Bangladesh Securities and Exchange Commission

Securities Commission Bhaban
E-6/C Agargaon
Shere-e-Bangla Nagar Administrative Area
Dhaka-1207, Bangladesh

Draft Rules

In exercise of the power conferred by section 33(1) of the Securities and Exchange Ordinance, 1969 (Ordinance XVII of 1969), the Bangladesh Securities and Exchange Commission makes, with prior circulation, the following rules, namely:

1. **Short title.**– These rules may be called the Bangladesh Securities and Exchange Commission (Short-Sale) Rules, 2019.
2. **Definitions.**– (1) In these rules, unless there is anything repugnant in the subject or context,-

(a) "collateral" means any acceptable form of collateral:

(i) cash;
(ii) certificate of deposit;
(iii) bank guarantee;
(iv) liquid financial instruments;
(v) eligible listed securities;
(vi) any other financial instrument, as approved by the exchange or central counterparty (CCP), as appropriate;

(b) "financial instrument" means listed equity or debt instrument;

(c) "ledger" means a record containing details of all short selling activities by a stock dealer for their own account or stock broker for the account of their clients as required under these rules;

(d) "short-sale" or "short-selling" means the sale of any eligible securities which-

(i) the seller does not own, or
(ii) is consummated by the delivery of any securities borrowed by or for the account of the seller;

(e) "Securities borrowing and lending" means an arrangement in which the lender transfers any eligible securities to the borrower which is not a sale, and the borrower agrees to transfer the eligible securities back to the lender at a later date, and the borrower provides collateral against the risk that the future transfer of securities is not completed satisfactorily.

(2) Words and expressions used herein and not defined, but defined in the Securities and Exchange Ordinance, 1969 (XVII of 1969), the Bangladesh Securities and Exchange Commission Act (Act No. 15 of 1993), the Rules and Regulations made thereunder shall have the same meanings respectively assigned to them in the said Ordinance, Act, Rules and Regulations.

3. **Owning Securities.-** A person shall be deemed to own any securities only if he has:

(a) title to the securities; or

(b) purchased, or borrowed, or is entitled to, the securities by any legal process.

4. **Short-Selling Framework.-**

(1) Stock dealers and stock brokers shall fulfil the fit and proper criteria as set by the exchange.

(2) Short-selling shall only be undertaken complying the rule 8.

(3) Stock brokers may only enter into the short-sale of any eligible securities on behalf of clients, if the transaction is confirmed by the client in a format approved by the exchange and the stock broker takes the responsibility for ensuring the timely delivery of the securities.

(4) Short-selling shall not be permitted by the exchange, if:

(a) the securities is under an offer for merger or acquisition;

(b) the securities is not eligible securities for short selling.

(5) Any other conditions the exchange may establish from time to time with prior approval from the Commission.

5. **Short-selling mechanism.-**

(1) Stock dealers and stock brokers may only enter into the short-sale of any eligible securities, if they have entered into a valid contract for securities borrowing, unless otherwise specified by other rules or regulations.

(2) Subject to rule 3 and 4 of these rules:

(a) stock dealers may short-sell for their own account;

(b) stock brokers may short-sell for client's accounts provided they are made aware the order is a short-sale and shall, when placing the order, make the exchange aware of the same;

(c) on receipt of an order for the sale of any securities, a stock broker shall enquire whether the client owns the securities, or has borrowed the securities under an appropriate securities lending agreement;

(d) stock brokers shall take all reasonable steps to ensure client disclosures are accurate;

(e) stock brokers and stock dealers shall meet the margin requirements defined by the exchange or the CCP as appropriate;

(f) stock brokers shall meet the net worth requirements as defined by the exchange or CCP, as appropriate.

6. **Maintaining records, etc.-**

(1) Stock dealers and stock brokers shall maintain a ledger on short-sales containing the information in Form-A, or any other format as specified by the exchange or the Commission from time to time.

(2) The ledger shall be kept up-to-date in respect of all short-selling activities carried out.

(3) Stock dealers and stock brokers shall ensure the ledger shall not contain any entries which they have reason to believe are false and misleading.

(4) The ledger shall be made available to the exchange and the Commission on request;

(5) The ledger shall be retained for a period of at least 7 years after the date of the execution of the short-sale.

7. **Exemptions.**–

(1) Market making activities are exempted from the provisions in rules 4, 5, 6, and 8.

(2) Market makers are subject to separate authorisation by the exchange.

(3) Short-selling for market making purposes shall be subject to the following criteria:

(a) daily reporting of open positions;

(b) all uncovered short positions should be covered at the end of the trading day;

(c) any other limitations the exchange may establish from time to time with prior approval from the Commission.

8. **Securities Borrowing and Lending for Short-Selling.**– The party or parties associated with the short-selling of securities listed on the exchange shall adhere to the following: -

(1) The securities that could be short-sold must be the eligible securities i.e. securities that are issued by the "A" category company as defined in the "Dhaka Stock Exchange (Settlement of Transactions) Regulations, 2013" or "Chittagong Stock Exchange (Settlement of Transactions) Regulations, 2013" and the listed Government Securities or any other category determined by the exchange with the prior approval of the Commission.

(2) For short-selling, the broker who shall execute the short-sale order must obtain a margin cover as specified by exchange or the central counterparty, as the case may be.

(3) All stock brokers shall maintain a report about their net short-sold positions at the end of each trading day.

(4) The borrower shall borrow securities under an agreement determined by the exchange for a specified period with the condition that, the borrower shall return securities as per agreement at the end of the specified period along with the corporate benefits accruing on the securities borrowed, since the beneficial interest of the securities borrowed shall continue to remain with the lender and all the corporate benefits shall accrue to the lender:

Provided that clearing house of the exchange or the central counterparty, as the case may be, shall ensure the settlement obligations during return settlement at the end of the specified period.

(5) The lender shall deposit the securities under the securities borrowing and lending agreement to the stock broker or stock dealer, as the case may be, who shall execute the short-selling order on behalf of the securities borrower.

(6) The lending of securities and the return of the equivalent securities of the same type or class by the borrower shall not be treated as disposal of the securities.

(7) The stock broker or stock dealer shall unless otherwise provided in the agreement with the lender, ensure the return of the securities to the lender along with the corporate benefits or any other benefits accrued on them during the tenure of the borrowing.

(8) In case of failure of the borrower to return the securities or corporate benefits the stock broker or stock dealer shall be liable for making good the loss caused to the lender.

(9) The said borrowing and lending agreement shall also provide for the following terms and conditions: -

- **(a)** period of borrowing or lending of securities;
- **(b)** charges or fees or benefits for borrowing or lending;
- **(c)** collateral securities for borrowing, if applicable;
- **(d)** provisions for the return including premature return of the securities deposited or lent,
- **(e)** mechanism for resolutions of the disputes through arbitration.

(10) The borrower shall not be entitled to discharge his liabilities of returning the equivalent securities through payment in cash or kind, unless the matter is resolved by any other form as determined by the exchange or the central counterparty, as the case may be.

(11) The stock broker or stock dealer shall be entitled to receive or encash eligible collateral securities, as determined, and fees from the borrower for assuming the obligation to return the securities to the lender in the event of default of the borrower to return the securities to the lender.

9. Contravention - Contravention of any of the provisions of these rules shall be punishable under the provision of the Securities and Exchange Ordinance, 1969 (XVII of 1969).

FORM A

SHORT SELLING LEDGER

Name of Eligible Security: ______________________

Stock Code : ______________________
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Date of Transaction	Contract Note No.	Particulars			Underlying Securities Borrowing Transaction Reference	Short selling Client		Cover Transaction		Particulars		
		Quantity	Unit Price	Total Value		Name	BO A/C No.	Date	Contract Note No.	Quantity	Unit Price	Total Value