

CHAPTER 4

DEFAULT RULES

NOVATED CONTRACTS

4.1 EVENTS OF DEFAULT

- (a) The Clearing House may institute any action under Rule 4.2 in the event a Trading Clearing Participant has failed, or appears to be unable, or likely to become unable, to meet its obligations in respect of all or any unsettled Novated Contracts to which the Trading Clearing Participant is a party.
- (b) For the purposes of sub-rule (a) but without limiting the generality of the same, a Trading Clearing Participant is deemed to have failed, or appear to be unable, or likely to become unable, to meet its obligations in respect of all or any unsettled Novated Contracts to which the Trading Clearing Participant is a party in the event, inter alia, that:-
 - (i) the Trading Clearing Participant's licence is suspended or revoked by the Commission or has expired and is not renewed by the Commission;
 - (ii) the Trading Clearing Participant fails to comply with or settle any of its financial obligations in relation to the following:
 - (aa) a Novated Contract, contribution to the CGF or Margin in accordance with or under these Rules or the Exchange Rules; or
 - (bb) similar financial obligations under the rules and regulations of any other exchange or clearing house in which the Trading Clearing Participant is a participant or member;
 - (iii) the Trading Clearing Participant fails to pay when due any sum due and payable, or is otherwise in default under the terms of any loan or other agreement relating to the Trading Clearing Participant's indebtedness, or threatens or proposes to suspend, stop, defer or reschedule payment or to default under the terms of such loan or agreement;
 - (iv) a Trading Clearing Participant is insolvent, or unable to pay its debts when they fall due, or a bankruptcy or winding-up petition is presented, or a notice of a proposal for a resolution for the Trading Clearing Participant's winding-up is given, or a voluntary arrangement is approved by a Court of Law for the benefit of its creditors, or an assignment or composition is made by the Trading Clearing Participant for the benefit of its creditors or any of them, or the Clearing House considers in its absolute discretion that the occurrence of any such events or their equivalent is imminent or likely in any jurisdiction;
 - (v) a liquidator, receiver, manager, trustee, an administrative receiver or a similar officer is appointed, or a composition or scheme of arrangement is approved by a Court of Law against the Trading Clearing Participant or an assignment or composition is made by the Trading Clearing Participant for the benefits of its creditors or any of them, or the Clearing House considers in its absolute

- discretion that the occurrence of any such events or their equivalent is imminent or likely in any jurisdiction;
- (vi) a resolution to wind-up the Trading Clearing Participant (save for the purpose of amalgamation or reconstruction) is passed or a bankruptcy or winding-up order is made; or
 - (vii) any distress, execution or other process is levied or enforced or served upon or against any property or assets of a Trading Clearing Participant.
- (c) Upon the occurrence of any of the circumstances set out in Rule 4.1(b), the Clearing House shall be entitled, at its discretion, at any time to declare that an Event of Default has occurred and to give notice thereof to all Trading Clearing Participants.

4.2 DEFAULT PROCEEDINGS IN RELATION TO NOVATED CONTRACTS

- 4.2.1 (a) On the occurrence of any Event of Default under Rule 4.1, the Clearing House may settle the defaulting Trading Clearing Participant's Novated Contracts.
- (b) For the purposes of sub-rule (a), the Clearing House shall determine if the defaulting Trading Clearing Participant shall pay or receive any sum of money in relation to each such Novated Contract after taking into account all the rights and liabilities of the defaulting Trading Clearing Participant under or in respect of the Novated Contract concerned and all expenses referred to in Rule 4.2.2.
- (c) The Clearing House shall enable all sums of money payable by or to the defaulting Trading Clearing Participant as determined in accordance with sub-rule (b) to be aggregated or set-off so as to produce a net sum, if any, payable by or to the defaulting Trading Clearing Participant;
- (d) If any net sum referred to in sub-rule (c) is payable by a defaulting Trading Clearing Participant, the Clearing House may set-off such sum against any or all of the following including where relevant, the proceeds from the realisation of any or all of the following:
- (i) Collateral of the defaulting Trading Clearing Participant;
 - (ii) Contribution of the defaulting Trading Clearing Participant;
 - (iii) any other property of the defaulting Trading Clearing Participant which is subject to any lien in favour of the Clearing House; or
 - (iv) those Securities delivered by the Clearing House to the defaulting Trading Clearing Participant where the amount owing by the defaulting Trading Clearing Participant in respect of the net purchase of such Securities has not been settled in full,
- so as to produce a further net sum, if any, payable by or to the defaulting Trading Clearing Participant;
- (e) [Deleted]
- (f) The Clearing House shall certify any net sum referred to in sub-rule (c) payable to the defaulting Trading Clearing Participant, or of any further net sum referred to in sub-rule (d) payable by or to a defaulting Trading Clearing Participant, as the case may be, or, if there is no such sum the certification by the Clearing House of that fact.

- 4.2.2 In performance of its functions under Rule 4.2.1, the Clearing House may take all or any of the following actions at the expense of the defaulting Trading Clearing Participant, in any order, immediately or at any other time the Clearing House determines, and without the need for any prior notice to or consent of the defaulting Trading Clearing Participant or any other person:-
- (a) Close-out all Novated Contracts of the defaulting Trading Clearing Participant at what the Clearing House determines to be the best prevailing market price and terms available. For the purpose of this sub-rule "close-out" means liquidating an existing Novated Contract with an equal and opposite transaction.
 - (b) liquidate the property of the defaulting Trading Clearing Participant held under lien pursuant to Rule 5.16(a) or the Securities referred to in Rule 4.2.1(d)(iv) and for that purpose, in relation to Securities, the Clearing House may give instructions to the Central Depository for transfers of Securities to be effected into or out of the relevant securities account, including nominee accounts.
 - (c) [Deleted]
 - (d) [Deleted]
 - (e) Take any other action as it deems necessary for the protection of its interest with respect to Novated Contracts to which a defaulting Trading Clearing Participant is a party, at the defaulting Trading Clearing Participant's expense and if appropriate in its name.
 - (f) Engage under such terms and conditions of engagement as the Clearing House may determine from time to time, any person to render assistance as the Clearing House may require or specify in the performance of its functions under Rule 4.2. The defaulting Trading Clearing Participant shall bear the costs and expenses of the engagement such person(s).
- 4.2.3 For the avoidance of doubt, notwithstanding Rule 6.13, the Clearing House may determine the order of application and use of the monies and assets of a defaulting Trading Clearing Participant (including Collateral and Contributions) that has been deposited with or which are available to the Clearing House.

CHAPTER 4

SECTION A

DEFAULT RULES

[Deleted]

CHAPTER 4

SECTION B

DEFAULT RULES

B4.1 DEFAULT PROCEEDINGS IN RELATION TO BURSA SBL TRANSACTIONS

On the occurrence of a default by a Clearing Participant in a Bursa SBL Transaction, the Clearing House may institute any action or proceedings set out in these Rules or the SBL Conditions which provide for the taking of Default Proceedings in relation to Bursa SBL Transactions.

CHAPTER 4

SECTION C

DEFAULT RULES

C4.1 GENERAL SECTION

The Clearing House shall upon the completion by it of the Default Proceedings under this Chapter:

- (a) make a report on such Default Proceedings containing such particulars as required in Section 45(1) of the Act; and
- (b) supply the report to:-
 - (i) the Commission;
 - (ii) any relevant office-holder acting for the Defaulter to whom the report relates or that Defaulter's estate;
 - (iii) if there is no relevant office-holder referred to in sub-rule (b)(ii), the Defaulter to whom the report relates; and
 - (iv) such other person as the Commission deems fit.