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CHAPTER 1 DEFINITIONS AND RELATED PROVISIONS

PART A DEFINITIONS AND INTERPRETATION

1.01 Definitions

The following terms have the following meanings unless the context requires otherwise.

Act	The Capital Markets and Services Act 2007.
Adjusted Net Capital	An amount calculated in accordance with Schedule 2.
Admission Guidelines	The admission guidelines for the registration of Clearing Participants or Registered Persons which are made available on the Exchange Holding Company's website.
Affiliate	Shall have the same meaning as in the Act.
Approved Collateral	As defined in Rule 6.17.
Approved Market	A market operated by an Exchange.
Assign	The invoking of the rights granted to the Clearing House as Buyer to an Option Open Contract in accordance with Rule 7.04.
Audited Accounts	Accounts certified by an Auditor.
Auditor	A professional accountant registered and holding a practising certificate under the Accountants Act 1967 (Revised 1972).
Bank Clearing Participant	A General Clearing Participant that is an entity that is also governed by the Central Bank.
Books	Shall have the same meaning as in the Act.
Business Day	Any day other than a Saturday, Sunday or public holiday, which has not been declared a non-business day by the Clearing House.
Buyer	The party to a Derivative taking a Long Position.
Call Option	A Market Contract under which a person acquires from another person an Option or a right, exercisable at or before a stated time:  (a) to buy from that other person a stated quantity of a named Instrument at a price stated in, or to be determined in accordance with, the Market Contract;  (b) to assume, at a stated price and within a stated period, a Long Position in relation to a named Futures Contract; or  (c) to be paid by that other party, at the time when the Option or right is exercised, an amount of money to be determined by reference to a state of affairs that relates to fluctuations in the value or price of an Instrument or other property, or in the numerical level of an index, an interest rate or other factor.

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Capital Markets Services Licence	Shall have the same meaning as in the Act.
Central Bank	The Central Bank of Malaysia established by the Central Bank of Malaysia Act 2009.
Clearing	Shall have the same meaning as is assigned to the expression 'Clearing for securities or derivatives' in Part 2 of Schedule 2 of the Act, in relation to clearing of Market Contracts.
Clearing facilities	Shall have the same meaning as in the Act, in relation to the Clearing House.
Clearing House	Bursa Malaysia Derivatives Clearing Berhad.
Clearing Fund	A fund established by the Clearing House in accordance with Chapter 9.
Clearing Fund Contribution	The amount paid by a Clearing Participant to the Clearing Fund pursuant to Rule 9.02.
Clearing Participant	An Affiliate of the Clearing House.
Clearing Fund Statement	A document issued to a Clearing Participant in relation to that Clearing Participant's Clearing Fund Contribution.
Client	A person whose account is carried in the books of a Clearing Participant except where such person is the Clearing Participant itself with respect to the proprietary account of the Clearing Participant.
Commission	The Securities Commission Malaysia established under the Securities Commission Malaysia Act 1993.
Commission's Licensing Handbook	The licensing handbook issued by the Commission pursuant to Section 377 of the Act.
Compliance Officer	A person who a General Clearing Participant registers under Rule 3.33(c).
Daily Settlement Price	In relation to an Open Contract, a price determined in accordance with Rule 6.12.
Delivery	Settlement by delivery of an Instrument under the terms of the relevant Open Contract.
Derivatives	Shall have the same meaning as in the Act.
Direct Clearing Participant	An Affiliate of the Clearing House whose application for Participantship has been approved under Chapter 3 and who has met all the conditions in Rule 3.05.
Direct Clearing Participant Deposit	An amount required to be deposited with the Clearing House by each Direct Clearing Participant in accordance with Rule 3.16.

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Directives	Instructions, directions, rulings, guidelines or operating procedures the Clearing House issues (including any amendment made) by whatever name called for or in connection with any of the Rules including: <ul style="list-style-type: none"><li>(a) any decision, request or requirement the Clearing House makes or imposes pursuant to any act or thing done under the Rules;</li><li>(b) any terms and conditions imposed pursuant to any act or thing done under the Rules; and</li><li>(c) any requirement the Clearing House imposes for the proper operation and management of the Clearing House's facilities.</li></ul>
Document	Shall have the same meaning as in the Act.
Exchange	Such body corporate approved under Section 8(2) of the Act and for which the Clearing House provides Clearing facilities.
Exchange Rules	In relation to an Exchange, the business rules of that Exchange, including any instrument issued under them.
Exercise	The invoking of the rights of the Buyer to an Option in accordance with these Rules.
Exchange Holding Company	Bursa Malaysia Berhad.
Financial Year	In relation to a Clearing Participant a period not longer than twelve consecutive months which is adopted by that Clearing Participant as its financial year for accounting purposes.
Futures Contract	A Derivative that is traded on a derivatives exchange, whether within or outside Malaysia, which creates an obligation for physical delivery or acceptance of physical delivery of the underlying instrument of such Derivative, the quantity and quality of which is determined by that derivatives exchange at a fixed date in the future at a fixed price, and which may be cash settled in lieu of physical delivery.
General Clearing Participant	An Affiliate of the Clearing House whose application for Participantship has been approved under Chapter 3 and who has met all the conditions in Rule 3.04.
Group	In relation to a Clearing Participant, same meaning as in the Commission's Licensing Handbook.
Guidelines on Investment Banks	Guidelines on Investment Banks issued jointly by the Central Bank and the Commission and any directives or guidelines as may be issued thereunder.
in writing	Written, printed or lithographed or partly one and partly another or other modes of representing or reproducing words in a visible form.
Instrument	Shall have the same meaning as in the Exchange Rules.
Investment Bank	As referred to in the Guidelines on Investment Banks.
Long Position	Shall have the same meaning as in the Exchange Rules.

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Margin	Includes the Performance Bond and the settlement variation referred to in Rule 6.13.
Market Contract	A Futures Contract or Option entered into in accordance with the Exchange Rules or such other Derivatives as the Clearing House may prescribe.
Minister	Shall have the same meaning as in the Act.
Month	Calendar month.
Net Tangible Assets	An amount calculated in accordance with Schedule 1.
Participanship	Ability to exercise the rights of a Clearing Participant under the Rules.
Performance Bond	Initial margin, being payment or deposit from a Clearing Participant as security for performance by that Clearing Participant of obligations under all Open Contracts to which that Clearing Participant is party.
Officer	Shall have the same meaning as in the Act.
Off-Balance Sheet	Includes: <ul style="list-style-type: none"><li>(a) uncalled amounts on securities, options, other contingent liabilities and capital commitments (whether secured or not);</li><li>(b) all assets pledged as security, forward purchase or sale contracts;</li><li>(c) securities, derivatives and other commitments that contractually oblige a Clearing Participant to perform certain actions that are transacted outside the designated automated and computerised trading system established by the Exchange.</li></ul>
Open Contract	A Futures Contract or Option between a Clearing Participant and the Clearing House which has not been extinguished or terminated in accordance with the Rules.
Open Position	In relation to a Clearing Participant all Open Contracts to which that Clearing Participant is party.
Option	An option that is traded on the Exchange or any other option which the Clearing House may prescribe, and includes a Call Option and a Put Option.
Option Open Contract	An Open Contract which is an Option.
Participating Organisation	Shall have the same meaning as in the Exchange Rules.
Premium	The sum of money which is consideration for the grant of an Option.
Put Option	A Market Contract under which a person acquires from another person an Option or a right, exercisable at or before a stated time: <ul style="list-style-type: none"><li>(a) to sell to another person a stated quantity of a named Instrument at a price stated in, or to be determined in accordance with, the Market Contract;</li></ul>

## RULES OF BURSA MALAYSIA DERIVATIVES CLEARING BHD

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	(b) to assume, at a stated price and within a stated period, a Short Position in relation to a named Futures Contract; or
	(c) to be paid by that other party, at the time when the Option or right is exercised, an amount of money to be determined by reference to a state of affairs that relates to fluctuations in the value or price of an Instrument or other property, or in the numerical level of an index, an interest rate or other factor.
Record	Shall have the same meaning as in the Act.
Related Corporation	Shall have the same meaning as in the Act.
Reference Price	A value or price of an Instrument or other property, or the numerical value of an index, an interest rate or other factor.
Register of CPs and RPs	The list or roll that the Clearing House keeps of Clearing Participants, Registered Person(s) and such other persons determined by the Clearing House.
Registered Person	A person stipulated under Rule 3.33, who is registered with the Clearing House.
Relevant Person	The Clearing Participant's Registered Persons, agents, directors and employees.
Responsible Person for Overall Clearing Business	A person who a General Clearing Participant registers under Rule 3.33(a).
Responsible Person for Risk Management	A person who a General Clearing Participant registers under Rule 3.33(b).
RM	Ringgit Malaysia
Rules	Shall have the same meaning as in the Act, in relation to the Clearing House.
Security Deposit	An amount required to be deposited with the Clearing House by each Clearing Participant in accordance with Rule 3.15.
Securities Laws	Shall have the same meaning as in the Securities Commission Malaysia Act 1993.
Segregated Account	An account maintained by the Clearing House in the name of a Clearing Participant and established under Rule 6.05.
Seller	The party to a Derivative taking a Short Position.
Service Provider	The entity within the group or an external entity to which the Clearing Participant has outsourced its Clearing functions and includes any subsequent service provider(s) to whom the initial service provider or any subsequent service provider has further contracted the Clearing Participant's Clearing functions.
Settlement Bank	The bank(s) prescribed by the Clearing House pursuant to Rule 3.25.
Short Position	Shall have the same meaning as in the Exchange Rules.

Specified Exchange	Shall have the same meaning as in the Act.
Stock Exchange	Shall have the same meaning as in the Act.
Sub-Account	An account maintained by the Clearing House within the Segregated Account of a Clearing Participant bearing such identification as advised by that Clearing Participant.
Trading Participant	An individual or corporation that has been granted trading privileges by the Exchange as contemplated in the Exchange Rules.
Unsegregated Account	An account maintained by the Clearing House in the name of a Clearing Participant and established under Rule 6.05.

## **1.02 Interpretation**

- (1) In these Rules:
- (a) the singular includes the plural and vice versa.
  - (b) the masculine gender includes the feminine or neuter gender and vice versa.
  - (c) a reference to a person includes a firm, partnership and corporation.
  - (d) if a word or phrase is defined in these Rules, any grammatical form in respect of such word or phrase has a corresponding meaning.
  - (e) headings and sub-headings in these Rules are inserted for convenience of reference only and do not affect the interpretation and construction of these Rules.
  - (f) a reference to any statute, ordinance or other law is to that statute, ordinance or law so modified, re-enacted or consolidated and includes all regulations, rules or other statutory instruments made under that statute, ordinance or law.
  - (g) a reference to a rule, directive, guideline or requirement of the Clearing House, Exchange, Exchange Holding Company, the Commission or the Central Bank or other relevant party is to that rule, directive, guideline or requirement so amended, supplemented, consolidated or substituted.
  - (h) a reference to writing includes any mode of representing or reproducing letters, figures or marks in a visible form.
  - (i) a reference to a rule, chapter, schedule or appendix is to the relevant rule, chapter, schedule and appendix to these Rules.
  - (j) a reference to a day or month is to a calendar day or calendar month.
  - (k) a reference to a time of day is a reference to Malaysian time.
  - (l) a reference to “suspend” or “suspension” in relation to Clearing where the context permits, includes “forbidden”, “interrupted”, “reserved”, “suspended” or “frozen”.
- (2) In the event of any inconsistency between any provision of the Act and the Rules, that provision of the Act prevails to the extent of that inconsistency.
- (3) In the event of any inconsistency between these Rules and any agreement entered into by the Clearing Participant with the Clearing House, these Rules will prevail to the extent of the inconsistency.

**PART B APPLICATION AND EFFECT OF THESE RULES**

**1.03 Rules of the Clearing House**

These Rules must be read together with:

- (a) the Directives;
- (b) the Securities Laws; and
- (c) any other laws or requirements of any relevant authority applicable to Clearing Participants or Registered Persons.

**1.04 Binding effect of the Rules**

These Rules are binding on Clearing Participants and Registered Persons in the manner set out in:

- (a) section 355(2) of the Act; and
- (b) Rule 1.05.

**1.05 Covenants to observe Rules**

These Rules have the effect of a contract between:

- (a) the Clearing House and Clearing Participants under which each Clearing Participant covenants with the Clearing House to observe these Rules and the Directives and to perform the obligations that these Rules and the Directives purport to impose on the Clearing Participant in the manner set out by these Rules and the Directives; and
- (b) the Clearing House and Registered Persons under which each Registered Person covenants with the Clearing House to observe these Rules and the Directives and to perform the obligations that these Rules and the Directives purport to impose on the Registered Person in the manner provided by these Rules and the Directives.

**1.06 Partial invalidity**

If at any time any provisions of the Rules becomes illegal, invalid or inapplicable in any respect, the legality, validity or enforceability of the remaining provisions shall not in any way be affected or impaired.

**1.07 Governing law and jurisdiction**

The interpretation, construction and operations of these Rules and the respective rights and obligations of the Clearing House and the Clearing Participant shall be determined under the laws of Malaysia and subject to these Rules, each Clearing Participant agrees to submit to the jurisdiction of the courts of Malaysia.



**1.08 Investment Banks**

If a provision in these Rules is expressed to be inapplicable to an Investment Bank or a Registered Person of an Investment Bank, the relevant requirements in the Guidelines on Investment Banks and any other requirement the Central Bank specifies on the matter will apply instead.

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PART C NOTICES

1.09 Notices

- (1) The Clearing House will send all notices required to be sent under these Rules in writing:
  - (a) to the address or facsimile number (or both) of the addressee contained in the records of the Clearing House; or
  - (b) using any other mode of giving notice the Clearing House thinks fit, including electronic mail, other electronic means and advertisement in newspapers.
- (2) A notice given under these Rules is regarded as received:
  - (a) if delivered by hand, at the time of delivery;
  - (b) if sent by post within Peninsular Malaysia, on the 3<sup>rd</sup> Business Day after posting;
  - (c) if sent by air mail to Sabah, Sarawak or outside Malaysia, on the 5<sup>th</sup> Business Day after posting;
  - (d) if sent by courier, on the 2<sup>nd</sup> Business Day after dispatch;
  - (e) if sent by facsimile or other electronic means, at the time of transmission; and
  - (f) if published in any public media, at the time of publication.

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**PART D            PERSONAL DATA NOTICE**

**1.10 Personal Data Notice**

- (1) Any person who provides or has provided personal data to the Clearing House or the Exchange Holding Company pursuant to or in connection with these Rules should read and be aware of the relevant notification in relation to the Personal Data Protection Act 2010 (“PDPA”) available at the Exchange Holding Company’s website at [www.bursamalaysia.com](http://www.bursamalaysia.com) (“Personal Data Notice”).
- (2) Where the personal data provided is of another individual (“data subject”), the person providing such data must have notified the data subject in writing of the Personal Data Notice before providing the personal data unless:
  - (a) section 41 of the PDPA applies; or
  - (b) the Clearing House otherwise specifies in connection with the PDPA.
- (3) For the purposes of this Rule 1.10, ‘personal data’ shall have the same meaning given in section 4 of the PDPA.

[End of Chapter]

CHAPTER 2 ADMINISTRATION

PART A CLEARING HOUSE'S GENERAL POWERS

2.01 Exercise of powers

- (1) Subject to the provisions of the Securities Laws, the Clearing House may exercise its powers in such manner and on such terms as it considers necessary or expedient.
- (2) The powers of the Clearing House includes:
  - (a) making new rules;
  - (b) adding to, repealing, enforcing, waiving or modifying compliance with a Rule;
  - (c) administering, managing and formulating policies in relation to these Rules;
  - (d) issuing Directives for the purposes of or in connection with any of these Rules;
  - (e) interpreting conclusively any provision in these Rules and any Directives having regard to the spirit, intention, purpose and the substance of such Rules;
  - (f) granting, suspending or revoking the rights of any Clearing Participant or Registered Person;
  - (g) imposing terms and conditions in relation to any decision, approval or act done by the Clearing House in connection with these Rules at any time and subsequently at any time revoke, vary or amend such terms and conditions;
  - (h) enforcing directions given by the Commission;
  - (i) taking such actions as it may determine necessary in connection with the failure of any Clearing Participant to maintain the financial requirements pursuant to Chapter 3 of these Rules or to fully discharge any of its obligations to the Clearing House when due;
  - (j) determining the variables used to calculate the Performance Bond for all or any Clearing Participants;
  - (k) requiring a Clearing Participant or its Relevant Person to provide reports, information, Documents, Books and Records to the Clearing House in relation to any matter under these Rules;  
*[Refer to Directive No. 2.01(2)-001]*
  - (l) pursuant to a finding from any inspection or investigation on a Clearing Participant, requiring the Clearing Participant to take appropriate action against any of its employees or agents if such person caused the Clearing Participant to violate these Rules;
  - (m) undertaking a readiness audit on a Clearing Participant or requiring a Clearing Participant to carry out its own readiness audit, with the scope, criteria and manner to be determined by the Clearing House;  
*[Refer to Directive No. 2.01(2)-002]*
  - (n) imposing charges, fees (including clearing fees), expenses, disbursements or any other amount due to the Clearing House;

- (o) referring any act or conduct of a Clearing Participant or Registered Person to an appropriate authority;
  - (p) appointing a committee, sub-committee, officers of the Clearing House or an agent to exercise the Clearing House's powers under these Rules, where appropriate;
  - (q) requiring a Clearing Participant to provide on demand assurances in such form, to such extent and in such manner as is determined by the Clearing House to be appropriate by reference to, among other things, the level of exposure of such Clearing Participant to the Clearing House or such other matter as the Clearing House considers appropriate;
  - (r) limiting the Clearing House's exposure to all or any Clearing Participants;  
*[Refer to Directive No. 2.01(2)-003]*
  - (s) consolidating all Open Positions of a Seller or Buyer, whether held by the same Clearing Participant or different Clearing Participants, in such manner as it deems fit;  
*[Refer to Directive No. 2.01(2)-004]*
  - (t) undertaking any further, ancillary or consequential action pursuant to an initial decision or action taken by the Clearing House, the Commission or the Exchange in relation to a Clearing Participant or Registered Person;
  - (u) exercising all such other powers as may be necessary for purposes of monitoring compliance with and enforcement of these Rules and Directives;
  - (v) rectifying any error made in the provision of any of its services, facilities or operations;  
*[Refer to Directive No. 2.01(2)-005]*
  - (w) releasing the findings and results of any inspection or investigation, or testimony or documentation in connection with a disciplinary proceeding or appeal to the Commission, Exchange or any other relevant body or authority (in Malaysia or outside of Malaysia) as the Clearing House considers fit, or to such parties as the Clearing House considers fit for the purposes of the Clearing House's investigation, enforcement or both; and
  - (x) exercising any power and taking any action (including preventive or pre-emptive action) which in the opinion of the Clearing House is necessary to protect the integrity of the Clearing House.
- (3) The exercise of any specific powers conferred on the Clearing House in any other provision in these Rules does not prejudice or waive the exercise of any power by the Clearing House under Rule 2.01(2).
- (4) Where any provision of these Rules empowers, authorises or enables the Clearing House to do or enforce the doing of any act or thing, the Clearing House has all such powers or rights as may be necessary or reasonably incidental to the Clearing House doing or enforcing the doing of the act or thing.
- (5) A Clearing Participant and Registered Person must comply with and give effect to any Directives the Clearing House issues in exercising the powers under these Rules.

## **2.02 Disapplication of disciplinary proceedings in Chapter 12**

- (1) The disciplinary proceedings stipulated in Chapter 12 do not apply to any action described under these Rules as taken "summarily" by the Clearing House ("the Relevant Rules").

- (2) In taking any of the actions under the Relevant Rules, the Clearing House need not give a Clearing Participant or a Registered Person a prior opportunity to be heard.
- (3) Where an action is taken under the Relevant Rules a Clearing Participant or a Registered Person may make representations to the Clearing House to discontinue the action taken. The Clearing House may, after considering the representations made, discontinue with the action taken or take any other action it considers necessary in the circumstances. However, such discontinuance is not to be construed as an omission or error of any kind on the part of the Clearing House in taking the action under the Relevant Rules in the first place.
- (4) The Clearing House's decision after considering the representations made is final and binding on the Clearing Participant or Registered Person.

### **2.03 Validity of actions**

- (1) Any amendments to these Rules do not affect:
  - (a) the accrued rights of the Clearing House and the accrued obligations of Clearing Participants and Registered Persons under these Rules which are effective prior to the amendments; and
  - (b) any conditions, undertakings, decisions, waivers, act or thing imposed on or given by or done by Clearing Participants and Registered Persons prior to the amendments.
- (2) Any action proposed to be taken or is in the process of being taken or has been taken by the Clearing House in relation or pursuant to any earlier provisions of these Rules which have been subsequently amended will not be invalidated by any amendments to these Rules, even if the action is taken on or after the effective date of the amendments.
- (3) The Clearing House may apply the new penalties, rules and procedures on actions applicable from the effective date of the amendments.

### **2.04 Powers of the Exchange Holding Company**

- (1) Where any provision of these Rules confers a right or power on the Clearing House to do any act or thing, such right or power is also conferred on the Exchange Holding Company to do such act or thing on behalf of the Clearing House.
- (2) An applicant, a Clearing Participant, a Registered Person and other persons to whom these Rules are directed must comply with, observe or give effect to any action of the Exchange Holding Company pursuant to Rule 2.04(1).

### **2.05 Decisions of the Clearing House and right of appeal**

- (1) Any decision of the Clearing House is final and binding.
- (2) A person may only appeal against any action or decision taken or made by the Clearing House under these Rules if the right of appeal is expressly provided for under the relevant provisions of these Rules.
- (3) The Clearing House may affirm, vary or set aside the decision appealed against.

### **2.06 Parties affected by actions taken by the Clearing House**

A Clearing Participant and Registered Person must ensure that a proxy, agent, nominee or other person acting in concert with the Clearing Participant, Registered Person or Clients of a Clearing Participant complies with any direction issued by the Clearing House.

**PART B      PROTECTION OF CLIENT, PUBLIC AND CLEARING HOUSE'S INTEREST**

**2.07      Summary powers**

The Clearing House may summarily take such action that the Clearing House thinks fit against a Clearing Participant or Registered Person to protect the interests of Clients, the public or the Clearing House.

*[Refer to Directive No. 2.07-001]*

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**PART C EMERGENCY SITUATIONS**

**2.08 Circumstances upon which the Clearing House may take action**

Without prejudice to Rule 2.12, in order for the Clearing House to ensure an orderly and fair market or the orderly, clear and efficient clearing and settlement arrangements for Market Contracts, the Clearing House may take any or all of the actions specified in Rule 2.09 in the event of an emergency situation. An emergency situation includes:

- (a) a situation that threatens, or may threaten, the integrity or the liquidity of the market of the Exchange or any Market Contract;
- (b) a situation that threatens, or may threaten, the financial integrity of the Clearing House or its Clearing Participants;
- (c) any internal or external factors which are likely to have direct and adverse effect on the Clearing House;
- (d) a situation where the operations of the Clearing House are severely and adversely affected by the occurrence of any major incidents such as fire, power failure or computer malfunction; and
- (e) any other situation likely to have an adverse impact on the operation of an orderly and fair market or the orderly, clear and efficient clearing and settlement arrangements for Market Contracts.

**2.09 Actions**

- (1) The Clearing House may take any or all of the following actions in the situations referred to in Rule 2.08:
  - (a) suspend any of the provisions of these Rules or make or impose new temporary rules ("Emergency Rules") to ensure an orderly and fair market or the orderly, clear and efficient clearing and settlement arrangements for Market Contracts;
  - (b) direct any or all Clearing Participants to lodge additional cash or collateral with the Clearing House in respect of all or particular Open Contracts;
  - (c) reject or refuse to register Market Contracts, or place such conditions as it deems appropriate upon acceptance by the Clearing House of Market Contracts for registration;
  - (d) suspend the Participantship of any Clearing Participant whose financial condition or business conduct jeopardises or may jeopardise the financial integrity or the reputation of the Clearing House;
  - (e) suspend the whole or any part of the operations of the Clearing House's facilities or services available to the Clearing Participants for such duration as it sees fit;
  - (f) liquidate by cash settlement such Open Contracts as may be determined by the Clearing House at a price determined by the relevant Exchange or failing that, at a price determined by the Clearing House; or
  - (g) any other action which in its absolute discretion deems appropriate and which is consistent with these Rules.
- (2) All Emergency Rules made and imposed by the Clearing House are binding on all Clearing Participants and Relevant Persons for such period and in accordance with the terms and conditions stipulated by the Clearing House.



**PART D            LIABILITY AND INDEMNITY**

**2.10    Immunity**

- (1) A Clearing Participant does not have any cause of action against the following persons in respect of any act or decision taken in good faith in the discharge of such persons' duties pursuant to these Rules:
- (a) the Clearing House or the Exchange Holding Company;
  - (b) any person acting on behalf of the Clearing House or the Exchange Holding Company, including:
    - (i) any member of the board or committee or sub-committee of the Clearing House or the Exchange Holding Company;
    - (ii) any officer of the Clearing House or Exchange Holding Company;
    - (iii) any agent of, or any person acting under the direction of the Clearing House or Exchange Holding Company.
- (2) Rule 2.10(1) is in addition to and does not substitute any immunity or defence available under statute or law.

**2.11    Force Majeure**

- (1) Without affecting the generality of Rule 2.10, the Clearing House is not liable for any failure, hindrance or delay in the following matters if such failure, hindrance or delay arises out of causes beyond the Clearing House's control:
- (a) the provision of services to or in giving effect to any instructions from the Clearing Participant with respect to its clearing and settlement or other services; or
  - (b) the performance in whole or in part of its obligations under these Rules or under any Open Contract.
- (2) Such causes may include military authority, embargoes, fire, flood, explosion, accidents, labour disputes, mechanical breakdowns, computer or system failure, defects in computer or system software, interruptions of power supply or other utilities or service, any law, decree, regulations or orders of government or courts.
- (3) Rule 2.11(1) is in addition to and does not substitute any immunity or defence available under statute or law.

**2.12    Limitation of liability**

- (1) The Clearing House is not liable for any damage, loss, cost or expense of whatever nature suffered or incurred by a Clearing Participant or any third party arising from or in connection with a Clearing Participant's failure to comply with or observe these Rules or the obligations of a Clearing Participant to any third party nor does the Clearing House assume under these Rules or under any Open Contract any liability or obligation to any person other than a Clearing Participant in accordance with these Rules.
- (2) Liability of the Clearing House to a Clearing Participant is limited to losses directly resulting from its non-performance to such Clearing Participant of its contractual obligations in accordance with these Rules under Open Contracts to which that Clearing Participant is counterparty.

- (3) Despite anything else contained in these Rules, except Rule 2.12(2), the Clearing House is not liable in anyway whatsoever to Clearing Participants for an act or omission of the Clearing House or its employees, officers or agents unless such act or omission is due to the negligence, willful misconduct or fraud of the Clearing House or its employees, officers or agents.
- (4) For the avoidance of any doubt, the Clearing House is not liable for any special, indirect or consequential losses or damages or for the loss of business, revenue, goodwill, bargain or loss of profit suffered by any Clearing Participant, even if the Clearing House has been notified of the possibility of these damages being incurred.
- (5) The Clearing House is also not liable for any damage, loss, cost or expense of whatever nature suffered or incurred by a Clearing Participant or any third party arising from or in connection with the following:
- (a) the exercise or non-exercise by the Clearing House of any discretion or decision making power under these Rules;
  - (b) the insolvency or the acts or omission of the Exchange;
  - (c) the insolvency or the acts or omission of the Clearing House's Settlement Bank(s);
  - (d) the inaccuracy of any information supplied to and relied on by the Clearing House (including but not limited to any error in the establishment of a settlement price made by the Exchange) or the Exchange;
  - (e) the inability of the Clearing House to perform its function as a result of the invalidity or cancellation of any insurance or assurance, provided that the effecting of such insurance or assurance and the selection of the insurer by the Clearing House is not unreasonable at the time of selection; and
  - (f) any erroneous instruction, statement or report issued by the Clearing House as a result of any processing of or reliance on any erroneous instruction, report or statement issued to the Clearing Participant with respect to any service, facility or operations provided by the Clearing House or with respect to any rectification of any such erroneous report or statement issued by the Clearing House.
- (6) This Rule 2.12 is in addition to and should not affect the generality of Rule 2.10.

### **2.13 Indemnity**

Each Clearing Participant must indemnify the Clearing House, its agents, representatives, directors, officers and employees and hold each of them harmless against all costs, fees, expenses, liabilities, taxes, assessment, damages and losses of any nature suffered or incurred by the Clearing Participant directly or indirectly as a result of or in connection with the following matters:

- (a) the participation in any of the services or facilities of the Clearing House by the Clearing Participant or the Clearing Participant's activities in any of the services or facilities and all matters relating to such participation or activities as contemplated in these Rules;
- (b) the failure by the Clearing Participant to comply with the provisions of any laws, these Rules and any agreement (including without limitation the representations and warranties contained therein) or to comply with any conditions imposed on the Clearing Participant;
- (c) the actions and omissions by the Clearing House, its agents, nominees, employees, directors, officers and representatives in reliance on any instructions or communication believed in good faith by any of them to have been given by or on behalf of the Clearing Participant, or the failure of the Clearing Participant to give instruction to the Clearing House as contemplated in these Rules; and

- (d) the exercise or non-exercise by the Clearing House of its powers under these Rules in particular the exercise or non-exercise of powers under Chapters 2, 9, 10 and 12, or the determination by the Clearing House of the satisfaction or non-satisfaction of any condition for the exercise of such powers.

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**PART E      DISCLOSURE OF INFORMATION**

**2.14    Disclosure of information regarding Clearing Participants**

- (1)    The Clearing House may, where it considers appropriate, publish or disclose information regarding its Clearing Participants and their activities to the following persons:
- (a)    the Commission;
  - (b)    the Exchange;
  - (c)    a central depository established pursuant to the Securities Industry (Central Depositories) Act 1991;
  - (d)    a clearing house approved under the Act;
  - (e)    any other statutory body, governmental agency or regulatory authority;
  - (f)    the Clearing Participants; and
  - (g)    any person if the Clearing House feels that such disclosure is in the general interest of the Clearing House or its Clearing Participant or is necessary or desirable for the proper performance of the Clearing House's functions.
- (2)    For the purposes of this Rule, the information that the Clearing House may publish or disclose includes:
- (a)    all information or documents relating to transactions in respect of any contract traded on the Approved Market or any transactions cleared through the Clearing House or relating to any Clearing Participant or Client in respect of such contract or transaction; or
  - (b)    any action taken against a Clearing Participant or Registered Person by the Clearing House under these Rules.

[End of Chapter]

**CHAPTER 3 CLEARING PARTICIPANTS AND REGISTERED PERSONS**

**PART A CLASSES AND RIGHTS OF CLEARING PARTICIPANTS**

**3.01 Participantship Classes**

The classes of participantship are:

- (a) General Clearing Participants;
- (b) Direct Clearing Participants; and
- (c) such other class of participants as the Clearing House may specify.

**3.02 Rights of General Clearing Participants**

A General Clearing Participant may, subject to these Rules or unless otherwise notified by the Clearing House:

- (a) clear its own Open Contracts and Open Contracts of third parties; and
- (b) participate in the services provided through the Clearing facilities of the Clearing House.

**3.03 Rights of Direct Clearing Participants**

A Direct Clearing Participant may, subject to these Rules or unless otherwise notified by the Clearing House:

- (a) clear only its own Open Contracts and the Open Contracts of its Related Corporations entered into on a proprietary basis; and
- (b) participate in the services provided through the Clearing facilities of the Clearing House.

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**PART B      ADMISSION OF CLEARING PARTICIPANTS**

**3.04 Eligibility - General Clearing Participant**

To be eligible for admission as a General Clearing Participant, an applicant must:

- (a) be a corporation with the requisite financial and business standing and repute;
- (b) have a minimum issued and paid-up capital and shareholders' funds unimpaired by losses of RM10 million ("**the Minimum Capital Requirements**") or where applicable, the following, if the requirements are higher than the Minimum Capital Requirements:
  - (i) for an entity licensed by the Central Bank, as determined by the Central Bank;
  - (ii) for an entity which is a Participating Organisation of the Stock Exchange, as determined by the Stock Exchange;
- (c) have sufficient resources and adequate systems for the proper performance of the business of Clearing, including maintaining adequate staff and facilities and in particular:
  - (i) ensuring orderly and expeditious accounting of its business of Clearing and timely reporting and reconciliation of all transactions;
  - (ii) preserving a sound liquidity and financial position at all times;
  - (iii) maintaining sufficient liquidity for its day to day operations; and
  - (iv) ensuring an adequate risk management framework;
- (d) meet the minimum financial requirements pursuant to Rule 3.18;
- (e) hold a valid Capital Markets Services Licence for carrying on the business of Clearing;
- (f) lodge a Security Deposit in accordance with Rule 3.15;
- (g) lodge a Clearing Fund Contribution in accordance with Rule 3.17;
- (h) make payment to the Clearing House of such admission fee as may be determined by the Clearing House; and
- (i) meet such other criteria as may be determined by the Clearing House.

**3.05 Eligibility - Direct Clearing Participant**

To be eligible for admission as a Direct Clearing Participant, an applicant must:

- (a) be a corporation with the requisite financial and business standing and repute;
- (b) have a minimum issued and paid-up capital of RM2 million and shareholders' funds unimpaired by losses of at least RM2 million or such other amounts as the Clearing House may prescribe;
- (c) have sufficient resources and adequate systems for the proper performance of the business of Clearing, including maintaining adequate staff and facilities and in particular:
  - (i) ensuring orderly and expeditious accounting of its business of Clearing and timely reporting and reconciliation of all transactions;

- (ii) preserving a sound liquidity and financial position at all times;
- (iii) maintaining sufficient liquidity for its day to day operations; and
- (iv) ensuring an adequate risk management framework;
- (d) meet the minimum financial requirements pursuant to Rule 3.19;
- (e) lodge a Security Deposit in accordance with Rule 3.15;
- (f) lodge a Clearing Fund Contribution in accordance with Rule 3.17;
- (g) lodge a Direct Clearing Participant Deposit in accordance with Rule 3.16;
- (h) make payment to the Clearing House of such admission fee as may be determined by the Clearing House; and
- (i) meet such other criteria as may be determined by the Clearing House.

### **3.06 Considerations for suitability as a Clearing Participant**

In addition to the eligibility criteria specified in Rule 3.04 or 3.05, as the case may be, the Clearing House may take account of all such considerations as it deems fit in determining the suitability of the applicant for admission including the following:

- (a) financial integrity;
- (b) competence;
- (c) good reputation and character; and
- (d) efficiency and honesty.

### **3.07 Application Procedure**

- (1) To become a Clearing Participant, an applicant must:
  - (a) apply to the Clearing House in accordance with the Clearing House's requirements; and  
*[Refer to Directive 3-001 and Admission Guidelines]*
  - (b) satisfy the eligibility criteria stated in Rule 3.04 or 3.05, as the case may be.
- (2) Admission as a Clearing Participant is at the Clearing House's absolute discretion.
- (3) Even if the applicant meets the eligibility criteria under Rule 3.04 or 3.05, as the case may be, the Clearing House may reject the applicant's application for Partnership if:
  - (a) the applicant does not provide information relating to the application as the Clearing House requires;
  - (b) any information or document that is furnished by the applicant to the Clearing House is false or misleading;
  - (c) the applicant has failed to comply with any other requirement of the Securities Laws or these Rules;

- (d) the applicant is the subject of an investigation or proceeding involving an allegation of fraud or dishonesty, whether in or out of Malaysia;
- (e) the admission of the applicant is not in the interest of an orderly or fair market; or
- (f) the Clearing House is of the opinion that the admission of the applicant may affect the optimum utilisation of the Clearing House's facilities, taking into account risk management and any other considerations.

### **3.08 Admission**

Once approved, the applicant will be admitted as a Clearing Participant and the applicant's name will be entered into the Register of CPs and RPs.

### **3.09 Right of appeal**

- (1) If the Clearing House rejects an application to be a Clearing Participant, the applicant may appeal in writing to the Clearing House within 14 days after the applicant is notified of the Clearing House's decision.
- (2) The Clearing House's decision on appeal is final and binding on the appellant.

### **3.10 Conditions precedent**

An applicant approved to be a Clearing Participant must comply with the following requirements before it can utilise the services or facilities of the Clearing House:

- (a) enter into such agreement with the Clearing House or such other third party as the Clearing House deems necessary;
- (b) pay to the Clearing House all the relevant application fees, admission fees and other charges imposed by the Clearing House;
- (c) register its proposed Registered Persons under these Rules; and
- (d) comply with such other conditions that the Clearing House may have imposed when approving the application.

### **3.11 Investment Bank**

In relation to a General Clearing Participant that acquires the status of an Investment Bank after its admission under Chapter 3 of these Rules, the said General Clearing Participant must notify the Clearing House in writing of the same at least 7 days (or such other time as may be determined by the Clearing House) prior to the commencement of its business as an Investment Bank, which notification must be accompanied with such information or Documents as may be required by the Clearing House.



**PART C OBLIGATIONS OF CLEARING PARTICIPANTS**

**3.12 Continuing Obligations**

Throughout a Clearing Participant's Participantsip, it must:

- (a) continuously satisfy the eligibility criteria stated in Rule 3.04 or 3.05, as the case may be;
- (b) comply with and give effect to the Act and the Commission's requirements;
- (c) comply with and give effect to these Rules whether or not the provisions are directed at the Clearing Participant specifically, any agreement the Clearing Participant enters into with the Clearing House and any undertaking given to the Clearing House whether before or after admission as a Clearing Participant;
- (d) comply with any condition of admission imposed by the Clearing House and such further conditions as the Clearing House may impose;
- (e) register its business address with the Clearing House and not change the business address without the Clearing House's prior approval;
- (f) notify the Clearing House in writing of any changes in the name of the Clearing Participant, contact person and contact details contained in the records of the Clearing House within such time as determined by the Clearing House;  
  
[Refer to Directive 3-001]
- (g) not go into voluntary liquidation or apply for any order under Section 366 of the Companies Act 2016 without the Clearing House's prior written approval;
- (h) if it is also a Trading Participant, comply with the Exchange Rules and with the decisions of the Exchange;
- (i) cooperate with the Clearing House to the best of its abilities to facilitate the Clearing House in carrying out its functions; and
- (j) comply with any reasonable requests of the Clearing House.

**3.13 Confidentiality**

If a finding or result of any inspection or investigation, or testimony or documentation in connection with a disciplinary proceeding or appeal under these Rules is disclosed to a Clearing Participant or Relevant Person, the Clearing Participant and Relevant Person must keep such findings or results confidential and must not disclose the findings or results to any person except:

- (a) the Commission, any authorised officer of the Commission or any investigating governmental authority or agency; or
- (b) where necessary, for the procurement of legal or expert advice in relation to the inspection, investigation, disciplinary proceeding or appeal, provided that the disclosure is restricted to the relevant persons and strictest confidentiality is maintained.

**3.14 Fees**

- (1) A Clearing Participant must pay such fees, charges, expenses, disbursements or any other amount due to the Clearing House in the manner and within the period the Clearing House specifies.
- (2) Where a Clearing Participant omits to pay the Clearing House any fees, charges, expenses, disbursements or any other amount due within the period the Clearing House has specified in accordance with Rule 3.14(1), the Clearing House will issue a written demand for payment stipulating the period for the outstanding payment to be made. If the amount due is not paid within the period stipulated in the written demand, the Clearing House may summarily suspend, terminate or take any other action the Clearing House thinks fit against the Clearing Participant and will notify the Clearing Participant concerned in writing.
- (3) All fees or charges which are due and unpaid by a Clearing Participant who has ceased to be a Clearing Participant or whose participation has been suspended will remain due and payable by the Participant regardless of the suspension.

**3.15 Security Deposit**

- (1) Each Clearing Participant must lodge a Security Deposit of at least RM1 million in the form of cash and/or Approved Collateral.
- (2) The Clearing House may, having regard to the following factors, request that Clearing Participant to increase the amount of the Security Deposit lodged by the Clearing Participant:
  - (a) the obligations of and performance risk undertaken by the Clearing House in respect of the Open Contracts to which a Clearing Participant is a party;
  - (b) market volume;
  - (c) price volatility; or
  - (d) such other matters as the Clearing House may consider relevant.
- (3) If the Clearing House makes such a request to a Clearing Participant, the Clearing Participant must lodge the additional amount in the form of cash and/or Approved Collateral within such time as the Clearing House specifies.
- (4) A Clearing Participant's Security Deposit is at all times available to the Clearing House to apply towards the satisfaction of that Clearing Participant's obligations to the Clearing House.
- (5) The Security Deposit is in addition to and independent of any other sums payable to the Clearing House by the Clearing Participant.
- (6) The Clearing House will revalue any Approved Collateral lodged with it pursuant to Rule 3.15(1) at such frequency as the Clearing House may specify or at such other times as may be determined by the Clearing House.
- (7) If the value of a Clearing Participant's Security Deposit falls below RM1 million or such higher amount as the Clearing House may have required from that Clearing Participant under Rule 3.15(1), the Clearing Participant must provide the deficit in the form of cash and/or Approved Collateral within such time as the Clearing House specifies.
- (8) Any cash or Approved Collateral lodged in accordance with Rule 3.15(1) which is in excess of the amount required by the Clearing House may be withdrawn by the Clearing Participant upon notice being given to the Clearing House in such manner as the Clearing House specifies.
- (9) The Clearing House may invest, manage and mobilise all cash received in respect of Security Deposits in such manner as the Clearing House deems fit or expedient.

**3.16 Direct Clearing Participant Deposit**

- (1) Each Direct Clearing Participant must lodge a Direct Clearing Participant Deposit in cash and/or Approved Collateral, the amount to be maintained at all times which is the higher of:
  - (a) RM500,000; or
  - (b) 10% or such other percentage as may be determined by the Clearing House of the total amount paid by the Direct Clearing Participant to the Clearing House in respect of all or any of the Margins payable under these Rules or such other amount the Clearing House deems fit having regard to the Direct Clearing Participant's exposure to other clearing house organisations.
- (2) The Clearing House may, having regard to the following factors, request that a Direct Clearing Participant increase the amount of the Direct Clearing Participant Deposit lodged by the Direct Clearing Participant:
  - (a) the obligations of and performance risk undertaken by the Clearing House in respect of the Open Contracts to which a Direct Clearing Participant is a party;
  - (b) market volume;
  - (c) price volatility; or
  - (d) such other matters as the Clearing House may consider relevant.
- (3) If the Clearing House makes such a request to a Direct Clearing Participant, the Direct Clearing Participant must lodge the additional amount in the form of cash and/or Approved Collateral within such time as the Clearing House determines.
- (4) A Direct Clearing Participant's Direct Clearing Participant Deposit is at all times available to the Clearing House to apply towards the satisfaction of that Direct Clearing Participant's obligations to the Clearing House.
- (5) The Direct Clearing Participant Deposit is in addition to and independent of any other sums payable to the Clearing House by the Direct Clearing Participant.
- (6) If the value of a Direct Clearing Participant's Direct Clearing Participant Deposit falls below RM500,000 or such higher amount as the Clearing House may have required from that Clearing Participant under Rule 3.16(1), the Direct Clearing Participant must provide the deficit in the form of cash and/or Approved Collateral within such time as the Clearing House specifies.
- (7) Any cash or Approved Collateral lodged in accordance with Rule 3.16(1), which is in excess of the amount required by the Clearing House may be withdrawn by the Direct Clearing Participant upon notice being given to the Clearing House in such manner as the Clearing House determines.
- (8) The Clearing House may invest, manage and mobilise all cash received in respect of Direct Clearing Participant Deposits in such manner as the Clearing House deems fit or expedient.

**3.17 Contribution to Clearing Fund**

Every Clearing Participant must maintain its Clearing Fund Contribution in accordance with Chapter 9.

**3.18 Minimum financial requirements for General Clearing Participants**

- (1) Each General Clearing Participant must at all times:

- (a) comply with the accounting, reporting, book-keeping and other financial and operational requirements which the Clearing House may specify;

*[Refer to Directive 3-001]*

- (b) where it is a Participating Organisation which is not an Investment Bank, maintain the capital adequacy requirements imposed by the Stock Exchange;
- (c) where it is a Bank Clearing Participant, maintain the capital adequacy requirements imposed by the Central Bank; and
- (d) in any other case, maintain its Adjusted Net Capital at the higher of:
  - (i) RM500,000; or
  - (ii) 10% or such other percentage as may be determined by the Clearing House of the total amount paid by the Clearing Participant to the Clearing House in respect of all or any of the Margins payable under these Rules or such other amount the Clearing House deems fit having regard to the General Clearing Participant's exposure to other clearing house organisations.

- (2) Notwithstanding the provisions of Rule 3.18(1), the Clearing House may establish higher minimum financial requirements for one or more Clearing Participants on the basis of volume, open positions carried, nature of business conducted or to be conducted or such other criteria as the Clearing House may consider relevant.

### **3.19 Minimum financial requirements for Direct Clearing Participants**

- (1) Each Direct Clearing Participant must at all times:

- (a) comply with the accounting, reporting, book-keeping and other financial and operational requirements which the Clearing House may specify;

*[Refer to Directive 3-001]*

- (b) maintain Net Tangible Assets of not less than RM5 million, or a corporate guarantee of not less than RM5 million; and
- (c) lodge a Direct Clearing Participant Deposit in accordance with Rule 3.16.

- (2) Notwithstanding the provisions of Rules 3.19(1), the Clearing House may establish higher minimum financial requirements for one or more Direct Clearing Participants on the basis of volume, open positions carried, nature of business conducted or to be conducted or such other criteria as the Clearing House may consider relevant.

### **3.20 Notice of failure by General Clearing Participants**

A General Clearing Participant must immediately notify the Clearing House and provide such information as may be required by the Clearing House if:

- (a) the Adjusted Net Capital of the General Clearing Participant is reduced below the minimum level prescribed under these Rules; or
- (b) the General Clearing Participant fails to meet any other financial requirements which the Clearing House may specify.

**3.21 Notice of failure by Direct Clearing Participant**

A Direct Clearing Participant must immediately notify the Clearing House and provide such information as may be required by the Clearing House if it fails to meet any financial requirements which the Clearing House may specify, including if its:

- (a) Net Tangible Assets; or
- (b) Direct Clearing Participant Deposit;

is reduced below the minimum level prescribed under these Rules.

**3.22 Other notice**

A Clearing Participant must immediately notify the Clearing House of any event or state of affairs which has or may have a material adverse impact on its financial position or its ability to perform any of its obligations under these Rules or which may interfere with its ability to conduct its business in a normal manner.

*[Refer to Directive 3-001]*

**3.23 Early warning financial requirements**

A Clearing Participant must comply with such early warning financial requirements that the Clearing House may prescribe.

*[Refer to Directive 3-001]*

**3.24 Audited reports**

A Clearing Participant must furnish a copy of its Audited Accounts to the Clearing House within 3 Months of the end of its Financial Year or within such longer period as may be permitted in writing by the Clearing House.

**3.25 Banking arrangements**

- (1) Each Clearing Participant must maintain such arrangements, including alternative arrangements, with such bank(s) as may be prescribed by the Clearing House to permit the transfer of funds between the Clearing Participant and the Clearing House.
- (2) The transfer of funds between the Clearing Participant and the Clearing House will be irrevocable upon the crediting of the Clearing House's or the Clearing Participant's bank account, whichever applicable.

**3.26 Clearing Participant to include other persons**

A Clearing Participant is responsible to the Clearing House for all acts or omissions of its owners, principals, directors, officers, employees, trainees, agents, service providers and sub-contractors.

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**PART D            TRANSFER, SUSPENSION & CESSATION OF PARTICIPANTSHIP**

**3.27    Transfer of Clearing Participantship**

A Clearing Participant is not permitted to transfer its Participantship in the Clearing House to any other person.

**3.28    Circumstances for suspension**

The Clearing House may summarily suspend the Clearing Participant's Participantship or its participation in any one or more or all of its services and facilities, if:

- (a) the Clearing Participant ceases its business or a material part of its business as determined by the Clearing House;
- (b) the Clearing Participant is the subject of an adverse finding by any regulatory body or competent authority to which it is subject;
- (c) any licence, authority, permission, exemption, authorisation or other similar grant to the Clearing Participant to conduct its business has been withdrawn, suspended or revoked by any competent authority or regulatory body to which it is subject;
- (d) winding-up, liquidation or any such proceedings is commenced in relation to the Clearing Participant or if the Clearing House considers that the occurrence of such an event is imminent or likely;
- (e) a receiver or manager is appointed over the assets or property of the Clearing Participant or if the Clearing Participant suffers a composition with its creditors or if a scheme of arrangement is approved by the courts or if the Clearing House considers that the occurrence of such an event is imminent or likely; or
- (f) any distress, execution or other process being levied or enforced or served upon or against the Clearing Participant.

**3.29    Notification of suspension of Participantship or participation**

The Clearing House will inform the Clearing Participant of the suspension of the Clearing Participants' Participantship or participation in one or more of the services and such suspension will take effect as prescribed in the notice and will continue until the suspension period expires or such earlier time as the Clearing House deems fit to lift the suspension.

**3.30    Continuing Liability**

The suspension of its Participantship or participation in one or more of the services will not in any way diminish any liability which the Clearing Participant may have to the Clearing House or any other Clearing Participant or any Client of the Clearing Participant where such liability arises from the Participantship up to the date of the suspension and such liability shall continue to subsist until it is fully satisfied or discharged.

**3.31    Resignation**

- (1) A Clearing Participant may resign by giving at least 30 days written notice to the Clearing House and the resignation takes effect at the later of either the expiration of that period or:
  - (a) when the Clearing Participant is no longer a counterparty to any Open Contract;

- (b) there are no further obligations or liabilities owed by the Clearing Participant to the Clearing House and its Clients; and
  - (c) the Clearing Participant has presented to the Clearing House such indemnities and guarantees as the Clearing House in its sole discretion may require.
- (2) The acceptance of the resignation is at the absolute discretion of the Clearing House.
  - (3) A Clearing Participant who has served a notice referred to in Rule 3.31(1) is only entitled to submit to the Clearing House for registration of Market Contracts which have the effect of reducing the Clearing Participant's Open Position.
  - (4) If the resignation is accepted, the Clearing House will notify each Exchange of the effective date of resignation.
  - (5) The resigning Clearing Participant's name will be removed from the Register of CPs and RPs on the effective date of resignation.
  - (6) The resignation of a Clearing Participant does not in any way affect any pre-existing liability which that Clearing Participant may have incurred to the Clearing House.

**3.32 Continuing Liability**

- (1) A former Clearing Participant remains liable to disciplinary action for any breach of these Rules issued by the Clearing House committed during the period while it was a Clearing Participant.
- (2) A former Clearing Participant must retain all its records for at least 7 years from the date of cessation and produce such record in a legible form to the Clearing House upon demand.
- (3) All provisions in these Rules continue to apply in respect of the former Clearing Participant to the extent required to give effect to Rules 3.32(1) and (2).

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**PART E REGISTERED PERSONS**

**3.33 Obligation to appoint and register specific persons**

A General Clearing Participant must register the following persons with the Clearing House:

- (a) the person who is responsible for the overall clearing business as the Responsible Person for Overall Clearing Business;
- (b) the person who is responsible for risk management as the Responsible Person for Risk Management; and
- (c) the person who is responsible for compliance functions as the Compliance Officer.

**3.34 Registration procedures**

- (1) To register a proposed Registered Person under Rule 3.33, a General Clearing Participant must:
  - (a) submit the relevant documents to the Clearing House in accordance with the Clearing House's requirements; and
  - (b) make the application only in respect of a person that satisfies the relevant eligibility criteria applicable for the relevant category of Registered Person as stated in these Rules.
- (2) Registration as a Registered Persons is at the Clearing House's absolute discretion.
- (3) Even if the proposed Registered Person meets the relevant criteria under these Rules, the Clearing House may reject an application for registration as a Registered Person if:
  - (a) the information relating to the application as the Clearing House requires is not provided;
  - (b) any information or document that is furnished to the Clearing House is false or misleading;
  - (c) the proposed Registered Person has failed to comply with any other requirement of the Securities Laws or these Rules;
  - (d) the proposed Registered Person is the subject of an investigation or proceeding involving an allegation of fraud or dishonesty, whether in or out of Malaysia; or
  - (e) the conduct of the proposed Registered Person is not in the interest of an orderly and fair market.

*[Refer to Directive 3-001 and Admission Guidelines]*

**3.35 Right of appeal**

- (1) If the Clearing House rejects an application for registration under Rule 3.34, the General Clearing Participant may appeal in writing to the Clearing House within 14 days after the General Clearing Participant is notified of the Clearing House's decision.
- (2) The Clearing House's decision on appeal is final and binding on the appellant.



**3.36 Prohibition on performing functions until registered**

No person may perform the functions of a Registered Person of a General Clearing Participant unless registered with the Clearing House as such.

**3.37 Obligations of Registered Persons**

Throughout a Registered Person's registration, a Registered Person must:

- (a) continuously satisfy the eligibility criteria applicable to that Registered Person;
- (b) comply with and give effect to the Securities Laws and the Commission's requirements;
- (c) comply with and give effect to these Rules and to any undertaking given to the Clearing House whether before or after registration as a Registered Person and must not:
  - (i) cause, aid or abet a breach of these Rules by a General Clearing Participant; or
  - (ii) permit, either knowingly or where the Registered Person had reasonable means of obtaining such knowledge, a General Clearing Participant to commit a breach by these Rules;
- (d) act honestly and in the best interest of the Client and the General Clearing Participant;
- (e) carry out the Registered Person's duties in a manner that contributes to the maintenance of an orderly and fair market;
- (f) effectively discharge the Registered Person's duties while in office;
- (g) not act in a manner that may compromise the Registered Person's function and position;
- (h) comply with the Rules of the Exchange, where the same is relevant to that Registered Person;
- (i) comply with and give effect to the structures, policies, procedures and internal controls implemented by the General Clearing Participant pursuant to Rule 4.02;
- (j) exercise all such diligence to prevent the commission of a breach of these Rules by the General Clearing Participant, having regard to the nature of the Registered Person's functions in the General Clearing Participant and to all relevant circumstances; and
- (k) identify and manage any potential or actual conflict of interests in relation to the discharge of obligations and functions under the Act and these Rules.

**3.38 Notice of cessation**

A General Clearing Participant must notify the Clearing House within 14 days after the effective date of a Registered Person ceasing to hold the relevant office.

**3.39 Vacancy of Registered Person**

- (1) The General Clearing Participant must fill a vacancy in the Registered Person's office within 6 months from the date the vacancy occurs.

- (2) In the interim, the General Clearing Participant must identify a person and require that person to temporarily assume the responsibility for the functions of the vacated office. The General Clearing Participant must ensure that the person:
- (a) has the relevant experience and seniority to undertake the relevant functions;
  - (b) complies with these Rules except for the requirement for the Commission's approval to be appointed to the relevant vacated office or registration with the Commission; and
  - (c) undertakes such functions only for a period not exceeding 6 months.
- (3) The General Clearing Participant must notify the Clearing House of the person assuming responsibility for the functions of the vacated office.

*[Refer to Admission Guidelines]*

### **3.40 Summary de-registration**

- (1) The Clearing House may summarily strike off a Registered Person from the Register of CPs and RPs if the Registered Person:
- (a) becomes of unsound mind;
  - (b) is made bankrupt, whether in or out of Malaysia;
  - (c) is convicted, whether within or outside Malaysia, of an offence involving fraud or other dishonesty or violence or the conviction of which involved a finding that he acted fraudulently or dishonestly; or
  - (d) is convicted of an offence under the Securities Laws.
- (2) A General Clearing Participant and Registered Person must immediately notify the Clearing House in writing upon becoming aware of any of the above circumstances.

### **3.41 Continuing Liability**

A former Registered Person remains subject to disciplinary action for any breach of these Rules committed during the period while the person was a Registered Person and all provisions in these Rules continue to apply in respect of the former Registered Person to the extent required to give effect to this Rule 3.41.

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**PART F RESPONSIBLE PERSON FOR OVERALL CLEARING BUSINESS**

**3.42 Requirement**

- (1) A General Clearing Participant must appoint at least 1 Responsible Person for Overall Clearing Business.
- (2) A General Clearing Participant that appoints more than 1 Responsible Person for Overall Clearing Business must:
  - (a) clearly delineate and document the area and scope of responsibility of each person at the time of appointment and if there is any change in the area and scope of responsibility, the Clearing Participant must update the relevant documentation accordingly; and
  - (b) have all activities of the Clearing Participant's business relating to clearing Market Contracts fall under the responsibility of at least 1 Responsible Person for Overall Clearing Business.
- (3) All Responsible Persons for Overall Clearing Business are jointly responsible for any area of activities relating to clearing Market Contracts that has not been assigned by the General Clearing Participant to be within the responsibility of any Responsible Person for Overall Clearing Business.
- (4) Where a General Clearing Participant outsources its Clearing functions to the Group under Rule 4.19, the General Clearing Participant must ensure that:
  - (a) the Group designates at least 1 dedicated Responsible Person for Overall Clearing Business to ensure that the relevant functions as stated in Rule 3.44 are carried out; and
  - (b) the dedicated Responsible Person for Overall Clearing Business is registered with the Clearing House in accordance with Part E of this Chapter 3.

**3.43 Eligibility criteria**

A Responsible Person for Overall Clearing Business appointed by the General Clearing Participant must fulfil the following requirements:

- (a) is registered by the Commission as a Responsible Person for Overall Clearing Business; and
- (b) is registered with the Clearing House as a Responsible Person for Overall Clearing Business in accordance with these Rules.

**3.44 Obligations**

Throughout the Responsible Person for Overall Clearing Business' registration, the Responsible Person for Overall Clearing Business must continuously satisfy the eligibility criteria stated in Rule 3.43 and be responsible for:

- (a) all the activities of the General Clearing Participant in relation to the business of clearing Market Contracts;
- (b) the compliance by the General Clearing Participant with these Rules; and
- (c) submitting to the Clearing House such reports and information as may be required by the Clearing House.

**PART G RESPONSIBLE PERSON FOR RISK MANAGEMENT**

**3.45 Requirement**

- (1) A General Clearing Participant must appoint at least 1 Responsible Person for Risk Management.
- (2) A General Clearing Participant that appoints more than 1 Responsible Person for Risk Management must:
  - (a) clearly delineate and document the area and scope of responsibility of each Responsible Person for Risk Management at the time of appointment and if there is any change in the area and scope of responsibility, the Clearing Participant must update the relevant documentation accordingly; and
  - (b) have every area relating to the risk management functions of the General Clearing Participant fall under the responsibility of at least 1 Responsible Person for Risk Management.
- (3) All Responsible Persons for Risk Management are jointly responsible for any area relating to the risk management function of the General Clearing Participant that has not been assigned by the General Clearing Participant to be within the responsibility of any Responsible Person for Risk Management.
- (4) Where a General Clearing Participant outsources its risk management functions to the Group under Rule 4.19, the General Clearing Participant must ensure that:
  - (a) the Group designates at least 1 dedicated Responsible Person for Risk Management to ensure that the relevant functions as stated in Rule 3.47 are carried out; and
  - (b) the dedicated Responsible Person for Risk Management is registered with the Clearing House in accordance with Part E of this Chapter 3.

**3.46 Eligibility criteria**

A Responsible Person for Risk Management appointed by the General Clearing Participant must fulfil the following requirements:

- (a) is registered by the Commission as a Responsible Person for Risk Management; and
- (b) is registered with the Clearing House as a Responsible Person for Risk Management in accordance with the Rules.

**3.47 Obligations**

Throughout the Responsible Person for Risk Management's registration, the Responsible Person for Risk Management must continuously satisfy the eligibility criteria stated in Rule 3.46 and be responsible for:

- (a) the risk management functions of the General Clearing Participant in relation to the business of clearing Market Contracts;
- (b) the compliance by the General Clearing Participant with the Rules on matters relating to risk management; and
- (c) submitting to the Clearing House such reports and information as may be required by the Clearing House.

**PART H      COMPLIANCE OFFICER**

**3.48 Requirement**

- (1) A General Clearing Participant must appoint at least 1 Compliance Officer.
- (2) A General Clearing Participant that appoints more than 1 Compliance Officer must:
  - (a) clearly delineate and document the area and scope of responsibility of each person at the time of appointment and if there is any change in the area and scope of responsibility, update the relevant documentation accordingly; and
  - (b) have every area relating to the compliance functions fall under the responsibility of at least 1 Compliance Officer.
- (3) All Compliance Officers of a General Clearing Participant are jointly responsible for any area relating to the compliance function that has not been assigned by the General Clearing Participant to be within the responsibility of any Compliance Officer.
- (4) Where a General Clearing Participant outsources its compliance functions to the Group under Rule 4.19, the General Clearing Participant must ensure that:
  - (a) the Group designates at least 1 dedicated Compliance Officer to ensure that the relevant functions as stated in Rule 3.50 are carried out; and
  - (b) the dedicated Compliance Officer is registered with the Clearing House in accordance with this Part E of this Chapter 3.

**3.49 Eligibility criteria**

A Compliance Officer appointed by a General Clearing Participant must fulfill the following requirements:

- (a) is approved by the Commission as a Compliance Officer; and
- (b) is registered with the Clearing House as a Compliance Officer in accordance with the Rules.

**3.50 Obligations**

Throughout the Compliance Officer's registration, the Compliance Officer must be responsible for:

- (a) ensuring that the supervisory responsibilities in relation to compliance of these Rules are carried out and matters pertaining to compliance are highlighted to the General Clearing Participant's board of directors or in the case of an Investment Bank, to the board of directors or committee to whom the head of compliance is required to report under the Guidelines on Investment Bank;

*[Refer to Directive 3-001]*

- (b) reporting to the Clearing House or any other person, such breaches of these Rules or laws as may be required by the Clearing House; and
- (c) submitting to the Clearing House such reports and information as may be required by the Clearing House.

[End of Chapter]

**CHAPTER 4 CONDUCT OF BUSINESS**

**PART A GENERAL REQUIREMENTS**

**4.01 Standard of conduct**

A Clearing Participant and Registered Person must in the conduct of the Clearing Participant's business:

- (a) adhere to just and equitable principles and act with due skill, care and diligence and with due regard for the integrity of the market; and
- (b) act in a manner consistent with the promotion and protection of the goodwill and public image of the Clearing House and its Clearing Participants.

*[Refer to Directive 4-001]*

**4.02 Structures, internal controls, policies and procedures**

(1) A Clearing Participant must have in place structures, internal controls and written policies and procedures designed to:

- (a) facilitate the supervision of the Clearing Participant's business activities and the conduct of the Clearing Participant's Registered Persons, employees and agents;

*[Refer to Directive 4-001]*

- (b) identify, monitor and manage conflicts of interests and risks that may arise in the conduct of the Clearing Participant's business;
- (c) achieve compliance with these Rules and the Act; and
- (d) provide for Client protection;

(referred to collectively in this Rule as "Policies and Procedures").

(2) A Clearing Participant must consider all relevant factors in determining the adequacy and effectiveness of the Policies and Procedures including the:

- (a) size of the Clearing Participant's business;
- (b) the Clearing Participant's financial position;
- (c) diversity of operations;
- (d) volume, size and frequency of transactions;
- (e) degree of risk associated with each area of operation; and
- (f) amount of control by the Clearing Participant's senior management over day to day operations.

(3) A Clearing Participant must properly document and regularly review and update the Clearing Participant's Policies and Procedures to take into account any changes that may occur in the regulatory requirements.

- (4) A Clearing Participant must properly disseminate and effectively implement and enforce within the Clearing Participant, the Policies and Procedures and any updates to such Policies and Procedures.
- (5) A Clearing Participant must maintain an internal record of the names of all persons who are designated as supervisory personnel and those delegated with supervisory functions and the dates for which such designation is or was effective.

**4.03 Records**

- (1) A Clearing Participant must keep proper Records:
  - (a) to sufficiently explain the Clearing Participant's Clearing activities;
  - (b) to evidence compliance with the requirements in these Rules; and
  - (c) when expressly required under any provisions of these Rules

*[Refer to Directive 4-001]*

- (2) The records specified under Rule 4.03(1) must be maintained by the Clearing Participant for a period as specified under the relevant laws in Malaysia or in the absence of such laws, for a period of not less than 7 years.

**4.04 Communication within the Clearing Participant**

A Clearing Participant must immediately disseminate these Rules and requirements that the Clearing House and the Commission issue to all the Clearing Participant's Registered Persons and relevant employees.

**4.05 Statements, information and Documents**

- (1) A Clearing Participant must submit, within such time and in such form and manner as determined by the Clearing House, such statements, information or Documents as may be requested by the Clearing House.

*[Refer to Directive 4-001]*

- (2) A Clearing Participant and Registered Person must ensure that any statement, information or Document submitted to the Clearing House, whether before or after admission as a Clearing Participant in relation to any matter under these Rules must:
  - (a) be clear, unambiguous and accurate;
  - (b) not contain any material omission; and
  - (c) not be false or misleading.
- (3) If any statement, information or Document the Clearing House receives from or on behalf of a Clearing Participant or Registered Person breaches the requirements in Rule 4.05(2), the Clearing Participant and the relevant Registered Person will be held responsible for such breach notwithstanding that the statement, information or Document was signed or submitted by a person other than the relevant Registered Person.
- (4) A Clearing Participant or Registered Person does not commit a breach of Rule 4.05(2) above if a Clearing Participant or Registered Person can prove that:

- (a) all enquiries as were reasonable in the circumstances had been made; and
  - (b) after making such enquiries, the relevant Clearing Participant or Registered Person had reasonable grounds and did believe until the time of the presentation, submission or disclosure of the statement, information or Document to the Clearing House that the statement, information or Document did fulfil the requirements of Rule 4.05(2).
- (5) A Clearing Participant or Registered Person must immediately notify the Clearing House if the Clearing Participant or Registered Person becomes aware that any statement, information or Document provided to the Clearing House may not fulfil the requirements in Rule 4.05(2).

**4.06 Accepting Margins during insolvency or after revocation of licence**

A Clearing Participant must not accept any margin from its Clients during its insolvency or after its Capital Markets Services Licence has been revoked or suspended.

**4.07 Conflicts of interest**

A General Clearing Participant must have in place adequate arrangements to manage all conflicts of interests that may arise in the conduct of the General Clearing Participant's business.

**4.08 Advertising and publicity**

A General Clearing Participant's advertising or publicising of its business must:

- (a) be accurate and not misleading or ambiguous;
- (b) not contain claims that are not verifiable; and
- (c) not bring the Clearing House or the Clearing House's Related Corporations or any other Clearing Participant into disrepute.

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**PART B      RESOURCES**

**4.09    Personnel**

- (1) A Clearing Participant must only employ or engage Registered Persons, employees and agents who are fit and proper with suitable skills and experience with regard to the position and responsibility they hold.
- (2) A Clearing Participant must ensure that an employee or director of a Clearing Participant who trades in Derivatives on the Exchange or a Specified Exchange for his own account notifies it of such trades in writing or by electronic means and upon receipt of the notifications, the Clearing Participant takes the necessary steps to manage conflicts of interest and risk, in accordance with Rules 4.02 and 5.06. For the purposes of this Rule, a director's account will include an account in which such a director has a direct or indirect interest.

**4.10    Business premises**

- (1) A Clearing Participant must have business premises that are adequately and properly equipped for the conduct of the Clearing Participant's business.
- (2) A Clearing Participant must have adequate security and emergency arrangements to provide continuous business operations with minimal disruptions.

*[Refer to Directive 4-001]*

- (3) A Clearing Participant must not carry on its Clearing business at any place other than a place that has been approved in writing by the Clearing House.

*[Refer to Directive 2.01(2)-002]*

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**PART C      CLIENTS**

**4.11 Client information**

- (1) Before a General Clearing Participant accepts a person as a Client the General Clearing Participant must:
  - (a) obtain all essential information about the person relevant to the services to be provided;  
*[Refer to Directive No. 4-001]*
  - (b) verify the person's identity and the authenticity of the application to open an account with the Clearing Participant; and  
*[Refer to Directive No. 4-001]*
  - (c) enter into a written agreement with such person.
- (2) If the Client represents that the Client is acting on behalf of another person, the General Clearing Participant may start acting for the Client only if the General Clearing Participant brings to the notice of the Client, the Client's obligation under Rule 4.13.

**4.12 Agreement with Client**

In relation to the written agreement referred to in Rule 4.11(1)(c), a General Clearing Participant must ensure that the written agreement:

- (a) sets out the terms and conditions of the services to be provided by the General Clearing Participant;
- (b) includes the Client's obligation to comply with these Rules, whether these Rules apply directly or indirectly to the Client; and
- (c) includes an appointment by the Client of the chief executive officer of the Clearing House as the Client's attorney or agent to do all things necessary to transfer any Open Position held by the General Clearing Participant on the Client's behalf to another General Clearing Participant where the Participantship of the General Clearing Participant has been suspended or terminated.

**4.13 Disclosure of information by Client**

- (1) If requested by the Clearing House, a General Clearing Participant must require a Client to disclose or procure (and the Client must disclose or procure) information and documents in relation to the Market Contracts that have been entered into in respect of the Client's account.
- (2) The information referred to in Rule 4.13(1) includes information whether any transaction in the Client's account is carried out on another person's behalf and in such instance, the name of, and particulars sufficient to identify the ultimate owner of such Market Contracts.
- (3) In relation to a request made under Rule 4.13(1), the Clearing House may direct a General Clearing Participant to refrain from acting for any Client until the information and document requested is furnished by the Client.

#### 4.14 Doing business with Clients

- (1) A General Clearing Participant must forward all communication and documents relating to the affairs of the Client directly to the Client unless the Client has authorised in writing for such communication and documents to be sent to a third party.
- (2) A General Clearing Participant must account for and adequately safeguard a Client's or potential Client's assets.

*[Refer to Directive 4-001]*

- (3) A General Clearing Participant must obtain written authorisation from the Client in relation to accepting instructions from any person or persons on behalf of a Client.

#### 4.15 Protection of Clients' information

A General Clearing Participant and Registered Person must not disclose a Client's information in the Clearing Participant's possession unless:

- (a) the Client authorises the disclosure of the information in writing;
- (b) the law requires the disclosure of the information;
- (c) the Clearing House or any other relevant body or authority (whether in or outside of Malaysia) requires the disclosure of the information;
- (d) the information is already publicly available; or
- (e) the information is in the form of a summary or collection of information set out in such manner as does not enable information relating to any particular Client to be ascertained from the information.

#### 4.16 Clients' margins and margin payment

- (1) A General Clearing Participant must procure margins from its Clients.
- (2) A General Clearing Participant must ensure that its Clients maintain the amount of minimum margins on all Open Positions and on all Open Contracts where Delivery and acceptance of Delivery has been effected in accordance with Rule 8.02(c), and these margins are at least equivalent to the amount of margins required by the Clearing House.
- (3) A General Clearing Participant may accept from its Clients as margin, cash, letters of credit, bank guarantees, approved securities and other forms of margins in the manner and subject to conditions as the Clearing House may from time to time prescribe.

*[Refer to Directive 4-001]*

- (4) Except for a Market Contract which reduces a Client's margin obligation, a General Clearing Participant must ensure that no new Market Contracts are entered into by the Client unless:
  - (a) the minimum margin for the Market Contracts is on deposit or is forthcoming within such period as may be prescribed by the Clearing House from time to time after a call for margin has been made by the General Clearing Participant; and
  - (b) that Client's pre-existing Open Positions comply with the margin requirements established by the General Clearing Participant.

*[Refer to Directive 4-001]*

- (5) If new Market Contracts are entered into by the Client due to whatever reason despite Rule 4.16(4), the General Clearing Participant must clear and settle all such Open Contracts arising from such Market Contracts.
- (6) A General Clearing Participant may close out all or any Open Positions of a Client where the Client fails to comply with a demand for margin after a margin call has been made by the Clearing House.

**4.17 Complaints by Clients**

A General Clearing Participant must handle a complaint from a Client (whether written or otherwise) relating to the General Clearing Participant's business in a timely and appropriate manner.

*[Refer to Directive 4-001]*

**4.18 Statements to Clients**

- (1) A General Clearing Participant must confirm in writing to every Client every transaction made for the Client no later than the following Business Day.

*[Refer to Directive 4-001]*

- (2) A General Clearing Participant must provide to each Client a monthly statement.

*[Refer to Directive 4-001]*

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**PART D            OUTSOURCING**

**4.19    Outsourcing by General Clearing Participants**

- (1) A General Clearing Participant which outsources its Clearing functions to a Service Provider must comply with the following requirements:
  - (a) these Rules; and
  - (b) the Commission's Licensing Handbook.
- (2) A General Clearing Participant must ensure that the Service Provider(s) comply with the Rules and directions that are applicable to the outsourced functions in the same manner as the General Clearing Participant is required to.
- (3) A General Clearing Participant remains accountable for all outsourced Clearing functions and will be held liable for any act or omission on the part of the Service Provider which results in a breach of these Rules.
- (4) The requirements in this Rule 4.19 is not applicable to a Bank Clearing Participant.

**4.20    Outsourcing by Direct Clearing Participants**

- (1) A Direct Clearing Participant which outsources its Clearing functions to a Service Provider must comply with the conditions set out in this Rule 4.20.
- (2) The Direct Clearing Participant must ensure compliance by the Service Provider(s) of all relevant requirements stipulated in any provision in these Rules and any agreement between the Direct Clearing Participant and the Clearing House.
- (3) A Direct Clearing Participant remains accountable for all outsourced Clearing functions and will be held liable for any act or omission on the part of the Service Provider which results in a breach of these Rules.
- (4) The Direct Clearing Participant must have in place an insurance policy to protect it against any liability, loss or damage arising from any action or omission of the Service Provider in performing the said Clearing functions.
- (5) The Direct Clearing Participant must ensure that the Clearing House or its agent has, at all times, access to and is allowed to make copies of the Books of the Direct Clearing Participant or the Service Provider.
- (6) The Direct Clearing Participant must procure a written consent through a letter of undertaking from the Service Provider to allow the Clearing House or its agent to exercise its powers as stated in Rule 4.20(5) above.
- (7) A Direct Clearing Participant must notify the Clearing House within 2 weeks from the signing of the relevant agreement(s) setting out the terms and conditions of the outsourcing arrangement, including where applicable, the agreement setting out the terms and conditions for sub-contracting its Clearing functions to another Service Provider ("relevant service level agreement(s)").
- (8) A Direct Clearing Participant must, in respect of the outsourcing of its Clearing functions, notify the Clearing House of:
  - (a) the termination or variation of the relevant service level agreement(s); or

- (b) any adverse development arising from or in connection with the outsourcing arrangement that could significantly affect the Direct Clearing Participant, within 2 weeks from the occurrence of such event.

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**PART E FINANCING**

**4.21 Financing to Related Corporations**

Subject to any restriction or prohibition under any law, a Clearing Participant may extend financing to any Related Corporation of the Clearing Participant if:

- (a) the Clearing Participant implements policies and procedures to control and manage the risk exposure when carrying out such financing activities;
- (b) the Clearing Participant manages any potential conflict of interest that may arise between the Clearing Participant and its Related Corporation, where the interest of the Clearing Participant must always prevail; and
- (c) the Clearing Participant has ensured that its policies and procedures governing such financing activities:
  - (i) are endorsed by the Clearing Participant's board of directors;
  - (ii) include the authority and limits for the granting of financing to Related Corporations; and
  - (iii) prohibit any individual person from being able to exercise an overriding authority over the provision of financing to Related Corporations.

**4.22 Non-applicability of Rule 4.21**

Rule 4.21 does not apply to a Bank Clearing Participant.

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**PART F                      OFF-BALANCE SHEET TRANSACTIONS**

**4.23      Investment Banks**

All provisions in this Part F of this Chapter 4 do not apply to a Clearing Participant that is an Investment Bank.

**4.24      Records of Off-Balance Sheet transactions**

A Clearing Participant must maintain a Record that sufficiently explains the Off-Balance Sheet transactions entered by it.

**4.25      Reporting of Off-Balance Sheet transactions**

A Clearing Participant must lodge with the Clearing House a monthly report on Off-Balance Sheet transactions in the form as prescribed by the Clearing House.

*[Refer to Directive No. 4-002]*

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**PART G          DISPUTES**

**4.26      Disputes**

In relation to a dispute that arises from or in connection with an Open Contract, the following applies:

- (a)      If the dispute arises from or in connection with physical delivery pursuant to an Open Contract, the parties to the dispute must settle the dispute by arbitration;
- (b)      For disputes other than those specified in Rule 4.26(a), if any one or more of the parties to the dispute elect to settle the dispute via arbitration, the other disputing party must submit to such arbitration; and
- (c)      If parties are unable to agree on an arbitral forum for the settlement of disputes under Rules 4.26(a) or (b), then such parties must settle the dispute by arbitration before an arbitral forum prescribed by the Clearing House.

*[Refer to Directive No. 4.26-001]*

**4.27      Arbitration and arbitration award binds Clearing Participants' Clients**

A Clearing Participant must cause its Clients to agree that in relation to a dispute referred to in Rule 4.26:

- (a)      the Clients must submit to arbitration; and
- (b)      the Client complies with Rule 4.28.

**4.28      Arbitration award**

- (1)      The arbitration award is final and binding on the parties to the dispute.
- (2)      The parties to the dispute must bear the costs and fees for the arbitration in accordance with the arbitration award.
- (3)      The parties to the dispute must notify the Clearing House of:
  - (a)      any request made for a dispute to be arbitrated; and
  - (b)      the outcome of the arbitration.
- (4)      The Clearing House will not be liable to any party for any act or omission in connection with any arbitration.

[End of Chapter]

**CHAPTER 5 ORGANISATION AND STRUCTURE OF CLEARING PARTICIPANTS**

**PART A GENERAL**

**5.01 Other business**

- (1) A Clearing Participant must notify the Clearing House in writing prior to carrying out any other business apart from Clearing.
- (2) The Clearing House may require the Clearing Participant to take such steps as the Clearing House thinks fit to manage the potential risks or conflict of interests arising from carrying out the Clearing Participant's business of Clearing and the Clearing Participant's other businesses.

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**PART B      BACK OFFICE SYSTEM**

**5.02    Back office system**

A Clearing Participant must immediately notify the Clearing House of:

- (a)    the location(s) of its back office system; and
- (b)    any change in the location(s) of its back office system.

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**PART C            COMPLIANCE FUNCTION**

**5.03    Compliance function and Accountability**

- (1)    A Clearing Participant must carry out the compliance function to monitor compliance with these Rules and the Act and to provide advice on all the relevant requirements that a Clearing Participant must comply with, in carrying out the Clearing Participant's business.

*[Refer to Directive 5-001]*

- (2)    If there is a breach of these Rules or the Act, the Clearing Participant is liable for such breach whether or not such breach was by or caused by the Clearing Participant's Registered Persons, employees or agents.

**5.04    Reporting**

- (1)    A Clearing Participant must immediately report the following in writing to the Clearing House upon becoming aware or where the Clearing Participant has reason to believe such occurrence is taking or has taken place:

- (a)    any matter in Rule 3.50(a) that has not been reported to the Clearing House;
- (b)    the Clearing Participant is subject to any enforcement or disciplinary action by the Commission or any other regulatory authority; or
- (c)    the Clearing Participant's ability to perform any of the Clearing Participant's obligations under these Rules may be adversely affected.

- (2)    A Registered Person must immediately report the following in writing to the Clearing House upon becoming aware or where the Clearing Participant has reason to believe such occurrence is taking or has taken place:

- (a)    any matter in Rule 3.50(a) that has not been reported to the Clearing House;
- (b)    the Clearing Participant employing the Registered Person or a Registered Person employed or engaged by the Clearing Participant other than the Registered Person making the report, has breached any of these Rules;
- (c)    the Registered Person has breached any of these Rules;
- (d)    the Registered Person is subject to any enforcement or disciplinary action by the Commission or any other regulatory authority; or
- (e)    the Registered Person's ability to perform any of the Registered Person's obligations under these Rules may be adversely affected.

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**PART D RISK MANAGEMENT OF CLEARING PARTICIPANT**

**5.05 Risk management function**

- (1) A Clearing Participant must ensure the proper discharge of the risk management functions for the purpose stated under Rule 4.02(1)(b) and take actions to mitigate such risks.

*[Refer to Directive 5-001]*

- (2) The Clearing Participant must ensure the risk management functions commensurate with:
- (a) the scope, size and complexity of the Clearing Participant's activities; and
  - (b) the level of risks that the Clearing Participant is prepared to assume.

**5.06 Committee to oversee risk management**

- (1) A General Clearing Participant must appoint a committee to manage and monitor the discharge of the risk management functions of the General Clearing Participant.
- (2) A General Clearing Participant must ensure that its risk management functions are reported to the committee in Rule 5.06(1).
- (3) A General Clearing Participant must ensure that the committee in Rule 5.06(1) comprises persons who are competent, free from conflict of interest and collectively have the relevant skills and experience to carry out the functions of the committee.

**5.07 Outsourcing of risk management functions**

If the risk management function is outsourced under Part D of Chapter 4 or where the committee in Rule 5.06(1) is maintained at Group level in accordance with Part F of Chapter 5, the Clearing Participant must ensure that the outsourced function or committee in Rule 5.06(1) maintained at Group level complies with all provisions in these Rules relating to the risk management functions and committee in Rule 5.06(1).

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**PART E INTERNAL AUDIT OF CLEARING PARTICIPANT**

**5.08 Internal Audit function**

- (1) A Clearing Participant must establish and maintain an internal audit function which is independent from all other functions of the Clearing Participant to examine, evaluate and report on the adequacy and efficiency of the Clearing Participant's management, operations, internal controls and the compliance with the relevant policies and procedures established by the Clearing Participant.
- (2) A Clearing Participant must ensure internal audit(s) are conducted on itself at such times as it deems necessary, subject always to a minimum of 1 internal audit in each calendar year.

**5.09 Audit Committee**

- (1) A General Clearing Participant must establish and maintain an audit committee, whether on its own or Group level in accordance with Part F of Chapter 5 ("Audit Committee") which is responsible for amongst others, monitoring and overseeing all matters relating to the discharge of the internal audit functions of the General Clearing Participant.
- (2) A General Clearing Participant must ensure that its internal audit function reports to the Audit Committee.
- (3) A General Clearing Participant must ensure that its Audit Committee comprises members who are competent, free from conflict of interest and collectively have the relevant skills and experience in carrying out the functions of the Audit Committee.

**5.10 Outsourcing of Internal Audit function**

If the internal audit function is outsourced under Part D of Chapter 4 or where the Audit Committee is established or maintained at Group level in accordance with Part F of Chapter 5, the Clearing Participant must ensure that the outsourced function or Audit Committee established or maintained at Group level complies with all provisions in these Rules relating to internal audit functions and Audit Committee.

**5.11 Scope of Internal Audit**

- (1) A Clearing Participant must undertake a risk assessment of the various areas in the business of the Clearing Participant and based on the results of such risk assessment, decide on the scope of the internal audit to be conducted for the year.
- (2) The Clearing House may at any time require the Clearing Participant to conduct an internal audit if upon assessing the risks to the market, the Clearing House deems that it is necessary or expedient.

**5.12 Reporting**

- (1) The Audit Committee must present to the board of directors of the Clearing Participant, amongst others, the audit report, its course of action or any corrective measures taken, to address any non-compliance or irregularities stated in the audit report and all other matters deliberated by the Audit Committee.
- (2) A Clearing Participant must submit a copy of the minutes of each meeting of the Audit Committee and a copy of the audit report, together with its course of action or any corrective measures taken to address any non-compliance or irregularities stated in the audit report, to

the Clearing House within 30 days from the date the minutes were adopted by and the audit report was presented to the board of directors of the Clearing Participant.

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**PART F                      PERFORMANCE OF COMMITTEE TO OVERSEE RISK MANAGEMENT AND  
AUDIT COMMITTEE FUNCTIONS AT GROUP LEVEL**

**5.13      Committee to oversee risk management and Audit Committee**

A General Clearing Participant may have its committee in Rule 5.06(1) or its Audit Committee established or maintained at Group level under Part D of Chapter 4 if the General Clearing Participant is able to comply with Rule 2.01(2)(k) in so far as providing or procuring the provision to the Clearing House of reports, information, Documents, Books or Records pertaining to the committees and the committees' decisions and deliberations upon the Clearing House's request.

**5.14      Investment Bank**

Rule 5.13 is not applicable to an Investment Bank.

[End of Chapter]



**CHAPTER 6 CLEARING PROCEDURES**

**6.01 Presentation of Market Contracts for registration**

- (1) The particulars of each Market Contract must be presented in such manner as is prescribed by the Clearing House, by the Buyer and Seller to such Market Contract, or by an Exchange on behalf of such Buyer and Seller, for registration by the Clearing House.
- (2) The Clearing House is entitled to rely on the particulars of Market Contracts presented in accordance with Rule 6.01(1) as being correct and is not bound to recognise any actual or alleged error or omission in relation to such particulars.

**6.02 Errors in recording**

- (1) Despite Rule 6.01(2), if on notification from an Exchange on behalf of the Buyer and the Seller to a Market Contract, the Clearing House is satisfied that the details of the Market Contract were incorrectly or incompletely presented by the Exchange or the Exchange failed to present particulars of a Market Contract, the Clearing House at its absolute discretion may impose any conditions, including requiring the payment of Margin, and may:
  - (a) in the case of incorrect or incomplete details of a Market Contract having been presented to the Clearing House and registered, take all such action necessary to correct the registration;
  - (b) in the case of all particulars of a Market Contract not having been presented to the Clearing House, take all such action necessary to register the Market Contract.
- (2) If the Clearing House exercises its discretion under Rule 6.02(1)(a) the Market Contract is deemed to have been registered reflecting any such amendments or corrections and these Rules apply accordingly.

**6.03 Registration**

- (1) The Clearing House may, without being required to give reasons, before the end of the day on which the Market Contract has been accepted for registration:
  - (a) at any time decline to register any Market Contract or impose conditions including the payment of Margin on the registration of any Market Contract; or
  - (b) reject such Market Contract from being cleared through the Clearing House if the Clearing House is of the view that such rejection is necessary to protect the integrity of the Clearing House.
- (2) Any rejection of such Market Contract under Rule 6.03(1)(b) will result in the reinstatement of the Market Contract between the Buyer and the Seller and the Clearing House will have no obligations or liability with respect to or in connection with such Market Contract or with the rejection of such Market Contract.
- (3) The Clearing House will notify the relevant Exchange of any decision taken by the Clearing House under Rule 6.03(1) and may take any action as may be necessary in respect of such Market Contract in consultation with the Exchange.
- (4) Immediately upon acceptance of a Market Contract for registration by the Clearing House:
  - (a) an Open Contract comes into existence between the Clearing House and the Buyer to the Market Contract upon terms identical to those of the Market Contract and the Clearing House will be Seller to such Open Contract;

- (b) an Open Contract comes into existence between the Clearing House and the Seller to the Market Contract upon terms identical to those of the Market Contract and the Clearing House will be Buyer to such Open Contract; and
  - (c) the Market Contract is extinguished.
- (5) Each Clearing Participant must provide the Clearing House with such information within such time as may be prescribed by the Clearing House in connection with the registration of a Market Contract.
  - (6) Each Open Contract has effect and is valid and enforceable in accordance with its terms as established under these Rules.
  - (7) A Clearing Participant must not bring any claim or proceedings to invalidate or render void or that has the effect, partial or otherwise, of invalidating or avoiding any Open Contract, or its obligations in connection with such Open Contract, to which it is a party.
  - (8) The terms of each Open Contract are subject to these Rules.

#### **6.04 Parties to Open Contract**

- (1) Regardless of whether an Open Contract is recorded in an Unsegregated Account or a Segregated Account of a Clearing Participant, such Open Contract is between the Clearing House and the Clearing Participant as principals.
- (2) A Clearing Participant may exercise its rights and is liable to perform its obligations under and in connection with such Open Contract at all times as principal subject to these Rules.
- (3) The Clearing House does not recognise any legal, equitable, contingent, future or partial interest in any Open Contract except the interest of the Clearing Participant who is party to the Open Contract.

#### **6.05 Accounts**

- (1) The Clearing House will maintain the details relating to each Open Contract in the Segregated Account or Unsegregated Account of the Clearing Participant party to such Open Contract as provided by the Clearing Participants.
- (2) The Clearing Participants must open separate Sub-Accounts in the manner prescribed by the Clearing House.
- (3) The Clearing House will calculate the Performance Bond in relation to Open Contracts recorded in a Clearing Participant's Unsegregated Account and each Sub-Account of the Clearing Participant's Segregated Account in accordance with Rule 6.14.

#### **6.06 Designation instructions**

- (1) If the Clearing House has reached agreement with an Exchange, designation instructions may be provided to the Clearing House by such Exchange for and on behalf of the Clearing Participant.
- (2) The designation instructions provided to the Clearing House in accordance with Rule 6.06(1) must indicate:
  - (a) whether an Open Contract arising from registration of a Market Contract is to be recorded in the Segregated Account or the Unsegregated Account of the Clearing Participant;

- (b) if an instruction is given to the Clearing House pursuant to Rule 6.06(2)(a) that an Open Contract is to be recorded in the Segregated Account of the Clearing Participant, the designation instructions must include the identity of the Sub-Account in which such Open Contract is to be recorded.
- (3) If designation instructions are incorrectly or not provided to the Clearing House on the same Business Day that the relevant Market Contract is presented to the Clearing House for registration, the Open Contract arising from such registration will be recorded in the Unsegregated Account of the Clearing Participant.
- (4) If a Clearing Participant has made an error in any designation instruction, it may request the Clearing House to amend the Records maintained by the Clearing House of the Unsegregated Account, Segregated Account or a Sub-Account of that Clearing Participant.
- (5) Acceptance of the request to amend is at the Clearing House's discretion.

#### **6.07 Allocation and Transfers**

The Clearing House may, upon the request of a Clearing Participant, allocate or transfer Open Contracts between accounts within the same Clearing Participant or between Clearing Participants in the manner or subject to such conditions the Clearing House determines.

#### **6.08 Open Positions**

Each Open Contract has effect and remains binding upon the Clearing House and the Clearing Participant who is party to such Open Contract until:

- (a) it is liquidated by offset in accordance with Rule 6.09;
- (b) it is liquidated as the result of a settlement to market in accordance with Rule 6.13;
- (c) in accordance with Rule 6.11, the rights and obligations under such Open Contract have been novated in which case the Open Contract will be binding upon the Clearing House and the Clearing Participant to whom such rights and obligations have been novated;
- (d) it is dealt with in accordance with Rule 2.09(1)(f);
- (e) in the case of an Option Open Contract -
  - (i) it has expired, that is, the rights of the Buyer to such Option have lapsed;
  - (ii) it has been Exercised or Assigned; or
  - (iii) delivery and payment or cash settlement has been effected in accordance with these Rules;
- (f) in the case of an Open Contract which is a Futures Contract, cash settlement or delivery has been effected in accordance with these Rules.

#### **6.09 Liquidation by offset**

- (1) A Clearing Participant who is Buyer to an Open Contract and a Seller to another Open Contract the terms of which are identical in all aspects but not necessarily price and contract date, and both Open Contracts are recorded in the same sub-account within the Unsegregated Account

or in the same Client Account of that Clearing Participant, may request the Clearing House to liquidate by offsetting the rights and obligations under those two Open Contracts.

- (2) Upon two Open Contracts being off-set pursuant to Rule 6.09(1), any settlement difference, as calculated by the Clearing House, becomes immediately due by the Clearing Participant or the Clearing House, as the case may be.
- (3) A request for liquidation by off-set in accordance with this Rule 6.09 must be submitted to the Clearing House in such manner the Clearing House determines.

#### **6.10 Reversal of liquidation**

- (1) The Clearing House may reverse the liquidation of two Open Contracts made pursuant to Rule 6.09 so that two new Open Contracts between the Clearing House and the Clearing Participant are created upon a request from a Clearing Participant.
- (2) The two new Open Contracts created under Rule 6.10(1) will have identical terms to the original two Open Contracts previously liquidated and any settlement difference must be repaid.
- (3) A request by a Clearing Participant to reverse the liquidation of two Open Contracts must be submitted to the Clearing House in the manner the Clearing House determines.

#### **6.11 Novation of Open Contracts**

- (1) Rights and obligations under an Open Contract of a Clearing Participant (the “transferor”) may be novated in full to another Clearing Participant (the “transferee”) if:
  - (a) the Clearing House has been advised of the offer and acceptance of a transfer of an Open Contract between two Clearing Participants pursuant to Rule 6.07; or
  - (b) the transferor becomes a wholly-owned subsidiary of the transferee; or
  - (c) the transferor gives notice of its intention to resign its Participantship or its Participantship is suspended or terminated or it ceases to be an Affiliate of an Exchange due to termination of its participantship by such Exchange or its participantship of an Exchange is suspended; or
  - (d) there exists some other reason for the proposed novation that is not inconsistent with these Rules, the relevant Exchange Rules or the Act.
- (2) Any request for the novation of an Open Contract must be made in such manner and on such terms the Clearing House determines.
- (3) The Clearing House may in its absolute discretion without giving any reason decline to effect a novation of all rights and obligations of an Open Contract or to effect such novation subject to any terms and conditions including the payment of Margin which in its absolute discretion the Clearing House may determine. Any such decisions must be promptly notified to the transferor and transferee.

#### **6.12 Daily settlement price**

- (1) The Clearing House will determine the Daily Settlement Price for each Open Contract in accordance with the procedures the Clearing House determines.
- (2) The procedures will provide for consideration to be given to any bids, offers and traded prices quoted by an Exchange and any other information the Clearing House deems relevant.

**6.13 Settlement variation**

- (1) The Clearing House will calculate the change in value of each Open Contract of a Clearing Participant based on the Daily Settlement Price at the times the Clearing House determines to establish the settlement variation.
- (2) Settlement variation and any adjustments made to the settlement variation (where relevant) as calculated by the Clearing House must be paid in cash by the relevant Clearing Participant.

**6.14 Performance Bond**

- (1) The Clearing House will determine the Performance Bond required for the purpose of managing foreseeable risk using a risk based algorithm or such other method the Clearing House determines.
- (2) A Clearing Participant's Performance Bond will be held as security against:
  - (a) the non-performance of contractual obligations of that Clearing Participant under its Open Position; or
  - (b) completion of Delivery or acceptance of Delivery in accordance with Rule 8.02(c),and will be applied in such manner as determined by the Clearing House upon any default by the Clearing Participant of such obligations.
- (3) The Clearing House will determine the Performance Bond required from each Clearing Participant having regard to the Open Position of that Clearing Participant.
- (4) A Clearing Participant must lodge the Performance Bond with the Clearing House in accordance with the directions of the Clearing House.
- (5) The Performance Bond may be in the form of cash or Approved Collateral or both.

**6.15 Payment to the Clearing House**

- (1) On each Business Day, the Clearing House will make available to each Clearing Participant a statement advising the Clearing Participant of funds (if any) which must be paid to the Clearing House and showing the Performance Bond which must be lodged with the Clearing House.
- (2) A Clearing Participant must make payment to the Clearing House within the times prescribed by the Clearing House from time to time.
- (3) The Clearing House is entitled to set off any amount due from a Clearing Participant to the Clearing House against any amount due from the Clearing House to the Clearing Participant.

**6.16 Call for additional funds**

- (1) The Clearing House may call for payment of additional funds from one or more Clearing Participants as additional security against the non-performance of obligations by such Clearing Participant(s) under Open Contracts after taking into consideration the changes in market price, price volatility, trading activity and any other matters which in the opinion of the Clearing House may affect the risks to which the Clearing House is exposed to.
- (2) The Clearing Participant concerned must pay additional funds requested within one hour or such time as determined by the Clearing House.

**6.17 Approved Collateral**

- (1) Approved Collateral is property the Clearing House prescribes as Approved Collateral for any purpose under these Rules.
- (2) Approved Collateral may only be deposited or pledged with or assigned to the Clearing House in such manner and on such conditions as the Clearing House determines.
- (3) The Clearing House will value the Approved Collateral in such manner as the Clearing House determines.
- (4) The Clearing House may invest, manage and mobilise such Approved Collateral in such manner as the Clearing House deems fit or expedient.
- (5) Any benefit, interest or gain received or accrued on any Approved Collateral:
  - (a) belongs to the Clearing Participant that deposited or pledged with or assigned to the Clearing House such Approved Collateral; and
  - (b) will be delivered to that Clearing Participant at such times and in such manner as the Clearing House determines.
- (6) Acceptance by the Clearing House of Approved Collateral is at the Clearing House's discretion after giving consideration to matters it considers relevant including, but not limited to its exposure or potential exposure to third parties.
- (7) A Clearing Participant may withdraw Approved Collateral subject to such conditions as the Clearing House determines.
- (8) The Clearing House may charge a fee in respect of the lodgement of Approved Collateral.
- (9) This Rule 6.17 has effect despite anything else contained in these Rules.

**6.18 Interest on cash balances**

The Clearing House may pay interest to each Clearing Participant on all cash balances held by the Clearing House for such Clearing Participant including the Security Deposit, Clearing Fund Contribution, and Direct Clearing Participant Deposit in the manner as the Clearing House determines.

**6.19 Clearing House records**

- (1) The Clearing House will maintain Records in relation to Open Contracts created, liquidated, settled or otherwise dealt with in accordance with these Rules.
- (2) The Records maintained by the Clearing House under this Rule 6.19 constitute prima facie evidence of the matters contained in those Records.
- (3) The Clearing House is entitled to rely without inquiry on all information provided to it by or on behalf of Clearing Participants in creating and in amending such Records.

**6.20 Clearing advice, statement or reports**

- (1) The Clearing House will make available to each Clearing Participant such advice, statement or report in relation to the Clearing Participant's Open Contracts showing details of, among others, the following:

- (a) the Clearing Participant's Open Position;
  - (b) Approved Collateral lodged by the Clearing Participant;
  - (c) the Clearing Participant's Margin;
  - (d) cash deposited by the Clearing Participant with the Clearing House; and
  - (e) cash amounts credited and debited to the Segregated Account and Unsegregated Account of the Clearing Participant.
- (2) Any advice, statement or report made available by the Clearing House to the Clearing Participant is, in the absence of manifest error, (in any event after 1 Business Day after the availability of the said report, advice or statement) conclusive as to its subject matter.
- (3) A Clearing Participant's failure to notify the Clearing House of any error or omission with respect of any advice, statements or report promptly (or within 1 Business Day of the availability of such advice, statement or report) constitutes a waiver in favour of the Clearing House by such Clearing Participant of any rights, claims, damages or losses of any right to require rectification, unless provided otherwise.

#### **6.21 Position and Exercise Limits**

- (1) The Clearing House may determine the limits on the Open Positions which may be held or controlled by any Client or Clearing Participant in any Derivatives ("position limits") or number of Options that can be exercised by any Client or Clearing Participant ("exercise limits").
- (2) A Clearing Participant must ensure that the position limits and exercise limits, which are applicable to any Client or Clearing Participant are adhered to at all times.
- (3) The Clearing House may, in circumstances it deems fit, grant such exemption, modification or variation in relation to the position limits or exercise limits, as the case may be, subject to such terms and conditions prescribed by the Clearing House.
- (4) A Clearing House may establish reporting levels on the Open Positions held, by any Client or a Clearing Participant and may require daily (or other periodic) reports from Clearing Participants on the amount of Open Positions held by, any Client or the Clearing Participant. The Clearing House may require reports even if the amount of Open Positions held, is below the reporting levels prescribed by the Clearing House.
- (5) A Clearing Participant must report promptly to the Clearing House any instance in which the Clearing Participant has reason to believe that it has exceeded or a Client or another Clearing Participant, acting alone or in concert with others, has exceeded or is attempting to exceed any of the limits referred to in Rule 6.21(1) above.
- (6) For the avoidance of any doubt, the Clearing Participant must clear and settle all Open Contracts including those Open Contracts which result in the Client or the Clearing Participant breaching the position limits or exercise limits referred to in this Rule 6.21.
- (7) For the purposes of determining whether a person is in 'control' of another person, the following apply:
- (a) a person is deemed to have control of another person:
    - (i) where the first person, or any related company or companies of the first person, directly or indirectly by any means whatever, holds or beneficially owns 15% or more of the issued or paid up capital or of the voting power of the other person or of a third person which has control (in terms of this definition) of that other person; or

- (ii) where a partner or director of the first person or of any related company of the first person is also a partner or director of the other person; or
  - (iii) where by reason of any contract, agreement or arrangement of any nature, whether legally enforceable or not, the first person effectively controls the management, or 15% or more of the voting power, of the other person, or is entitled to nominate or appoint one or more directors of the other person.
- (b) notwithstanding Rule 6.21(7)(a) above, for purposes of determining the control of Open Positions under Rule 6.21, a person will not be deemed to be in control of another person's Open Positions if both persons:
- (i) do not have knowledge of one another's trading decisions;
  - (ii) trade pursuant to separately developed and independent trading strategies;
  - (iii) have and enforce written procedures which preclude each from having knowledge of, gaining access to, or receiving data concerning, the trades of the other. Such procedures must include document routing and other procedures or security arrangements which would maintain the independence of their activities; and
  - (iv) do not share personnel in control of the respective trading decisions.

*[Refer to Directive No. 6-001]*

## **6.22 Clearing arrangements with Trading Participants**

In order to clear Market Contracts entered into by a Trading Participant ("said Contracts"), a Clearing Participant must:

- (a) inform the Clearing House of the relevant clearing arrangement the Clearing Participant has with such Trading Participant, and if the Clearing House requests, submit such details of the Trading Participant or such other documents relating to the clearing arrangement as the Clearing House may from time to time specify;
- (b) confirm to the Clearing House that it has in place adequate internal control measures and risk management systems, including pre-execution credit control checks to manage the Clearing Participant's risk exposure to the said Contracts; and
- (c) have entered into a written arrangement with the Trading Participant setting out the terms and conditions governing their relationship, which must include risk management provisions such as the right to impose trading limits on the Trading Participant whether for Market Contracts executed for the Trading Participant itself or where relevant, for the Trading Participant's client.

## **6.23 Cessation of Clearing arrangement**

If a Clearing Participant wishes to cease clearing the Market Contracts of a Trading Participant, the Clearing Participant must:

- (a) provide to the Clearing House prior written notice (the duration of such notice to be as determined by the Clearing House) of the Clearing Participant's intention to cease clearing the Market Contracts of that Trading Participant and the proposed date of cessation; and
- (b) comply with any reasonable direction of the Clearing House in relation to the orderly cessation of the clearing of the Trading Participant's Market Contracts.



**6.24 Clearing Participant's obligations in the event of a cessation**

Notwithstanding the cessation of the clearing arrangement, the Clearing Participant must clear and settle all the Market Contracts of the Trading Participant which are done right up to the point when the Trading Participant no longer has the ability to enter into Market Contracts to be cleared by the Clearing Participant.

**6.25 Give up upon a Client's request**

- (1) A Clearing Participant may give up an Open Contract ("give-up Clearing Participant") and another Clearing Participant accept a give up of an Open Contract ("take-up Clearing Participant"). Such give-up arrangement will only take effect upon full compliance by both the give-up Clearing Participant and the take-up Clearing Participant with this Rule and such procedures as the Clearing House may prescribe.
- (2) The Clearing House may without giving any reason:
  - (a) reject the give up arrangement entered into by the Clearing Participants; or
  - (b) allow such give up arrangement subject to conditions being satisfied.
- (3) The take-up Clearing Participant must comply with the conditions imposed by the Clearing House, in order for the give-up arrangement to take effect.
- (4) In relation to all give-up arrangements entered into and which have taken effect pursuant to this Rule 6.25, the take-up Clearing Participant must, in relation to the Open Contract referred to in Rule 6.25(1):
  - (a) clear and settle such Open Contract and comply with all the provisions in the Rules in respect of the Open Contract; and
  - (b) comply with all provisions in Part C of Chapter 4 in respect of the Client referred to in this Rule 6.25.
- (5) Where the give-up arrangement has been rejected by the Clearing House, the give-up Clearing Participant must clear and settle the Open Contract that has been rejected for give-up and comply with all the provisions in the Rules in respect of the Open Contract.

[End of Chapter]

**CHAPTER 7    OPTIONS**

**7.01    Option registration**

- (1) The Buyer of an Option Open Contract created pursuant to Rule 6.03 must pay the Premium to the Clearing House.
- (2) The Seller of an Option Open Contract created pursuant to Rule 6.03 is entitled to receive the Premium from the Clearing House.
- (3) Premium referred to in Rule 7.01(1) becomes due on the day the relevant Option Open Contract comes into existence and is payable at such time as is advised by the Clearing House.

**7.02    Notice of exercise**

- (1) A Buyer who exercises its right under an Option Open Contract must do so in accordance with the terms of the Option Open Contract and advise the Clearing House of the Exercise in the manner the Clearing House prescribes.
- (2) The Exercise is final and binding on the Buyer.
- (3) Subject to any provisions in the Exchange Rules relating to the Exercise, a Clearing Participant is deemed to have exercised its right under an Option Contract where such Clearing Participant has acted in accordance with Rule 7.02(1) or through automatic exercise as provided in Rule 7.03.

**7.03    Automatic exercise**

- (1) The Clearing House may at any time prior to the expiry of an Option Open Contract determine procedures which determine the automatic Exercise or otherwise of an Option Open Contract to which the Clearing Participant is a Buyer.
- (2) The procedures determined in accordance with Rule 7.03(1) will apply to the Clearing Participant unless otherwise instructed by the Clearing Participant in the manner prescribed by the Clearing House.

**7.04    Assignment of Exercised Options**

- (1) The Clearing House will assign all validly Exercised Options to Clearing Participants with open Short Positions in the same series in the manner the Clearing House determines.
- (2) The Clearing House will notify Clearing Participants who are assigned with an Exercised Option pursuant to Rule 7.04(1) above.

**7.05    Option expiry**

The rights of a Buyer to an Option Open Contract which have not been Exercised in accordance with Rule 7.02, 7.03 or 7.04 by the latest time permitted in accordance with the terms of such Option Open Contract are deemed to have expired.

**7.06 Novation of an Option**

If the rights and obligations under an Option Open Contract of a Clearing Participant (the “transferor”) are novated pursuant to Rule 6.11 to another Clearing Participant (the “transferee”):

- (a) if the transferor is Buyer to such Open Contract, the Premium for the new Open Contract will be credited to the account of the transferor and debited to the account of the transferee;
- (b) if the transferor is Seller to such Open Contract, the Premium for the new Open Contract will be debited to the account of the transferor and credited to the account of the transferee.

**7.07 Exercise of an Option**

If an Option is Exercised in accordance with Rules 7.02, 7.03 or 7.04:

- (a) in the case of a Call Option; a Futures Contract, which for the purposes of these Rules will be an Open Contract, comes into existence between the parties to the Option on terms determined in accordance with such Option and the Buyer to such Option shall be Buyer to the Futures Contract;
- (b) in the case of a Put Option; a Futures Contract, which for the purposes of these Rules will be an Open Contract, comes into existence between the parties to the Option on terms determined in accordance with such Option and the Buyer to such Option shall be Seller to the Futures Contract.

**7.08 Exercise/assignment fees**

Each Clearing Participant must pay such fee or levy as determined by the Clearing House in respect of the Exercise of each Option Open Contract to which such Clearing Participant is a party.

[End of Chapter]

**CHAPTER 8 CONTRACT SETTLEMENT**

**8.01 General**

- (1) Deliveries and the acceptance of Deliveries must be performed in accordance with the terms of the relevant Open Contract and the Rules and such procedures as may be prescribed by the Clearing House.
- (2) For each Clearing Participant who as Buyer or Seller to an Open Contract has taken or made Delivery, the Clearing House will select a Clearing Participant (which may or may not be the same Clearing Participant) as a counterparty to the Open Contract. The terms of such Open Contract are identical in all aspects but not necessarily contract price and contract date.
- (3) The Clearing House will make such selection in such manner as determined by the Clearing House.

**8.02 Parties to Delivery under an Open Contract**

Subject to the relevant Exchange Rules, Delivery under an Open Contract, other than an Option Open Contract, must at the absolute discretion of the Clearing House be any of the following:

- (a) between a Clearing Participant who is Buyer to an Open Contract and a Clearing Participant who is Seller to an Open Contract the terms of which are identical in all aspects but not necessarily contract price and contract date and the Clearing House effected by:
  - (i) the Clearing House directing such Buyer to accept Delivery in accordance with the terms of the Open Contract; and
  - (ii) the Clearing House directing such Seller to Deliver in accordance with the terms of the Open Contract; and
  - (iii) the Buyer paying to the Clearing House a settlement amount in accordance with the directions of the Clearing House and the terms of the Open Contract to which the Buyer is party; and
  - (iv) the Clearing House paying to the Seller a settlement amount, calculated in accordance with the terms of the Open Contract to which the Seller is party;

**OR**

- (b) between the Clearing House and a Clearing Participant who is Buyer to an Open Contract and between the Clearing House and a Clearing Participant who is Seller to an Open Contract the terms of which are identical in all aspects but not necessarily contract price and contract date, effected by:
  - (i) Delivery by such Seller to the Clearing House and the Clearing House paying a settlement amount to such Seller calculated in accordance with the terms of the Open Contract to which the Seller is party; and
  - (ii) Delivery by the Clearing House to such Buyer and the Buyer paying a settlement amount to the Clearing House calculated in accordance with the terms of the Open Contract to which the Buyer is party.

**OR**

- (c) between the Clearing House and a Clearing Participant who is a Buyer to an Open Contract and between the Clearing House and a Clearing Participant who is a Seller to an Open Contract, the terms of which are identical in all aspects but not necessarily contract price and contract date, effected by:
- (i) Delivery by such Seller or the Client of such Seller to the Clearing House, and the Clearing House paying a settlement amount to such Seller or to the Client of such Seller, calculated in accordance with the terms of the Open Contract to which the Seller is party; and
  - (ii) Delivery by the Clearing House to such Buyer or to the Client of such Buyer, and such Buyer paying or the Client of such Buyer paying a settlement amount to the Clearing House, calculated in accordance with the terms of the Open Contract to which the Buyer is party.

### **8.03 Parties to Delivery under an Option Open Contract**

Subject to the relevant Exchange Rules, Delivery under an Option Open Contract which has been Exercised must at the absolute discretion of the Clearing House be either:

- (a) between a Clearing Participant who is Buyer to an Option Open Contract and a Clearing Participant who is Seller to an Option Open Contract the terms of which are identical in all aspects but not necessarily contract price and contract date and the Clearing House effected by:
- (i) in the case of a Call Option:
    - (aa) the Clearing House directing such Buyer to accept Delivery from such Seller in accordance with the terms of the Option Open Contract; and
    - (bb) the Clearing House directing such Seller to Deliver to such Buyer in accordance with the terms of the Option Open Contract; and
    - (cc) the Buyer paying to the Clearing House a settlement amount in accordance with the terms of the Option Open Contract to which the Buyer is party and directions of the Clearing House; and
    - (dd) the Clearing House paying to the Seller a settlement amount, calculated in accordance with the terms of the Option Open Contract to which the Seller is party;
  - (ii) in the case of a Put Option:
    - (aa) the Clearing House directing such Seller to accept Delivery from such Buyer in accordance with the terms of the Option Open Contract; and
    - (bb) the Clearing House directing such Buyer to Deliver to such Seller in accordance with the terms of the Option Open Contract; and
    - (cc) the Seller paying to the Clearing House a settlement amount in accordance with the terms of the Option Open Contract to which the Seller is party and the directions of the Clearing House; and
    - (dd) the Clearing House paying to the Buyer a settlement amount, calculated in accordance with the terms of the Option Open Contract to which the Buyer is party;

**OR**

- (b) between the Clearing House and a Clearing Participant who is Buyer to an Option Open Contract and between the Clearing House and a Clearing Participant who is Seller to an Option Open Contract the terms of which are identical in all aspects but not necessarily contract price and contract date, effected by:
  - (i) in the case of a Call Option:
    - (aa) Delivery by such Seller to the Clearing House and the Clearing House paying a settlement amount to such Seller calculated in accordance with the directions of the Clearing House and the terms of the Option Open Contract to which the Seller is party; and
    - (bb) Delivery by the Clearing House to such Buyer and the Buyer paying a settlement amount to the Clearing House calculated in accordance with the terms of the Option Open Contract to which the Buyer is party;
  - (ii) in the case of a Put Option:
    - (aa) Delivery by such Buyer to the Clearing House and the Clearing House paying a settlement amount to such Buyer calculated in accordance with the directions of the Clearing House and the terms of the Option Open Contract to which the Buyer is party; and
    - (bb) Delivery by the Clearing House to such Seller and the Seller paying a settlement amount to the Clearing House calculated in accordance with the terms of the Option Open Contract to which the Seller is party.

#### **8.04 Delivery procedures**

- (1) A Clearing Participant must comply and ensure compliance by its Client with all provisions of the Rules and the terms of such Open Contract relating to Delivery to the Clearing House or to Clearing Participants (as the case may be) and the acceptance of any Delivery.
- (2) Acceptance of Delivery by a Clearing Participant or its Client effected in accordance with Rule 8.02 or 8.03 and payment to the Clearing House in accordance with Rule 8.02 or 8.03 and the terms of an Open Contract are deemed to be full and complete discharge of obligations under such Open Contract.
- (3) Delivery by a Clearing Participant or its Client in accordance with the terms of an Open Contract and payment by the Clearing House to such Clearing Participant or its Clients effected in accordance with Rule 8.02 or 8.03 are deemed to be full and complete discharge of obligations under such Open Contract except if that Clearing Participant or its Client has delivered a forged or false Instrument or document evidencing title to such Instrument in which case such delivery does not constitute a discharge of the Clearing Participant's obligations under such Open Contract as against the Clearing House.
- (4) The Clearing House is not obliged to check any Instrument or purported Instrument or document evidencing title to such Instrument received by the Clearing House from a Seller to an Open Contract or the Client of such Seller, or from a Buyer to an Option Open Contract which is a Put Option.
- (5) The delivery of any Instrument or purported Instrument or document evidencing title to such Instrument to a Clearing Participant as Buyer to an Open Contract or the Client of such Buyer, or to a Clearing Participant as Seller to an Option Open Contract which is a Put Option, in accordance with the terms of such Open Contract is not to be taken to be acceptance by the Clearing House of such Instrument or document evidencing title to such Instrument.
- (6) Rejection in accordance with the procedures determined by the Clearing House, of any Instrument or document evidencing title to such Instrument delivered to a Clearing Participant

as Buyer to an Open Contract or the Client of such Buyer, or to a Clearing Participant as Seller to an Option Open Contract which is a Put Option, pursuant to the terms of such Open Contract is deemed to be rejection by the Clearing House of such Instrument or document evidencing title to such Instrument.

**8.05 Forgery**

- (1) The Clearing House does not have liability with respect to any forged instrument or Document delivered to Clearing Participants pursuant to Rule 8.02 or 8.03.
- (2) The sole recourse of the Clearing Participant receiving such forged Instrument or Document is to the Clearing Participant which delivered or caused to be delivered that forged Instrument or Document.

**8.06 Failure to Deliver or pay settlement amount**

- (1) A Clearing Participant directed to deliver but fails to effect such Delivery in accordance with Rule 8.02 or 8.03 within the time prescribed by the Clearing House is in default of its obligations.
- (2) A Clearing Participant who fails to effect acceptance of Delivery or payment of a settlement amount in accordance with Rule 8.02 or 8.03 within the time prescribed by the Clearing House is in default of its obligations.
- (3) If the Clearing House is unable to Deliver or effect Delivery due to the failure of a Clearing Participant to meet its obligations under an Open Contract the Clearing House will be under no obligation to Deliver or to effect Delivery but may effect settlement in accordance with Rule 2.09(1)(f).

**8.07 Failure to accept Delivery**

- (1) A Clearing Participant accepting Delivery in fulfillment of an Open Contract who has not made payment calculated in accordance with the terms of such Open Contract and the directions of the Clearing House is in default of its obligations.
- (2) Any Instrument which is the subject of such Delivery may be sold by the Clearing House.
- (3) The proceeds from such sale less any expenses incurred by the Clearing House and related taxes will be credited to the account of the Clearing Participant that failed to meet its obligations and that Clearing Participant remains liable to pay to the Clearing House the balance of the full settlement amount calculated in accordance with the terms of the Open Contract.

**8.08 Duty of Clearing Participants to Mitigate Risk of Non-Delivery**

Each Clearing Participant is required to mitigate the risk of non-delivery by requiring evidence from its Client, that all Open Positions in respect of any of its Open Contracts that will not be offset by the last trading day, will be completed by Delivery.

**8.09 Cash settlement**

In the case of an Open Contract which is to be cash settled, settlement must be effected in accordance with the terms of such Open Contract and in accordance with such procedures as are determined by the Clearing House, by the Clearing House paying or receiving, as the case may be, the settlement amount in cash calculated in accordance with the terms of the Open Contract.

**8.10 Contract settlement fees**

- (1) The Clearing House may charge such fees or levies in respect of the settlement of all rights and obligations of an Open Contract performed in accordance with this Chapter of the Rules.
- (2) Such fee and levies will be determined by the Clearing House from time to time.

**8.11 Alternative Delivery Procedure**

- (1) A Seller and Buyer of a Market Contract may agree to make and take delivery under terms or conditions of delivery which differ from the provisions of these Rules, and the applicable contract specifications for the Instrument being delivered ("Alternative Delivery Procedures"), if the Clearing House has specified Alternative Delivery Procedures for such Market Contract.
- (2) The relevant Clearing Participants must comply with such requirements the Exchange or the Clearing House may prescribe in relation to Alternative Delivery Procedures.
- (3) Where Alternative Delivery Procedure is agreed, the relevant Clearing Participants must notify the Clearing House in the form and manner prescribed by the Clearing House.
- (4) Upon receipt of the notification, the Clearing House will return to the Clearing Participants all margins held for the account of each Clearing Participant with respect to the Market Contracts involved.
- (5) The relevant Clearing Participants and the Clearing House shall be released from their respective obligations or liabilities in respect of delivery pursuant to the Rules upon the election of an Alternative Delivery Procedure.

[End of Chapter]



**CHAPTER 9 CLEARING FUND**

**9.01 Establishment of Clearing Fund**

- (1) The Clearing House will establish and maintain a Clearing Fund for the purpose of indemnifying the Clearing House against losses arising in the circumstances stated in Rule 9.06.
- (2) The Clearing House will determine the size of the Clearing Fund having regard to the obligations of and performance risk undertaken by the Clearing House in respect of Open Contracts, market volume, price volatility and such other matters as the Clearing House may consider relevant.

**9.02 Clearing Fund contributions**

- (1) The Clearing House may at any time require a Clearing Participant to make such payment to the Clearing Fund as it considers fit in accordance with these Rules.
- (2) Subject to Rules 9.02(8) and 9.09(3), each Clearing Participant must make payment to the Clearing Fund and maintain its Clearing Fund Contribution in accordance with the Clearing House's requirements.
- (3) A Clearing Participant's contribution to the Clearing Fund consists of:
  - (a) the fixed and variable contributions to the Clearing Fund required under Rule 9.02(4) and reflected in its most recent Clearing Fund Statement; plus
  - (b) all amounts (if any) requested from such Clearing Participant in accordance with Rule 9.02(1), subsequent to the issue of the most recent Clearing Fund Statements and up to 100% of the amount referred to in Rule 9.02(3)(a); plus
  - (c) all contributions (if any) received from such Clearing Participant in accordance with Rule 9.02(1), subsequent to the issue of the most recent Clearing Fund Statements and above 100% of the amount referred to in Rule 9.02(3)(a); less
  - (d) the share of loss, if any, calculated in accordance with Rule 9.08 or Rule 9.09(4), subsequent to the issue of the most recent Clearing Fund Statements.
- (4) A Clearing Participant must contribute to the Clearing Fund:
  - (a) a fixed amount to be determined by the Clearing House up to a maximum of RM1.75 million; and
  - (b) a variable amount calculated in the manner determined by the Clearing House.
- (5) The Clearing House will revalue any contribution to the Clearing Fund lodged with it pursuant to Rule 9.02(1) at such times as the Clearing House determines.
- (6) If due to such revaluation under Rule 9.02(5), a Clearing Participant's Clearing Fund Contribution is less than the amount the Clearing Participant must contribute to the Clearing Fund, the Clearing Participant must pay such shortfall to the Clearing House within such time the Clearing House specifies.
- (7) If a Clearing Participant's Clearing Fund Contribution exceeds the amount the Clearing Participant must contribute to the Clearing Fund, the Clearing Participant may request the Clearing House to pay out such excess upon giving notice in the form and time the Clearing House specifies.

- (8) If a Clearing Participant has served notice of resignation pursuant to Rule 3.31 prior to a claim being made on the Clearing Fund, such Clearing Participant need not make any further contributions to the Clearing Fund in response to a request made pursuant to Rule 9.02(1) in connection with such claim.

### **9.03 Clearing Fund statement**

The Clearing House will issue a Clearing Fund Statement to each Clearing Participant, at such times as may be determined by the Clearing House, containing information relating to the following:

- (a) the fixed and variable contribution to the Clearing Fund calculated in accordance with Rule 9.02(4);
- (b) the amount of contribution comprised in such Clearing Participant's fixed and variable contributions to the Clearing Fund determined by the Clearing House; and
- (c) any further contributions required in accordance with Rule 9.02(1) or any excess that can be recovered by the Clearing Participant pursuant to Rule 9.02(7).

### **9.04 Appropriations from the Clearing House's resources**

- (1) The Clearing House may appropriate any of its resources to the Clearing Fund.
- (2) If the amounts appropriated from the Clearing House's resources to the Clearing Fund are surplus to the requirements of the Clearing Fund, the Clearing House may appropriate such amounts out of the Clearing Fund, either temporarily or permanently.

### **9.05 Additional resources to the Clearing Fund**

- (1) The Clearing House may establish such additional arrangements, bank facilities and policies of insurance, as it considers appropriate for the purposes of providing additional resources to the Clearing Fund.
- (2) The Clearing House may terminate such arrangements at any time.
- (3) The costs and expenses of establishing such arrangements shall be payable out of the interest or other sums accruing to the Clearing Fund.
- (4) The Clearing House may require Clearing Participants to reimburse it in respect of such costs and expenses of establishing such arrangements, which amount shall be in excess of the amounts payable out of the interest or other sums accruing to the Clearing Fund, pro-rata to the amount of their respective contributions required under Rule 9.02(4) or in such manner as the Clearing House considers fair and appropriate.

### **9.06 Purpose of Clearing Fund**

The Clearing House may draw on the Clearing Fund, on one or more occasions, to meet losses or anticipated losses if:

- (a) any Clearing Participant fails to discharge any of its obligations to the Clearing House when due; or
- (b) any financial institution or clearing house organisation fails to perform any obligation to the Clearing House when due because of its insolvency, receivership, indefinite suspension of operations or the suspension of payments or because of any similar event.

**9.07 Application of Clearing Fund**

Without affecting the Clearing House's right to draw on other resources available to the Clearing Fund and subject to the terms of any guarantees, facilities, policies or other assets forming part of the resources of the Clearing Fund, the Clearing Fund may be applied in the following order of priority:

- (a) first, the contributions made by the Clearing Participant in default (if applicable);
- (b) secondly, the amount appropriated by the Clearing House from its resources into the Clearing Fund pursuant to Rule 9.04;
- (c) thirdly, contributions made by all other Clearing Participants (or all Clearing Participants if Rule 9.07(a) is not applicable) in the proportion set out in Rule 9.08; and
- (d) lastly, additional resources such as bank facilities and policies of insurance secured pursuant to Rule 9.05.

**9.08 Distribution of losses**

- (1) If the Clearing Fund is drawn upon pursuant to Rule 9.07, the proportion of the total amount required by the Clearing House after drawing on the funds referred to in Rule 9.07 will be charged against all Clearing Participants other than the Clearing Participant in default in the manner specified by the Clearing House (hereinafter referred to as "share of loss").
- (2) The Clearing House will issue a statement advising the Clearing Participant of its share of loss.
- (3) Subject to Rules 9.02(8) and 9.09(3) the Clearing Participant must pay into the Clearing Fund its share of loss within such time as determined by the Clearing House.
- (4) Immediately after the expiration of the time allowed for payment to be made in accordance with Rule 9.08(2) the Clearing House will recalculate the Clearing Participant's contribution to the Clearing Fund.

**9.09 Limitation of Clearing Participant's liability to Clearing Fund**

- (1) The amount charged against a Clearing Participant in accordance with Rule 9.08(1) must first be paid out of that Clearing Participant's Clearing Fund Contribution.
- (2) Subject to Rules 9.02(8) and 9.09(3), if the Clearing Participant's Clearing Fund Contribution is insufficient to pay out its share of loss, the Clearing Participant is liable to make good such shortfall to the Clearing Fund.
- (3) A Clearing Participant will not be liable to make good more than an additional 100% of the current amount of its fixed and variable contributions to the Clearing Fund as set out in its most recent Clearing Fund Statement if:
  - (a) within one Business Day of being notified by the Clearing House of its share of loss, the Clearing Participant notifies the Clearing House in writing that it is terminating its Participantship;
  - (b) no Futures Contract or Option is presented to the Clearing House for Registration after the giving of such notice except contracts for immediate liquidation by offset; and
  - (c) the Clearing Participant closes out or transfers its Open Position as promptly as possible.

- (4) If a Clearing Participant exercises its right under Rule 9.09(3), the balance of its share of loss (referred to in this paragraph as “deficiency”) will be charged against each remaining Clearing Participant in the proportion of the deficiency calculated in the manner determined by the Clearing House, and the provisions of this Rule will apply to each remaining Clearing Participant in relation to its liability to pay such proportion of the deficiency.
- (5) A Clearing Participant who has exercised its right under Rule 9.09(3) is ineligible to be readmitted to Participantship unless it agrees to reimburse the other Clearing Participants for the deficiency at the time of applying for re-admission or such other amount as the Clearing House considers fair and equitable in the circumstances.

#### **9.10 Notice to Clearing Participants**

Whenever any charge is made against a Clearing Participant's Clearing Fund Contribution in accordance with Rule 9.08 or 9.09(4), the Clearing House must promptly notify that Clearing Participant of the amount of the charge.

#### **9.11 Power to pledge Clearing Fund**

- (1) The Clearing House may pledge the Clearing Fund, in whole or in part, as security for borrowings if:
  - (a) a Clearing Participant has defaulted on its obligations and the Clearing House is unable to obtain prompt delivery of or to convert promptly to cash any asset of such Clearing Participant or any other asset of the Clearing House; or
  - (b) the Clearing House sustains a loss pursuant to Rule 9.06 and elects to borrow funds in lieu of charging such loss to the Clearing Fund.
- (2) Borrowings pursuant to Rule 9.11(1) must not exceed the amount necessary to meet the Clearing House's obligations to Clearing Participants and other clearing house organisations and must be repaid by the Clearing House as promptly as possible.
- (3) Borrowings pursuant to Rule 9.11(1) will not be charged against the Clearing Fund and do not affect the amount or timing of any charges otherwise required to be made against a Clearing Participant's Clearing Fund Contribution.

#### **9.12 Refund of contributions**

- (1) If a Clearing Participant ceases to be a Clearing Participant, whether as a result of resignation or otherwise, subject to Rules 9.12(2) and 9.12(3) a sum equivalent to its Clearing Fund Contribution must be returned.
- (2) The Clearing House may return the Clearing Participant's Clearing Fund Contribution if:
  - (a) the Clearing Participant's obligations to the Clearing House have been fulfilled; or
  - (b) with the Clearing House's approval, another Clearing Participant has agreed to assume such Clearing Participant's obligations to the Clearing House; or
  - (c) the Clearing Participant has presented to the Clearing House such indemnities and guarantees as the Clearing House in its sole discretion considers satisfactory.
- (3) The Clearing House may withhold or deduct from any amount returnable to the Clearing Participant under this Rule 9.12:
  - (a) all charges against the Clearing Participant's Clearing Fund Contribution on account of transactions made by the Clearing Participant; and

- (b) all amounts due and payable by the Clearing Participant to the Clearing House.

**9.13 Recovery of loss**

- (1) If a charge is made against the Clearing Fund Contributions of Clearing Participants in accordance with Rule 9.08 or 9.09 and the amount is later recovered by the Clearing House, whether in whole or in part, the amount recovered must be paid to the Clearing Participants less any expenses or costs incurred by the Clearing House in recovering that amount.
- (2) The amount payable to each Clearing Participant will be in proportion to the amounts contributed by the Clearing Participant relative to the amounts contributed by all Clearing Participants in respect of the event which caused such charge to be made against Clearing Participants under Rule 9.08.

**9.14 Investment of Clearing Fund**

The Clearing House may invest, manage and mobilise cash in the Clearing Fund in such manner as the Clearing House considers fit or expedient.

[End of Chapter]

CHAPTER 10 DEFAULT RULES

10.01 Events of Default

The Clearing House may regard any of the following events as an event of default by a Clearing Participant:

- (a) the Clearing Participant ceasing to hold a valid and effective Capital Market Services Licence for carrying on the business of Clearing;
- (b) the suspension, expulsion or termination of the Clearing Participant as a participant of the Clearing House, Exchange or any Malaysian or overseas derivatives, securities, commodity or stock exchange or market or clearing or settlement facility;
- (c) the Clearing Participant is subject to any sanction imposed by the Clearing House, Exchange or any Malaysian or overseas derivatives, securities, commodity or stock exchange or market or clearing or settlement facility;
- (d) the Clearing Participant ceasing or suspending or threatening to cease or suspend substantially all of its business, or threatening to dispose of substantially all of its assets;
- (e) the Clearing Participant no longer satisfying the qualification criteria or failing to comply with any condition of admission as a Clearing Participant;
- (f) the Clearing Participant failing to comply with any reasonable direction, decision or requirement of the Clearing House;
- (g) the Clearing Participant failing to comply with or settle any of its obligations in relation to an Open Contract under these Rules or the Exchange Rules including such terms relating to Delivery and the acceptance of any Delivery;
- (h) the Clearing Participant failing to meet in full any contribution or deposit required to be paid under these Rules;
- (i) the Clearing Participant failing to comply with any of the financial requirements set out in Chapter 3 of these Rules;
- (j) the Clearing Participant failing to comply with or settle any of its financial obligations in relation to these Rules or the rules and regulations of any exchange or clearing house in which the Clearing Participant is a participant or member;
- (k) the Clearing Participant failing 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 Clearing Participant's indebtedness, or threatening or proposing to suspend, stop, defer or reschedule payment or to default under the terms of such loan or agreement;
- (l) the Clearing Participant is insolvent, or unable to pay its debts as and when they fall due, or a winding-up petition is presented, or a notice of a proposal for a resolution for the Clearing Participant's winding-up is given, or a voluntary arrangement is approved by the court of law for the benefit of its creditors, or an assignment or composition is made by the 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;
- (m) a liquidator, receiver, manager, trustee, an administrative receiver or similar officer is appointed over the Clearing Participant or a composition or scheme of arrangement approved by a court of law is made against the Clearing Participant;

- (n) a resolution to wind-up the Clearing Participant (save for the purpose of amalgamation or reconstruction) is passed or a winding-up order is made;
- (o) any distress, execution or other process is levied or enforced or served upon or against any property or assets of a Clearing Participant; or
- (p) any other event or series of events, whether related or not, occurring (or appearing likely to occur) which in the opinion of the Clearing House has (or appearing likely to have) a material effect on the capacity of the Clearing Participant to meet its obligations to the Clearing House.

**10.02 Powers of the Clearing House in the event of a default**

- (1) If the Clearing House considers that an event of default under Rule 10.01 has occurred, the Clearing House may take any or all of the following actions:
  - (a) suspend the Participants of the defaulting Clearing Participant;
  - (b) impose restrictions on the activities of the defaulting Clearing Participant;
  - (c) refuse to register Market Contracts in the defaulting Clearing Participant's name;
  - (d) exercise, or allow to expire, any Open Contract of the defaulting Clearing Participant;
  - (e) settle any or all of the Open Contracts of the defaulting Clearing Participant;
  - (f) instruct a designated agent to execute a buy-in of the Instrument up to the quantity required to be delivered by the defaulting Clearing Participant;
  - (g) liquidate or novate the rights and obligations under the Open Contracts of the defaulting Clearing Participant in any manner as the Clearing House may deem fit and this includes the Clearing House:
    - (i) appointing one or more Clearing Participants to liquidate the Open Contracts;
    - (ii) transferring or procuring the transfer of the Open Contracts to one or more Clearing Participants who have agreed to accept such transfer; and
    - (iii) unless the Clearing House determines otherwise, transferring or procuring the transfer of all monies and Approved Collateral associated with the Open Contracts transferred pursuant to Rule 10.02(1)(g)(ii);
  - (h) sell, realise or apply any Approved Collateral and calculate the sum of all assets of the defaulting Clearing Participant including its Security Deposit, Direct Clearing Participant Deposit (where applicable), Clearing Fund Contribution, cash and any other assets held by the Clearing House provided always that any Approved Collateral, cash or other assets deposited with the Clearing House with respect to Open Contracts recorded in a Segregated Account of the defaulting Clearing Participant must not be used to meet any obligations relating to Open Contracts in the Unsegregated Account;
  - (i) set-off any loss incurred by the Clearing House pursuant to Rules 10.02(1)(e), (f) and (g) against the monies determined in accordance with 10.02(1)(h) and:
    - (i) any surplus monies must be utilised in accordance with Rule 10.03;
    - (ii) any deficit must be met in accordance with Rule 10.04;

- (j) execute hedging transactions, in any manner, on behalf of and at the risk of the defaulting Clearing Participant, to eliminate or reduce market risk resulting from such Open Contracts; or
  - (k) take any other action which the Clearing House deems necessary for the protection of the public interest or the Clearing House.
- (2) The actions referred to in Rule 10.02(1) will be taken at the expense of the defaulting Clearing Participant.
- (3) The actions referred to in Rule 10.02(1) may be taken immediately or at any other time in any order the Clearing House determines and without the need for any prior notice to or consent of the defaulting Clearing Participant or any other person.

**10.03 Settlement of obligations**

The Clearing House will pay any surplus determined pursuant to Rule 10.02(1)(i)(i) to the defaulting Clearing Participant.

**10.04 Call upon funds**

Any shortfall determined pursuant to Rule 10.02(1)(i)(ii) must be met and made good by the use and application of funds in accordance with Rule 9.07.

**10.05 Advice to an Exchange and the Commission**

The Clearing House will inform the relevant Exchange(s) and the Commission of all actions taken under this Chapter.

**10.06 Clearing Participant to provide assistance**

The defaulting Clearing Participant must cooperate with the Clearing House and non-defaulting Clearing Participants in respect of any of the actions that the Clearing House may take pursuant to Rule 10.02.

[End of Chapter]



CHAPTER 11 INSPECTION AND INVESTIGATION

PART A INSPECTION

**11.01 Clearing House's right to inspection**

- (1) The Clearing House may conduct an inspection on a Clearing Participant or Registered Person at any time on any matter in relation to these Rules, the Clearing Participant's internal policies and procedures and any other rules and regulations related to its functions as governed under these Rules.
- (2) A Clearing Participant and Relevant Person must:
  - (a) not hinder or obstruct the Clearing House during the inspection;
  - (b) give the Clearing House all assistance the Clearing House reasonably requires to conduct the inspection; and
  - (c) provide such information relevant to the inspection and in this regard comply with and give effect to any directions the Clearing House issues in exercising the powers under Rule 11.01.

**11.02 Reporting**

- (1) The Clearing House will notify the Clearing Participant of the findings from the Clearing House's inspection.
- (2) A Clearing Participant must table the Clearing House's findings to the Clearing Participant's board of directors as soon as possible.
- (3) A Clearing Participant must within such time as may be specified by the Clearing House:
  - (a) take corrective measures to address the Clearing House's findings; and
  - (b) notify the Clearing House in writing of the Clearing Participant's board of director's decided course of action and corrective measures taken (if any) to address the Clearing House's findings.

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**PART B      INVESTIGATION**

**11.03 Power of investigation**

- (1) The Clearing House may conduct an investigation on a Clearing Participant or Registered Person on any matter in relation to these Rules, the Clearing Participant's internal policies and procedures and any other rules and regulations related to its functions as governed under these Rules.
- (2) A Clearing Participant and Relevant Person must:
  - (a) not hinder or obstruct the Clearing House during the investigation;
  - (b) give the Clearing House all assistance the Clearing House reasonably requires to conduct the investigation; and
  - (c) provide such information relevant to the investigation and in this regard comply and give effect to any directions the Clearing House issues in exercising the powers under Rule 11.03.

[End of Chapter]

**CHAPTER 12 DISCIPLINARY ACTION**

**PART A DISCIPLINARY POWERS**

**12.01 Interpretation**

In this Chapter,

“Defaulting Participant” includes a Clearing Participant or a Registered Person(s) of the Clearing Participant who has been found to have breached any of the Rules.

“disciplinary proceedings” where the context permits includes appeal proceedings under Part D.

**12.02 Disciplinary powers**

The Clearing House may exercise its disciplinary powers under Part A of this Chapter 12 against a Defaulting Participant. The Clearing House's disciplinary powers include the taking of one or more of the following actions:

- (a) suspend the Defaulting Participant in accordance with the terms prescribed by the Clearing House;
- (b) strike a Defaulting Participant off the Register of CPs and RPs where the Defaulting Participant will immediately cease to enjoy the privileges of Participantship;
- (c) limit or disallow the access of the Defaulting Participant to any of the services or facilities of the Clearing House or suspend the Defaulting Participant's privileges or activities on such terms and for such period as the Clearing House may in its sole discretion determine, including in relation to any function that has been outsourced;
- (d) impose a fine not exceeding RM1 million on the Defaulting Participant;
- (e) reprimand (publicly or privately) the Defaulting Participant;
- (f) impose any restriction or condition in relation to the breach committed or on the activities that a Defaulting Participant undertakes;
- (g) impose one or more conditions for compliance including issuing a direction to take such steps to remedy or mitigate the breach, other than a direction to make restitution;
- (h) direct a Defaulting Participant to take appropriate action against any of the Defaulting Participant's employee or agents if such person caused the Defaulting Participant to commit the breach;
- (i) mandate education, training or such other types of programme as may be determined by the Clearing House to be undertaken or implemented by the Defaulting Participant for its employees;
- (j) impose any restriction, prohibition or requirement regarding the disposal, holding or dealing with any monies or assets of a client by a Defaulting Participant; or
- (k) any other action the Clearing House considers appropriate subject to consultation with the Commission.

**12.03 Procedures**

- (1) The Clearing House will determine the procedures applicable to any disciplinary proceedings taken under this Chapter. Such procedures may vary to adapt to the circumstances of any particular case.
- (2) The Clearing House is not bound by legal rules of evidence and procedure in any disciplinary proceedings under this Chapter.

**12.04 Agreed settlement**

- (1) A Defaulting Participant may, at any time before the Clearing House makes a decision, propose a settlement of the disciplinary action by agreeing to a set of facts, liability or penalty with the Clearing House.
- (2) The Clearing House may reject, accept or vary the proposed settlement based on terms that the Clearing House deems fit.
- (3) Where the Clearing House accepts the proposed settlement, the agreed settlement will be recorded as a decision of the Clearing House.
- (4) If the Clearing House is not agreeable to the proposed settlement, the proceedings under Part B of this Chapter 12 will apply.

**12.05 Request for oral representations**

- (1) A Defaulting Participant may request for an oral representation to make submissions or procure the attendance of witnesses or legal representation at such oral representation for proceedings commenced against the Defaulting Participant.
- (2) A request under Rule 12.05(1) must be submitted with:
  - (a) a Response as provided under Rule 12.10; or
  - (b) a Notice of Appeal as provided under Rule 12.15.
- (3) The Clearing House may, in its absolute discretion, allow or disallow any request made pursuant to Rule 12.04(1), upon such terms and conditions as the Clearing House deems appropriate.

**12.06 Standard of proof**

The Clearing House will not find an allegation proven unless the Clearing House is satisfied that the allegation is proven on the balance of probabilities.

**12.07 Other rights**

The exercise of powers in Rule 12.02 does not in any way prejudice the other rights of the Clearing House against a Defaulting Participant or any other person to whom these Rules are directed.

**12.08 Acts or omissions of a Relevant Person**

Where the acts or omissions of a Relevant Person would have been subject to these Rules had such acts or omissions been committed by the Clearing Participant, then such acts or omissions

are deemed to be committed by that Clearing Participant and disciplinary action may be taken against it.

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**PART B      DISCIPLINARY PROCEEDINGS**

**12.09 Requisite Notice for disciplinary proceedings**

The Clearing House will serve on a Defaulting Participant against whom the disciplinary action is proposed to be taken, a written notice specifying the nature and particulars of the breach the Defaulting Participant is alleged to have committed ("Requisite Notice").

**12.10 Responses to Requisite Notice**

The Defaulting Participant may submit to the Clearing House a written response to the Requisite Notice ("Response") within the time stipulated in the Requisite Notice.

**12.11 Notification of decision**

After the conclusion of the disciplinary proceedings, the Clearing House will notify the Defaulting Participant in writing of the decision including the penalty imposed (if any).

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**PART C EXPEDITED PROCEEDINGS**

**12.12 Scope of expedited proceedings**

The Clearing House may initiate expedited proceedings against a Defaulting Participant against whom disciplinary action is proposed to be taken instead of the proceedings under Part B of this Chapter 12 in circumstances the Clearing House deems fit, such as in respect of a breach of these Rules which does not typically attract a penalty beyond:

- (a) a reprimand; or
- (b) a fine of RM 10,000.00; or
- (c) both the above.

**12.13 Procedure of expedited proceedings**

- (1) The Clearing House will notify the Defaulting Participant in writing that the matter will be proceeded with by way of expedited proceedings. The notice will specify the breach and penalty imposed for the breach (“Determination”).
- (2) The Defaulting Participant must, within the time specified in the Determination, inform the Clearing House in writing whether or not the Defaulting Participant agrees with the Determination.
- (3) A Defaulting Participant is deemed to have agreed with the Determination if the Defaulting Participant does not respond within the specified time.
- (4) If the Defaulting Participant agrees or is deemed to have agreed with the Determination, disciplinary action will be recorded as having been taken against the Defaulting Participant on the date of the Defaulting Participant’s agreement or upon expiry of the specified time.
- (5) If the Defaulting Participant agrees or is deemed to have agreed with the Determination, any fine imposed as a penalty for the breach must be paid:
  - (a) upon the Defaulting Participant informing the Clearing House in writing of his agreement with the Determination; or
  - (b) within the time specified in the Determination;as the case may be.
- (6) If the Defaulting Participant does not agree with the Determination, the matter will proceed under Part B of this Chapter 12.
- (7) The Defaulting Participant may, within the time specified in the Determination, submit a written response to the Determination as if the Determination is a Requisite Notice under Rule 12.09.
- (8) In deliberating the matter under Part B of this Chapter 12, the Clearing House is not bound by the Determination and may impose a higher penalty based on the facts or evidence presented during the proceedings under Part B of this Chapter 12.

**12.14 No limitation**

Nothing in Part C of this Chapter 12 prevents the Clearing House from proceeding with disciplinary proceedings under Part B of this Chapter 12 for any breach of a Rule.

**PART D APPEAL**

**12.15 Right of appeal**

- (1) In amplification of Rule 2.05, any party to the disciplinary proceedings taken under Part B of this Chapter 12 and Rule 12.13(6) who is dissatisfied with a decision resulting from the disciplinary proceedings may appeal against such decision in the manner specified in Rule 12.16 unless the decision was recorded pursuant to an agreed settlement under Rule 12.04 (“the Appellant”).
- (2) The Clearing House may suspend the enforcement of any action taken under Rule 12.02 that is the subject of the appeal until the disposal of the appeal.

**12.16 Notice of appeal**

The Appellant must, within the time stated in the notification of decision given under Rule 12.11, give to the Clearing House a notice (“Notice of Appeal”) that:

- (a) identifies the decision against which the appeal is made; and
- (b) sets out the ground(s) of the appeal together with the representations to justify the ground(s) relied upon.

**12.17 Deliberation of appeal**

- (1) An Appellant may produce evidence that was not presented at the initial disciplinary proceedings if:
  - (a) the evidence was not available at the time of the initial disciplinary proceedings; and
  - (b) the evidence would have been likely to have had a determining influence upon the decision appealed against.
- (2) The Appellant must produce the new evidence as stated in Rule 12.17(1) when submitting the Notice of Appeal.
- (3) The Clearing House may exercise its powers under Rule 11.03 and produce new evidence arising from the Notice of Appeal submitted by a Defaulting Participant.
- (4) The Clearing House may affirm, vary or set aside the disciplinary action appealed against.

**12.18 Notification of decision on appeal**

After the conclusion of an appeal, the Clearing House will notify the Defaulting Participant in writing of the decision of the appeal and such decision is final.

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**PART E EFFECT OF DISCIPLINARY ACTION**

**12.19 General effect of disciplinary action**

- (1) A Defaulting Participant must give effect to a decision made under Part B of this Chapter 12 or Rule 12.13 or a decision affirmed or varied under Rule 12.17 within the time stipulated by the Clearing House.
- (2) If a Defaulting Participant fails to give effect to or comply with such decision made, affirmed or varied, the Defaulting Participant is deemed to have committed a breach of these Rules and the Clearing House may take further action as stated under Rule 12.02.

**12.20 Period of payment and effect of non-payment of fine**

- (1) Without prejudice to Rule 12.19(2), a fine imposed by the Clearing House must be paid by the Defaulting Participant within the time stipulated in the notice under Rule 12.11 or Rule 12.18.
- (2) Pursuant to Rule 12.20(1) and Rule 12.13(5), a Defaulting Participant who fails to make payment within the stipulated time frame will be summarily suspended from its functions and activities.
- (3) Where the fine remains unpaid 7 days after the suspension under Rule 12.20(2), the Clearing House may at any time thereafter summarily terminate the Defaulting Participant's Participantship or registration, as the case may be, with the Clearing House.
- (4) A fine or any portion of a fine remaining unpaid by a Defaulting Participant is a debt owing by the Defaulting Participant to the Clearing House.

**12.21 Effect of suspension or termination**

- (1) A suspension imposed by the Clearing House upon the Defaulting Participant:
  - (a) takes effect on the date notified in the notice under Rule 12.11 or Rule 12.18 ("the said notice"); and
  - (b) remains for such period as specified in the said notice but the period may be extended by the Clearing House for such period as it considers appropriate.
- (2) Nothing in this Rule 12.21 is to be construed as releasing or discharging such Defaulting Participant from remaining liable in all respects to fulfill all its obligations pursuant to or under these Rules.
- (3) Any Defaulting Participant who has been suspended or terminated shall be subject to Rule 10.01, wherever appropriate.

[End of Chapter]

**Schedule 1**

**Computation of Net Tangible Assets**

For the purpose of calculating Net Tangible Assets:

- a) all futures and option contracts must be marked to their current market value;
- b) all unrealised profits and losses on all futures, options, forward and fixed price commitment contracts must be treated as realised profits and losses; and
- c) unless otherwise specifically stated, the value ascribed to all other assets and liabilities must be their current market value.

**Net Tangible Assets** are:

**Tangible Assets**

less

**Total Liabilities**

**1. Tangible Assets**

Tangible Assets are cash and other assets which are commonly identified in accordance with generally accepted accounting principles prevailing from time to time as being current and non-current assets,

but must exclude:

- a) all amounts owing to the Clearing Participant by its Related Corporations except receivables due in the ordinary course of business from a financial institution licensed by Central Bank;
- b) shares held in a Related Corporation unless otherwise approved by the Clearing House; and
- c) intangible assets.

**2. Total Liabilities**

Total Liabilities are those liabilities that are commonly identified in accordance with generally accepted accounting principles prevailing from time to time as being short term and long term liabilities or such other liabilities as may from time to time be determined by the Clearing House.

**3. Related Corporation**

For the purposes of this schedule, a Related Corporation is any corporation:

- a) in which the Clearing Participant owns or effectively controls 20% or more of the issued share capital;
- b) which owns or effectively controls 20% or more of the issued share capital of the Clearing Participant;

- c) which effectively directs or has the ability to directly or indirectly influence the management policies of the Clearing Participant;
- d) of which management policies the Clearing Participant effectively directs or has the ability to directly or indirectly influence;
- e) where one party holds or effectively controls 20% or more of the issued share capital of that corporation and simultaneously holds or effectively controls 20% or more of the issued share capital of the Clearing Participant.

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**Schedule 2**

**Computation of Adjusted Net Capital**

For the purpose of calculating Adjusted Net Capital:

- a) all futures and option contracts must be marked to their current market value;
- b) all unrealised profits and losses on all futures, options, forward and fixed price commitment contracts must be treated as realised profits and losses; and
- c) unless otherwise specifically stated, the value ascribed to all other assets and liabilities must be their current market value.

**Adjusted Net Capital** is:

**Permitted Assets**

Less

**Additional Deductions**

Less

**Total Liabilities**

**1. Permitted Assets**

Permitted Assets are cash and other assets which are commonly identified in accordance with generally accepted accounting principles prevailing as being current assets and are realisable for cash or collectible within 10 business days from the computation date, but must exclude:

- a) all prepaid expenses and deferred charges;
- b) all advances, loans and other receivables which are not secured except:
  - i) brokerage, fees and commissions which have not been outstanding for longer than 10 business days from the due date;
  - ii) all dividends which have not been outstanding for longer than 10 business days from the payable date;
  - iii) receivables from the Clearing House but not including any asset lodged with the Clearing House in respect of contributions to the Clearing Fund or as Security Deposits;
  - iv) receivables from an Exchange;
  - v) receivables due in the ordinary course of business from a financial institution licensed by Central Bank including interest due to be paid on the next business day but excluding any other accrued interest;
  - vi) receivables, other than fees, commissions and brokerage, from other Affiliates of the Clearing House;
  - vii) receivables from another clearing house approved by the Clearing House;

- viii) receivables resulting from the sale of inventories commonly associated with the business activities of the Clearing Participant, which in the opinion of the Clearing Participant's auditors, are good for collection; and
- ix) such other amounts as may be determined by the Clearing House;
- c) any asset the possession, or control over the disposal, of which has been given to a financial institution as security for any credit facility provided by the financial institution to the Clearing Participant or as security for an irrevocable letter of credit, bank guarantee or surety or any other line of credit provided by that financial institution to the Clearing House, an exchange, another clearing house or to any other person;
- d) shares held in a Related Company unless otherwise approved by the Clearing House;
- e) all advances or loans to any director or employee of the Clearing Participant or any third party;
- f) all amounts owed to the Clearing Participant by its Related Company other than amounts falling within the description in subparagraph (b)(v);
- g) all intangible assets;
- h) all exchange participations and participations of clearing houses;
- i) all securities except:
  - i) Malaysian government securities;
  - ii) bills, notes and debentures traded in the money market;
  - iii) medium to long-term bills, notes and debentures issued by financial institutions licensed by Central Bank for which there are readily ascertained market prices;
  - iv) securities listed on a stock exchange approved by the Clearing House;
  - v) such other securities as may be approved by the Clearing House;
- j) such other items as may be determined by the Clearing House.

## **2. Total Liabilities**

Total Liabilities are those liabilities which are commonly identified in accordance with generally accepted accounting principles prevailing from time to time as being short term and long term liabilities but exclude:

- a) liabilities under a subordinated loan agreement which fulfils the minimum criteria as determined by the Exchange, up to a maximum amount of 4 times the shareholders' funds of the Clearing Participant;
- b) long term liabilities owed to a financial institution under a commercial loan secured by a fixed charge over real property or motor vehicles owned by the Clearing Participant and applied for use in the normal course of the business of the Clearing Participant, up to an amount equal to the lower of net book value or 80% of the market value of the real property or motor vehicles;

- c) such other liabilities as may from time to time be determined by the Clearing House.

**3. Additional Deductions**

The Clearing House may prescribe as an Additional Deduction an amount, in relation to each of the following categories of Permitted Assets, expressed as a percentage of the value of the relevant Permitted Asset, or in relation to other matters, from which the total value of Permitted Assets is to be deducted:

- a) Malaysian government securities;
- b) readily marketable Malaysian securities listed on a stock exchange approved by the Clearing House;
- c) such other securities that may be approved by the Clearing House from time to time;
- d) receivables due in the ordinary course of business from a financial institution licensed by Central Bank;
- e) receivables from other Affiliates of the Clearing House or another clearing house approved by the Clearing House or that approved clearing house's Clearing Participants;
- f) amounts due from clients in respect of margin where such amounts are outstanding not less than two business days as at the computation date;
- g) brokerage, fees and commissions, which are not secured, due from clients;
- h) the Performance Bond requirement on open contracts in the proprietary account of a Clearing Participant which are not bona fide hedged contracts;
- i) receivables, which are not secured, due from exchanges and clearing houses other than an Exchange or the Clearing House;
- j) the net debit balance arising from the marking-to-market or interim settlement of outstanding futures and/or option contracts held by clients as at the close of business on the computation date;
- k) inventories which are hedged in any market or association;
- l) inventories which are not hedged by any hedging position in any market or association;
- m) such other assets or amounts as may be determined by the Clearing House from time to time.

**4. Related Company**

For the purposes of this schedule, a Related Company is any corporation:

- a) in which the Clearing Participant owns or effectively controls 20% or more of the issued share capital;
- b) which owns or effectively controls 20% or more of the issued share capital of the Clearing Participant;
- c) which effectively directs or has the ability to directly or indirectly influence the management policies of the Clearing Participant;

- d) of which management policies the Clearing Participant effectively directs or has the ability to directly or indirectly influence;
- e) where one party holds or effectively controls 20% or more of the issued share capital of that corporation and simultaneously holds or effectively controls 20% or more of the issued share capital of the Clearing Participant.

**5. Secured**

For the purposes of this schedule, except in subparagraph 2(b), a loan or other form of receivable is considered to be secured if and only if:

- a) collateral of the type approved by the Clearing House has been given to the Clearing Participant as security for that loan or receivable and is at least of such value approved by the Clearing House;
- b) the collateral is in the possession or control of the Clearing Participant; and
- c) the Clearing Participant has a legally enforceable written security agreement executed by the debtor in its favour under which the Clearing Participant has the power to readily sell or otherwise convert the collateral into cash in the event of the receivable being placed in jeopardy.

**6. Securities**

For the purposes of this schedule, the term “securities” means debentures, stocks and shares in a public company or corporation, or bonds of any government or of any body, corporate or unincorporate, and includes any option in respect thereof and any interest in unit trust schemes.

**7. Unit trust scheme**

For the purposes of this schedule, the term “unit trust scheme” means any arrangement made for the purpose, or having the effect, of providing facilities for the participation by persons as beneficiaries under a trust in profits or income arising from the acquisition, holding, management or disposal of securities or any other property.

**8. Computation date**

For the purposes of this schedule, the term “computation date” means any day on which the Adjusted Net Capital of a Clearing Participant is computed.

**9. Subordinated Loan Agreement**

For the purposes of this schedule, a “subordinated loan agreement” must fulfil the following criteria:

- a) the Clearing House is notified of the subordinated loan agreement;
- b) the repayment (including prepayment) of the whole or part of the loan must be made with the Clearing House’s prior written approval;
- c) has at least 1 year remaining period;

- d) the subordinated creditor will not claim or receive from the Clearing Participant, by set-off or in any other manner, any subordinated debt unless and until all other debts of the Clearing Participant not being subordinated debts has been paid or except with the prior written approval of the Clearing House;
- e) in the event of a dissolution, winding-up, liquidation or re-organisation of the Clearing Participant, the creditors of the Clearing Participant other than the creditor of the subordinated debt has the prior right to receive payment in full of the other creditors' debts before the subordinated creditor receives any payment in respect of the subordinated debts;
- f) if despite paragraph 9, the subordinated creditor of the subordinated debt receives any distribution in respect of the subordinated debts, the creditor will pay such distribution over to the other creditors of the Clearing Participant. This payment will be made rateably against the other creditors' debt until the other creditors' debts are paid in full; and
- g) the Clearing House reserves the right to suspend repayment of the loan at maturity date if it is of the opinion that the Clearing Participant fails to meet the minimum financial requirements as stated in Chapter 3 of these Rules.

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