to time ('the UK Settlement Finality Regulations').

The CREST Irish system (as defined below) is designated in Ireland for the purposes of the European Communities (Settlement Finality) Regulations, 2010(SI No 624 of 2010) as amended from time to time ('the Irish Settlement Finality Regulations').

The UK Settlement Finality Regulations and the Irish Settlement Finality Regulations (together 'the Settlement Finality Regulations') implemented the Settlement Finality Directive (Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems – 'the Directive').. The Directive seeks to reduce the risks associated with participation in payment and securities settlement systems by minimising the disruption caused by insolvency proceedings against certain participants in such a system.

The protection provided by the Settlement Finality Regulations is given to a securities and/or payment settlement system which has been or is 'designated' in the UK or Ireland. In order to obtain such designation for the CREST UK system, EUI is required to satisfy the Bank of England (as the relevant designating authority) that the requirements of the Schedule to the UK Settlement Finality Regulations, and certain other matters, are satisfied with respect to the CREST UK system. This Rule 13 is made by EUI in satisfaction of the requirements of the UK Settlement Finality Regulations and to give effect to the provisions of the Irish Settlement Finality Regulations, as well as certain other matters. This Rule 13 forms part of the CREST Requirements for the time being applicable to a participant.

## 1 Definitions and interpretation

1.1 For the purpose of this Rule 13, the following terms have the meanings set against them below :

ancillary system

a system managed by an entity that is subject to supervision and/or oversight by a competent authority and complies with the oversight requirements for the location of infrastructures offering services in euro, as amended from time to time and published on the website of the ECB, in which payments and/or financial instruments are exchanged and/or cleared or recorded with (a) the monetary obligations

	settled in TARGET2 and/or (b) funds held in TARGET2 in accordance with the Guideline and a bilateral arrangement between that ancillary system and an Ancillary System Central Bank;
Ancillary System Central Bank	the ECB or a national central bank of a Member State whose currency is the euro with which an ancillary system has a bilateral arrangement for the settlement of ancillary system payment instructions in euro through TARGET2;
Ancillary System Interface	the technical device allowing the CREST system (as an ancillary system) to use a range of special, predefined services for the submission and settlement of ancillary system payment instructions in euro through TARGET2;
BoE Undertaking	<p>the undertaking given by the Bank of England to each RTGS settlement bank for sterling under clause 3.1 of the Sterling DvP Service Framework Agreement, pursuant to which the Bank of England agrees (amongst other things) that upon the occurrence of an Inter-Bank Settlement Event it shall be irrevocably and unconditionally obliged to:</p> <ul style="list-style-type: none"> <li>(a) debit the Relevant Settlement Amount in sterling to the relevant settlement account, which is maintained with the Bank of England, of the RTGS settlement bank acting for the Payer;</li> <li>(b) credit the Relevant Settlement Amount in sterling to the relevant settlement account, which is maintained with the Bank of England, of the RTGS settlement bank acting for the Payee;</li> </ul>
centrally generated instruction	<p>a transfer order of the type described in:</p> <ul style="list-style-type: none"> <li>(a) paragraphs (b), (c) and (d) of the definition of 'payment transfer order'; or</li> </ul>

- (b) paragraphs (b) and (c) of the definition of 'securities transfer order';

CREST Euro RTGS  
Framework and Payment Agreement

the framework and payment agreement entered into between EUI and the RTGS settlement banks for the time being for euro (as such agreement may from time to time be amended, varied, supplemented or replaced), which (amongst other things):

- (a) sets out the contractual framework underpinning the RTGS payments mechanism for euro; and
- (b) contains the terms and conditions governing the relationship between each RTGS settlement bank for euro with each other RTGS settlement bank for euro and EUI in connection with the participation of such RTGS settlement banks in the RTGS payments mechanism for euro;

CREST Irish system

the system, procedures and related functionality described in the CREST Manual from time to time with common rules and standardised arrangements for the execution of transfer orders governed by the law specified in paragraph 7.2 below and which:

- (a) enable the settlement of transactions in securities which are participating securities under the Irish Companies Act 1990 (Uncertificated Securities) Regulations 1996, as amended by the Irish Companies Act, 1990 (Uncertificated Securities)(Amendment) Regulations 2005;
- (b) facilitate payment by means of the US dollar payments mechanism and the RTGS payments mechanism (whether in consideration for the transfer of such securities, in satisfaction of a claim relating to such securities, as part of the residuals service or otherwise in any other manner provided in the CREST

Manual), including (in relation to the US dollar payments mechanism) the end-of-day procedures and (in relation to the RTGS payments mechanism) the RTGS procedures; and

- (c) facilitate supplemental and incidental matters;

CREST payments mechanism

either or both of the US dollar payments mechanism and the RTGS payments mechanism;

CREST UK system

the system, procedures and related functionality described in the CREST Manual from time to time with common rules and standardised arrangements for the execution of transfer orders governed by the law specified in paragraph 7.1 below and which:

- (a) enable the settlement of transfer orders relating to transactions in securities, but excluding such transfer orders as fall within the scope of any system operated by EUI which is for the time being designated in a Member State other than the United Kingdom or which relate to securities constituted under the laws of a jurisdiction which is not that of a Member State;
- (b) facilitate payment by means of the US dollar payments mechanism and the RTGS payments mechanism (whether in consideration for the transfer of such securities, in satisfaction of a claim relating to such securities, as part of the residuals service or otherwise in any other manner provided in the CREST Manual), including (in relation to the US dollar payments mechanism) the end-of-day procedures and (in relation to the RTGS payments mechanism) the RTGS procedures; and



- (c) facilitate supplementary and incidental matters;

CREST US Dollars  
Inter-Bank Settlement Agreement

the agreement entitled the 'CREST US Dollars Inter-Bank Settlement Agreement' entered into between EUI and each of the USD settlement banks for the time being, which contains the terms and conditions governing the relationship between those USD settlement banks and EUI as a result of their admission to settlement bank status under the US dollar payments mechanism;

Dedicated Liquidity Cycle Period

the period beginning at the time at which a 'start-of-cycle' message is sent by EUI to the Ancillary System Interface and ending at the time at which an 'end-of-cycle' message is sent by or on behalf of EUI to TARGET2 or is otherwise treated as having been sent by or on behalf of EUI to TARGET2, in each case in the manner contemplated by Annex IV to the Guideline or otherwise in accordance with the contingency procedures for the Euro RTGS Procedures as described in Chapter 10, section 1 of the CREST Reference Manual;

ECB

the European Central Bank;

ECB Guarantee

the irrevocable and unconditional guarantee given by the ECB for the benefit of EUI in accordance with the Euro DvP Services Agreement, which is intended to give contractual effect to and replicate the substance of the obligations of the ECB (as an Ancillary System Central Bank) provided for or otherwise contemplated by Article 31(3) and the related provisions of the ECB TARGET2 T&Cs;

ECB TARGET2 T&Cs

the Decision of the European Central Bank of 24 July 2007 concerning the terms and conditions of TARGET2-ECB (ECB/2007/7) as the same has been or may from time to time be amended, varied, supplemented or replaced;

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end-of-day procedures	(in respect of an SFAP settlement day) the Settlement File Account Procedure or (in respect of a PMAP settlement day) the Payments Memorandum Account Procedure;
Euro DvP Services Agreement	the agreement entered into between EUI and the ECB (as such agreement may from time to time be amended, varied, supplemented or replaced) which, among other things, constitutes the bilateral arrangements which are required by the ECB TARGET2 T&Cs to be put in place between EUI (as operator or manager of an ancillary system) and the ECB (as an Ancillary System Central Bank and as operator of TARGET2-ECB);
Euro Payment Finality Procedures	<p>the provisions of, and the procedures contemplated by, clauses 3.2 to 3.6 (inclusive) of the CREST Euro RTGS Framework and Payment Agreement governing:</p> <ul style="list-style-type: none"><li>(a) the initiation of a multilateral netting account by EUI to determine the net amount(s) due to or from each RTGS settlement bank for euro in respect a Dedicated Liquidity Cycle Period;</li><li>(b) the initiation and completion of the appropriation procedures described in Chapter 10, section 1 of the CREST Reference Manual to exclude certain claims from the multilateral netting account referred to in paragraph (a), where required in the circumstances described in clause 3.2 of the CREST Euro RTGS Framework and Payment Agreement;</li><li>(c) the completion of the multilateral netting account referred to in paragraph (a) (after, where required, the initiation and completion of the appropriation procedures referred to in paragraph (b));</li><li>(d) the timing of, and the procedure for, the full and final discharge of the inter-bank</li></ul>

claims of each RTGS settlement bank for euro arising during the Dedicated Liquidity Cycle Period which are included in the multilateral netting account completed by EUI as contemplated by paragraph (c); and

- (e) the procedures under which the inter-bank claim of each RTGS settlement bank for euro arising during the Dedicated Liquidity Cycle Period, but which is not included in a multilateral netting account completed by EUI, is to be fully and finally discharged;

#### Euro RTGS Procedures

the procedures established pursuant to or otherwise contemplated by the CREST Requirements which support or are otherwise connected with the settlement of settlement bank payment obligations in euro through TARGET2, comprising:

- (a) the giving and performance by the ECB of the ECB Guarantee in accordance with its terms; and
- (b) the Euro Payment Finality Procedures;

#### Guideline

the Guideline of the European Central Bank of 5 December 2012 (ECB/2012/27) on a Trans-European Automated Real-time Gross settlement Express Transfer system (recast) as the same has been or may from time to time be amended, varied, supplemented or replaced;

#### initiated instruction

a centrally generated instruction which specifies a separate 'linked transaction' as initiating the generation of that centrally generated instruction, being each SCR transaction generated under the auto-collateralisation arrangements described in Chapter 7, section 8 of the CREST Reference Manual (but which excludes any such SCR transaction generated under the 'end of day

	unwind' process forming part of the auto-collateralisation arrangements);
initiating transfer order	for the purpose of paragraph 2.2.2(a), the initiating transfer order in respect of an initiated instruction is the transfer order from a participant which first entered the CREST UK system and instructed the settlement of the transaction identified as the 'linked transaction' in the initiated instruction concerned;
Inter-Bank Settlement Event	the meaning given to it in CREST Rule 17;
linked instruction	a transfer order: <ul style="list-style-type: none"> <li>(a) which is an instruction to credit or (as the case may be) debit securities and/or an amount to a cash memorandum account under transaction type CLA, DBI, DBR, DEL, OAT, RPR, RPS, SLD, SLO, SLR, STW, TDA, TDE, TDG, TDI, TDM, TDR, TDS or TTE; and</li> <li>(b) in which either or both of the 'Origin Transaction Reference' field and the 'Origin Transaction ID' field is or are completed;</li> </ul>
participants	any of those participants of the CREST UK or CREST Irish system which are: <ul style="list-style-type: none"> <li>(a) CREST members;</li> <li>(b) participants admitted under the 'CSD' participant type;</li> <li>(c) participants admitted under the 'product provider' participant type;</li> <li>(d) participants admitted under the 'CCP' participant type;</li> <li>(e) participants admitted under the 'CREST IPA' participant type; and</li> <li>(f) settlement banks;</li> </ul>

Payee	the meaning given to it in CREST Rule 17;
Payer	the meaning given to it in CREST Rule 17;
Payments Memorandum Account Procedure	<p>in respect of any PMAP settlement day, the procedure described in Chapter 6, Section 4A of the CREST Reference Manual under which (upon EUI's determination that it will not be possible to operate a Settlement File Account Procedure for that settlement day):</p> <ul style="list-style-type: none"><li>(a) (if applicable) EUI has initiated and completed an Adjustment Procedure in respect of that settlement day;</li><li>(b) EUI calculates the PMAP Net Amount that is payable by or to each USD settlement bank in respect of that settlement day;</li><li>(c) EUI determines the PMAP Distribution Entitlement Amount for each USD settlement bank and enters it up in the Trust Entitlement Record;</li><li>(d) EUI pays the relevant PMAP Distribution Entitlement Amount to each USD settlement bank by procuring its debit from the EUI Trust Account and its credit to the USD settlement bank's Relevant Settlement Account or, if a USD settlement bank's PMAP Distribution Entitlement Amount is zero, EUI confirms to the USD settlement bank that no payment will be made to it in respect of its PMAP Distribution Entitlement Amount for that settlement day;</li><li>(e) (if applicable) EUI initiates and completes the appropriation procedures described in Chapter 10, Section 1 of the CREST Reference Manual to identify which Inter-Bank Payment Obligations arising during that settlement day and (if applicable) under any Adjustment Procedure operated for that settlement day are to be accounted for as Excluded IBPOs in</li></ul>

the calculation of the PMAP Net Amount for a USD Settlement Bank;

- (f) (if applicable) EUI notifies the relevant USD settlement banks as to the value of any Excluded IBPO which is due from a USD Settlement Bank and the identity of the relevant USD Settlement Banks to and from whom that Excluded IBPO is due; and
- (g) (if applicable) the Excluded IBPOs are settled as between the relevant USD Settlement Banks.;

payment transfer order

(subject to paragraph 1.2) any properly authenticated dematerialised instruction or other electronic instruction which is:

- (a) attributable to a participant which is an instruction to credit or (as the case may be) debit an amount to the cash memorandum account of an identified participant under any of the following transaction types: DEL; CLA; DBI; DBR; DBV; INT; MTM; PAY; RES; RPO; RPR; SLD; SLO; SLR; STP; TDA; TDI; TDO; TDR; USE; XDL; XDC; and XDR, and which is not a centrally generated instruction; or
- (b) input by EUI to effect a payment pursuant to its central intervention powers as described in Chapter 10, Section 1 of the CREST Reference Manual; or
- (c) generated by the CREST UK system to effect a payment under or in respect of transaction type SCR or DEL as part of the auto-collateralisation arrangements described in Chapter 7, Section 8 of the CREST Reference Manual; or
- (d) input by EUI to effect a payment pursuant to the Adjustment Procedure;

PMAP settlement day	any settlement day in respect of which EUI operates the Payments Memorandum Account Procedure to complete settlement of the settlement bank payment obligations that have arisen between USD settlement banks in connection with that settlement day;
PM Sub-Account	a sub-account held by or for an RTGS settlement bank for euro in TARGET2 and in which the balance is dedicated for CREST settlement by or for the account of that RTGS settlement bank during a Dedicated Liquidity Cycle Period in accordance with the rules, regulations, guidelines and procedures of TARGET2 relating to settlement procedure 6 (dedicated liquidity and cross-system settlement) for ancillary systems (using an interfaced model) described in Annex IV to the Guideline;
Relevant Settlement Amount	the meaning given to it in CREST Rule 17;
RTGS CREST Mandate Agreement	the mandate agreement entered into between the Bank of England and each RTGS settlement bank for sterling (as such agreement may from time to time be amended, varied, supplemented or replaced) governing (among other things) the operation of the settlement account(s) in sterling maintained by that RTGS settlement bank with the Bank of England in relation to the RTGS payments mechanism for sterling;
RTGS payments mechanism	the system, procedures and related functionality in relation to an RTGS currency which is described as the 'real-time gross settlement mechanism' or 'DvP Service' in the CREST Manual, and which forms a part of the CREST UK system and the CREST Irish system;
RTGS procedures	either or both of the Sterling RTGS Procedures and the Euro RTGS Procedures;
securities transfer order	any properly authenticated dematerialised instruction which is:

- (a) attributable to a participant which is an instruction to credit or, as the case may be, debit securities to (or from) its or another participant's stock or member account, or balance within any such account, under any of the following transaction types: DEL; CLA; DBR; DBV; ESA; MTM; OAT; PAY; RCN; RPO; RPR; RPS; SLO; SLR; STR; STW; TDA; TDE; TDG; TDM; TDO; TDR; TDS; TFE; TTE; USE; XDL; XDC; and XDR, and which is not a centrally generated instruction; or
- (b) input by EUI to effect a system-transfer pursuant to its central intervention powers as described in Chapter 10, Section 1 of the CREST Reference Manual; or
- (c) generated by the CREST UK system to effect a system-transfer under transaction type SCR or DEL as part of the auto-collateralisation arrangements described in Chapter 7, Section 8 of the CREST Reference Manual;

settlement cycle

a sequence of processes in the operation of the CREST UK system or the CREST Irish system, the duration of each of which corresponds to the duration of each sterling liquidity cycle that operates in the relevant system in the manner described in the CREST Reference Manual, that determines which transactions for payment in an RTGS currency can settle and settles those transactions;

Settlement File Account Procedure

in respect of any SFAP settlement day, the procedure described in Chapter 6, Section 4A of the CREST Reference Manual under which:

- (a) (if applicable) EUI initiates and completes an Adjustment Procedure in respect of that settlement day;



- (b) EUI completes the SFAP Netting Account for that settlement day;
- (c) EUI prepares a Settlement File that specifies for each NSS settlement participant the balance payable by or to it as Settler for a USD settlement bank in respect of that settlement day, such balance corresponding to the SFAP Net Amount payable by or to that USD settlement bank in accordance with the related completed SFAP Netting Account;
- (d) EUI as an NSS settlement agent sends that Settlement File to the Processing Federal Reserve Bank and the balances on that Settlement File are settled through the NSS;
- (e) (if applicable) any Adjustment Repayments to be made that settlement day are agreed and confirmed by the relevant Lender Settlement Bank(s) and Borrower Settlement Bank(s);
- (f) EUI determines each USD settlement bank's SFAP Distribution Entitlement Amount in respect of that settlement day and enters it up in the Trust Entitlement Record; and
- (g) EUI pays the relevant SFAP Distribution Entitlement Amount to each USD settlement bank by procuring its debit from the EUI Trust Account and its credit to the USD settlement bank's Relevant Settlement Account or, if a USD settlement bank's SFAP Distribution Entitlement Amount is zero, EUI confirms to the USD settlement bank that no payment will be made to it in respect of its SFAP Distribution Entitlement Amount for that settlement day;

SFAP settlement day

any settlement day in respect of which EUI operates the Settlement File Account Procedure

to complete settlement of the settlement bank payment obligations that have arisen between USD settlement banks in connection with that settlement day;

Sterling DvP Service  
Framework Agreement

the framework agreement relating to the RTGS payments mechanism for sterling entered into between the Bank of England, the RTGS settlement banks for the time being for sterling and EUI (as such agreement may from time to time be amended, varied, supplemented or replaced);

Sterling RTGS Procedures

the real-time gross settlement procedures established pursuant to the CREST Requirements by which settlement bank payment obligations and other payment obligations in sterling are immediately discharged in central bank funds, comprising:

- (a) the giving and performance by the Bank of England of the BoE Undertaking in accordance with its terms;
- (b) the authority and instruction given by each RTGS settlement bank for sterling to the Bank of England to perform the BoE Undertaking in accordance with its terms, which is contained in clause 2.2.2 of the CREST Pounds Sterling RTGS Payment Agreement (as such agreement may from time to time be amended, varied, supplemented or replaced) and/or provisions of the RTGS CREST Mandate Agreement; and
- (c) the agreement of each RTGS settlement bank for sterling or the Bank of England to accept the payment made to it by an RTGS settlement bank for sterling in accordance with the procedures referred to in (a) and (b) above in full and final settlement of the settlement bank payment obligation or other obligation owed to it by that (other) RTGS settlement bank;

system transfer	the book-entry transfer effected by the debiting and crediting of stock accounts;
TARGET2	the Trans-European Automated Real-time Gross settlement Express Transfer system, which provides RTGS for payments in euro with settlement in central bank money, and is established and functions on the basis of a single technical platform infrastructure known as the 'Single Shared Platform';
TARGET2-ECB	the TARGET2 component system of the ECB;
transfer order	a securities transfer order and/or a payment transfer order; and
US dollar payments mechanism	the system, procedures and related functionality in relation to US dollars which is described as the 'US dollar payments mechanism' in the CREST Manual, and which forms a part of the CREST UK system and the CREST Irish system.

*Note: The definition of a payment transfer order in the Directive is 'any instruction by a participant to place at the disposal of a recipient an amount of money by means of a book entry on the accounts of a credit institution, a central bank, a central counterparty or a settlement agent, or any instruction which results in the assumption or discharge of a payment obligation as defined by the rules of the system'.*

*In the context of the Directive, and in particular the above definition, the CREST payments mechanisms might be viewed as either (1) involving both the CREST member's payment instruction (payment transfer order) and a further payment transfer order by his settlement bank to discharge the settlement bank payment obligation which it assumes, through or in connection with the end-of-day procedures (in relation to the US dollar payments mechanism) or the RTGS procedures (in relation to the RTGS payments mechanism); or (2) involving only the CREST member's payment instruction which is ultimately settled through the medium of the settlement bank payment obligation assumed by his settlement bank to the counterparty's settlement bank and thereafter discharged through the end-of-day procedures (in relation to the US dollar payments mechanism) or the RTGS procedures (in relation to the RTGS payments mechanism). In this Rule 13, paragraph 1.2 is based on alternative (1) and paragraph 1.3 is based on alternative (2). Whichever alternative applies, the intended effect is that the time of entry of the member's payment instruction, and the time from which it becomes irrevocable, as prescribed in this Rule 13, should be paramount.*

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1.2 If and insofar as upon a proper construction of the Directive and/or the Settlement Finality Regulations in its or their application to the CREST UK system and/or the CREST Irish system, the making of a CREST payment by a participant (the 'first participant') in accordance with CREST Rule 17 gives rise to a transfer order by the settlement bank acting for the first participant which is entered into the CREST UK system and/or the CREST Irish system, then:

1.2.1 the transfer order by that settlement bank shall be treated as a payment transfer order which:

- (a) takes effect as having entered the CREST UK system and/or the CREST Irish system at the same time as the point at which the payment transfer order by the first participant takes effect as having entered the relevant system as determined in accordance with paragraph 2 below; and
- (b) is irrevocable (meaning for the purpose of this paragraph (b) being incapable of being prevented or interfered with by that settlement bank or any other person by repudiation, revocation, disclaimer or otherwise) from the same time as the point from which the payment transfer order by the first participant is irrevocable as determined in accordance with paragraph 3 below;

1.2.2 in the context of the Directive and the Settlement Finality Regulations, the transfer order by the settlement bank shall be taken to be settled only when the settlement bank payment obligation which is assumed by that settlement bank upon and in completion of the first participant's CREST payment has been discharged by completion of the operation of:

- (a) (in the case of a settlement bank payment obligation in US dollars) the relevant end-of-day procedure for US dollar obligations arising on the same business day as that on which that settlement bank payment obligation was assumed by that settlement bank;
- (b) (in the case of a settlement bank payment obligation in sterling) the Sterling RTGS Procedures for sterling obligations arising in the same settlement cycle or disconnection period as that in which that settlement bank payment obligation was assumed by that settlement bank; or
- (c) (in the case of a settlement bank payment obligation in euro) the Euro RTGS Procedures for euro obligations arising in the same Dedicated Liquidity Cycle Period as that in which that settlement bank payment obligation was assumed by that settlement bank.

1.3 (Subject to paragraph 1.2) when a settlement bank payment obligation is assumed by a participant's settlement bank in respect of a payment transfer order attributable to that participant, that settlement bank payment obligation shall be treated, in the context

of the Directive and the Settlement Finality Regulations, as an obligation in respect of that payment transfer order (and not as an obligation in respect of any other payment transfer order), which payment transfer order shall accordingly be treated as settled only when that settlement bank payment obligation has been discharged by completion of the operation of:

- 1.3.1 (in the case of a settlement bank payment obligation in US dollars) the relevant end-of-day procedure for US dollar obligations arising on the same business day as that on which that settlement bank payment obligation was assumed by that settlement bank;
- 1.3.2 (in the case of a settlement bank payment obligation in sterling) the Sterling RTGS Procedures for sterling obligations arising in the same settlement cycle or disconnection period as that in which that settlement bank payment obligation was assumed by that settlement bank; or
- 1.3.3 (in the case of a settlement bank payment obligation in euro) the Euro RTGS Procedures for euro obligations arising in the same Dedicated Liquidity Cycle Period as that in which that settlement bank payment obligation was assumed by that settlement bank.

## **2 Entry of transfer orders into the CREST system**

2.1 (Subject to paragraphs 1.2.1(a), 2.2 and 2.3), a transfer order enters the CREST UK system and CREST Irish system at the point when it is received by the CREST Applications Host from the Network Providers' Communications Host or is otherwise delivered to the CREST Applications Host.

2.2 A transfer order which is a centrally generated instruction shall be treated as entering the CREST UK system and (to the extent applicable) the CREST Irish system:

2.2.1 in the case of a centrally generated instruction which is input by EUI pursuant to its central intervention powers as described in Chapter 10, Section 1 of the CREST Reference Manual, either:

- (a) at the same time as the point at which the transfer order (the 'corrected transfer order') which is being corrected by the centrally generated instruction takes effect as having entered the relevant system as determined in accordance with paragraph 2.1 above; or
- (b) if no such corrected transfer order can be identified as having entered the relevant system, at the point when the error (which is being corrected by the centrally generated instruction) entered the CREST Applications Host;

2.2.2 in the case of a centrally generated instruction within paragraph (c) of the definition of 'payment transfer order' or 'securities transfer order' and which is:

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- (a) an initiated instruction, at the same time as the point at which the initiating transfer order takes effect as having entered the CREST UK system as determined in accordance with paragraph 2.1 above; and
- (b) not an initiated instruction, at the same time as the point at which the instruction is centrally generated;

2.2.3 in the case of a centrally generated instruction within paragraph (d) of the definition of 'payment transfer order', at the same time as the point at which the instruction is centrally generated.

2.3 A transfer order which is a linked instruction shall be treated as entering the CREST UK system and the CREST Irish system at the same time as the point at which the origin transfer order takes effect as having entered the relevant system as determined in accordance with paragraph 2.1 above; and for this purpose the 'origin transfer order' is the transfer order by the participant which instructed the credit or (as the case may be) debit of securities to a stock or member account and/or of an amount to a cash memorandum account under the transaction specified in the 'Origin Transaction Reference' field and/or the 'Origin Transaction ID' field of the linked instruction concerned.

### **3 Moment of irrevocability of a transfer order**

A transfer order shall be irrevocable from the time at which the order of the relevant transaction type is or becomes incapable of being amended or deleted in accordance with the procedures of the CREST UK and Irish system for the time being (which are explained in the CREST Manual) by the single input of an instruction from the participant who wishes to amend or delete the order.

*Note: The circumstances in which a transaction type may be amended or deleted are set out in:*

*Chapter 3, Section 3 of the CREST Reference Manual;  
Chapter 4, Sections 6 and 7 of the CREST Reference Manual;  
Chapter 6, Section 4A of the CREST Reference Manual;  
Chapter 7, Section 2B of the CREST Reference Manual;  
Chapter 8, Sections 3 and 4 of the CREST Reference Manual;  
Chapter 10, Section 1 of the CREST Reference Manual; and  
Chapter 3, Section 1 of the CREST International Manual.*

*Reference should also be made to the attribution rules contained in Chapter 11, Section 3 of the CREST Reference Manual. In particular, these provide for the attribution of some transaction types to be derived from an earlier input of a different transaction type (e.g. the attribution of a SLR is derived from the SLO whose settlement gave rise to it).*

### **4 Prohibition on revocation of transfer orders**

A participant or any third party (including without limitation any liquidator or other insolvency office-holder of a participant or a receiver other than an administrative receiver) shall not revoke, or purport or attempt to revoke, any transfer order from the time at which it becomes irrevocable (as determined in accordance with paragraph 3 or paragraph 1.2.1(b) above).

*Note: Nothing in paragraphs 3 and 4 of this Rule 13 shall require or permit the settlement of a transfer order in respect of a market or other contract which has been discharged under the default rules or similar rules of an investment exchange, clearing house or multilateral trading facility. Nothing in those paragraphs is intended to prevent the amendment or deletion of a transfer order by matched amendment or deletion in accordance with the relevant provisions of the CREST Manual.*

## **5 Provision of information by participants**

5.1 A participant shall, within 14 days of being requested to do so by any person (the 'applicant for information') and upon being paid such reasonable charge as the participant may properly require, provide to the applicant for information:

- 5.1.1 details of those systems (other than the CREST UK system or CREST Irish system) in which the participant participates and which are designated for the purposes of the Settlement Finality Regulations or the Directive; and
- 5.1.2 such information about the main rules governing the functioning of those other systems as the applicant for information may request.

Nothing in this paragraph 5.1 shall require a participant to provide any information to an applicant for information where, or to the extent that, the request is frivolous or vexatious.

5.2 Each participant shall supply to EUI such other information in its possession as EUI may require from time to time in order for EUI to meet its obligations as the operator of a designated system under the Settlement Finality Regulations.

5.3 A participant shall forthwith notify the Bank of England if:

- 5.3.1 a resolution is passed for the voluntary winding-up (within the meaning of the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989) of the participant where the winding-up is or is to be a creditors' winding up (within the meaning of that Act or Order); or
- 5.3.2 a trust deed granted by the participant becomes a protected trust deed (as those terms are construed in accordance section 73(1) of the Bankruptcy (Scotland) Act 1985).

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*Note: Participants are already obliged under the CREST Requirements applicable to them to notify EUI immediately upon becoming aware of the occurrence of certain events, including the convening of any meeting to consider a resolution for its voluntary winding-up, and thereafter promptly to notify EUI of the occurrence in relation to the participant of any other relevant event consequent upon any such event. The requirements of this paragraph 5.3 to disclose information to the Bank of England are in addition to the comparable obligations which participants have to disclose the same information to EUI under the CREST Requirements.*

*Any notice to the Bank of England under this paragraph 5.3 should be given by post or fax to the following address or fax number:*

*Bank of England  
Threadneedle Street  
London EC2R 8AH*

*Tel: +44 (0)207 601 4444*

*Fax: +44 (0)207 601 4771*

*Any participant giving any such notice to the Bank of England shall use all reasonable endeavours to notify the Bank of England by telephone of the despatch of the notice prior to sending that notice.*

## **6 Default arrangements**

6.1 The default arrangements of the CREST UK system and the CREST Irish system respectively for the purposes of the relevant Settlement Finality Regulations, shall comprise:

- 6.1.1 those rights and powers reserved to EUI in its agreement with each participant (including the CREST Terms and Conditions), the CREST Manual and the CREST Rules which enable EUI to suspend or terminate the participation of that participant in the CREST UK and/or Irish system upon the occurrence of certain specified events;
- 6.1.2 the end-of-day procedures and any other arrangements which are in place with a view to limiting systemic and other types of risk which might arise in the event of a USD settlement bank appearing to be unable, or likely to become unable, to meet its obligations in relation to the US dollar payments mechanism comprising the arrangements:
  - (1) in relation to the operation of the Payments Memorandum Accounts;
  - (2) under which the USD settlement banks make pre-funding payments from their Relevant Settlement Accounts to the EUI Trust Account;



- (3) under which the balance standing to the credit of the EUI Trust Account is irrevocably appropriated for the purpose of making distributions to the USD settlement banks under the end-of-day procedures;
- (4) under which a USD settlement bank makes "top-up" and "draw-down" payments from or to its Relevant Settlement Account to or from the EUI Trust Account during a settlement day; and
- (5) under which EUI is authorised by each USD settlement bank and each other participant to do all or any of the acts and things which the CREST Manual or the CREST Rules provide may be done by EUI in order to correct any error caused by the entry into the CREST system for any reason of an Uninitiated Transaction;

6.1.3 the RTGS procedures and any other arrangements which are in place with a view to limiting systemic and other types of risk which might arise in the event of an RTGS settlement bank appearing to be unable, or likely to become unable, to meet its obligations in relation to the RTGS payments mechanism, including (where relevant) any arrangements which operate during or outside a disconnection period and comprising:

- (1) in relation to sterling, the arrangements:
  - (a) under which the balance (if any) standing to the credit of an RTGS settlement bank's settlement account(s) maintained at the Bank of England is irrevocably appropriated for the purpose of completing payments in sterling made by that RTGS settlement bank to another RTGS settlement bank or the Bank of England during a settlement cycle or disconnection period;
  - (b) under which the Bank of England sends to EUI, and EUI acts in reliance upon, a Liquidity Earmark Notification for sterling;
  - (c) under which EUI sends to the Bank of England, and the Bank of England acts in reliance upon, a CREST Settlement Notification;
  - (d) under which an RTGS settlement bank is required to make a payment to the Bank of England in connection with any overdraft or negative balance which might arise from time to time on that or another RTGS settlement bank's settlement account(s) maintained at the Bank of England, or in connection with any error contained in a CREST Settlement Notification, and under which the Bank of England is authorised by the RTGS settlement bank to debit certain settlement accounts maintained by it with the Bank of England to

effect payment (in whole or in part) of the amount which is due from it to the Bank of England; and

- (e) under which an RTGS settlement bank “tops-up” or “draws-down” sterling liquidity which is maintained for its account in the RTGS payments mechanism;

(2) in relation to euro, the arrangements:

- (a) under which the balance (if any) standing to the credit of an RTGS settlement bank in its PM Sub-Account(s) at the beginning of and during a Dedicated Liquidity Cycle Period is irrevocably appropriated for the purpose of completing payments in euro to be made by that RTGS settlement bank at the end of that Dedicated Liquidity Cycle Period and the irrevocable authority from that RTGS settlement bank (and, where relevant, its agent) to make debit entries to its PM Sub-Account(s);
- (b) under which EUI receives from the Ancillary System Interface, and EUI acts in reliance upon, a Liquidity Earmark Notification for euro; and
- (c) under which an RTGS settlement bank (or its agent) “tops-up” euro liquidity in its PM Sub-Account(s); and

(3) in relation to both RTGS currencies, the arrangements:

- (a) in relation to the operation of the Liquidity Memorandum Accounts; and
- (b) under which EUI is authorised by each RTGS settlement bank and each other participant to do all or any of the acts and things which the CREST Manual or the CREST Rules provide may be done by EUI in order to correct any error caused by the entry into the CREST system for any reason of an Uninitiated Transaction;

6.1.4 those procedures described in Chapter 6, Section 7 of the CREST Reference Manual which facilitate the realisation of a settlement bank’s security;

6.1.5 the procedures which form part of EUI’s internal ‘Insolvency and Default Procedures’;

6.1.6 such other arrangements as may be designated by EUI from time to time as ‘default arrangements’ for the purposes of the relevant Settlement Finality Regulations, in each case to the extent that they are applicable if a participant

appears to be unable, or is (apparently) likely to become unable, to meet its obligations in respect of any transfer order.

6.2 Without prejudice to the generality of this paragraph 6, the default arrangements of the CREST UK system include:

6.2.1 EUI's complete discretion to disable and re-enable any participant pursuant to its powers under its agreement with that participant (including the CREST Terms and Conditions) and to impose any conditions upon the participant or any insolvency practitioner before or after the re-enablement of a participant; and

6.2.2 any provisions of the CREST International Manual by which any of EUI, the CREST Depository or the CREST Nominee are entitled to recover any assets from a CREST member or to dispose of any assets held by the CREST Nominee for the CREST member.

*Note: EUI can be expected to take the following actions under its default arrangements in the event that it is notified that insolvency proceedings have commenced against a CREST member (a "defaulting participant").*

*References in this Note to "initial disablement" are to the time at which EUI suspends the participation of a defaulting participant in accordance with paragraph 1 below (or the time that EUI receives notification that insolvency proceedings have commenced, if the defaulting participant's participation had already been suspended).*

*References in this Note to an "affected transfer order" are to an unsettled transfer order in the CREST UK system or the CREST Irish system, which entered the system prior to the commencement of the insolvency proceedings against the defaulting participant and is either attributable or addressed to the defaulting participant.*

1. Initial disablement

*Unless a defaulting participant's participation is already suspended, EUI will in normal circumstances immediately suspend its participation on receiving notification that insolvency proceedings have commenced against the defaulting participant. This will result in all settlement involving the defaulting participant immediately being suspended.*

2. Conditions for re-enablement

*EUI will not re-enable the defaulting participant's participation, unless EUI is satisfied that:*

(a) *systemic or other types of risk that arise by reason of the participation of the defaulting participant in the CREST UK system or the CREST Irish system would be limited or otherwise mitigated by re-enabling its participation;*

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- (b) *such re-enablement, and any settlement which may be effected as a result of such re-enablement, will not cause EUI to be in breach of any direction or requirement of any regulatory authority or body to whose jurisdiction it is subject;*
- (c) *such re-enablement, and any settlement which may be effected as a result of such re-enablement, will be consistent with the effect and operation of the default rules (within the meaning of Part VII of the Companies Act 1989) of any relevant exchange or clearing house;*
- (d) *such re-enablement, and any settlement which may be effected as a result of such re-enablement, can be effected without material interference with or disruption to the efficient operation of the CREST UK system or the CREST Irish system; and*
- (e) *the defaulting participant (or its insolvency office-holder) has complied with all requirements and conditions that may be imposed by EUI pursuant to its agreement with the defaulting participant, the CREST Manual and/or the CREST Rules as a condition to re-enablement.*

3. *Participant to be re-enabled*

*If the conditions set out in paragraph 2 are met and EUI proposes to re-enable the participation of the defaulting participant, it will promptly notify participants by way of Operational Bulletin (an "Indicative Operational Bulletin") of its intention to do so.*

*Such Indicative Operational Bulletin will be issued within five (5) business days following initial disablement.*

*EUI will, where possible at that time, specify in the Indicative Operational Bulletin the period within which EUI intends to re-enable the participation of the defaulting participant. Such re-enablement shall be at least one (1) business day from the date of issue of the Indicative Operational Bulletin.*

4. *Consent of insolvency office-holder and length of re-enablement*

*A defaulting participant will, in normal circumstances, be re-enabled only following a request from, and with the consent of, the defaulting participant's insolvency office-holder. EUI expects that a defaulting participant will remain re-enabled, to provide an opportunity for affected transfer orders to be settled, only for a short period and in any event up to a maximum of ten (10) working days. Following this period, in accordance with paragraph 6 below, a direction will be issued to delete affected transfer orders and EUI will suspend the participation of the defaulting participant.*

*If in exceptional circumstances EUI intended to depart from the guidance in this paragraph 4, any such departure would be discussed in advance with the Bank of England and, where possible, with the defaulting participant's insolvency office-holder.*

5. Participant not to be re-enabled

Where EUI concludes that the conditions set out in paragraph 2 will not be met, EUI will promptly (and in any event at the latest within five (5) business days following initial disablement) notify participants by way of an Operational Bulletin (a "Permanent Suspension Operational Bulletin") that the participation of the defaulting participant will remain disabled and settlement of all affected transfer orders will be permanently suspended.

By way of example, where a defaulting participant has been declared in default under the default rules (within the meaning of Part VII of the Companies Act 1989) of a relevant exchange or clearing house, trades in relation to the defaulting participant may have been "closed out" under those default rules. Re-enablement of the defaulting participant and settlement of affected transfer orders is likely to be inconsistent with such close out arrangements (i.e. the condition in paragraph 2(c) above will not be satisfied) and EUI can therefore be expected to issue a Permanent Suspension Operational Bulletin promptly after such a declaration of default.

6. Direction to delete affected transfer orders

If:

- (a) ten (10) business days following re-enablement of a defaulting participant's participation in accordance with an Indicative Operational Bulletin, affected transfer orders remain in the CREST UK system or the CREST Irish system; or
- (b) EUI has issued a Permanent Suspension Operational Bulletin and affected transfer orders remain in the CREST UK system or the CREST Irish system,

then EUI will issue a direction by Operational Bulletin (a "Directing Operational Bulletin") to the defaulting participant and each settlement counterparty to any affected transfer order that at the time of issue of the Directing Operational Bulletin remains unsettled in the CREST UK system or the CREST Irish system (a "relevant affected transfer order").

In the case of 6(a) above, EUI will suspend the participation of the defaulting participant and issue such Directing Operational Bulletin.

In the case of 6(b) above, such Directing Operational Bulletin will be issued no later than ten (10) business days after the issuance of the Permanent Suspension Operational Bulletin.

7. Directing Operational Bulletins

A Directing Operational Bulletin shall (amongst other things):

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- (a) *be issued under and as part of its default arrangements designated as such by EUI for the purposes of paragraph 6.1.6 of this CREST Rule 13;*
- (b) *require the defaulting participant (or its insolvency office-holder) and the relevant settlement counterparty to:*
  - (i) *input instructions into the CREST system to match delete all relevant affected transfer orders as soon as is reasonably practicable, but in any event by no later than close of business on a date that shall not be more than ten (10) business days after the date of issue of the Directing Operational Bulletin;*
  - (ii) *take all such other steps available to it within the system to prevent the settlement of relevant affected transfer orders at any time prior to their matched deletion in accordance with EUI's direction; and*
- (c) *state that any failure to comply with the direction shall constitute a breach of a CREST Requirement (for the purposes of the relevant participant's contract with EUI) and may result in the disablement of the CREST participant concerned.*

8. *Variations of timing*

*If EUI proposes to vary any action or timing outlined in this Note, it will (where practicable and where it is able to do so) promptly notify participants by Operational Bulletin of any such variation.*

*This may occur, for example, where EUI is satisfied that relevant participants are proceeding or will proceed voluntarily to match delete affected transfer orders without being compelled to do so by direction.*

**7 Law governing the CREST UK system and the CREST Irish system**

7.1 For the purposes of the second indent of Article 2(a) of the Directive, the law governing the CREST UK system is English law.

7.2 For the purposes of the second indent of Article 2(a) of the Directive, the law governing the CREST Irish system is Irish law.

## Rule 14 Finality of Delivery

### Part A - The Delivery Settlement Event

The time at which settlement of a delivery (including issue or cancellation) of uncertificated units of a CREST participating security occurs (and can therefore be said to be final) is determined by reference to the regulations or other provisions which govern the participation of that security in the CREST system. These regulations or provisions also determine the nature of the interest which is transferred, or which arises, at the point of settlement in the CREST system. In each case, the point of final settlement (the "Delivery Settlement Event") occurs on, and at the time at which, the relevant stock postings data is first received by the Local Record and no right, title or interest in the relevant securities passes by means of the CREST system before this time. The legal effect of this Delivery Settlement Event in relation to each relevant jurisdiction is summarised below.

In relation to securities constituted under the laws of England and Wales, Scotland or Northern Ireland, the Local Record is broadly equivalent to the relevant Operator register of securities (as further described in Part B of this Rule).

Rule 17 addresses the equivalent point at which a payment becomes final.

### **Securities constituted under the laws of England and Wales, Scotland or Northern Ireland**

1 The regulations which govern the participation of securities constituted under the laws of England and Wales, Scotland or Northern Ireland (together, "UK securities") in the CREST system are the Uncertificated Securities Regulations 2001, as amended by the Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003. The broad effect of these regulations is as follows:

1.1 In relation to a unit of a UK security (whether held in uncertificated or certificated form) which is to be transferred to a CREST member to be held in uncertificated form, legal title to the unit will be transferred to the transferee at the point at which the Operator register of securities for the UK security is updated to reflect that transfer in accordance with Part B of this Rule 14 (but see 2 below).

1.2 In relation to an issue of an uncertificated unit of a UK security to its first holder, the issue of that security will be effected upon the entry of that holder's name on the Operator register of securities in accordance with Part B of this Rule 14 (ignoring certain prior entries in the CREST system records - see 2 below).

1.3 In relation to the transfer of an uncertificated unit of a UK security to a person who will not hold that security in uncertificated form (i.e. a transfer which involves a withdrawal of the unit of the security from the system), the transfer is final upon the generation by the CREST system of an Operator-instruction informing the relevant issuer of the transfer. Notwithstanding that, at the point of generation of such Operator-instruction, the

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transferor is removed from the relevant Operator register of securities, the transferor is deemed to retain legal title to the requisite number of units of the relevant UK security until the transferee is entered on the relevant issuer's register as their holder. At the point of generation of the Operator-instruction, the transferee acquires an equitable interest in the relevant securities.

The position is identical in relation to the securities constituted under the law of Scotland, save that at the point that the CREST system generates the relevant Operator-instruction, the transferee does not acquire an equitable interest in the relevant number of units of the security, but instead the transferor holds the relevant units of the security on trust for the benefit of the transferee, pending registration of the transferee's holding on the issuer's register.

For these purposes, the CREST system generates an Operator-instruction at the point at which it initiates the procedures by which the Operator-instruction comes to be sent. This occurs at the point of receipt of the relevant stock postings data by the Local Record.

2 Part B of this Rule 14 indicates that in certain circumstances the receipt of stock postings data by the Local Record will not result in an update of the relevant Operator register of securities. Examples include:

- deliveries made to and from the stock account of a Receiving Agent where the Receiving Agent is acting as the issuer's agent (this arises in the context of issues and cancellations of securities); and
- issues of CDIs, where the securities pass through the account of a CSD or its nominee before being delivered to the stock accounts of the CREST member who is to be their holder.

In some instances the legal effect of the Delivery Settlement Event in relation to the particular delivery which does not give rise to a transfer of legal title will be determined by reference to information held outside the CREST system (such as corporate actions documentation in relation to deliveries to a Receiving Agent) and in others there will be no legal effect, other than a discharge of EUI's obligations in relation to completion of the relevant system movements.

### **Securities constituted under the laws of Guernsey, Jersey or the Isle of Man**

3 The regulations which govern the participation of securities constituted under the laws of Guernsey ("Guernsey securities"), the laws of Jersey ("Jersey securities") and under the laws of the Isle of Man ("IoM securities") in the CREST system are respectively:

- the Companies (Uncertificated Securities) (Jersey) Order 1999;
- the Uncertificated Securities Regulations 2005; and



- the Uncertificated Securities (Guernsey) Regulations 2009.

The broad effect of these regulations is as follows:

3.1 In relation to units of a Guernsey, Jersey or IoM security (whether held in uncertificated or certificated form) which are to be transferred to a CREST member to be held in uncertificated form, the transfer is final upon the generation by the CREST system of an Operator-instruction requiring the relevant issuer to register the transfer. The transferee acquires an equitable interest in the relevant number of units at the point at which an Operator-instruction is generated (but see 4 below). Legal title does not generally pass to the transferee until the issuer updates the register of holders of the relevant security.

3.2 In relation to an issue of an uncertificated unit of a Guernsey, Jersey or IoM security to its first holder, the issue will be effected upon the entry of that holder's name on the issuer's register of holders of the relevant security (prior to the receipt of the relevant stock postings data by the Local Record - but see 4 below).

3.3 In relation to the transfer of an uncertificated unit of a Guernsey, Jersey or IoM security to a person who will not hold that security in uncertificated form (i.e. a transfer which involves a withdrawal of the unit of the security from the system), the transfer is final upon the generation by the CREST system of an Operator-instruction informing the relevant issuer of the transfer. At the point of generation of the Operator-instruction, the transferee acquires an equitable interest in the relevant securities.

For the purposes of paragraph 3, the CREST system generates an Operator-instruction at the point at which it initiates the procedures by which the Operator-instruction comes to be sent. This occurs at the point of receipt of the relevant stock postings data by the Local Record.

4 Part B of this Rule 14 indicates that in certain circumstances the receipt of stock postings data by the Local Record will not, in relation to UK securities, result in an update of the relevant Operator register of securities. Examples include deliveries made to and from the stock account of a Receiving Agent where the Receiving Agent is acting as the issuer's agent (this arises in the context of issues and cancellations of securities). In the same circumstances, the Operator-instruction generated by the CREST system in relation to Guernsey, Jersey and IoM securities does not require the relevant issuer to register the transfer and accordingly no equitable interest arises at that point.

In some instances the legal effect of the Delivery Settlement Event in relation to the particular delivery which does not give rise to an equitable interest will be determined by reference to information held outside the CREST system (such as corporate actions documentation in relation to deliveries to a Receiving Agent) and in others there will be no legal effect, other than a discharge of EUI's obligations in relation to completion of the relevant system movements.

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5 References in paragraphs 3 and 4 to an "Operator-instruction" shall be construed as if they were references to an "operator's instruction" in relation to Guernsey and Jersey securities.

### **Securities constituted under the laws of the Republic of Ireland**

6 The regulations which govern the participation of securities constituted under the laws of the Republic of Ireland ("Irish securities") are the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996, as amended by the Companies Act 1990 (Uncertificated Securities) (Amendment) Regulations 2005. The broad effect of these regulations is as follows:

6.1 In relation to units of an Irish security (whether held in uncertificated or certificated form) which are to be transferred to a CREST member to be held in uncertificated form, the transfer is final upon the sending by the CREST system of an operator-instruction requiring the relevant issuer to register the transfer. The transferee acquires an equitable interest in the relevant number of units at the point at which an operator-instruction is sent (but see 7 below). Legal title does not generally pass to the transferee until the issuer updates the register of holders of the relevant security.

6.2 In relation to an issue of an uncertificated unit of an Irish security to its first holder, the issue will be effected upon the entry of that holder's name on the issuer's register of holders of the relevant security (prior to the receipt of the relevant stock postings data by the Local Record - but see 7 below).

6.3 In relation to the transfer of an uncertificated unit of an Irish security to a person who will not hold that security in uncertificated form (i.e. a transfer which involves a withdrawal of the unit of the security from the system), the transfer is final upon the sending by the CREST system of an operator-instruction informing the relevant issuer of the transfer. At the point at which the operator-instruction is sent, the transferee acquires an equitable interest in the relevant securities.

For the purposes of paragraph 6, EUI treats an operator-instruction as sent at the point at which it initiates the procedures by which the operator-instruction comes to be sent. This occurs at the point of receipt of the relevant stock postings data by the Local Record.

7 Part B of this Rule 14 indicates that in certain circumstances the receipt of stock postings data by the Local Record will not, in relation to UK securities, result in an update of the relevant Operator register of securities. Examples include deliveries made to and from the stock account of a Receiving Agent where the Receiving Agent is acting as the issuer's agent (this arises in the context of issues and cancellations of securities). In the same circumstances, the operator-instruction sent by the CREST system in relation to Irish securities does not require the relevant issuer to register the transfer and accordingly no equitable interest arises at that point.

In some instances the legal effect of the Delivery Settlement Event in relation to the particular delivery which does not give rise to an equitable interest will be determined by reference to information held outside the CREST system (such as corporate actions documentation in relation to deliveries to a Receiving Agent) and in others there will be no legal effect, other than a discharge of EUI's obligations in relation to completion of the relevant system movements.

**Part B - Operator register of securities and Operator register of members**

*Note: This Part B applies to securities which have been admitted to the CREST system pursuant to the UK Regulations only.*

**1 Introduction**

This Part B of Rule 14 is made, inter alia, for the purpose of establishing which CREST system records constitute the Operator register of securities in relation to a participating security and the information required by paragraph 25(e)(i) of Schedule 1; paragraphs 4, 12 and 14 of Schedule 4; and regulation 22 (3A)(b) of the UK Regulations to be entered in the Operator register of securities.

**2 Operator Register of Securities**

Paragraph 25(e)(i) of Schedule 1 to the UK Regulations requires that an Operator's rules and practices must make provision:

*"as to which of the Operator's records are to constitute an Operator register of securities in relation to a participating security, or a participating security of a particular kind;"*

Accordingly, the records referred to below comprise the Operator register of securities:

- 2.1 the stock accounts of all Members to which are credited units of the relevant participating security;
- 2.2 Corporate Action Data;
- 2.3 the names and addresses of all Members, determined by reference to the Name and Address Database;
- 2.4 the CSD List;
- 2.5 the stock postings held on the Local Record;
- 2.6 the list maintained by EUI of participants admitted as CREST IPAs; and
- 2.7 those parts of the Local Record archive which store the information referred to in paragraphs 2.1 to 2.6 above (and the information required by each previous version of this Rule in relation to the period for which such version was in force) for the period of 20 years from the date on which a relevant Member ceased to hold the relevant participating security.

**3 Operator Register of Members**

Paragraph 4 of Schedule 4 to the UK Regulations specifies that:

- "(1) In relation to every participating issuer which is a company, an Operator of a relevant system shall, in respect of any class of shares which is a participating security for the purposes of that system, enter on an Operator register of members -*
- (a) the names and addresses of the members who hold uncertificated shares in the company;*
  - (b) with those names and addresses a statement of the uncertificated shares held by each member and, where the company has more than one class of issued uncertificated shares, distinguishing each share by its class; and*
  - (c) where the company has converted any of its shares into stock and given notice of the conversion to the registrar of companies, the Operator register of members shall show the amount and class of uncertificated stock held by each member, instead of the amount of shares and the particulars relating to shares specified in subparagraph (b)."*

Accordingly, the records referred to below comprise the Operator register of members for a participating security which is a share:

3.1 the name and address of the member of a company who holds uncertificated shares in the company is determined by reference to the entry relating to the Member on the Name and Address Database;<sup>10</sup>

3.2 the number of units of a participating security which is a share held by a member of a company is determined by aggregating (a) the balance on the Member's stock account(s) to which are credited units of the relevant participating security and (b) where units of the relevant participating security are credited to the stock account of a Receiving Agent as a result of a delivery initiated by the Member, the number of units so credited<sup>11</sup>;

3.3 the identity of a Receiving Agent is determined by reference to the Corporate Action Data (if any) relating to the relevant participating security; and

3.4 the means by which each share or class of share is distinguished is determined by reference to the ISIN<sup>12</sup> relating to the participating security which appears on the Ledger Database and all outstanding postings on the Receiving Database<sup>13</sup>.

<sup>10</sup>As required by paragraph 4(1)(a).

<sup>11</sup>As required by the first part of paragraph 4(1)(b).

<sup>12</sup>The ISIN is the International Stock Identification Number as allocated to the security by the relevant National Numbering Authority.

<sup>13</sup>As required by the second part of paragraph 4(1)(b).

#### **4 Operator Register of Corporate Securities and General Public Sector Securities**

Paragraph 14(1) of Schedule 4 to the UK Regulations specifies that:

*"Where an Operator of a relevant system is required to maintain an Operator register of corporate securities, that register shall comprise the following particulars which the Operator shall enter on it namely:-*

- (a) the names and addresses of the persons holding units of the relevant participating security in uncertificated form; and*
- (b) how many units of that security each such person holds in that form."*

Paragraph 12(1) of Schedule 4 of the UK Regulations contains identical requirements in relation to an Operator register of general public sector securities.

Accordingly, the records referred to below comprise the Operator register for participating securities which are corporate securities and general public sector securities:

4.1 the name and address of the person holding units of the relevant participating security in uncertificated form is determined by reference to the entry of the relevant Member on the Name and Address Database;

4.2 the number of units of the participating security held is determined by aggregating (a) the balance on the Member's stock account(s) to which are credited units of the relevant participating security and (b) where units of the relevant participating security are credited to the stock account of a Receiving Agent as a result of a delivery initiated by the Member, the number of units so credited;

4.3 the identity of a Receiving Agent is determined by reference to the Corporate Action Data (if any) relating to the relevant participating security; and

4.4 the number of CDIs credited to the stock account of a CSD or its nominee prior to their issue (which stock account entry does not constitute an entry on an Operator register of securities since the CSD or its nominee is not a Member in respect of such securities) is identifiable as follows:

4.4.1 a CSD or its nominee is identifiable from the CSD List;

4.4.2 the number of CDIs credited to the account of the CSD or its nominee is identifiable from its stock account; and

- 4.4.3 the fact that the credit of the CDIs is a system mechanic prior to their issue is identifiable from the stock postings held on the Local Record, which identify the debited account as DEPOS C0001.

Paragraph 17 (1) of Schedule 4 to the UK Regulations specifies that:

*"An entry in a register of securities or in a record of securities relating to a person who no longer holds the securities which are the subject of the entry may be removed from the register or the record (as the case may be) after the expiration of 20 years beginning with the day on which the person ceased to hold any of those securities."*

Accordingly, those parts of the Local Record archive which store the information referred to in paragraph 4.1 to 4.4 above (and the information required by each previous version of this Rule in relation to the period for which such version was in force) for the period of 20 years from the date on which the relevant Member ceased to hold the relevant participating security also comprise part of the Operator register of corporate securities or, as the case may be, general public sector securities.

## **5 Operator Register of Eligible Debt Securities**

*Note: A CREST IPA has securities and cash functionality in the CREST system, but is not permitted by EUI to use that functionality to transfer by means of the CREST system title to uncertificated units of a security, or to hold uncertificated units of a security by means of the CREST system. (This is because it may use this functionality solely in connection with the issue and redemption of uncertificated units of an eligible debt security, and to make interim interest payments in respect of such units, on behalf of the issuer.) It follows that, although a CREST IPA is a "member" within the meaning given to that term by the Glossary of the CREST Manual, it is not a "system-member" (within the meaning of the UK Regulations) and is not therefore a "Member" for the purposes of this Part B of Rule 14.*

Regulation 22(3A) of the UK Regulations specifies that:

*"(3A) In respect of every participating security which is an eligible debt security, the Operator shall:-*

- (a) maintain a register, and such a register is referred to in these Regulations as an "Operator register of eligible debt securities"; and*
- (b) record in that register -*
  - (i) the names and addresses of the persons holding units of that security; and*
  - (ii) how many units of that security each such person holds."*

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Accordingly, the records referred to below comprise the Operator register for participating securities which are eligible debt securities:

- 5.1 the name and address of the person holding units of the relevant participating security in uncertificated form is determined by reference to the entry of the relevant Member on the Name and Address Database;
- 5.2 those participants who are CREST IPAs (and are therefore not Members) are identified by reference to the list maintained by EUI of participants admitted as CREST IPAs; and
- 5.3 the number of units of the participating security held by each Member is determined by reference to the balance on the Member's stock account(s) to which are credited units of the relevant participating security.

Paragraph 17 (1) of Schedule 4 to the UK Regulations specifies that:

*"An entry in a register of securities or in a record of securities relating to a person who no longer holds the securities which are the subject of the entry may be removed from the register or the record (as the case may be) after the expiration of 20 years beginning with the day on which the person ceased to hold any of those securities."*

Accordingly, those parts of the Local Record archive which store the information referred to in paragraph 5.1 to 5.3 above (and the information required by each previous version of this Rule in relation to the period for which such version was in force) for the period of 20 years from the date on which the relevant Member ceased to hold the relevant participating security also comprise part of the Operator register of eligible debt securities.

## **6 Issuer's Maintenance of the Record of Uncertificated Shares, Record of Uncertificated Corporate Securities and Record of Uncertificated General Public Sector Securities**

*Note: There is no requirement under the UK Regulations for a participating issuer to maintain a record of the entries made in any Operator register of eligible debt securities or any Operator register of securities maintained pursuant to UK Regulation 22 (3)(a). Accordingly, paragraphs 6 and 7 of Part B of this Rule 14 have no application to a transfer of title to units of a participating security in an Operator register of eligible debt securities or other such Operator register of securities.*

Upon the registration by EUI of a transfer of title to units of a participating security (other than an eligible debt security) on an Operator register of securities and the simultaneous generation by the CREST relevant system of an Operator-instruction<sup>14</sup> requiring the issuer

<sup>14</sup>A Register Update Request.



to amend the relevant Record of uncertificated shares, Record of uncertificated corporate securities or Record of uncertificated general public sector securities (as the case may be), the issuer (or its CREST registrar) shall, by the 160 Diary Event (for equity transactions) and 170 Diary Event (for gilts transactions) on the same day and save as provided by paragraph 7 of this Rule:

6.1 retrieve the Operator-instruction by means of an RUR Request (message type LRRQ) and amend the relevant Record of uncertificated securities accordingly; and

6.2 confirm to EUI that it has done so by means of an RUR Action Response (message type LRRR).

Where the RUR is generated upon a system delivery from a Member to a Receiving Agent, the issuer (or its CREST registrar) shall not make any entry on the relevant Record of uncertificated securities which indicates that the system delivery resulted in a transfer of title to the Receiving Agent.

## **7 Investment Funds Service**

Participating investment funds in the Investment Funds Service are not participating securities for the purposes of the UK Regulations. Accordingly, a stock account entry in relation to a participating investment fund in the Investment Funds Service does not constitute an entry on an Operator register of securities. No other record maintained by EUI in relation to such funds shall constitute an entry on an Operator register of securities. A participating investment fund in the Investment Funds Service is identifiable by reference to its security category, which is category 'UTF' (Unit Trust and Open Ended Investment Company shares (OEICs) – Investment Funds Service).

### General explanatory note

*The effect of Part B of this Rule 14 is to provide that, as a general matter, a credit on the stock account balance of a Member in the CREST system equates to the register balance. In system terms and for the avoidance of doubt, the credit is constituted by the receipt of the stock posting by the Receiving Database and not the (later) update of the Ledger Database or the status change generated upon settlement of a transaction.*

*The exceptions to this arrangement arise in the context of:*

- *deliveries made to and from the stock account of a Receiving Agent where the Receiving Agent is acting as the issuer's agent<sup>15</sup>;*

<sup>15</sup>Thus, for example, the exception does not apply to the receiving agent in a takeover, where the receiving agent is acting as the offeror's agent.

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- *issues of CDIs where the securities pass through the account of a CSD or its nominee before being delivered to the stock account of the Member who is to be their holder; and*
- *the Investment Funds Service.*

*The first distinction is necessary because, in system terms, a Receiving Agent has the functionality available to a "normal" CREST member and may have a credit balance on his stock account in relation to the security for which he acts as Receiving Agent in the CREST system on behalf of the issuer. However, such a credit balance does not form part of the register and does not evidence title to such securities on the part of the Receiving Agent (who in these circumstances is an agent of the issuer). In some circumstances, for example, a Receiving Agent's stock account may, for operational reasons in advance of a corporate action, be credited with units of securities which have not yet been created and issued in accordance with their terms and which therefore have no legal status. Such balances are therefore excluded from the definition of the Operator register of securities and Operator register of members (and system deliveries by the Receiving Agent to Members do not represent transfers of title).*

*For the same reason, although a system delivery from a Member to a Receiving Agent involves the simultaneous debit of securities from the Member's stock account and credit to the Receiving Agent's stock account, these debits and credits do not indicate a transfer of title to the securities from the Member to the Receiving Agent but rather a vesting of control of such securities in the Receiving Agent, title to which remains with the Member. Upon settlement of this system delivery, the credit balance on the Member's stock account is correspondingly reduced and it is therefore necessary to establish which CREST system records determine the Member's title to those particular units of the security. This is established by reference to the audit trail data (the stock postings) which record the debit made from the Member's stock account and the credit to the Receiving Agent's stock account rather than by reference to the balance on the Member's stock account. Accordingly, an issuer does not amend its Record of uncertificated securities following a system delivery from a Member to a Receiving Agent.*

*For the avoidance of doubt, no other information maintained within the CREST system (including (a) available, deposit link, escrow and reserve balance data and (b) the stock accounts of any Receiving Agent) is information comprising the Operator register of securities or Operator register of members.*

*In much the same way as a Receiving Agent's stock account may be credited with units of a security prior to their issue as described above, for operational reasons CDIs are credited to a stock account of a CSD or its nominee immediately prior to their issue. The CDIs are not issued in legal terms until they have been delivered to the stock account of the Member who is to be their holder and accordingly the transfer from the account of the CSD (or its nominee) to the account of such Member does not represent a transfer of title.*

*It has been noted above that a CREST IPA is not a "Member" for the purposes of Part B of this Rule 14, as it is not a "system-member" within the meaning of the UK Regulations. It follows that a stock account of a CREST IPA does not form part of the Operator register of eligible debt securities. This reflects the fact that a CREST IPA's stock account may only be credited with units of an eligible debt security prior to their issue or upon their redemption in accordance with the terms of issue of the security. The CREST IPA will, in such circumstances, act as the issuer's agent. Units credited to the CREST IPA's stock account in such circumstances have no legal status; and the transfer of the units from (or to) the stock account of the CREST IPA to (or from) the account of a Member does not represent a transfer of title.*

*Notional units of a participating investment fund (as those terms are defined in Chapter 13 of the CREST Reference Manual) are not in legal terms participating securities for the purposes of the UK Regulations. The legal registers of such securities are maintained outside the CREST system by reference to the investment fund's records. Consequently, entries in stock accounts in relation to participating investment funds reflect notional units holdings only.*

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**Part C - Definitions and Interpretation**

1 For the purposes of this Rule 14 the following definitions apply:

Corporate Action	a corporate action in respect of the relevant participating security which is recorded in the Corporate Action Data;
Corporate Action Data	the document or message received by EUI, known as a KCAP Request, which contains core details in relation to a corporate action for entry into the CREST system;
CSD List	the list maintained by EUI of CSD participants or their nominees whose accounts are credited with CDIs prior to their issue;
Ledger Database	shall have the meaning given in paragraph 2;
Local Record	those parts of the CREST system which are kept in the United Kingdom the principal purpose of which is to record title to (or other interests in) securities held and transferred by means of the CREST system and details of the CREST members by whom such title (or other interest) is held;
Member	in Part B of Rule 14, a system-member other than:  (a) a Receiving Agent; and  (b) in relation to the issue of CDIs, the CSD or nominee through whose stock account the CDIs pass before being delivered to the person who is to be their first holder;
Receiving Agent	a system-member who is identified as a participating issuer's receiving agent for a particular Corporate Action relating to a security of that issuer in the Corporate Action Data;
Receiving Database	shall have the meaning given in paragraph 2;

Stock account the stock account balances maintained by the Ledger Database, as updated to reflect any outstanding postings relating to completed transactions held on the Receiving Database which are yet to be applied to the Ledger Database.

2 The Local Record has a number of components. Those which are relevant for the purposes of this Rule 14 include:

2.1 that part of the CREST system which receives stock and cash postings (per transaction) from the CREST Settlement Processor located outside the United Kingdom (the "**Receiving Database**");

2.2 that part of the CREST system which converts the stock and cash postings received by the Receiving Database into a form in which they can be more conveniently communicated to certain CREST users and maintains the total holding balances per CREST member per security (the "**Ledger Database**");

2.3 the record of names and addresses of CREST members (the "**Name and Address Database**");

2.4 the list maintained by EUI of participants admitted as CREST IPAs;

2.5 the Corporate Action Data;

2.6 the CSD List; and

2.7 the archive which stores the information required by Part B of this Rule (and the information required by previous versions of this Rule) for the requisite period.

3 Terms which are used in this Rule, but not defined in this Part C, have the meanings given to them in the Glossary of the CREST Manual.

4 Terms defined or used in the UK Regulations which are used in this Rule have the meanings given to them in the UK Regulations.

5 In relation to any security which is or is to be a participating security under the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations or the Jersey Regulations, terms used in Part A of this Rule which are defined by reference to the UK Regulations shall have the meanings ascribed to them in the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations or the Jersey Regulations respectively.

## **Rule 15 Inspection of the Operator register of securities**

*Note: This rule applies to securities (other than eligible debt securities) which have been admitted to the CREST system pursuant to the UK Regulations only.*

### **Introduction**

Paragraph 12 of Schedule 1 of the UK Regulations requires that:

*A relevant system must be able to permit each participating issuer to inspect the entries from time to time appearing in an Operator register of securities (other than an Operator register of eligible debt securities) relating to any participating security issued by him.*

Paragraph 25(e)(ii) of Schedule 1 to the UK Regulations requires that an Operator's rules and practices must make provision:

*as to the times at which, and the manner in which, a participating issuer may inspect an Operator register of securities (other than an Operator register of eligible debt securities) in accordance with paragraph 12;*

This Rule is made in order to comply with these requirements.

### **Issuer's inspection of the Operator register of securities (other than an Operator register of eligible debt securities)**

1 An issuer (or its CREST Registrar) may inspect EUI's Operator register of securities (other than an Operator register of eligible debt securities) by making a Stock Account Balance Request (message type BSBQ) in order to retrieve a Stock Account Balance Response (message type BSBP). An issuer (or its CREST Registrar) may make a Stock Account Balance Request at any time when the CREST system is open for enquiry.

2 In addition to the provisions of paragraph 1 of this Rule, where the relevant participating security is the subject of a Corporate Action, the issuer (or its Receiving Agent) may make a Stock Posting Request (message type DSPQ) in order to retrieve a Stock Postings Response (message type DSPP). Separate enquiries are required for each business day on which the Corporate Action is open. An issuer (or its Receiving Agent) may make a Stock Posting Request at any time when the CREST system is open for enquiry.

## Rule 16 Admission of CREST settlement banks

### Introduction

The settlement banks provide services that enable payments to be made through the CREST system. EUI will admit a settlement bank as a participant and, unless the settlement bank uses the services of a CREST sponsor, as a user. However, the credit and liquidity functions that are performed by a settlement bank in the CREST system give rise to certain additional considerations that apply to its admission.

EUI has certain rule-making powers as an operator of a relevant system; as a recognised central securities depository; as operator of a designated system pursuant to Directive 98/26/EC on settlement finality in payment and securities settlement systems in accordance with the UK Settlement Finality Regulations and the Irish Settlement Finality Regulations (as each such term is defined in CREST Rule 13); and as operator of a recognised payment system under Part 5 of the Banking Act 2009. These rules are set out in the CREST Rules and certain provisions contained in the participant agreements between EUI and its participants.

The purpose of this CREST Rule 16 is to establish EUI's rules applicable to the admission of a settlement bank. This Rule is in addition, and without prejudice, to any other rules or requirements (which are not in the nature of a rule) relating to:

- (a) the on-going participation of a settlement bank; and
- (b) the suspension or termination of a settlement bank's participation,

which are established pursuant to any other CREST Rule or the CREST Settlement Bank Agreement.

### **1 Conditions to admission**

Before a settlement bank may be admitted as a settlement bank, it must:

- 1.1 satisfy the conditions to admission specified in CREST Rule 1 that are applicable to it as a participant and, if relevant, as a user;
- 1.2 enter into a CREST Settlement Bank Agreement with EUI, which sets out the terms and conditions of its admission and participation as a settlement bank under a particular Participant ID;
- 1.3 enter into such other agreements or arrangements as the CREST Settlement Bank Agreement may specify as being required before it may act as a settlement bank in respect of a particular designated currency;
- 1.4 provide such evidence as EUI may require to establish that the settlement bank:

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- 1.4.1 if it wishes to be admitted as a settlement bank for sterling, has satisfied the Bank of England's requirements that may be published from time to time as a condition of its agreement to provide central bank money facilities to the settlement bank in connection with the DvP Service (in relation to sterling CREST payments);
- 1.4.2 if it wishes to be admitted as a settlement bank for euro, has entered into the Ancillary System Banking Arrangements; and
- 1.4.3 has satisfied the requirements from time to time that may be imposed by each of the existing settlement banks for a particular designated currency as a condition to its agreement to the settlement bank's accession to the CREST Pounds Sterling RTGS Payment Agreement (for sterling), the CREST Euro RTGS Framework and Payment Agreement (for euro) or the CREST US Dollars Inter-Bank Settlement Agreement.

*Note 1: EUI has been informed of the following requirements that are imposed by:*

- (i) *the existing settlement banks for sterling, euro and US dollar:*
  - *the applicant to provide evidence to establish that it has satisfied any requirement to provide a satisfactory legal opinion(s) to EUI and/or (in relation to a settlement bank for sterling) the Bank of England pursuant to any requirement imposed by EUI under paragraph 1 above and by the Bank of England under paragraph 1.4.1 above;*
  - *the applicant becoming and remaining a settlement bank would not result in an existing settlement bank being in breach of any applicable laws or regulations.*
- (ii) *the existing settlement banks for US dollars:*
  - *the applicant to provide evidence that it has appointed an NSS settlement participant to act as its Settler in the NSS;*
  - *the applicant and any correspondent bank used by it for these purposes must at all times have a long term credit rating of investment grade (BBB-, Baa3 and BBB-) and a short-term rating of F3, P-3 or A-3 or above from two of Fitch Inc., Moody's Investor Services and Standard & Poor's;*
  - *any NSS settlement participant appointed by the applicant as its Settler in the NSS would not result in an existing settlement bank or any NSS settlement participant appointed by such existing settlement bank to act as its Settler in the NSS being in breach of any applicable laws or regulations.*

*This "Note 1" forms part of CREST Rule 16.*



## 2 Suspension and termination of participation

2.1 EUI may suspend or terminate a settlement bank's participation under a particular Participant ID in accordance with its powers of suspension and termination set out in the related CREST Settlement Bank Agreement.

2.2 Upon the suspension or termination of a settlement bank's participation in the CREST system under any of its Participant IDs, the settlement bank must comply with the requirements of CREST Rule 3 and any other requirement pursuant to the related CREST Settlement Bank Agreement which is relevant to such suspension or termination.

*Note 2: Clause 9 of the CREST Settlement Bank Agreement specifies those events or circumstances, the occurrence of which in relation to a settlement bank entitles EUI to suspend or terminate its participation under the Participant ID to which that CREST Settlement Bank Agreement relates.*

*One such event or circumstance is a failure by the settlement bank to comply with any requirement to which it is subject under the CREST Rules (including the requirements of paragraph 1 of this CREST Rule 16 and Note 1 to that paragraph which forms part of this CREST Rule 16).*

*The remaining settlement banks shall provide such co-operation (by the sharing of information or otherwise) as EUI may reasonably require (having regard to the performance of its regulatory obligations) in connection with the suspension or termination of another settlement bank under any of its Participant IDs.*

*In determining whether and, if so, when to give and the terms of any notice either:*

- (i) requiring an existing settlement bank to remedy its failure to comply with any obligation to which it is subject under the CREST Rules; or*
- (ii) terminating the participation of an existing settlement bank under any of its Participant IDs by reason of such failure,*

*EUI performs regulatory functions which are likely to necessitate it to take account of a number of diverse and potentially competing considerations, including the security, reputation and integrity of its systems and the potential impact of the termination of the participation of a settlement bank on other participants. EUI can be expected in normal circumstances to consult with the Bank of England and, where the settlement bank is a settlement bank for euro, the European Central Bank before it takes any such action to determine how best to minimise the risks to its systems (and the wider financial system) caused by a settlement bank's failure and, if necessary, how to ensure an orderly termination of the relevant settlement bank's participation.*

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*Any decision or proposed decision by EUI to suspend or terminate the participation of the settlement bank under any of its Participant IDs, whether for a failure to comply with any requirement under the CREST Rules or otherwise, would entitle the settlement bank concerned to invoke and be subject to the Complaints Procedure and/or the Appeals Procedure which are set out in Part III of the CREST Rules.*

*EUI can be expected in normal circumstances to suspend the participation of a Settlement Bank under each of its Participant IDs on becoming aware that it, or the NSS settlement participant appointed by it to act as its Settler in the NSS, no longer met the requirements set out in Note 1 to CREST Rule 16 (including where it no longer had a long term credit rating of investment grade).*

*This "Note 2" forms part of CREST Rule 16.*

*Note 3: Provisions under the Banking Act 2009 require EUI to disregard certain special resolution measures and actions taken in relation to the participant or a member of the same group as a participant, and the occurrence of any event directly linked to the application of such a measure or action (including a credit rating downgrade), in considering whether it is able to exercise its powers of suspension and termination. See further CREST Rule 3 paragraph 2.*

## Rule 16A Admission of NSS settlement participants

### Introduction

Under the US dollar payments mechanism, EUI provides certain facilities and services to enable or facilitate an NSS settlement participant to manage the exposures that the NSS settlement participant incurs, and to perform its functions, as a Settler in the NSS acting on behalf of one or more USD settlement banks.

Those facilities and services are provided through the US Dollar LMS and the NSS CREST services, which in each case are described in Chapter 6, Section 4A of the CREST Reference Manual.

This Rule 16A sets out the conditions which must be satisfied by an NSS settlement participant in order to access or otherwise use the US Dollar LMS and the NSS CREST services provided by EUI.

Terms used in this Rule 16A, and which are defined in the *CREST Terms and Conditions (NSS settlement participants)*, shall have the same meaning when used in this Rule.

### Admission

1. As a condition of admission as an NSS settlement participant, a person:
  - 1.1 which is incorporated or otherwise formed outside the United Kingdom must:
    - 1.1.1 appoint an agent for service of process which is a body corporate incorporated in England or Wales; and
    - 1.1.2 if required to do so by EUI, provide a legal opinion from an external legal adviser in terms acceptable to EUI regarding, inter alia, that person's capacity to execute and be bound by the provisions of the *CREST Terms and Conditions (NSS settlement participants)* from an independent legal adviser acceptable to EUI;
  - 1.2 which is not regulated by an Appropriate Regulator must provide written confirmation of its regulated status in a manner satisfactory to EUI;
  - 1.3 must install and thereafter maintain, or procure that its LMS sponsor installs and thereafter maintains, an LMS Gateway in one of the jurisdictions specified in paragraph 2.2 of Rule 1 or (subject to EUI's prior consent) another EU member state not listed in Rule 1; and
  - 1.4 must complete trialling in all relevant functions.

### Money laundering and prevention of financial crime

2. All NSS settlement participants are required, both prior to their admission and at all times thereafter, to provide EUI with such information, confirmations, access to and copies of records as EUI may require in connection the prevention of money laundering or other financial crime or otherwise in connection with compliance by EUI with requirements imposed on it by the Bank of England, any Federal Reserve Bank or any regulatory body or by law, including any requirement to provide such information as may apply to EUI or to the activities of EUI under the laws of the United States of America, including any federal or state laws.

### **Personal data and data protection**

3. EUI may receive, collect and process personal data which relates to persons employed by or associated with a person applying to participate as an NSS settlement participant for the purposes and in the manner specified in the CREST Reference Manual.

To the extent that such applicants provide personal data relating to their own personnel or designated contact persons or any other person to EUI, they must furnish such person with notice regarding the purposes for which and manner by which EUI may process their personal information in an appropriate form and manner, including where appropriate written notice, so as to enable EUI to comply with any applicable data protection laws.

Chapter 1, Section 10 of the CREST Reference Manual specifies the purposes for which and manner by which EUI may process personal data.

### **Other applicable laws**

4. All NSS settlement participants are required, both prior to their admission and at all times thereafter, to provide EUI with such information, confirmations, access to and copies of records as EUI may require in connection with applicable laws, including any requirement to provide such information as may apply to EUI or to the activities of EUI under the laws of the United States of America, including any federal or state laws.

### **Replacement of an NSS settlement participant**

5. If an NSS settlement participant or a USD settlement bank proposes to terminate the appointment of the NSS settlement participant as a Settler for the USD settlement bank and the USD settlement bank proposes to appoint a replacement NSS settlement participant as its Settler, both NSS settlement participants shall take all reasonable steps to ensure that the replacement process is achieved in an orderly manner which minimises the disruption to other NSS settlement participants and USD settlement banks, and shall co-operate with EUI in whatever manner EUI requires in connection with the replacement process and each other.

### **Termination of participation**

6. Where the participation of a person as an NSS settlement participant is being terminated (either upon notice given by EUI or by the NSS settlement participant), the NSS settlement participant must take all reasonable steps to ensure that the termination of its participation minimises disruption to other NSS settlement participants and the USD settlement banks, and it must co-operate with EUI in whatever matters EUI requires in the period before the date of termination.

#### **Appeals procedures**

7. The appeals procedures set out in Part III of the CREST Rules also apply to NSS settlement participants in relation to their access to or other use of the US Dollar LMS and the NSS CREST services.

## Rule 17 CREST payments

### Introduction

The CREST Terms and Conditions, and other participant agreements entered into by members, govern the legal effect of a CREST payment as between a member and another member. These contractual arrangements are supported further by inter-bank contractual arrangements entered into between EUI, the settlement banks and (in relation to pounds sterling) the Bank of England; and (in relation to euro) bilateral contractual arrangements between EUI and the European Central Bank.

Under these various arrangements, a payment obligation owed by one member (or his principal) to another member (or his principal) is discharged upon the creation of a corresponding irrevocable and unconditional payment obligation (a "settlement bank payment obligation") owed by the paying member's settlement bank to the payee member's settlement bank. Where the same settlement bank (including the same settlement bank acting under two different Participant IDs) acts for both the payer and the payee, the payer's payment obligation to the payee is discharged upon the creation of a settlement bank payment obligation owed by the relevant settlement bank to the payee himself.

The inter-bank contractual arrangements also govern the method by which the settlement bank payment obligation owed by one settlement bank to another is to be discharged.

Under the RTGS payments mechanism for sterling payments, there is an immediate and simultaneous payment of the settlement bank payment obligation owed by one settlement bank to another at the moment of the obligation's creation.

Under the RTGS payments mechanism for euro payments, the settlement bank payment obligation owed by one settlement bank to another is in the normal course discharged upon the completion of a two-staged process. First, each settlement bank payment obligation which arises during a Dedicated Liquidity Cycle Period is included in a multilateral netting account completed by EUI in respect of the Dedicated Liquidity Cycle Period. Second, each net (net) sum which is either due from a settlement bank (as a "short settlement bank") or to a settlement bank (as a "long settlement bank") under and in accordance with this multilateral netting account is (in response to the related ancillary system instruction sent by EUI as operator or manager of an ancillary system to TARGET2) debited to a PM Sub-Account of the short settlement bank or credited to a PM Sub-Account of the long settlement bank at the end of the Dedicated Liquidity Cycle Period. Payment of each such net (net) sum due from a short settlement bank in accordance with EUI's ancillary system instruction is guaranteed by the European Central Bank (as an Ancillary System Central Bank) under the ECB Guarantee.

In the case of US dollar payments, the relevant settlement bank payment obligations are discharged as between the settlement banks by way of an end-of-day net settlement procedure which is supported by sterling pre-funding payments made by each USD

settlement bank from its Relevant Settlement Account at the start of the relevant settlement day to the EUI Trust Account (held and maintained by EUI or its nominee at the Bank of England). Such pre-funding payments may be increased during the settlement day by top-up payments made to the EUI Trust Account by the USD settlement bank; and, subject to the operational controls described in Chapter 6, Section 4A of the CREST Reference Manual, may be withdrawn during the settlement day by way of drawdown payments made from the EUI Trust Account by the USD settlement bank. These pre-funding arrangements, together with the settlement of relevant settlement bank payment obligations across accounts held with the Federal Reserve Banks through the NSS under the Settlement File Account Procedure, ensure that the US dollar payments mechanism is conducted in central bank money in compliance with the CSD Regulation.

The arrangements put in place between EUI and (1) the settlement banks; (2) (in relation to sterling payments) the Bank of England and (3) (in relation to euro payments) the European Central Bank allow and/or contemplate that this Rule 17 shall establish:

- (a) the time at which a settlement bank payment obligation arises between settlement banks and, therefore, the time at which a CREST payment is to be treated as irrevocably and unconditionally made by one member to another member;
- (b) in relation to sterling payments, as under the RTGS payments mechanism for sterling the time of creation of a settlement bank payment obligation in favour of an RTGS settlement bank coincides with the time of its immediate discharge in central bank money, the time at which such settlement bank payment obligation is irrevocably and unconditionally paid by one RTGS settlement bank to another RTGS settlement bank in central bank money; and
- (c) the amount and currency of payment of a settlement bank payment obligation to be discharged in accordance with the RTGS payments mechanism for sterling or (as the case may be) for euro.

## **1 Definitions and interpretation**

1.1 For the purposes of this Rule 17, the following terms have the meanings set against them below:

ancillary system

a system managed by a person that is subject to supervision and/or oversight by a competent authority and complies with the oversight requirements for the location of infrastructures offering services in euro, as amended from time to time and published on the website of the European Central Bank, in which payments and/or financial instruments are exchanged and/or cleared or recorded with (a) the

	monetary obligations settled in TARGET2 and/or (b) funds held in TARGET2 in accordance with the Guideline and a bilateral arrangement between that ancillary system and an Ancillary System Central Bank;
Ancillary System Central Bank	the ECB or a national central bank of a Member State whose currency is the euro with which an ancillary system has a bilateral arrangement for the settlement of ancillary system payment instructions in euro through TARGET2;
CMA Debit	the amount by which the cash memorandum account of a Payer is debited in connection with a CREST payment made by him;
DvP ('delivery versus payment') Payment	a CREST payment which is made by a Payer to a Payee against:  (a) the transfer of title or a beneficial proprietary interest to an uncertificated unit of a security to the Payer; or  (b) the issue of an uncertificated unit of a security to the Payer;
ECB Guarantee	The irrevocable and unconditional guarantee given by the ECB for the benefit of EUI in accordance with the Euro DvP Services Agreement, which is intended to give contractual effect to and replicate the substance of the obligations of the ECB (as an Ancillary System Central Bank) provided for or otherwise contemplated by Article 31(3) and the related provisions of the ECB TARGET2 T&Cs.
ECB TARGET2 T&Cs	the Decision of the European Central Bank of 24 July 2007 concerning the terms and conditions of TARGET2-ECB (ECB/2007/7) as the same has been or may from time to time be amended, varied, supplemented or replaced;
FoD ('free of delivery') Payment	a CREST payment other than a DvP Payment;



Guideline	<p>the Guideline of the European Central Bank of 5 December 2012 (ECB/2012/27) on a Trans-European Automated Real-time Gross settlement Express Transfer system (recast) as the same has been or may from time to time be amended, varied, supplemented or replaced;</p>
Inter-Bank Contractual Arrangements	<p>the contractual arrangements put in place (and as such arrangements may from time to time be amended, varied, supplemented or replaced) between:</p> <ul style="list-style-type: none"><li>(a) EUI and each settlement bank;</li><li>(b) EUI and the settlement banks for each designated currency by way of multipartite agreement; and</li><li>(c) (in the case of sterling payments):<ul style="list-style-type: none"><li>• EUI, the RTGS settlement banks for sterling and the Bank of England by way of multipartite agreement; and</li><li>• the Bank of England and each RTGS settlement bank for sterling,</li></ul></li></ul> <p>which govern, amongst other things, issues relating to the making and receipt of CREST payments for the account of members;</p>
Inter-Bank Settlement Event	<p>a Payment Settlement Event that occurs in relation to a Payer and a Payee who are using different settlement banks to make and receive the CREST payment for their respective accounts;</p>
Intra-Bank Settlement Event	<p>a Payment Settlement Event that occurs in relation to a Payer and a Payee who are using the same settlement bank (including the same settlement bank acting for the Payer and the Payee under two different Participant IDs) to make and receive the CREST payment for their respective accounts;</p>

Payee	the member who is identified in an instruction to make a CREST payment as the participant whose cash memorandum account is to be credited in connection with the CREST payment;
Payer	the member who is identified in an instruction to make a CREST payment as the participant whose cash memorandum account is to be debited in connection with the CREST payment;
Payee's settlement bank	the settlement bank which is acting for the Payee in respect of a CREST payment;
Payer's settlement bank	the settlement bank which is acting for the Payer in respect of a CREST payment;
Payment Settlement Event	<p>in relation to a CREST payment made by a Payer to a Payee, the combination of:</p> <ul style="list-style-type: none"><li>(a) the making of the relevant CMA Debit; and</li><li>(b) where the CREST payment is a DvP Payment, the occurrence of the related Delivery Settlement Event in accordance with CREST Rule 14; or</li><li>(c) where the CREST payment is an FoD Payment, the receipt by the Local Record of the cash posting data for the relevant CMA Debit;</li></ul>
Relevant Settlement Amount	<p>in connection with a CREST payment, a sum in the amount, the currency of account and the currency of payment determined in accordance with paragraph 3 below which:</p> <ul style="list-style-type: none"><li>(a) upon the occurrence of an Inter-Bank Settlement Event, falls due to: (i) the Payee's settlement bank and thereby immediately completes the CREST payment as between the Payer and the Payee and (ii) the Payee from the Payee's settlement bank; or</li></ul>

- (b) upon the occurrence of an Intra-Bank Settlement Event, falls due to the Payee and thereby immediately completes the CREST payment as between the Payer and the Payee; and

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the Trans-European Automated Real-time Gross settlement Express Transfer system, which provides RTGS for payments in euro with settlement in central bank money, and is established and functions on the basis of a single technical platform infrastructure known as the 'Single Shared Platform';

1.2 Terms which are used in this Rule 17, but not defined in this paragraph, have the meanings given to them in the Glossary of the CREST Manual.

1.3 Subject to paragraph 1.4 below, terms defined or used in the UK Regulations which are used in this Rule 17 shall have the meanings given to them in the UK Regulations.

1.4 In relation to any security which is or is to be a participating security under the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations or the Jersey Regulations, terms used in this Rule 17 which are defined by reference to the UK Regulations shall have the meanings ascribed to them in the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations or the Jersey Regulations respectively.

**2 The time at which CREST payment is complete**

2.1 Upon the occurrence of an Inter-Bank Settlement Event:

2.1.1 the Payer's settlement bank shall be irrevocably and unconditionally obliged to pay the Relevant Settlement Amount to the Payee's settlement bank. This settlement bank payment obligation shall be discharged subject to and in accordance with the Inter-Bank Contractual Arrangements; and (where the currency of payment of this settlement bank payment obligation is euro, as determined in accordance with paragraph 3.3 below) with the benefit of the ECB Guarantee; and

2.1.2 the Payee's settlement bank shall be irrevocably and unconditionally obliged to pay the Relevant Settlement Amount to the Payee.

2.2 Upon the occurrence of an Intra-Bank Settlement Event, the Payer's settlement bank shall be irrevocably and unconditionally obliged to pay the Relevant Settlement Amount to the Payee.

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2.3 Any settlement bank payment obligation arising under paragraph 2.1.2 or 2.2 shall be discharged subject to and in accordance with the contractual arrangements put in place between:

2.3.1 the relevant settlement bank and the Payee; and

2.3.2 EUI and the relevant settlement bank.

**3 The amount, the currency of account and the currency of payment of the Relevant Settlement Amount**

Upon the occurrence of a Payment Settlement Event:

3.1 the amount owed by the relevant settlement bank under its settlement bank payment obligation shall equal the amount of the CMA Debit posted to the Payer's cash memorandum account in respect of the CREST payment completed by or upon the creation of that settlement bank payment obligation;

3.2 the currency of account of that settlement bank payment obligation shall be the currency of denomination of the cash memorandum account to which that CMA Debit is posted;

3.3 (where the currency of account of the settlement bank payment obligation is, as determined in accordance with paragraph 3.2 above, an RTGS currency) the currency of payment of that settlement bank payment obligation shall be the currency of denomination of the cash memorandum account to which that CMA Debit is posted;

3.4 (where the currency of account of the settlement bank payment obligation is, as determined in accordance with paragraph 3.2 above, US dollars) the currency of payment of that settlement bank payment obligation shall be:

3.4.1 as between the Payee's settlement bank and the Payee, US dollars;

3.4.2 as between the Payer's settlement bank and the Payee's settlement bank:

(a) US dollars, where the settlement bank payment obligation is to settle under the Settlement File Account Procedure in accordance with clause 3.2 of the CREST US Dollars Inter-Bank Settlement Agreement;

(b) US dollars or sterling, where the settlement bank payment obligation is to settle by way of net settlement under the Payments Memorandum Account Procedure in accordance with clause 4.2 of the CREST US Dollars Inter-Bank Settlement Agreement; and

(c) US dollars, where the settlement bank payment obligation is excluded from settlement by way of net settlement under the Payments Memorandum

Account Procedure and is to settle in accordance with clause 4.3 of the CREST US Dollars Inter-Bank Settlement Agreement.

## Part III: Appeals procedures

# 1 Appeals

## Introduction

1 These procedures set out how a user or a participant may appeal against any decision which EUI has taken or proposes to take in respect of the user or participant in connection with the enforcement of any CREST Rule (which for this purpose includes any provision in the nature of a rule contained in the CREST Requirements). Such a decision includes, without limitation, any decision to levy a fine under the Registrars Service Standards or Settlement Discipline Rules or to give any publicity to a user's or participant's non-compliance with any of the CREST Rules or the CREST Requirements.

*Note: In relation to settlement discipline fines, save in exceptional circumstances, neither EUI nor the Appeal Body shall consider an appeal from a member where the reason given for the appeal relates to a failure of a counterparty to perform (e.g. to match or settle a transaction or settle or delete a claim which the appellant was able to match, settle or delete). The Settlement Discipline Rules address such instances by the use of percentage targets, enabling 'innocent' failures to be absorbed without sanction. In such circumstances it is for the innocent party to pursue its counterparty to ensure performance.*

## First Stage: Appeal to EUI

2 First stage appeals must be notified in writing within not more than 30 working days of receiving the relevant notice of a sanction or fine having been imposed:

2.1 to the Settlement Discipline Manager in respect of fines arising under the Registrars Service Standards or Settlement Discipline Rules; and

2.2 to the Company Secretary in respect of all other matters.

3 The appellant shall provide:

3.1 (where relevant) details of all the sanctions, transactions and fines notified by EUI which are being appealed;

3.2 the reasons for the appeal; and

3.3 any relevant supporting documentation.

4 In the case of appeals made against fines made under the Registrars Service Standards or Settlement Discipline Rules, the appellant will be invoiced £500 if the appeal is unsuccessful.

5 The relevant committee hearing the appeal may request such further information or clarification as it may reasonably require relating to the appeal. The Settlement

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Discipline Manager or the Company Secretary shall discuss the appeal with the Settlement Discipline Committee, for fines under the Settlement Discipline Rules, or an internal EUI committee, comprising at least three senior members of staff, for fines under the Registrar Service Standards. These committees shall decide whether or not to proceed with a sanction or reduce or waive a fine in the light of the appeal. The appellant shall receive the appeal decision in writing, giving the reasons for its decision, within 15 working days of receiving either the appeal or the further information requested by either committee.

### **Second Stage: The Appeal Body**

6 If any of the issues covered by a first stage appeal are not resolved to the appellant's satisfaction, he may then appeal to an Appeal Body whose members are independent of the EUI Executive but who are appointed by the Board of EUI.

#### *Composition of the Appeal Body*

7 The Appeal Body shall comprise ten people of a range of relevant experience in the industry. Its meetings shall be quorate when three members are present at its meetings. The Chairman of the Appeal Body shall convene a meeting of the Appeal Body when necessary.

8 Members of the Appeal Body shall declare any conflicts of interest and, where they have such a conflict, may not participate in the Appeal Body's consideration of the particular matter the subject of the conflict. The Chairman of the Appeal Body may co-opt an individual to the Appeal Body in respect of a particular matter where he considers additional and specific expertise to be necessary for the Appeal Body's deliberations.

9 The Appeal Body may request that EUI provide secretarial support.

#### *Appeals procedure*

10 Second stage appeals must be notified to the Chairman of the Appeal Body in writing within not more than 15 working days of EUI's or the Settlement Discipline Committee's written decision mentioned in paragraph 4 above. The appellant shall attach a copy of the original appeal decision and specify the basis of the appeal to the Appeal Body.

11 The appellant shall provide the appeal committee hearing the original appeal with a copy of its appeal at the same time as the appeal is made to the Chairman of the Appeal Body. The appeal committee hearing the original appeal shall have a further 15 working days to submit its own position in writing to the Appeal Body, a copy of which shall also be supplied to the appellant.

12 The Chairman of the Appeal Body may, in consultation with other members of the Appeal Body, decline to proceed with appeals which are, in his judgement, frivolous or vexatious. Otherwise the Chairman shall set the date (which shall not be more than one



month after receipt of all relevant information) for the hearing, and shall notify such Appeal date to all parties.

#### *The Appeal hearing*

13 Ordinarily, the Appeal Body shall consider appeals in written form only. However, either an appellant or the appeal committee hearing the original appeal may make an oral presentation to the Appeal Body if they believe that it is not possible or is inappropriate to make the submission entirely in written form. Where either the appellant or the appeal committee hearing the original appeal has asked to attend the Appeal Body's meeting in person, then the other party shall be invited to attend the hearing also.

14 In view of the technical nature of the subject matter, neither the appellant nor the appeal committee hearing the original appeal may be represented by any professional or legal advisers where the appeal is made in relation to the Registrars Service Standards or Settlement Discipline Rules, unless, in exceptional circumstances an issue is material which is not a matter of fact. However, either the appeal committee hearing the original appeal or an appellant may request that they be represented by a professional or legal adviser and/or may request (if relevant) that they may call witnesses where the appeal is made in relation to any other matter. Where either the appellant or the appeal committee hearing the original appeal has requested to be so represented, then the other party shall be given the same opportunity. If any party calls a witness the other party shall have the right to examine such witness.

15 Ordinarily, in view of the confidentiality likely to surround the subject matter of the appeal, the Appeal Body shall consider appeals in private. The Appeal Body shall consider an appeal in public if the appellant so requests.

16 In considering an appeal arising under the Registrars Service Standards or Settlement Discipline Rules, the Appeal Body shall have regard to the principles set out in paragraphs 17-18 below.

#### *Valid appeals*

17 The Appeal Body shall give favourable consideration to an appeal where, inter alia:

17.1 the failure to comply with the Standard or Rule was due to a system fault within the CREST system;

17.2 the reason given for the appeal relates to circumstances reasonably outside the control of the appellant;

17.3 in the case of an appeal by a registrar under the Registrars Service Standards, EUI had unreasonably used its discretion and had not waived Standards 1-3 in circumstances of abnormally high volumes; or

17.4 the rules had been incorrectly applied or interpreted by EUI.

*Invalid appeals*

18 Save in exceptional circumstances, the Appeal Body shall decline to uphold an appeal where, inter alia :

18.1 they judge the appeal to be frivolous or vexatious;

18.2 the reason given for the appeal relates to a shortage of staff; or

18.3 the reason given for the appeal relates to any other circumstances reasonably within the control of the appellant.

*Appeals against publicity*

19 In considering an appeal against a proposal by EUI to publicise a user's or a participant's failure to comply with any of the CREST Requirements (pursuant to EUI's powers under clause 4.3 of the CREST Terms and Conditions and the comparable provisions in the agreements entered into by other users and participants), the Appeal Body shall have regard to whether:

19.1 the facts of the case have been misrepresented in the proposed publicity or are incorrect;

19.2 giving publicity to the user's or participant's non-compliance is a disproportionate sanction for the offence; and

19.3 giving publicity to the user's or participant's non-compliance is, in some other way, unfair in the circumstances of the particular case.

*Notification of the Appeal Body's findings*

20 The Appeal Body shall decide by majority vote (with the Chairman having a casting vote) whether or not to proceed with a sanction or reduce or waive a fine in the light of the appeal. The voting of the Appeal Body shall remain confidential and the result shall be presented as a unanimous view.

21 If the Appeal Body does not uphold the appeal, it may make such order in relation to costs against the appellant as it considers appropriate.

22 The Appeal Body shall thereafter deliver a written statement of its findings and its reasons, together with any revised amount of fine due, to the appellant and the appeal committee hearing the original appeal within 15 working days of its meeting.

*General*

23 Any time limit in these rules may be extended with the consent of the Chairman at the request of either party if the Chairman determines that compliance with the time limit is not practicable for reasons beyond the requesting party's reasonable control.

## 2 Complaints in respect of regulatory functions

### Introduction and scope of the Complaints Procedure

1 Any person directly affected by the way in which EUI has performed or has failed to perform its regulatory functions<sup>16</sup> may bring a complaint under this Complaints Procedure provided that the complaint meets with the requirements of paragraphs 4 - 9 below.

1A Complaints in respect of matters other than the way in which EUI has performed or has failed to perform its regulatory functions can be made in accordance with the Eurodear Complaints Handling Policy.

2 The Complaints Procedure provides a procedure for enquiring into and, if necessary, addressing allegations, made by a complainant of misconduct by EUI arising solely from the way in which it has performed, or failed to perform, any of its regulatory functions, by reason of:

2.1 mistakes and lack of care;

2.2 unreasonable delay;

2.3 unprofessional behaviour;

2.4 bias; or

2.5 lack of integrity.

3 To be eligible to make a complaint under the Complaints Procedure set out in this Rule, a person must be seeking a remedy (which for this purpose may include an apology) in respect of some material inconvenience, distress or loss which the person has suffered as a direct consequence of EUI's actions or inaction in the carrying out of its regulatory functions.

4 Each of the following is excluded from the Complaints Procedure set out in this Rule:

4.1 complaints about the conduct of EUI's employees;

4.2 complaints connected with contractual or commercial disputes involving EUI;

<sup>16</sup> As defined in s291 of the Act.

4.3 complaints about the terms of these Rules or any other CREST Rules or any guidance made by EUI; and

4.4 complaints about a decision against which the complainant has the right to appeal under the Appeals Procedure<sup>17</sup>, or the subject matter of such a decision.

### **First stage: Complaints to EUI**

5 Complaints must be made in writing to EUI within three months of the date on which the Complainant first became aware of the circumstances giving rise to the complaint. Complaints notified to EUI after such date will only be considered if the complainant can show reasonable grounds for the delay.

6 The complainant shall provide details of the subject matter about which he is complaining and any relevant supporting documentation.

7 EUI may request such further information or clarification as it may reasonably require relating to the complaint. EUI shall arrange for an initial investigation by a senior member of staff who has not previously been involved in the matter to which the complaint relates. EUI shall thereafter send the complainant its response in writing, setting out what action it proposes to take (if any) in order to resolve the complaint, within 15 working days of receiving either the complaint or the further information requested by EUI. Resolving a complaint may include offering an apology to the complainant, taking steps to rectify an error or, if appropriate, offering a compensatory payment on an ex-gratia basis. EUI shall inform the complainants of his rights under paragraph 10 below (and following).

8 EUI will not investigate a complaint which it reasonably considers:

8.1 could have been, or would be, more appropriately dealt with in another way; or

8.2 amounts to no more than dissatisfaction with EUI's general policies or with the exercise of discretion where no unreasonable or unprofessional behaviour or other misconduct is alleged.

9 EUI will not make any charge to a complainant in relation to a first stage complaint made to EUI.

### **Second stage: the Complaints Investigator**

10 If any of the issues covered by a complaint to EUI are not resolved to the complainant's satisfaction, he may then refer his complaint to the Complaints Investigator (which role shall be carried out by the Chairman of the Appeal Body, who is independent of EUI.)

<sup>17</sup> Section 1 of this Part III of the CREST Rules.

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11 Referrals of complaints to the Complaints Investigator must be made in writing within three months of EUI's response to the complainant made pursuant to paragraph 7.

12 The Complaints Investigator shall not investigate any complaint which relates to a matter which is outside the scope of the Complaints Procedure as described in paragraphs 2 – 4.

13 The Complaints Investigator may conduct an investigation in whatever manner he thinks appropriate including obtaining, at EUI's expense, such EUI or external resources as may be reasonable.

14 EUI shall afford the Complaints Investigator all reasonable co-operation including giving access to its staff and information. EUI may, in affording the Complaints Investigator access to information, have regard to the need to maintain the confidentiality of certain kinds of information. In any case where EUI decides that it should withhold information, it will inform the Complaints Investigator of the nature of that information and its reasons for withholding it.

15 The fact of any investigation being conducted by the Complaints Investigator shall not prevent EUI from continuing to take such action, or such further action, as it considers appropriate in relation to any matter which is related to a complaint or a complainant. EUI shall inform the Complaints Investigator of any such action taken.

16 In the investigation of a complaint, either by EUI or by the Complaints Investigator, any finding of fact of a court or tribunal of competent jurisdiction (whether in the England and Wales or elsewhere) which is not the subject of a current appeal shall be conclusive evidence of the facts so found and any decision of that court or tribunal shall be conclusive.

17 The Complaints Investigator shall report to EUI and to the complainant the results of his investigation within three months of the complaint being referred to him, giving reasons for any recommendations he makes. Where the Complaints Investigator is unable to complete his investigation within the three month time period, he shall inform the parties of this fact.

18 The Complaints Investigator shall ensure that his report does not mention the name of any person (other than EUI and the complainant) or contain particulars which are likely to identify any person unless in the opinion of the Complaints Investigator the omission of such particulars would be likely to impair the effectiveness of the report.

19 The Complaints Investigator may, if he thinks it appropriate, recommend that EUI takes either or both of the following steps:

19.1 remedy the matters which are the subject of the complaint; or

19.2 make a compensatory payment to the complainant.

20 In any case where the Complaints Investigator has reported that a complaint is, in his opinion, well founded or where he has criticised EUI in his report, EUI shall inform the Complaints Investigator and the complainant of the steps which it proposes to take by way of response. It is noted that the recommendations of the Complaints Investigator are not binding on either of the parties. In deciding how it should respond to any recommendation by the Complaints Investigator, EUI shall take into account the impact of the cost of compensatory payments on participants in the CREST system.

## Part IV: Appendices



## **Appendix 1: Application procedures for securities (other than eligible debt securities and investment funds)**

*Note: Appendix 1 sets out the Application Procedures which apply where an issuer is applying for its securities (other than eligible debt securities) to be admitted to the CREST system. Where an issuer proposes to issue into the CREST system uncertificated units of an eligible debt security, it is required to adhere to the terms of the Application Procedures set out in Appendix 2. In relation to investment funds participating in the Investment Funds Service, investment funds are required to adhere to the terms of the Application Procedures set out in Appendix 3.*

### **1 Admission of an existing, certificated security**

1.1 The issuer for the security must complete and return to EUI the Security Application Form. The relevant Security Application Form, which specifies the data that are required for the Security Details maintained in the system, should normally be submitted to EUI a reasonable period before the security is proposed to be admitted to the CREST system: in normal circumstances this will be a minimum of one business day. Issuers should take note of the acknowledgements, declarations and undertakings that they are making by virtue of signing the Security Application Form.

1.2 EUI will input the security details to the CREST system but will not validate them.

1.3 Issuers should note that, if any of the conditions set out in Rule 7 or 9 have not been fulfilled at the time when the Security Application Form is submitted to EUI, the issuer concerned should signify this by entering 'N' in the appropriate box on the Form. Where 'N' is entered, EUI will not enable the security until it has received confirmation in writing, by the issuer or its agent, that all outstanding conditions have been satisfied.

*Note: Issuers are reminded that it is their responsibility to ensure that all the conditions are satisfied before permission is granted and that EUI does not monitor whether any outstanding condition(s) has or have been satisfied.*

1.4 When this confirmation has been received, EUI will enable the security on a date to be agreed between EUI, the issuer of the security and the CREST Registrar for that security. EUI's permission will be treated as granted under the CREST Regulations, and the security will accordingly be admitted to the CREST system, at the time when the security is enabled.

*Note: Issuers should note that, once permission has been granted, no further permission is necessary for subsequent issues of units of the same security (which form one class with the existing issued units). However, where the further units (although forming one class with the existing units) are not identical with the existing issued units, further permission of EUI will be necessary (see Section 2 below).*

## 2 Admission of a new security

2.1 A security will be regarded as being *new*, and therefore requiring EUI's permission under the CREST Regulations, if it differs from a security that is already admitted to the CREST system: i.e. that it does not form one class with an existing security. For example, if a company had in issue ordinary shares which were already admitted to the CREST system and then proposed to make a rights issue of further ordinary shares, the nil-paid rights (when provisionally allotted) would themselves constitute a separate new security. The issuer would therefore need to apply for permission for the nil-paid rights to be admitted to the CREST system. Similarly, fully-paid rights whilst unregistered constitute a new security, and an application for permission would be required. Conversely, a bonus issue of further new ordinary shares in registered form ranking in all respects identically to existing ordinary shares would *not* constitute a new security and, accordingly, no application for permission would be necessary.

2.2 In terms of the CREST Regulations, a security may be the same security as an existing participating security even though certain of the rights attaching to it differ for a temporary period. An example would be an issue of further new ordinary shares in registered form which temporarily rank differently for dividend purposes from the ordinary shares already admitted to the CREST system. In these situations, even though the new units are not a different security (in terms of the CREST Regulations), EUI must nevertheless give its permission (in consequence of Rule 7 paragraph 2.7, which requires all units of a security to be identical) for the new units to be admitted to the CREST system, for a temporary period, with the different rights. In practical terms, a new ISIN will be created for the new units in this situation (as if they will constitute a new security) and the issuer must comply with these procedures and with Rule 7 as if applying for permission for a new security to be admitted to the CREST system. For so long as the rights are different, the units will be treated, in system terms, as if they were units of a different security.

2.3 Some new issues are not time-critical. Where this is the case, the Rules and procedures for admitting an existing certificated security will be followed.

2.4 Whilst completion of the Security Application Form and satisfaction of the conditions referred to in Rule 7 are the responsibility of the issuer, it should be noted that the facility to indicate (by entering 'N' in the appropriate box on the Form) that outstanding conditions have not yet been fulfilled may be particularly useful in new issues such as nil paid rights in rights issues. In such cases, the nil paid rights are normally provisionally allotted conditional on listing becoming effective. Issuers should notify EUI when listing had become effective, at which point the security would be enabled in the system.

2.5 Where a new issue is time-critical, the security concerned may be tradeable (and therefore needing to be settled) within a short period after the making of the announcement relating to the issue (for example, nil paid rights might be tradeable on the business day following the announcement). In such circumstances:

- 2.5.1 the issuer for the security must complete and return to EUI a Security Application Form at the earliest possible opportunity after the relevant announcement has been made; exceptionally, EUI will accept this notification by fax but will continue to require the signed original in due course;
- 2.5.2 the Security Details will be input to the CREST system by EUI as soon as is practicable thereafter but will not be validated by EUI;
- 2.5.3 when confirmation has been received that all conditions for admission of the security have been satisfied, EUI will enable the security at a time to be agreed between EUI, the issuer of the security and the registrar for that security; ordinarily, this will be around 08.30 (the time at which listing is normally granted); and
- 2.5.4 EUI's permission will be treated as granted, and the security will accordingly be admitted to the CREST system, at the time the security is enabled.

### **3 Notes regarding the completion of the Security Application Form**

3.1 Issuers should study carefully this Appendix 1 and CREST Rules 7 – 9 (as appropriate) before completing the Security Application Form. Issuers' attention is drawn in particular to the conditions set out in the Rules, which must be satisfied in order for permission to be granted for a security to be transferred through the CREST system.

3.2 By completing and signing the Security Application Form, issuers are acknowledging the CREST system and its functionality, declaring that the conditions set out in the Rules are (or will be) satisfied in relation to the security for which permission is sought, and undertaking to EUI to comply with the requirements of EUI from time to time, so far as applicable to them as issuer of the security concerned. The CREST system is described in the CREST Manual and the current requirements applicable to issuers are set out or referred to in CREST Rules 7 – 9 (as appropriate). In addition, EUI's limitations and exclusions of liability to issuers are set out in the CREST Manual.

Unless the context otherwise requires, terms defined in the CREST Regulations and the CREST Manual have the same meanings when used in the Security Application Form.

After the Security Application Form has been completed and signed, it should be sent to the issuer's registrar or receiving agent for forwarding to EUI.

Although most of the Security Application Form is self explanatory, the following outlines areas within the form that may need further clarification. Please note that the shaded areas on the form represent the information that will be used for system purposes. All other information on the form is for internal usage only.

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Note that the box reference numbers used below refer to the Security Application Form used for most CREST securities.

*Box 2: Description of security*

Insert here the full description and denomination of the security, e.g. 'ordinary shares of £1 each' or 'new ordinary shares of £1 each provisionally allotted by way of rights and nil paid'.

*Box 3d: Balance decimal places*

This box is mainly relevant for issues of bonds (although not exclusively). If the security is a bond (or equity), the issuer should indicate the smallest unit of the security which can be settled (e.g. 1 penny = 2 decimal places for a security denominated in pounds).

*Box 3g: Nat Declaration Required*

The majority of securities within the CREST system do not require a nationality declaration, however there are instances where issuers wish to monitor the levels of ownership of the company by foreign nationals. Further information can be found within the CREST Reference Manual, *Chapter 5, Section 4*.

*Box 3i: DBV Allowed*

Securities admitted to the CREST system are arranged in categories for the assembly of Deliveries by Value (DBV's). Generally, securities will be allowed to be used for this collateral process but, if the security cannot be used it should be noted here. For full details of the DBV process, please refer to the CREST Manual.

*Box 4a: Security Start Date*

This is the date on which the security can begin to settle in the CREST system, provided all of the conditions have been fulfilled. This usually occurs once listing has been granted.

*Box 5: Registered office of issuer and details of agent for service*

An issuer which is incorporated outside the UK must specify the address of a body corporate incorporated in England and Wales which it has appointed as its agent for service of process.

*Box 7: Registrar ID*

Some Registrars have more than one Participant ID. Issuers should check with their particular Registrar to ensure the correct ID is used.

*Box 7a: Registrar's full name and address*

It is a condition of permission being granted for a security to be transferred through the CREST system that there is, at all times, a system-participant admitted as a CREST Registrar who is able to carry out registrar functions in relation to the security concerned. Insert here the full name and address of the CREST Registrar concerned. If the issuer is also the CREST Registrar for the security concerned, insert here the name of the issuer.

*Box 8a: Announcement Agent's full name and address*

*Each security in the CREST system has, in addition to a Registrar, an Announcement Agent who is responsible for inputting and monitoring meeting announcements in the CREST system in the context of the CREST voting service. Insert here the full name and address of the Announcement Agent concerned.*

*Box 8a: Announcement Agent ID*

If no Participant ID is entered into this box, then the system shall automatically default to the ID of the Registrar entered in box 7. Please refer to the Reference Manual for further details.

*Box 9: Are dividend payments available through the CREST system?*

Answer 'Y' where in accordance with Articles of Association or other terms of issue, CREST system shareholders in this security may elect to receive dividends/interest payments and the associated tax details (using a PAY instruction) via the CREST system.

*Box 10: Are dividend elections permitted?*

Answer 'Y' where in accordance with Articles of Association or other terms of issue, electronic instructions may be used to select a Scrip/DRIP or Currency alternative to a cash dividend associated with the security.

*Box 11: Are all conditions fully satisfied?*

The conditions for the admission of a security to the CREST system are set out in CREST Rules 7-9. Answer 'Y' if all conditions that are required to be fulfilled before permission is granted by EUI have been fulfilled at the time of submission of the Security Application

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Form to EUI. Answer 'N' where they have not been satisfied. Where this box is marked 'N', EUI will not grant permission (by enabling the security in the CREST system) until it receives confirmation in writing by the issuer that all outstanding conditions have been satisfied. Note that if listing is still to be granted, the answer should be 'N'.

*Box 13(a): Is the Security subject to Regulation S, Category 3 or Regulation S, Category 3 / Rule 144A of the US Securities Act of 1933, as amended (US Securities Act)?*

If the answer is 'yes', you must select the corresponding option from the list in 13.(b) and specify the intended end-date of the Distribution Compliance Period in 13.(c). The CREST Reference Manual describes the procedure for the admission, holding and transfer of these securities. This box should only be answered 'yes' for equity securities constituted under the law of the United States of America.

Where you answer 'yes', by signing the SAF you represent and warrant that each of the statements contained in Appendix 1 to the SAF are correct and apply to the admission and settlement of the securities in the CREST system.

*Box 13(b): Restriction type*

Please select from the drop down menu the relevant restriction type.

*Box 13(c): Intended end-date of the Distribution Compliance Period (DCP)*

Insert the intended end-date of the DCP. This will be used for information purposes only. EUI will treat the security as a restricted security until the issuer or its registrar has provided, on a standard form, separate notification that the DCP has come to an end for all securities under this ISIN.

*Box 14: Is the Security subject to any other transfer restrictions or any requirements as to the nationality of the holder of the Security?*

Where the securities are subject to other holding or transfer restrictions this box should be answered "yes".

Where you answer 'yes', by signing the SAF you represent and warrant that each of the statements contained in Appendix 2 to the SAF are correct and apply to the admission and settlement of the securities in the CREST system.

## Appendix 2: Application procedures for eligible debt securities

*Note: A reference in this Appendix 2 to the 'issuer' of an eligible debt security is a reference to each person who is an issuer of the security in accordance with regulation 3(4) of the UK Regulations.*

### 1 Admission of an eligible debt security

1.1 An issuer must not seek to admit a security as an eligible debt security under the Application Procedures set out in this Appendix 2, unless the proper law of the terms of issue is the law of England and Wales, Northern Ireland or Scotland.

1.2 An 'eligible debt security' is a security that satisfies the following conditions:

1.2.1 the security is constituted by an order, promise, engagement or acknowledgement to pay on demand, or at a determinable future time<sup>18</sup>, a sum in money to, or to the order of, the holder of one or more units of the security; and

1.2.2 the current terms of issue of the security provide that its units may only be held in uncertificated form and title to them may only be transferred by means of a relevant system<sup>19</sup>.

1.3 As an eligible debt security is a wholly dematerialised security, it is not possible for an issuer to seek to admit to the CREST system under the Application Procedures set out in this Appendix 2 an existing security held in certificated form.

1.4 In view of the nature of an eligible debt security as a means of raising short-term funding, and the circumstances of its issue and settlement, it is considered impracticable to require the issuer of such a security to adhere to the Application Procedures set out in Appendix 1. In particular, it is not considered practicable to require the issuer to complete and return to EUI a Security Application Form in respect of each new eligible debt security which it proposes should be admitted to the CREST system.

1.5 However, an issuer that proposes to issue eligible debt securities into the CREST system must complete and return to EUI an Issuer Application Form. Under an Issuer Application Form, the issuer applies to EUI for permission to issue into the CREST system uncertificated units of one or more eligible debt securities of the issuer from time to time. An Issuer Application Form must be completed and returned to EUI in respect of each

<sup>18</sup> For this purpose, regulation 3(6) of the UK Regulations provides that a sum of money – (a) is to be regarded as payable at a determinable future time if it is payable – (i) at a future time fixed by or in accordance with the current terms of issue of the security; or (ii) at the expiry of a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening may be uncertain; and (b) is not to be regarded as payable at a determinable future time if it is payable on a contingency.

<sup>19</sup> An 'eligible Northern Ireland Treasury Bill' and an 'eligible Treasury bill' (each as defined in the UK Regulations) are also eligible debt securities.

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issuing and paying agent<sup>20</sup> which is appointed by the issuer concerned. Where a primary issuer and a secondary issuer propose to issue uncertificated units of an eligible debt security corresponding to a banker's acceptance, each issuer must complete and return the Issuer Application Form.

1.6 If an Issuer Application Form is submitted to EUI, the issuer will not be required to complete and return a Security Application Form for each new eligible debt security that it proposes to be admitted to the CREST system through the services provided by the issuing agent specified in the Issuer Application Form (or any replacement issuing agent appointed by the issuer and which may be notified to EUI in accordance with the CREST Reference Manual and/or the CREST Rules).

1.7 The Issuer Application Form should be submitted to EUI a reasonable period before the issuer proposes to commence the issue of uncertificated units of eligible debt securities into the CREST system; in normal circumstances this will be a minimum of one business day. This time is necessary to allow EUI to set up the details of the relevant issuer-IPA relationship in the system<sup>21</sup>. Before the security details of any new eligible debt security are entered into the system in response to an IPA issuance message attributable to a particular issuing agent (and an ISIN code is allocated by the CREST system to the security concerned), procedures are operated which validate that the Primary Issuer ID (and, where relevant, the Secondary Issuer ID) specified in the IPA issuance message correspond to an issuer-IPA relationship maintained in the system.

1.8 Issuers should take note of the acknowledgements, warranties, declarations and undertakings that they are making by virtue of signing the Issuer Application Form. Where an Issuer Application Form is submitted by the primary issuer and secondary issuer of eligible debt securities corresponding to bankers' acceptances, the obligations and liabilities of the issuers under or pursuant to the Issuer Application Form are expressed to be joint and several.

1.9 Issuers and issuing agents shall not send an IPA issuance message<sup>22</sup> to the CREST system in respect of any eligible debt security of the issuer concerned, unless all of the conditions set out in Rule 7 have been fulfilled or will have been fulfilled by the security start date<sup>23</sup> specified in the IPA issuance message. The combination of the IPA issuance message and the Issuer Application Form constitutes the means by which the issuer applies for the eligible debt security concerned to be admitted to the CREST system.

<sup>20</sup> In the CREST Reference Manual and these CREST Rules, an 'issuing and paying agent' refers to a person who performs the functions of either or both of an issuing agent and a paying agent. Where an issuer appoints an issuing agent which is different from the paying agent in respect of an eligible debt security, a separate Issuer Application Form must be submitted in respect of the issuing agent and the paying agent respectively.

<sup>21</sup> IPA-issuer relationships are held as static data maintained by the System Controller.

<sup>22</sup> An IPA issuance message is an issuer-instruction attributable to the issuer of an eligible debt security and its issuing agent. Upon validation in accordance with the procedures described in the CREST Reference Manual, the CREST system will in response to an IPA issuance message automatically create the security details (including the ISIN allocated to the security) and, on the security start date specified in the IPA issuance message, credit units of the security (via an adjustment (ADJ) transaction) to the issuing agent's stock account.

<sup>23</sup> This is the date on which a security can begin to settle in the CREST system, provided all of the conditions have been fulfilled.



*Note: Issuers are reminded that it is their responsibility to ensure that all the conditions are satisfied before permission is granted and that EUI does not monitor whether any outstanding condition(s) has or have been satisfied.*

1.10 EUI will enable the eligible debt security, upon credit of units of the security to the issuing agent's stock account, on the security start date specified in the relevant IPA issuance message<sup>24</sup>. EUI's permission in respect of a particular eligible debt security will be treated as granted under the UK Regulations, and the security will accordingly be admitted to the CREST system, at the time when the security is so enabled. Apart from the validation procedures operated by the CREST system in relation to an IPA issuance message described in the CREST Reference Manual, no other validation is undertaken by EUI before the security details of an eligible debt security are entered into the system or units of the security are credited to the issuing agent's stock account. EUI's grant of permission for title to units of a particular eligible debt security of an issuer to be transferred by means of the CREST system is given in reliance on the acknowledgements, warranties, declarations and undertakings contained in the Issuer Application Form completed by the issuer concerned.

*Note: Issuers should note that, once permission has been granted, no further permission is necessary for subsequent issues of units of the same security (which form one class with the existing issued units) in order to increase the nominal amount of the eligible debt security in issue e.g. to 'tap' an issue. However, where the further units (although forming one class with the existing units) are not identical with the existing issued units, a new IPA issuance message (which specifies a new 'issue reference') must be submitted by the issuing agent in order to create new security details in the system and to credit new units of the security to the issuing agent's stock account (on the specified security start date). A new ISIN code will be allocated to the security upon the creation of the new security details in the system. The Application Procedures set out in this Appendix 2 apply to such an issue of further new units.*

## **2 Notes regarding the completion of the Issuer Application Form**

2.1 Issuers should study carefully this Appendix 2 and CREST Rule 7 before completing the Issuer Application Form and sending (or procuring the sending) of an IPA issuance message in respect of units of an eligible debt security of the issuer. Issuers' attention is drawn in particular to the conditions set out in the Rules, which must be satisfied in order for permission to be granted for an eligible debt security to be transferred through the CREST system.

2.2 By completing and signing the Issuer Application Form, issuers are acknowledging the CREST system and its functionality, declaring that the conditions set out in the Rules will be satisfied in relation to each eligible debt security for which permission is sought,

<sup>24</sup> If no security start date is specified, the units will be credited on the date of the IPA issuance message (if it is received before the 'EDS issuance deadline' diary event).

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and undertaking to EUI to comply with the requirements of EUI from time to time, so far as applicable to them as an issuer of eligible debt securities. The CREST system is described in the CREST Manual and the current requirements applicable to issuers of eligible debt securities are set out or referred to in CREST Rule 7. In addition, EUI's limitations and exclusions of liabilities to issuers are set out in the CREST Manual.

Unless the context otherwise requires, terms defined in the UK Regulations and the CREST Manual have the same meanings when used in the Issuer Application Form.

After the Issuer Application Form has been completed and signed, it should be sent to the issuer's issuing agent for forwarding to EUI.

Although most of the Issuer Application Form is self explanatory, the following outlines areas within the form that may need further clarification.

*Box 1: The Issuer*

Where an Issuer Application Form is submitted by the primary issuer and the secondary issuer of eligible debt securities corresponding to bankers' acceptances, the names of both the primary issuer and the secondary issuer should be inserted here. It should be specified which issuer is to act in the capacity of the primary issuer, and which issuer is to act in the capacity of the secondary issuer. Where two or more persons are to act in the capacity of the secondary issuer, the name of each secondary issuer should be specified. The obligations and liabilities of the primary issuer and secondary issuer(s) under or pursuant to the Issuer Application Form are expressed to be joint and several (see paragraph 5(n)).

*Box 2: Registered office of issuer*

An issuer which is incorporated outside the UK must (unless it is a body corporate incorporated within the EU) specify the address of a body corporate incorporated in England and Wales which it has appointed as its agent for service of process. A similar requirement applies to a state or other public authority or agency issuer (unless incorporated or established with the EU).

*Box 4: Issuing and paying agent's full name and address*

It is a condition of permission being granted for an eligible debt security to be transferred through the CREST system that there is, at all times, a system-participant admitted as a CREST IPA who is able to carry out issuing and paying agent functions in relation to the eligible debt security concerned<sup>25</sup>. Insert here the full name and address of the CREST IPA concerned. Where an issuer appoints an issuing agent which is different from the paying

<sup>25</sup> It is permissible for an issuer to appoint one CREST IPA to perform the functions of an issuing agent and a different CREST IPA to perform the functions of a paying agent in respect of an eligible debt security of the issuer (where the EDS is of type Bank Bill, CD or CP).

agent in respect of an eligible debt security, a separate Issuer Application Form must be submitted in respect of the issuing agent and the paying agent respectively; (the issuing agent and the paying agent are both referred to as an 'issuing and paying agent' for the purposes of the Issuer Application Form<sup>26</sup>).

*Box 4a: IPA ID*

Some issuing and paying agents have more than one Participant ID. Issuers should check with their particular issuing and paying agent to ensure the correct ID is used.

<sup>26</sup> It is the function of the relevant IPA issuance message to specify in such cases which CREST IPA is to act as the issuing agent, and which CREST IPA is to act as the paying agent, in relation to the eligible debt security concerned.

## **Appendix 3: Application procedures for the Investment Funds Service**

### **1 Admission of an investment fund**

1.1 Investment funds are not required to complete and return to EUI a Security Application Form in relation to each class of units to be admitted to the Investment Funds Service.

1.2 However, an investment fund that proposes to have a class of units admitted to the Investment Funds Service must complete and return to EUI an Investment Fund Application Form. Under an Investment Fund Application Form, the investment fund applies to EUI for permission to participate in the Investment Funds Service and for classes of units to be admitted to the Investment Funds Service from time to time. An Investment Fund Application Form must be completed and returned to EUI in respect of each product provider which is appointed by the investment fund concerned.

1.3 If an Investment Fund Application Form is submitted to EUI, the investment fund will not be required to complete and return an Investment Fund Application Form for each new class of units that it proposed to be admitted to the Investment Funds Service through the services provided by the product provider specified in the Investment Funds Application Form (or any replacement product provider appointed by the investment fund and which may be notified to EUI in accordance with the CREST Reference Manual and/or the CREST Rules).

1.4 The Investment Fund Application Form should be submitted to EUI a reasonable period before the investment fund proposes to have a class of units admitted to the Investment Funds Service; in normal circumstances this will be a minimum of two business days. Before the security details of any new class of units of an investment fund are entered into the system following the request of a product provider (see further below), procedures are operated which validate that the investment fund has submitted an Investment Fund Application Form in relation to that product provider.

1.5 Investment funds should take note of the acknowledgements, warranties, declarations and undertakings that they are making by virtue of signing the Investment Fund Application Form.

1.6 The product provider appointed by the particular investment fund should submit a request to EUI for a particular class of units to participate in the Investment Funds Service. The request should be made in a standard format approved by EUI and should be submitted a reasonable period before the product provider proposes to the class of units admitted to the Investment Funds Service; in normal circumstances this will be a minimum of one business day. EUI will input the security details but will not validate them.

1.7 Product providers should not request that details of a new class of units of an investment fund are entered into the CREST system in respect of the investment fund

concerned, unless all of the conditions set out in Rule 7 have been fulfilled or will have been fulfilled by the security start date<sup>27</sup> requested by the product provider. The combination of the request by the product provider and the Investment Fund Application Form constitutes the means by which the investment fund applies for the class of units concerned to be admitted to the Investment Funds Service.

*Note: Investment funds are reminded that it is their responsibility to ensure that all the conditions are satisfied before units are admitted to the Investment Funds Service and that EUI does not monitor whether any outstanding condition(s) has or have been satisfied.*

1.8 EUI will enable the class of units on the security start date specified in the product provider's request. EUI's permission in respect of a class of units will be treated as granted, and the units will accordingly be admitted to the Investment Funds Service, at the time when the class of units is so enabled. No validation is undertaken by EUI before a class of units is enabled. EUI's grant of permission for units of a particular investment fund to participate in the Investment Funds Service (and for notional units in relation to that investment fund to be transferred by means of the CREST system) is given in reliance on the acknowledgements, warranties, declarations and undertakings contained in the Investment Fund Application Form completed by the investment fund concerned.

*Note: Investment funds should note that, once permission has been granted, no further permission is necessary for subsequent notional units of the same class to be created in the CREST system.*

## **2 Notes regarding the completion of the Investment Fund Application Form**

2.1 Investment funds should study carefully this Appendix 3 and CREST Rule 7 before completing the Investment Fund Application Form and sending (or procuring a product provider sends) details of a particular class of units to EUI for participation in the Investment Funds Service. Investment funds' attention is drawn in particular to the conditions set out in the Rules, which must be satisfied in order for permission to be granted for an investment fund (and a particular class of units) to participate in the Investment Funds Service.

2.2 By completing and signing the Investment Funds Application Form, investment funds are acknowledging the CREST system and its functionality, declaring that the conditions set out in the Rules will be satisfied in relation to each class of units issued by the investment fund for which permission is sought, and undertaking to EUI to comply with the requirements of EUI from time to time, so far as applicable to them. The CREST system is described in the CREST Manual and the current requirements applicable to units issued by investment funds are set out or referred to in CREST Rule 7. In addition, EUI's limitations and exclusions of liabilities to investment funds are set out in the CREST Manual.

<sup>27</sup> This is the date on which notional units can be transferred in the CREST system, provided all of the conditions have been fulfilled.

2.3 After the Investment Fund Application Form has been completed and signed, it should be sent to the investment fund's product provider for forwarding to EUI.





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