



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**DEMUTUALIZATION OF THE COLOMBO
STOCK EXCHANGE**

A

BILL

to provide for the demutualization of the Colombo Stock Exchange by the conversion of the Colombo Stock Exchange which is a company limited by guarantee, to a company limited by shares; and to provide for matters connected therewith or incidental thereto.

*Presented by the Prime Minister and Minister of National Policies and
Economic Affairs on 19th of February, 2018*

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*Demutualization of the Colombo
Stock Exchange*

L.D.—O. 26/2010.

AN ACT TO PROVIDE FOR THE DEMUTUALIZATION OF THE COLOMBO STOCK EXCHANGE BY THE CONVERSION OF THE COLOMBO STOCK EXCHANGE WHICH IS A COMPANY LIMITED BY GUARANTEE, TO A COMPANY LIMITED BY SHARES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Demutualization of the Colombo Stock Exchange Act, No. of 2018 and shall
5 come into operation, on such date appointed by the Minister (hereinafter referred to as the “appointed date”) by order published in the *Gazette*. Short title and date of operation.
2. The objective of this Act shall be to demutualize
10 the Colombo Stock Exchange which is a company limited by guarantee and licensed as a stock exchange under the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 by conversion in terms of the provisions of this Act to a company limited by shares. Objective of the Act.
3. (1) The Securities and Exchange Commission of
15 Sri Lanka (hereinafter referred to as the “Commission”) established by the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 shall submit the following to the Minister for the demutualization of the Colombo Stock Exchange, within nine months of the appointed date:— Procedure in relation to conversion.
- 20 (a) the proposed articles of association of the Demutualized Stock Exchange;
- (b) the names of persons to be appointed as Directors of the Demutualized Stock Exchange in terms of subsection (2) of section 14 of this Act; and

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(c) the names of the initial shareholders of the Demutualized Stock Exchange.

5 (2) The Minister shall within twelve months from the appointed date cause to be served on the Registrar General of Companies (hereinafter referred to as the “Registrar”) the documents specified in subsection (1) and direct the Registrar to register the Colombo Stock Exchange as a company limited by shares.

10 4. (1) Upon receipt of the directive of the Minister together with the documents specified under subsection (1) of section 3, the Registrar shall forthwith register the Colombo Stock Exchange as a company limited by shares and issue a certificate to that effect. Registration of the Demutualized Stock Exchange.

15 (2) The date on which the Demutualized Stock Exchange is registered shall hereinafter in this Act be referred to as the “date of Conversion”.

20 5. (1) Upon registration of the Demutualized Stock Exchange under section 4, the Registrar shall forthwith inform the Minister in writing of the fact of such registration. Registrar to notify the registration to the Minister.

(2) The Minister shall on receipt of the information under subsection (1) by notice published in the *Gazette* inform the public that with effect from the date of conversion, the Colombo Stock Exchange has been converted to a company limited by shares.

25 6. (1) The Board of Directors of the Demutualized Stock Exchange shall determine the number of shares to be issued of the Demutualized Stock Exchange and value of the reserves to be converted to share capital for such purpose within a period of one month from the date of conversion. Allocation of shares to be issued.

30 (2) The members and the Capital Market Development Fund established under section 15 of this Act on the appointed date shall under this Act become entitled to be

allocated sixty *per centum* and forty *per centum* respectively of the shares to be issued of the Demutualized Stock Exchange in terms of subsection (1).

5 7. (1) The Demutualized Stock Exchange shall issue a maximum of forty *per centum* of the shares to be issued of the Demutualized Stock Exchange immediately upon the determination made in terms of section 6 to members subject to the limitation on shares to be issued to individual members as specified in section 8.

Treatment of the allocation of shares to be issued.

10 (2) The members shall only be entitled to the proceeds of sale of the balance shares to be issued of the Demutualized Stock Exchange allocated to members in terms of section 6 and issued in terms of subsection (1).

15 (3) Notwithstanding anything to the contrary in the Companies Act, No. 7 of 2007 , any member may instruct the Demutualized Stock Exchange to issue shares in respect of the individual allocation of the shares to be issued to such member in terms of subsection (2), in part or in full, to persons specified by such member in writing addressed to
20 the Demutualized Stock Exchange, at a price and date specified by such member which date shall be a date not later than the date on which the Commission approves the initial public offer of the Demutualized Stock Exchange:

25 Provided if any member fails to comply with the provisions of subsection (3), the Demutualized Stock Exchange shall issue and dispose of shares, allocated but not issued to members, at the initial public offer of the Demutualized Stock Exchange.

30 (4) Notwithstanding anything to the contrary in the Companies Act, No. 7 of 2007, the shares allocated to members and not subscribed to in the initial public offer, shall be issued by the Demutualized Stock Exchange on the

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instructions of the relevant members to persons specified by such members on such date and at such price specified by such members.

5 (5) The Demutualized Stock Exchange shall remit the proceeds of any sale made in terms of subsections (3) and (4) to the respective member.

(6) The capital Market Development Fund shall only be entitled to the proceeds of the sale in respect of forty *per centum* of the shares to be issued of the Demutualized Stock Exchange allocated to the Capital Market Development Fund.
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(7) Notwithstanding anything to the contrary in the Companies Act, No. 7 of 2007, the Capital Market Development Fund shall instruct the Demutualized Stock Exchange to issue shares in respect of the forty *per centum* of the shares to be issued of the Demutualized Stock Exchange in terms of section 6 in part or in full, at the initial public offer of the Demutualized Stock Exchange or to persons specified by the Capital Market Development Fund and on such date and at such price specified by the Capital Market Development Fund.
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(8) The Demutualized Stock Exchange shall remit the proceeds of any sale made in terms of subsection (6) to the Capital Market Development Fund.

25 (9) Notwithstanding anything to the contrary in the Companies Act, No. 7 of 2007, the Demutualized Stock Exchange shall give notice to the Registrar in respect of the following within twenty one working days from the date of issuance, in the form prescribed:—

- 30 (a) the number of shares issued;
- (b) the value of the shares; and
- (c) the amount of the stated capital of the Company following the issue of shares.

8. (1) The members may decide on the allocation of the sixty *per centum* of the shares to be issued of the Demutualized Stock Exchange among the members in terms of section 6, within three months from the appointed date
5 subject to a maximum ceiling of five *per centum* for each individual member in respect of the shares to be issued to such member.

Allocation of shares on the individual members.

(2) Where members fail to agree on the allocation of the individual shareholding, each member shall be entitled to
10 an equal proportion of the shares allocated to members of the Demutualized Stock Exchange, in accordance with section 6 subject to a maximum ceiling of five *per centum* for each individual member in respect of the shares to be issued to such member.

15 9. A member may renounce the allocation of shares made to such member within a period of two months from the date of such allocation and such allocation of shares shall be issued and sold by the Demutualized Stock Exchange at the initial public offer of the Demutualized Stock Exchange
20 and the proceeds of such sale shall be remitted to the Capital Market Development Fund established under section 15.

Treatment of shares renounced by members.

10. (1) The Minister shall constitute a Nomination Panel consisting of the following persons within two months from the appointed date to recommend persons to serve as
25 members of the Board of Directors of the Demutualized Stock Exchange:—

Constitution of the Nomination Panel.

- (a) Governor of the Central Bank of Sri Lanka appointed under section 12 of the Monetary Law Act, No. 58 of 1949;
- 30 (b) Chairman of the University Grants Commission appointed under section 4 of the Universities Act, No. 16 of 1978;
- (c) Director General of Insurance Regulatory Commission of Sri Lanka appointed under section
35 9 of the Regulation of Insurance Industry Act, No. 43 of 2000;

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(d) Director General of the Commission appointed under section 42 of Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987; and

5 (e) A member of the Board of Directors of the Colombo Stock Exchange or the Demutualized Stock Exchange as the case may be as determined by the Board of Directors.

(2) The Governor of the Central Bank of Sri Lanka shall be the Chairman of the Nomination Panel and the Director
10 General of the Commission shall be the Secretary of the Nomination Panel.

(3) The Nomination Panel shall cease to function when the Demutualized Stock Exchange becomes a listed public company.

15 **11.** (1) The quorum for a meeting of the Nomination Panel shall be three members. Quorum and procedure to be adopted by the Nomination panel.

(2) The procedure applicable *inter alia*, for the nomination, evaluation, selection of a member of the Board of Directors of the Demutualized Stock Exchange and the
20 removal of such member shall be as prescribed.

(3) The Nomination Panel shall within three months of the constitution of such panel recommend the names of persons to the Commission to serve on the Board of Directors in accordance with the prescribed procedure, for a period of
25 three years.

12. (1) The Commission may on receipt of the recommendations of the Nomination Panel grant approval for the appointment of persons to the Board of Directors of the Demutualized Stock Exchange taking into consideration
30 the criteria of selection. Approval of the names of the Board of Directors by the Commission.

(2) Where the Commission refuses to grant approval for reasons assigned, it shall communicate such reasons to the Nomination Panel.

13. The Minister shall reconvene the Nomination Panel in the event—

Instances in which the Nomination Panel is to be reconvened.

5 (a) of vacation of office of a Director by reason of death, resignation or removal from office prior to the expiry of his term of office or where the Commission refuses to grant approval, in order to recommend a suitable person to fill such vacancy; or

10 (b) The Demutualized Stock Exchange remains unlisted at the expiry of the term of office of the Board of Directors, in order to reconstitute the Board of Directors of the Demutualized Stock Exchange for a further period not exceeding three years in respect of each term.

15 **14.** (1) The Board of Directors of the Colombo Stock Exchange shall cease to hold office on the date of conversion.

Board of Directors of the Demutualized Stock Exchange.

20 (2) The persons approved by the Commission on the recommendation of the Nomination Panel to serve on the Board of Directors of the Demutualized Stock Exchange in terms of section 12 shall be deemed to have been appointed from the date of conversion and such person shall hold office from such date for a period of three years and be eligible to be re-appointed.

25 (3) The members of the Board of Directors of the Demutualized Stock Exchange appointed under subsection (2) shall consist of seven persons comprising of—

(a) not more than three persons representing stock brokers; and

(b) not less than four persons appointed as independent directors.

(4) The Chairman of the Board of Directors of the Demutualized Stock Exchange shall be elected by the Board of Directors from amongst the Independent Directors.

5 **15.** (1) The Commission shall establish the Capital Market Development Fund within six months from the appointed date to further public interest.

Establishment
of the Capital
Market
Development
Fund.

10 (2) The Capital Market Development Fund shall be incorporated under the Companies Act, No. 7 of 2007 as a company limited by guarantee and the members of such company shall be the Colombo Stock Exchange or the Demutualized Stock Exchange as the case may be and the Commission.

15 (3) The Capital Market Development Fund shall utilize the funds remitted to it in terms of sections 7 and 9 for the purposes of furthering public interest through—

- (a) the development of capital market of Sri Lanka;
- (b) the promotion of investor education;
- (c) the improvement of capital market infrastructure;
and

20 (d) the improvement of investor access and participation in the capital market.

(4) The Board of Directors of the company incorporated in terms of subsection (2) shall be:—

- 25
- (a) the Chief Executive Officer of the Demutualized Stock Exchange;
 - (b) the Director General of the Commission; and
 - (c) the nominee of the Chairman of the Commission with the concurrence of the Chairman of the Colombo Stock Exchange.

16. The Board of Directors of the Demutualized Stock Exchange shall take necessary action to list the Demutualized Stock Exchange on its own exchange with the approval of the Commission within a period of three
5 years from the date of conversion unless otherwise specified in writing by the Commission.

Listing of the Demutualized Stock Exchange.

17. (1) Notwithstanding anything to the contrary in the Companies Act, No. 7 of 2007, the Demutualized Stock Exchange shall not make payment of a dividend to its
10 shareholders or a further issue of shares prior to listing of the Demutualized Stock Exchange.

Distributions and further issues not to be made before listing.

(2) Notwithstanding anything to the contrary in the Companies Act, No. 7 of 2007, any benefit other than voting rights that accrues to shareholders as a result of a payment of
15 dividends or a further issue of shares after listing, shall be paid or allocated as the case may be by the Demutualized Stock Exchange, in respect of shares allocated and not issued in terms of section 6.

(3) The Demutualized Stock Exchange shall not lend or
20 borrow other than in the ordinary course of business or as otherwise approved by the Commission prior to listing.

18. Upon the Registration of the Demutualized Stock Exchange—

Status of the listed companies and subsidiary companies upon Demutualization.

(a) every company listed on the Colombo Stock Exchange, limited by guarantee shall be deemed to
25 be a company, listed on the Demutualized Stock Exchange; and

(b) every subsidiary company of the Colombo Stock Exchange shall be deemed to be a subsidiary
30 company of the Demutualized Stock Exchange.

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19. Subject to any terms or conditions as may be imposed by the Commission, the licence granted to the Colombo Stock Exchange limited by guarantee to function as a Stock Exchange under the provisions of the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 shall with effect from the date of conversion be deemed to be a licence granted to the Demutualized Stock Exchange to function as a Stock Exchange until expiry of such licence.

Licence granted to the Colombo Stock Exchange to be deemed to be a licence granted to the Demutualized Stock Exchange.

20. All property rights, interests and liabilities of the Colombo Stock Exchange limited by guarantee subsisting as at the date of conversion shall remain as property rights, interests and liabilities of the Demutualized Stock Exchange.

Transfer of property rights and liabilities.

21. (1) The Minister may make regulations in respect of matters required by this Act to be prescribed or in respect of which regulations are required by this Act to be made.

Regulations.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

20 (3) Every regulation made under subsection (1) shall as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval and any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(4) The Notification of the date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.

22. (1) All contracts and agreements entered into, or Savings.
any document signed or issued by or with, the Colombo
Stock Exchange and which are subsisting on the day
preceding the date of conversion, shall be deemed with effect
5 from the date of conversion to be contracts and agreements
entered into, documents signed or issued by or with the
Demutualized Stock Exchange.

(2) All actions, proceedings or prosecutions instituted by
or against the Colombo Stock Exchange and which are
10 pending on the day preceding the date of conversion, shall
be deemed with effect from the date of conversion to be
actions, proceedings or prosecutions instituted by, or
against, the Demutualized Stock Exchange, as the case may
be, and may be continued accordingly.

15 (3) All decrees and awards entered or made by any Court
or Tribunal in any action or proceeding instituted by, or
against the Colombo Stock Exchange and which remain
unsatisfied on the day preceding the date of conversion shall
20 be deemed with effect from the date of conversion to be
decrees or awards entered or made for or against the
Demutualized Stock Exchange, as the case may be and may
be enforced accordingly.

(4) All documents, guidelines and rules issued by the
Colombo Stock Exchange to any person or institution and
25 subsisting on the day preceding the date of conversion, shall
be deemed with effect from the date of conversion, to be
documents, guidelines and rules issued by the Demutualized
Stock Exchange and shall be applicable to the respective
persons or institutions accordingly.

30 (5) All documents, directives and rules issued by the
Commission to the Colombo Stock Exchange and subsisting
on the day preceding the date of conversion, shall be deemed
with effect from the date of conversion to be documents
directives and rules issued by the Commission to the
35 Demutualized Stock Exchange.

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(6) All assets and liabilities of the Stock Exchange which are subsisting on the day preceding the date of conversion shall, be deemed with effect from the date of conversion, to be the assets and liabilities of the
5 Demutualized Stock Exchange.

(7) All officers and other members of the staff employed by the Colombo Stock Exchange on the day preceding the date of conversion, shall be deemed to be employed by the Demutualized Stock Exchange with effect from the date of
10 conversion on such terms and conditions as are not less favorable than the terms and conditions which were applicable to them on the day preceding the date of conversion.

(8) All rights of access to facilities of the Colombo Stock
15 Exchange vested in its members and trading members shall continue under the Demutualized Stock Exchange.

23. In this Act, unless the context otherwise requires— Interpretation.

20 “company limited by shares” means a limited liability Company other than a private company incorporated under the Companies Act, No. 7 of 2007;

25 “company limited by guarantee” means a company incorporated as a guarantee company under the Companies Act, No. 7 of 2007;

“Colombo Stock Exchange” means the Colombo Stock Exchange limited by guarantee incorporated under the Companies Act, No. 7 of 2007;

30 “Demutualized Stock Exchange” means the Colombo Stock Exchange limited by shares registered by the Registrar General of Companies in terms of subsection (1) of section 4;

- 5 “Independent Director” means a person other than a person directly or indirectly connected to a member or trading member of the Colombo Stock Exchange or any other individual having a relationship or circumstance that could materially interfere with the exercise of a Director’s independent judgment in carrying out the responsibility of such Director;
- 10 “Listed Public Company” has the same meaning given in the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987;
- 15 “member” means a member of the Colombo Stock Exchange having voting rights;
- “Minister” means the Minister to whom the implementation of the provisions of this Act is assigned;
- 20 “property” means any movable or immovable property and includes—
- 25 (a) any interest, easement or right, whether equitable or legal, title, claim, chose-in-action, power or privilege, whether present or future, vested or contingent, or which is otherwise of value;
- 30 (b) any conveyance executed for conveying, assigning, appointing, surrendering or otherwise transferring or disposing of immovable property, of which the person executing the conveyance is proprietor, possessed or entitled to a contingent right either for the whole interest or for any part of the interest;

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5 (c) any negotiable instrument, including any bank note, bearer note, treasury bill, dividend, warrant, bill of exchange, promissory note, cheque and negotiable certificate of deposit;

10 (d) any mortgage or charge, whether legal or equitable, guarantee, lien or pledge, whether actual or constructive, letter of hypothecation or trust receipt, indemnity, undertaking or other means of securing payment or discharge of a debt or liability, whether present or future, vested or contingent; or

15 (e) securities and any other tangible or intangible property;

20 “Registrar General of Companies” means Registrar General of Companies appointed under the Companies Act, No. 7 of 2007 or any other officer performing under that Act, the duty of the Registrar General of Companies;

“Reserves” include the accumulated fund and retained earnings of the Colombo Stock Exchange.

25 **24.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. Sinhala text to prevail in case of inconsistency.

