



CLS Bank International Rules

(November 21, 2009)

Extracts relating to Eligibility Criteria for Membership
and Currencies in the CLS System

2 MEMBERSHIP

2.1 SETTLEMENT MEMBERSHIP

2.1.1 Settlement Membership Criteria

Only an applicant that satisfies each of the following criteria may be approved as a Settlement Member of CLS Bank.^[1]

- (a) *CLS Group Holdings Shareholder; Fees in Lieu of Shareholding.*
 - (i) The applicant, other than one applying to be a Central Bank Settlement Member, is a CLS Group Holdings Shareholder or an Affiliate of a CLS Group Holdings Shareholder.
 - (ii) In the case of an applicant applying to be a Central Bank Settlement Member, any fees applicable to and due from the applicant prior to approval of the applicant by CLS Bank as a Central Bank Settlement Member shall have been paid to CLS Bank.
- (b) *Restriction on Affiliates.* The applicant is not an Affiliate of a Settlement Member (unless such Settlement Member's Termination Time is prior to the effective date of the applicant's membership with CLS Bank).
- (c) *Bank, U.S. Broker-Dealer, U.K. Investment Firm or Central Bank; Financial Institution Requirement.* The applicant:
 - (i) either:
 - (A) is a bank or trust company, subject to prudential supervision by a governmental authority acceptable to CLS Bank;
 - (B) is a broker or dealer registered under the U.S. Securities and Exchange Act of 1934;
 - (C) is an investment firm (as defined in Article 4.1.1 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments) which carries on a regulated activity in the United Kingdom for the purposes of the Financial Services and Markets Act of 2000 but which is not a EEA firm or a Treaty firm (as those terms are used in that Act) qualifying for authorization under Schedules 3 and 4, respectively, to that Act;
 - (D) is a Central Bank if the applicant is applying to be a Central Bank Settlement Member; or
 - (E) does not qualify under paragraphs (A), (B), (C) or (D) above, but has demonstrated to the Board of Directors

¹ [Once approved as a Member of CLS Bank, the institution is also required to satisfy these requirements on a continuing basis.]

that its business and capabilities permit it to use CLS Bank's services without undue risk to CLS Bank, its Members or CLS Services and is subject to prudential supervision by an authority acceptable to CLS Bank; and

(ii) is a "financial institution" within the meaning of 12 U.S.C. §4402 and a "participant" within the meaning of the Settlement Finality Regulations.

(d) *No Special Factors; Adequate Resources and Capabilities*

(i) CLS Bank shall have received no information that would reasonably be seen to adversely reflect on the present or prospective business, operations, management or financial condition, operational capabilities or applicable regulatory supervision or requirements of, or access to liquidity in respect of, the applicant, including the financial ability of the applicant to satisfy its obligations under Rule 9 to such an extent that the applicant should be denied membership in CLS Bank; and

(ii) the applicant shall not have business practices, internal risk management controls or any other factor or condition that would create undue risk for CLS Bank, its Members or CLS Services.

(e) *Operating Capability.* The applicant shall execute a testing and trialing agreement substantially in the form set forth in Exhibit 2-A to the Member Handbook and, pursuant thereto, satisfy such minimum operating capabilities as may be established from time to time by CLS Bank, including:

(i) an ability to submit Instructions, Amend Instructions and Rescind Instructions (and, to the extent applicable, NDF Valuation Instructions) to CLS Services through the Submission Process, including (A) satisfying trials involving submission, matching and Settlement of Instructions with respect to each Submission Location, applicable Pay-Ins and Pay-Outs (as more particularly set forth in operational trialing protocols for Settlement Members) and (B) demonstrating that a Submission Location (and subsequently any additional requested Submission Location) operates effectively before any additional Submission Location may be introduced;

(ii) an ability to satisfy operationally, directly or through its applicable Nostro Agent, the requirements necessary to deliver funds in each Eligible Currency to CLS Bank within specified times so as to satisfy the Pay-In requirements described in Rule 6;

(iii) adequate contingency plans in the event of its inability, or any of its Nostro Agents' inability, to satisfy the funding requirements described in paragraph (ii) above;

(iv) adequate contingency plans for maintaining its operational capabilities if a natural disaster, operational or technical failure, or other extraordinary event occurs; and

(v) appropriate procedures and contingencies for the effective operation and management of its Control Function, including the

ability to effectively operate and manage any existing or new Control Function Gateway or Submission Location and manage applicable Static Data.

In the case of an applicant applying to be a Central Bank Settlement Member, the applicant must also have the authority to act on all matters related to its membership in CLS Bank and the CLS Bank Documents in order to satisfy its obligations thereunder.

(f) *Financial Requirements*

(i) *Minimum Capital and Capital Ratio Requirements.* An applicant must maintain capital equal to or in excess of the capital and capital ratio requirements imposed from time to time by its primary regulator; *provided, however*, that this Rule 2.1.1(f)(i) shall not apply to an applicant applying to be a Central Bank Settlement Member.

(A) In the case of banks and trust companies (described in Rule 2.1.1(c)(i)(A)), such minimum capital and capital ratio requirements will be those determined in accordance with the home country regulatory authorities of the Head or Home Office of the applicant; *provided, however*, that such requirements must be consistent with the guidelines established by the Bank for International Settlement (BIS).

(B) In the case of U.S. broker-dealers (described in Rule 2.1.1(c)(i)(B)), such minimum capital and capital ratio requirements will be those determined by the Securities and Exchange Commission.

(C) In the case of U.K. investment firms (described in Rule 2.1.1(c)(i)(C)), such minimum capital and capital ratio requirements will be those determined by the U.K. Financial Services Authority.

If an applicant is not subject to any of the requirements described in paragraphs (A) through (C) above, CLS Bank may require that the applicant comply with capital and capital ratio requirements that exceed those imposed by the applicant's primary regulator if CLS Bank determines, in its reasonable discretion, that the capital and capital ratio requirements imposed by the applicant's primary regulator are less than those described in paragraphs (A) through (C) above and such excess capital or capital ratio requirement is reasonably necessary for the protection of CLS Bank and its Members.

(ii) *Minimum Short-Term Credit Rating Criteria*

(A) If an applicant has a public short-term rating (consisting of short-term debt or deposit ratings) from any

Rating Agency,^[2] evidence of each such rating shall be submitted to CLS Bank as part of the application process; *provided, however*, that this paragraph (A) shall not apply to an applicant applying to be a Central Bank Settlement Member.

(B) If an applicant does not have a public short-term rating from at least one Rating Agency, the applicant must submit to CLS Bank either:

- (1) a guarantee from the Parent-Company Guarantor of the applicant acceptable to CLS Bank, an opinion of counsel satisfactory to CLS Bank in form and content and addressing such other matters as CLS Bank may specify, and evidence of the Parent-Company Guarantor's public short-term rating (consisting of short-term debt or deposit ratings) issued by a Rating Agency; or
- (2) written confirmation of a private short-term rating of the applicant (consisting of short-term debt or deposit ratings) issued by a Rating Agency and the basis upon which such private rating was issued;

provided, however, that this paragraph (B) shall not apply to an applicant applying to be a Central Bank Settlement Member.

(C) CLS Bank will determine its internal short-term rating of the applicant, other than an applicant applying to be a Central Bank Settlement Member, based on the following criteria:

- (1) If two or more Rating Agencies provide equivalent short-term ratings for an applicant, CLS Bank's internal short-term rating for the applicant shall be based on such ratings; if all such Rating Agencies do not provide equivalent short-term ratings, then CLS Bank's internal short-term rating shall be based on the lowest rating.
- (2) If an applicant is only rated for short-term ratings by one Rating Agency, CLS Bank's internal short-term rating for the applicant shall be based on the one short-term rating.
- (3) If an applicant is not rated for short-term ratings by any Rating Agency, CLS Bank's internal short-term rating shall be based on the rating of its Parent-Company Guarantor (in which case the

² [Fitch, Moody's or S&P (or any other rating agency specified by CLS in the CLS Bank International Member Handbook).]

methodology set forth in clauses (1) and (2) above shall apply) or the private rating provided to CLS Bank as described in Rule 2.1.1(f)(ii)(B)(2).

For the purposes of determining its internal short-term rating for an applicant, CLS Bank may adjust the short-term rating arrived at pursuant to clause (1), (2) or (3) above, as applicable, by raising or lowering such rating based upon all information available to CLS Bank, including the ratings outlook for the applicant published by any Rating Agency and any credit reports of the applicant. The internal short-term rating requirement described in this paragraph (C) shall not apply to an applicant applying to be a Central Bank Settlement Member.

(D) No applicant will be eligible for membership if:

(1) in the case of an applicant that CLS Bank has assigned an internal long-term rating that is at or above S&P BBB- (or equivalent) (or, if applicable, to its Parent-Company Guarantor that is at or above S&P BBB (or equivalent)) as described in Rule 2.1.1(f)(iii), CLS Bank assigns an internal short-term rating to the applicant that is less than S&P A-3 (or equivalent) (or, if applicable, to its Parent-Company Guarantor that is less than S&P A-2 (or equivalent)); or

(2) in the case of an applicant that CLS Bank has assigned an internal long-term rating that is less than S&P BBB- (or equivalent) (or, if applicable, to its Parent-Company Guarantor that is less than S&P BBB (or equivalent)) as described in Rule 2.1.1(f)(iii), CLS Bank assigns an internal short-term rating to the applicant that is less than S&P B (or equivalent) (or, if applicable, to its Parent-Company Guarantor that is less than S&P A-3 (or equivalent)).

(iii) *Minimum Long-Term Credit Rating Criteria*

(A) If an applicant (and, if applicable, its Parent-Company Guarantor) has a long-term rating from any Rating Agency, evidence of each such rating shall be submitted to CLS Bank as part of the application process. If an applicant (or, if applicable, its Parent-Company Guarantor) does not have a long-term rating from at least one of the Rating Agencies, CLS Bank shall conduct an internal risk analysis to assign a long-term rating to the applicant (or, if applicable, its Parent-Company Guarantor).

The internal risk analysis may be based on, among other things, (1) the public ratings of the applicant's (and, if applicable, its Parent-Company Guarantor's) asset-backed securities, applicable derivative instruments or other financial products; (2) the credit reports of the applicant (and, if

applicable, the Parent-Company Guarantor); (3) the contingent liabilities of the applicant (and, if applicable, its Parent-Company Guarantor); (4) details of internal risk ratings from Settlement Members (or applicants proposing to be Settlement Members) with foreign exchange trading relationships with such applicant (and, if applicable, the Parent-Company Guarantor), and the applicant hereby agrees to the disclosure of these internal risk ratings and related information from Settlement Members or applicants, as the case may be; and (5) in the case of an applicant applying to be a Central Bank Settlement Member, the applicant's capital position, earnings capacity and profit transfer rules.

(B) CLS Bank will determine its internal long-term rating of the applicant based on the following criteria:

(1) If the applicant is rated for long-term ratings by two or more of the Rating Agencies, then CLS Bank's internal long-term rating of the applicant shall be based on the lowest rating.

(2) If an applicant is only rated for long-term ratings by one Rating Agency, CLS Bank's internal long-term rating for the applicant shall be based on the one long-term rating.

For the purposes of determining its internal long-term rating for an applicant, CLS Bank may adjust the applicant's long-term rating arrived at pursuant to clause (1) or (2) above, as applicable, by raising or lowering such rating based upon all information available to CLS Bank, including the ratings outlook for the applicant published by any Rating Agency and any of the factors described above in this paragraph (B) which CLS Bank may consider when conducting an internal risk analysis of an applicant that has not been assigned a long-term rating by any Rating Agency.

If the applicant does not have a long-term rating from any Rating Agency, the internal long-term rating assigned to the applicant by CLS Bank shall be the same as the long-term rating assigned by CLS Bank to the applicant after conducting an internal risk analysis as described in paragraph (A) above.

(C) No applicant will be eligible for membership if:

(1) CLS Bank assigns an internal long-term rating to the applicant that is less than S&P BBB- (or equivalent) (or, if applicable, to its Parent-Company Guarantor that is less than S&P BBB (or equivalent)), except as otherwise permitted by clause (2) below;

(2) CLS Bank assigns an internal long-term rating to the applicant that is less than S&P BB- (or

equivalent) (or, if applicable, to its Parent-Company Guarantor that is less than S&P BB (or equivalent)); *provided, however*, that this clause (2) shall only apply to an applicant if CLS Bank determined that such internal long-term rating of the applicant is constrained by a non-investment grade credit rating (*i.e.*, less than S&P BBB- (or equivalent)) assigned to the sovereign of the jurisdiction in which the Head or Home Office of the applicant is located; or

(3) CLS Bank is not able to assign an internal long-term rating to the applicant (or, if applicable, its Parent-Company Guarantor) after conducting an internal risk analysis as described in paragraph (A) above.

For purposes of clause (2) above, the sovereign credit rating shall be the lower of the foreign currency or local currency sovereign credit rating, determined by reference to such ratings issued by any Rating Agency to the sovereign.

(iv) *Minimum Stand-Alone Credit Rating Criteria.*

(A) If an applicant (or, if applicable, its Parent-Company Guarantor) has any Stand-Alone Credit Rating, evidence of each such rating shall be submitted to CLS Bank as part of the application process.

(B) If CLS Bank has assigned an internal long-term rating to the applicant that is less than S&P BBB- (or equivalent) (or, if applicable, to its Parent-Company Guarantor that is less than S&P BBB (or equivalent)), the applicant will not be eligible for membership if the Stand-Alone Credit Rating of the applicant is less than Moody's D+ (or equivalent) (or, if applicable, of the Parent-Company Guarantor is less than Moody's C- (or equivalent)).

(v) *Enhancements.* In the case of an applicant that CLS Bank has assigned an internal long-term rating that is less than S&P BBB- (or equivalent), CLS Bank may, but shall not be obligated to, subject the applicant to additional financial or credit related requirement(s) that CLS Bank may identify in Chapter 2 of the Member Handbook.

(vi) *Financial Statements.* The applicant must furnish to CLS Bank the following:

(A) a copy of its annual financial statements (and, if a Guarantee has been provided, the annual financial statements on a consolidated basis of (1) the applicant and (2) its Parent-Company Guarantor) for the three fiscal years ending immediately preceding the year in which the application is submitted to CLS Bank (or, if the applicant or its Parent-Company Guarantor has been in existence for less than three years, such financial statements as CLS Bank may require),

each certified by its independent certified public accountants (or equivalent); and

(B) all publicly-issued financial statements of the applicant (and, if applicable, of its Parent-Company Guarantor) covering the period between the most recent annual financial statements furnished to CLS Bank and the date the application described in Rule 2.1.2(b) is submitted to CLS Bank.

To the extent that such audited financial statements are not prepared in accordance with generally accepted accounting principles, the applicant shall provide CLS Bank with a discussion of the material variations of such accounting principles from generally accepted accounting principles. For purposes of this 2.1.1(f)(vi), “generally accepted accounting principles” for an applicant other than one applying to be a Central Bank Settlement Member shall mean those in effect in the jurisdiction of the Head or Home Office of the applicant or its Parent-Company Guarantor, as applicable; and, for an applicant that is applying to be Central Bank Settlement Member, the International Financial Reporting Standards (IFRS) or other internationally recognized accounting standards.

(vii) *Certificate*. The applicant must furnish a certificate of the chief executive or chief financial officer (or other authorized person acceptable to CLS Bank) of the applicant that no material adverse changes have occurred in the financial condition of the applicant since the date of the most recent financial statements provided to CLS Bank, and that the applicant is not subject to any material contingent liabilities, except as set forth in such financial statements.

(viii) *Regulatory Filings*. The applicant must furnish copies of (A) such relevant and material regulatory filings as CLS Bank may reasonably require made with its primary regulator in the jurisdiction where its Head or Home Office is located for the three fiscal years ending immediately preceding the year in which the application is submitted to CLS Bank (or, if the applicant has been in existence for less than three years, such relevant and material regulatory filings as CLS Bank may require) and (B) such relevant and material regulatory filings covering the period between the most recent relevant and material regulatory filings furnished to CLS Bank and the date the application is submitted to CLS Bank; *provided, however, that this Rule 2.1.1(f)(viii) shall not apply to an applicant applying to be a Central Bank Settlement Member.*

(g) *Head or Home Office*. The Head or Home Office of an applicant:

(i) shall not, unless otherwise specifically permitted by CLS Bank, be located in a jurisdiction for which applicable US laws or regulations require the implementation of an enhanced due diligence program by CLS Bank; and

(ii) shall be located in a jurisdiction in which CLS Bank has received a satisfactory opinion of counsel in respect of, among other things, the finality in such jurisdiction of Settlement across the books

and records of CLS Bank; *provided* that if the opinion required by CLS Bank pursuant to this paragraph contains exceptions or reservations, CLS Bank may, in its discretion and in lieu of rejecting the application for membership in CLS Bank, require that the applicant agrees to such limits, conditions, or special restrictions upon the activities of the applicant as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank or its Members.

(h) *Designated Settlement Member.* If an applicant contemplates acting as a Designated Settlement Member, it must demonstrate to CLS Bank that it is able to effectively authorize Instructions submitted by a User Member and send and receive all information and communications in connection with Instructions submitted by a User Member before such applicant may act as a Designated Settlement Member for any User Member.

(i) *Additional Criteria for Central Bank Settlement Member.* In the case of an applicant applying to be a Central Bank Settlement Member, it must demonstrate to the satisfaction of CLS Bank that it has timely and adequate access to liquidity in all Eligible Currencies other than its own domestic currency.

(j) *Settlement Member Agreement and Legal Opinions.* The applicant shall deliver to CLS Bank (i) a Settlement Member Agreement and (ii) an opinion of counsel substantially in the form attached to the Settlement Member Agreement, satisfactory to CLS Bank in form and content and addressing such other matters as CLS Bank may specify. Such Settlement Member Agreement shall provide that the applicant will participate in testing and trialing procedures with applicants for membership and any Members, as the case may be, for any reason, including for changes to the functionality of the CLS System and inclusion of a new currency for Settlement in CLS Bank. If the opinion required by CLS Bank pursuant to this paragraph contains exceptions or reservations, CLS Bank may, in its discretion and in lieu of rejecting the application for membership in CLS Bank, require that the applicant agree to such limits, conditions, or special restrictions upon the activities of the applicant as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank or its Members.

(k) *Additional Information.* Each Settlement Member must furnish to CLS Bank such information (whether public or non-public) relating to its financial condition, operational capabilities and compliance with the criteria as may be reasonably requested by CLS Bank based upon its determination that such information is relevant and necessary (i) for the protection of CLS Bank or its Members or (ii) to comply with applicable laws or regulations.

2.1.2 *Application Process and Approval Procedure*

(a) *Application Process.* An applicant to become a Settlement Member shall execute and submit to CLS Bank an “Application for Settlement Membership” substantially in the form attached to the Settlement Member Agreement. The application shall be accompanied by the supporting information and documentation required by CLS Bank, including an executed Settlement Member Agreement (as provided for in Rule 2.1.1(j)(i) an opinion of counsel (as provided for in Rule 2.1.1(j)(ii)) and financial information (as provided for in Rule 2.1.1(f)). The information provided to CLS Bank

pursuant to Rule 2.1.1 and Rule 2.1.3 shall be considered Settlement Member Confidential Information for the purposes of the confidentiality provisions included in the Settlement Member Agreement.

(b) *Approval Procedure.*

(i) Each complete application shall be reviewed by CLS Bank. As part of this review process, CLS Bank may consult with the applicant's primary regulator in the jurisdiction where the applicant's Head or Home Office is located if CLS Bank reasonably concludes that such consultation is in the best interests of CLS Bank or its Members. CLS Bank shall notify the applicant of any such consultation as soon as practicable, and shall attempt to provide such notice contemporaneously with such consultation.

(ii) If CLS Bank concludes that the applicant satisfies the criteria specified in Rule 2.1.1, CLS Bank shall (A) indicate its acceptance of the application by executing the Settlement Member Agreement with CLS Services and notifying the applicant by returning an executed copy to the applicant and so advising the Board of Directors, (B) inform the applicant of the initial Aggregate Short Position Limit established for the applicant (as a Settlement Member) and (C) inform the applicant of its eligibility (as a Settlement Member) to participate in the CLS System as described in Rule 2.2.3 and the first date on which it is eligible to submit the Instructions described therein.

(iii) If CLS Bank concludes that an applicant does not satisfy the criteria specified in Rule 2.1.1, the applicant shall be notified as soon as practicable, and this decision shall in all cases be final and conclusive, subject to the procedures set forth in Rule 10.3.

(iv) Notwithstanding the foregoing, CLS Bank may defer an application to become a Settlement Member upon a determination by CLS Bank that CLS Bank does not have adequate personnel, space, data processing capacity or other operational capability at such time to perform its services for the applicant without impairing the ability of CLS Bank to provide services for its existing Members, to assure the prompt, accurate and orderly processing and Settlement of Instructions or to otherwise carry out its functions, and this decision shall in all cases be final and conclusive, subject to the procedures set forth in Rule 10.3; *provided, however*, that any such application which is deferred solely pursuant to this paragraph shall be approved as promptly as the capabilities of CLS Bank permit. Applications submitted to CLS Bank shall be processed in the order in which they were received.

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2.2 USER MEMBERSHIP

2.2.1 *User Membership Criteria*

Only an applicant that satisfies each of the following criteria will be approved as either a Category A User Member or Category B User Member of CLS Bank:^{3]}

- (a) *CLS Group Holdings Shareholder.* The applicant is a CLS Group Holdings Shareholder or an Affiliate of a CLS Group Holdings Shareholder.
- (b) *Category A and Category B User Members.* The applicant:
 - (i) has demonstrated to the Board of Directors that its business and capabilities permit it to use CLS Bank’s services without undue risk to CLS Bank, its Members or CLS Services; and
 - (ii) either:
 - (A) is an “indirect participant” and treated as a participant by the “designating authority”, each within the meaning of the Settlement Finality Regulations (a Category A User Member); or
 - (B) is not a “participant” within the meaning of the Settlement Finality Regulations (a Category B User Member).
- (c) *No Special Factors; Adequate Resources and Capabilities*
 - (i) CLS Bank shall have received no information that would reasonably be seen to adversely reflect on the present or prospective business, operations, management or financial condition, operational capabilities or applicable regulatory supervision or requirements of, or access to liquidity in respect of, the applicant, including the financial ability of the applicant to satisfy its obligations under Rule 9, to such an extent that the applicant should be denied membership in CLS Bank; and
 - (ii) the applicant shall not have business practices, internal risk management controls or any other factor or condition that would create undue risk for CLS Bank, its Members or CLS Services.
- (d) *Operating Capability.* The applicant shall execute a testing and trialing agreement substantially in the form set forth in Exhibit 2-A to the Member Handbook and, pursuant thereto, satisfy such minimum operating capabilities as may be established from time to time by CLS Bank, including:
 - (i) an ability to submit Instructions, Amend Instructions and Rescind Instructions (and, to the extent applicable, NDF Valuation Instructions) to CLS Services through the Submission Process, including (A) satisfying trials involving submission and matching of

³ [Once approved as a Member of CLS Bank, the institution is also required to satisfy these requirements on a continuing basis.]

Instructions with respect to each Submission Location (as more particularly set forth in operational trialing protocols for User Members) and (B) demonstrating that a Submission Location (and subsequently any additional requested Submission Location) operates effectively before any additional Submission Location may be introduced;

(ii) adequate contingency plans for maintaining its operational capabilities if a natural disaster, operational or technical failure, or other extraordinary event occurs;

(iii) an ability to provide adequate staffing at its specified contact location during each Business Day and respond in a timely manner to all notices and communications; and

(iv) appropriate procedures and contingencies for the effective operation and management of any existing or new Submission Location and management of applicable Static Data.

(e) *Financial Requirements*

(i) *Financial Statements.* The applicant must furnish to CLS Bank the following:

(A) a copy of its annual financial statements for the three fiscal years ending immediately preceding the year in which the application is submitted to CLS Bank (or, if the applicant has been in existence for less than three years, such financial statements as CLS Bank may require), each certified by its independent certified public accountants (or equivalent); and

(B) all publicly-issued financial statements of the applicant covering the period between the most recent annual financial statements furnished to CLS Bank and the date the application described in Rule 2.2.2(a) is submitted to CLS Bank;

provided, however, that this paragraph (e) shall not apply to an applicant applying to be an Affiliated User Member.

To the extent that such audited financial statements are not prepared in accordance with generally accepted accounting principles (as in effect in the jurisdiction of the Head or Home Office of the applicant), the applicant shall provide CLS Bank with a discussion of the material variations of such accounting principles from generally accepted accounting principles.

(ii) *Certificate.* The applicant must furnish a certificate of the chief executive or chief financial officer (or other authorized person acceptable to CLS Bank) of the applicant that no material adverse changes have occurred in the financial condition of the applicant since the date of the most recent financial statements provided to CLS Bank, and that the applicant is not subject to any material contingent liabilities, except as set forth in such financial statements.

(f) *Designated Settlement Member.* With respect to the Settlement Eligible Instructions submitted to the CLS System by the applicant for Settlement, the applicant shall designate (i) a single Designated Settlement Member through which all FX Instructions and Derivative Instructions will be Settled unless another Designated Settlement Member is designated as such for a specific, individual FX Instruction and (ii) a single Designated Settlement Member through which all NDF Opening Instructions and FX Option Premium Instructions will be Settled.

(g) *Head or Home Office.* The Head or Home Office of an applicant shall not, unless otherwise specifically permitted by CLS Bank, be located in a jurisdiction for which applicable US laws or regulations require the implementation of an enhanced due diligence program by CLS Bank.

(h) *User Member Agreement and Legal Opinion.* The applicant shall deliver to CLS Bank (i) a User Member Agreement and (ii) an opinion of counsel substantially in the form attached to the User Member Agreement, satisfactory to CLS Bank in form and content and addressing such other matters as CLS Bank may specify. Such User Member Agreement shall provide that the applicant will participate in testing and trialing procedures with applicants for membership and any Members, as the case may be, for any reason, including for changes to the functionality of the CLS System and inclusion of a new currency for Settlement in CLS Bank. If the opinion required by CLS Bank pursuant to this paragraph contains exceptions or reservations, CLS Bank may, in its discretion and in lieu of rejecting the application for membership in CLS Bank, require that the applicant agree to such limits, conditions, or special restrictions upon the activities of the applicant as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank and its other Members.

(i) *Additional Information.* Each User Member must furnish to CLS Bank such information (whether public or non-public) relating to its operational capabilities and compliance with the criteria as may be reasonably requested by CLS Bank based upon its determination that such information is relevant and necessary (i) for the protection of CLS Bank or its Members or (ii) to comply with applicable laws or regulations.

2.2.2 *Application Process and Approval Procedure*

(a) *Application Process.* An applicant to become a User Member shall execute and submit an “Application for User Membership” substantially in the form attached to the User Member Agreement. The application shall be accompanied by the supporting information and documentation required by CLS Bank, including an executed User Member Agreement (as provided for in Rule 2.2.1(h)(i)) and an opinion of counsel (as provided for in Rule 2.2.1(h)(ii)). The information provided to CLS Bank pursuant to Rule 2.2.1 and Rule 2.2.3 shall be considered User Member Confidential Information for the purposes of the confidentiality provisions included in the User Member Agreement.

(b) *CLS Bank’s Approval Procedure.*

(i) Each complete application shall be reviewed by CLS Bank. As part of this review process, CLS Bank may consult with the applicant’s primary regulator in the jurisdiction where the applicant’s

Head or Home Office is located if CLS Bank reasonably concludes that such consultation is in the best interests of CLS Bank or its Members. CLS Bank shall notify the applicant of any such consultation as soon as practicable, and shall attempt to provide such notice contemporaneously with such consultation.

(ii) If CLS Bank concludes that the applicant satisfies the criteria specified in Rule 2.2.1, CLS Bank shall (i) indicate its acceptance of the application by executing a copy of the User Member Agreement (which has already been executed by the applicant) with CLS Services and notifying the applicant by returning an executed copy to the applicant and so advising the Board of Directors and (ii) inform the applicant of its eligibility (as a User Member) to participate in the CLS System as described in Rule 2.3 and the first date on which it is eligible to submit the Instructions described therein.

(iii) If CLS Bank concludes that an applicant does not satisfy the criteria specified in Rule 2.2.1, the applicant shall be notified as soon as practicable, and this decision shall in all cases be final and conclusive, subject to the procedures set forth in Rule 10.3.

(iv) Notwithstanding the foregoing, CLS Bank may defer an application to become a User Member upon a determination by CLS Bank that CLS Bank does not have adequate personnel, space, data processing capacity or other operational capability at such time to perform its services for the applicant without impairing the ability of CLS Bank to provide services for its existing Members, to assure the prompt, accurate and orderly processing and Settlement of Instructions or to otherwise carry out its functions, and this decision shall in all cases be final and conclusive, subject to the procedures set forth in Rule 10.3; *provided, however*, that any such applications which are deferred solely pursuant to this paragraph shall be approved as promptly as the capabilities of CLS Bank permit. Applications submitted to CLS Bank shall be processed in the order in which they were received.

(c) *Date for Submission of Instructions.* At the time CLS Bank informs an applicant of the acceptance of its application, it shall also inform such applicant of the date CLS Bank determines as the date on which the applicant, as a User Member, may first submit Instructions to the CLS System for Settlement.

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3 CURRENCIES

3.1 ELIGIBLE CURRENCIES

3.1.1 Approval of Eligible Currencies

The Board of Directors shall designate currencies as Eligible Currencies.

3.1.2 Eligibility Criteria

The Board of Directors in its sole discretion may designate a currency as an Eligible Currency only if such currency satisfies each of the following criteria:

- (a) CLS Bank has received a written request by two or more CLS Group Holdings Shareholders to designate such currency as an Eligible Currency;
- (b) CLS Bank has received indications from at least three institutions (or such fewer number as the Board of Directors shall expressly approve) of willingness to act as Liquidity Providers for such currency on terms CLS Bank in its sole discretion considers commercially acceptable;
- (c) CLS Bank has determined to its satisfaction that the currency's relevant payment system(s) would meet CLS Bank's requirements for designation as an Approved Payment System, including opening hours that sufficiently overlap with the Settlement Period for all Eligible Currencies;
- (d) CLS Bank has deemed reasonable the cost of inclusion of such currency;
- (e) CLS Bank has determined that adequate risk reduction would result from the designation to justify the investments necessary to include such currency;
- (f) CLS Bank has determined that any exchange restrictions or similar conditions on the transferability of such currency are acceptable to CLS Bank;
- (g) CLS Bank has determined that the convertibility, liquidity and historical volatility of such currency, the stability of the banking system and rule of law applicable in the jurisdiction of such currency, and other mitigating issues are acceptable to CLS Bank;
- (h) the relevant Central Bank has agreed to (i) allow CLS Bank to establish a special account with such Central Bank solely for the purpose of facilitating transfer of an Eligible Currency from and to Settlement Members as provided under the CLS Bank Documents, (ii) permit a means of operational access to the account acceptable to CLS Bank, and (iii) contractual arrangements that are satisfactory to CLS Bank;
- (i) CLS Bank has received a legal opinion in form and substance satisfactory to CLS Bank addressing finality of payments made to and from CLS Bank's account with the relevant Central Bank and such other legal considerations as CLS Bank may require; and

(j) CLS Bank has determined that there is legislation or regulation (or equivalent) in the jurisdiction of the currency that provides for the finality of (i) the Settlement of Instructions and (ii) Pay-Ins and other Settlement related payments received by CLS Bank through the relevant payment system for such currency; *provided, however*, that the Board of Directors may waive this requirement if it determines that the local law of that jurisdiction provides for finality protection which is comparable to that of the jurisdictions in which CLS Bank has Eligible Currencies at the time of such determination.

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