



# **Asia Pacific Clear Pte. Ltd. Clearing Rulebook**

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Asia Pacific Clear Pte. Ltd.  
Company Registration No. 201710453C

CHAPTER 1	DEFINITIONS AND RULES OF CONSTRUCTION .....	4
Rule 101	Definitions.....	4
Rule 102	Rules of Construction .....	18
Rule 103	Spirit of these Rules .....	19
CHAPTER 2	GENERAL .....	21
Rule 201	Application of these Rules .....	21
Rule 202	Powers to Amend and Waive Rules.....	21
Rule 203	Power to Issue Procedures, Directives, Regulatory Notices and Guidelines .....	22
Rule 204	Power to Delegate .....	23
Rule 205	Jurisdiction and Governing Law .....	23
Rule 206	Collateral Arrangements .....	24
Rule 207	Limitation and Exclusion of Liability.....	29
Rule 208	Indemnity .....	31
Rule 209	Confidentiality and Data Usage .....	31
Rule 210	Severability .....	34
Rule 211	Force Majeure .....	35
Rule 212	Time is of the Essence .....	36
CHAPTER 3	CLEARING MEMBERSHIP .....	37
Rule 301	Membership Requirements for Participation .....	37
Rule 302	Categories of Membership.....	38
Rule 303	Eligibility, Conditions and Admission of Members .....	38
Rule 304	Security Deposit.....	45
Rule 305	Clearing Members' Obligations.....	46
Rule 306	Notification and Reporting Obligations of Clearing Members.....	49
Rule 307	Records, Annual Accounts and Audits .....	54
Rule 308	Conduct of Clearing Members.....	57
Rule 309	Resignation, Suspension and Termination of Membership .....	63
Rule 310	Communication with Clearing Members.....	67
CHAPTER 4	CLEARING AND SETTLEMENT .....	68
Rule 401	Contracts Accepted by Clearing House for Clearing and Settlement.....	68
Rule 402	Clearing House Novation, Substitution and Netting.....	69
Rule 403	Limitation of Liability.....	71
Rule 404	Transfer of Contracts .....	71
Rule 405	Open Positions .....	72
Rule 406	Margins .....	72
Rule 407	Position Limits .....	78
Rule 408	Exposure Limits .....	79
Rule 409	Daily Settlement Price .....	80
Rule 410	Inability to Declare Daily Settlement Price .....	80

Rule 411	Daily Settlement.....	80
Rule 412	Final Settlement Price .....	81
Rule 413	Clearing and Settlement Reports .....	82
Rule 414	Settlement Bank .....	83
Rule 415	Accounts and Segregation Rules .....	85
Rule 416	Clearing of Option Contracts .....	85
Rule 417	Give-up .....	89
<b>CHAPTER 5</b>	<b>DELIVERY RULES .....</b>	<b>90</b>
Rule 501	General.....	90
Rule 502	Cash Settled Contracts .....	90
Rule 503	Deliverable Contracts.....	90
Rule 504	Delivery Process .....	90
Rule 505	Physical Delivery of Deliverable Contract .....	92
Rule 506	Liability of the Clearing House.....	93
Rule 507	Delivery is Full Discharge of Obligations .....	94
Rule 508	Clearing Members' Delivery Obligations.....	95
Rule 509	Failure of a Clearing Member to Make or Accept Delivery.....	95
Rule 510	Passing of Property and Risk .....	96
Rule 511	Consolidation of Positions and Other Powers of the Clearing House .....	96
Rule 512	Duty of Clearing Members to Mitigate Risk of Non-Delivery.....	97
Rule 513	Deliveries Involving Clearing House as Escrow Agent and Treatment of Performance Deposits, Other Payments and Other Escrow Assets .....	97
<b>CHAPTER 6</b>	<b>ENFORCEMENT POWERS OF THE CLEARING HOUSE .....</b>	<b>100</b>
Rule 601	General.....	100
Rule 602	Matters of Investigation .....	100
Rule 603	Liability and Jurisdiction .....	100
Rule 604	Information Gathering Powers of Clearing House .....	101
Rule 605	Notification and Reports to Exchange and Regulatory Authorities.....	102
Rule 606	Co-operation with Exchange and Regulatory Authorities .....	102
<b>CHAPTER 7</b>	<b>DISCIPLINARY .....</b>	<b>103</b>
Rule 701	Notification of Breach.....	103
Rule 702	Investigations .....	103
Rule 703	Commencement of Disciplinary Proceedings.....	105
Rule 704	Composition of Disciplinary Panel .....	106
Rule 705	Disciplinary Panel Proceedings .....	107
Rule 706	Offers of Settlement .....	108
Rule 707	Recusal Requirements.....	109
Rule 708	Prohibited Communications.....	110
Rule 709	Disciplinary Panel's Deliberation .....	110
Rule 710	Decision of Disciplinary Panel .....	110
Rule 711	Sanctions and Powers of the Disciplinary Panel.....	111

Rule 712	Publication of Findings .....	113
Rule 713	Right to Appeal and Initiating an Appeal .....	114
Rule 714	Composition of Appeals Panel.....	115
Rule 715	Appeals Proceedings.....	115
Rule 716	Appeals Panel's Deliberation.....	116
Rule 717	Decision of Appeals Panel.....	116
Rule 718	Payment of Costs .....	116
Rule 719	Penalty.....	116
Rule 720	Summary Suspension.....	117
Rule 721	Summary Fines .....	118
<b>CHAPTER 8</b>	<b>EVENTS OF BREACH.....</b>	<b>119</b>
Rule 801	Event of Breach.....	119
Rule 802	Declared Default .....	120
Rule 803	Rights of the Clearing House.....	120
Rule 804	Settlement of Clearing House's Obligations in the Declared Default .....	122
Rule 805	Security Deposit Requirements.....	123
<b>CHAPTER 9</b>	<b>DEFAULT OF THE CLEARING HOUSE.....</b>	<b>124</b>
Rule 901	Default of the Clearing House .....	124
<b>CHAPTER 10</b>	<b>GUARANTY FUND .....</b>	<b>127</b>
Rule 1001	General.....	127
Rule 1002	Investment of the Guaranty Fund .....	127
Rule 1003	Repayment to the Clearing Member .....	128
<b>CHAPTER 11</b>	<b>EMERGENCY POWERS .....</b>	<b>129</b>
Rule 1101	Emergency Powers of the Clearing House .....	129
<b>CHAPTER 12</b>	<b>DISPUTE RESOLUTION.....</b>	<b>131</b>
Rule 1201	Disputes and Arbitration.....	131

## **Chapter 1            Definitions and Rules of Construction**

### **Rule 101    Definitions**

In these Rules, the following terms shall have the respective meanings as follows:

<b>ADP Notice</b>	has the meaning ascribed to it in Rule 504(b)(1).
<b>Accepting Clearing Member</b>	means a Clearing Member with whom a customer has entered into an agreement for the purpose of accepting its trade(s) for clearing and settlement given up by the Executing Member.
<b>Accounting Standards</b>	means applicable accounting standards and principles.
<b>Adjusted Net Head Office Funds</b>	has the meaning ascribed to the term “adjusted net head office funds” under the Financial and Margin Regulations and shall be calculated in accordance with the Financial and Margin Regulations. In respect of a Clearing Member which is a Bank incorporated outside Singapore and which maintains adequate Adjusted Net Head Office Funds in accordance with Rule 303.3(c), references to a holder of a CMS Licence in the Financial and Margin Regulations shall be construed as references to such a Clearing Member and the Adjusted Net Head Office Funds shall be calculated without reference to any capital held by such Bank pursuant to applicable capital requirements under Applicable Laws for any of its business as a Bank.
<b>Affiliate</b>	means, with respect to any specified Person, any other Person that Controls, is Controlled by, or is under common Control with, such specified Person.
<b>American Option</b>	is a type of an Option Contract, in which the Buyer of the Option Contract has the right to exercise the Option Contract at any time on or before the Expiration Date of the Option Contract.
<b>Appeals Panel</b>	means an appeals panel established pursuant to Chapter 7 of these Rules.
<b>Applicable Law</b>	means any applicable national, federal, supranational, state, regional, provincial, local or other statute, law, ordinance, regulation, rule, code, guidance, order, published practice or concession, regulatory requirement, judgment or decision of a Governmental Authority applicable to access to and use of the Clearing House. For the avoidance of doubt, any reference to the Applicable Laws of Singapore shall include a reference to MAS Requirements.

<b>Authority or MAS</b>	means the Monetary Authority of Singapore established under the Monetary Authority of Singapore Act (Chapter 186 of Singapore).
<b>Bank</b>	has the meaning ascribed to the term “bank” in Section 2 of the Banking Act.
<b>Banking Act</b>	means the Banking Act (Chapter 19 of Singapore).
<b>Base Capital</b>	has the meaning ascribed to such term in Regulation 2 of the Financial and Margin Regulations.
<b>BCC</b>	means a Business Conduct Committee established by the Board.
<b>Block Trade</b>	means a Contract at or above the Minimum Volume Threshold that may be executed off of the Exchange pursuant to Rule 814 of the Exchange Rules.
<b>Board</b>	means the board of directors of the Clearing House.
<b>Breach</b>	has the same meaning as the term “Event of Breach” as defined in these Rules.
<b>Business Day</b>	means the twenty-four hour calendar day, on all calendar days except Saturdays, Sundays, and public holidays (within the meaning of the Holidays Act (Chapter 126 of Singapore)) in Singapore.
<b>Buyer</b>	means:  (i) the direct buying counterparty in a cash-settled Futures Contract;  (ii) the direct buying counterparty in an Option Contract; or  (iii) the direct counterparty responsible for taking delivery of the underlying Commodity in a Deliverable Contract.
<b>Buying Clearing Member</b>	means a Clearing Member who has accepted responsibility through an agreement to clear and settle Contracts traded by a Customer who is a Buyer of such Contract, or a Clearing Member in respect of Contracts traded by the Clearing Member as a Buyer for itself.
<b>Capital</b>	Means Base Capital or Net Head Office Funds.
<b>Cash Settled Contract</b>	means a Contract which shall be performed by cash settlement in accordance with the terms and conditions set forth in the Contract Terms, and not by delivery of the underlying Commodity.
<b>Chief Regulatory Officer</b>	means an officer of the Clearing House who is principally responsible for, among other duties, overseeing the regulatory matters and functions of the Clearing House, and who puts in place

processes to manage any perceived or actual conflicts of interest that may arise from the regulatory and commercial functions of the Clearing House.

<b>Circular</b>	means informational notifications issued by the Clearing House from time to time to Clearing Members or any group of Clearing Members.
<b>Clearing Capital</b>	means the contribution made by the Clearing House towards the Guaranty Fund.
<b>Clearing Facilities Regulations</b>	means the Securities and Futures (Clearing Facilities) Regulations of Singapore.
<b>Clearing House</b>	means Asia Pacific Clear Pte. Ltd. and its successors (if any).
<b>Clearing House Customer Settlement and Margin Account</b>	has the meaning ascribed to it in Rule 414.5(b).
<b>Clearing House Dispute</b>	has the meaning ascribed to it in Rule 1201(a).
<b>Clearing House Examiners</b>	has the meaning ascribed to it in Rule 702(b).
<b>Clearing House Member Settlement and Margin Account</b>	has the meaning ascribed to it in Rule 414.5(a).
<b>Clearing Member</b>	means a Person that has been authorised by the Clearing House as such under these Rules.
<b>Clearing Organisation</b>	means any clearing house duly authorised, regulated, recognised or licensed under Applicable Laws in any jurisdiction, including any approved clearing house, recognised clearing house, recognised overseas clearing house, derivatives clearing organisation or similar entity.
<b>Clearing Procedures</b>	means the clearing procedures published by the Clearing House from time to time pursuant to Rule 203(c).
<b>Clearing Processing System</b>	means the clearing processing systems and platforms used by the Clearing House for Contracts.
<b>CMS Licence</b>	means a capital markets services licence held by a party for the conduct of such business as contemplated under the SFA.

<b>Collateral</b>	means all or any of the monies and assets deposited with, or otherwise provided to, the Clearing House by or for a Clearing Member as Margin, Security Deposit, or any other form of credit support and/or security as may be required under these Rules or as otherwise directed by the Clearing House.
<b>Commodity</b>	includes:—  (i) any "commodity" as defined in the SFA from time to time;  (ii) any index;  (iii) any "financial instrument" as defined in the SFA from time to time;  (iv) gold, freight, any class of oil or any other physical commodity; and  (v) any commodity as may be specified by the Clearing House from time to time.
<b>Conduct of Business Regulations</b>	means the Securities and Futures (Licensing and Conduct of Business) Regulations of Singapore.
<b>Confidential Information</b>	means information which is not in the public domain pertaining to a Customer's or a Clearing Member's business transactions, market positions, trade secrets, financial resources, and User Information.
<b>Contract</b>	means an instrument, contract or transaction, or class of instruments, contracts or transactions listed for trading on the Exchange through the Trading Facilities.
<b>Contract Month</b>	means the specified month within which contractual obligations in respect of a Contract mature and the Contract can be settled by cash, delivery, or as specified in the Contract Terms.
<b>Contract Terms</b>	with regard to a Contract, means the contract terms and any related procedures for the time being applicable under the Exchange Rules to that Contract. Unless otherwise stated, Contract Terms are distinct and separate documents which are not part of these Rules.
<b>Control</b>	has the meaning ascribed to that term in Section 97A(6)(b) of the SFA, and its cognate terms shall be construed accordingly.
<b>Controller</b>	means a Person who exercises Control over a Person, and its cognate terms shall be construed accordingly.



<b>Customer</b>	means any Person on behalf of whom a Clearing Member accepts instructions to clear or settle a Contract, but does not include:—  (i) the Clearing Member itself with respect to the Proprietary Account of the Clearing Member; and  (ii) a Related Customer.
<b>Customer Account</b>	with respect to a Clearing Member, means an account in the books of the Clearing Member to which the Customer Positions of the Clearing Member are designated.
<b>Customer Contract</b>	means any Contract entered into for the account of any Customer.
<b>Customer Position</b>	means a position arising from any Customer Contract, whether the position is open or has been liquidated.
<b>Customer Settlement and Margin Account</b>	means an account maintained by a Clearing Member with a Settlement Bank, from which all payments or monies due or owed to the Clearing House by the Clearing Member with respect to relevant Customer Positions and into which all payment or monies due or owed to a Clearing Member from the Clearing House with respect to relevant Customer Positions shall be paid.
<b>Daily Settlement Amount</b>	has the meaning ascribed to it in Rule 411(c).
<b>Daily Settlement Price</b>	means the daily price at which a Contract is settled at the end of each Trading Day or at such other time as may be provided in the relevant Contract Terms, as determined by the Clearing House pursuant to Rule 409.
<b>Decision Notice</b>	has the meaning ascribed to it in Rule 710(b).
<b>Declared Default</b>	means an Event of Breach declared as a Declared Default by the Clearing House pursuant to Rule 802.
<b>Defaulter or Defaulting Clearing Member</b>	means a Clearing Member who has been declared a “Defaulter” or a “Defaulting Clearing Member” under Chapter 8 of these Rules.
<b>Deliverable Contract</b>	means a Contract to be performed by delivery of the underlying Commodity, in accordance with the terms and conditions set forth in the Contract Terms.
<b>Delivery Day</b>	means a day on which delivery may occur in satisfaction of a Futures Contract as specified in the Contract Terms.
<b>Delivery Default</b>	has the meaning ascribed to it in Rule 509(a).

<b>Delivery Margin</b>	refers to a Margin (other than Initial Margin, Variation Margin, or Special Margin) specified from time to time by the Clearing House and/or the Exchange as being payable in relation to a Contract during, or prior to the Delivery Period for that Contract.
<b>Delivery Month</b>	unless the relevant Contract Terms otherwise provides, means the specified month in which the delivery period of a Contract subject to physical delivery, begins.
<b>Delivery Period</b>	means the period during which the Commodities are tendered for delivery, as prescribed in the Contract Terms, in fulfillment of the Contracts executed under these Rules and the Exchange Rules.
<b>Delivery Procedures</b>	means the delivery procedures published by the Clearing House from time to time pursuant to Rule 203(a).
<b>Directives</b>	mean binding communications issued to one or more specific Clearing Member(s) (or to one or more groups of Clearing Members) to take corrective or other actions or to desist or cease carrying on certain actions, or otherwise pursuant to the powers of the Clearing House pursuant to these Rules.
<b>Director</b>	means a member of the board of directors of a given company.
<b>Disciplinary Notice</b>	has the meaning ascribed to it in Rule 703(b).
<b>Disciplinary Panel</b>	means a committee established pursuant to these Rules to hear and adjudicate on Violations.
<b>EFRP</b>	means a privately negotiated off-Market execution of a Contract and, on the opposite side of the market, the simultaneous execution of an equivalent quantity of the cash product, by-product, related product, or over-the-counter derivative instrument corresponding to the asset underlying the Contract.
<b>Electronic User Agreement</b>	means an electronic user agreement between a Clearing Member and the Clearing House in a form prescribed by the Clearing House from time to time.
<b>Eligible Currencies</b>	means SGD, USD, CNH and such other currencies as are specified as eligible by the Clearing House from time to time.
<b>Escrow Assets</b>	means any title document, letter of credit, financial instrument, property or money (including Performance Deposits and other payments) which the Clearing House holds or is to hold as escrow agent pursuant to these Rules and/or the relevant Contract Terms.

<b>European Option</b>	is a type of an Option Contract, in which the Buyer of the Option Contract has the right to exercise the Option Contract on the Expiration Date of the Contract.
<b>Event of Breach</b>	has the meaning ascribed to the term in Chapter 8 of these Rules.
<b>Exchange</b>	means Asia Pacific Exchange Pte. Ltd.
<b>Exchange Member</b>	means a Person who has been admitted as a “Member” under the Exchange Rules.
<b>Exchange Rules</b>	mean the business rules of the Exchange in force and as amended from time to time.
<b>Executing Member</b>	is an Exchange Member who executes trade(s) for customer(s) and gives up such trade(s) to an Accepting Clearing Member for clearing and settlement.
<b>Expiration Date</b>	means the last day on which an Option Contract may be exercised by the Buyer of that Option Contract.
<b>Exposure Limits</b>	has the meaning ascribed to it in Rule 408.
<b>Final Settlement Amount</b>	has the meaning ascribed to it in Rule 412(c).
<b>Final Settlement Price</b>	means the Daily Settlement Price fixed by the Clearing House for a Contract on the Last Trading Day or in accordance with the relevant formulae and procedures set out in the relevant Contract Terms, or, in the case of an Option Contract, on the Expiration Date.
<b>Financial Resources</b>	has the meaning given to the term "financial resources" in Regulation 2A of the Financial and Margin Regulations and shall be calculated in accordance with the Financial and Margin Regulations. In respect of a Clearing Member which is a Bank incorporated in Singapore, references to a holder of a CMS Licence in the Financial and Margin Regulations shall be construed as references to such a Clearing Member and Financial Resources shall be calculated without reference to any capital held by such Clearing Member pursuant to applicable capital requirements under Applicable Laws for any of its business as a Bank.
<b>Financial and Margin Regulations</b>	means the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations.
<b>Force Majeure Event</b>	has the meaning ascribed to it in Rule 211.

<b>Futures Contract</b>	means a contract that is a “futures contract” as defined under Section 2(1) of the SFA from time to time (including, for the avoidance of doubt, short-dated instruments on the same terms as futures that are entered into during the last week of trading), and including any similar contract treated as such under any Applicable Law, offered for trading by the Exchange.
<b>General Member</b>	means an Exchange Member who is admitted as a “General Member” under the Exchange Rules.
<b>General Clearing Member</b>	has the meaning ascribed to it in Rule 302(b).
<b>Give-up</b>	means the giving up of Give-up Trades pursuant to Rule 417.
<b>Give-up Trade</b>	is a trade which is executed by an Executing Member for a customer which at the direction of that customer is transferred from the Clearing Member of the Executing Member to the Accepting Clearing Member designated by that customer for clearing and settlement.
<b>Governmental Authority</b>	means any Regulatory Authority and any national, federal, supranational, state, regional, provincial, local or other government, government department, ministry, governmental or administrative authority, regulator, agency, commission, secretary of state, minister, court, tribunal, judicial body or arbitral body or any other Person exercising judicial, executive, interpretative, enforcement, regulatory, investigative, fiscal, taxing or legislative powers or authority anywhere in the world with competent jurisdiction (including, without limitation, the MAS).
<b>Guaranty Fund</b>	means a fund established and maintained in accordance with Chapter 10 of these Rules.
<b>Guidelines</b>	means explanations issued by the Clearing House on how these Rules are to be applied or interpreted.
<b>Initial Margin</b>	refers to a Margin specified by the Clearing House and/or the Exchange as being payable with respect to each Open Position, before the establishment of such Open Position, in accordance with these Rules.
<b>Insolvency</b>	means, in relation to any Person: a bankruptcy or winding-up application being presented; a bankruptcy order being made; a voluntary arrangement being approved; an insolvency practitioner being appointed or application or order being made for such an appointment; a composition or scheme of arrangement being approved by a court or other Governmental Authority; an

assignment, compromise or composition being made or approved for the benefit of any creditors or significant creditor; an order being made or resolution being passed for winding up; dissolution; the striking off of that Person's name from a register of companies or other corporate bodies; a distress or execution process being levied or enforced or served upon or against property of that Person; a Governmental Authority making an order pursuant to which any of that Person's securities, property, rights or liabilities are transferred; a Governmental Authority exercising one or more of the powers prescribed under any Applicable Law in Singapore, including but not limited to the powers prescribed under the Banking Act and the Monetary Authority of Singapore Act (Chapter 186 of Singapore), in respect of that Person; or any event analogous to any of the foregoing in any jurisdiction (always excluding any frivolous or vexatious proceedings or solvent reorganisation, change of Control or merger notified to the Clearing House).

<b>Investigation Report</b>	has the meaning ascribed to it in Rule 702(c).
<b>Last Trading Day</b>	means the last Trading Day on which a Contract is available for trading on the Exchange.
<b>Loss of the Clearing House</b>	has the meaning ascribed to it in Rule 803(d).
<b>Market</b>	means a market as defined under the SFA that is operated by the Exchange.
<b>Margin</b>	means a deposit or payment of cash or other specified assets or documents to establish or maintain a position in a Contract and includes Initial Margin, Variation Margin, Special Margin, Delivery Margin or any other type of margin as may be determined by the Clearing House and/or the Exchange from time to time.
<b>MAS Requirements</b>	means all requirements, laws, regulations, notices, directions, guidelines, codes, practice notes, circulars, policy statements, guidance, examples, waivers, and other similar materials administered, published or otherwise made by the MAS from time to time.
<b>Member Settlement and Margin Account</b>	means an account maintained by a Clearing Member with a Settlement Bank, from which all payments or monies due or owed to the Clearing House by the Clearing Member with respect to relevant Proprietary Positions and into which all payment or monies due or owed to a Clearing Member from the Clearing House with respect to relevant Proprietary Positions shall be paid.
<b>Minimum Volume</b>	means the size thresholds determined by the Exchange from time to

<b>Threshold</b>	time as being the minimum number of lots in respect of each Contract that can be traded as Block Trades, as determined by the Exchange and published from time to time.
<b>Monetary Default</b>	has the meaning ascribed to it in Rule 801(a).
<b>Net Head Office Funds</b>	has the meaning given to the term "Net Head Office Funds" in the Financial and Margin Regulations.
<b>Notice of Investigation</b>	means a notice provided by the Clearing House to any Person subject to an investigation that such investigation has commenced.
<b>Novation</b>	means the interposing of the Clearing House between the Buying Clearing Member and the Selling Clearing Member in all matched Exchange contracts so that the Clearing House becomes the Buyer to the Selling Clearing Member and the Seller to the Buying Clearing Member.
<b>Officer</b>	has the meaning ascribed to the term "officer" in Section 2(1) of the SFA.
<b>Offset</b>	means the closing of a position by taking a short position against a long or by taking a long position against a short of equal quantities and in the same Contract.
<b>Omnibus Account</b>	means a single account with one (1) or more sub-accounts, each held by Persons beneficially entitled to positions established under such account.
<b>Option Contract</b>	means an option over a Contract traded on the Exchange.
<b>Option Premium</b>	means the premium at which an Option Contract is traded.
<b>Open Contract or Open Position</b>	means any Contract which has not been liquidated by an offsetting Contract, or delivery or cash settlement or as specified in the Contract Terms.
<b>Performance Deposit</b>	means the amount, as prescribed in the relevant Contract Terms, which a depositing party posts with the Clearing House, to secure the performance of a Deliverable Contract pursuant to Rule 513. Such deposit shall be in cash or in the form of an irrevocable letter of credit or any other security in a form and issued by a bank acceptable to the Clearing House.
<b>Person</b>	means any individual, corporation, partnership, statutory body, government ministry, association, trust or entity as the context admits or requires.

<b>Personal Data</b>	has the meaning given to such term in the Personal Data Protection Act 2012 (Act 26 of 2012 of Singapore).
<b>Position Limit</b>	means the maximum permitted holding in a designated Contract or Contract Month either by a single account or across multiple accounts that the Exchange and/or Clearing House may from time to time impose in respect of any Contract.
<b>Procedures</b>	means the binding procedures of the Clearing House as may be published by the Clearing House from time to time pursuant to Rule 203(a) and, where the context admits, includes a reference to the “Clearing Procedures”, “Delivery Procedures” or any part thereof as the case may be.
<b>Proprietary Account</b>	with respect to a Clearing Member, means an account in the books of the Clearing Member to which the Proprietary Positions of a Clearing Member are designated.
<b>Proprietary Contract</b>	means any Contract entered into for the account of the Clearing Member itself or its Related Customers.
<b>Proprietary Position</b>	means a position arising from any Proprietary Contract entered into for the account of the Clearing Member itself or Contract entered into for any of its Related Customers, whether the position is open or has been liquidated.
<b>Qualifying Letter of Credit</b>	<p>means any legally enforceable and irrevocable letter of credit that is —</p> <p>(a) made in favour of the Exchange and/or the Clearing House;</p> <p>(b) issued by a bank approved by, and in a form acceptable to, the Exchange and/or the Clearing House; and</p> <p>(c) subject to such conditions or restrictions as the MAS, the Exchange and/or the Clearing House may impose on the Clearing Member.</p>
<b>Regulatory Authority</b>	means any Governmental Authority which exercises a regulatory or supervisory function under the laws of any jurisdiction in relation to financial services, the financial markets, exchanges or clearing houses (including, without limitation, the MAS).
<b>Regulatory Department</b>	means the Chief Regulatory Officer (referred to in Rule 601) and the individuals under the supervision of the Chief Regulatory Officer who are responsible for enforcing these Rules.



<b>Regulatory Notice</b>	means a binding communication issued to Clearing Members by the Clearing House in accordance with these Rules and titled “Regulatory Notice”.
<b>Related Customer</b>	means, with respect to a Clearing Member:  (i) an Officer, employee or Representative of the Clearing Member; or  (ii) an Affiliate of the Clearing Member, with respect to instructions accepted by the Clearing Member to deal for an account belonging to and maintained wholly for the benefit of that Affiliate, on behalf of whom a Clearing Member accepts instructions to clear or settle a Contract.
<b>Respondent</b>	means a Person who is the subject of an Investigation Report.
<b>Representative</b>	has the meaning ascribed to the term “representative” in Section 2(1) of the SFA.
<b>Risk Committee</b>	means a committee formed by the Exchange and/or Clearing House (and whose members are approved by the Board of Directors of the Exchange and/or the Board) to provide oversight and guidance on the management of risks faced by the Clearing House.
<b>Rules</b>	means the collection of rules governing the organisation and operation of the Clearing House set forth in this rulebook and the Procedures, as applied, interpreted or implemented by Regulatory Notices and Directives issued by the Clearing House.
<b>Security Deposit</b>	has the meaning ascribed to it in Rule 304(a).
<b>Security Interest</b>	means any mortgage, charge, assignment by way of security, pledge, encumbrance, lien, right of setoff, right of consolidation of accounts, retention of title, trust or flawed asset arrangement for the purpose of, or which has the effect of, granting security or credit support or other interests of any kind whatsoever over or in respect of Collateral.
<b>Seller</b>	means:  (i) the direct selling counterparty in a cash-settled Futures Contract;  (ii) the direct selling counterparty in a Option Contract; or  (iii) the direct counterparty responsible for making delivery of the underlying Commodity in a deliverable Futures Contract.



<b>Selling Clearing Member</b>	means a Clearing Member who has accepted responsibility through an agreement to clear and settle Contracts traded by a Customer who is a Seller of such Contract or a Clearing Member in respect of Contracts traded by the Clearing Member as a Seller for itself.
<b>Set</b>	means a set or class of Contracts that are identical as to their terms (including the deliverable or currency pair to which such Contract relates and settlement date; but excluding any amount paid or to be paid for entry into the Contract and any amount paid or to be paid in respect of entry into settlement or delivery of a Contract).
<b>Settlement Bank</b>	means a Bank that is designated or appointed by the Clearing House to provide banking and other facilities to the Clearing House and/or to the Clearing Members to facilitate the clearing and settlement functions pursuant to Rule 414.
<b>SIAC</b>	means the Singapore International Arbitration Centre.
<b>SFA</b>	means the Securities and Futures Act (Chapter 289 of Singapore).
<b>S\$, Singapore Dollars or SGD</b>	means the lawful currency of Singapore.
<b>Special Clearing Member</b>	has the meaning ascribed to it in Rule 302(b).
<b>Special Margin</b>	means a Margin prescribed by the Clearing House and/or the Exchange as payable in relation to a Contract and which is not Initial Margin, Variation Margin or Delivery Margin.
<b>Strike Price or Striking Price</b>	means the price at which an Option Contract may be exercised.
<b>Subject Obligations</b>	has the meaning ascribed to it in Rule 406.1(s).
<b>Sub-Account</b>	means an account maintained under an Omnibus Account.
<b>Terminating Clearing Member(s)</b>	has the meaning ascribed to it in Rule 901(b).
<b>Termination Amount</b>	has the meaning ascribed to it in Rule 901(c).
<b>Termination Date</b>	has the meaning ascribed to it in Rule 901(a).
<b>Total Risk Requirement</b>	when used in reference to:  (i) a Clearing Member which is a (a) Bank incorporated in Singapore or (b) Bank incorporated outside Singapore which maintains adequate Net Head Office Funds in accordance with Rule

303.2(b), has the meaning ascribed to the term thereto in the Financial and Margin Regulations, and references to a holder of a CMS Licence in the Financial and Margin Regulations shall be construed as references to such a Clearing Member, except that such Clearing Member shall only compute the total risk requirement for all Customer and Proprietary Positions in derivatives and securities contracts traded on any exchange and over-the-counter contracts novated to any clearing facility; and

(ii) a Clearing Member which is a Bank incorporated outside Singapore which has deposited Collateral in accordance with Rule 303.2(d) shall bear the meaning ascribed thereto in the Financial and Margin Regulations, and references to a holder of a CMS Licence in the Financial and Margin Regulations shall be construed as references to such a Clearing Member, except that such Clearing Member shall only compute the total risk requirement for all Customers' and Proprietary Positions in derivatives contracts traded on the Exchange.

<b>Trade Member</b>	means an Exchange Member who is admitted as a "Trade Member" under the Exchange Rules.
<b>Trading Day</b>	means, in respect of a given Contract, a day on which the Contract is available for trading on the Market, as specified in the Contract Terms for that Contract or otherwise as may be determined by the Exchange from time to time, or, in relation to deliveries of the Commodity in respect of a particular Contract, has the meaning given in the Contract Terms.
<b>Trading Facilities</b>	means any facilities for the trading of Contracts as the Exchange may determine from time to time.
<b>Trading Hours</b>	means, in respect of a given Contract, the specific hours in a given Trading Day during which the Contract is available for trading on the Market, as specified in the Contract Terms for that Contract or otherwise as may be determined by the Exchange from time to time.
<b>Transferor Clearing Member</b>	has the meaning ascribed to it in Rule 404(a).
<b>Transferee Clearing Member</b>	has the meaning ascribed to it in Rule 404(a).
<b>Underlying</b>	means the underlying commodity, currency, index or other financial instrument referenced in a Contract.
<b>US\$ or USD or US</b>	means the lawful currency of United States of America.

**Dollars**

**User Information** shall have the meaning ascribed to it under the SFA, as amended, and any regulations or interpretations thereunder.

**Variation Margin** refers to a Margin specified from time to time by the Clearing House and/or Exchange as being payable in relation to a Contract, computed by the Clearing House and/or Exchange taking into consideration, among others, the Daily Settlement Price of a Contract, in accordance with these Rules.

**Violation** means any Rule violation or violation of any Applicable Law relating to the regulation of markets, clearing facilities and licensed entities.

**Rule 102 Rules of Construction**

- (a) Any words importing the singular number only shall include the plural number and vice versa. Words importing persons (except the word “individual”) shall include corporations and firms. The masculine shall include the feminine and the neuter and the singular shall include the plural and vice-versa as the context shall admit or require.
- (b) All references to timings or times of day are to Singapore times, unless indicated otherwise.
- (c) Any reference to a statute, statutory provision or rule shall include any notice, order, guidance, regulation or subsidiary legislation made from time to time under that statute, statutory provision or rule which is in force. Any reference to a statute or statutory provision shall include such statute or provision as from time to time amended, modified, re-enacted or consolidated and, so far as liability thereunder may exist or can arise, shall also include any past statute or statutory provision (as from time to time modified, re-enacted or consolidated) which was applicable at the time of any relevant action or omission.
- (d) References to any rule or any agreement are references to such rules or agreement as amended or restated from time to time, provided that such amendments or restatements are made in accordance with these Rules.
- (e) References to Singapore legislation shall be interpreted as references to such legislation as implemented in Singapore, including by the relevant Governmental Authorities of Singapore. The Interpretation Act (Chapter 1 of Singapore) shall apply to these Rules in the same way as it applies to an enactment implemented in Singapore.
- (f) Reference to “\$” are to Singapore dollars unless otherwise specified.
- (g) Unless otherwise indicated, when a reference is made in these Rules to a rule, section, part, paragraph or procedure, such reference is to a Rule, section, part, paragraph or procedure of, or made under, these Rules.

- (h) The headings in these Rules are for reference purposes only and do not affect in any way the meaning or interpretation of these Rules.
- (i) To the extent there is any conflict between these Rules and the other documents listed below, the documents specified below shall prevail, control, govern and be binding upon the parties in the following order:
  - (1) the SFA and its subsidiary legislation;
  - (2) other Applicable Laws of Singapore;
  - (3) other Applicable Laws of jurisdictions other than Singapore;
  - (4) these Rules (excluding the Procedures);
  - (5) the Procedures (including the Clearing Procedures);
  - (6) the Electronic User Agreement;
  - (7) the Exchange Rules;
  - (8) the Contract Terms; and
  - (9) any Regulatory Notice or Directive (except for a Regulatory Notice communicating an amendment to any of the above documents in accordance with these Rules, in which case the amendments communicated in such Regulatory Notice shall be binding on the effective date specified in the Regulatory Notice as if such amendments were one of those documents),

provided that this Rule 102(i) is without prejudice to any other order of construction or interpretation as between the Exchange and Exchange Members set out in the Exchange Rules.

- (j) To the extent permissible under Applicable Law, the Clearing House may issue Regulatory Notices or Directives in connection with the Clearing House, these Rules and/or any action taken by the Clearing House under these Rules, or amend or revoke the contents of Regulatory Notices or Directives, at any time at its discretion and without prior consultation. Any such publication of a Regulatory Notice or Directive on the Clearing House website shall constitute good and sufficient delivery thereof to each Clearing Member.

### **Rule 103 Spirit of these Rules**

- (a) These Rules shall be interpreted and given effect in the manner most conducive to the promotion and maintenance of:
  - (1) the status of the Clearing House as an approved clearing house under the SFA and

- any other legal or regulatory status it has from time to time;
- (2) the good reputation of the Clearing House (and its Clearing Members);
  - (3) high standards of integrity and fair dealing in accordance with MAS Requirements;
  - (4) proper protection for all Persons interested in the execution and performance of transactions entered on or pursuant to these Rules; and
  - (5) the safe and efficient functioning of the Clearing House, reducing systemic risks and the protection of the interests of the investing public.
- (b) Each of these Rules shall, unless the context otherwise requires, be construed as an independent provision and shall be in addition and without prejudice to any other provision of these Rules.
- (c) Any matter or right stated to be in, of or at the Clearing House's discretion shall be subject to the Clearing House's sole, unfettered and absolute discretion, and such discretion may be exercised at any time. Where a Rule states that the Clearing House (or its Officers, employees, committees or panels or any individual committee or panel member) may make further directions upon or in relation to the operation of a Rule or may make or authorise any arrangement, direction or procedure thereunder, the Clearing House may make such direction or make or authorise such arrangement or procedure in relation to or under the whole or any part of the Rule, subject to such conditions as it may see fit. Any action taken at the discretion of the Clearing House may not be challenged by any Person except as provided for in these Rules.
- (d) These Rules shall, unless the context otherwise requires, be construed in such a way as to impose responsibility on Clearing Members for all acts, omissions, conduct or behaviour of the Clearing Member's Officers, Representatives and employees.
- (e) To the extent that these Rules, on their face, permit the Clearing House or any Clearing Member or Clearing Member's Officers, Representatives and employees to take any action that goes beyond that which is permitted by Applicable Law, that action may only be taken to the extent permitted under Applicable Law. For the avoidance of doubt, no reference in these Rules to Applicable Law (including the expressions "without prejudice to Applicable Laws", "subject to Applicable Laws" or similar), shall be construed as restricting or negating the applicability of MAS Requirements thereunder or any obligation or liability of the Clearing House, a Clearing Member, a Customer or a Governmental Authority under MAS Requirements.

## **Chapter 2      General**

### **Rule 201      Application of these Rules**

- (a) These Rules shall be known as “Clearing Rules of Asia Pacific Clear Pte. Ltd.”.
- (b) These Rules shall apply to all Clearing Members, and operate as a binding contract between:
  - (1) each Clearing Member and the Clearing House; and
  - (2) between each Clearing Member and any other Clearing Member.
- (c) All Contracts shall be made subject to these Rules, the Exchange Rules and MAS Requirements and all Clearing Members shall ensure compliance with the same in their agreement(s) with any third party to provide clearing and settlement services. Nothing in these Rules shall preclude any Persons from agreeing to the application of these Rules or any provision of these Rules in their agreement(s) with any Clearing Member, Exchange Member or third party, in which case the Clearing House shall, in accordance with the Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore), be entitled to enforce or enjoy the benefit of any provision of these Rules as a third party to the extent any rights arise under such legislation.
- (d) For avoidance of doubt, where the Clearing Member is a Bank, the requirement to be complied with by the Bank under these Rules shall be in relation to the Bank’s activities governed by these Rules. Nothing in these Rules shall affect the operation of the Banking Act and the Bank's compliance with MAS Requirements.
- (e) Unless otherwise provided under these Rules, a third party has no rights under the Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore), or under any Applicable Laws to enforce any provisions of these Rules, and no consent of any third party is required for any variation (including any release or compromise of any liability) or termination of any provisions of these Rules.

### **Rule 202      Powers to Amend and Waive Rules**

- (a) These Rules may be modified or amended by the Clearing House to the extent not restricted under MAS Requirements and pursuant to the procedures established thereunder, including in any regulation promulgated under the SFA. All such amendments shall be an integral part of these Rules and shall be binding on all Clearing Members.
- (b) The Clearing House shall announce any amendment to these Rules through a Regulatory Notice to Clearing Members, and such amendment shall take effect at such time and in such manner as the Clearing House may determine, subject to MAS Requirements.
- (c) The Clearing House shall consult Clearing Members in such manner as it sees fit on any proposed amendments to these Rules, but (subject to MAS Requirements) is not obliged

to consult Clearing Members where the Clearing House is exempted from doing so by the Authority or where the proposed Rule amendments would have a limited impact on Clearing Members or if the proposed amendments are to Margin requirements pursuant to these Rules where such amendments are made in response to a change in the historical or anticipated volatility of any Contract, or in the co-relation between Contracts.

- (d) When considering the impact a proposed rule amendment would have on Clearing Members, the Clearing House shall consider the likely effect that the amendment would have on the rights, obligations, operations and systems of the Clearing Members and other affected Persons.
- (e) The Clearing House shall have the absolute discretion as to whether to waive all or any part of these Rules generally, or specifically for any Clearing Member or any group of Clearing Members, unless these Rules specify that the Clearing House shall not waive it, or such waiver is prohibited by MAS Requirements. Such waiver will only be granted if the Clearing House is satisfied that compliance with the relevant requirements under these Rules would be unduly burdensome to the Clearing Member or Person concerned or that compliance with the relevant requirement would not be in the interests of the Clearing House, and waiver or variation of the requirements does not disadvantage other Clearing Members or create unacceptable risks for the Clearing House. Any waiver or variation of requirements granted may be subject to such terms and conditions as the Clearing House deems fit, and may be publicised at the discretion of the Clearing House.
- (f) No failure to exercise and no delay in exercising any right, power or remedy by the Clearing House under any Rule operates as a waiver, nor does any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy by the Clearing House.

### **Rule 203** Power to Issue Procedures, Directives, Regulatory Notices and Guidelines

- (a) The Clearing House may, from time to time, issue Procedures, Directives, Regulatory Notices and Guidelines to supplement these Rules or to explain the interpretation and application of these Rules to Clearing Members, or may issue Circulars as it deems fit.
- (b) Any Procedures, Directive, Regulatory Notice, Guideline or Circular may be delivered by fax, e-mail or any other method (whether electronic, or otherwise) to the address notified by the Clearing Member to the Clearing House, or by posting on the Clearing House website, and shall be deemed to have come to the knowledge of the Clearing Member immediately upon issuance by the Clearing House.
- (c) The Clearing House may from time to time, by Regulatory Notice or other written notice to Clearing Members and Persons subject to these Rules, prescribe Clearing Procedures governing clearing and settlement by or through the Clearing House and/or pursuant to



these Rules, and other aspects of business conducted by the Clearing House.

#### **Rule 204** Power to Delegate

- (a) The Board may delegate such of its powers, authorities and discretions as it may from time to time determine to such Officers, employees, individuals, and such committees, as the Board may authorise from time to time.
- (b) The Board shall appoint such committees as it deems fit to advise it on matters relating to the operation of the Clearing House. Such committees may include, without any limitation, a Risk Committee, a Business Conduct Committee (“BCC”), a Disciplinary Panel, and an Appeals Panel.
- (c) The BCC shall be responsible for promoting good regulatory practices, and shall have such powers as the Rules may from time to time provide including, without limitation, those powers mentioned in Chapter 7. For the avoidance of doubt, the BCC is a committee of the Clearing House and has no executive powers independent of the Clearing House. Accordingly, any reference in these Rules or the Contract Terms to an action of the BCC shall be construed as being a reference to the Clearing House acting by the BCC, and any reference to a power of the BCC shall be construed as being a power of the Clearing House.
- (d) The BCC shall have:
  - (1) jurisdiction over any Person subject to the Clearing House’s jurisdiction with respect to matters relating to business conducted on or through the Clearing House;
  - (2) the authority to refer matters to a Disciplinary Panel; and
  - (3) the authority to make findings on Violations against any party subject to the jurisdiction of the Clearing House.

#### **Rule 205** Jurisdiction and Governing Law

- (a) For the benefit of the Clearing House, and subject to sub-paragraph (b) below, the Clearing House and the Clearing Members hereby irrevocably agree that the Courts of Singapore shall have exclusive jurisdiction, and that no other court is to have jurisdiction, save as provided in these Rules:
  - (1) to settle any disputes arising out of or in connection with these Rules or with the relationship otherwise established between the Clearing House and the Clearing Member;
  - (2) to settle any disputes arising out of or in connection with the legal validity or



enforceability of these Rules; and

- (3) to grant interim remedies, or other provisional or protective relief.
- (b) Nothing in these Rules limits the right of the Clearing House to bring proceedings, including third party proceedings against any Clearing Member or other Person, or to apply for interim remedies, in connection with these Rules:
  - (1) in any other court of competent jurisdiction; and
  - (2) concurrently in more than one jurisdiction,and the obtaining by the Clearing House of judgment in one jurisdiction shall not prevent the Clearing House from bringing or continuing proceedings in any other jurisdiction, whether or not these shall be founded on the same cause of action.
- (c) These Rules (including any dispute or arbitration under Chapter 12) shall be governed by and construed in accordance with the laws of Singapore.
- (d) In the event of any discrepancy between these Rules and the Exchange Rules, these Rules shall prevail as between any Clearing Member and the Clearing House, and as between a Clearing Member and any other Clearing Member.

## **Rule 206 Collateral Arrangements**

### **Rule 206.1 Provision of Collateral**

A Clearing Member shall deposit or otherwise provide to the Clearing House such Collateral, in such form and denomination as may be prescribed by and acceptable to the Clearing House from time to time, and may deposit or otherwise provide to the Clearing House Collateral in excess of the amount required by the Clearing House, subject to such terms and conditions prescribed by the Clearing House from time to time.

### **Rule 206.2 General Lien**

Without prejudice and in addition to any Security Interest or other right or remedy which the Clearing House may have under these Rules, contract, law or equity, and subject to any applicable restrictions pursuant to MAS Requirements and/or imposed by the Authority, the Clearing House shall have a lien on all Collateral deposited with or provided to the Clearing House and on any other monies and/or assets of the Clearing Member which may be or become available to the Clearing House.

### **Rule 206.3 Collateral Withdrawal**

- (a) Where any obligation under these Rules or as may otherwise be owing to the Clearing House remains outstanding on the part of a Clearing Member, such Clearing Member shall have no right to withdraw any Collateral or request for the repayment of any credit balance held with or subject to the control of the Clearing House without the Clearing

House's prior consent.

- (b) Any withdrawal of Collateral consented to by the Clearing House under Rule 206.3(a) shall not be deemed to be a release of the existing or future Security Interest over any remaining Collateral held with or subject to the control of the Clearing House, other than the withdrawn Collateral.
- (c) A request for withdrawal of Collateral may only be made by a Clearing Member subject to Rule 206.3(a). Without prejudice to Rule 201(e), a third party may not withdraw or request for the withdrawal of any Collateral held with or subject to the control of the Clearing House, other than through the third party's Clearing Member. All Collateral permitted by the Clearing House to be withdrawn shall be returned only to the Clearing Member.

#### Rule 206.4 Valuation of Collateral

- (a) The Clearing House shall value such Collateral as it deems appropriate. The Clearing House shall, at its sole discretion, determine (i) what monies and/or assets will be acceptable as Collateral and (ii) when such monies and/or assets will cease to be acceptable as Collateral, and determine the valuation to be attributed thereto.
- (b) If any Collateral deposited or provided by any Clearing Member is found in any way to be unacceptable by the Clearing House, the Clearing House shall have the right to immediately give a zero value to such Collateral for the purposes of assessing the satisfaction of such Clearing Members' obligations under these Rules or as may otherwise be owing to the Clearing House, pursuant to which such Collateral was deposited or provided.
- (c) Following revaluation of any Collateral deposited with or provided to the Clearing House, where such Collateral is found by the Clearing House to be insufficient to meet any obligation of the Clearing Member under these Rules or as may otherwise be owing to the Clearing House, pursuant to which such Collateral was deposited or provided, the Clearing Member shall deposit with or provide to the Clearing House such additional Collateral as may be required to meet such obligation, within such time as the Clearing House may require.
- (d) In the event of any dispute as to any matters covered in this Rule 206.4, the Clearing House's decision shall be final and binding.

#### Rule 206.5 Trust Arrangements

- (a) Subject to all rights and remedies of the Clearing House against or in respect of Collateral under these Rules and MAS Requirements, and upon notification by a Clearing Member pursuant to Rule 415(c), Collateral held by or otherwise deposited with or provided to the Clearing House shall be held on trust by the Clearing House for the benefit of the relevant Customers of the Clearing Member pursuant to MAS Requirements, where such Collateral is held by or otherwise deposited with or provided to the Clearing House solely

in respect of Customer Contracts.

- (b) The Clearing House shall have the right to commingle any or all Collateral held by or otherwise deposited with or provided to it by Clearing Members, except where such Collateral is held by or otherwise deposited with or provided to the Clearing House solely in respect of Customer Contracts, in the same account.
- (c) The Clearing House shall have the right to commingle any or all Collateral held by or otherwise deposited with or provided to it by Clearing Members solely in respect of Customer Contracts, in the same account.

#### Rule 206.6 Investment and Use of Collateral

- (a) The Clearing House may invest, manage and use Collateral in such manner as it shall deem fit, provided that:
  - (1) Collateral in respect of Customer Contracts only be invested in accordance with these Rules and MAS Requirements; and
  - (2) the Clearing House shall not use any Collateral received and notified to it as Collateral in respect of a Customer Contract to settle any obligations that are incurred in relation to a Contract entered into for the account of the Clearing Member, except in accordance with these Rules and MAS Requirements.
- (b) Each Clearing Member shall secure contractual waivers in favour of the Clearing Member from its Customers waiving their respective rights to all interest and investment earnings from the Collateral held with or otherwise provided to the Clearing House in respect of Customer Contracts, as may be necessary to give effect to the Clearing House's rights in relation to interest and fees under Rule 206.7.
- (c) All Collateral deposited or provided by each Clearing Member to the Clearing House shall be subject to these Rules and MAS Requirements. Each Clearing Member shall ensure that all Collateral deposited or provided to the Clearing House are deposited or provided only on the foregoing basis and shall also ensure that, prior to depositing or providing any Collateral to the Clearing House for the account or for the Contracts of any Person, such Person has been notified of and has accepted the foregoing.

#### Rule 206.7 Fees and Interest for Collateral

- (a) The Clearing Member shall pay the Clearing House such administrative fees as may be prescribed by the Clearing House and notified to the Clearing Member from time to time for the investment and management of the Collateral. Administrative fees may be deducted from the investment earnings arising from or in connection with the Collateral or paid directly to the Clearing House as determined by the Clearing House.
- (b) Unless otherwise provided for in these Rules, or unless otherwise required by MAS Requirements, the Clearing House shall have no obligation to make payment of any fees, interest and investment earnings arising from or in connection with the Collateral to any

Person.

## Rule 206.8 Indemnity

- (a) Any Collateral accepted by Clearing House shall be deposited with the appropriate Settlement Bank(s) or custodian(s) designated by the Clearing House for such purpose in a Clearing House account for Proprietary Contracts or in a Clearing House account for Customer Contracts, as the case may be, and the Clearing House shall retain control over such Collateral.
- (b) The Clearing House shall not have any obligation or responsibility to preserve, protect, collect or realise, and under no circumstances shall the Clearing House be liable for any loss or diminution in value or depreciation in or in connection with, the Collateral maintained pursuant to this Rule 206.8.
- (c) A Clearing Member who maintains Collateral with the Clearing House pursuant to this Rule shall indemnify and hold the Clearing House harmless from any loss, damage, costs, charges and/or expenses of whatsoever nature and howsoever arising suffered or incurred by the Clearing House (including legal costs on a full indemnity basis) to any designated Settlement Bank(s) or custodian which may result from or arise with respect to:
  - (1) any act, delay or omission in connection with Collateral (whether by such Clearing Member or the Clearing House) deposited with such Settlement Bank(s) or designated custodian; or
  - (2) any contract or agreement between the Clearing House and any Settlement Bank(s) or designated custodian, or any representation, warranty or undertaking given by the Clearing House to any Settlement Bank(s) or designated custodian, in relation to or otherwise in connection with Collateral deposited with such Settlement Bank(s) or designated custodian, provided that this indemnity shall not cover any loss, damage, costs, charges and/or expenses and/or liability of whatsoever nature and howsoever arising suffered or incurred by the Clearing House (including legal costs on a full indemnity basis) attributable or referable to the gross negligence or wilful misconduct of the Clearing House or any of the Clearing House's Officers, agents and/or employees.
- (d) If any loss of Collateral occurs, or any Collateral becomes unavailable to the Clearing House, such that any obligation of the Clearing Member under these Rules or as may otherwise be owing to the Clearing House, pursuant to which such Collateral was deposited or provided, cannot be sufficiently met as determined by the Clearing House, the Clearing Member shall deposit with or provide to the Clearing House such additional Collateral as may be required to meet such obligation, within such time as the Clearing

House may require.

### Rule 206.9 Set-off

- (a) Subject to MAS Requirements, the Clearing House may, at its absolute discretion:
- (1) consolidate or combine, at any time, the balances, whether arising from settlements, Margin payments or otherwise, in respect of all or any Open Positions designated to a Clearing Member's Proprietary Account(s); and/or
  - (2) set-off, at any time, any amount available from time to time that is due and owing by the Clearing House to that Clearing Member, and/or any credit balance in the Clearing House Member Settlement and Margin Account(s) of that Clearing Member, in or towards payment or satisfaction of any or all of that Clearing Member's obligations to the Clearing House with respect to or in relation to:
    - (i) Open Positions designated to that Clearing Member's Proprietary Account(s);
    - (ii) Open Positions designated to any of that Clearing Member's Customer Accounts, to the extent of any deficiency where proceeds of a Customer Settlement Account are inadequate to satisfy its obligations to the Clearing House with respect to any Open Positions designated to such Customer Account; or
    - (iii) all other obligations of the Clearing Member to the Clearing House.
- (b) Subject to MAS Requirements, the Clearing House may, at its absolute discretion:
- (1) consolidate or combine at any time the balances, whether arising from settlements, Margin payments or otherwise, in respect of all or any of the Open Positions designated to a Clearing Member's Customer Accounts; and/or
  - (2) set-off, at any time, any amount available from time to time that is due and owing by the Clearing House to that Clearing Member's Customer Account and any credit balance standing to the credit of any of a Clearing Member's Clearing House Customer Settlement and Margin Accounts in or towards payment or satisfaction of all or any of the Clearing Member's liabilities to the Clearing House in respect of Open Positions designated to the Clearing Member's Customer Accounts.

### Rule 206.10 Regulatory Information

Clearing Members shall provide the Clearing House with any information necessary in relation to such Collateral deposited with or provided to the Clearing House to enable the Clearing House to meet its reporting obligations to the Authority and/or other relevant governmental or regulatory authorities or for any other regulatory purposes, including but not limited to for

withholding tax purposes.

## **Rule 207**    Limitation and Exclusion of Liability

- (a) The Clearing House shall have no liability, obligation or duty to any Clearing Member, any of their Customers, Settlement Bank or any third party, including but not limited to, as a result of:
  - (1) any Force Majeure Event;
  - (2) any losses or damages, including consequential losses and damages, which may be incurred by any Clearing Member or any other Person and which may arise directly or indirectly with respect to the activities and functions of or any transactions undertaken by the Clearing House;
  - (3) any failure, omission or error on the part of the Clearing House, including any losses or damages with respect to clearing and settlement on the Clearing House, or suspension, interruption, cancellation or closure or cessation of services of the Clearing House or the Exchange or any market whose contracts are cleared by the Clearing House, or any inoperability or malfunction of equipment, software or any other product operated, supplied or used by the Clearing House or the Exchange;
  - (4) any decision of the Disciplinary or Appeals Panel exercising their powers, or the Clearing House accepting a Clearing Member's resignation, or the Clearing House's discharge of its regulatory responsibilities or powers, including any decision to reject a potential Clearing Member's application for membership, suspend or terminate the membership of any Clearing Member, or declare any Clearing Member to be a Defaulting Clearing Member; or
  - (5) the exercise of, or failure to exercise, any discretion, powers or rights by the Clearing House under these Rules or by the Exchange under the Exchange Rules.
- (b) Without any prejudice to the foregoing, the Clearing House does not make any representation or warranty, express or implied, and shall not have any liability to any Person in connection with or as result of:
  - (1) any failure by the Exchange or the Clearing House to provide any information to or communicate with each other;
  - (2) the accuracy, originality, completeness or timeliness of any information, document or data;
  - (3) the merchantability, satisfactory quality and fitness for a particular purpose of, or use of, any information or data, computer, software or any clearing and settlement

system used or operated by the Clearing House; or

- (4) any direct, indirect, special, punitive, consequential damages or loss of profits.
- (c) The Clearing House, the Exchange and the developer of any trading, clearing and settlement system or of any computer system or software used or operated by the Clearing House in relation to the functions of the Clearing House shall not have any liability in respect of the operation or use of any such systems or software to the fullest extent permitted by law, including but not limited to, any breach of any law, any act or omission, injury, death, damage to physical property, any direct or indirect losses, loss of operation time or loss of equipment or process, economic loss, loss of reputation or losses or damages incidental or consequential to the installation, use or operation of any such system or software. All warranties and conditions including express and implied as to the description, condition, performance, quality, fitness for purpose, durability or otherwise of such system or any component thereof or software are excluded except as required by law. Neither the Clearing House, nor the Exchange warrants or forecasts that such systems or any component thereof or software or any services performed in respect thereof will meet the requirements of any user, or that operation of such systems or software will be uninterrupted or error-free, or that any services performed in respect of such systems or software will be uninterrupted or error-free. Nothing in these Rules, including this Rule 207(c) shall, in any way, limit any liability of a developer of such systems or software to the Clearing House.
- (d) Without prejudice to any of the foregoing, the Clearing House does not make any representation or warranty, express or implied, and shall not have any liability to any Person in connection with or as result of the accuracy, originality, completeness or timeliness of, or the merchantability, satisfactory quality and fitness for a particular purpose of, or use of, any indices, used by the Clearing House. This exemption of liability available to the Clearing House shall also extend to any developer(s) of such indices. Notwithstanding the foregoing, nothing in these Rules shall in any way limit any liability of a developer of such indices to the Clearing House.
- (e) In the event that an obligation of the Clearing House must be performed by or prior to a particular time but does not occur on or before that time, the Clearing House shall not be in violation of these Rules provided that it performs the relevant obligation within a reasonable timeframe thereafter.
- (f) No power conferred on the Clearing House by these Rules (including but not limited to, any power to close out Open Positions or to transfer or call Margin or Daily Settlement Amounts) shall impose any duty on the Clearing House to exercise such power or to exercise such power in a particular way, and no Person shall have any claim against the Clearing House in relation to any decision made in good faith to exercise or refrain from exercising such powers, or exercising them in any particular manner.
- (g) The Clearing House shall have no implied duties or obligations of any kind, and is only responsible for the performance of those obligations that are expressly required by MAS



Requirements and these Rules.

- (h) The Clearing House and its Officers, employees, contractors and/or agents (including members of any committees established under these Rules, whether past or present) shall not be liable for anything done (including any statement made) or omitted to be done in good faith and in the course of, the performance or purported performance of, or the discharge or purported discharge of, the functions or in the exercise of any power under MAS Requirements or these Rules.

## **Rule 208 Indemnity**

- (a) Every Clearing Member shall indemnify and keep indemnified the Clearing House and its Officers and employees against any and all losses, costs, expenses, damages, injuries and liabilities (including legal costs on a full indemnity basis) whatsoever incurred or suffered by the Clearing House and its Officers and employees where such losses, costs, expenses, damages, injuries and liabilities arise out of, or in connection with, any violation by the Clearing Member (including its Officers, employees, Representatives, agents, contractors or Customers, past or present) of its obligations under these Rules or violation of any Applicable Laws, or any unlawful, wilful, reckless or negligent act or omission of the Clearing Member (including its Officers, employees, Representatives, agents, contractors or Customers, past or present).
- (b) Without prejudice to sub-paragraph (a) above, each Clearing Member shall indemnify and hold the Clearing House harmless for the full amount of any judgment, award or settlement paid by the Clearing House in respect of any legal or administrative proceeding brought against the Clearing House as a result of an alleged Violation of any Applicable Laws or these Rules, or any Regulatory Notices or Directives by such Clearing Member (including its Officers, employees, Representatives, agents, contractors or Customers, past or present).

## **Rule 209 Confidentiality and Data Usage**

- (a) Subject to the remainder of this Rule 209, the Clearing House shall maintain, and aid in maintaining, the confidentiality of all Confidential Information that comes to the knowledge of the Clearing House or any of its Officers or employees, or is in the possession of the Clearing House or any of its Officers or employees.
- (b) The requirements set forth in Rule 209(a) shall not apply to the disclosure of Confidential Information for the following purposes or in the following circumstances:
  - (1) the disclosure of Confidential Information is necessary for the making of a complaint or report under any Applicable Law for an offence alleged or suspected to have been committed under such Applicable Law;
  - (2) the Customer or Clearing Member to which the Confidential Information relates



consents to such disclosure in writing;

- (3) the disclosure of Confidential Information is necessary for the clearing or settlement of a transaction and such disclosure is made only to another Person which is —
  - (i) a party to the transaction; or
  - (ii) an Exchange Member or Clearing Member through which that transaction is executed, cleared or settled;
- (4) the disclosure of Confidential Information is necessary —
  - (i) in any disciplinary proceedings of the Clearing House, provided that reasonable steps are taken to ensure that Confidential Information disclosed to any third person is used strictly for the purpose for which the Confidential Information is disclosed; or
  - (ii) for the publication, in any form or manner, of the disciplinary proceedings and the outcome thereof;
- (5) the Confidential Information disclosed is already in the public domain;
- (6) the disclosure of Confidential Information is made in connection with —
  - (i) an arrangement for protection against a Declared Default by a Clearing Member, where such disclosure is made to another Clearing Member who is identified by the Clearing House for the purposes of carrying out or undertaking the obligations under the arrangement;
  - (ii) an arrangement for the transfer of any Contract from a Defaulting Clearing Member to another Clearing Member;
  - (iii) the outsourcing or proposed outsourcing of any function of the Clearing House to a third party;
  - (iv) the engagement or potential engagement of a third party by the Clearing House to create, install or maintain systems of the Clearing House; or
  - (v) the appointment or engagement of an auditor, a lawyer, a consultant or other professional by the Clearing House under a contract for service;
- (7) the disclosure of Confidential Information is necessary in (in the case where the Customer is an individual) —
  - (i) an application for a grant of probate or letters of administration or the

- resealing thereof in relation to the estate of a deceased Customer; or
- (ii) the administration of the estate of a deceased Customer,  
including such disclosure as may be required by the Public Trustee or the Commissioner of Estate Duties;
- (8) the disclosure of Confidential Information is made in connection with —
- (i) in the case where the Customer is an individual, the bankruptcy of such Customer; or
  - (ii) in the case where the Customer or Clearing Member is a body corporate, the winding up or receivership of such Customer or Clearing Member;
- (9) the disclosure of Confidential Information is authorised to be disclosed or furnished by the MAS; or
- (10) the disclosure of Confidential Information is made pursuant to any requirement imposed under any written law or order of court in Singapore.
- (c) Where Confidential Information is disclosed under Rule 209(b)(6), the Clearing House shall:
- (1) maintain a record of the circumstances relating to the disclosure of Confidential Information, and make that record available for inspection by MAS;
  - (2) disclose the Confidential Information only insofar as is necessary for the relevant purpose; and
  - (3) take reasonable steps to ensure that the Confidential Information disclosed is used by the Person to whom the disclosure is made strictly for the relevant purpose, and that the Confidential Information is not disclosed by that Person to any other Person except with the consent of the Clearing House.
- (d) Where disclosure of Confidential Information is permitted to be made for any purpose or in any circumstance under Rule 209(b) to a body corporate, the Confidential Information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.
- (e) Each Clearing Member and the Clearing House:
- (1) consents to the recording of telephone conversations between the relevant personnel of the Clearing Member and its Affiliates and the Clearing House and its Affiliates in connection with these Rules and any Contract, potential Contract, or transaction clearing on or pursuant to these Rules;
  - (2) agrees to obtain any necessary consent of, and give any necessary notice of such

recording to, its and its Affiliates' Clearing Member's Representatives and other relevant personnel;

- (3) agrees, to the extent permitted by Applicable Law, that recordings may be submitted as evidence in any dispute; and
  - (4) agrees that the other provisions of this Rule 209 shall apply to any such recordings made by the Clearing House.
- (f) For the avoidance of doubt, nothing in this Rule 209 shall be construed, or deemed to be construed, as an express or implied agreement by the Clearing House to a higher degree of confidentiality than that prescribed under Section 64 of the SFA and Regulation 15 of the Clearing Facilities) Regulations.
- (g) The Clearing House may collect and use Personal Data for the purposes of operating an approved clearing house in accordance with these Rules. Each Clearing Member shall ensure that:
- (1) any and all of its Representatives and Customers in relation to whom Personal Data are provided to the Clearing House (“**Data Subjects**”) have consented in advance to such data being collected, used, disclosed and processed by the Clearing House, or, if not a natural person, have agreed to procure such consent to the extent necessary;
  - (2) the disclosure of Personal Data by the Clearing Member or its Representatives is in all respects and in each case lawful; and
  - (3) the information set out in Rule 209(h) has been provided to each Data Subject prior to disclosure of Personal Data relating to such Data Subject to the Clearing House.
- (h) The Clearing House shall have the right to disclose Personal Data to such Persons and for such purposes as are set out in Rule 209(b) (which shall apply to Personal Data in the same way as it applies to Confidential Information). The Clearing House and other Persons referred to in Rule 209(b) may transfer Personal Data outside Singapore subject to Applicable Law.
- (i) Data Subjects have the right (subject to Applicable Law): (i) on payment of a small fee to the Clearing House, to receive a copy of Personal Data held by the Clearing House; (ii) to have any errors or inaccuracies in such Personal Data rectified; and (iii) to submit questions to the Clearing House in relation to collection, use or disclosure by the Clearing House of Personal Data in relation to such Data Subject. Any request should be addressed to the Clearing House's registered office.

## **Rule 210 Severability**

If any provision of these Rules (or part of any provision) is found by any court or other Governmental Authority to be invalid, illegal or unenforceable in any jurisdiction, such

invalidity, illegality or unenforceability shall not affect any other provision or partial provision of these Rules, or invalidate or render unenforceable such provision or partial provision in any other jurisdiction.

## **Rule 211** Force Majeure

- (a) The Clearing House shall not be liable for any harm, loss, damage, cost or injury caused by it to any Person or any failure, hindrance or delay in the performance (in whole or in part) of any of its obligations to Clearing Members where such harm, loss, damage, cost, injury, failure, hindrance or delay arises from causes beyond the Clearing House's reasonable control. Such event or causes include, but are not limited to, war, riots, acts of God, civil disturbances, terrorism, acts of a civil or military authority, embargoes, fires, labor disputes, floods, any natural disaster, explosions, accidents, mechanical breakdowns, computer or system failures or other failures of equipment, any failure or interruption of any network, telecommunication equipment or online system, any failure or interruption of power supply, any utility or service provider, any failure of or defect in computer or software systems, or any embargo, unavailability, delay, defect, malfunction or restriction of any transfer systems, communication systems or computer systems, or any change of law, interruption or suspension or Insolvency of any bank, financial institution, depository or custodian (including the failure whether partial or total, interruption or suspension of any depository or custodian or other service the Clearing House is using or the termination or suspension of the Clearing House's membership or use of any depository or custodian), market emergency, closure of any market including any market operated by the Exchange, and any other causes or other emergencies of any nature in all cases which are beyond the Clearing House's reasonable control (collectively, "**Force Majeure Events**" and each a "**Force Majeure Event**").
- (b) Notwithstanding anything contained in sub-paragraph (a) above, any failure on the part of the Clearing House which is caused by conditions beyond its control shall not in any way reduce, alter, limit or affect the liability of a Clearing Member in respect of any Contract or transaction entered into or executed through the systems of the Clearing House by such Clearing Member.
- (c) In the event the Clearing House identifies or suspects the development or possible development of a Force Majeure Event, it shall forthwith refer the matter to a panel (the "**Force Majeure Panel**") being a minimum of three (3) people comprising: (i) the Chief Executive Officer of the Clearing House, or his or her designee, (ii) the Chief Regulatory Officer of the Clearing House, or his or her designee and (iii) the Chief Executive Officer of the Exchange, or his or her designee. If the aforesaid panel determines, in the good faith exercise of its sole discretion, that a Force Majeure Event exists and action is warranted, it shall be entitled, notwithstanding anything contained in sub-paragraph (a) and (b) above, to require any Clearing Member to take such actions, including but not limited to, close out all or any of the Contracts, as it may decide in respect of Contracts or transactions affected by the Force Majeure Event and/or require immediate settlement of such Contracts or transactions.

**Rule 212** Time is of the Essence

Time is of the essence with respect to the timelines and periods stipulated in these Rules, Directives, the Regulatory Notices and the relevant Contract Terms, including without limitation any provisions pertaining to the posting of Margins with the Clearing House, delivery of documents, making and taking of delivery and effecting payment, unless otherwise provided.

## **Chapter 3      Clearing Membership**

### **Rule 301      Membership Requirements for Participation**

- (a) A Person who wishes to become a member of the Clearing House may apply for any category of membership under these Rules, subject to its fulfillment of the membership criteria, payment of all the required fees, contributions, charges, deposits or other monies.
- (b) Each Clearing Member shall be authorised to effect clearing and settlement of Contracts with or through the Clearing House in accordance with these Rules. Clearing Members may, at the Clearing House's discretion, be subject to restrictions in their business with the Clearing House, for example by reference to certain Contracts, the Market or the clearing and settlement of Contracts for Customers or using a Customer Account. The Clearing House shall be entitled to publish lists of Clearing Members including details of their privileges and restrictions from time to time.
- (c) Each Clearing Member shall have the privileges, rights and obligations provided for in these Rules. Such privileges, rights and obligations may be terminated or altered in any respect at any time as provided in these Rules.
- (d) Each Clearing Member shall be liable to the Clearing House and responsible for all its obligations in respect of its Proprietary Account. Each Clearing Member shall be liable to the Clearing House and responsible for all its obligations in respect of its Customer Account as principal. No Customer Account recognised in the Clearing House's or any Clearing Member's books and records or those of any Settlement Bank nor any other Rules shall result in any obligation of the Clearing House towards any Customer of the Clearing Member or any other Person that is not a Clearing Member under MAS Requirements or otherwise except as required under the SFA and the Clearing Facilities Regulations, including, without limitation, any trust obligation on the Clearing House arising pursuant to Regulation 23 of the Clearing Facilities Regulations or on the Clearing Member arising pursuant to Regulations 16 and 26 of the Conduct of Business Regulations. It is the responsibility of the Clearing Member (and not the Clearing House) to ensure that its Member Settlement and Margin Account and Customer Settlement and Margin Account are linked appropriately to its Proprietary Account and its Customer Account respectively and to ensure its own compliance with Applicable Laws relating to conduct of business and segregation and use of customers' money and assets. Accordingly: (i) each Clearing Member with a Customer Account intends that it will be acting in a separate capacity in relation to its Customer Account to that in which it acts in relation to its Proprietary Account; and (ii) the Clearing House agrees with the Clearing Members acting in such different capacities. A Clearing Member shall be eligible to have at least one Proprietary Account and at least one Customer Account.
- (e) Subject to Market requirements (if any), a Clearing Member may appoint another Clearing Member to perform specific functions, including deliveries, on the first Clearing Member's behalf. In order to do so, the relevant Clearing Members, the Market (if any) and the Clearing House must be party to an agreement pursuant to which the second Clearing Member agrees to perform specific functions detailed in the agreement on behalf

of the first Clearing Member. A Clearing Member intending to perform functions for another Clearing Member shall represent and warrant to the Clearing House that it has sufficient authorisation from the MAS and under Applicable Laws to carry on such function.

## **Rule 302** Categories of Membership

(a) Membership of the Clearing House shall comprise of such categories of membership as provided under these Rules, and such other categories or sub-categories of membership created by the Clearing House pursuant to and subject to these Rules.

(b) The categories of membership are:

(1) General Clearing Member

General Clearing Member means a corporation who is an Exchange Member, and whom the Clearing House has admitted as a Clearing Member and has conferred the right to clear through the Clearing House. A General Clearing Member may clear and settle trades carried by itself as well as by its Customers.

(2) Special Clearing Member

Special Clearing Member means any corporation, who is not an Exchange Member and who is admitted by the Clearing House as a Clearing Member. A Special Clearing Member shall only be allowed to clear and settle trades on account of any Customer.

## **Rule 303** Eligibility, Conditions and Admission of Members

### **Rule 303.1** General Requirements

(a) In order to attain and maintain membership as a Clearing Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes a Clearing Member:

- (1) have paid the Clearing House's (non-refundable) application fee (if applicable) and provided completed membership application forms;
- (2) be a corporation who has good commercial and financial standing and relevant experience and which is incorporated in Singapore or if incorporated outside Singapore, has a branch established and located in Singapore and has a physical place of business in Singapore;
- (3) not, or has not been suspended or expelled from any exchange, clearing house, self-regulatory organisation or other business or professional association for violating any rule of such organisation;
- (4) agree to be bound by these Rules, and ensures that its Officers, Representatives,



employees, Customers, agents and contractors comply with these Rules;

- (5) have nominated an individual, satisfactory to the Clearing House, who: (i) is an Officer or employee of the applicant (or individual occupying a similar status or performing similar functions); (ii) is responsible for the clearing operations of the applicant; (iii) is authorised to act on behalf of the applicant in all transactions with or involving the Clearing House; and (iv) has all authorisations, registrations, licences, permissions, non-objections, consents or approvals required under Applicable Law in any jurisdiction in order to act as a representative for the relevant Clearing Member's business in connection with the Clearing House, or benefits from any exemption(s) and/or exclusion(s) from the requirement to obtain any of the same under Applicable Law, and have nominated a second individual who meets the requirements of (i) to (iv) above and who is authorised to act on behalf of the applicant in the event of the death, incapacity or other inability of the first individual to so act;
- (6) maintain not less than the minimum Base Capital or Net Head Office Funds (as the case may be) and meets the Financial Resources, and other financial requirements as the Clearing House may from time to time determine and consider acceptable;
- (7) have in place all necessary regulatory authorisations, licences, permissions and approvals in its country of origin, Singapore and any other jurisdiction in which it conducts business;
- (8) have sufficient qualities of financial, compliance and managerial responsibility, operational capacity, business integrity, reputation and competence as the Clearing House, in its discretion, considers necessary or appropriate and satisfy the Clearing House that its Officers, employees and Controllers also satisfy such tests, including having adequate separation policies to mitigate concentration risk of critical business functions and compliance oversight in place to enable it to meet its obligations as a Clearing Member;
- (9) satisfy the internal stringent credit criteria established by the Clearing House, such satisfaction to be confirmed by an examination of its books and records; provided further that this requirement may, at the discretion of the Clearing House, be met by a Controller of the Clearing Member if such Controller provides a guarantee in such form and on such terms as may be satisfactory to the Clearing House;
- (10) have such facilities, equipment, operational capability, personnel, hardware and software systems as are capable of supporting the proper performance of its business as a Clearing Member, including such IT links to the Clearing House and software as in the judgment of the Clearing House are necessary or desirable;
- (11) have appropriate business continuity arrangements in place to enable it to meet its obligations as a Clearing Member (and, where applicable, satisfy any minimum



requirements of the MAS and any other Regulatory Authority);

- (12) ensure that its constitutive documents comply and are not inconsistent with these Rules and all Applicable Laws, and agrees to make all amendments to the same for compliance or consistency with the foregoing, as required;
- (13) have a sufficient level of knowledge about the types of Contracts that it intends to clear and any risks involved in relation to the same;
- (14) have demonstrated its ability to make available to the Clearing House sufficient Margin and make Margin payments as required pursuant to these Rules;
- (15) have made the required contribution into the Guaranty Fund;
- (16) (along with its Officers) not be subject to an Insolvency;
- (17) demonstrate operational competence in respect of the classes of Contracts that it proposes to clear;
- (18) if it is to clear transactions on behalf of Customers, have the necessary additional financial resources and operational capacity to perform this activity;
- (19) not be subject to any circumstances pursuant to which an Event of Breach could be declared were the applicant to be a Clearing Member;
- (20) have provided details of an office which is staffed during the Clearing House's business hours and sufficient for its proposed activities as a Clearing Member under the direct supervision and responsibility of an executive director or other executive officer of the Clearing Member to which all notices, orders and other communications from the Clearing House may be transmitted or delivered;
- (21) satisfy the Clearing House that it, its Officers, employees, Representatives and substantial shareholders are of good character and of high business integrity and financial probity and are fit and proper, in accordance with the criteria set out in the Guidelines on Fit and Proper Criteria issued by MAS;
- (22) (along with its Officers, employees, Representatives and substantial shareholders) not have been convicted of an offence involving any fraud, dishonesty or financial impropriety;
- (23) hold Member Settlement and Margin Accounts and Customer Settlement and Margin Account as required under these Rules at one or more Settlement Banks in relation to each of which a direct debit mandate has been established in favour of the Clearing House;
- (24) if non-cash assets are to be used as Collateral, have executed all necessary documentation relating to the transfer of such assets and not be in dispute with the Clearing House in relation to the ownership over or rights relating to such non-

cash assets;

- (25) either (A) be a Person in respect of whom 'simplified customer due diligence' may be applied pursuant to the MAS Notice to Capital Markets Intermediaries on the prevention of money laundering and countering the financing of terrorism ("**MAS Notice SFA04-N02**"); or (B) have been subject to customer due diligence measures under MAS Notice SFA04-N02 to the Clearing House's satisfaction;
- (26) not be prevented from entering into any Contract or using the Clearing House as a result of any sanctions administered or imposed by any Governmental Authority in Singapore or the United Nations Security Council or any other relevant Governmental Authority affecting any Market, the Clearing House, any Clearing Member, any Customer or any of their assets;
- (27) where the applicant is a Bank, additionally, without prejudice to the foregoing:
  - (i) furnish proof to the Clearing House that it is authorised to conduct banking business in Singapore pursuant to Section 4 of the Banking Act;
  - (ii) satisfy the Clearing House that it or its parent bank has a long-term issuer rating of at least B3 from Moody's Investors Service, at least B- from Standard & Poor's Corporation, at least B- from Fitch, Inc or an equivalent rating from any other international rating agency deemed acceptable by the Clearing House;
- (28) be incorporated or registered in and access the Clearing House from only jurisdictions whose Applicable Laws relating to insolvency, the regulation of clearing houses, Markets or central counterparties, the enforceability of Contracts and these Rules and such other matters as the Clearing House specifies are acceptable to the Clearing House (and an applicant may be required to supply a legal opinion of external counsel, addressed to the Clearing House, addressing such issues, wholly at the applicant's own cost); and comply with any additional restrictions or requirements imposed by the Clearing House as a result of activities in any such jurisdictions; and
- (29) not be subject to statutory disqualification under any Applicable Laws.

### Rule 303.2 Capital Requirements

- (a) Subject to Rule 303.2(c), all Clearing Members incorporated in Singapore are subject to a minimum Base Capital requirement of S\$5,000,000. Requirements may be satisfied in Singapore Dollars or in other currency equivalents, based on the exchange rates from time to time used by the Clearing House. Changes to the minimum capital requirements will be notified by Regulatory Notice.
- (b) Subject to Rule 303.2(c), a Clearing Member incorporated outside Singapore is subject

to a minimum Net Head Office Funds requirement of S\$5,000,000.

- (c) A Clearing Member which is a holder of a CMS Licence which only submits such Contracts that fulfill the definition of “specified commodity futures contracts” as set out in the First Schedule of the Financial and Margin Regulations for clearing with or through the Clearing House shall be subject to a minimum Base Capital requirement of S\$1,000,000 (if incorporated in Singapore) or minimum Net Head Office Funds requirement of S\$1,000,000 (if incorporated outside Singapore).
- (d) The Net Head Office Funds requirement set out in rule 303.2(b) above (but not Rule 303.2(c) above) may be disapplied by the Clearing House where S\$5,000,000 (by way of Collateral) is deposited by such Clearing Member with the Clearing House or with such third party as the Clearing House may permit. For the avoidance of doubt, Collateral deposited for the purposes of this Rule 303.2(d) shall not be offset or netted with, or used as a substitute for Collateral deposited as Margin or as contribution to the Guaranty Fund.

### Rule 303.3 Financial Resource Requirements

- (a) A Clearing Member with a CMS Licence shall comply with the MAS Requirements in respect of their Financial Resources.
- (b) A Clearing Member which is a Bank incorporated in Singapore shall not cause or permit its Financial Resources to fall below its Total Risk Requirement.
- (c) A Clearing Member which is a Bank incorporated outside Singapore shall not cause or permit its Adjusted Net Head Office Funds (or any deposit of Collateral made pursuant to Rule 303.2(d)) to fall below its Total Risk Requirement.

### Rule 303.4 General Rules relating to Capital and Financial Resource Requirements

- (a) Notwithstanding the foregoing, the Clearing House may, subject to MAS Requirements, at any time, and at its sole and absolute discretion, add to or vary any such capital or financial requirements on any Clearing Member, or any group or class of Clearing Members, provided always that, unless otherwise permitted by the Authority, the capital and financial requirements on a Clearing Member resulting from any such addition or variation shall not be lower than those prescribed under Rules 303.2 and 303.3.
- (b) A Clearing Member shall at all times comply with Applicable Laws, these Rules, the Directives and Regulatory Notices of the Clearing House on minimum capital and financial requirements, and other requirements including but not limited to, record keeping, accounting and reporting.
- (c) A Clearing Member shall promptly notify the Clearing House in the event that it fails or is likely to fail to comply with the capital and financial requirements set forth under these Rules, Directives and Regulatory Notices issued thereunder, and/or under MAS Requirements.

- (d) The Clearing House may allow a Clearing Member, in calculating its Financial Resources or Adjusted Net Head Office Funds (as the case may be), to take into account one or more Qualifying Letters of Credit, subject to the total amount payable under the Qualifying Letters of Credit not exceeding 50% of its Total Risk Requirement. The Clearing House reserves the right to call on any of the Qualifying Letters of Credit and apply the proceeds thereof in respect of the Clearing Member's default to the Clearing House and its liability under Rule 803.

### Rule 303.5 General Admission Procedure

- (a) Every Person who wishes to be a member of the Clearing House shall apply to the Clearing House in the prescribed form as provided by the Clearing House together with such documents and information as the Clearing House shall deem necessary or appropriate or may require, including but not limited to information or documentation evidencing compliance (or lack thereof) with each of the criteria set out in or required pursuant to Rule 303.1. Failure by an applicant to supply such information or documentation may result in an application being rejected or Clearing Member status or access to particular services being revoked.
- (b) The Clearing House may grant approval to an applicant conditional upon the applicant satisfying certain requirements, provided that the applicant has expressed its intention to meet such requirements and provided evidence satisfactory to the Clearing House of its ability to do so.
- (c) The Clearing House may interview the applicant before admitting it as a Clearing Member. Further, the Clearing House may examine and request for copies of the books, records or documents of the applicant to ascertain those facts that may affect the application.
- (d) The Clearing House may at its discretion attach further objective conditions to any application for Clearing Member status prior to such status being granted, provided that such additional conditions are proportional to the risk brought by the applicant.
- (e) All information supplied to the Clearing House in respect of an application for membership shall be deemed to have been provided by the Clearing Member to the Clearing House on the calendar day on which that Clearing Member becomes a Clearing Member. The Clearing Member shall ensure that all information supplied to the Clearing House in respect of an application for membership shall be true, accurate, complete and not misleading up to the calendar day on which that Clearing Member becomes a Clearing Member, and that all amendments to such information must be notified to the Clearing House prior to the Clearing House approving the application for membership.
- (f) If the Clearing House determines that an application for membership should be denied, the applicant will be given notice and the reasons of such denial.
- (g) Membership of the Clearing House does not entitle any Clearing Member to any shareholding or other similar interest in the Clearing House or any of the Clearing House's

Affiliates. Nothing in these Rules is intended to, or shall be deemed to, establish any partnership or joint venture between any Clearing Member, the Clearing House or any other Person. Except for any provision relating to the relationships between a Clearing Member and its Representative, nothing in these Rules constitutes any Clearing Member, Customer or the Clearing House as the agent or principal of any other Person. Nothing in these Rules authorises any Person to make or enter into any commitments for or on behalf of any other Person (save in the case of a Clearing Member acting on behalf, or for the account, of and being liable for a Customer or as otherwise expressly provided herein).

- (h) Clearing Members shall be deemed to represent and warrant from the calendar day they are admitted as a Clearing Member that they meet all of the membership criteria in Rule 303.1 and are in compliance with all of their obligations under these Rules.
- (i) The Clearing House may suspend, terminate the membership of, or take any other disciplinary action against a Clearing Member, if in its opinion that Clearing Member has made any materially false statement, or failed to state a material fact, in or in connection with any application filed with the Clearing House, and all fees and charges paid to the Clearing House shall stand forfeited.

#### Rule 303.6 Fees, Deposits and Other Payments

- (a) Subject to the provisions of MAS Requirements, the Clearing House may, at its absolute discretion, from time to time impose on any Clearing Member, or any class of Clearing Members, the obligation to pay:
  - (1) any such fees or charges including but not limited to, membership fees, clearing fees, annual fees, charges, or other fees; and
  - (2) deposits including but not limited to Security Deposit, or other levies.
- (b) The Clearing House may from time to time publish Regulatory Notices to determine, among other things, terms and conditions, mode of payment or procedures in relation to any fees or deposits, Security Deposit or any other payments.
- (c) The Clearing Member shall pay any and all amounts prescribed under these Rules within such date as prescribed by the Clearing House. Any amount not paid by its due date shall be treated as an unpaid amount and shall bear such rate of interest as may be decided by the Clearing House in its sole and absolute discretion.
- (d) Without prejudice to any provision of these Rules, if any Clearing Member fails or neglects to pay any deposit, fee or charge as required by the Clearing House within the prescribed date, the Clearing House may, in addition to imposing interest charges, take any measures against the Clearing Member, including but not limited to, bringing a disciplinary action against such Clearing Member, suspending or terminating such Clearing Member's membership with the Clearing House and/or declaring the Clearing

Member as a Defaulting Clearing Member.

### **Rule 304**    Security Deposit

- (a) Each Clearing Member shall deposit and always keep deposited with the Clearing House an amount of USD 500,000 as Security Deposit (the “**Security Deposit**”). Each Clearing Member shall be required to immediately meet any shortfall of the Security Deposit. However, the Clearing House shall have the right to increase the Security Deposit requirement.
- (b) The Security Deposit shall be payable to the Clearing House in the form of cash and/or such other collateral as the Clearing House may permit. The Clearing House may prescribe, from time to time, the minimum amount of the Security Deposit to be maintained by the Clearing Member in cash.
- (c) The list of securities and other instruments permitted as collateral shall be notified by the Clearing House from time to time, and the valuation of such collateral shall be in accordance to applicable scheme of valuation for the relevant type of collateral (as prescribed by the Clearing House) and shall be at the absolute discretion of the Clearing House.
- (d) The Clearing House may from time to time require the Clearing Member to deposit additional amount(s) in the form of cash or collateral, to ensure that the current valuation of all amounts deposited under Rule 304(a) is at least equal to the minimum Security Deposit prescribed by the Clearing House.
- (e) Security Deposit may be applied by the Clearing House (in such manner as the Clearing House deems fit) in the event of a Declared Default being declared against a Clearing Member.
- (f) The Security Deposit and any amount (including the value of collateral) held by the Clearing House in excess of the Security Deposit shall be deemed to have been deposited for the purpose of satisfying payment obligations of the Clearing Member, including without limitation, Margin and/or Daily Settlement Amount or other settlement obligations.
- (g) Amounts held by the Clearing House which are in excess of a Clearing Member’s payment obligations and/or excess of Security Deposit requirements are refundable to the Clearing Member by the Clearing House upon demand, provided that the Clearing House is satisfied, at its absolute discretion, that such amounts will not be required to satisfy any settlement obligation or Margin call in relation to any Open Position.
- (h) Upon the termination or cessation of membership of a Clearing Member under these Rules (for any reason), the Security Deposit will be refundable to that member only after the Clearing House (at its absolute discretion) is satisfied that all obligations of that member (including without limitation, any fines payable by the member to the Clearing



House or the Exchange) are fully discharged.

### **Rule 305** Clearing Members' Obligations

- (a) In connection with these Rules, all and any Contracts, its membership of the Clearing House and its business and activities as a Clearing Member, each Clearing Member shall at all times:
- (1) comply with these Rules, Directives, Regulatory Notices and any agreement with the Clearing House;
  - (2) comply with all Applicable Laws relating to its status and performance as a Clearing Member, (including the Applicable Laws of the jurisdictions from which it effects clearing and settlement of Contracts or accesses the Clearing House) including but not limited to those relating to anti-money laundering, terrorist financing, market misconduct, market manipulation and market abuse;
  - (3) maintain adequate staff with adequate knowledge, expertise and training to ensure the Clearing Member's compliance and continued compliance with these Rules, Directives, Regulatory Notices, and all Applicable Laws;
  - (4) observe and maintain high ethical standards, integrity, fairness and act honestly, in good faith and with due care;
  - (5) continually satisfy the criteria for membership set out in or required pursuant to Rule 303.1;
  - (6) respond promptly to any direction by the Clearing House to provide information or documentation;
  - (7) maintain at least the amount of Capital required pursuant to Rule 303.2 and meet the financial resources requirements set out in Rule 303.3, and has sufficient financial resources to reasonably fulfil all its financial obligations arising out of its activities in respect of the Clearing House;
  - (8) pay all fees, fines, assessments or other charges imposed by the Clearing House;
  - (9) provide Margin and make Margin payments to the Clearing House in accordance with Chapter 4;
  - (10) make all such payments to the Guaranty Fund as are required pursuant to Chapter 10;
  - (11) comply with all segregation provisions relating to monies and assets of Customers in MAS Requirements, and not accept any Person as Customer without duly signing a customer agreement;
  - (12) not provide any document or information, which is false, misleading or inaccurate



to the Clearing House;

- (13) not disseminate any false, misleading or inaccurate information about the Clearing House, Exchange, or any Contract, or transaction;
- (14) maintain its licensing (or exemptions thereto) under the SFA, and such other authorisations as is required for its business activities, and comply with all conditions thereunder;
- (15) respond promptly to all enquiries or requests for information made by the Clearing House;
- (16) maintain accounts at a Settlement Bank for the deposit of funds in Eligible Currencies and the deposit of securities required to be transferred to and from the Clearing Member pursuant to these Rules (whether by way of Margin, contributions to the Guaranty Fund, fees, amounts due under Contracts or otherwise) and have arrangements with such a Settlement Bank satisfactory to the Clearing House for electronic transfer of funds and securities into and out of such accounts as is required under these Rules, on the order of the Clearing House and without the need to seek the consent of such Clearing Member or any of its Customers;
- (17) if it is to have a Customer Account, consent to the Clearing House relying upon its customer due diligence in relation to all of its Customers and all other "beneficial owners" in respect of any Contracts entered into in respect of Customer business, Margin and Contracts entered into in respect of Customer business recorded in its Customer Account or any other collateral subject to the rights of the Clearing House under Rule 803, such consent only to be relied upon in the event of the Clearing Member becoming a Defaulter and the Clearing House exercising its rights under Rule 803;
- (18) if the Clearing House at its discretion so directs, allow formal audits or system tests of its operations related to its business with the Clearing House during reasonable business hours and on reasonable notice, at the expense of the Clearing Member;
- (19) maintain such systems and procedures for the execution, recording, reporting, clearing and settlement of Contracts or transactions as are acceptable to the Clearing House;
- (20) have adequate systems and controls in place in order to ensure that:
  - (i) its internal affairs are organised and controlled in a responsible and effective manner, including having adequate separation policies to mitigate concentration risk of critical business functions and compliance oversight in place to enable it to meet its obligations as a Clearing Member, adequate segregation of front and back office functions and adequate back office and compliance support, as required under

Applicable Laws;

- (ii) it has adequate risk management systems and internal audit processes that are applied appropriately;
  - (iii) its internal record-keeping is adequate;
  - (iv) all of its Representatives are fit and proper, suitable, adequately trained and properly supervised;
  - (v) all clearing business conducted by it, including in relation to individual Contracts, complies with the Clearing Member's obligations under these Rules and Applicable Laws;
  - (vi) it only effects clearing and settlement of Contracts or accesses the Clearing House (through actions of its Representatives or otherwise) in or from jurisdictions acceptable to the Clearing House and in accordance with all conditions and requirements as are specified by the Clearing House from time to time for clearing and settlement of Contracts or access in or from that jurisdiction;
  - (vii) it is able continuously to monitor communication facilities for receipt of communications from the Clearing House; and
  - (viii) it is able promptly to review Regulatory Notices and other communications delivered or made available to the Clearing Member or its Representatives by the Clearing House;
- (21) ensure that any power of attorney, appointment of any agent or Representative or other authorisation to transact business with or through the Clearing House given by a Clearing Member to any Person remains in effect on its original terms until a written notice of change has been received and processed by the Clearing House;
- (22) keep accurate records showing the details of each Contract submitted for Clearing by or on behalf of such Clearing Member and such other information, in such form, as shall be required by the Clearing House from time to time and in accordance with Applicable Laws and Accounting Standards;
- (23) gather and make available to the Clearing House basic information to identify, monitor and manage relevant concentrations of risk relating to the provision of services to Customers;
- (24) upon request, inform the Clearing House about the criteria and arrangements adopted by it to allow Customers access to clearing with the Clearing House;
- (25) participate in default management simulations, disaster recovery testing, new technology testing and other exercises, and carry out software and hardware

upgrades as notified by the Clearing House and the Exchange from time to time;

- (26) co-operate with the Clearing House or Exchange where applicable, including without limitation, providing all such information (relating to the Clearing Member's Customers, Contracts or otherwise) and within such time as required by the Clearing House or Exchange;
  - (27) ensure that its Officers, Representatives, employees, agents and contractors meet the fit and proper criteria at all times;
  - (28) fully and promptly comply with any award, order and decision of arbitrators, surveyors, Disciplinary Panel, Appeals Panel and any other committee;
  - (29) be responsible for ensuring that its Officers, Representatives, employees, agents, contractors and Customers comply with their obligations in the manner set forth in these Rules; and
  - (30) without prejudice to Rule 305(a)(18) give such other access to the Clearing House (or any Person appointed by it) to its premises, records and personnel (or those of its Affiliates or service providers) to conduct any inspection, investigation or audit and allow the Clearing House or such Person to take copies of the accounts, books, contracts and any other records or documents of the Clearing Member, in order to facilitate discharge of the Clearing House's regulatory obligations or if required by MAS to do so.
- (b) For the avoidance of doubt, failure to comply with any of the foregoing obligations is a Violation of these Rules.
- (c) All Contracts and the clearing and settlement thereof shall be made subject to these Rules, the Directives, Regulatory Notices, and all Applicable Laws, and all Clearing Members shall ensure that it is so provided and agreed in their agreements with any Person to provide clearing services.
- (d) No Clearing Member, except a Clearing Member which is a Bank, shall reduce its paid up ordinary share capital or paid-up irredeemable and non-cumulative preference share capital without the prior approval of the Clearing House. Where the Clearing Member is a Bank, the Clearing House shall be notified of such reduction.

## **Rule 306** Notification and Reporting Obligations of Clearing Members

### **Rule 306.1** Notification to Clearing House

- (a) Each Clearing Member shall notify the Clearing House in writing without delay providing full particulars known to it:
- (1) any change in its name, address or similar event;
  - (2) any change or amendment of its constitutive documents (including its

constitution);

- (3) the engagement or involvement, or proposed engagement or involvement, in any new business or any change in any of its business or in the case of a Clearing Member which is a Bank, its business as governed by these Rules;
- (4) in relation to any change of Control, as soon as it becomes aware of that change or proposed change of Control and it is not prevented from disclosing the change of Control by Applicable Laws;
- (5) if it breaches any applicable Exposure Limit that has been notified to it;
- (6) if it ceases to have sufficient Capital and/or Financial Resources as determined pursuant to Rule 303.2 and Rule 303.3 and/or fails to meet any financial resources requirements imposed from time to time by the Clearing House;
- (7) if its Capital for any reason is reduced by more than 10% from that shown on the latest financial statement filed by it with the Clearing House;
- (8) prior to any payment, loan, distribution or redemption causing a reduction in Capital of the nature described in Rule 306.1(a)(7), detailing the payment, loan, distribution or redemption involved and a description of the effect that the same will have on the Capital of the Clearing Member;
- (9) in the event that it fails to meet any obligation to transfer, deposit or pay any Margin when and as required by any Clearing Organisation of which it is a member (other than the Clearing House), excluding any matter subject to a dispute (where the Clearing Member is not in default) or resulting from manifest error;
- (10) in the event that it fails to comply with any applicable capital or financial requirements of any Governmental Authority, Regulatory Authority, exchange or Clearing Organisation;
- (11) of an Insolvency affecting it or any of its Affiliates, Officers, Representatives, employees, contractors or agents;
- (12) of any Event of Breach affecting it;
- (13) of any financial or commercial difficulty such as would give rise to a risk of an Event of Breach occurring;
- (14) of the Clearing Member, or any of its Officers, Representatives, employees, contractors or agents or Customer engaging in any conduct which is detrimental to the financial integrity or interests of the Clearing House;
- (15) of any change in the Clearing Member's senior management, Officers or substantial shareholders or death, dissolution or bankruptcy of any of the foregoing persons, or any change in the composition of its board of directors due

to the appointment and/or resignation of any of its directors or from appointment from a non-executive director to an executive director. In the case of a Clearing Member which is a Bank, any changes in relation to any senior management or Officer shall refer only to the senior management or Officer who is responsible for the Bank's business governed by these Rules;

- (16) of any matter, circumstance, change or occurrence which would cause a statement previously furnished to the Clearing House pursuant to this Rule 306, any information supplied in connection with the Clearing Member's application for membership or otherwise to be inaccurate, incomplete or superseded;
  - (17) of any breach (or any non-frivolous or non-vexatious investigation or allegation of a breach) of any provision in Applicable Law involving fraud, dishonesty or financial impropriety by the Clearing Member or its Officer, Representative, employee, agent, contractor or Customer, including full particulars of the breach;
  - (18) of any enforcement action, sanction or injunction against the Clearing Member, or any of its Officers, Representatives, employees, agents, contractors or Customers by any self-regulatory organisation, regulator or law enforcement agency whether in or outside Singapore (including without limitation any complaint or investigation involving an allegation of fraud, dishonesty or financial impropriety);
  - (19) of any legal proceedings against the Clearing Member, or any of its Officers, Representatives, employees, agents, contractors or Customers whether in or outside Singapore involving an allegation of fraud, dishonesty or financial impropriety; and
  - (20) of anything relating to the Clearing Member of which the Clearing House would reasonably expect notice.
- (b) Where a Clearing Member is regulated by the MAS:
- (1) Notifications under Rule 306.1(a)(4) shall only be required where a change of Control is notifiable to, or subject to the approval of, the MAS, as soon as it becomes aware of that change or proposed change of Control and it is not prevented from disclosing the change of Control by Applicable Laws; and in such cases the Clearing Member should provide the Clearing House contemporaneously with a copy of all submissions sent to the MAS relating to the change of Control; and
  - (2) Notifications under Rule 306.1(a)(20) (other than notifications of any matter, circumstance, change or occurrence which would cause a statement previously furnished pursuant to this Rule 306, any information supplied in connection with the Clearing Member's application for membership or otherwise to be inaccurate, incomplete or superseded) shall only be required if a notification is also required

to the MAS under MAS Requirements.

- (c) A Clearing Member with a CMS Licence shall:
- (1) notify the Clearing House immediately of any circumstances it is required to notify to the Clearing House pursuant to the Financial and Margin Regulations, including, without limitation, pursuant to Regulations 4(2), 6(3), 7(1), 16(2), 17(1), 21(1), 21(2), 22(1), 22(2)(b)(i) and 25(1);
  - (2) in accordance with Regulation 7(5) and 17(4) of the Financial and Margin Regulations, submit such statements as the Clearing House may direct in accordance with Regulation 7(3) and Regulation 17(2) of the Financial and Margin Regulations;
  - (3) as required pursuant to Regulation 22(2)(a)(i) of the Financial and Margin Regulations, not repay, whether in part or in full, any subordinated loan principal before the maturity date set out in the subordination loan agreement without the prior approval of the Clearing House; and
  - (4) as required pursuant to Regulation 23 of the Financial and Margin Regulations, not make any unsecured loan or advance, pay any dividend or director's fees or increase any director's remuneration if the circumstances set out in Regulation 23 of the Financial and Margin Regulations apply, without the prior approval of the Clearing House.
- (d) A Clearing Member which is a Bank incorporated in Singapore shall notify the Clearing House immediately if:
- (1) its Financial Resources falls below 120% of its Total Risk Requirement; or
  - (2) it causes or permits its Base Capital to fall below the minimum Base Capital requirement imposed by the Clearing House.
- (e) A Clearing Member which is a Bank incorporated outside Singapore shall notify the Clearing House immediately if:
- (1) its Adjusted Net Head Office Funds (or any deposit of Collateral made pursuant to Rule 303.2(d)) falls below 120% of its Total Risk Requirement; or
  - (2) it causes or permits its Net Head Office Funds to fall below the minimum Net Head Office Funds requirement imposed by the Clearing House.
- (f) Upon any such notification under this Rule 306, the Clearing House may, at its sole and absolute discretion, request additional documents or information and take any action that it deems necessary.
- (g) Without limitation to any rights of the Clearing House, if the Clearing House is notified by a Clearing Member that it has fallen or will fall below the Capital and Financial

Resource requirements imposed by the Clearing House, the Clearing House may take any such action as it deems fit including without limitation directions under Regulation 7(3) and 17(2) of the Financial and Margin Regulations.

- (h) Notwithstanding any of the foregoing, where a Clearing Member is a Bank, the Clearing House, upon the request of that Clearing Member, may decide (in its sole and absolute discretion) that all or some of the obligations of that Clearing Member pursuant to this Rule 306 above be deemed to apply to that Clearing Member with respect only to any specific branch or division of the Clearing Member with the intent that such obligations should only relate to the activities, operations and business of the Clearing Member governed by these Rules, provided always that any such decision of the Clearing House may be amended or cancelled at any time by the Clearing House with immediate effect.

### Rule 306.2 Reports of Large Positions to Clearing House

- (a) Clearing Members shall submit to the Clearing House a daily report of Customers' Accounts and Proprietary Accounts, with details of such large positions in relation to such Contracts as the Clearing House may prescribe. Where a Clearing Member carries open long or short positions, such daily report shall include an accurate inventory of all such open positions. Such daily reports shall be submitted to the Clearing House by such time and/or in such manner as may be prescribed by the Clearing House.
- (b) Such report shall be in such form as the Clearing House may prescribe from time to time and shall include but not be limited to the account numbers and the number of Open Contracts in each month for a Commodity and, in the case of options, in each expiration month for a put or call option, in which any Person owns or controls Open Positions in a single Contract Month or Delivery Month of any Commodity that equals or exceeds the reporting level for such Commodity or option prescribed from time to time by the Clearing House.
- (c) The Clearing House shall be entitled to require reports from one or more Clearing Members in relation to any Contract even if the number of Open Positions owned or controlled is below the reporting level presently prescribed by the Clearing House.
- (d) Subject to Rule 306.2(e) below, Clearing Members shall identify the owner and any controlling parties for any account or ensure that such information is made available directly to the Clearing House within such time as the Clearing House may prescribe.
- (e) Upon request of the Clearing House, Clearing Members shall obtain the information required by this Rule 306.2 regarding the ownership and control of positions within any Omnibus Account and any Sub-Account of any Omnibus Account. Provided that if the Omnibus Account Holder does not wish the identity of any Sub-Account holder to be disclosed to its carrying Clearing Member, the Omnibus Account Holder may apply to the Clearing House for a special identification for the Sub-Account thereof for reporting



positions covered within this Rule 306.2 through its carrying Clearing Member.

- (f) Violation of this Rule 306.2 may constitute an Event of Breach.
- (g) The Clearing House shall be entitled to disclose the contents of any reports made under this Rule 306.2 to the Exchange.

### Rule 306.3 Notification to Exchange and Clearing House

A Clearing Member must immediately notify, or where practicable, pre-notify, the Exchange and the Clearing House in writing in the event of the Clearing Member terminating or suspending a clearing arrangement with any of its Customer(s).

## **Rule 307** Records, Annual Accounts and Audits

### Rule 307.1 General Obligations

- (a) Every Clearing Member shall:
  - (1) comply with these Rules, the Directives, the Regulatory Notices, MAS Requirements or applicable rules and regulations issued by any other statutory body in Singapore, and in relation to Clearing Members which are Banks, also comply with the Banking Act, in relation to maintenance of accounts, records and audits;
  - (2) maintain financial statements, and all data, forms, books, records, customer complaints, reports and filings in relation to its business with the Clearing House and/or obtained under these Rules for a period of at least 5 (five) years;
  - (3) make available promptly to the Clearing House for its inspection, at any time, all records, books, accounts, audits and such other information as may be required by the Clearing House;
  - (4) submit to the Clearing House, within such time and in such manner as directed by the Clearing House, the identities of the end beneficiaries, owners or controlling parties for any account which is used for trading or carrying of Contracts, or contains positions required to be reported to the Clearing House or the Exchange under these Rules or the Exchange Rules as the case may be; and
  - (5) maintain audit trails of all Contracts whether in respect of Proprietary Account or Customer Account from the time of receipt of instructions to clear and settle until the clearing and settlement of the Contracts for at least five years.

### Rule 307.2 Specific Obligations

- (a) Each Clearing Member must file with the Clearing House in relation to the Clearing

Member and, if so notified by the Clearing House at its discretion, any Controller:

- (1) an audited financial statement including profit and loss accounts and balance sheet, with the auditor's report, drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House within five months of the end of the Clearing Member's or relevant Controller's fiscal year. The auditor's report shall contain a statement certifying whether, in the auditor's opinion:
  - (i) the Clearing Member has complied with the minimum capital and financial requirements set out in these Rules and, where applicable, MAS Requirements;
  - (ii) the Clearing Member's books of accounts and records conform to the industry practice and are kept in a proper manner in accordance with these Rules and, where applicable, MAS Requirements;
  - (iii) the auditor has obtained all the necessary information and explanations for the proper conduct of the audit and to enable it to furnish the certificate; and
  - (iv) the financial position of the Clearing Member is such as to enable it to conduct its business on sound grounds, having regard to the nature and volume of the business transacted during its past financial year as shown by its accounts and records;
- (2) a quarterly financial statement including management profit and loss accounts and balance sheet, drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House, within 14 calendar days of the end of each quarter; and
- (3) in the case of Clearing Members or their Controllers that are licensed, authorised or regulated by a Regulatory Authority, a copy of all financial returns, reports, statements and notices provided to the relevant Regulatory Authority as soon as so provided and, if any such material is other than a routine periodic financial return, statement or report required under Applicable Laws, a written statement setting out (to the extent known) the reasons why such Clearing Member or relevant Controller is filing it.

### Rule 307.3 Reporting Obligations of the Clearing Member on Audit Findings

- (a) The Clearing Member shall, and shall procure that its auditor shall, immediately report to the Clearing House:
  - (1) any adverse remark or report of the auditor on any matter which adversely affects or may adversely affect the financial position of the Clearing Member to a

material extent;

- (2) any comment from the auditor which in the auditor's opinion constitutes or may constitute a contravention of MAS Requirements or these Rules, or an offence involving fraud, dishonesty or financial impropriety; and
- (3) any irregularity that has or may have material effect upon the accounts, including any irregularity that may affect or jeopardise the monies or assets of any Customer of the Clearing Member,

where such remark, report, comment or irregularity in respect of a Clearing Member which is a Bank only relates to such Clearing Member's activities, operations and business as governed under these Rules.

#### Rule 307.4 Powers of the Clearing House

- (a) The Clearing House shall have power at any time to call upon all or any Clearing Member to submit one or more detailed statements providing information relating to Contracts entered into by such Clearing Member in such form and in such manner as may be prescribed.
- (b) In particular and without prejudice to the generality of the foregoing and other powers under these Rules, such information may relate to the following matters, among other things:
  - (1) Contracts entered into by a Clearing Member with another Clearing Member on its own-account;
  - (2) Contracts cleared by a Clearing Member for its Customers;
  - (3) Open Positions of a Clearing Member and its Customers; and
  - (4) Commodities held by a Clearing Member for its Proprietary Account or Customer Account.
- (c) The Clearing House shall have power for the purpose of verifying or checking any statement submitted by a Clearing Member under Rule 307.4(a), to call for the production of the books of any Clearing Member and/or call for explanation from any Clearing Member.
- (d) A Clearing Member failing or neglecting to submit any such statement or to produce any such books or to give any such explanation shall be subject to a disciplinary action under these Rules.
- (e) Subject to MAS Requirements, the Clearing House at its absolute discretion may (or appoint any Person to) conduct any inspection(s), investigation(s) or audit(s) and take copies of the accounts, books, contracts and any other records and documents of a Clearing Member to discharge the Clearing House's regulatory obligations or if required

by MAS to do so.

- (f) The Clearing House may require the Clearing Member to pay for or reimburse the Clearing House for any cost for conducting any inspection or investigation or audit and all such costs shall be immediately payable by the Clearing Member.

## **Rule 308**     Conduct of Clearing Members

### **Rule 308.1** Prohibitions of Clearing Members

- (a) In connection with these Rules, any Contracts, its membership of the Clearing House or its business and activities as a Clearing Member, a Clearing Member shall not, and the Clearing Member shall ensure that its Officers, employees and agents shall not, at any time:
  - (1) provide any information to the Clearing House (including information for the purpose of obtaining or reinstating membership) which is false, misleading or inaccurate in any material respect. Without prejudice to the rights of the Clearing House, where a Clearing Member finds that information that it has previously provided to the Clearing House is false or misleading, the Clearing Member shall promptly submit the corrected information to the Clearing House;
  - (2) breach any Applicable Law relating to its status and performance as a Clearing Member;
  - (3) cheat, defraud, or deceive or attempt to cheat, defraud, or deceive any Person in any manner;
  - (4) engage in any activity or conduct which amounts to prohibited conduct under Part XII of the SFA or which is in breach of any similar Applicable Laws, or engage in any other types of activity or conduct to distort the operation of a fair, orderly and transparent market;
  - (5) engage in any misconduct in its dealing with or in relation to the Clearing House or any Clearing Member;
  - (6) engage in any act or activity that causes or contributes to an Event of Breach;
  - (7) except with the prior written consent of the Clearing House and otherwise than to terminate existing positions, continue to trade, enter into Contracts or provide or accept payments or transfers in respect of Margin when not in compliance with the Capital requirement then applicable;
  - (8) knowingly disseminate false, misleading or inaccurate reports concerning any Contract, product or market information or conditions that affect or tend to affect prices of Contracts;
  - (9) make or report a false or fictitious Contract, or make or cause to be made, a false

or misleading entry, in hardcopy or electronic form, in any books, records, reports, slips, documents, or statements relating to its business, affairs, transactions, conditions, assets or accounts (the “**Documents**”), or omit from making, for whatever reason, a material entry in any of the Documents, or alter or destroy any of the Documents without a valid reason;

- (10) deal on behalf of a Customer other than in accordance with instructions accepted by the Clearing Member from that Customer (or a Person duly authorised in writing by that Customer, in which case the Clearing Member shall obtain written consent from that Customer permitting the Clearing Member to act on the instructions of that authorised person, and shall produce a copy of such consent immediately on the request of the Clearing House);
- (11) accept for clearing, clear or attempt to clear any Contract or fail to close out the same either intending to default in performance of the same or having no reasonable grounds for believing that it would be able to avoid such default (provided that it shall not be sufficient to have intended to comply with any contractual or other provision governing the consequences of default);
- (12) accept for clearing, clear or attempt to clear any Contract or settlement of any Contract or accept any Customer’s monies or assets after the Clearing Member’s insolvency or inability to pay debts;
- (13) knowingly take advantage of any situation arising from any breakdown or malfunction in any system maintained or operated by the Clearing House, or of any errors made by the Clearing House;
- (14) wilfully or intentionally breach any of its contractual obligations or frivolously repudiate any contract made in connection with its dealings on the Clearing House;
- (15) use or reveal any Confidential Information to the Clearing House or any of its Representatives when under a legal or contractual obligation to the Clearing House or any Applicable Law not to do so, or disclose any Customer’s Open Position, trades or instructions to any other Customers or Clearing Members other than in accordance with these Rules or MAS Requirements;
- (16) mishandle any Customer’s monies or assets;
- (17) use any information technology or any online services provided to it or made available to it pursuant to its membership of the Clearing House other than for the purposes of conducting its business and activities as a Clearing Member in accordance with these Rules;
- (18) engage in any other event or practice which has developed or is developing on the Clearing House and is reasonably considered by the Clearing House to be capable of impairing the safe, efficient and orderly conduct of business of the Clearing

House or affecting the timely delivery or settlement of Contracts;

- (19) represent or hold out to any Person that membership of the Clearing House brings with it any stamp of approval, special status, hallmark, regulatory supervision or approval or confers any rights or protections to Customers or any other Person in relation to the Clearing Member's business, policies, financial standing or otherwise (although Clearing Members may inform their Customers, potential Customers and other Persons that they are a member of the Clearing House and details of their privileges);
- (20) participate in, facilitate, procure, counsel, incite, encourage, aid or abet any conduct by a third party which would be a Violation or attempted Violation of these Rules regardless of whether that third party is subject to these Rules;
- (21) take any action or make any omission or knowingly or recklessly permit the use of its services, facilities or membership or clearing privileges by any Person in a manner which in the reasonable opinion of the Clearing House is liable to:
  - (i) bring the Clearing House or any of its Clearing Members into disrepute;
  - (ii) impair the dignity or degrade the good name of the Clearing House;
  - (iii) create or maintain or exacerbate actual or attempted breaches, infringements, manipulations or Violations of these Rules (or arrangements, provisions or directions made or given thereunder) or market practice; or
  - (iv) otherwise be substantially detrimental to the interests or welfare of the Clearing House;
- (22) engage in conduct that would render it unable to satisfy the membership criteria in Rule 303.1 or obligations on Clearing Members under Rule 305(a) or otherwise;
- (23) knowingly, negligently, recklessly or carelessly allow any Representative to engage in any conduct that might itself breach these Rules or render it unable to satisfy the membership criteria in Rule 303.1;
- (24) assign any of its rights or transfer by novation any of its rights and obligations under these Rules to a third party (or purport to do so) unless the Clearing House provides its prior written consent (which consent shall not unreasonably be withheld or delayed);
- (25) breach any Contract Terms; or
- (26) operate any account as banker or custodian to the Clearing House in its role as a Clearing Member (provided that a Clearing Member may operate an account as banker or custodian to the Clearing House in a separate capacity (i.e. other than

in its role as a Clearing Member)); and where any Clearing Member (or its Affiliates) operates any account as banker or custodian to the Clearing House which is used for the holding or investment of the proceeds of Margin, or contributions to the Guaranty Fund:

- (i) each such bank account and custodian account;
- (ii) such bank accounts or custodian accounts on the one hand, and the relevant Proprietary Account and Customer Account, on the other,

shall not be subject to any security, lien, other Security Interest, right of set-off or counterclaim in respect of any sum owed by the Clearing House to the Clearing Member (or its Affiliates), provided that nothing in this Rule 308(a)(26) shall preclude the Clearing House from agreeing to any Security Interest over any bank account or custodian account designated as a fees account.

- (b) A Clearing Member shall immediately inform the Clearing House if, in its reasonable belief, any act is committed or attempted to be committed, which act is prohibited under these Rules. The Clearing House may, upon receiving any such information, take any action (including, but not limited to, requiring a Clearing Member to stop processing any instructions received by a Customer) as it deems fit.

#### Rule 308.2 Co-operation with the Clearing House

- (a) In dealing with the Clearing House or other Clearing Members, Clearing Members shall act in a cooperative manner (including, but not limited to procuring for the Clearing House or any Person appointed by the Clearing House, access to any record, premises, or Person in connection with any inspection, investigation or audit), be truthful and honest and not mislead or conceal any matter. A Clearing Member shall also procure such co-operation by each of its Customers, Representatives, employees, Officers, agents and contractors.
- (b) A Clearing Member shall comply with any Directive, Regulatory Notice or request by the Clearing House requiring the Clearing Member and/or any of its Customers, Representatives, employees, Officers, agents or contractors to attend before any committee or to produce any books, documents, correspondence or other information in its possession or control, and shall procure such compliance by each of its Customers, Representatives, employees, Officers, agents and contractors.
- (c) No Clearing Member shall engage or attempt to engage in any conduct, act or omission that has been knowingly carried out to subvert the objects and purposes of the Clearing House or these Rules, or which defeats the agreements entered into by the Clearing House with other organisations, agencies or entities for promoting the interests and activities of



the Clearing House.

### Rule 308.3 Clearing and Settling on behalf of Customers

- (a) Before commencing clearing and settlement on behalf of the Customer on the Clearing House, a Clearing Member shall:
  - (1) enter into a written customer agreement with that Customer, in a form that complies with the minimum requirements specified by the Clearing House;
  - (2) provide to that Customer a risk disclosure statement, in a form that complies with the minimum requirements specified by the Clearing House and MAS Requirements, and also receive from the Customer an acknowledgement, in writing, that the Customer has read and understood the risk disclosure statement;
  - (3) comply with all the applicable customer due diligence requirements under MAS Requirements; and
  - (4) notify the Customer (by way of inclusion in the customer agreement in subparagraph (1) above, or in such other manner as approved by the Clearing House) of all limitations of liability and immunities available to the Clearing House in these Rules or otherwise.
- (b) A Clearing Member shall provide such further documents and information as the Clearing House may prescribe from time to time so as to ensure ongoing compliance by the Clearing Member with these Rules, Directives, Regulatory Notices and any Applicable Laws.
- (c) A Clearing Member shall act on behalf of a Customer only pursuant to the instructions of that Customer.
- (d) A Clearing Member shall not disclose another person's order or instructions except:
  - (1) to the extent necessary to enter the instructions into any system of the Clearing House;
  - (2) to an employee of the Clearing House or the Exchange as being authorised to receive such information; or
  - (3) to the MAS or any enforcement agencies in Singapore or any other Governmental Authority in Singapore which supervises the activities of that Member.
- (e) A Clearing Member shall provide each of its Customers with all such information, guidance and training and in such manner as may be prescribed by the Clearing House from time to time.
- (f) A Clearing Member shall produce, as and when demanded by the Clearing House, copies of any Customer statement of account or any other relevant documents for the Clearing

House's inspection. The Clearing House shall be entitled to make copies of all the documents.

#### Rule 308.4 Customer Money and Assets

- (a) Except as permitted by MAS Requirements:
  - (1) every Clearing Member shall segregate monies and assets of its Customers from monies and assets of the Clearing Member and any of its Related Customers;
  - (2) every Clearing Member shall deposit Customers' monies and assets in trust or custody accounts specially maintained for the purpose;
  - (3) every Clearing Member shall separately account for the monies and assets of every Customer;
  - (4) every Clearing Member shall comply with all computation of monies and assets held in the trust and custody accounts and segregation requirements under MAS Requirements and these Rules;
  - (5) no Clearing Member shall use Customer's monies, or assets to meet any liabilities in respect of its Proprietary Positions;
  - (6) Customer's monies or assets must be paid into a trust account or in any other account directed by the Customer, immediately upon receipt of such monies by the Clearing Member and in any event within such time as prescribed by MAS Requirements; and
  - (7) Customer's monies or assets shall be used by the Clearing Member only for instances relating to the dealings of that Customer on the Clearing House or the Exchange.

#### Rule 308.5 Omnibus Account

- (a) A Clearing Member may open and operate one or more Omnibus Accounts, subject to such requirements as the Clearing House and/or the Exchange may prescribe from time to time.
- (b) A Clearing Member carrying Omnibus Accounts must maintain with the Clearing House a complete list of all such accounts, and shall notify the Clearing House in writing immediately and in any event no later than the next Business Day from the time such an account is either opened or closed. Information for each Omnibus Account must include the account holder's name, account number and the account holder's address, and such other information as the Clearing House may require.
- (c) The Clearing House and/or the Exchange may place limitations on a Clearing Member

carrying Omnibus Account depending on:

- (1) the number of Omnibus Accounts carried and volume of business of the Clearing Member; and
  - (2) the financial condition of the Clearing Member and the Omnibus Account holders in light of requirements or standards determined by the Clearing House.
- (d) A Clearing Member that carries Omnibus Accounts shall ensure that the Omnibus Accounts are operated at all times in accordance with these Rules (including the relevant rules on position limits and margins) and shall, without prejudice to any other liability it may incur, indemnify the Clearing House in relation to any claim referable to such violation.
- (e) A Clearing Member carrying an Omnibus Account shall, upon request by the Exchange and/or Clearing House, provide the Exchange and/or Clearing House with such information on any or all Sub Account(s) of the Omnibus Account or any other relevant information as the Exchange and/or Clearing House may require.

## **Rule 309** Resignation, Suspension and Termination of Membership

### **Rule 309.1** Resignation of Clearing Member

- (a) Clearing Members may resign from membership of the Clearing House by providing to the Clearing House written notice of its intention to resign. Subject to these Rules, a minimum of three months' notice period is required, unless the Clearing House and the Clearing Member agree on a different date.
- (b) The resignation of a Clearing Member is subject to the prior written approval of the Clearing House and satisfactory discharge of all obligations for trades cleared and settled by the Clearing Member concerned.
- (c) Notwithstanding anything to the contrary under these Rules, the Clearing House may, in its absolute discretion, refuse to accept the notice of intention of any Clearing Member to resign or vary the notice period if it considers it necessary for any reasons whatsoever including but not limited to protecting the financial integrity, reputation or interests of the Clearing House or the Exchange, or the interest of the Customers, to promote a fair, orderly and transparent Market or a safe and efficient Clearing House. Further, the Clearing House may take any other measures against or impose such conditions or restrictions on the Clearing Member it deems fit and necessary whether before or after the resignation takes effect.
- (d) Without prejudice to the generality of sub-paragraph (c) above, no resignation of membership shall be effective unless:
  - (1) any notice period prescribed or agreed by the Clearing House shall have expired;
  - (2) the Clearing Member shall first have paid the Clearing House or the Exchange, as

the case may be, all monies owned by it to the Clearing House and/or the Exchange;

- (3) the Clearing Member shall first have closed out all Open Positions held on behalf of Customers in accordance with instructions from those Customers or transferred all such Open Positions to another suitable Clearing Member, such transfer not to occur without the approval of those Customers;
- (4) all Customers' monies, and assets held by such Clearing Member in respect of its business as Clearing Member have been returned to the Customers; and
- (5) the Clearing Member has complied with such measures, terms or conditions as imposed by the Clearing House.

### Rule 309.2 Suspension of Clearing Member

- (a) Without prejudice to the rights of the Clearing House, the Disciplinary Panel or the Appeals Panel under these Rules (including Rule 309.3 below), a Clearing Member's privileges may be suspended in whole or in part if any of the following circumstances occurs with respect to the Clearing Member:
  - (1) an Event of Breach, whether or not it is a Declared Default;
  - (2) any violation of these Rules, Directives, Regulatory Notices or any Applicable Laws by the Clearing Member or any of its Officers, Representatives, employees, contractors, agents or Customers;
  - (3) failure to meet any minimum capital and financial requirements under MAS Requirements or under these Rules, Directives or Regulatory Notices on an ongoing basis;
  - (4) failure to maintain Security Deposit, meet settlement obligations or make payments for charges, fees, deposits, dues, contributions or any other amount due to the Clearing House within the specified time;
  - (5) any alleged violation of these Rules, Directives or Regulatory Notices or any Applicable Laws by the Clearing Member or any of its Officers, Representatives, employees, contractors, agents or Customers, where such violation could have a material adverse effect on the Clearing House;
  - (6) cessation, suspension or termination of, its (or any of its Affiliate's) membership (if any) with the Exchange or with any other exchange or other clearing facility or its CMS Licence (if applicable);
  - (7) non-satisfaction of any judgment or court order of any court in or outside Singapore;
  - (8) the Clearing Member or any of its Officers or Representatives is convicted of any

offence involving fraud, dishonesty or financial impropriety;

- (9) any disciplinary proceedings under these Rules are pending with respect to the Clearing Member; or
  - (10) if, in the Clearing House's opinion, it is necessary or desirable, to protect the financial integrity, reputation or interest of the Clearing House or the Exchange, to promote a fair, orderly and transparent Market or a safe and efficient Clearing House.
- (b) Suspension as described above may be imposed by the Disciplinary Panel or the Appeals Panel pursuant to the disciplinary proceedings under Chapter 7 of these Rules. The Clearing House shall also have the right to suspend, with or without notice, in whole or in part, the Clearing Member's membership privileges up to three months upon the occurrence of any of the events described in Rule 309.2(a)(3) to (5) or (7) to (10) above.
- (c) Subject to sub-paragraph (a) above, suspension may be immediate, and for a fixed term as may be decided by the Clearing House, the Disciplinary Panel or the Appeals Panel (as the case may be), at its own discretion. The Clearing House, the Disciplinary Panel or the Appeals Panel (as the case may be) shall, at its absolute discretion, take any action or measure, or impose any terms or conditions, in relation to the suspension.
- (d) Suspension may be revoked at the end of the period of suspension, after the Clearing House, the Disciplinary Panel or the Appeals Panel (as the case may be) is satisfied that the violation which was the reason for the suspension has been remedied. Where the violation has not been remedied, the suspension may be further extended or the membership terminated, as may be decided by the Clearing House, the Disciplinary Panel or the Appeals Panel (as the case may be) in its sole and absolute discretion.

### Rule 309.3 Termination of Clearing Member

- (a) Notwithstanding anything in Rule 309.2, and without prejudice to the rights of the Clearing House, the Disciplinary Panel or the Appeals Panel, the membership of a Clearing Member may be terminated with or without notice if any of the following circumstances occurs in relation to the Clearing Member:
- (1) any of the events described in Rule 309.2(a)(1) to (10) above;
  - (2) the Clearing Member is Insolvent;
  - (3) the revocation or cessation of the CMS Licence held by the Clearing Member, or the issuance of prohibition order under MAS Requirements against the Clearing Member holding the CMS Licence;
  - (4) the Clearing Member is suspended, and the Clearing House, the Disciplinary Panel or the Appeals Panel (as the case may be), in its absolute discretion, determines (i) that the Clearing Member has not remedied to the satisfaction of the Clearing House, the Disciplinary Panel or the Appeals Panel (as the case may be);

be) the matters giving rise to the suspension, within such period as specified by the Clearing House, the Disciplinary Panel or the Appeals Panel (as the case may be), or that (ii) such matters are not capable of remedy; or

(5) the Clearing Member declines to replenish its Security Deposit referred to in Rule 304(a).

- (b) Termination as described above may be imposed by the Disciplinary Panel or the Appeals Panel pursuant to any proceedings under Chapter 7 of these Rules. The Clearing House shall also have the right to terminate, with or without notice, the membership of any Clearing Member upon the occurrence of the events described in Rule 309.3(a)(2) to (5) above.
- (c) The Clearing House, the Disciplinary Panel or the Appeals Panel (as the case may be) may (at its absolute discretion) decide as to whether the termination is with immediate effect or from a future date and take any action or measure in relation to such termination.

#### Rule 309.4 Consequences of Resignation, Suspension or Termination

- (a) A Clearing Member who has resigned, is suspended or whose membership is terminated shall be liable to the Clearing House for all pending obligations and liabilities incurred by it under these Rules during the period of its membership and shall continue to be subject to the disciplinary powers of Clearing House, the Disciplinary Panel and the Appeals Panel for any act or omission committed by it during its membership.
- (b) A resigning, suspended or terminated Clearing Member shall cooperate with and assist the Clearing House in all matters arising out of such resignation, suspension or termination, including but not limited to, (if so permitted by the Clearing House) transferring its Open Positions to other Clearing Members or closing out or liquidating the same in such manner as may be directed by the Clearing House.
- (c) A resigning, suspended or terminated Clearing Member shall complete all pending Contracts unless otherwise decided by the Clearing House at its absolute discretion.
- (d) The Clearing House may publish the resignation, suspension and termination of a Clearing Member and notify the MAS, other Clearing Members and third parties. For this purpose, this Rule 309.4(d) shall operate as the irrevocable consent given by the Clearing Member to the Clearing House, and the Clearing House shall not be liable in any way for publishing such details under this Rule 309.4(d).
- (e) The Clearing House shall immediately notify the Exchange of the resignation, suspension or termination of a Clearing Member.
- (f) The Clearing Member who resigned, is suspended or whose membership is terminated is not entitled to a refund of its membership, annual or other fees paid.
- (g) All costs and expenses sustained by the Clearing House in connection with anything done by the Clearing House under Rule 309 (including any losses incurred) in respect of a

Clearing Member shall be borne by, and be promptly paid to the Clearing House by, that Clearing Member.

### **Rule 310**     Communication with Clearing Members

- (a) The delivery by hand, electronic transmission, facsimile or telephone of any notice, order or other communication to a Clearing Member at the address, facsimile number or telephone number last designated by it shall be good and sufficient delivery thereof to the Clearing Member (unless another method of delivery is specified in these Rules or in relation to any Contract). Any notice, order or other communication to a Clearing Member shall be deemed to have come to the knowledge of the Clearing Member immediately upon issuance by the Clearing House and deemed to have been duly served, if delivered personally, immediately upon delivery, or if transmitted by telephone, immediately upon transmission, or if transmitted by facsimile, upon the generation of a successful transmission report from the facsimile machine, or if sent by prepaid post, two (2) calendar days (for local mail) and seven (7) calendar days (for overseas airmail) after posting. The publication of a Regulatory Notice shall amount to good and sufficient delivery of the contents of the Regulatory Notice to all Clearing Members.
- (b) Any notice, document, communication, filing or form to be served on, filed with, made to or provided to the Clearing House pursuant to these Rules or in relation to any Contract shall be served, filed, made or provided at the address, fax number or e-mail address (or through such other communication system) as is specified by the Clearing House from time to time in accordance with the Clearing Procedures and shall be marked for the attention of such individual or department as is specified by the Clearing House from time to time in accordance with the Clearing Procedures. Unless another form or method is specified in these Rules for the notice, document, communication, filing or form in question, a notice, document, communication, filing or form must be served, filed, made or provided in writing.
- (c) Unless otherwise specified in these Rules, any notice by fax or electronic communication shall not be effective until hard copy confirmation is served pursuant to Rule 310(b).



## Chapter 4 Clearing and Settlement

### Rule 401 Contracts Accepted by Clearing House for Clearing and Settlement

- (a) The Clearing House shall clear and settle eligible Contracts, being Contracts which are eligible for trading on the Exchange and which are accepted for clearing and settlement by the Clearing House.
- (b) Notwithstanding the foregoing, the Clearing House may, at its absolute discretion, at any time accept or decline an EFRP transaction or Block Trade for clearing and settlement without being required to give any reason, and shall notify any such decision to the Clearing Member.
- (c) Unless otherwise provided in these Rules, a Clearing Member shall accept and clear all eligible Contracts of each of its Customers.
- (d) The Clearing House may avoid any Contract (such Contract, the “affected Contract”) if the affected Contract (or related information or data received by the Clearing House, as applicable) whether in whole or in part, as against any Clearing Member that is or would be bound thereto:
  - (1) conflicts or appears to conflict with information received by the Clearing House in relation to such affected Contract from another source, including (without limitation) information received from the Exchange, any other Clearing Member, Governmental Authority or any Officer, employee or Representative of any such Person;
  - (2) results or appears to result from a communications or information technology error or problem;
  - (3) is or appears to be connected with fraud, illegality, insider trading, market abuse, money laundering or any other breach of Applicable Laws;
  - (4) is or appears to be a result of a Force Majeure Event;
  - (5) is one which any Governmental Authority or the Exchange requires or requests in writing that the Clearing House treat as void or voided;
  - (6) is one which any Applicable Law provides is void or voided or which any Applicable Law requires the Clearing House to treat as void or voided;
  - (7) is one in respect of which, at the time of the affected Contract, the Clearing House has requested additional Margin from the Clearing Member and no Margin is provided by the time required;
  - (8) was entered into in breach of a representation by a Clearing Member arising under the Rules (including the Procedures); or

- (9) is otherwise made or received in such circumstances or in such a manner that acceptance of the affected Contract would be inadvisable, in the opinion of the Clearing House, for the safe and efficient functioning of the Clearing House, reducing systemic risks and the protection of the interests of the investing public.
- (e) The Clearing House shall immediately notify the affected Buyer and Seller and the Market of the avoidance of any affected Contract pursuant to Rule 401(d). Upon such notification:
  - (1) the Clearing House, Buyer and Seller shall each immediately be released from all rights, liabilities and obligations under the affected Contract;
  - (2) the affected Contract shall become null and void; and
  - (3) all amounts paid pursuant to the affected Contract shall immediately be returned by the Clearing House, Buyer and Seller to their respective contractual counterparties, in each case without interest.

## **Rule 402** Clearing House Novation, Substitution and Netting

### **Rule 402.1** Novation and Substitution

- (a) Subject to acceptance for clearing and settlement of an eligible Contract pursuant to Rule 401 above, the Contract shall be novated to the Clearing House, which will become the central counterparty at the moment that:
  - (1) the relevant orders are matched on the Exchange
  - (2) in the case of a Futures Contract that forms as a result of an Option Contract being exercised in accordance with Rule 416; or
  - (3) in the case of EFRP transactions or Block Trades, the relevant transactions are reported to the Exchange and duly accepted by the Clearing House.
- (b) Novation of a Contract pursuant to Rule 402.1 (the “original Contract”) shall result in two Contracts (each, a “resulting contract”), one between the Selling Clearing Member and the Clearing House, and the other between the Buying Clearing Member and the Clearing House. Each resulting contract shall be identical to the original Contract except that the Clearing House shall be substituted as and shall assume the position, and accordingly the rights and liabilities, of Selling Clearing Member to the Buying Clearing Member and conversely, the position, and accordingly the rights and liabilities, of Buying Clearing Member to the Selling Clearing Member, hence becoming the central counterparty. All rights or obligations in relation to the original Contract are discharged and replaced by the rights and obligations of the relevant resulting Contracts, save for any rights or obligations falling due for performance before such novation.
- (c) The Clearing House shall be entitled to rely conclusively on the accuracy and authenticity of any and all information and data regarding any Contract submitted to the Clearing

House by or on behalf of the Exchange or any Clearing Member, whether or not a Clearing Member or Customer in fact authorised the submission of such information or data so submitted. The events described under Rule 402.1(b) shall be deemed not to have taken place if the Clearing House has received corrupt or unreadable data in respect of the original Contract, or if the original Contract is based on a series that is not eligible for clearing. Clearing Members will be notified in such instances.

- (d) Each Open Contract (whether designated as a Proprietary Position or a Customer Position of a Clearing Member) when accepted by the Clearing House for clearing and settlement shall be between the Clearing House and a Clearing Member on a principal to principal basis.
- (e) No other person or any third party, including any Exchange Member who is a Customer of the Clearing Member, or otherwise, shall have any rights under any Open Contract between the Clearing Member and the Clearing House, and the liabilities and obligations of the Clearing House under such a Contract are enforceable only by that Clearing Member.
- (f) Nothing in these Rules shall be regarded, treated or otherwise interpreted as obliging or requiring the Clearing House to recognise any right or entitlement of any third party.

#### Rule 402.2 Netting

- (a) Subject to Rule 402.2(c), if a Clearing Member so instructs the Clearing House in accordance with the Clearing Procedures, the Clearing House will net particular buy and sell positions, or long and short positions (for a Set of Contracts) within the Clearing Member's Open Positions in any Customer Account or Proprietary Account where gross Open Positions are maintained.
- (b) Subject to Rule 402.2(a) and Rule 402.2(c), the Clearing House may at its discretion treat any Contract pursuant to which a Clearing Member is the Buying Clearing Member and another Contract of the same Set pursuant to which the same Clearing Member is the Selling Clearing Member simultaneously as being netted, set off and mutually closed out and terminated upon calculation of the Open Position in respect of such Contracts, subject to the Clearing Member having made all due payments pursuant to the Contract Terms in respect of such Contracts and subject to separate treatment of Open Positions in its Proprietary Account and its Customer Account. Where the position as Buying Clearing Member is not the same size as a position as Selling Clearing Member, the Contracts in question shall be closed out and terminated in part.
- (c) For the avoidance of doubt, except for purposes of closing out Open Positions following the occurrence of a Declared Default under Rule 803, there shall be separate treatment (and no offsetting and close-out or resulting termination nor any aggregation or consolidation): (i) as between any Contract recorded in a Clearing Member's Proprietary Account, and any Contract recorded in that Clearing Member's Customer Account; (ii) as between any Contracts recorded in respect of different Customers; and (iii) as between

Contracts recorded in different Proprietary Accounts.

### **Rule 403**    Limitation of Liability

Without prejudice to any other limitation or exclusion of liability in these Rules:

- (a) in the event of a Declared Default, the liability of the Clearing House shall be limited to net losses to the Clearing Members resulting from the substitution of the Clearing House by way of novation in respect of the Contracts between Clearing Members; and
- (b) except as expressly provided in Rule 402, the Clearing House shall not have any liability or obligation to any Customer of a Clearing Member or any person that such Customer may be liable or has any obligation to, nor shall the Clearing House be liable for any obligations or liabilities of a Clearing Member to any person (including any non-Clearing Members), or any obligations of a Clearing Member to any other Clearing Member other than liabilities of the Clearing House as a central counterparty described in Rule 402 above.

### **Rule 404**    Transfer of Contracts

- (a) The Clearing House may:
  - (1) upon the request of a Clearing Member;
  - (2) where provided for in the Exchange Rules, at the direction of the Exchange; or
  - (3) pursuant to Chapter 8 of these Rules,transfer an Open Contract held in the name of a Clearing Member (the “**Transferor Clearing Member**”) to another Clearing Member (the “**Transferee Clearing Member**”), or transfer an Open Contract among accounts held within a Clearing Member, in which case the Transferor Clearing Member and the Transferee Clearing Member would be the same.
- (b) Notwithstanding Rule 404(a), the Clearing House may, at its absolute discretion, decline to effect the transfer of a Contract without providing any reason.
- (c) A transfer may be made subject to the Transferor Clearing Member and Transferee Clearing Member complying with any conditions imposed by the Clearing House, including the deposit of Collateral by either or both of the Transferor Clearing Member and the Transferee Clearing Member.
- (d) The transfer shall be effected in such manner and at such time as the Clearing House determines, subject to the acceptance by the Transferee Clearing Member.
- (e) For transfers between Clearing Members, upon the Transferee Clearing Member accepting the transfer in the manner prescribed by the Clearing House, the Open Contract between the Transferor Clearing Member and the Clearing House shall be cancelled and

a new Open Contract will come into existence between the Clearing House and the Transferee Clearing Member on the same terms as the cancelled Open Contract.

## **Rule 405**    Open Positions

All Contracts shall remain open and in force and shall continue to be binding upon the Clearing Members until liquidated by offsetting Contracts in accordance with these Rules, upon delivery or cash settlement, or as specified in the Contract Terms.

## **Rule 406**    Margins

### **Rule 406.1 General**

- (a) In respect of Contracts which are cleared and settled by the Clearing House in accordance with Rule 401, Clearing Members shall comply with Margin requirements as prescribed by the Clearing House and/or the Exchange from time to time and notified to the Clearing Members. The Clearing House may impose, amend or withdraw additional Margin requirements in respect of any Clearing Member at any time and at its discretion.
- (b) The Clearing House shall value any assets provided for Margin purposes as it deems appropriate. The Clearing House shall, at its sole discretion, determine what assets will be acceptable as Margin and may decide at any time that any asset will cease to be acceptable as Margin and on the valuation to be attributed thereto.
- (c) Each Clearing Member will act as principal and not as agent in providing Margin to the Clearing House. Subject to MAS Requirements, the Clearing House will take no account of any right or interest which any Person other than the Clearing Member may have in any Margin furnished by such Clearing Member to the Clearing House.
- (d) All assets provided to the Clearing House as Margin shall be free of, and shall remain free of, any Security Interest whatsoever, subject only to MAS Requirements. The Clearing Member shall be liable to the Clearing House for any cost or liability incurred by the Clearing House as a result of the Clearing House possessing, holding, perfecting the title to or otherwise being associated with, any asset provided to it by that Clearing Member by way of Margin. A Clearing Member shall take any action reasonably requested by the Clearing House that may be necessary or desirable to create, preserve, perfect or validate the right, title or interests of the Clearing House in Margin or contributions to the Guaranty Fund intended to be created under these Rules, or to enable the Clearing House to exercise or enforce any of its rights with respect thereto.
- (e) Subject to these Rules, and unless otherwise specified in the Contract Terms, the Clearing House will accept, without limitation, the following assets as Margins:
  - (1) cash; and
  - (2) such other types of assets or properties that the Clearing House may prescribe from time to time.

- (f) If any asset deposited by any Clearing Member is found in any way to be unacceptable by the Clearing House, such asset will immediately be given zero value for the purposes of the Clearing Member's Margin obligations under these Rules, and other assets may be immediately required from the Clearing Member as replacement in such an event.
- (g) The Clearing House may, at its sole discretion, decide and impose conditions on the proportion(s) of or composition of the various assets accepted as Margin. Such conditions may be imposed on any Clearing Member or any group or class of Clearing Members, as the Clearing House deems fit.
- (h) The Margin requirement of a Clearing Member will be the composite of the following Margins as may be specified by the Clearing House from time to time:
  - (1) Initial Margin;
  - (2) Variation Margin;
  - (3) Delivery Margin; and
  - (4) Special Margin.

The methods and formulae for calculating the above Margins and their payment, among other things, will be determined by the Clearing House and/or Exchange and communicated to the Clearing Members by way of Regulatory Notice or such other means as the Clearing House deems appropriate. The method of calculation of the Margin may include gross position basis, net position basis, and Customer level basis or any other method as may be decided by the Clearing House and/or Exchange. Such Margin payable shall be paid by a Clearing Member within such times as may be directed and/or notified and/or prescribed by the Clearing House and/or Exchange.

- (i) The following Margin provisions, among other things, shall apply in respect of Contracts cleared and settled by the Clearing House:
  - (1) Every Clearing Member shall pay the required Margin to the Clearing House against the aggregate Open Positions cleared by the Clearing Member:
    - (i) for the Clearing Member's Proprietary Accounts where applicable; and
    - (ii) for the Clearing Member's Customer Accounts where appropriate.
  - (2) In relation to every Contract for which monies or assets are deposited with the Clearing House under these Rules, each Clearing Member shall specify:
    - (i) whether the Contract is a Customer Contract; and
    - (ii) whether the monies or assets being deposited with or paid to the Clearing House is or are deposited or paid in respect of, or in relation to a Customer Contract.

- (j) The Clearing House may, at its absolute discretion, take such measures including disciplinary action, suspension or termination of membership against a Clearing Member who fails to pay any Margin, or any other payment within such times as may be directed and/or notified and/or prescribed by the Clearing House and/or Exchange.
- (k) No Clearing Member shall (directly or indirectly) enter into any arrangement or adopt any procedure for the purpose of evading or assisting in the evasion of the Margin requirements prescribed under these Rules.
- (l) Every Clearing Member shall account and maintain separately in segregated accounts all monies, Margins, deposits, or other payments received from their Customers in any form from all other monies, Margins, deposits and payments. Such monies, Margins, deposits, or other payments received from the Customers shall be used solely for the benefit of Customer Positions.
- (m) Every Clearing Member shall ensure that:
  - (1) Margin, Final Settlement Amounts and Daily Settlement Amounts shall be calculated separately for its Proprietary Account and its Customer Account; and
  - (2) any Margin deposited with the Clearing House, Daily Settlement Amount or Final Settlement Amount paid to the Clearing House by a Clearing Member with respect to an Open Position shall be designated to the relevant account of that Clearing Member to which the Open Position is designated.
- (n) For avoidance of doubt, a Clearing Member, including one who has Proprietary Positions and Customer Positions, shall be responsible, among other things, for the provision of Margin, maintaining Margin and all other obligations assumed by that Clearing Member to the Clearing House, notwithstanding the fact that its business is segregated as proprietary and customer.
- (o) The Clearing House may specify or vary the quantum of Margin and the applicability of the same from time to time in respect of any existing or new Open Positions of any Clearing Member. The quantum of such Margin may vary from Contract to Contract and for different Contract Months.
- (p) The Clearing House may prescribe such Special Margins as may be considered necessary, at such times as deemed necessary by the Clearing House.
- (q) All amounts deposited towards Margin with the Clearing House by Clearing Members may be retained by the Clearing House in whole or in part as the Clearing House may deem necessary but subject to these Rules, may, upon the request made by the Clearing Member, be returned to the Clearing Member if the Clearing House determines that the amounts deposited are in excess of Margins required for Open Positions.
- (r) A Clearing Member shall not request a release of, be refunded or be repaid any amount deposited towards Margin with the Clearing House, except amounts in excess of margin



required for Open Positions under Rule 406.1(q). The decision to refund, repay or release any amount so deposited shall be at the absolute discretion of the Clearing House.

- (s) Subject to MAS Requirements, the Clearing House shall have the right to use any money or assets deposited or paid for or in relation to contracts of Customers of a Clearing Member to meet the obligations arising from Contracts of those Customers (the “**Subject Obligations**”) of the Clearing Member to the Clearing House if:
  - (1) the Clearing House is of the opinion, formed in good faith, that the failure of the Clearing Member to meet the Subject Obligations is directly attributable to the failure of such Customers of the Clearing Member to meet that Customer’s obligations under any Contract; and
  - (2) either —
    - (i) both of the following have been wholly utilised towards meeting the Subject Obligations:
      - (1) the money and assets deposited with or paid to the Clearing House for or in relation to Contracts of that Clearing Member;
      - (2) the money and assets (not being any money or assets of any Customer of that Clearing Member) deposited by the Clearing Member with the Clearing House as collateral or guarantee for the purpose of satisfying all obligations of the Clearing Member to the Clearing House; or
    - (ii) the Clearing House has reasonable grounds for forming an opinion that the failure to use the Customers’ money or assets to meet the Subject Obligations may jeopardise the financial integrity of the Clearing House.
- (t) The Clearing House shall have the right to make a call to replace with cash any of the existing Collateral deposited with Clearing House, at any time and in its absolute discretion.

#### Rule 406.2 Difference in Margin between Clearing Members

The Clearing House may determine a higher rate of Margin for a particular Clearing Member or for all or some Clearing Members for a particular Contract or Contract Month or in such other manner as it considers appropriate. Any rate of Margin set shall not in any way bind the Clearing House and/or the Exchange in respect of any rate of Margin to be determined in the future in respect of any Contract or any Contract Month or any Clearing Member.

#### Rule 406.3 Initial Margin

A Clearing Member shall deposit with the Clearing House, with respect to each Open Position, an Initial Margin of an amount determined by the Clearing House and/or the

Exchange and top-up any such Initial Margin from time to time, upon demand or by such time as prescribed by the Clearing House.

#### Rule 406.4 Variation Margin

- (a) The Clearing Member shall pay Variation Margins at such intervals as may be directed or prescribed from time to time by the Clearing House and/or the Exchange.
- (b) The amount of Variation Margin required at any time during any Trading Day with respect to a Contract in a Proprietary Account or a Customer Account shall be the net loss represented by the difference between the latest price of such Contract or price determined by the Clearing House and/or the Exchange and:
  - (1) (where such Contract was bought or sold on such Trading Day) the price at which such Contract was bought or sold on such Trading Day; or
  - (2) (other than where Rule 406.4(b)(1) applies) the Daily Settlement Price for such Contract on the previous Trading Day.
- (c) The amount of Variation Margin required at the end of any Trading Day with respect to a Contract in a Proprietary Account or a Customer Account shall be the net loss represented by the difference between the Daily Settlement Price of such Contract declared at the end of such Trading Day and:
  - (1) (where such Contract was bought or sold on such Trading Day) the price at which such Contract was bought or sold on such Trading Day; or
  - (2) (other than where Rule 406.4(c)(1) applies) the Daily Settlement Price for such Contract on the previous Trading Day.

#### Rule 406.5 Delivery Margin

- (a) Delivery Margin is the amount of Margin (other than Initial Margin, Variation Margin, or Special Margin) as specified in the Contract Terms as being payable in relation to a Contract upon the Contract entering Delivery Period.
- (b) The Clearing Member shall pay the Delivery Margin in the manner and within such time as prescribed in the Contract Terms or as may be prescribed by the Clearing House and/or the Exchange from time to time.
- (c) Delivery Margin shall be released by the Clearing House upon settlement of all delivery obligations by the relevant parties, as may be specified by the Clearing House from time to time.

#### Rule 406.6 Special Margin

- (a) Where the Clearing House deems that market conditions or price fluctuations are such that the Clearing House believes that any Clearing Member(s) may be affected by such

conditions or fluctuations, the Clearing House may require, and the Clearing Member(s) shall pay, Special Margin to the Clearing House by such time and in such manner as the Clearing House may specify and in the amount the Clearing House deems necessary.

- (b) Without prejudice to the generality of sub-paragraph (a) above, when the Clearing House is of the opinion that the positions carried by, or the track record of, any Clearing Member places or may place the Clearing House or any Clearing Member at risk, the Clearing House may require such Clearing Member to deposit Special Margin with the Clearing House at such time as may be specified by the Clearing House in its absolute discretion.

#### Rule 406.7 Margin from Customers

- (a) Each Clearing Member shall demand and receive from its Customers the Margin which the Clearing Member has to provide under these Rules in respect of Contracts cleared and settled by the Clearing Member for such Customers, in such a manner as is consistent with these Rules, and in a manner which allows the Clearing Member to transfer Margin to the Clearing House in accordance with its obligations under these Rules.
- (b) Each Clearing Member shall collect from its Customers, applicable Margins, within such time, as prescribed by the Clearing House and/or Exchange. The Clearing Member may collect Margin from its Customers, which is higher than that prescribed by the Clearing House.
- (c) A Clearing Member shall collect from its Customer(s) the Initial Margin within two (2) Business Days from the trade day.
- (d) A Clearing Member shall collect Variation Margin, Delivery Margin or Special Margin from the relevant Customer within two (2) Business Days from the day when the Customer's Margin obligation to a Clearing Member is incurred.
- (e) Calls for any or all Margin shall be satisfied by the Customer by cash payment or any other instrument prescribed by the Clearing House and/or the Exchange within the time period specified by the Clearing House and/or the Exchange. Valuation of any such instruments shall be in accordance with the procedures prescribed by the Exchange or specified by the Clearing House.
- (f) No Clearing Member shall utilise Margin paid by one Customer to meet any call for Margin for its own account or for Related Customers or other Customers.
- (g) In the event of a Clearing Member's failure to obtain Margin from the relevant Customers as required under this Rule 406.7, a Clearing Member may take such necessary action to rectify the deficiency as it deems fit including closing out the Open Positions of such Customer. The Clearing House may also direct such Clearing Member to immediately close out all or such part of the Open Positions of such Customers so as to rectify the deficiency. The Clearing House and the Clearing Member shall not be liable to the Customer for any loss sustained by the Customer as a result of that Clearing Member closing out Open Positions under this Rule 406.7.

- (h) No Clearing Member (other than one which is a Bank) shall provide any margin financing to any Customer.

### **Rule 406.8 Powers of the Clearing House**

- (a) Where the Clearing House deems that market conditions or price fluctuations are such that the Clearing House believes that any Clearing Member(s) may be affected by such conditions or fluctuations, the Clearing House may call upon any Clearing Member(s) to transfer one or more Open Positions from the books of such Clearing Member(s) to the books of another Clearing Member(s) which has agreed to accept such transfer by such time and in such manner as the Clearing House deems necessary.
- (b) Without prejudice to the generality of Rule 406.8(a) above, when the Clearing House is of the opinion that the positions carried by, or the track record of any Clearing Member places or may place the Clearing House or any Clearing Member at risk, the Clearing House may require such Clearing Member to transfer one or more Open Positions from the books of such Clearing Member to the books of another Clearing Member(s) within such time as may be specified by the Clearing House in its absolute discretion.
- (c) In the event of the failure of a Clearing Member to deposit any Margin or to comply with the order of transfer of Open Positions or to effect the required reduction in Open Positions within such time as may be directed by the Clearing House or to deposit additional funds as required under this Rule 406, the Clearing House may direct (and the Clearing Member shall in such event forthwith comply with any such direction) that the Clearing Member forthwith liquidate all or part of the Open Positions on its books.
- (d) Any Clearing Member whose trades are thus liquidated shall be liable to pay the Clearing House for any losses arising from the liquidation.

## **Rule 407 Position Limits**

### **Rule 407.1 Position Limits**

- (a) The Clearing House and/or the Exchange may, at its absolute discretion and at any time prescribe Position Limits in the Contract Terms with respect to any Contract.
- (b) If a Clearing Member or any of its Customers exceeds any imposed Position Limits, the Clearing House is entitled to require the Exchange to restrict the trading of such Clearing Member and/or its Customer(s) on the Exchange, advise the Clearing Member to close out Open Positions or may itself close out such Open Positions on behalf of the Clearing Member and/or its Customer(s) or impose higher Margin requirements on the Clearing Member or take such other measures including withdrawal of clearing facility as deemed fit by the Clearing House.
- (c) The Clearing House shall not be responsible for any loss or liability arising out of or in connection with the close out of the Open Positions and the Clearing Member shall be liable for settlement of any such loss or liability incurred, if any, in respect of such actions

taken by the Clearing House on behalf of the Clearing Member and/or any of its Customers.

#### Rule 407.2 Concurrent Long and Short Positions

- (a) Unless the Clearing House otherwise permits, Clearing Members shall not be permitted to carry both a long position and a short position concurrently for any specific Customer or for themselves in the case of Futures Contracts, in the same Commodity for the same Contract Month and in the case of Option Contracts, in the same Commodity, for the same class, for the same Contract Month and for the same Strike Price.
- (b) The Clearing House may require any Clearing Member to liquidate any or all positions in any Contract belonging to any person concurrently holding a long position and a short position in such Contract.
- (c) Rule 407.2 shall not apply if the concurrent long and short positions result from a transfer under Rule 404 and such concurrent long and short positions do not extend beyond the Trading Day on which the transfer is reported to the Clearing House.

#### Rule 408 Exposure Limits

- (a) The Clearing House may, at its absolute discretion and at any time, restrict any Clearing Member from taking positions beyond an aggregate market exposure limit (the “**Exposure Limit**”) as determined by the Clearing House from time to time, and the Clearing Member shall at all times abide by the Exposure Limit.
- (b) The Clearing House may fix the Exposure Limit of the Clearing Member, taking into account any liability in respect of Initial Margin and Special Margin and/or Delivery Margin as it deems fit.
- (c) The Clearing House may, at any time, impose, increase or reduce any Exposure Limit by notifying the Clearing Member. Any imposition or change in the Exposure Limits so notified shall take effect as stipulated in such notification.
- (d) If a Clearing Member exceeds any imposed Exposure Limits, the Clearing House is entitled to require the Exchange to restrict the trading of such Clearing Member and/or its Customer(s) on the Exchange, require the Clearing Member to close out Open Positions or may itself close out such Open Positions on behalf of the Clearing Member and/or its Customer(s) or impose higher Margin requirements on the Clearing Member or take such other measures including withdrawal of clearing facility as deemed fit by the Clearing House. If the Clearing Member fails to comply with any requirement imposed on it above, it shall be in Violation of these Rules.
- (e) The Clearing House shall not be responsible for any loss or liability arising out of or in connection with the close out of the Open Positions and the Clearing Member shall be liable for settlement of any such loss or liability incurred, if any, in respect of such actions taken by the Clearing House on behalf of the Clearing Member.

**Rule 409 Daily Settlement Price**

- (a) The Clearing House shall, at the close of Trading Hours on each Trading Day for each Contract, determine the Daily Settlement Price for such Contract.
- (b) The Daily Settlement Price determined by the Clearing House shall be binding on all Clearing Members.
- (c) Notwithstanding anything in these Rules, the Clearing House reserves the right to amend the settlement prices of any Contract where it deems fit.

**Rule 410 Inability to Declare Daily Settlement Price**

- (a) If in the opinion of the Clearing House a situation or practice may prevent or has prevented the Daily Settlement Price for a Contract or a group of Contracts from being declared in accordance with the relevant Contract Terms for the Contract or group of Contracts, the Clearing House may take any steps it deems necessary in the circumstances to correct such situation so as to enable the Daily Settlement Price to be declared, and may give directions to Clearing Members accordingly.
- (b) Any decision of the Clearing House shall be binding upon all the Clearing Members and their Customers.

**Rule 411 Daily Settlement**

- (a) The Clearing House shall on each Trading Day after the determination of the Daily Settlement Price, and at any other time that it may determine, effect daily settlement of all Open Positions at such Daily Settlement Price.
- (b) All Open Positions whether long or short of a Clearing Member shall be deemed to have been settled at the Daily Settlement Price.
- (c) Each Clearing Member shall be liable to pay to or entitled to collect from the Clearing House an amount called the “**Daily Settlement Amount**”, in cash and in the respective currencies of the Contracts. The Daily Settlement Amount on any Trading Day shall be the aggregate of:
  - (1) any Variation Margin (if any) payable by the Clearing Member for each Contract as per Rule 406.4 on that Trading Day;
  - (2) any profit (if any) payable to the Clearing Member for each Contract to be calculated as the difference between:
    - (i) the Daily Settlement Price of each Contract declared at the close of Trading Hours for that Contract at the end of that Trading Day, and,
    - (ii) (aa) the price at which each such Contract was bought or sold on that Trading Day, or

- (bb) the Daily Settlement Price for each Contract on the previous Trading Day, as the case may be;
  - (3) any amount receivable/payable by the Clearing Member from/to the Clearing House; and
  - (4) any Margin amount receivable/payable by the Clearing Member from/to the Clearing House,
- segregated for Proprietary Account and Customer Accounts.
- (d) After calculating the Daily Settlement Amount, the Clearing Member shall be long or short such Contract, as the case may be, at the Daily Settlement Price.
  - (e) On the Trading Day following the determination of the relevant Daily Settlement Price in relation to an Open Position:
    - (1) each Clearing Member shall pay to the Clearing House all Daily Settlement Amount(s) payable by it on demand or by the prescribed time; and
    - (2) the Clearing House shall pay any Daily Settlement Amount(s) owed to a Clearing Member.
  - (f) Notwithstanding the foregoing, the Clearing House shall not be required to pay any amount to a Clearing Member in the event that such Clearing Member fails to meet any required settlement or Margin call for that Trading Day with the Clearing House.

## **Rule 412**    Final Settlement Price

- (a) All Open Positions of Clearing Members in each Contract at the close of Trading Hours on the Last Trading Day for such Contract shall be settled in cash or by delivery or as per the conditions prescribed in the respective Contract Terms. On the completion of final settlement, Open Positions in such Contracts shall ipso facto cease to exist.
- (b) The Final Settlement Price shall be the Daily Settlement Price as specified in the Contract Terms or such other price as may be determined by the Clearing House in its sole and absolute discretion. The Final Settlement Price shall be binding on Clearing Members.
- (c) Each Clearing Member shall be liable to pay to or entitled to collect from the Clearing House an amount called the “**Final Settlement Amount**”, in cash and in the respective currencies of the Contracts. The Final Settlement Amount on any Trading Day shall be the aggregate of:
  - (1) any Variation Margin payable by the Clearing Member for each Contract. For the purpose of Final Settlement Amount, Variation Margin shall be the net loss represented by the difference between:



- (i) the Final Settlement Price of each Contract declared at the end of such Trading Day; and
  - (ii) (aa) the price at which each such Contract was bought or sold on such Trading Day, or
    - (bb) the Daily Settlement Price for each such Contract on the previous Trading Day, as the case may be;
  - (2) any profit payable to the Clearing Member for each Contract to be calculated as the difference between
    - (i) the Final Settlement Price of each Contract declared at the end of such Trading Day; and
    - (ii) (aa) the price at which each such Contract was bought or sold on the Trading Day, or
      - (bb) the Daily Settlement Price for each Contract on the previous Trading Day, as the case may be;
  - (3) any settlement receivable/payable by the Clearing Member from/to the Clearing House; and
  - (4) any Margin amount receivable/payable by the Clearing Member from/to the Clearing House,
- segregated for Proprietary Account and Customer Accounts.
- (d) On the Trading Day following the determination of the relevant Final Settlement Amount:
    - (1) each Clearing Member shall pay to the Clearing House all Final Settlement Amount(s) payable by it on demand or by the prescribed time; and
    - (2) the Clearing House shall pay any Final Settlement Amounts owed to a Clearing Member.

#### **Rule 413** Clearing and Settlement Reports

- (a) The Clearing House shall generate and provide to each Clearing Member, daily trading, clearing and settlement reports pertaining to transactions in different Contracts including Option Contracts and shall include other relevant details and account information as prescribed by the Clearing House, from time to time.
- (b) If a Clearing Member believes that there is an error in any report under Rule 413(a), the Clearing Member shall immediately notify the Clearing House in writing and in any event, by no later than before the opening of the next Trading Day and within such times as may be prescribed by the Clearing House.

**Rule 414 Settlement Bank****Rule 414.1 Appointment of Settlement Bank(s)**

- (a) The Clearing House shall appoint one or more Settlement Bank(s) from time to time for the purpose of daily and final settlement, for the collection of deposits, Margins, and other amounts for all transactions entered into through the Clearing House and any other funds movement between Clearing Members and the Clearing House.
- (b) The Clearing House shall specify from time to time the processes, account types, denominated currencies, procedures, and operations that every Clearing Member shall be required to follow for the purpose of funds settlement through their accounts maintained with the Settlement Bank(s).

**Rule 414.2 Clearing Members to Maintain Accounts with the Settlement Bank**

In order to facilitate smooth clearing and settlement, all Clearing Members shall:

- (a) open such bank accounts as set out in Rule 414.3 with designated Settlement Banks as may be advised by the Clearing House;
- (b) strictly follow instructions of the Clearing House in respect of operation of such bank accounts, including but not limited to the minimum balance and segregation of Customers' funds and their own funds;
- (c) submit an irrevocable authorisation in writing empowering the Clearing House and/or its nominees to operate such bank accounts, for effecting the payment of daily or final settlement, margins, deposits and any other amounts due and payable to the Clearing House, and debit and credit all accounts electronically, as it deems fit; and
- (d) keep such bank accounts adequately funded, so as to enable the Clearing House to recover its dues or other payments by debiting such bank account.

**Rule 414.3 Accounts to be Maintained by Clearing Members**

The Clearing Members shall open and maintain the following accounts with one of the designated Settlement Banks for the purpose of funds settlement and payments through the Clearing House:

- (a) A Member Settlement and Margin Account each for each currency that settlement is or payments are made in;
- (b) A Customer Settlement and Margin Account each for each currency that settlement is or payments are made in; and
- (c) any other account required by the Clearing House, from time to time.

#### Rule 414.4 Purpose and Operation of the Accounts to be Maintained with the Settlement Bank

- (a) Member Settlement and Margin Account
  - (1) Each Clearing Member shall deposit all monies due or owing to the Clearing House in relation to Proprietary Positions into the Member Settlement and Margin Account within the time period specified by the Clearing House.
  - (2) All monies, deposits and release of Margin monies due from the Clearing House to a Clearing Member in relation to Proprietary Positions shall be deposited by the Clearing House into the Member Settlement and Margin Account.
- (b) Customer Settlement and Margin Account
  - (1) No monies or deposits in the Customer Settlement and Margin Account shall be utilised by the Clearing Member for any purpose except for payment of Margins or meeting the obligations of any Customer in respect of Customer Contracts.
  - (2) Each Clearing Member shall deposit all monies due or owing to the Clearing House in relation to Customer Positions into the Customer Settlement and Margin Account within the time period specified by the Clearing House.
  - (3) All monies, deposits and release of Margin monies due from the Clearing House to a Clearing Member in relation to Customer Positions shall be deposited by the Clearing House into the Customer Settlement and Margin Account.
- (c) Without prejudice to any rights of the Clearing House under these Rules, the Clearing House shall at all times and without prior notice to a Clearing Member, be entitled to apply all or any surplus monies/cash, or assets that is standing to the credit of the Member Settlement and Margin Account of a Clearing Member against any deficiency on the Customer Settlement and Margin Account.

#### Rule 414.5 Accounts to be Maintained by Clearing House

The Clearing House will open and maintain the following accounts with each of the designated Settlement Banks or custodians for the purpose of margin payments and funds settlement and payments to the Clearing Members:

- (a) a Clearing House Member Settlement and Margin Account for each currency in which payments are to be made for Margins in respect of and for the settlement of Proprietary Positions;
- (b) a Clearing House Customer Settlement and Margin Account for each currency in which payments are to be made for Margins in respect of and for the settlement of Customer Positions; and
- (c) any other account as may be required by the Clearing House, from time to time.

### **Rule 414.6 No Liability for Settlement Banks or Custodians**

The Clearing House shall not in any way be liable for the defaults, negligence, actions or omissions of any designated Settlement Banks or custodians, or for any loss of or diminution in value or depreciation in or in connection with any Margin, assets or monies in any accounts maintained with such designated Settlement Banks or custodians.

### **Rule 414.7 Accounts in the Settlement Bank**

Unless otherwise specified in respect of any Contract (as may be specified by the Clearing House) but subject always to MAS Requirements, in particular as to Customers' monies being held on trust, no Clearing Member, or any person claiming through it, or any other person, shall have or be deemed to have any right, title or interest in any monies in the Customer Settlement and Margin Accounts of the Clearing Member, or on monies, deposits or any other amounts of the Clearing Member deposited with the Clearing House.

## **Rule 415 Accounts and Segregation Rules**

- (a) Under no circumstances shall any monies payable to, or assets pertaining to any Customer be paid or used on the account of or in relation to Proprietary Positions.
- (b) The classification by a Clearing Member of an Open Position as a Customer Position or a Proprietary Position shall not in any way derogate from the fact that the Clearing House deals with Clearing Members as principals. Accordingly, the Clearing House shall not recognise any Customer of the Clearing Member, and shall not be responsible for the performance of any obligations or liabilities under Open Contracts to such Customer.
- (c) A Clearing Member shall ensure that it shall at all times inform and keep the Clearing House informed of such information as would be required for the Clearing House to enable it to discharge its segregation obligations under MAS Requirements and/or to enable the Clearing House to issue to the MAS any verification statements required under MAS Requirements, including but not limited to:
  - (1) whether a particular Contract is a Customer Contract; and
  - (2) whether money or assets are deposited or paid for or in relation to a Customer Contract.

## **Rule 416 Clearing of Option Contracts**

- (a) Option Contracts may be put Option Contracts or call Option Contracts.
- (b) In the case of a cash settled call Option Contract:
  - (1) the Buyer of the Option Contract acquires in consideration for an Option Premium and at a Strike Price selected from a list of such prices determined under the relevant Contract Terms and agreed between the parties, the right to receive an

amount equivalent to the difference between the Strike Price and the Daily/Final Settlement Price of the underlying Futures Contract specified in the Contract Terms for that call Option Contract, if the Daily/Final Settlement Price is higher than the Strike Price; and

- (2) in the event that the Buyer of the Option Contract exercises that right, a Seller as assigned by the Clearing House in accordance with these Rules assumes the obligation referred to in the above sub-paragraph (1) to the Buyer.

(c) In the case of a cash settled put Option Contract:

- (1) the Buyer of the Option Contract acquires in consideration for an Option Premium and at a Strike Price selected from a list of such prices determined under the relevant Contract Terms and agreed between the parties, the right to receive an amount equivalent to the difference between the Strike Price and the Daily/Final Settlement Price of the underlying Futures Contract specified in the Contract Terms for that put Option Contract, if the Daily/Final Settlement Price is lower than the Strike Price; and
- (2) in the event that the Buyer of the Options contract exercises that right, a Seller as assigned by the Clearing House in accordance with these Rules assumes the obligation referred to in the above sub-paragraph (1) to the Buyer.

(d) In the case of a call Option Contract that is not cash settled:

- (1) the Buyer of the call Option Contract acquires, in consideration for an Option Premium and at a Strike Price selected from a list of such prices determined under the relevant Contract Terms and agreed between the parties, the right to a long futures positions in the underlying Futures Contract specified in the Contract Terms for that call Option Contract;
- (2) in the event that the Buyer of the call Option Contract exercises that right, a Seller as assigned by the Clearing House under these Rules shall be vested with a short futures position in the underlying Futures Contract at the same price and in the same Delivery Month as that assumed by the Buyer of the call Option Contract; and
- (3) where a call Option Contract is exercised, the resulting Futures Contract shall be registered/settled at the Strike Price agreed pursuant to above sub-paragraph (1).

(e) In the case of a put Option Contract that is not cash settled:

- (1) the Buyer of the put Option Contract acquires, in consideration for an Option Premium and at a Strike Price selected from a list of such prices determined under the relevant Contract Terms and agreed between the parties, the right to a short futures position in the underlying Futures Contract specified in the Contract Terms for that put Option Contract;

- (2) if the Buyer of the put Option Contract exercises that right, a Seller assigned by the Clearing House under these Rules, shall be vested with a long futures position in the relevant underlying Futures Contract at the same price and in the same Delivery Month as that assumed by the Buyer of that put Option Contract; and
  - (3) where a put Option Contract over a Futures Contract is exercised, the resulting Futures Contract shall be registered/settled at the Strike Price agreed pursuant to above sub-paragraph (1).
- (f) Right of a Buyer and Seller to close out by Offset:
- (1) The Buyer of an Option Contract may, prior to the expiration of trading on the Expiration Date, sell an Option Contract of the same series as that Option Contract bought, in which case the long and short positions may be closed out.
  - (2) The Seller of an Option Contract may, prior to the expiration of trading on the Expiration Date, buy an Option Contract in the same series as that Option Contract sold, in which case the short and long positions may be closed out.
  - (3) The Buyer of an Option Contract may (subject to sub-paragraph (5) below):
    - (i) where an Option Contract is specified as an ‘American Option’, exercise such Option Contract at any time prior to the time determined by the Exchange for lodging exercise notices in the relevant Option Contract;
    - (ii) where an Option Contract is specified as a ‘European Option’, exercise such Option Contract at the Last Trading Day or at such time as set out in the Contract Terms for lodging exercise notices in the relevant Option Contract,in which case, the Buyer shall become the holder of a long futures position, in the case of a call Option Contract, or holder of short futures position, in the case of put Option Contract, in the underlying Futures Contract in the same Delivery Month and at the same price as the strike price of the Option Contract.
  - (4) Instead of exercising the Option Contract pursuant to sub-paragraph (3) above, the Buyer of an Option Contract may allow the Clearing House on the Expiration Date to automatically exercise the Option Contract or let it lapse, pursuant to the relevant Contract Terms.
  - (5) The Buyer shall not have the right to exercise an out-of-the-money Option Contract.
- (g) An Option Contract shall be entered into in consideration of an Option Premium payable by the Buyer. The payment of Option Premium shall be subject to the Margin requirements under these Rules.
- (h) Strike Prices shall be determined and published by the Exchange from time to time.

- (i) Any exercise of any Option Contract shall be made in accordance with these Rules and the Exchange Rules, and may be carried out by lodging an exercise notice with the Clearing House, in a form prescribed by the Clearing House and/or Exchange. The procedure for exercise of an Option Contract by a Clearing Member may be modified by the Clearing House and/or Exchange from time to time.
- (j) Exercise of Option Contracts: The type of exercise for an Option Contract may be voluntary or automatic or such other type as may be specified by the Clearing House.
  - (1) Voluntary Exercise: Each Clearing Member which has an open long options position may issue an exercise notice with respect to each open long option pursuant to the procedure as prescribed by the Clearing House and/or Exchange prior to the expiry of the Option Contract.
  - (2) Automatic Exercise: On the Expiration Date of Option Contracts, the Clearing House shall unless otherwise directed by an exercise notice (i) exercise all in-the-money Option Contracts, and (ii) allow all other Option Contracts to expire.
- (k) An Option Contract is in-the-money if the Final Settlement Price or where applicable, the Daily Settlement Price of the underlying Futures Contract is greater than the Strike Price in the case of a call Option Contract or is less than the Strike Price in the case of a put Option Contract, and out-of-the-money shall be construed accordingly.
- (l) A Clearing Member who holds a call Option Contract or a put Option Contract on behalf of a Customer may exercise that Option Contract provided that the Clearing Member has received the relevant instructions from the Customer prior to the time for lodgment of the exercise notice.
- (m) On the Expiration Date, the Seller will receive such notification after the exercise notice is lodged by the Buyer with the Clearing House and by not later than the time determined by the Clearing House for each relevant Option Contract.
- (n) On all Trading Days, the Buyer shall exercise such notification after the conclusion of business processing at the end of the Trading Day on which the exercise notice was lodged by the Buyer and by no later than the time determined by the Clearing House for each relevant Option Contract.
- (o) The Clearing House will assign exercise notices among Clearing Members which have open short option positions in the Option Contract series being exercised. Assignment methods may be proportional among such Clearing Members, random or any other method as may be determined by the Clearing House, at its absolute discretion, from time to time. For Option Contracts that are not cash-settled, upon exercise of any Option Contract, the Clearing House shall make an entry on its records to convert each such exercised option into the underlying Futures Contract(s) pursuant to Rule 402, the Contract Terms for the Option Contract, and the Exchange Rules.
- (p) For Option Contracts that are not cash-settled, upon such entry by the Clearing House, the Seller shall become the holder of a short futures positions in the case of a call Option



Contract, or the holder of a long futures positions in the case of a put Option Contract, in the underlying Futures Contract in the same month and at a price equal to the Strike Price of the Option Contract sold.

- (q) For Option Contracts that are not cash-settled, where the Seller has become the holder of a futures position in accordance with the exercise of an Option Contract, the Seller shall comply with the provisions of these Rules in relation to the futures positions.
- (r) In the case of an Option Contract not being exercised, the obligations of the Clearing House and Clearing Member in respect of such Option Contract shall lapse upon the expiry of such Option Contract. Except as provided under this Rule 416, the Clearing House shall have no obligation in relation to any Option Contract that is not exercised.

#### **Rule 417 Give-up**

- (a) A General Member may execute trades (the “**Executing Member**”) on behalf of a customer for the purpose of giving up such trades from its own Clearing Member (if it is itself not a Clearing Member) to another Clearing Member (the “**Accepting Clearing Member**”). The giving up of the trades shall be referred to as “**Give-up**” and such trades given up shall be referred to as “**Give-up trades**”).
- (b) Prior to a Give-up, a customer of the Executing Member must:
  - (1) have entered into an agreement with the Accepting Clearing Member; and
  - (2) have entered into an agreement with the Executing Member.
- (c) The Accepting Clearing Member and the Executing Member shall ensure that the agreements entered with the customer shall contain clause(s) relating to the placement/acceptance/rejection of Give-up trades, and shall clearly set out the rights and obligations of all parties in respect of the Give-up and the Give-up trades and the acceptance of liability by the Accepting Clearing Member for all such Give-up trades.
- (d) The Accepting Clearing Member shall ensure that the Give-up trades are cleared pursuant to these Rules.
- (e) If a Give-up of a trade is unsuccessful and/or not accepted by the Accepting Clearing Member, such trade shall be cleared and settled by the Clearing Member of the Executing Member.
- (f) Any Give-up trade shall be subject to such other requirements as the Clearing House and/or Exchange may require or prescribe from time to time.

## **Chapter 5      Delivery Rules**

### **Rule 501      General**

A delivery or settlement in performance of any Contract that is traded on the Exchange shall, except where Rule 504(b) applies, be made through the Clearing House. Any Commodity bought or sold under any Contract that is traded on the Exchange shall be delivered or settled, in accordance with the Exchange Rules, the Contract Terms that are applicable to such Commodity or Contract, and the Rules in this Chapter.

### **Rule 502      Cash Settled Contracts**

Cash Settled Contracts shall be satisfied by payment of cash if (i) pursuant to the applicable Contract Terms it can be settled only in cash; or (ii) pursuant to the applicable Contract Terms it may be settled in cash and the Clearing Member opts to settle the Contract(s) in cash.

### **Rule 503      Deliverable Contracts**

- (a) The Clearing House shall direct, and the Buying Clearing Member and Selling Clearing Member shall respectively take and make, delivery of Commodities in relation to Open Contracts which are Deliverable Contracts pursuant to the Exchange Rules, the Contract Terms that are applicable to such Commodity or Contract, and the Rules in this Chapter.
- (b) Subject to the relevant Contract Terms, delivery under these Rules may include the tender and receipt of any Commodity, warehouse receipts or document of title to goods as set out in the Contract Terms.
- (c) Notwithstanding anything in these Rules, failure to make or take delivery in accordance with the Exchange Rules, the Contract Terms that are applicable to such Commodity or Contract, and the Rules in this Chapter is a Violation of these Rules and may subject the Clearing Member in default to disciplinary proceedings in accordance with Chapter 7 of these Rules.

### **Rule 504      Delivery Process**

- (a) Subject to the Exchange Rules and the relevant Contract Terms, delivery under Deliverable Contracts shall, at the absolute discretion of the Clearing House, be effected by the Clearing House directing a Clearing Member holding Open Positions under which direction that Clearing Member shall be obliged (1) to make or take delivery, in such manner as the Clearing House may so direct, to or from a Clearing Member as the Clearing House may specify in accordance with Rule 505, and (2) to receive or make payments of the settlement amount accordingly, in such manner as the Clearing House may so direct. Clearing Members shall comply with any direction so given and any failure to do so shall be deemed to be a Violation of these Rules.
- (b) Alternate Delivery Process

- (1) Subject to the relevant Contract Terms, the Clearing Members may opt to effect delivery in respect of a Contract using an alternate delivery process, which may be effected only upon delivery of a notice of alternative delivery process to the Clearing House (the "**ADP Notice**") in advance, and only if the Clearing House has no objection to such alternate delivery process.
  - (2) Each ADP Notice shall be in such form, and delivered to the Clearing House in such manner, as required by the Delivery Procedures and/or the Contract Terms. If the Clearing House has no objection to the alternate delivery process specified in an ADP Notice, the Clearing House will communicate such non-objection to the Clearing Members by the relevant deadline specified in the Delivery Procedures and/or the Contract Terms. As non-communication of any objection or non-objection by the Clearing House in respect of an ADP Notice is ambiguous, such non-communication shall not be regarded as a non-objection to the alternate delivery process specified in the ADP Notice. If for any reason the Clearing Members do not receive any communication from the Clearing House as to its objection or non-objection by the relevant deadline specified in the Delivery Procedures and/or the Contract Terms, the Clearing Members shall contact the Clearing House within the relevant deadline specified in the Delivery Procedures and/or the Contract Terms for confirmation as to the Clearing House's non-objection before proceeding with the alternate delivery process.
  - (3) Upon communication or confirmation by the Clearing House of its non-objection to the alternate delivery process specified in an ADP Notice in respect of a Contract as aforesaid, the Clearing Members designated to make or take delivery as may be specified in the ADP Notice shall be solely responsible for completing delivery in accordance with the ADP Notice in respect of the Contract.
  - (4) Upon communication or confirmation by the Clearing House of its non-objection to the alternate delivery process specified in an ADP Notice in respect of a Contract as aforesaid, the Clearing House shall be released from its obligations as a central counterparty and from any liabilities in relation to such Contract.
  - (5) In executing such alternate delivery process, the Clearing Members designated to respectively make and take delivery as may be specified in the ADP Notice shall jointly and severally indemnify the Clearing House and/or the Exchange against any liability, costs or expense it may incur for any reason as a result of the execution, delivery or performance of any agreement reached between such Clearing Members, or such persons designated to respectively make and take delivery as may be prescribed in the ADP Notice, or any breach thereof or default thereunder.
- (c) Post Arbitral Award Procedures
- (1) Where any dispute in connection with a Deliverable Contract is settled by such claim procedure set forth or referred to in the relevant Contract Terms, the

Clearing Member shall follow such post arbitral award procedures as set forth in the Delivery Procedures and/or the Contract Terms.

- (2) Without prejudice to Rule 504(c)(1), where any dispute in connection with a Deliverable Contract is settled by arbitration before the SIAC, the procedures set out in this Rule 504(c) shall apply.
- (3) Upon the conclusion of arbitration and the grant of an arbitral award, each of the Clearing Members to the arbitration shall notify the Clearing House of the award. The arbitration decision shall be final and binding on the parties, regardless of whether the Clearing Members who are in dispute have notified the Clearing House of the award.
- (4) If an arbitral award is made in favour of the Buying Clearing Member, the Buying Clearing Member shall be entitled to:
  - (i) claim the Performance Deposit posted in relation to the Deliverable Contract by the Selling Clearing Member with the Clearing House to the extent that it satisfies the arbitral award; and
  - (ii) the return of the Performance Deposit posted by it in relation to the Deliverable Contract with the Clearing House, without any deduction or set-off.
- (5) If the Performance Deposit posted by the Selling Clearing Member in relation to the Deliverable Contract is insufficient to satisfy the arbitral award made in favour of the Buying Clearing Member, the Buying Clearing Member shall be entitled to pursue the balance of such arbitral award against the Selling Clearing Member. If such Performance Deposit is greater than the arbitral award made in favour of the Buying Clearing Member, the balance of the Performance Deposit shall be returned to the Selling Clearing Member.
- (6) Where the arbitral award is made in favour of the Selling Clearing Member, Rule 504(c)(4) and Rule 504(c)(5) shall apply with the references to "Buying Clearing Member" and "Selling Clearing Member" being changed to "Selling Clearing Member" and "Buying Clearing Member" respectively.
- (7) For the avoidance of doubt, the above procedures in this Rule 504(c) do not apply if the Clearing Members have agreed to effect delivery via an alternate delivery process set out in Rule 504(b).

## **Rule 505**    Physical Delivery of Deliverable Contract

- (a) Deliverable Contracts subject to physical delivery shall be matched by the Clearing House at its discretion. The Clearing House may take into account various factors including but not limited to the quantity, lot size, delivery location and any mutual preference(s) stated by the Buyer who is taking and Seller who is making delivery, as conveyed by their respective Clearing Members to the Clearing House.

- (b) The Clearing House may prescribe such forms and/or other requirements for the giving of relevant notice, initiating and/or completing delivery under a Contract and/or necessary to enable the Clearing House to effect the required matching of the relevant parties to effect delivery as between them as are consistent with these Rules. If a Clearing Member fails to give the relevant delivery notice or acceptance notice within the prescribed time specified in the Delivery Procedures and/or the Contract Terms, the Clearing House shall be entitled to match such Clearing Member with the relevant counterparty. Matching may be in accordance with the preference(s) of such opposite counterparty and/or at the discretion of the Clearing House.
- (c) The Clearing House shall notify the relevant matched parties in such manner and at such time as specified in the Delivery Procedures and/or the Contract Terms.

### **Rule 506**    Liability of the Clearing House

- (a) Without any prejudice of the rights of the Clearing House under these Rules, the Clearing House shall ensure the financial settlement of transactions executed on the Exchange and accepted by the Clearing House for clearing and settlement. Unless otherwise provided under these Rules, the Clearing House accepts no liability either to effect, or ensure or guarantee the discharge or satisfactory discharge of an obligation to deliver or accept delivery under any Deliverable Contract and shall effect cash settlement in discharge of its obligation.
- (b) The Clearing House shall have no liability with respect to any forgery or irregularity in any Commodity or document delivered by a Clearing Member to the other Clearing Member pursuant to these Rules and the sole recourse of the other Clearing Member receiving such forged or irregular Commodity or document shall be to the first mentioned Clearing Member which delivered or caused to be delivered that forged or irregular Commodity or document to the other Clearing Member or the Clearing House.
- (c) The Clearing House shall have no liability with respect to any Deliverable Contracts in the case of failure or Insolvency of any bank, financial institution, depository or custodian.
- (d) The Clearing House does not, and shall not be deemed to, guarantee the delivery, title, genuineness, quality, fitness for purpose, compliance with specifications or validity of any goods or any documents transmitted by one Clearing Member to another Clearing Member through the Clearing House.
- (e) The Clearing House shall not be liable under any circumstances to make deliveries to or take deliveries from a Customer of Clearing Members or in any way become obligated to a Customer by reason of any Contract or otherwise.
- (f) The Clearing House retains the discretion to accept delivery of any title documents in either physical or electronic format and subject to such safeguards as it deems fit.
- (g) The Clearing House shall have no responsibility or liability to any person:

- (1) to investigate, verify or guarantee the authenticity, validity, accuracy, or completeness of:
    - (i) any form or document required by it for the matching of any Seller and Buyer;
    - (ii) any title documents received by the Clearing House under the relevant Contract Terms, to effect delivery as between such matched parties as are consistent with these Rules, any Regulatory Notices or Directives. Nonetheless, the Clearing House reserves the right (at its discretion) to reject any form or accompanying documents submitted by a Clearing Member for such matching, delivery or any other purposes if in its good faith, it is of the opinion that the form or accompanying documents (or, where relevant, payment) submitted are not in compliance with its stated requirements or otherwise indicate that the delivery to be effected or accepted are not in compliance with these Rules, any Regulatory Notices or Directives; and
  - (2) to check any Commodity received from or delivered through a Clearing Member in relation to the quantity or quality or suitability or fitness of the Commodity under a Deliverable Contract.
- (h) The Clearing House shall have no responsibility or liability to any person:
- (1) to check the availability, suitability or quality of any designated delivery facility, producer, factory, port, grader, surveyor, sampler, analyst or any other organisation that may be involved with delivery of any Commodity as identified in the relevant Contract Terms; and
  - (2) for the acts, omissions, default or Insolvency of any designated delivery facility, producer, factory, port, grader, surveyor, sampler, analyst or any other organisation that may be involved with delivery of any Commodity as identified in the relevant Contract Terms.
- (i) The Clearing House disclaims any liability arising from or in connection with the delivery or non-delivery of any title documents by any Clearing Member and any irregularities in the transfer of title and/or possession in the underlying Commodity from the Seller to the Buyer.
  - (j) In no event shall the Clearing House be liable for releasing any payment in exchange for documents that appear bona fide on their faces.

## **Rule 507**    Delivery is Full Discharge of Obligations

Delivery effected under Rule 504 shall be full and complete satisfaction and discharge of liabilities and obligations under the relevant Open Positions.



**Rule 508** Clearing Members' Delivery Obligations

- (a) A Clearing Member shall comply with these Rules, the Exchange Rules and Contract Terms for each Commodity relating to the delivery of information, documents or Commodity to the Clearing House or to Clearing Members, and shall comply with all time limits therein imposed.
- (b) A Clearing Member shall be obliged to accept delivery of any Commodity made pursuant to these Rules, the Exchange Rules and Contract Terms for each Commodity.
- (c) The Clearing House's act of transmitting of any Commodity or document or giving a direction to deliver to a Clearing Member shall not be taken to be acceptance of such Commodity or document by the Clearing House and rejection of such Commodity or document by such Clearing Member pursuant to these Rules shall be deemed to be a rejection by the Clearing House.

**Rule 509** Failure of a Clearing Member to Make or Accept Delivery

- (a) Any act or omission by a party to a Deliverable Contract or any applicable intermediary with respect to delivery, payment or other obligations provided in these Rules and the relevant Contract Terms in respect of a Deliverable Contract which has in the opinion of the Clearing House a material adverse effect on the Deliverable Contract or orderly delivery thereunder shall constitute a “**Delivery Default**” under these Rules and the relevant Contract Terms applicable to that Deliverable Contract. For the purposes of the Rules, Delivery Default shall also include but is not limited to the following:
  - (1) a Selling Clearing Member does not make delivery under a Deliverable Contract pursuant to these Rules or the relevant Contract Terms applicable to that Deliverable Contract;
  - (2) a Buying Clearing Member does not take delivery under a Deliverable Contract pursuant to these Rules or the relevant Contract Terms applicable to that Deliverable Contract; and
  - (3) such other occurrences or events as may be specified as a Delivery Default in the relevant Contract Terms applicable to that Deliverable Contract.
- (b) In the case of a Delivery Default by a Selling Clearing Member, the Clearing House shall not be required to make delivery of the Commodity but may instead direct cash settlement to be made by the Seller to the Buyer at a price determined by the Clearing House which price may include any compensation fixed by the Clearing House as provided in the Contract Terms.
- (c) In the case of a Delivery Default by a Buying Clearing Member, the Clearing House shall not be required to take delivery of the Commodity but may instead direct cash settlement to be made by the Buyer to the Seller at a price determined by the Clearing House which



price may include any compensation fixed by the Clearing House as provided in the Contract Terms.

- (d) Where the Clearing House is satisfied that any failure of a Clearing Member directed to make delivery to, or take delivery from, the other Clearing Member is due to delivery or acceptance of delivery being rendered impossible, the Clearing House may, at its absolute discretion, take such action as it deems fit in accordance with the relevant Contract Terms, including directing that the first mentioned Clearing Member may make cash settlement to the other Clearing Member in such an amount as determined by the Clearing House, at its absolute discretion and at any time.
- (e) In the event that the Clearing House and/or the Exchange determine that for any reason whatsoever there exists or is likely to come into existence a shortage of the underlying Commodity or circumstances prejudicial to a Seller or Buyer or its respective Clearing Member's delivery obligations, the Clearing House and/or the Exchange may take such action as may appear necessary to prevent, correct, or alleviate such shortage, subject to the provisions in the relevant Delivery Procedures and/or the Contract Terms for such shortage, if any.
- (f) Failure of a Clearing Member to make or take delivery under the circumstances mentioned above is a Violation of these Rules.

## **Rule 510**    Passing of Property and Risk

Property and risk in relation to an underlying Commodity in any Deliverable Contract shall pass in accordance with the provisions in the relevant Contract Terms and these Rules. For the avoidance of doubt, at no time will property and risk in any underlying Commodity in any Deliverable Contract pass to the Clearing House.

## **Rule 511**    Consolidation of Positions and Other Powers of the Clearing House

- (a) If at any time the Clearing House becomes aware of opposite Open Positions held by different Clearing Members for the account of the same Seller or Buyer, the Clearing House may (but is not obliged to) direct such Clearing Members to take steps to liquidate the offsetting positions.
- (b) Where a Seller or Buyer has Open Positions with more than one Clearing Member on the first Trading Day following the Last Trading Day, the Clearing House may (but is not obliged to) consolidate all such Open Positions held by all the Clearing Members for the same Seller or Buyer in such manner as it deems fit including, without limitation, effecting the following:
  - (1) appointing one or more of these Clearing Members to whom all such positions shall be transferred to be handled for such Seller or Buyer, where such appointment shall be binding;

- (2) setting-off any opposite Open Positions held by the appointed Clearing Member(s) for the account of the same Seller or Buyer; and/or
  - (3) taking such other actions or giving such other directions to the appointed Clearing Member(s) as it deems fit.
- (c) Notwithstanding that the Clearing House is entitled to consolidate the Open Positions of the Clearing Members with reference to the account of the Seller or Buyer, nothing in Rule 511(b) shall imply or be construed to mean that a Seller or Buyer (who is not a Clearing Member) shall have any right against the Clearing House with regard to its Open Positions which have been so consolidated.

### **Rule 512** Duty of Clearing Members to Mitigate Risk of Non-Delivery

- (a) Prior to the Last Trading Day of the relevant Contract, each Clearing Member shall require evidence from its respective Seller or Buyer having accounts on its books, that all Open Positions which will not be offset on the Last Trading Day will be completed by delivery of the relevant underlying Commodity. If the Seller or Buyer fails to provide such evidence, the Clearing Member shall liquidate the remaining Open Positions on or before the Last Trading Day. Unless otherwise permitted under the relevant Contract Term, each Clearing Member shall liquidate any and all Open Positions relating to lot sizes less than the minimum size prescribed under the relevant Contract Terms for physical delivery.
- (b) Failure by a Clearing Member to liquidate the Open Positions pursuant to Rule 512 may constitute an Event of Breach.

### **Rule 513** Deliveries Involving Clearing House as Escrow Agent and Treatment of Performance Deposits, Other Payments and Other Escrow Assets

- (a) If so required under the relevant Contract Terms, a Selling Clearing Member and/or Buying Clearing Member in a Deliverable Contract shall post or cause its respective Seller or Buyer to post with the Clearing House as escrow agent a Performance Deposit and/or other payment (including but not limited to contract value) as may be prescribed under the relevant Contract Terms (such person responsible for posting the Performance Deposit or other payment being referred to as the "depositing party"), at such time as provided under the relevant Contract Terms, as security for the benefit of the counterparty under the Deliverable Contract for the performance of the depositing party's obligations under the Deliverable Contract. For the avoidance of doubt, posting of Performance Deposits or other payments by the depositing party is to be made without any set-off or withholding.
- (b) A Selling Clearing Member or Buying Clearing Member shall collect Performance Deposits, other payments and other Escrow Assets (where applicable) from its respective Seller or Buyer within such time as prescribed in the relevant Contract Terms, or by the Clearing House. Nothing herein prohibits a Clearing Member from collecting additional monies or deposits from its Seller or Buyer to secure performance as it sees fit.

- (c) No Clearing Member shall grant, whether directly or indirectly, any advance, loan or credit facility to any Seller or Buyer for the purpose of posting Performance Deposits, other payments or other Escrow Assets (where applicable) with the Clearing House. For avoidance of doubt, Clearing Members shall only post the full sum of Performance Deposits, other payments and/or other Escrow Assets (where applicable) with the Clearing House.
- (d) When under these Rules, the Clearing House becomes the escrow agent of any Escrow Assets in connection with the delivery of the underlying Commodity, the following shall apply:
  - (1) the Clearing House holds such Escrow Assets solely as escrow agent on behalf of the depositing party subject to these Rules or the relevant Contract Terms. As escrow agent, the Clearing House shall act solely as a stakeholder for the convenience of the depositing party and in accordance with the terms for such escrow holding as may be set out in these Rules or the relevant Contract Terms; and
  - (2) none of the Clearing House, any of its Officers, agents or employees shall be liable to any party for any loss or damage arising out of or in connection with any act or omission with respect to the delivery and/or payment obligations of the depositing party during the period that the Clearing House is the escrow agent for such Escrow Assets or with respect to the non-release or delay in release of the Escrow Assets in accordance with the terms of the escrow unless the loss or damage is caused directly as a result of wilful breach or breach in bad faith of the terms of the escrow.
- (e) The Clearing House shall be entitled to physically commingle Performance Deposits, other payments and other Escrow Assets (where applicable) with all Collateral subject always to its obligations under the MAS Requirements to segregate monies received for Proprietary Contracts and Customer Contracts.
- (f) The Clearing House shall be entitled to charge an administrative fee for acting as the escrow agent.
- (g) The Clearing House shall credit all Performance Deposits, other payments and other Escrow Assets (where applicable) which a Clearing Member has posted with the Clearing House pursuant to these Rules with interest, dividends, and any other returns or entitlements on the full amount at such rate as prescribed by the Clearing House except for:
  - (1) money continued to be held consequent or subsequent to a Delivery Default; and
  - (2) any administrative fees payable to the Clearing House pursuant to Rule 513(f).
- (h) The depositing party shall be entitled to the benefit of any such interest, dividends, returns or entitlements that is credited.

- (i) The Clearing House shall release the Escrow Assets and other payments posted to it (less any administrative fees payable) to the respective Clearing Members of the Seller and/or Buyer, as the case may be, only as provided in the relevant Contract Terms. For the avoidance of doubt, upon the release of such Escrow Assets, the Clearing House shall be released from its obligations as an escrow agent in relation to such Escrow Assets, and from any liabilities in relation thereto.

## **Chapter 6            Enforcement Powers of the Clearing House**

### **Rule 601    General**

- (a) The Clearing House shall have surveillance capability to oversee and investigate activities on its facilities and ensure compliance with these Rules, Directives and Regulatory Notices and all Applicable Laws and further shall have the power to enforce these Rules, Directives and Regulatory Notices.
- (b) It shall be the duty of the Chief Regulatory Officer of the Clearing House to enforce these Rules, Directives and Regulatory Notices, and he or she shall have available the resources of the Regulatory Department and such other Clearing House resources as may be necessary to conduct investigations of potential or alleged Violations and market conditions. The Chief Regulatory Officer may delegate his or her authority to staff of the Regulatory Department.

### **Rule 602    Matters of Investigation**

- (a) The Clearing House shall have the power to receive and consider:
  - (1) any allegation or complaint against a Clearing Member, its Officers, employees, Representatives, contractors or agents or Customers of any Violation;
  - (2) any dispute between Clearing Members in connection with clearing on the Clearing House;
  - (3) any reports of possible irregularity or trading abuse detected by its audit and surveillance system or any reports of possible rules violation from any ongoing supervision and/or onsite inspection; and
  - (4) any matter which, in the Clearing House's view, may affect a fair, orderly and transparent Market or a safe and efficient Clearing House.
- (b) The Clearing House, at its discretion, may investigate any of the above matters in accordance with Rule 702 and initiate further action, if deemed fit, against a Clearing Member.
- (c) A Clearing Member and its Officers, employees or agents must not wilfully make, furnish or permit the making or furnishing of any false or misleading information, statement or report to the Clearing House.

### **Rule 603    Liability and Jurisdiction**

- (a) Any breach of the MAS Requirements, these Rules, Directives, Regulatory Notices or omissions of any Customer, Officer, employee, Representative, contractor or agent of a Clearing Member, whether or not acting within authority granted by the Clearing Member, shall be deemed to have been committed by that Clearing Member.

- (b) Investigations and proceedings may be commenced under the provisions of this Chapter 6 and these Rules against a former Clearing Member, and such former Clearing Member shall be bound by any decision or finding or penalty imposed.

#### **Rule 604** Information Gathering Powers of Clearing House

- (a) The Clearing House may, among other things, for the purpose of investigating, monitoring and obtaining information about any matter which it considers may relate to these Rules, Directives or Regulatory Notices:
- (1) require the prompt production by a Clearing Member of such documents as the Clearing House deems relevant (which shall include anything in which information of any description is recorded) in the Clearing Member's possession, custody or control, and if any such documents are not in the Clearing Member's possession, custody or control, require the Clearing Member to state to the best of its knowledge and belief where and in whose possession, or control they are, and require the Clearing Member to take all reasonable steps to procure their production;
  - (2) require the prompt production by a Clearing Member of any relevant information, data or document in respect of any transactions in any format, as specified by the Clearing House;
  - (3) upon written notice require a Clearing Member to procure the interview or physical attendance of any Officer, employee, Customer, contractor, agent, or Representative of the Clearing Member and require such person to answer questions and provide documents, information or explanations and/or give evidence, and such answers, information, explanations and evidence may be recorded by the Clearing House electronically or otherwise or retained by the Clearing House;
  - (4) upon written notice require the submission by or on behalf of the Clearing Member of information or documents related to any person who is to be, is, or has been an Officer, an employee, Representative, contractor or agent or Customer of the Clearing Member; and
  - (5) send any Officer, employee or Representative of the Clearing House to a Clearing Member's offices to ensure compliance with these Rules, Directives or Regulatory Notices and conduct inspections or investigations.
- (b) A Clearing Member shall not do anything to frustrate any Officer, employee, Representative, contractor or agent or Customer from cooperating with the Clearing House's investigation and shall use its best efforts to make sure that its Officers, Representatives, employees, contractors, agents or Customers co-operate with the Clearing House. A Clearing Member shall be responsible to the Clearing House for the conduct of its Officers, Representatives, employees, contractors, agents and Customers.

**Rule 605** Notification and Reports to Exchange and Regulatory Authorities

Without prejudice to any other powers, the powers of the Clearing House following the completion of its investigation and information gathering undertaken in accordance with Rule 702 and Rule 604 include:

- (a) referring the matter to the Exchange, Regulatory Authorities or Governmental Authorities for further enquiry where the Clearing House considers it necessary to investigate further; and
- (b) reporting the findings of the investigation and hand over any documents or communicate any information it has acquired whether during the course of its investigation or otherwise, to the Exchange, Regulatory Authorities or Governmental Authorities.

**Rule 606** Co-operation with Exchange and Regulatory Authorities

Subject to the MAS Requirements, in exercising its enforcement powers and performing its functions, the Clearing House may co-operate with the Exchange, the Authority and other Regulatory Authorities and Governmental Authorities, in such manner as it deems fit and necessary, and disclose to any of the foregoing persons any information or document regarding a Clearing Member and its affairs and/or of its Officers, Representatives, employees, contractors, agents or Customers, and no such act or disclosure by the Clearing House shall constitute a breach of any confidentiality provisions in these Rules.



## Chapter 7 Disciplinary

### Rule 701 Notification of Breach

All Clearing Members shall immediately notify the Regulatory Department of any Violation of these Rules, or any Applicable Law (including any such infringement by its Officers, Representatives, employees, contractors, agents or Customers) or of any financial or commercial difficulty on the part of themselves or any Clearing Member or Person subject to these Rules and, as soon as practicable thereafter, give the Clearing House full particulars of the infringement or difficulty.

### Rule 702 Investigations

- (a) The Regulatory Department may conduct an investigation upon:
  - (1) a request from a Board committee;
  - (2) a request from the President of the Clearing House, by whatever name described (or his or her designated staff);
  - (3) having reason to suspect that any Rule violation or violation of any Applicable Law relating to the regulation of clearing houses, markets and licensed entities (a “**Violation**”) has been, or may have been committed;
  - (4) having reason to suspect that the Clearing House is not safe and efficient, there is systemic risk, or the interests of the investing public could be compromised;
  - (5) the discovery or receipt of information by the Clearing House that indicates a reasonable basis for finding that a Violation may have occurred or will occur;
  - (6) the receipt of a tip or complaint (whether written or oral) alleging that a Violation has been made;
  - (7) the receipt of a complaint by any Person alleging injury, loss, or damage made or suffered as a result of a Violation or potential Violation, with reasonable specified detail and facts constituting the alleged Violation;
  - (8) a request from a Regulatory Authority, including the MAS;
  - (9) the detection of a possible Violation by the Clearing House’s surveillance systems or processes; or
  - (10) a Clearing Member or an employee of a Clearing Member reporting a Violation or potential Violation by a Clearing Member itself.
- (b) In the course of conducting an investigation, the Regulatory Department may call for the assistance of such professional, legal or accounting advisers, the Exchange, Clearing Organisations, Regulatory Authorities and advisers or other Persons as it thinks fit (the

"**Clearing House Examiners**"). Subject to Rule 712, any Clearing House Examiner appointed by the Clearing House shall be required to treat all information obtained in the course of the investigation as confidential and to disclose it only to the Clearing House, save where compelled to disclose such documents to a third party under any Applicable Law. The Regulatory Department may delegate all or any of its powers under these Rules to the Clearing House Examiner. The Clearing House Examiner must report the results of the investigation to the Regulatory Department.

- (c) If the Regulatory Department determines that there is sufficient basis to bring charges against a Clearing Member or Person subject to these Rules for a Violation or potential Violation, the Regulatory Department must submit a written report (an "**Investigation Report**") to the BCC, which shall include: all relevant facts and evidence gathered; a summary of the reason the investigation was initiated; a summary of the complaint, if any; a description of the disciplinary history of the Person(s) subject to the investigation; the Regulatory Department's analysis and conclusions; and a recommendation as to whether a disciplinary action should be pursued.
- (d) If the Regulatory Department determines that no reasonable basis exists for finding a Violation, the Regulatory Department must nonetheless submit a written report to the Chief Regulatory Officer, which shall include: the reason the investigation was initiated; a summary of the complaint, if any; the relevant facts; and Regulatory Department's analysis and conclusions.
- (e) Prior to or simultaneously with the submission of an Investigation Report, the Regulatory Department shall notify each Person who is the subject of the Investigation Report (the "**Respondent**") of the general nature of the allegations and of the specific provisions of the Applicable Law, and these Rules that were potentially violated. Except where summary action is pursued pursuant to Rule 720 and Rule 721, a Respondent shall have the right, within fifteen (15) Business Days from the date of the Investigation Report, to submit a written statement to the Regulatory Department and the BCC explaining why no disciplinary action should be taken.
- (f) Clearing Members and other Persons subject to these Rules shall cooperate fully with all investigations (whether or not such Clearing Member or Person is the direct subject of such investigation). Without limitation, each Clearing Member (and, so far as applicable, each Person subject to these Rules) shall:
  - (1) promptly furnish to the Regulatory Department such information and documentary material, or any other materials, as may reasonably be requested in writing (including, without limitation, in the case of Clearing Members, details of the Clearing Member's Proprietary and Customer Accounts);
  - (2) answer any question asked by a duly authorised representative of the Regulatory Department (including the Clearing House Examiners) truthfully and fully, and make available for interview such of its employees (including Clearing Member's Representatives) as may reasonably be requested, and procure that such

employees answer any question asked by or on behalf of the Regulatory Department truthfully and fully;

- (3) permit those persons appointed to carry out or assist in carrying out the investigation on reasonable notice, such notice being commensurate with the seriousness of the potential or alleged Violation of these Rules and to enter any premises in any part of the world where the Clearing Member carries on its business or maintains its records during normal business hours for the purpose of carrying out such investigation;
  - (4) make available for inspection such documents, records or other material in its possession, power or control as may reasonably be required and, upon request, provide copies of the same; and/or
  - (5) use its best endeavours to ensure that so far as possible its agents give similar cooperation.
- (g) Failure by a Clearing Member or Person subject to these Rules to co-operate with an investigation by the Clearing House or failure by a Clearing Member or Person subject to these Rules to provide information requested on a timely basis and concealment or destruction of evidence are each, for the avoidance of doubt, a Violation of these Rules.
- (h) Each Clearing Member and Person subject to these Rules authorises the Clearing House to request any Clearing Organisation, exchange, Regulatory Authority or Person, including other Clearing Members, to furnish to the Clearing House such information and documents as the Clearing House may request in writing in connection with an investigation. This Rule 702(h) shall constitute written authorisation to the aforementioned parties to furnish to the Clearing House such information and documents as the Clearing House may request in writing in connection with an investigation.
- (i) Each Respondent is entitled to be represented during all stages of any proceeding pursuant to these Rules by an advocate and solicitor of the Supreme Court of Singapore.

### **Rule 703    Commencement of Disciplinary Proceedings**

- (a) The BCC shall review an Investigation Report within thirty (30) calendar days of receipt or by notice in writing to the Clearing Member or Person subject to these Rules, extend the period of review beyond thirty (30) calendar days. The BCC shall, by majority vote, take one of the following actions:
- (1) If the BCC determines that a reasonable basis exists for finding that a Violation may have occurred which warrants disciplinary action, it shall issue formal charges to the Respondent and notify the Disciplinary Panel of such charges.
  - (2) If the BCC determines that a reasonable basis exists for finding that a Violation may have occurred, but that the issuance of charges is unwarranted, it shall direct that a warning letter be issued.

- (3) If the BCC determines that no reasonable basis exists for finding that a Violation may have occurred, it shall direct that no further action be taken.
- (4) Direct that the Regulatory Department investigate the matter further.
- (b) If the BCC issues formal charges against a Respondent pursuant to Rule 703(a)(1), it shall direct that a written notice (“**Disciplinary Notice**”) be sent to the Clearing Member or Person subject to these Rules that is the subject of the Disciplinary Notice, which shall set out the general nature of the allegations and of the specific provisions of the Applicable Law, and/or these Rules regulating the conduct of business on the Clearing House that were potentially violated. Further, the Disciplinary Notice shall advise the Respondent that the matter will be heard by a Disciplinary Panel and of the time and place for the hearing, if known, which shall not be earlier than thirty (30) calendar days from the date the Disciplinary Notice was sent.
  - (1) The Respondent shall, if it wishes, file a written answer to a Disciplinary Notice provided to it pursuant to Rule 703(b) within fifteen (15) Business Days from the date of service of such statement. The answer shall specifically admit or deny each allegation contained in the statement, and the Respondent shall be deemed to have admitted any allegation not specifically denied.
  - (2) The answer may also contain any defence which the Respondent wishes to raise, and may be accompanied by documents in support of such answer or defence. In the event that a Respondent fails to file an answer, all charges contained in the statement of charges provided to it shall be deemed to be admitted.
- (c) Having seen and considered the answer, the BCC may, if it deems appropriate, continue to proceed with the disciplinary proceedings by referring the matter to the Disciplinary Panel, or may choose to discontinue disciplinary proceedings.
- (d) A Respondent may waive his right to a hearing within twenty-one (21) calendar days of the date of the Disciplinary Notice. A Respondent who elects to waive his right to a hearing on the charges will be notified of the date on which the Disciplinary Panel will render its decision. Upon a finding of guilt on any charge, the Disciplinary Panel will promptly determine what penalties, if any, are to be imposed and their effective date. A Respondent who has waived his right to a hearing and/or admitted the charges against him will be advised of his right to participate in the hearing solely with respect to the penalty.

#### **Rule 704**    Composition of Disciplinary Panel

- (a) The Disciplinary Panel shall consist of a chairperson of the Disciplinary Panel (the “**Disciplinary Panel Chair**”), two individuals who are representatives, Officers or employees of Clearing Members and two individuals who are not representatives, Officers or employees of Clearing Members.

- (b) A quorum of a Disciplinary Panel shall consist of a majority of the panel, but must include at least the Disciplinary Panel Chair, one representative, Officer or employee of a Clearing Member and one individual who is not a representative, Officer or employee of a Clearing Member.
- (c) Any Disciplinary Panel that conducts a hearing or proceeding shall consist of panelists who possess sufficiently diverse interests so as to ensure fairness.
- (d) No person shall serve on the Disciplinary Panel unless he or she has agreed in writing that he or she will not publish, divulge, or make known in any manner, any facts or information regarding the business of any Person or any other information which may come to his or her attention in his or her official capacity as a member of the Disciplinary Panel, except when reporting to the Board or to a committee concerned with such information or to the Regulatory Department, when requested by the MAS or other Governmental Authority or when compelled to testify in any judicial or administrative proceeding.
- (e) Subject to Rule 712, all information, records, materials and documents provided to the Disciplinary Panel and all deliberations, testimony, information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further a Clearing House investigation or as required by law.

## **Rule 705** Disciplinary Panel Proceedings

- (a) All disciplinary proceedings conducted before a Disciplinary Panel shall be conducted in accordance with the following procedures:
  - (1) The Respondent shall have the right to appear personally at the hearing and to be represented by an advocate and solicitor of the Supreme Court of Singapore. The Disciplinary Panel or the Disciplinary Panel Chair shall have the power to compel any party subject to its jurisdiction to attend, testify and/or produce evidence in connection with the hearing, but shall in all instances provide at least fifteen (15) calendar days' notice prior to requiring any person to attend, testify and/or produce evidence in connection with such hearing.
  - (2) The Disciplinary Panel Chair shall have the authority to decide all procedural and evidentiary matters, which decision shall be final.
  - (3) Prior to the hearing, the Respondent may examine all evidence (including, but not limited to, the Investigation Report) which is to be relied upon by Regulatory Department during the hearing other than attorney work product, attorney-client communications or investigative work product.
  - (4) The Regulatory Department reserves the right to modify the Investigation Report, and the BCC reserves the right to modify the charges, notwithstanding the fact that formal charges have already been issued pursuant to Rule 703(a)(1).

- (5) At least ten (10) Business Days in advance of the hearing, each party shall submit to the other party copies of all books, documents, records and other tangible evidence, upon which the party plans to rely at the hearing, and provide a list of the names of witnesses that the party plans to call at the hearing, if any. The Disciplinary Panel may refuse to consider any books, records, documents or other tangible evidence which were not made available to, or witnesses whose names were not submitted to, the other party pursuant to this Rule 705(a).
- (6) Any Clearing Member shall be required to answer truly and completely any question put to it by the Disciplinary Panel, or produce to the Disciplinary Panel any and all such information or documents as the Disciplinary Panel deems relevant (which shall include anything in which information of any description is recorded). The Disciplinary Panel may require a Clearing Member to procure any Officer, employee, Representative, agent, contractor or Customer of a Clearing Member to attend and provide evidence before it at the hearing and produce any books, written material, records, and any information, whether electronic or not, that are in possession, control or custody of the Person relating to any matter of any disciplinary action.
- (b) The Regulatory Department shall be a party to a Disciplinary Panel hearing and shall present evidence in support of the charged Violation(s). The Regulatory Department and the members of the Disciplinary Panel may question any witness and examine all the evidence stipulated to or presented at the hearing. The Respondent shall be entitled to appear personally, testify, produce evidence, call witnesses on his or her behalf and cross-examine any witness. The Regulatory Department bears the burden of establishing the basis for a finding of guilt on any charge on a balance of probabilities. Formal rules of evidence shall not apply.
- (c) Subject to Rule 712, all testimony and documents produced in connection with a Disciplinary Panel hearing shall be deemed non-public and confidential and shall not be disclosed except in connection with proceedings resulting from that hearing or as required by Applicable Law. A recording or other substantially verbatim record of the hearing shall be made and become part of the record of the proceeding. If a Respondent requests a transcript, he or she shall be solely responsible for the cost of producing the transcript.

## **Rule 706**    Offers of Settlement

- (a) After receiving a Disciplinary Notice, a Respondent may submit a written offer of settlement (including proposals for financial and non-financial penalties) to the Disciplinary Panel. Subject to Rule 706(c), an offer of settlement shall be construed as an admission that the Violation upon which the penalty is based did occur.
- (b) A Respondent may withdraw an offer of settlement at any time prior to final acceptance by the Disciplinary Panel. If the Disciplinary Panel accepts the offer, a written decision setting forth the Disciplinary Panel's findings and sanction shall be issued, and written notice of the decision shall be given to the Respondent.



- (c) If the Disciplinary Panel rejects an offer of settlement, the Respondent will be notified of the rejection and the offer of settlement shall be deemed withdrawn by the Respondent. If an offer is withdrawn (or deemed withdrawn) by the Respondent, the Respondent shall not be deemed to have made any admissions by reason of the offer and shall not otherwise be prejudiced by having submitted the offer.
- (d) The assigned Disciplinary Panel Chair may decline to convene the Disciplinary Panel to consider an offer of settlement.
- (e) If an offer of settlement is rejected or declined, any subsequent offers of settlement not opposed by the Regulatory Department shall be heard by the same Disciplinary Panel; however, alternate panelists may be appointed in the event of scheduling conflicts. Any contested hearing following an offer of settlement not accepted by the Disciplinary Panel will be heard by a new Disciplinary Panel.
- (f) In submitting an offer of settlement, the Respondent waives his or her right to a contested hearing and to appeal the Disciplinary Panel's decision if the offer is accepted; the Respondent also waives any claim of bias or prejudgment on the part of the Disciplinary Panel.
- (g) If the offer of settlement is accepted, the Disciplinary Panel's decision shall be final on the date it is signed and ratified by the Disciplinary Panel Chair. Upon payment of the specified sum and fulfillment of the accompanying terms of the offer of settlement by the Respondent, no further proceedings shall be taken against that the Respondent for that Rule Violation.

## **Rule 707    Recusal Requirements**

- (a) A member of the BCC, Disciplinary Panel or Appeals Panel must be recused from participating in any matter where such Person:
  - (1) is a witness, potential witness, or a party in any stage of the proceeding;
  - (2) is an employer, employee, co-worker or Officer of a witness, potential witness, or a party;
  - (3) has any significant personal or business relationship with a witness, potential witness, or a party;
  - (4) has a familial relationship to a witness, potential witness, or a party; or
  - (5) has, or may potentially have any financial, personal or other interest in the matter.
- (b) Prior to the consideration of any matter involving a subject, each member of the BCC, Disciplinary Panel or Appeals Panel must disclose to the appropriate Clearing House staff whether he or she fulfills any circumstance listed in sub-paragraph (a) above.



- (c) In its sole discretion, the appropriate Clearing House staff shall upon reviewing the disclosure made in accordance with Rule 707(b), determine whether any member of the BCC, Disciplinary Panel or Appeals Panel is required to be recused in any matter, and shall notify the BCC, Disciplinary Panel or Appeals Panel (as the case may be).

## **Rule 708** Prohibited Communications

- (a) Ex Parte Communications. Unless on notice and opportunity for all parties to participate:
  - (1) No Respondent (or any counsel to or representative of a Respondent) or the Regulatory Department (or any counsel to or representative of the Regulatory Department) shall knowingly make or cause to be made an ex parte communication relevant to the merits of an investigation or a proceeding (which shall not include scheduling and procedural matters) to a member of the BCC, Disciplinary Panel or Appeals Panel with respect to that matter or proceeding.
  - (2) No member of the BCC, Disciplinary Panel or Appeals Panel that is participating in a decision with respect to an investigation or a proceeding shall knowingly make or cause to be made to a Respondent (or any counsel to or representative of the Respondent) or the Regulatory Department (or any counsel to or representative of the Regulatory Department) an ex parte communication relevant to the merits of that matter or proceeding (which shall not include scheduling and procedural matters).
- (b) Communications with Panelists. No Person shall attempt to influence disciplinary matters pending before the BCC, Disciplinary Panel or Appeals Panel by discussing, or attempting to discuss, such pending matters with a member of such committee or any member of the Board.
- (c) Disclosure. Any Person who receives, makes or learns of any communication which is prohibited by this Rule 708 shall promptly give notice of such communication and any response thereto to the Regulatory Department and all parties to the proceeding to which the communication relates. A Person shall not be deemed to have violated this Rule 708 if the person refuses an attempted communication concerning the merits of an investigation or proceeding as soon as it becomes apparent that the communication concerns the merits.

## **Rule 709** Disciplinary Panel's Deliberation

Unless expressly permitted by the Disciplinary Panel Chair, the Regulatory Department and the Person charged shall not be present during the deliberation of a charge by the Disciplinary Panel. Failure to observe this Rule 709 does not vitiate the Disciplinary Panel's decision.

## **Rule 710** Decision of Disciplinary Panel

- (a) A majority vote of the Disciplinary Panel is required for a finding of guilt. A Respondent that is found not guilty shall not again be charged with or tried for the same underlying

conduct. In the event of a finding of guilt, the Disciplinary Panel, in a separate sanctioning phase, must allow both parties to present arguments and information regarding the appropriate nature and amount of a sanction prior to determining such sanction. In the absence of exceptional circumstances, as determined by the Disciplinary Panel Chair, the sanctioning phase shall proceed immediately upon the conclusion of the evidence and determination of the committee.

- (b) Promptly after the Disciplinary Panel comes to a decision with regard to a matter, the BCC shall issue a written notice (“**Decision Notice**”) to the Respondent explaining the Disciplinary Panel’s findings, which shall include: the notice of charges (or a summary thereof); the answer to the charges, if any (or a summary thereof); a brief summary of the evidence produced at the hearing; a statement of findings and reasoned conclusions with respect to each charge, including the specific Rules or provisions of any Applicable Law which the Respondent is found to have violated; a declaration of any penalty imposed and the effective date of such penalty.
- (c) The Disciplinary Panel’s decision shall be final on the date the Decision Notice is signed by the Disciplinary Panel Chair. The Disciplinary Panel’s decision shall become the final decision of the Clearing House after the appeal period set out in Rule 713(b) has lapsed.
- (d) No proceeding or determination in respect of a Violation shall be annulled, avoided, called into question or set aside by reason of the fact that the matter under consideration may or should have been dealt with by another committee under the business rules of any other Clearing Organisation or the Exchange, or that the Person concerned was absent from the hearing after having been given notice thereof.

## **Rule 711**     Sanctions and Powers of the Disciplinary Panel

- (a) If the Disciplinary Panel is satisfied that the Regulatory Department has proved on a balance of probabilities that the Respondent has committed the conduct described in the charge, the Disciplinary Panel may take one or more of the following actions after hearing arguments from both parties regarding appropriate sanctions:
  - (1) issue a public or private warning;
  - (2) order the Respondent to cease and desist from the conduct found to be in Violation of these Rules or any Applicable Law or from conduct which would violate these Rules or any Applicable Law;
  - (3) order the Respondent (or the relevant Clearing Member) to liquidate such Open Contracts in its Proprietary Account and/or Customer Account, as the Disciplinary Panel deems appropriate to ensure the safe and efficient functioning of the Clearing House, reduce systemic risks and the protection of the interests of the investing public;

- (4) order the Respondent (or the relevant Clearing Member) to deposit such additional margin with the Clearing House as the Disciplinary Panel deems appropriate to protect the integrity of Open Contracts;
- (5) prescribe such additional Capital or other financial requirements as it deems appropriate;
- (6) restrict the ability of the Respondent to have a business affiliation with, be employed by or have a financial or beneficial interest in a Clearing Member;
- (7) require the relevant Clearing Member to remove, or suspend for such period as the Disciplinary Panel may require, any of its Officers, employees, or Representatives, or suspend or terminate the employment of any of its Officers, employees, or Representatives or its relationship with any of its Customers, agents or contractors, or otherwise to discipline or take other action against such persons;
- (8) impose any restrictions or conditions on the activities of the relevant Clearing Member, or procure the relevant Clearing Member to impose any restrictions or conditions on the activities of any of its Officers, employees, Representatives, Customers, contractors or agents;
- (9) restrict, suspend or terminate the Respondent's (or the relevant Clearing Member's) access to the Clearing House;
- (10) suspend any or all of the relevant Clearing Member's privileges of membership;
- (11) terminate the relevant Clearing Member's membership in the Clearing House;
- (12) impose a fine upon the Respondent (which shall not exceed a maximum amount prescribed and published in a Regulatory Notice by the Clearing House) per Violation plus the amount of any benefit received as a result of the Violation;
- (13) issue a reprimand;
- (14) prescribe limitations on positions of the Respondent (or the relevant Clearing Member) as may be appropriate;
- (15) impose advertising restrictions upon the relevant Clearing Member pursuant to these Rules;
- (16) direct the Respondent to make restitution, in such amount as is warranted by the evidence, to the account of any party damaged by the conduct, or to the Clearing Member who has previously made restitution to the account of such party;
- (17) in the case of an individual, disqualify (either indefinitely or for a fixed term) such person from being an Officer or member of a committee or any panel of the Clearing House;

- (18) in the case of a Clearing Member, disqualify (either indefinitely or for a fixed term) any of its Officers, Representatives or employees from being a Director or member of a committee or any panel of the Clearing House;
  - (19) require an education or compliance program to be undertaken;
  - (20) order such action as is necessary to protect the integrity of any Contract or prevent a Violation; and/or
  - (21) with the approval of the Regulatory Department, order any other sanction or undertaking to address or deter the underlying violative conduct pursuant to an offer of settlement accepted by the Disciplinary Panel under Rule 706(b).
- (b) The contravention of any sanction imposed or direction made under or pursuant to Rule 711(a) may be treated for all purposes as a Violation of these Rules. The lack of enforcement or action by the Clearing House or Disciplinary Panel to impose any sanction shall not constitute a Violation of these Rules by the Clearing House.

## **Rule 712**    Publication of Findings

- (a) The Disciplinary Panel shall give such publicity as it considers appropriate to any finding of, or any sanction imposed or other order made by a Disciplinary Panel or by an Appeals Panel, or any offer of settlement accepted by the Disciplinary Panel under Rule 706(b), including notifying MAS or any other relevant Regulatory Authority, provided that if the Disciplinary Panel shall determine that no publicity shall be given as aforesaid, they shall record in the minutes of their meeting the reasons for the said determination. These Rules shall operate as the irrevocable consent of a Clearing Member for the Disciplinary Panel to disclose the finding of, or any sanction imposed or other order made by a Disciplinary Panel or by an Appeals Panel, or any ratified settlement. The consent remains valid and effective notwithstanding that the person ceases to be a Clearing Member. The Clearing House (including members of the Disciplinary Panel and Appeals Panel) shall not be liable in any way for anything referable to such disclosure.
- (b) Save as provided above or in these Rules, no person shall disclose any information in connection with any matter or proceedings pending before or heard by the Disciplinary Panel or the Appeals Panel, except that the Respondent(s) involved in the proceeding may disclose such information to its attorney(s). The provisions of this Rule 712 are without prejudice to the right of the Clearing House under Rule 209 or otherwise to disclose confidential information to other regulatory or law-enforcement bodies.
- (c) The provisions of this Rule 712 are without prejudice to the right of the Clearing House under Rule 209 or otherwise to disclose confidential information to other regulatory or law-enforcement bodies.

**Rule 713** Right to Appeal and Initiating an Appeal

- (a) A Respondent (or relevant Clearing Member) found guilty of a Violation or otherwise aggrieved by a final decision of the Disciplinary Panel may request an appeal to an Appeals Panel provided that the decision assesses a monetary sanction greater than S\$10,000 and/or an access denial or suspension of any membership privileges for greater than five (5) Business Days against the Person.
- (b) The request shall be filed in writing with the Regulatory Department within ten (10) Business Days of the date that the Decision Notice is sent to the Respondent pursuant to Rule 710(b).
- (c) The Regulatory Department may request an appeal in connection with any decision where the Disciplinary Panel found that no Violation had occurred.
- (d) A written request for an appeal must specify the grounds for the appeal and the specific error or impropriety of the original decision.
- (e) If a Respondent (or relevant Clearing Member) files a request for an appeal, the Disciplinary Panel's decision (and any related sanctions) shall be stayed unless the Regulatory Department objects to such a stay and the Chairman of the Board or the Disciplinary Panel Chair from which the appeal is taken specifically direct that the decision is not stayed pending appeal.
- (f) Upon receiving the written request for an appeal, the BCC shall convene an Appeals Panel, which shall determine by majority vote whether sufficient grounds exist to hold a hearing on the appeal. The Appeals Panel may only determine that sufficient grounds exist if there is a reasonable basis to conclude that the appellant might be able to meet one of the three standards identified in Rule 715(d) that would permit the Appeals Panel to set aside, modify or amend the appealed decision or the refusal to issue charges. The Appeals Panel's determination shall be based solely upon the written request and, in the case of an appeal of a BCC decision, any written response by the opposing party. The Appeals Panel's determination of whether to hold a hearing on an appeal shall be final.
- (g) The powers of the Appeals Panel include:
  - (1) all the powers of the Disciplinary Panel;
  - (2) hearing appeals in accordance with these Rules;
  - (3) affirming, setting aside, modifying or amending any decision of the Disciplinary Panel in accordance with these Rules, including but not limited to removing, increasing, reducing or otherwise varying any penalties or sanctions decided on by the Disciplinary Panel; and
  - (4) dealing with such other matters as the BCC gives it power to so deal (either generally or in a particular case).

**Rule 714** Composition of Appeals Panel

- (a) Subject to Rule 707, the Appeals Panel shall consist of a chairperson (the “**Appeals Panel Chair**”) and two panelists, each independent of the Clearing House and the Clearing Members.
- (b) Notwithstanding Rule 707, any party to the appeal may request the Clearing House to recuse any panelist on the Appeals Panel (including the Appeals Panel Chair) for good cause shown. The Clearing House may then recuse such panelist and shall then select an alternate panelist.
- (c) An Appeals Panel shall consist of panelists that possess sufficiently diverse interests so as to ensure fairness.
- (d) A quorum of an Appeals Panel shall consist of a majority of the panel.

**Rule 715** Appeals Proceedings

- (a) If the Appeals Panel grants the appellant’s request for a hearing, the appeal shall be heard between thirty (30) and sixty (60) calendar days of the filing of the request for an appeal, unless the Appeals Panel Chair determines that good cause for an extension has been shown.
- (b) The appellant and respondent shall have the right to appear personally at the appellate hearing and to be represented by an advocate and solicitor of the Supreme Court of Singapore.
- (c) The appellate hearing shall be limited to the record from the appealed proceeding. The Appeals Panel shall not entertain any new evidence or new legal theory not raised in the prior proceeding except upon a clear showing by the appellant that such new evidence or new legal theory did not exist or was not ascertainable by due diligence at the time of the proceeding. The Appeals Panel Chair shall allow the filing of written arguments in connection with the appeal of a decision of the Disciplinary Panel. The Appeals Panel may call, allow, or disallow any witness.
- (d) The Appeals Panel shall not set aside, modify or amend the appealed decision unless it determines, by a majority vote, that the decision or the refusal to issue charges was:
  - (1) arbitrary, capricious, or an abuse of the Disciplinary Panel’s discretion;
  - (2) in excess of the authority or jurisdiction of the Disciplinary Panel or the BCC; or
  - (3) based on a clearly erroneous application or interpretation of these Rules or Applicable Law.

**Rule 716** Appeals Panel's Deliberation

Unless expressly permitted by the Appeals Panel Chair, the appellant and the respondent shall not be present during the deliberation of an appeal by the Appeals Panel. Failure to observe this Rule 716 does not vitiate the Appeals Panel's decision.

**Rule 717** Decision of Appeals Panel

- (a) The appellant and the respondent are entitled to be present when the Appeals Panel announces its decision.
- (b) After coming to a conclusion with regard to the appealed proceeding, the Appeals Panel shall promptly issue a written decision which shall include a statement of findings with respect to the decision from which the appeal was taken and the Appeals Panel's determination that such initial decision is affirmed, set aside, modified or amended in whole or in part and, with respect to any initial decision that is not affirmed in whole, the Appeals Panel's determination of the order or penalty to be imposed, if any. The decision of the Appeals Panel shall be a final decision of the Clearing House.

**Rule 718** Payment of Costs

The Disciplinary Panel or Appeals Panel may order any party to the proceedings to pay costs as it thinks appropriate, including but not limited to all or part of the administration costs, costs and disbursements of the investigation, inspection or hearing, which shall be paid within thirty (30) calendar days of notice of such requirement.

**Rule 719** Penalty

- (a) A fine imposed by the Disciplinary Panel or the Appeals Panel shall be paid within thirty (30) calendar days from the date of notice, or such longer time as the Disciplinary Panel Chair or the Appeals Panel Chair (as applicable) permits.
- (b) If the fine remains unpaid seven (7) calendar days after the deadline, the Clearing Member's access to the Clearing House (as the case may be) shall be suspended. The suspension resulting from non-payment of a fine ends upon full payment of the fine.
- (c) Any Clearing Member or Person that fails to pay a fine imposed by the Disciplinary Panel or the Appeals Panel within the prescribed time period may also be subject to sanctions imposed by the Disciplinary Panel for a failure to comply with Rule 305(a)(28).
- (d) Any Clearing Member or Person that fails to take any action mandated by the Disciplinary Panel or Appeals Panel within the time period set forth in the settlement agreement, Decision Notice, or otherwise, may also be subject to sanctions imposed by the Disciplinary Panel for a failure to comply with Rule 305(a)(28).
- (e) The BCC may also require a Clearing Member to pay any unpaid penalties imposed upon its employees.



**Rule 720** Summary Suspension

- (a) Notwithstanding anything in these Rules to the contrary, the Chief Regulatory Officer or his or her delegate may summarily suspend, revoke, limit, condition, restrict or qualify the membership privileges of any Clearing Member or Person subject to these Rules, and/or such Person's ability to otherwise access the Clearing House; provided, however, that the Chief Regulatory Officer or his or her delegate may only summarily suspend such Person's membership privileges and/or ability to access the Clearing House if the Chief Regulatory Officer or his or her delegate reasonably believes in good faith that:
- (1) such Person has failed to pay applicable dues, assessments, fees, costs, charges, fines or arbitration awards provided for under these Rules; or
  - (2) immediate action is necessary to protect the public or the best interests of the Clearing House.
- (b) Whenever practicable, the Chief Regulatory Officer or his or her delegate shall provide prior written notice to the Person against whom any action in accordance with Rule 720(a) shall be taken. If prior notice is not practicable, the Chief Regulatory Officer or his or her delegate will give notice at the earliest possible opportunity to the Person against whom the action is brought.
- (c) Any Person subject to a summary suspension provided for under this Rule 720 may challenge such summary suspension by denying the charges and filing a request for a hearing pursuant to Rule 705.
- (d) If a Person challenges a summary suspension, the Disciplinary Panel shall conduct a *de novo* hearing solely on the issue of the suspension in accordance with the procedures in Rule 705. Such Person shall have the right to representation by an advocate and solicitor of the Supreme Court of Singapore in such hearing. Filing of a notice of intent to challenge a summary suspension pursuant to Rule 720 shall not stay the Chief Regulatory Officer's decision to suspend a Person.
- (e) Any summary suspension pursuant to Rule 720 shall not remain in effect for more than sixty (60) calendar days unless the Chief Regulatory Officer or his or her delegate, upon further consideration of the circumstances that resulted in a prior summary suspension, provides written notice to the Person that his or her summary suspension will be extended for an additional period of time not to exceed sixty (60) calendar days. Any further extension of the summary suspension may only be effected by the Clearing House pursuant to Rule 309.2.
- (f) At any time, a Clearing Member may petition the Chief Regulatory Officer to reconsider a summary suspension pursuant to this Rule 720 based upon materially changed circumstances.

**Rule 721** Summary Fines

- (a) The Chief Regulatory Officer may summarily impose a fine for minor Violations of these Rules on a Clearing Member or Person subject to these Rules.
- (b) The Chief Regulatory Officer will give notice of any summary fine imposed pursuant to Rule 721(a). Such notice shall include:
  - (1) the Violations of these Rules for which the fine is being imposed;
  - (2) the date of the Violation for which the fine is being imposed; and
  - (3) the amount of the fine.
- (c) The Clearing House will set the amount of any fines imposed pursuant to this Rule 721, with the maximum fine for each Violation not to exceed S\$3,000. Summary imposition of fines pursuant to this Rule 721 will not preclude the Clearing House from bringing any other action against the Clearing Member or Person subject to the summary fine.
- (d) In lieu of a summary fine, the Chief Regulatory Officer may issue a warning letter.
- (e) Any Person subject to a summary fine may challenge such summary fine by denying the charges and filing a request for a hearing pursuant to Rule 705.
- (f) If a Person challenges a summary fine, the Disciplinary Panel shall conduct a *de novo* review of the facts and allegations in accordance with the procedures in Rule 705. A Person challenging a summary fine shall have the right to representation by an advocate and solicitor of the Supreme Court of Singapore in such hearing. Filing of a notice of intent to challenge a summary fine pursuant to Rule 721 shall stay the requirement to pay a summary fine.

## Chapter 8 Events of Breach

### Rule 801 Event of Breach

- (a) The occurrence of any of the following events with respect to a Clearing Member shall constitute an Event of Breach and will be dealt with in accordance with these Rules:
- (1) the Clearing Member (or any of the Clearing Member's Officers, employees, contractors, agents, Representatives or Customers) is in violation or deemed violation of any of these Rules;
  - (2) the Clearing Member fails to make any payment required to be made under or pursuant to these Rules, Directives or Regulatory Notices. Payments may include without limitation any payment towards fees, transaction charges, fines or its clearing and settlement obligations, Security Deposit, Margins, Daily Settlement Amount, Final Settlement Amount, contribution to the Guaranty Fund, or any other dues ("**Monetary Default**");
  - (3) the Clearing Member commits a Delivery Default;
  - (4) the Clearing Member defaults on any other obligation under these Rules which, if capable of being remedied, is not remedied to the satisfaction of the Clearing House within the time prescribed by the Clearing House for such rectification;
  - (5) an application, in Singapore or in any other jurisdiction, is filed or an order made for the winding up, dissolution, bankruptcy, management or administration of the Clearing Member or similar event, or an assignment or composition is made by the Clearing Member for the benefit of creditor(s) (save for the purposes of amalgamation and reconstruction which has been approved by the Clearing House) or any steps have been taken towards the foregoing;
  - (6) any representation, warranty or document made or submitted by a Clearing Member in its membership application was or has become false in any material respect;
  - (7) the Clearing Member or any of its Officers, employees, contractors, agents, Representatives or Customers, is in violation of any Applicable Laws governing its business and affairs;
  - (8) the Clearing Member or any of its Officers or Representatives is charged in any court of law in connection with an offence involving fraud, dishonesty or financial impropriety, whether in or outside Singapore;
  - (9) the Clearing Member or any of its Officers or Representatives is insolvent or any steps towards bankruptcy or winding up are initiated by or against any of them;
  - (10) any material action being taken against the Clearing Member (including, without limitation, any declaration of default, material adverse notice or finding, material

fine, suspension or expulsion or withdrawal of, revocation of or failure to renew any permission, exemption, licence or authorisation) by any Governmental Authority, Regulatory Authority, the Exchange or Clearing Organisation;

- (11) any similar event that would affect the business and the financial condition (including its ability to pay its debts as and when they fall due) of the Clearing Member and its affairs with the Clearing House; or
  - (12) any other event which in the Clearing House's opinion materially impacts or may materially impact the Clearing Member's ability in meeting any of its obligations under these Rules.
- (b) The Clearing House may assume that the occurrence of any Event of Breach means that a Clearing Member is unable, or likely to be unable, to meet its obligations in respect of any Contract to which it is a party.

## **Rule 802**    Declared Default

- (a) The Clearing House shall, at its absolute discretion, determine whether it shall treat an Event of Breach as a **"Declared Default"** and shall determine the date and time of such Declared Default. The Clearing Member with respect to whom the Declared Default has occurred shall be declared a **"Defaulter"** or a **"Defaulting Clearing Member"**.
- (b) The Clearing House shall notify, in writing, the Defaulting Clearing Member as well as other Clearing Members of the Declared Default and its date and timing (as well as any steps taken pursuant to Rule 803). The Clearing House may inform any relevant Regulatory Authority of a Declared Default prior to declaring a Declared Default and disclose such information to such Regulatory Authority as it sees fit.
- (c) Without prejudice to the generality of these Rules, the Clearing House shall not be liable to any Clearing Member or any third party in respect of any loss, damage, costs, charges and/or expenses and/or liability of whatsoever nature and howsoever arising suffered or incurred by such Clearing Member or third party, arising out of or in connection with the declaration or non-declaration of a "Declared Default" by the Clearing House.
- (d) Without prejudice to the generality of the indemnities in these Rules, the Defaulting Clearing Member, acting for its own account as principal, shall indemnify, hold harmless and be liable to the Clearing House in respect of all the loss, damage, costs, charges and/or expenses and/or liability of whatsoever nature suffered or incurred (including legal costs on a full indemnity basis) by the Clearing House arising out of the Defaulting Clearing Member's conduct (whether such conduct took place prior to or after declaration of the Declared Default) or in connection with the Declared Default.

## **Rule 803**    Rights of the Clearing House

- (a) The occurrence of an Event of Breach shall not preclude the rights of the Clearing House to exercise, against any Clearing Member, any or all of its powers (as it deems fit) in

relation to any other event whether or not also constituting an Event of Breach (whether such other event is concurrent, subsequent or prior to the Event of Breach). The Clearing House may notify MAS or any other relevant Regulatory Authority before it exercises any of its powers in relation to an Event of Breach.

- (b) Upon the declaration by the Clearing House that an Event of Breach is a Declared Default, the Clearing House may, in its absolute discretion and without any limitation, take such steps as the Clearing House deems necessary, including but not limited to, cancelling any order or transaction of the Defaulter, freezing the Defaulter's accounts and selling any or all property, or Collateral standing to the credit of the Defaulter's Proprietary Accounts. Without prejudice to the generality of the foregoing, the Clearing House may take any action as it deems appropriate, including without limitation, the following:
- (1) to transfer all or any Open Positions of a Customer of the Defaulting Clearing Member to another Clearing Member together with any Margins which in the opinion of the Clearing House are held with respect to such Open Positions;
  - (2) to close out all or any Open Positions of the Defaulting Clearing Member, including, in its absolute discretion, Open Positions of any one or more of its Customers;
  - (3) to sell, realise, apply and set off any monies, Collateral or other assets deposited with the Clearing House by the Defaulting Clearing Member by way of Margin, Security Deposit or otherwise and to apply the proceeds without being required to give notice to or obtain the consent of the Defaulting Clearing Member or any court order, with full power to execute any documents in its own name or as attorney for the Defaulting Clearing Member for that purpose, provided always that any monies, Collateral or assets deposited with the Clearing House with respect to Open Positions designated to any Customer Account may be used only in accordance with Rule 406.1(s);
  - (4) to apply any surplus in any Member Settlement and Margin Account of the Defaulting Clearing Member to any deficiency on any Customer Settlement and Margin Account of the Defaulting Clearing Member;
  - (5) to exercise or abandon any Option Contract of the Defaulting Clearing Member and any such exercise or abandonment shall be deemed to have been effected by the Defaulting Clearing Member which is the party to the Option Contract;
  - (6) subject to the MAS Requirements, to make payment or delivery from the account of the Defaulting Clearing Member in performance of its settlement obligations, to close out the Open Positions of the Defaulting Clearing Member by trading on the Exchange or any available futures, forward, cash or spot market or by compulsorily closing out such Open Positions by way of cash settlement at a price to be decided by the Clearing House at its absolute discretion, to effect alternative delivery process, invoice back, partial tear up, auction etc., in the event of a Declared Default to ensure financial safety, integrity and efficiency of the

Clearing House and the Clearing Members shall accept the decision of the Clearing House and abide by the directives issued in this regard; and

- (7) to do all such other necessary acts and things as are in the opinion of the Clearing House necessary to reduce or determine its exposure under Open Positions of the Defaulting Clearing Member or otherwise, arising from or as a result of the Declared Default.
- (c) All costs and expenses sustained by the Clearing House in connection with any steps which are or may be taken by the Clearing House pursuant to Rule 803(b), shall, to the extent permitted by the MAS Requirements, be charged to the account of the Defaulting Clearing Member after all outstanding rights and liabilities in respect of all its Contracts with the Clearing House have been determined, and shall be set off against all other amounts owed and owing between the Defaulting Clearing Member and the Clearing House, to produce a net sum payable by either party to the other.
- (d) Any deficiency in the accounts of a Defaulting Clearing Member after the application of Rule 803(b) shall be termed the **“Loss of the Clearing House”**.
- (e) Any amount later recovered from the Defaulting Clearing Member after the operation of Rule 803(c) shall, to the extent such recovery reduces the Loss of the Clearing House, be applied towards repaying the source of such funds under Rule 804(a), to the extent of their contributions, and in the reverse order of application.

#### **Rule 804 Settlement of Clearing House’s Obligations in the Declared Default**

- (a) Without prejudice to the rights of the Clearing House as otherwise provided in these Rules, upon Declared Default of a Clearing Member, the Clearing House shall be entitled, in satisfying the Clearing House’s obligations, to apply the following assets in the order stipulated, in whole:
  - (1) any monies, assets or Collateral held in any account of or in respect of the Defaulting Clearing Member (including the proceeds of the Security Deposits of the Defaulting Clearing Member) except where such monies, securities or collateral relate to any Customer Position, the application shall only be carried out in the event the conditions in Rule 406.1(s) are met;
  - (2) up to 60% of the portion of the Clearing Capital that represents the Clearing House’s mandatory contribution to the Guaranty Fund;
  - (3) up to USD 500,000 from each Security Deposit of each non-defaulting Clearing Member (which, for the purposes of this Rule 804(a)(3) only, shall be deemed to include any Security Deposit or part thereof for the time being retained by the Clearing House pursuant to Rule 1003(a)), provided that any application of the Security Deposits of non-defaulting Clearing Members shall be in equal amounts across all non-defaulting Clearing Members;

- (4) up to 40% of the portion of the Clearing Capital that represents the Clearing House's mandatory contribution to the Guaranty Fund;
  - (5) all remaining Security Deposits (if any) of the non-defaulting Clearing Members as contributed on the date of Declared Default;
  - (6) all remaining balance of the Clearing Capital (if any); and
  - (7) any other monies or other assets available to the Clearing House.
- (b) All Clearing Members shall, to the extent permitted by Applicable Laws,
- (1) refrain from taking any action or seeking any order of any Governmental Authority that would result in or facilitate any asset or liability being applied contrary to the requirements of this Rule 804; and
  - (2) take all reasonable steps possible including, without limitation, the application for and procurement of such orders from such Governmental Authorities as are necessary, to ensure that assets referred to in this Rule 804 are applied only pursuant to this Rule 804.

## **Rule 805**    Security Deposit Requirements

- (a) A Clearing Member shall provide in cash to the Clearing House such amount of Security Deposit as determined by the Clearing House from time to time. The Security Deposit amount required to be provided by each given Clearing Member shall be, the higher of, USD 500,000, or such greater amount as the Clearing House may require of the given Clearing Member based on the Clearing House's assessment of its risk exposure to the given Clearing Member.
- (b) The maximum liability of a non-defaulting Clearing Member in the event of a Declared Default is the full amount of Security Deposit amount as prescribed by the Clearing House in Rule 805(a). A non-defaulting Clearing Member's obligation to contribute in the event of a Declared Default commences upon its clearing and settling its first trade with the Clearing House.
- (c) If the Clearing House applies the Security Deposit of a Clearing Member under these Rules, in full or in part, the Clearing House shall require the Clearing Member to replenish the Security Deposit by way of deposit of cash, assets or Collateral in such amount and at such times as the Clearing House believes necessary to provide continuing financial support for the obligations of the Clearing House.
- (d) A Clearing Member that declines to provide the further Security Deposit referred to in Rule 805(c) above shall be deemed to have provided to the Clearing House written notice of its intention to resign under Rule 309.1(a).



## Chapter 9      Default of the Clearing House

### Rule 901    Default of the Clearing House

- (a) If any of the following events occur and is continuing, where the Clearing House:
- (1) fails to make a payment to a non-defaulting Clearing Member for a period of thirty (30) calendar days from the date the obligation to pay under a Contract fell due; or
  - (2) commences a procedure seeking or proposing liquidation on the ground of its inability to pay its debts, receivership, judicial management, or a scheme of arrangement involving a compromise with its creditors or any class thereof, or other similar relief with respect to itself or to its debts under any bankruptcy, insolvency, regulatory, supervisory or similar law, or if any of the foregoing cases or procedures is commenced in relation to the Clearing House by any other person which results in liquidation or winding up of the Clearing House on the ground of its inability to pay its debts, or if the Clearing House takes corporate action to authorise any of the foregoing, in any such case other than for the purposes of corporate restructuring (including any consolidation, amalgamation or merger),

a non-defaulting Clearing Member may, at any time by notice in writing to the Clearing House, specify a date (the "**Termination Date**") for the termination and liquidation of all Contracts to which it is a party in accordance with Rule 901(c) below.

- (b) In the event a Clearing Member exercises its rights under Rule 901(a), the Clearing House may, in its absolute discretion and by notice in writing, take any steps necessary to terminate any related Open Contracts or close out any related positions held with any other Clearing Members, notwithstanding that such Clearing Members are not in default of any of its obligations (hereafter, such other Clearing Members, together with the Clearing Member which exercised its rights under Rule 901(a), shall be collectively referred to as the "**Terminating Clearing Member(s)**").
- (c) Upon the specification of a Termination Date or the Clearing House exercising its powers of termination and close-out under Rule 901(b) (as the case may be):
- (1) all rights and obligations of the Clearing House and the relevant Terminating Clearing Member in respect of any Contract between them are discharged and replaced by an obligation to pay the Termination Amounts pursuant to this Rule 901(d);
  - (2) the Clearing House shall (on, or as soon as reasonably practicable after, the Termination Date or the Clearing House exercising its powers under Rule 901(b) to terminate any related Open Contract (as the case may be)) determine the relevant Terminating Clearing Member's total loss or total gain (as the case may be) in respect of each Contract, in each case expressed in Singapore Dollars;

- (3) the Clearing House shall treat each gain to the relevant Terminating Clearing Member as a positive amount and each loss by the relevant Terminating Clearing Member as a negative amount and shall, unless Rule 901(c)(4) applies, aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Singapore Dollars (the "**Termination Amount**"); and
- (4) where a Terminating Clearing Member has a Proprietary Account and one or more Customer Accounts:
  - (i) the Clearing House shall determine two net amounts under Rule 901(c)(3): one net amount in respect of gains and losses arising on Contracts registered in the Terminating Clearing Member's Customer Account (or all of the Customer Accounts as combined) and a second net amount in respect of gains and losses arising on all other Contracts; and
  - (ii) the two net amounts determined under Rule 901(c)(4)(i) each shall constitute Termination Amounts.
- (d) If a Termination Amount determined pursuant to Rule 901(c) is a positive amount, the Clearing House shall pay it to the relevant Terminating Clearing Member and if any such Termination Amount is a negative amount, the relevant Terminating Clearing Member shall pay it to the Clearing House, in either case in accordance with Rule 901(e). The Clearing House shall notify the relevant Terminating Clearing Member of each such Termination Amount, and by which party it is payable, as soon as practicable after the calculation thereof. If a Termination Amount determined pursuant to Rule 901(c) is a negative amount, the relevant Terminating Clearing Member shall pay such amount to the Clearing House in accordance with Rule 901(e), failing which, the Clearing House may, to the fullest extent permissible under MAS Requirements, sell, realise, apply and set off Collateral or other assets deposited with the Clearing House by the relevant Terminating Clearing Member in respect of Contracts terminated under this Rule 901 and apply the proceeds against such Termination Amount, without being required to give notice to or obtain the consent of the relevant Terminating Clearing Member or any court order, with full power to execute any documents in its own name or as attorney for the relevant Terminating Clearing Member for that purpose.
- (e) A Termination Amount shall be paid in US Dollars by the close of business on the Business Day following notification pursuant to Rule 901(d) above.
- (f) Without prejudice and in addition to any other rights which the Clearing House may have (whether by operation of law, contract or otherwise, including under Rule 901(d)), any and all Termination Amounts payable by the Clearing House to the relevant Terminating Clearing Member (or by the relevant Terminating Clearing Member to the Clearing House) may, at the option of the Clearing House (and without prior notice to the relevant Terminating Clearing Member), be reduced by its set-off against any and all other amounts ("**Other Amounts**") payable by the relevant Terminating Clearing Member to the Clearing House (or by the Clearing House to the relevant Terminating Clearing Member) (whether or not arising under these Rules, matured or contingent and

irrespective of the currency, place of payment or place of booking of the obligation). To the extent that any of the foregoing amounts are so set off, those amounts will be discharged promptly and in all respects. The Clearing House will give notice to the relevant Terminating Clearing Member of any set-off effected under this Rule 901(f).

- (g) For the purposes of any calculation or set-off under this Rule 901(f), the Clearing House may convert amounts denominated in any other currency into Singapore Dollars at such exchange rate prevailing at the time of the calculation as it shall reasonably select.
- (h) The rights of the Clearing House and the Terminating Clearing Members under this Rule 901 shall be in addition to, and not in limitation or exclusion of, any other rights which the Clearing House or the Terminating Clearing Member may have.

## **Chapter 10      Guaranty Fund**

### **Rule 1001    General**

- (a) The Clearing House shall establish and maintain a Guaranty Fund.
- (b) The Guaranty Fund shall be made up of:
  - (1) the Security Deposit provided by each Clearing Member to the Clearing House pursuant to these Rules;
  - (2) contributions made by the Clearing House in the form of Clearing Capital (which amount shall, subject to the minimum amount as may be mandated under the MAS Requirements, be determined by the Clearing House in its absolute discretion); and
  - (3) other amounts as determined by the Clearing House at its absolute discretion, which the Clearing House may require each Clearing Member to deposit pursuant to a Directive, and the Clearing Members shall comply with such requirement within the stipulated time.
- (c) In the event of a Declared Default, the Guaranty Fund will be applied as contemplated under Rule 804(a) (and where necessary to defray all costs and expenses incurred or suffered by the Clearing House in connection therewith, including but not limited to, all legal costs and expenses in respect of legal proceedings against a Defaulting Clearing Member for recovery of any sums due to the Clearing House), provided that:
  - (1) the Guaranty Fund may only be used to meet actual or prospective liabilities or obligations relating to such Declared Default;
  - (2) nothing in this Rule 1001 shall affect the order of application of assets following a Declared Default pursuant to Rule 804(a); and
  - (3) any part or the whole of the Guaranty Fund sought or attempted to be applied but not actually used pursuant to Rule 804(a) shall be returned or reallocated by the Clearing House to the Guaranty Fund.

### **Rule 1002    Investment of the Guaranty Fund**

- (a) Subject to MAS Requirements, funds in the Guaranty Fund may be invested in such securities and/or other investments, as may be determined by the Clearing House, at its own discretion.
- (b) Gains arising from the Clearing House's investment of funds in the Guaranty Fund pursuant to Rule 1002(a) shall be retained in the Guaranty Fund as contributions by the Clearing House.

- (c) Subject to MAS Requirements, the Clearing House shall have full power and authority to pledge, re-pledge, hypothecate, transfer, create a security interest in, or assign any or all of the cash, securities or other instruments or property held in the Guaranty Fund.

### **Rule 1003** Repayment to the Clearing Member

After a Clearing Member ceases to be a Clearing Member of the Clearing House, and after all obligations (including all expenses, attorney or expert fees incurred or suffered by the Clearing House in connection with the processing of the return of the Clearing Member's deposit) of such Clearing Member to the Clearing House shall have been discharged in full, the amount of the Guaranty Fund to which such Clearing Member is entitled shall be returned provided however that:

- (a) at the time of such return of Security Deposit, there is no case of an Event of Breach by any Clearing Member that may result in a Declared Default being declared, towards which any part of the Guaranty Fund may be utilised by the Clearing House under Rule 804(a); and
- (b) the Clearing Member shall not be entitled to a refund of its minimum Security Deposit (an amount of USD 500,000) within three years from the date of first payment of such minimum Security Deposit to the Clearing House.

## **Chapter 11      Emergency Powers**

### **Rule 1101   Emergency Powers of the Clearing House**

- (a) Whenever the Clearing House considers that there is an emergency (being without limitation any threatened or actual market manipulation or cornering including any act of any government or any international organisation or any institution or agency thereof, any major market disturbance which affects the market, or any undesirable situation or practice that the Clearing House deems to be an emergency), or crisis in the nature of manipulation, squeeze, bear raid, or wherever it appears to the Clearing House that the Contracts are executed for the purpose of inducing a false or artificial appearance of activity, or upsetting the price equilibrium, or that the business is being conducted in a manner prejudicial to the interests of the trade or the interests of the Clearing House, or in the case of any unusual or unforeseeable events or adverse circumstances, or it is expedient, necessary or desirable for ensuring a fair and orderly market or for ensuring a safe and efficient clearing facility, or for ensuring the integrity of the market or for proper management of systemic risk in the market, or it is in the general interests of the Clearing House to do so, notwithstanding anything to the contrary contained in these Rules, Regulatory Notices or Directives or Contract Terms, the Clearing House may, at its absolute discretion, subject to any MAS Requirements:
- (1) effect alternative settlement or delivery of outstanding Contracts;
  - (2) close out a Contract at a price determined by the Clearing House and with effect from such date as may be determined by the Clearing House;
  - (3) impose Special Margin;
  - (4) amend or delete or add to these Rules and Regulatory Notices made thereunder; and/or
  - (5) take such other measures or require one or more Clearing Members to take such measures as it deems necessary or desirable.
- (b) The Clearing House may also take any and all action as directed by the Authority as the Authority considers necessary to maintain or restore the safe and efficient operation of the Clearing House.
- (c) Without prejudice to the rest of these Rules, the Clearing House shall not be liable to any Clearing Member or any third party in respect of any loss, damage, costs, charges and/or expenses and/or liability of whatsoever nature and howsoever arising suffered or incurred by such Clearing Member or third party (including legal costs on a full indemnity basis), arising out of or in connection with the exercise or non-exercise by the Clearing House of its powers under Rule 1101(a), the determination by the Clearing House of the satisfaction or non-satisfaction of any condition for the exercise of such powers or the taking of any action directed by the Authority under Rule 1101(b).

- (d) The Authority shall be notified of such actions taken by the Clearing House under this Rule 1101 as soon as practicable. Nothing in these Rules shall in any way limit the authority of the Board or any other committee to act in an emergency situation in accordance with these Rules.



## Chapter 12 Dispute Resolution

### Rule 1201 Disputes and Arbitration

- (a) Where a dispute, difference, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arises out of, in relation to, or in connection with these Rules, Regulatory Notices, Directives, the Contract Terms, the Electronic User Agreement, or any Contract, including any dispute as to the existence, construction, validity, interpretation, enforceability, termination or breach of these Rules, Regulatory Notices, Directives, the Contract Terms, the Electronic User Agreement or any Contract, between one or more Clearing Members or Customers, on the one hand, and the Clearing House, on the other (a “**Clearing House Dispute**”), the parties to such Clearing House Dispute shall first attempt to settle the dispute through good faith negotiations, failing which the Clearing House Dispute shall be settled by arbitration before the Singapore International Arbitration Centre (“**SIAC**”) in accordance with the rules of the SIAC; provided, however, that the requirement to settle Clearing House Disputes in this Rule 1201(a) shall be without prejudice to the Clearing House’s rights, or a Clearing Member’s or Customer’s rights, to litigate an Clearing House Dispute in court under the SFA.
- (b) Any arbitration commenced under or pursuant to Rule 1201(a) shall be conducted in Singapore before a panel of three arbitrators, and the language of the arbitration proceedings shall be English. The seat of the arbitration shall be Singapore.
- (c) The award of the SIAC arbitrator or panel of arbitrators shall be binding on the Clearing Members, Customers and the Clearing House to the extent permitted under Applicable Law.
- (d) The fact of a Clearing Member being suspended or expelled shall not affect the requirement for such Clearing Member or its Customers to arbitrate any Clearing House Dispute.