

Directive 31

18 Dec 1987

Directives to Merchant Banks

## **Trusts Accounts**

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31(1) A dealer shall:-

- (a) treat and deal with all monies, securities or property:-
  - (i) received by him from a client for the purchase of Government securities;
  - (ii) received from or on account of the client from the sale of Government securities; or
  - (iii) held on behalf of or for the account of the client in relation to Government securities transactions, as belonging to and kept in trust for that client;
- (b) account in one or more separate trust accounts designated or evidenced as such, for all the monies, securities, or property received from the client or accruing to the client pursuant to paragraph (a) (i);
- (c) pending the application of the monies, securities or property or payment of the monies or delivery of the securities, or property to the client, as the case may be, pay or deposit the monies, securities or property into the separate trust account by the next bank business day; and
- (d) not commingle these monies, securities or property with the monies, securities or property of the dealer or use them to guarantee, pledge, hypothecate, charge or mortgage or extend the credit of any client or person other than the person for whom they are held provided that in no event shall the guarantee, pledge, hypothecation, charge or mortgage of the monies, securities or property of the client by the dealer exceeds the sum owed by the client to that dealer.

31(2) A dealer shall not withdraw any monies, securities or property from a trust account except for the purpose of making a payment or delivery:-

- (a) to the person entitled thereto;
- (b) defraying brokerage and other proper charges; or
- (c) that is otherwise authorised by law.

31(3) Save as otherwise provided in this Directive; monies, securities or property held in a trust account shall not be available for payment of the debts of a dealer or be liable to be paid or taken in execution under an order or process of any court.

31(4) Nothing in this Directive shall take away or affect a lawful claim or lien which any person has against or upon any monies, securities or property held in trust account or against or upon any monies, securities or property received from the purchase of Government securities or from the sale of Government securities before, such monies, securities or property are paid or deposited into the trust account.

31(5) In this Directive, "securities" has the same meaning as Cap is assigned to that expression in the Securities Industry 289 Act and include Government securities and book-entry securities.

31(6)(a) A Primary or Registered dealer shall establish and maintain two securities accounts with the Authority in respect of book-entry securities transactions as follows :-

- (i) a securities account for transactions relating to the Primary dealer's or Registered dealer's own transactions in book-entry securities; and
- (ii) clients' securities account designated as a trust account for clients in relation to transactions in book-entry securities by the Primary or Registered dealer on behalf of or for the account of its clients. Directive 31(1) to (5) shall apply with the necessary modifications to the clients' securities trust account, as if the book-entry securities were issued by the Authority in the form of engraved or printed certificates, and any transfer, delivery, pledge, charge, hypothecation or mortgage of the book-entry securities shall have effect in the same manner as if they are in engraved or printed certificates.

(b) A Secondary dealer shall establish and maintain two securities accounts with a Primary or Registered dealer or a bank in respect of any book-entry securities transactions as follows :-

- (i) a securities account for transactions relating to the Secondary dealer's own transaction in book entry securities; and
- (ii) clients' securities account designated as a trust account for clients, in relation to transactions in book-entry securities entered into by the Secondary dealer on behalf of and for the account of his clients. Directive 31(1) to (5) shall apply with the

necessary modifications to the clients' securities trust account, as if the book entry securities were issued by the Authority in the form of engraved or printed certificates and any transfer, delivery, pledge, charge, hypothecation or mortgage of the book-entry securities shall have effect in the same manner as if they are in engraved or printed certificates.

31(7) A dealer shall segregate and separately account for monies, securities or property held for safe-custody or fully paid for by others, from other monies, securities or properties.

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