

*[Note: Save for Chapter 7 which is not being amended, the entire rulebook is reproduced as substantial amendments have been made to the relevant chapters.]*

## DEFINITIONS AND INTERPRETATION

### 1. Definitions

In the Rules, unless the contrary intention appears, the words appearing in the first column of the table set out below have the meanings set out opposite to them respectively in the second column.

Act	The Capital Markets and Services Act 2007.
Adjusted Net Capital	An amount calculated in accordance with Rule 2 <del>18</del> <u>10</u> .
Adjustment Agreement	As defined in the Exchange Rules.
Affiliate	As defined in the Act.
<del>Allocation</del>	<del>The novation from one Clearing Participant to another Clearing Participant, of all rights and obligations under an Open Contract arising from Registration of a Market Contract including but not limited to the payment of Clearing Fee.</del>
Approved Collateral	As defined in Rule 616.
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 703.
Audited Accounts	Accounts certified by an Auditor.
Auditor	A professional accountant registered and holding a practising certificate under the Accountants Act 1967 (Revised 1972).
Articles	The memorandum and articles of association of the Clearing House in force for the time being.
<u>Bank Clearing Participant</u>	<u>A General Clearing Participant that is an entity that is also governed by Bank Negara.</u>
Bank Negara	The Central Bank of Malaysia established by the Central Bank of Malaysia <del>Ordinance</del> <u>Act</u> 1958.
<del>Board</del>	<del>The Board of Directors of the Clearing House.</del>
Books	As defined 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.

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Buyer	The party to a Derivative taking a Long Position.
Call	Option type of an Option Open Contract. A Call option provides the taker of such Option with the right to become the buyer of the underlying Instrument or Buyer to the underlying contract or, in the case of an Option which is an Adjustment Agreement, is advantaged by an increase in the Reference Price to which that Adjustment Agreement relates, as the case may be.
Capital Markets Services Licence	Shall have the same meaning as is assigned to that expression in the Act.
<u>Clearing</u>	<u>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.</u>
<del>Clearing and Settlement Functions</del>	<del>The functions of a Clearing Participant in relation to clearing and settling Market Contracts.</del>
Clearing facilities	Shall have the same meaning as is assigned to that expression in the Act, in relation to the Clearing House.
<del>Clearing Fee</del>	<del>A fee payable in accordance with Rule 618.</del>
Clearing House	Bursa Malaysia Derivatives Clearing Berhad.
Clearing Fund	A fund established by the Clearing House in accordance with Chapter 4.
Clearing Fund Contribution	The amount required from time to time to be contributed by a Clearing Participant to the Clearing Fund pursuant to Rule 401.
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	<u>As defined in the Act. 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.</u>
Commission	The Securities Commission Malaysia established under the Securities Commission Malaysia Act 1993 (Act 498).
Commission's Licensing Handbook	The licensing handbook issued by the Commission pursuant to Section 377 of the Act and includes any subsequent amendments, modifications, variations, supplements or substitutes.

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<u>Compliance Officer</u>	<u>A person who a General Clearing Participant registers under Rule 235(a)(iii).</u>
Daily Settlement Price	In relation to an Open Contract, a price determined in accordance with Rule 611.
Delivery	Settlement by delivery of an Instrument in accordance with Chapter 8 of the Rules and pursuant to the terms of an Open Contract which is an Eligible Delivery Agreement or an Eligible Option.
Derivatives	Futures Contracts and Options.
Direct Clearing Participant	An Affiliate of the Clearing House whose application for Participantship has been approved under Chapter 2 and who has met all the conditions in Rule 20 <del>30B</del> .
Direct Clearing Participant Deposit	An amount required to be deposited with the Clearing House by each Direct Clearing Participant in accordance with Rule 21 <del>306B</del> .
Document	As defined in the Act.
Eligible Delivery Agreement	As defined in the Exchange Rules.
Eligible Option	A contract under which a party acquires from another party an option or right, exercisable at or before a stated time: <ul style="list-style-type: none"> <li>a) to buy from, or sell to, that other party a stated quantity of a named Instrument at a price stated in, or to be determined in accordance with, the contract; or</li> <li>b) to be paid by that party to that other party, at the time when the option or right is exercised, an amount of money to be determined by reference to a Reference Price.</li> </ul>
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, as amended or added to from time to time.
Exercise	The invoking of the rights of the Buyer to an Option in accordance with the Rules.
Expired	The rights of a Buyer to an Option having lapsed.
Expiry	The date and time at which in accordance with the terms of an Option the right of the Buyer to the Option to Exercise lapses.

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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.
<del>Futures Broker</del>	<del>Deleted</del>
Futures Contract	An Eligible Delivery Agreement or an Adjustment Agreement.
Futures Option	An option or right to assume, at a stated price or value and within a stated period, a Long Position or a Short Position, in relation to a Futures Contract.
General Clearing Participant	An Affiliate of the Clearing House whose application for Participantship has been approved under Chapter 2 and who has met all the conditions in Rule 20 <u>20A</u> .
<u>Group</u>	<u>In relation to a Clearing Participant, same meaning as in the Commission's Licensing Handbook.</u>
<del>Guarantee Fee</del>	<del>A fee determined and calculated in accordance with Rule 619.</del>
Guidelines on Investment Banks	Guidelines on Investment Banks issued jointly by Bank Negara and the Commission, including subsequent amendments, modifications, variations, supplements or substitutes thereto and any directives or guidelines as may be issued thereunder.
Goods and Services Tax or GST	The goods and services tax payable pursuant to the Goods and Services Tax Act 2014.
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	As defined in the Exchange Rules.
Investment Bank	As referred to in the Guidelines on Investment Banks.
<del>Investment Bank Capital Adequacy Framework</del>	<del>As referred to in the Guidelines on Investment Banks.</del>
Long Position	As defined in the Exchange Rules.
Margin	<u>Includes the Performance Bond and the settlement difference referred to in Rule 612(c).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</u>

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Market Contract	A Futures Contract or Option entered into in accordance with the Exchange Rules.
Minister	As defined in the Act.
Month	Calendar month.
Net Tangible Assets	An amount calculated in accordance with Rule <del>21709</del> .
Participantship	Ability to exercise the rights of a Clearing Participant under the Rules.
<del>Participantship Committee</del>	<del>A committee of the Clearing House appointed pursuant to Rule 105.</del>
<u>Performance Bond</u>	<u>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.</u>
Officer	As defined in the Act.
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 Eligible Option or a Futures Option.
Option Open Contract	An Open Contract which is an Option.
Participating Organisation	Shall have the same meaning as is assigned to that expression in the rules of the Stock Exchange;
Premium	The sum of money which is consideration for the grant of an Option.
Put	Option type of an Option Open Contract. A Put option provides the taker of such Option with the right to become the seller of the underlying Instrument or Seller to the underlying contract or, in the case of an Option which is an Adjustment Agreement, is advantaged by a decrease in the Reference Price to which that Adjustment Agreement relates, as the case may be.
Record	As defined in the Act.
Registration	The extinguishment of a Market Contract and the creation of two Open Contracts in accordance with Rule 602.
Related Corporation	As defined in the Act.

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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.
<u>Register of CPs and RPs</u>	<u>The list or roll that the Clearing House keeps of Clearing Participants, Registered Person(s) and such other persons determined by the Clearing House.</u>
<u>Registered Person</u>	<u>A person stipulated under Rule 235(a), who is registered with the Clearing House.</u>
<u>Responsible Person for Overall Clearing Business</u>	<u>A person who a General Clearing Participant registers under Rule 235(a)(i).</u>
<u>Responsible Person for Risk Management</u>	<u>A person who a General Clearing Participant registers under Rule 235(a)(ii).</u>
RM	Ringgit Malaysia
Rules	These business rules, including any instrument under the rules, as amended or added to from time to time.
Security Deposit	An amount required to be deposited with the Clearing House by each Clearing Participant in accordance with Rule <u>21206</u> .
<u>Securities Laws</u>	<u>As defined in the Securities Commission Malaysia Act 1993.</u>
Segregated Account	An account maintained by the Clearing House in the name of a Clearing Participant and established under Rule 604.
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 <del>the-its</del> Clearing <del>and Settlement F</del> functions and includes any subsequent service provider(s) to whom the initial service provider or any subsequent service provider has further contracted the <u>Clearing Participant's</u> Clearing <del>and Settlement F</del> functions.
<u>Settlement Bank</u>	<u>The bank(s) prescribed by the Clearing House pursuant to Rule 529.</u>
Short Position	As defined in the Exchange Rules.
Stock Exchange	Shall have the same meaning as is assigned to that expression 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.

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<del>Trading in futures contracts</del>	<del>Shall have the same meaning as is assigned to that expression in the Act.</del>
<u>Trading Participant</u>	<u>An individual or corporation that has been granted trading privileges by the Exchange as contemplated in the Exchange Rules.</u>
<del>Universal Broker</del>	<del>Deleted</del>
Unsegregated Account	An account maintained by the Clearing House in the name of a Clearing Participant and established under Rule 604.

## 2. Interpretation

In the Rules:

- a) words importing the singular number include the plural number and vice versa.
  - b) words importing the masculine gender include the feminine or neuter gender and vice versa.
  - c) words denoting a person include, in the appropriate context, a corporation.
  - d) the meaning of any term defined in the Rules extends to all grammatical variations and cognate expressions of that term.
  - e) headings in the Rules are inserted for convenience of reference only and must be ignored in the construction of the Rules.
  - f) a reference to any statute, ordinance or other law includes all regulations and other instruments under it and all consolidations, amendments, re-enactments or replacements of any of them for the time being in force.
3. 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.

## Chapter 1

### GENERAL RULES

#### 100 Compliance with the Act

The Clearing House and its committees, officers and employees must at all times comply with the Act and directions given under the Act by the Minister or the Commission.

#### ~~101 Repeal or change of Rules~~

~~After consultation with the Exchanges, the Rules may be amended, repealed, or replaced by the Clearing House in accordance with its Articles and the Act. Any such amendment, repeal or replacement takes effect on such date and in such manner as the Clearing House may, with the approval of the Commission, determine.~~

#### ~~102 Obligations of Clearing Participants~~

~~Each Clearing Participant is bound by the Rules including any variation of the rules made pursuant to Rule 101 and *any directions issued thereunder*.~~

#### 101 Force Majeure

The Clearing House is not liable for:

- (a) any action taken or for any failure, hindrance or delay in the provision of services or for any failure to give effect to or delay in giving effect to any instructions from the Clearing Participant with respect to its clearing and settlement services or other services and facilities or the performance in whole or in part of its obligations under the Rules or under any Open Contract if such failure, hindrance or delay arises out of causes beyond the Clearing House's control; and
- (b) 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, and any other causes beyond the Clearing House's control, including among others, any similar causes affecting the Exchange (whether or not specified in the Exchange Rules).

#### 1023 Limitation of liability

- (a) The Clearing House is not liable for a Clearing Participant's failure to comply with or observe the Rules or the obligations of a Clearing Participant to any third party nor does the Clearing House assume under the Rules or under any Open Contract any liability or obligation to any person other than a Clearing Participant in accordance with the Rules.



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- (b) 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 the Rules under Open Contracts to which that Clearing Participant is counterparty.
- (c) Despite anything else contained in the Rules except Rule 1032(b), the Clearing House is not liable in anyway whatsoever to Clearing Participants for an act or omission of the Clearing House ~~and/or~~ its employees, officers or agents unless such act or omission is due to the negligence, ~~or-wilful default-misconduct or fraud~~ of the Clearing House ~~and/or~~ its employees, officers or agents.
- (d) Each Clearing Participant must indemnify ~~and keep indemnified~~ the Clearing House, its agents, representatives, directors, officers and employees and hold each of them harmless against in respect of all costs, fees, expenses, liabilities, taxes, assessment, damages and losses of any nature suffered or incurred by them directly or indirectly as a result of or in connection with the following matters:
- (i) 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 the Rules;
- (ii) the sustained by the Clearing House arising out of or relating to the failure or neglect of-by the Clearing Participant to comply with the provisions of any laws, the fulfill any of its obligations under the Rules and any agreement (including without limitation the representations and warranties contained therein) or to comply with any conditions imposed on the Clearing Participant or to any third party;
- (iii) the actions and/or 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 the Rules.
- (e) The Clearing House is also not liable for the following:
- (i) any action contemplated or permitted under the Rules;
- (ii) the insolvency or the acts or omission of the Exchange;
- (iii) the insolvency or the acts or omission of the Clearing House's Settlement Bank(s); and
- (iv) 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.

**1043 Board of directors**

- (a) The Clearing House's Board of Directors is responsible for the management of the business and affairs of the Clearing House and the establishment of its policies and

has all the powers necessary for the administration and enforcement of the Rules by the Clearing House.

- (b) Subject to the Articles, the Clearing House may appoint a committee, sub-committee or officers of the Clearing House or the Exchange Holding Company to discharge and perform any of its rights, powers, duties and function etc under the Rules on such terms and conditions as determined by the Clearing House. A Clearing ~~Member Participant~~ is not obliged to make any enquiry in reasonable reliance on any action taken under the Rules by the person or body of persons purporting to represent the Clearing House. All actions taken by the Clearing House or any person or body of persons appointed by the Clearing House is valid and binding against the Clearing ~~Participant-Member~~.
- (c) A delegation of any power by the Clearing House does not prevent the Clearing House from exercising such power either concurrently with or to the exclusion of the committee, sub-committee or officers of the Clearing House or the Exchange Holding Company to whom the power has been delegated.

#### ~~105~~ — ~~Clearing Participantship Applications~~

~~The Clearing House will consider and approve or reject all applications for Participantship.~~

#### ~~1064~~ Restrictions on employees and officers

- (a) An officer or employee of the Clearing House must not engage directly or indirectly in trading Derivatives.
- (b) An officer or employee who violates the restrictions of Rule ~~1046~~(a) is subject to immediate dismissal by the Clearing House. A Clearing Participant must not cause or induce or attempt to cause any officer or employee of the Clearing House to violate, or aid or abet an officer or employee of the Clearing House in violating Rule ~~1046~~(a).
- (c) An officer or employee of the Clearing House is prohibited from directly or indirectly maintaining employment with, or receiving compensation for services rendered to any Clearing Participant or any member of an Exchange, or any person, firm, or corporation that is engaged in activities directly related to trading in Market Contracts.

#### ~~1075~~ Prohibition on improper use of information

Any member of the Clearing House's Board of Directors or any member of a committee established under the Rules or any officer, employee or agent of the Clearing House who has access to confidential information which:

- (a) he holds by virtue of his official capacity or former official capacity; and
- (b) it would be reasonable to expect a person in such official capacity or former official capacity not to disclose except for the proper performance of the functions attaching to that official capacity,

must not make use of such information to gain, directly or indirectly, an advantage for himself or for any other person.

### **1086 Disclosure**

- (1) The Clearing House has the authority of each Clearing Participant and Registered Person to supply, at the Clearing House's discretion, any particulars or information relating to the activities, assets and liabilities of the Clearing Participant, Registered Persons or Clients in the possession of the Clearing House to an Exchange or any of its committees as may be ~~reasonably~~ requested by such Exchange or committee.
- (2) The Clearing House also has the authority of each Clearing Participant and Registered Person to supply any particulars and information in the possession of the Clearing House:
  - (a) to the Commission or to any other statutory body or government agency;
  - (b) if required by law, decree, governmental order, or order of any court, tribunal or other competent authority; and
  - (c) to any person if the Clearing House, in its absolute discretion feels that such disclosure is in the general interest of the Clearing House or its Clearing Participant or it is necessary or desirable for the proper performance of ~~its~~ the Clearing House's functions.
- (3) The Clearing House may disclose any action taken by the Clearing House against a Clearing Participant or Registered Person under these Rules to the public or any other persons, in any manner as the Clearing House considers fit or expedient.

### **1097 Secrecy**

Subject to Rule 1068, the Clearing House must preserve and aid in preserving secrecy with regard to all confidential matters coming into its possession.

### **1408 Immunity**

A Clearing Participant does not have any cause of action against any director of the Clearing House or member of a committee of the Clearing House established under the Rules or any person (whether an officer of the Clearing House or not) employed by the Clearing House in respect of any act or decision taken in good faith in the discharge of his duties pursuant to the Rules.

### **109 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.

### **110 Governing law and jurisdiction**

The interpretation, construction and operations of the 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 the Rules, each Clearing Participant agrees to submit to the jurisdiction of the courts of Malaysia.

### **111 Suspension of services**

- (a) If in the opinion of the Clearing House, any of its operations, services or facilities provided to Clearing Participants is or is likely to be impeded by any event or circumstances, the Clearing House may suspend the whole or any part of such operations, services or facilities, as the case may be, provided to the Clearing Participant for such duration as it considers necessary.
- (b) In addition to or as an alternative to suspension, the Clearing House may take such other actions as it deems necessary or appropriate in the circumstances in the interest of the Clearing Participants.
- (c) The Clearing House will notify the Clearing Participants, the Exchange and the Commission as soon as practicable upon a decision to suspend any operation, service or facility and may also provide information as to any other action it proposes to take.

### **112 Rectification of errors and omissions**

- (a) The Clearing House reserves the right to rectify any error made in the provision of any of its services, facilities or operations, including, without limitation to rectify any erroneous instruction to the relevant Settlement Bank to effect payment to or receive payment from a Clearing Participant and any erroneous statement or report issued to a Clearing Participant by the Clearing House.
- (b) Without prejudice to any other rights that the Clearing House may have, if the Clearing House has issued an erroneous instruction to credit funds to a Clearing Participant's bank account, the Clearing House will require the Clearing Participant to refund the erroneous credited funds immediately or by such other period as may be specified by the Clearing House. In this connection, and without prejudice to any other rights that the Clearing House may have, if the Clearing Participant fails to refund the funds immediately or by the period specified by the Clearing House, the Clearing Participant must pay the Clearing House interest on the said amount at the prevailing base lending rate of the Clearing House's Settlement Bank which effected the credit of the funds on the erroneous instructions.
- (c) The Clearing House is not liable to the Clearing Participant if such Clearing Participant incurs any loss due to 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.
- (d) In the event that the Clearing House makes an erroneous calculation for any payment to be made by the Clearing House to a Clearing Participant with respect to the clearing and settlement of any Market Contract, any cash payment relating to fees and charges or any other payment due from or to a Clearing Participant, which results in the Clearing House being overpaid or a Clearing Participant being underpaid, as the case may be, the Clearing House will as soon as practical pay or refund such amount due to the Clearing Participant as a result of the underpayment by Clearing House or overpayment to the Clearing House, as the case may be.

**1131 Appeals against decisions of the Clearing House**

- (1) Any decision of the Clearing House is final and binding and 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.
- (2) The decision of the Clearing House on appeal is final and binding on the person appealing.

**1142 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 1142, ‘personal data’ shall have the same meaning given in section 4 of the PDPA.

**1153 Goods and Services Tax**

- (1) A person required or directed to pay the fees, charges, costs, expenses or any amount under these Rules (including without limitation the settlement amount referred to in Rules 801 and 802) must pay an amount equal to the Goods and Services Tax payable (“GST amount”) in the manner and within the period the Clearing House specifies unless otherwise specified by the Clearing House in accordance with the Goods and Services Tax Act 2014.
- (2) Where a refund of any amount paid is not allowed under these Rules, no refund of the GST amount paid on such amount will be made by the Clearing House.

**1164 Referral of conduct to other authorities**

The Clearing House may, at any time, refer the conduct of any Clearing Participant to the relevant authority, without giving notice to such Clearing Participant.

**1175 Confidentiality**

- (1) 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 its employee or agent, the Clearing Participant must keep the findings and results of such inspection or investigation, or testimony or documentation in connection with a disciplinary proceeding or appeal 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.
  
- (2) The Clearing House may release 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.

## Chapter 2

### **CLEARING PARTICIPANTSHIP, ~~AND~~ FINANCIAL REQUIREMENTS & REGISTERED PERSONS**

#### **200 Participantship Classes**

The classes of participantship are:

- (a) General Clearing Participants;
- (b) Direct Clearing Participants; and
- (c) Such other classes of participants that may be specified by the Clearing House.

#### **201 Rights, Privileges and Obligations**

- (a) The rights, privileges and obligations attaching to each class of Participantship are as set out in the Rules.
- (b) Unless stated otherwise, such rights, privileges and obligations may at any time be altered, suspended or revoked by the Clearing House.

#### **202A Eligibility-General Clearing Participant**

- (a) Approval of an application for General Clearing Participantship is conditional upon the applicant. To be eligible to be admitted as a General Clearing Participant, an applicant must satisfy the Clearing House of the following:
  - (ai) ~~being is~~ a corporation with the requisite financial and business standing and repute;
  - (ii) has a minimum issued and paid-up capital and shareholders' funds unimpaired by losses of RM10 million ("**the Minimum Capital Requirements**") or participant of an Exchange where applicable, the following, if the requirements are higher than the Minimum Capital Requirements:
    - (a) for an entity licensed by Bank Negara, as Bank Negara may stipulate;
    - (b) for an entity which is a Participating Organisation of the Stock Exchange, as the Stock Exchange may stipulate;
  - (biii) ~~satisfying the Clearing House that it has~~ sufficient resources and ~~maintains an adequate back office systems for the proper performance of the business of Clearing, including maintaining adequate staff and facilities and in particular;~~ staff and procedures that ensure
    - (a) ensuring orderly and expeditious accounting of its business of Clearingdealings in Derivatives;
    - (b) preserving a sound liquidity and financial position at all times; ~~and~~

- ~~(c)~~ maintaining sufficient liquidity for its day to day operations; and
- ~~(d)~~ ensuring an adequate risk management framework;
- ~~(eiv)~~ meetsing the minimum financial requirements pursuant to Rule ~~208A~~ 215;
- ~~(dv)~~ holdsing a valid Capital Markets Services Licence for carrying on the business of Clearing;
- ~~(evi)~~ lodging-lodges a Security Deposit in accordance with Rule ~~206A~~ 212;
- ~~(fvii)~~ lodging-lodges a Clearing Fund Contribution in accordance with Rule ~~207~~ 214;
- ~~(gviii)~~ makes payment ~~being made~~ to the Clearing House of such admission fee as may be determined by the Clearing House from time to time; and
- ~~(hix)~~ meetsing such other criteria as may be determined from time to time by the Clearing House.

### **2030B Eligibility-Direct Clearing Participant**

~~Approval of an application for Direct Clearing Participantship is conditional upon the applicant~~To be eligible to become a Direct Clearing Participant, an applicant must satisfy the Clearing House of the following:

- ~~(a)~~ being a participant of an Exchange is a corporation with the requisite financial and business standing and repute with a minimum issued and paid-up capital of RM2 million and having shareholders' funds unimpaired by losses, of at least RM2 million or such other amounts as the Clearing House may prescribe;
- ~~(b)~~ not carry on the business of trading in futures contracts in Malaysia;
- ~~(eb)~~ has sufficient resources and adequate systems for the proper performance of the business of Clearing, including satisfying the Clearing House that it maintains an adequate back office system, staff and facilities and in particular:
  - ~~(i)~~ procedures that ensure orderly and expeditious accounting of its business of Clearing dealings in Derivatives;
  - ~~(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)~~ having a minimum paid-up capital of RM2 million;
- ~~(ec)~~ meetsing the minimum financial requirements pursuant to Rule ~~208B~~ 216;
- ~~(fd)~~ lodgesing a Security Deposit in accordance with Rule ~~206A~~ 212;
- ~~(ge)~~ lodgesing a Clearing Fund Contribution in accordance with Rule ~~207~~ 214;
- ~~(hf)~~ lodgesing a Direct Clearing Participant Deposit in accordance with Rule ~~206B~~ 213;
- ~~(ig)~~ makes payment ~~being made~~ to the Clearing House of such admission fee as may be determined by the Clearing House from time to time; and



- (jh) ~~meetsing~~ such other criteria as may be determined from time to time by the Clearing House.

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

In addition to the eligibility criteria specified in Rules 202 or 203, 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.

#### **205 Application Procedure**

- (a) To become a Clearing Participant, ~~An application~~ applicant must:
  - (i) apply to the Clearing House in accordance with the requirements the Clearing House stipulates; and
  - (ii) satisfy the eligibility criteria stipulated in Rules 202 or 203, as the case may be.

~~for Participantship must be in such form and manner, and accompanied by the payment of such fee, as from time to time determined by the Clearing House.~~
- (b) The Clearing House may accept or reject an application for Participantship.
- (c) Notwithstanding the applicant meeting the eligibility criteria under Rules 202 or 203, as the case may be, the Clearing House may reject the applicant's application for Participantship if:
  - (i) the applicant does not provide information relating to the application as the Clearing House requires;
  - (ii) any information or document that is furnished by the applicant to the Clearing House is false or misleading;
  - (iii) the applicant has failed to comply with any other requirement of the Securities Laws or the Rules;
  - (iv) the applicant is the subject of an investigation or proceeding involving an allegation of fraud or dishonesty, whether in or out of Malaysia;
  - (v) the admission of the applicant is not in the interest of an orderly or fair market; or
  - (vi) 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.

**206 Admission**

If the Clearing House accepts an applicant's application for Participantship, the applicant will be admitted as a Clearing Participant and the applicant's name will be entered into the Register of CPs and RPs.

**207 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.

**208 Decisions of the Clearing House**

The Clearing House is not required to give any reasons for its decision.

**~~202 Admission~~**

~~Deleted~~

**~~203 Right to appeal~~**

~~An applicant for participantship whose application has been rejected by the clearing house may appeal against such decision.~~

**~~204 Appeal process~~**

~~Deleted.~~

**209 Rights of General Clearing Participants**

A General Clearing Participant may, subject to the 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.

## **210 Rights of Direct Clearing Participants**

A Direct Clearing Participant may, subject to the 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.

## **21105 Compliance with requirements Continuing Obligations**

Throughout the term of a ~~Each~~ Clearing Participant's Participantship, it must:

- (a) continuously satisfy the eligibility criteria stated in Rules 202 or 203, as the case may be; ~~Issue or provide an undertaking addressed to the Clearing House in the form prescribed in Schedule 3;~~
- (b) ~~At all times comply with and give effect to the Rules and any directives, instructions or guidelines as issued or amended by the Clearing House from time to time whether or not the provisions are directed at the Clearing Participant specifically and to any undertaking given to the Clearing House whether before or after admission as a Clearing Participant;~~
- (c) ~~submit, within such time and in such form and manner as determined by the Clearing House, such statements and/or reports as may be requested by the Clearing House;~~
- (d) ~~lodge with the Clearing House a copy of any other statement or report lodged by the Clearing Participant with the Commission at the time of its lodgement with the Commission;~~
- (e) ~~at all times hold a valid Capital Markets Services Licence for the purposes of carrying on the business of trading in futures contracts under the Act if acting on behalf of or on the instructions of clients; and~~
- (f) ~~at all times remain an Affiliate of an Exchange, eligible pursuant to the relevant Exchange Rules to be a Clearing Participant; and~~
- (g) ~~at all times maintain an adequate back office system, staff and procedures that ensure orderly and expeditious accounting of its dealings in Derivatives.~~
- (c) comply with any condition of admission imposed by the Clearing House and such further conditions as the Clearing House may impose from time to time;
- (d) pay such fees, charges, expenses, disbursements or any other amount due to the Clearing House as the Clearing House may from time to time specify at such times and in such manner as may be specified by the Clearing House;
- (e) notify the Clearing House immediately in writing of any changes in the information given together with its application for admission as a Clearing Participant;
- (f) 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; and
- (g) if it is also a Trading Participant, comply with the Exchange Rules and with the decisions of the Exchange.

**21206A Security Deposit**

- (a) Each Clearing Participant must lodge a Security Deposit of at least RM1 million in the form of cash and/or Approved Collateral. The Clearing House may from time to time, having regard to 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, market volume, price volatility and such other matters as the Clearing House may consider relevant, request that Clearing Participant to increase the amount of the Security Deposit lodged by the Clearing Participant. 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 one Business Day from the date of such request. 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.
- (b) The Security Deposit is in addition to and independent of any other sums payable to the Clearing House by the Clearing Participant.
- (c) The Clearing House must revalue any Approved Collateral lodged with it pursuant to Rule ~~206212~~(a) on the first Business Day of each Month and at such other times as may from time to time be determined by the Clearing House.
- (d) 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 ~~206212~~(a), the Clearing Participant must provide the deficit in the form of cash and/or Approved Collateral within one Business Day of being notified of such deficit by the Clearing House.
- (e) Any cash or Approved Collateral lodged in accordance with Rule ~~206212~~(a) which is in excess of the amount required by the Clearing House may be withdrawn by the Clearing Participant upon giving notice to the Clearing House of one Business Day.
- (f) The Clearing House ~~must~~ may invest, manage and mobilise all cash received in respect of Security Deposits in such manner as the Clearing House deems fit or expedient:
  - ~~(i) — government securities; or~~
  - ~~(ii) — on deposit with such financial institutions as may from time to time be approved by the Clearing House.~~

**21306B Direct Clearing Participant Deposit**

- (a) 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 the higher of:
  - (i) RM500,000; or
  - (ii) 10% or such other percentage as may from time to time be determined by the Clearing House of the total amount paid by the Direct Clearing Participant to the Clearing House ~~and any third party including any other clearing house organisation~~ in respect of all or any of the margins payable under the Rules or such other amount the Clearing House deems fit having regard to the

Direct Clearing Participant's exposure to other clearing house organisations.

The Clearing House may from time to time, having regard to 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, market volume, price volatility and such other matters as the Clearing House may consider relevant, request that a Direct Clearing Participant to increase the amount of the Direct Clearing Participant Deposit lodged by the Direct Clearing Participant. 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 one Business Day from the date of such request. 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.

- (b) 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.
- (c) 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 ~~21306B~~(a), the Direct Clearing Participant must provide the deficit in the form of cash and/or Approved Collateral within one Business Day of being notified of such deficit by the Clearing House.
- (d) Any cash or Approved Collateral lodged in accordance with Rule ~~21306B~~(a), which is in excess of the amount required by the Clearing House may be withdrawn by the Direct Clearing Participant upon giving notice to the Clearing House of one Business Day.
- (e) The Clearing House ~~must~~ 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:
  - ~~(i) — government securities; or~~
  - ~~(ii) — on deposit with such financial institutions as may from time to time be approved by the Clearing House.~~

### **21407 Contribution to Clearing Fund**

Every Clearing Participant must maintain its Clearing Fund Contribution in accordance with Chapter 4.

### **21508A Minimum financial requirements for General Clearing Participants**

- (a) Each General Clearing Participant must at all times:
  - (i) comply with the accounting, reporting, book-keeping and other financial and operational requirements which may from time to time be prescribed by the Clearing House; ~~and~~
  - (ii) where it is a Participating Organisation which is not an Investment Bank, maintain the capital adequacy requirements imposed by the Stock Exchange;

- ~~(iii) where it is a Bank Clearing Participant, maintain the capital adequacy requirements imposed by Bank Negara; and~~
- ~~(iv) in any other case, maintain its Adjusted Net Capital at the higher of:
  - (a) RM500,000; or
  - (b) 10% or such other percentage as may from time to time be determined by the Clearing House of the total amount paid by the Clearing Participant to the Clearing House ~~and any third party including any other clearing house organisation~~ in respect of all or any of the margins payable under the Rules or such other amount the Clearing House deems fit having regard to the General Clearing Participant's exposure to other clearing house organisations.~~
- ~~(b) The minimum financial requirement stipulated in Rule 208A(a)(ii) shall not apply to a General Clearing Participant who is a Participating Organisation provided that such General Clearing Participant shall at all times comply with the capital adequacy requirements imposed by the Stock Exchange from time to time which shall be deemed to form part of the Rules.~~
- ~~(eb) Notwithstanding the provisions of Rule 21508A(a) and Rule 208A(b), the Clearing House may from time to time 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 and/or such other criteria as the Clearing House may consider relevant.~~
- ~~(d) Rules 208A(a)(ii) and (b) shall not be applicable to a General Clearing Participant which is an Investment Bank. A General Clearing Participant which is an Investment Bank shall comply with the Investment Bank Capital Adequacy Framework and such capital adequacy requirements imposed by the Stock Exchange insofar as the same are applicable to an Investment Bank (collectively referred to "the Relevant Framework and Requirements"). The Relevant Framework and Requirements shall be deemed to form part of the Rules and consequently any breach by a General Clearing Participant which is an Investment Bank of the Relevant Framework and Requirements shall be deemed to be a breach of these Rules.~~

### **21608B Minimum financial requirements for Direct Clearing Participants**

- (a) Each Direct Clearing Participant must at all times:
  - (i) comply with the accounting, reporting, book-keeping and other financial and operational requirements which may from time to time be prescribed by the Clearing House;
  - (ii) maintain Net Tangible Assets of not less than RM5 million, or a corporate guarantee of not less than RM5 million; and
  - (iii) lodge a Direct Clearing Participant Deposit in accordance with Rule 21306B.
- (b) Notwithstanding the provisions of Rules 21608B(a), the Clearing House may from time to time 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 and/or such other criteria as the Clearing House may consider relevant.

### **21709 Net Tangible Assets**

Net Tangible Assets is defined in Schedule 1.

### **2180 Adjusted Net Capital**

Adjusted Net Capital is as defined in Schedule 2.

### **21944 Interpretation of financial requirements**

The Clearing House may from time to time issue statements with respect to the interpretation of the requirements set out in or pursuant to Rules 21709 and 2180 which statements must be given to the Commission at least two Business Days prior to the date on which it is proposed for them to be issued. All Clearing Participants must comply with such statements in the same manner as if they form part of the Rules.

### **22042 Transfer of Clearing Participantship**

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

### **221 Power to suspend**

The Clearing House may decide, in its absolute discretion, to suspend the Participantship of a Clearing Participant in the event of any non-compliance or default of the Rules.

### **222 Period of suspension**

- (a) The period of suspension shall be within the sole discretion of the Clearing House.
- (b) The Clearing House will, by notice in writing, inform the Clearing Participant of the suspension and such suspension shall take effect as prescribed in the notice and shall continue until the suspension period expires or such earlier time as the Clearing House deems fit to lift the suspension.

### **223 Continuing Liability**

The suspension of its Participantship shall not in any way whatsoever 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 fully satisfied or discharged.

## **224 Circumstances for termination**

The Clearing House may, in its absolute discretion, terminate 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 in the determination of 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.

## **225 Notification of termination**

The Clearing House will, by notice in writing, inform the Clearing Participant of the termination and such termination shall take effect from the date specified in the notice.

## **226 Consequences of termination**

The termination of the Clearing Participant's Participantship or participation in any one or more or all of the services of the Clearing House for whatever reason, shall be without prejudice to the rights of the Clearing House to enforce or sue upon any obligation owed to it which arises out of any matter which has taken place prior to the effective date of such termination.

## **22713 Resignation**

- (a) A Clearing Participant may resign by giving at least ~~thirty~~ 30 days written notice to the Clearing House and the resignation takes effect at the later of either the expiration of that period or:
  - (i) when the Clearing Participant is no longer a counterparty to any Open Contract; and
  - (ii) there are no further obligations or liabilities owed by the Clearing Participant to the Clearing House; and



- (iii) the Clearing Participant has presented to the Clearing House such indemnities and guarantees as the Clearing House in its sole discretion may require.
- (b) A Clearing Participant who has served a notice referred to in Rule 227~~13~~(a) 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.
- (c) The Clearing House upon receipt of the notice referred to in Rule 227~~13~~(a) ~~must will~~ notify each Exchange ~~of which the Clearing Participant is an Affiliate~~ of such notice.
- (d) 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.

## **228 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.

## **229 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.

## **230 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.

## ~~214~~ — ~~Outsourcing of Back Office Functions~~

### **23144A**      **Outsourcing by General Clearing Participants**

- (a) A General Clearing Participant which outsources its Clearing ~~and Settlement F~~functions must comply with these Rules, any directions that the Clearing House may issue and the Commission's Licensing Handbook as though the General Clearing Participant is the CMSL holder mentioned in the Commission's Licensing Handbook.
- (b) 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.
- (c) A General Clearing Participant remains accountable for all outsourced Clearing ~~and Settlement F~~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.
- (d)
  - (i) This Rule ~~23144A~~ is not applicable to a ~~General Bank~~ Clearing Participant ~~which is an Investment Bank~~.
  - (ii) A ~~General Bank~~ Clearing Participant ~~which is an Investment Bank~~ must instead comply with ~~the Guidelines on Investment Banks and~~ such other requirements of Bank Negara insofar as the same are applicable to the Bank Clearing Participant, if any relating to the matter.

### **23244B**      **Outsourcing by Direct Clearing Participants**

- (a) A Direct Clearing Participant which outsources its Clearing ~~and Settlement F~~functions to a Service Provider must comply with the conditions set out in this Rule ~~23244B~~.
- (b) The Direct Clearing Participant must ensure compliance by the Service Provider(s) of all relevant requirements stipulated in any provision in these Rules, agreement between the Direct Clearing Participant and the Clearing House and direction issued by the Clearing House.
- (c) A Direct Clearing Participant remains accountable for all outsourced Clearing ~~and Settlement F~~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.
- (d) 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 ~~and Settlement F~~functions.
- (e) The Direct Clearing Participant must ensure that the Clearing House or its agent shall at all times have access to and be allowed to make copies of the Books of the Direct Clearing Participant or the Service Provider. The Direct Clearing Participant shall 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 above.
- (f) 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 ~~the-its~~ Clearing ~~and Settlement F~~functions to another Service Provider (“relevant service level agreement(s)”).

- (g) A Direct Clearing Participant must, in respect of the outsourcing of ~~the-its~~ Clearing ~~and Settlement F~~functions, notify the Clearing House of:
- (i) the termination or variation of the relevant service level agreement(s); or
  - (ii) 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.

### **23315 Investment Bank**

In relation to a General Clearing Participant that has acquired the status of an Investment Bank after its admission as a General Clearing Participant under Chapter 2 of these Rules, the said General Clearing Participant shall notify the Clearing House in writing of the same at least seven (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 shall be accompanied with such information or Documents as may be required by the Clearing House.

### **23416 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.

### **235 Obligation to appoint and register specific persons**

- (a) A General Clearing Participant must register the following persons with the Clearing House:
- (i) the person who is responsible for the overall clearing business (“Responsible Person for Overall Clearing Business”);
  - (ii) the person who is responsible for risk management (“Responsible Person for Risk Management”); and
  - (iii) the person who is responsible for compliance functions (“Compliance Officer”).
- (b) A General Clearing Participant may appoint more than 1 person to carry out the functions as set out in Rules 237(a), (b) and (c) respectively and in doing so must:
- (i) 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
  - (ii) have every area of the functions as set out in Rule 237(a), (b) or (c) assigned under the responsibility of at least 1 person corresponding with the designations stated in Rule 235(a).

- (c) Where more than 1 person is appointed as a Responsible Person for Overall Clearing Business, all such persons are jointly responsible for any area in that function that has not been assigned by the General Clearing Participant to be within the responsibility of any particular Responsible Person for Overall Clearing Business. The same applies for the role of Responsible Person for Risk Management and Compliance Officer.
- (d) Where a General Clearing Participant outsources its Clearing functions, risk management or compliance functions to the Group under Rule 231, the General Clearing Participant must ensure that:
- (i) the Group designates at least 1 dedicated Responsible Person for Overall Clearing Business, Responsible Person for Risk Management or Compliance Officer (as the case may be) to ensure that the relevant functions as stated in Rule 237 are carried out; and
  - (ii) the dedicated Responsible Person for Overall Clearing Business, Responsible Person for Risk Management or Compliance Officer (as the case may be) is registered with the Clearing House in accordance with Rule 235.

### **236 Eligibility criteria of Registered Persons**

- (a) A Responsible Person for Overall Clearing Business appointed by the General Clearing Participant must fulfil the following requirements:
- (i) is registered by the Commission as a Responsible Person for Overall Clearing Business; and
  - (ii) is registered with the Clearing House as a Responsible Person for Overall Clearing Business in accordance with the Rules.
- (b) A Responsible Person for Risk Management appointed by the General Clearing Participant must fulfil the following requirements:
- (i) is registered by the Commission as a Responsible Person for Risk Management; and
  - (ii) is registered with the Clearing House as a Responsible Person for Risk Management in accordance with the Rules.
- (c) A Compliance Officer appointed by a General Clearing Participant must fulfill the following requirements:
- (i) is approved by the Commission as a Compliance Officer; and
  - (ii) is registered with the Clearing House as a Compliance Officer in accordance with the Rules.

### **237 Obligations of Registered Persons**

- (a) Throughout the term of the Responsible Person for Overall Clearing Business' registration, the Responsible Person for Overall Clearing Business must be responsible for:

- (i) all the activities of the General Clearing Participant in relation to the business of clearing Market Contracts;
- (ii) the compliance by the General Clearing Participant with the Rules; and
- (iii) submitting to the Clearing House such reports and information as may be required by the Clearing House.
- (b) Throughout the term of the Responsible Person for Risk Management's registration, the Responsible Person for Risk Management must be responsible for:
  - (i) the risk management functions of the General Clearing Participant in relation to the business of clearing Market Contracts;
  - (ii) the compliance by the General Clearing Participant with the Rules on matters relating to risk management; and
  - (iii) submitting to the Clearing House such reports and information as may be required by the Clearing House.
- (c) Throughout the term of the Compliance Officer's registration, the Compliance Officer must be responsible for:
  - (i) ensuring that the supervisory responsibilities in relation to compliance of the Rules are carried out and matters pertaining to compliance are highlighted to the General Clearing Participant's Board of Directors;
  - (ii) reporting to the Clearing House or any other person, such breaches of the Rules or laws as may be required by the Clearing House; and
  - (iii) submitting to the Clearing House such reports and information as may be required by the Clearing House.

### **238 Registration procedures**

- (a) To register a proposed Registered Person under Rule 235, a General Clearing Participant must:
  - (i) submit the relevant documents to the Clearing House in accordance with the requirements the Clearing House stipulates; and
  - (ii) make the application only in respect of a person that satisfies the relevant eligibility criteria applicable for the relevant category of Registered Person as stipulated in the Rules.
- (b) The Clearing House may accept or reject an application for registration as a Registered Person.
- (c) Notwithstanding the proposed Registered Person meeting the relevant criteria under the Rules, the Clearing House may reject an application for registration as a Registered Person if:
  - (i) the information relating to the application as the Clearing House requires is not provided;
  - (ii) any information or document that is furnished to the Clearing House is false or misleading;

- (iii) the proposed Registered Person has failed to comply with any other requirement of the Securities Laws or the Rules;
- (iv) 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
- (v) the conduct of the proposed Registered Person is not in the interest of a fair and orderly market.

### **239 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.

### **240 Further and continuing obligations of Registered Persons**

Throughout the term of 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 the 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 the 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 the Rules;
- (d) observe professional conduct, standards of integrity and fair dealing;
- (e) exercise proper skill, care and diligence;
- (f) act honestly and in the best interest of the Client and the General Clearing Participant;
- (g) effectively discharge the Registered Person's duties while in office;
- (h) not act in a manner that may compromise the Registered Person's function and position;
- (i) comply with and give effect to the structures, policies, procedures and internal controls implemented by the General Clearing Participant pursuant to Rule 508;
- (j) exercise all such diligence to prevent the commission of the breach of the Rules by the General Clearing Participant as the Registered Person ought to have exercised, 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 Securities Laws and the Rules.

#### **241 Notice of cessation**

A General Clearing Participant must notify the Clearing House in writing at least 7 days before the effective date of a Registered Person ceasing to hold the relevant office.

#### **242 Vacancy of Registered Person**

- (a) If a vacancy occurs in the office of a Registered Person, the General Clearing Participant must fill the vacancy within 6 months from the date the vacancy occurs.
- (b) 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:
- (i) has the relevant experience and seniority to undertake the relevant functions;
  - (ii) complies with the Rules except for the requirement for the Commission's approval to be appointed to the relevant vacated office or registration with the Commission;
  - (iii) undertakes only such functions for a period not exceeding 6 months; and
  - (iv) is registered as a Registered Person in the manner the Clearing House stipulates.

#### **243 Summary de-registration**

- (a) The Clearing House may strike off a Registered Person from the Register of CPs and RPs if the Registered Person:
- (i) becomes of unsound mind;
  - (ii) is made bankrupt, whether in or out of Malaysia;
  - (iii) 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
  - (iv) is convicted of an offence under the Securities Laws.
- (b) A General Clearing Participant and Registered Person must immediately notify the Clearing House in writing upon becoming aware of any of the above circumstances.

#### **244 Right of appeal**

- (a) If the Clearing House rejects an application for participantship made under Rule 205 or registration under Rule 238, the applicant or the General Clearing Participant, as the case may be, may appeal in writing to the Clearing House within 14 days after such applicant or General Clearing Participant is notified of the Clearing House's decision.
- (b) The Clearing House may affirm, vary or set aside the decision appealed against.
- (c) The Clearing House's decision on appeal is final and binding on the appellant.

**245 Continuing Liability**

- (a) Notwithstanding that a Clearing Participant or a Registered Person ceases to be registered or is struck off the Register of CPs and RPs by the Clearing House for any reason, the Clearing Participant or Registered Person is bound by the Rules insofar as they relate to any antecedent breach committed by the Clearing Participant or the Registered Person.
- (b) A Clearing Participant or Registered Person which has ceased to be registered or is struck off the Register of CPs and RPs must retain all its records for at least 7 years.
- (c) Any such record must be produced for inspection to the Clearing House on demand and, where is not retained in legible form, must be capable of being reproduced in that form.



## Chapter 3

### MANAGEMENT OF THE CLEARING HOUSE'S GENERAL POWERS

#### 300 Powers and duties of the Clearing House

Without prejudice to any other provisions in the Rules, the following powers are in addition vested in the Clearing House, to be exercised in such manner and on such terms as it sees fit:-

- (a) to make new rules;
- (b) to add to, vary, repeal, enforce, waive or modify compliance with a Rule or part of a Rule whether subject to the fulfilment of any condition or otherwise;
- (c) to administer, manage and formulate policies in relation to the Rules;
- (d) to issue directives, guidelines, rulings, instructions by whatever name called for the purposes of or in connection with any of the Rules;
- (e) to interpret conclusively any provision of the Rules having regard to the spirit, intention, purpose and the substance of such Rules;
- (f) to disclose the following information to the Clearing Participants or any other persons or to publish the same as the Clearing House considers fit:
  - (i) 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
  - (ii) any action taken against a Clearing Participant or Registered Person by the Clearing House under the Rules;
- (g) to grant, suspend or revoke the rights of any Clearing Participant or Registered Person;
- (h) to impose terms and conditions in relation to any decision, approval or act done by the Clearing House in connection with the Rules at any time and subsequently at any time revoke, vary or amend such terms and conditions;
- (i) to enforce directions given by the Commission;
- (b)j) to take such actions as it may determine necessary in connection with the failure of any Clearing Participant to maintain the financial requirements pursuant to Chapter 2H of the Rules or to fully discharge any of its obligations to the Clearing House when due;
- (e) ~~if any act or omission, whether actual or threatened, of a Clearing Participant poses a danger to the Clearing House, to take all such actions as it considers necessary at its absolute discretion to protect the integrity of the Clearing House;~~
- (dk) to determine the variables used to calculate Margin the Performance Bond for all or any Clearing Participants;

**ANNEXURE 1**

**RULES OF BURSA MALAYSIA DERIVATIVES CLEARING BHD**  
**Rule Amendments in Relation to the Decoupling of Clearing Participantship from Trading Participantship**

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- ~~(e) to request an Exchange to conduct audits or investigations and/or to obtain such documents or records from Clearing Participants as may be required by the Clearing House;~~
- (f) to direct and conduct audits, investigations, and inspection of the Records of Clearing Participants and question any Clearing Participant or Registered Person in relation to the compliance by the Clearing Participant or Registered Person with the Rules; ~~and~~
- ~~(gm) to require direct a Clearing Participant or Registered Person to provide furnish the Clearing House with such reports, information, documents, books and or Records to the Clearing House maintained by the Clearing Participant in relation to any matter under the Rules as it considers appropriate.;~~
- (n) to undertake a readiness audit on the Clearing Participant or require a Clearing Participant to carry out its own readiness audit, with the scope, criteria and manner to be determined by the Clearing House;
- (o) to impose charges, fees (including clearing fees), expenses, disbursements or any other amount due to the Clearing House;
- (p) to refer any act or conduct of a Clearing Participant or Registered Person to an appropriate authority;
- (q) to require 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) to order the Clearing Participant to liquidate such portion of the Clearing Participant's Open Positions in an Unsegregated Account or the Segregated Account as the Clearing House deems necessary to ensure the integrity of any Open Contract or to ensure an orderly and liquid market;
- (s) to order the Clearing Participant to transfer existing Open Positions to another Clearing Participant or prescribe restrictions on positions as the Clearing House deems necessary to ensure the integrity of any Open Contract or to ensure an orderly and fair market;
- (t) to undertake 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;
- (uh) pursuant to a finding from any inspection or investigation on a Clearing Participant, require 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.;
- (v) to exercise all such other powers as may be necessary for purposes of monitoring compliance with and enforcement of the Rules; and
- (w) to exercise any power and take 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.

**301 Incidental powers etc of the Clearing House**

Where any provision of the Rules empowers, authorises or enables the Clearing House to do or enforce the doing of any act or thing, the Clearing House shall have 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.

## Chapter 3A

### THE EXCHANGE HOLDING COMPANY

#### 300A Powers of the Exchange Holding Company

- (a) Where any provision of these Rules confers a right or power on the Exchange Clearing House to do any act or thing, such right or power is also conferred provision shall be deemed to confer the right or power on the Exchange Holding Company to do such act or thing on behalf of the Clearing House.
- (b) An applicant, a Clearing Members-Participant, a Registered Person and other persons to whom the Rules are directed must comply with, observe or give effect to any action of the Exchange Holding Company pursuant to sub-paragraph (a) above.

## Chapter 4

### CLEARING FUND

#### 400 Establishment of Clearing Fund

- (a) The Clearing House must establish and maintain a Clearing Fund for the purpose of indemnifying the Clearing House against losses arising in the circumstances specified in Rule 40~~5~~6.
- (b) The Clearing House will from time to time 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. The decision of the Clearing House pursuant to this Rule 400(b) is final and it is not required to provide any reason for such decision.

#### 401 Clearing Fund contributions

- (a) The Clearing House may at any time and from time to time require a Clearing Participant to make such payment to the Clearing Fund as it deems fit in accordance with the Rules. Subject to Rules 401(g) and 40~~9~~8(b) each Clearing Participant must make payment to the Clearing Fund and maintain its Clearing Fund Contribution in accordance with the requirements of the Clearing House.
- (b) A Clearing Participant's Clearing Fund Contribution consists of:
  - (i) the fixed and variable contributions to the Clearing Fund required under Rule 401(c) and reflected in its most recent Clearing Fund Statement; plus
  - (ii) all amounts (if any) requested from such Clearing Participant in accordance with Rule 401(a), subsequent to issue of the most recent Clearing Fund Statements and up to 100% of the amount referred to in Rule 401(b)(i); plus
  - (iii) all contributions (if any) received from such Clearing Participant in accordance with Rule 401(a), subsequent to issue of the most recent Clearing Fund Statements and above 100% of the amount referred to in Rule 401(b)(i); less
  - (iv) the share of loss, if any, calculated in accordance with Rule 40~~8~~7 or Rule 40~~9~~8(c), subsequent to issue of the most recent Clearing Fund Statements.
- (c) A Clearing Participant must contribute to the Clearing Fund:
  - (i) a fixed amount of RM1 million; and
  - (ii) a variable amount calculated in ~~accordance with Rule 402~~the manner prescribed by the Clearing House.
- (d) Clearing Fund Contributions must be in the form of cash and/or Approved Collateral.
- (e) The Clearing House must revalue any Approved Collateral lodged with it pursuant to Rule 401(a) on the first Business Day of each Month and at such other times as may

be determined, from time to time, by the Clearing House. If due to such revaluation, a Clearing Participant's contribution to the Clearing Fund is less than its Clearing Fund Contribution, the Clearing Participant must pay such shortfall to the Clearing House within one Business Day of being notified of such shortfall.

- (f) If a Clearing Participant's contribution to the Clearing Fund exceeds the Clearing Participant's Clearing Fund Contribution, the Clearing Participant is entitled to request the Clearing House to pay out such excess upon giving notice in the prescribed form of one Business Day to the Clearing House.
- (g) If a Clearing Participant has served notice of resignation pursuant to Rule ~~227~~13 prior to a claim being made on the Clearing Fund, such Clearing Participant is not obliged to make any further contributions to the Clearing Fund in response to a request made pursuant to Rule 401(a) in connection with such claim.

**~~402~~ Variable contribution**

~~The variable amount referred to in Rule 401(c)(ii) for a Clearing Participant is calculated as:~~

$$\frac{\text{VC}}{\text{TM}} = \frac{\text{CMM}}{\text{TM}} \times (\text{TS} - \text{TF})$$

Where:

**VC** is the variable amount of that Clearing Participant's contribution to the Clearing Fund;

**TM** is the sum of all Margin determined in accordance with Rule 613 for all Clearing Participants on each Business Day during the preceding Month.

**CMM** is the sum of that Clearing Participant's Margin determined in accordance with Rule 613 for each Business Day during the preceding Month;

**TS** is the size of the Clearing Fund determined by the Clearing House pursuant to Rule 400(b);

**TF** is the sum of fixed amounts payable by all Clearing Participants to the Clearing House pursuant to Rule 401(c)(i).

**~~4023~~ Clearing Fund statement**

- (a) On the first Business Day of each Month and at such other times the Clearing House deems fit, the Clearing House ~~must~~will issue a Clearing Fund Statement to each Clearing Participant containing information relating to the following:

- (i) the fixed and variable contribution to the Clearing Fund calculated in accordance with Rule 401(c); and
  - (ii) the amount of cash and the current value of Approved Collateral (if any) comprised in such Clearing Participant's fixed and variable contributions to the Clearing Fund determined by the Clearing House;
  - (iii) any further contributions required in accordance with Rule 401(a) or any excess that can be recovered by the Clearing Participant pursuant to Rule 401(f).
- (b) Upon issue of Clearing Fund Statements each Month under Rule 4023(a), the Clearing House must, in accordance with Rule 4034 calculate the proportion ~~that of~~ the Clearing Fund Contribution of each Clearing Participant who is not entitled to exercise a right under Rule 401(g), to the Clearing Fund Contributions of all such Clearing Participants.

#### **4034 Member's Participant's proportion of fund**

The proportion of the Clearing Fund which a Clearing Participant's Clearing Fund Contribution represents (herein referred to as "share of Fund") will be calculated as follows:

$$\text{share of Fund} = \text{CF} / \text{SF}$$

where:

**CF** is the Clearing Fund Contribution of each Clearing Participant who is not entitled to exercise a right under Rule 401(g) or has not exercised its right under Rule 4098(b), and

**SF** is the sum of Clearing Fund Contributions of all such Clearing Participants.

#### **404 Appropriations from resources of the Clearing House**

- (a) The Clearing House may, from time to time appropriate any of its resources to the Clearing Fund.
- (b) 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 from time to time, appropriate such amounts out of the Clearing Fund, either temporarily or permanently.

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

- (a) The Clearing House may establish such additional arrangements, bank facilities and policies of insurance, as it may from time to time consider appropriate for the purposes of providing additional resources to the Clearing Fund. The Clearing House may at its absolute discretion also terminate such arrangements at any time.
- (b) The costs and expenses of establishing such arrangements shall be payable out of the interest or other sums accruing to the Clearing Fund. Further, the Clearing House may require Clearing Participants to reimburse it in respect of such costs and expenses which are 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 401(c) or in such other manner as the Clearing House considers fair and appropriate.

#### **4065 Purpose of Clearing Fund**

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

- (a) any Clearing Participant fails to discharge any of its obligations to the Clearing House when due; and/or
- (b) if 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.

#### **4076 Application of Clearing Fund**

Without prejudice to the Clearing House's right to draw on other resources available to the Clearing Fund and subject to the terms or any guarantees, facilities, policies or other assets from time to time forming part of the resources of the Clearing Fund, the Clearing Fund may be applied ~~If an event described in Rule 405 occurs, the Clearing House may estimate the amount of losses which it will incur as a consequence of such event and draw such amount (or lesser amount as may be determined by the Clearing House) from the sources and in the following order of priority provided as follows:~~

- (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 404;
- (c) thirdly, contributions made by all other Clearing Participants (or all Clearing Participants if sub-paragraph (a) above is not applicable) in the proportion set out in Rule 408 such reserves of the Clearing House as are specifically set aside for this purpose, subject to the provision that until such time that reserves available to the Clearing House exceed RM2 million, the Clearing House may at its absolute discretion apply RM2 million from shareholders' funds of the Clearing House; and
- (~~b~~d) lastly, additional resources such as bank facilities and policies of insurance secured pursuant to Rule 405, such surplus funds of the Clearing House as the Clearing House may determine are in excess of funds for normal operations;
- (e) ~~the Clearing Fund and Clearing Participants in accordance with Rule 407.~~

#### **4087 Distribution of losses**

If the Clearing Fund is drawn upon pursuant to Rule 407~~6~~(e):

- (a) The proportion of the total amount (referred to in this Chapter ~~4IV~~ as "Total Loss") required by the Clearing House after drawing on the funds referred to in Rule



~~4076(a) and (b)~~ which must be charged against each Clearing Participant (hereinafter referred to as “share of loss”) is to be calculated as follows:

Share of loss = **MS x FD**

where:

**MS** is the Clearing Participant’s share of Fund; and

**FD** is the Total Loss.

- (b) The Clearing House must issue a statement to each Clearing Participant advising such Clearing Participant of its share of loss calculated pursuant to Rule 4087(a). Subject to Rules 401(g) and 4098(b) each Clearing Participant must pay into the Clearing Fund its share of loss within one Business Day after receipt of the statement.
- (c) Immediately after the expiration of the time allowed for payment to be made in accordance with Rule 4087(b) the Clearing House must recalculate each Clearing Participant’s share of Fund in accordance with Rule 4034.

#### **4098 Limitation of Clearing Participant’s liability to Clearing Fund**

- (a) The amount charged against a Clearing Participant in accordance with Rule 4078(a) must first be paid out of that Clearing Participant’s Clearing Fund Contribution. Subject to Rules 401(g) and 4098(b), 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.
- (b) 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:
  - (i) 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;
  - (ii) 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
  - (iii) the Clearing Participant closes out or transfers its Open Position as promptly as practicable.
- (c) If a Clearing Participant exercises its right under Rule 4098(b), the balance of its share of loss (referred to in this paragraph as “deficiency”) must be charged against each remaining Clearing Participant in the proportion of the deficiency calculated in accordance with Rule 4034, and the provisions of this Rule will *mutatis mutandis* apply to each remaining Clearing Participant in relation to its liability to pay such proportion of the deficiency.
- (d) A Clearing Participant who has exercised its right under Rule 4098(b) 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 deems fair and equitable in the circumstances.

#### **41009 Notice to Clearing Participants**

Whenever any charge is made against a Clearing Participant's Clearing Fund Contribution in accordance with Rule 4087 or 4098(c), the Clearing House must promptly notify that Clearing Participant of the amount of the charge.

#### **4110 Power to pledge Clearing Fund**

- (a) The Clearing House may pledge the Clearing Fund, in whole or in part, as security for borrowings if:
- (i) 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
  - (ii) the Clearing House sustains a loss pursuant to Rule 4065 and elects to borrow funds in lieu of charging such loss to the Clearing Fund.

Such borrowings must not exceed the amount necessary to meet the obligations of the Clearing House to Clearing Participants and other clearing house organisations.

- (b) Borrowings pursuant to Rule 4110(a) must 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.
- (c) Borrowings secured by the Clearing Fund must be repaid by the Clearing House as promptly as practicable.

#### **4124 Refund of contributions**

- (a) If a Clearing Participant ceases to be a Clearing Participant, whether as a result of resignation or otherwise, subject to Rules 4124(b) and 4124(c) a sum equivalent to its Clearing Fund Contribution must be returned.
- (b) The Clearing House may release the Clearing Participant's Clearing Fund Contribution if:
- (i) the Clearing Participant's obligations to the Clearing House have been fulfilled; or
  - (ii) with the approval of the Clearing House, another Clearing Participant has agreed to assume such Clearing Participant's obligations to the Clearing House; or
  - (iii) the Clearing Participant has presented to the Clearing House such indemnities and guarantees as the Clearing House in its sole discretion deems satisfactory.
- (c) The Clearing House is entitled to withhold or deduct from any amount returnable to the Clearing Participant under this Rule 4124:

- (i) all charges against the Clearing Participant's Clearing Fund Contribution on account of transactions made by the Clearing Participant;
- (ii) all amounts due and payable by the Clearing Participant to the Clearing House.

#### **4132 Recovery of loss**

- (a) If a charge is made against the Clearing Fund Contributions of Clearing Participants in accordance with Rule 4087 or 4098 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.
- (b) 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 4087.

#### **4143 Investment of Clearing Fund**

The Clearing House ~~must~~may invest, manage and mobilise cash ~~of~~in the Clearing Fund in such manner as the Clearing House deems fit or expedient:

- ~~(a) — government securities; or~~
- ~~(b) — on deposit with such financial institutions as may from time to time be approved by the Clearing House.~~

## CHAPTER 5

### RESPONSIBILITIES OF CLEARING PARTICIPANTS

#### **500 Scope of obligations**

A Clearing Participant must comply with the obligations set out in this Chapter 5 in respect of its business of Clearing.

#### **501 General Conduct**

A Clearing Participant must, in the conduct of its 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.

#### **502 Business Conduct**

A Clearing Participant must, in the conduct of its business:

- (a) 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;
- (b) not carry on its business at any place other than a place that has been approved in writing by the Clearing House;
- (c) ensure that an employee or director of a Clearing Participant who trades in derivatives on the Exchange or a Specified Exchange (as defined in the Act) 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 interests and risk, in accordance with Rules 503 and 504. 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.

#### **503 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.

#### **504 Risk Management**

A Clearing Participant must have in place an adequate risk management framework to ensure that it is able to perform adequate risk management functions at all times.

**505 Supervisory system to achieve compliance**

Each Clearing Participant must establish and maintain a proper system to supervise the activities of the Clearing Participant's agents and personnel and that is reasonably designed to achieve compliance with the Rules and the Act.

**506 Accountability**

The final responsibility for proper supervision shall rest with the Clearing Participant and its Board of Directors.

**507 Internal Audit Functions**

- (a) A Clearing Participant must conduct an internal audit review, at least of the business in which it engages, which review must be reasonably designed to assist in detecting and preventing violations of and achieving compliance with the Rules and the Act.
- (b) 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.
- (c) A Clearing Participant must retain a written record of the dates when each internal audit review is conducted.

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

- (a) A Clearing Participant must have in place structures, internal controls and written policies and procedures designed to:
  - (i) facilitate the supervision of the Clearing Participant's business activities and the conduct of the Clearing Participant's Registered Persons, employees and agents;
  - (ii) identify, monitor and manage conflicts of interests and risks that may arise in the conduct of the Clearing Participant's business;
  - (iii) achieve compliance with the Rules and the Act; and
  - (iv) provide for Client protection;

(referred to collectively in this Rule as "Policies and Procedures").
- (b) A Clearing Participant must consider all relevant factors in determining the adequacy and effectiveness of the Policies and Procedures including the:
  - (i) size of the Clearing Participant's business;
  - (ii) the Clearing Participant's financial position;
  - (iii) diversity of operations;
  - (iv) volume, size and frequency of transactions;
  - (v) degree of risk associated with each area of operation; and

- (vi) amount of control by the Clearing Participant's senior management over day to day operations.
- (c) 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.
- (d) 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.
- (e) 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.

#### **~~500~~ — Notice of failure to satisfy financial requirements**

##### **~~50900A~~ Notice of failure by General Clearing Participant**

Each 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 the Rules; ~~and/or~~
- (b) the General Clearing Participant fails to meet any other financial requirements which may from time to time be stipulated by the Clearing House.

##### **~~51000B~~ Notice of failure by Direct Clearing Participant**

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

- (a) the Net Tangible Assets of the Direct Clearing Participant is reduced below the minimum level prescribed under the Rules;
- (b) the Direct Clearing Participant Deposit of the Direct Clearing Participant is reduced below the minimum level prescribed under the Rules; ~~and/or~~
- (c) the Direct Clearing Participant fails to meet any other financial requirements which may from time to time be stipulated by the Clearing House.

##### **~~51104~~ Other notice**

A Clearing Participant must ~~promptly-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 the Rules or which may interfere with its ability to conduct its business in a normal manner.

### **512 Early Warning Financial Requirements**

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

### **513 Maintaining Records**

- (a) A Clearing Participant must maintain records which correctly record and sufficiently explain the Clearing Participant's Clearing activities whether for the Clearing Participant's own account or its Client's account, where applicable.
- (b) A Clearing Participant must maintain separately from other records, records which correctly record and sufficiently explain the Clearing activities of the Clearing Participant for its own account.
- (c) The records specified under Rule 513(a) 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.

### **514 Advertising and Publicity**

A General Clearing Participant's advertising or publicity in relation to 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.

### **515 Business Premises**

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

### **516 Application of Client conduct rules**

Rules 516 to 523 applies to a General Clearing Participant only in respect of a Client with whom the General Clearing Participant has a direct relationship.

### **517 Client information**

- (a) A General Clearing Participant must before accepting a person as a Client:
  - (i) obtain all essential information about the person relevant to the services to be provided; and
  - (ii) enter into a written agreement with such person.

- (b) 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 519.

#### **518 Agreement with Client**

In relation to the written agreement referred to in Rule 517(a)(ii), 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 the Rules, whether the 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.

#### **519 Disclosure of information by Client**

- (a) 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.
- (b) The information referred to in Rule 519(a) above 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 the Market Contract that has been entered into in respect of the Client's account.
- (c) In relation to a request made under Rules 519(a) and (b) above, 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 or where the Client refuses to furnish the same.

#### **520 Doing business with Clients**

- (a) 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 instructed the General Clearing Participant in writing to send communications and documents to another person or duplicate copies are sent to the Client at some other address designated by the Client in writing.
- (b) A General Clearing Participant must account for and adequately safeguard a Client's or potential Client's assets.
- (c) 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.



### **521 Clients' Margins and Margin Payment**

- (a) Subject to Rule 521(e), a General Clearing Participant must procure margins from its Clients and ensure that its Clients maintain the amount of minimum margins on all Open Positions and these margins must be at least equivalent to the amount of Margins required by the Clearing House.
- (b) 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.
- (c) Except for Market Contracts which reduce a Client's margin obligation, a General Clearing Participant must ensure that no new Market Contracts are entered into by the Client unless the minimum margin for the Market Contracts are 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 that Client's pre-existing Open Positions comply with the margin requirements established by the General Clearing Participant.
- (d) If new Market Contracts are entered into by the Client due to whatever reason despite Rule 521(c), the General Clearing Participant must clear and settle all such Open Contracts arising from such Market Contracts.
- (e) 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 within a reasonable time after a margin call has been made by the Clearing House, provided that in no case shall such time be less than 1 hour from the time of demand.

### **522 Complaints by Clients**

A General Clearing Participant must:

- (a) deal with all Clients' complaints promptly and in sufficient detail;
- (b) maintain adequate records in relation to complaints received from Clients; and
- (c) if a General Clearing Participant receives more than 10 complaints in any month, report that fact to the Clearing House.

### **523 Statements to Clients**

- (a) A General Clearing Participant must confirm in writing to every Client every transaction made for the Client no later than the following Business Day.
- (b) A General Clearing Participant must provide to each Client a monthly statement.

### **524 Give up upon a Client's request**

- (a) 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 from time to time prescribe.

- (b) The Clearing House may without giving any reason:
  - (i) reject the give up arrangement entered into by the Clearing Participants; or
  - (ii) allow such give up arrangement subject to conditions being satisfied.
- (c) 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.
- (d) In relation to all give-up arrangements entered into and which have taken effect pursuant to this Rule 524, the take-up Clearing Participant must, in relation to the Open Contract referred to in Rule 524(a):
  - (i) clear and settle such Open Contract and comply with all the provisions in the Rules in respect of the Open Contract; and
  - (ii) comply with all provisions in Rules 516 to 523 in respect of the Client referred to in this Rule 524.
- (e) 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.

#### **525 Statements, information and reports**

- (a) A Clearing Participant must submit, within such time and in such form and manner as determined by the Clearing House, such statements, information or reports as may be requested by the Clearing House.
- (b) A Clearing Participant must lodge with the Clearing House a copy of any other statement, information or report lodged by the Clearing Participant with the Commission at the time of its lodgement with the Commission.

#### **52602 Audited reports**

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

#### **527 Additional obligations on record keeping or reporting requirements**

- (a) The Clearing House may impose upon any Clearing Participant additional or more stringent record keeping or reporting requirements other than those under the Rules or the Act and may impose them for such period as the Clearing House deems fit.
- (b) A Clearing Participant affected by Rule 527(a) may within 14 days after the imposition of such requirement, or following a material change in circumstances, request the Clearing House in writing to reconsider its decision and may make such written representations and supply such written information as it considers relevant.

### **52803 Audit and investigation**

Deleted.

### **52904 Banking arrangements**

Each Clearing Participant must maintain such arrangements, including alternative arrangements, with such bank(s) as may from time to time be prescribed by the Clearing House to permit the transfer of funds between the Clearing Participant and the Clearing House. 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.

### **53005 Information and ~~e~~Cooperation**

Each Clearing Participant must:

- ~~(a) provide such information at such times and in such manner to the Clearing House as may be reasonably requested by the Clearing House;~~
- ~~(ab)~~ cooperate with the Clearing House to the best of its abilities to facilitate the Clearing House in carrying out its functions; and
- ~~(be)~~ comply with any reasonable requests of the Clearing House.

### **531 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 has an effective implementation of 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 the policies and procedures in Rule 531(a):
  - (i) are duly 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.

### **532 Non-applicability of Rule 531**

Rule 531 does not apply to a Bank Clearing Participant. A Bank Clearing Participant must comply with such requirements of Bank Negara relating to financing to related corporations, if any.

**533 Position and Exercise Limits**

- (a) The Clearing House may determine from time to time 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”).
- (b) A Clearing Participant must ensure that the position limits and exercise limits, as the case may be, applicable to any Client or Clearing Participant are adhered to at all times.
- (c) 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.
- (d) 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 shall be entitled to require reports even if the amount of Open Positions held, is below the reporting levels prescribed by the Clearing House.
- (e) 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 533(a) above.
- (f) 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 533.

## Chapter 6

### CLEARING PROCEDURES

#### 600 Submission of contracts for registration

- a) The particulars of each Market Contract must be presented in such manner as is approved 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.
- b) The Clearing House is entitled to rely on the particulars of Market Contracts presented in accordance with Rule 600(a) as being correct and is not bound to recognise any actual or alleged error or omission in relation to such particulars.

#### 601 Errors in recording

- a) Despite Rule 600(b), if on application 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 and subject to any conditions, including but not limited to the payment of Margin, may:
  - i) 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;
  - ii) 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.
- b) In the event of the Clearing House exercising its discretion pursuant to Rule 601(a)(i) the Market Contract is deemed to have been Registered reflecting any such amendments or corrections and the Rules apply accordingly.

#### 602 Registration

- a) The Clearing House may ~~at its absolute discretion without being required to give reasons:~~
  - i) 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
  - ii) before the end of the day on which the Market Contract has been accepted for Registration, 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. The rejection of such Market Contract under this rule 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.

The Clearing House will notify ~~, without being required to give reasons and must notify any such decision to~~ the relevant Exchange of any decision taken by the Clearing House under this Rule 602(a) and may take any action as may be necessary in respect of such Market Contract in consultation with the Exchange.

- b) Immediately after acceptance of a Market Contract for Registration by the Clearing House:
- i) 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;
  - ii) 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
  - iii) the Market Contract is extinguished.
- c) 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.
- d) Each Open Contract has effect and is valid and enforceable in accordance with its terms as established under the Rules. 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.
- e) The terms of each Open Contract are subject to the Rules and in the event of any inconsistency between the Rules and any other term of an Open Contract the Rules prevail.

### **603 Parties to Open Contract**

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. A Clearing Participant is entitled to 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 the Rules. 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.

### **604 Accounts**

- a) The Clearing House will record details relating to each Open Contract in the Segregated Account or Unsegregated Account of the Clearing Participant party to such Open Contract.

- b) Both the Segregated Account and the Unsegregated Account of a Clearing Participant must bear the name of the Clearing Participant and the Clearing House must open separate Sub-Accounts bearing such identification as advised by the Clearing Participant in such manner as is prescribed by the Clearing House.
- c) The Performance Bond Margin will be calculated separately by the Clearing House in accordance with Rule 613 in relation to Open Contracts recorded in a Clearing Participant's Unsegregated Account and each Sub-Account of the Clearing Participant's Segregated Account.

#### 605 Designation instructions

- a) 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.
- b) The designation instructions provided to the Clearing House in accordance with Rule 605(a) must indicate:
  - i) 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;
  - ii) if an instruction is given to the Clearing House pursuant to Rule 605(b)(i) 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.
- c) If designation instructions are 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 must be recorded in the Unsegregated Account of the Clearing Participant.
- d) If a Clearing Participant has made a bona fide 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. The Clearing House may in its absolute discretion agree to or reject such request. Any such agreement or rejection must be advised to the Clearing Participant.

#### 606 ~~Offer and acceptance of an Allocation and Transfers~~

~~The If 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 as determined by the Clearing House from time to time has reached agreement with an Exchange, a Clearing Participant's offer or acceptance of an Allocation will be communicated to the Clearing House by such Exchange for and on behalf of the Clearing Participant. The agreement or otherwise of the Clearing House to effect an Allocation will be communicated to the Clearing Participant in such manner as may be determined by the Clearing House from time to time.~~

**607 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 608;
- b) it is liquidated as the result of a settlement to market in accordance with Rule 612;
- c) in accordance with Rule 610, 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 1101 or Rule 1102;
- e) in the case of an Option Open Contract
  - i) which is a Futures Option, it has been Exercised or Assigned or has Expired.
  - ii) which is an Eligible Option,
    - (a) delivery and payment have been effected in accordance with Rule 803; or
    - (b) cash settlement has been effected in accordance with Rule 807; or
    - (c) it has Expired.
- f) in the case of an Open Contract which is an Adjustment Agreement, cash settlement has been effected in accordance with Rule 807; or
- g) in the case of an Open Contract which is an Eligible Delivery Agreement, Delivery has been effected in accordance with Rule 802.

**608 Liquidation by offset**

- a) 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 either the Unsegregated Account or in the same Sub-Account, of that Clearing Participant, may request the Clearing House to liquidate by offsetting the rights and obligations under those two Open Contracts.
- b) Upon two Open Contracts being off-set pursuant to Rule 608(a), 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.
- c) Requests for liquidation by off-set in accordance with this Rule 608 must be submitted to the Clearing House in such manner and on such terms as may be determined by the Clearing House, from time to time.

**609 Reversal of liquidation**

At the absolute discretion of the Clearing House on such terms and conditions as the Clearing House deems fit and following a request from a Clearing Participant, the Clearing House may



reverse the liquidation of two Open Contracts made pursuant to Rule 608 so that two new Open Contracts between the Clearing House and the Clearing Participant are created on identical terms to the original two Open Contracts previously liquidated and any settlement difference is repaid. Such requests by Clearing Participants must be submitted to the Clearing House in such manner as may be prescribed by the Clearing House, from time to time.

#### **610 Novation of Open Contracts**

- a) 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:
- i) ~~in accordance with Rule 606~~ the Clearing House has been advised of the offer and acceptance of ~~an Allocation a transfer of an Open Contract between two Clearing Participants pursuant to Rule 606~~; or
  - ii) the transferor becomes a wholly-owned subsidiary of the transferee; or
  - iii) 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
  - iv) there exists some other reason for the proposed novation that is not inconsistent with the Rules, the relevant Exchange Rules or the Act.
- b) ~~A request for Allocation presented by an Exchange pursuant to Rule 606 must be made in such manner and on such terms as may be agreed from time to time between the Clearing House and the relevant Exchange.~~ Any other request for the novation of an Open Contract must be made in such manner and on such terms as are determined by the Clearing House from time to time.
- c) The Clearing House may in its absolute discretion without giving any reason make a decision to 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.

#### **611 Daily settlement price**

The Clearing House will determine the Daily Settlement Price for each Open Contract in accordance with its procedures. Such procedures must provide for consideration to be given to any bids, offers and traded prices quoted by an Exchange and such other information as may be deemed relevant by the Clearing House.

#### **612 Settlement to market**

- a) At such time or times, as determined by the Clearing House, on each Business Day, for each Open Contract two new contracts (each of which is referred to in this Rule

612 as a “settlement-to-market contract”) between the parties to the Open Contract come into existence with terms identical to those of the Open Contract except:

- i) the Clearing Participant party to the Open Contract will be Buyer to one settlement-to-market contract and the Seller to the other settlement-to-market contract and the Clearing House will be a counterparty to each settlement-to-market contract;
  - ii) the contract price for each settlement-to-market contract must be the latest Daily Settlement Price determined by the Clearing House in accordance with Rule 611 for the relevant Open Contract; and
  - iii) the contract date for each settlement-to-market contract must be the date on which the relevant Daily Settlement Price was determined.
- b) Each Open Contract to which the Clearing Participant is Buyer is automatically off-set against a settlement-to-market contract where the Clearing Participant is Seller and each Open Contract where the Clearing Participant is Seller is automatically off-set against a settlement-to-market contract where the Clearing Participant is Buyer.
- c) Contracts which have been off-set against each other under Rule 612(b) cease to have any further force or effect. The Clearing House must calculate the settlement difference resulting from such off-set and such settlement difference becomes immediately due by the Clearing Participant or the Clearing House, as the case may be.
- d) Settlement-to-market contracts which are not off-set in accordance with Rule 612(b) are treated as Open Contracts.

**613 Margin Performance Bond**

- a) ~~Margin~~ The Performance Bond will be determined by the Clearing House for the purpose of managing foreseeable risk using a risk based algorithm and/or such other method as may be determined, from time to time, by the Clearing House and advised to Clearing Participants. A Clearing Participant’s Performance Bond Margin will be held as security against the non-performance of contractual obligations of that Clearing Participant under its Open Position and will be applied in such manner as is determined by the Clearing House at its absolute discretion upon any default by the Clearing Participant of such obligations.
- b) The Clearing House must determine the Performance Bond Margin required from each Clearing Participant having regard to the Open Position of that Clearing Participant.
- c) The Performance Bond Margin must be lodged with the Clearing House in accordance with the directions of the Clearing House and may be in the form of cash and/or Approved Collateral.

**614 Payment to the Clearing House**

- a) On each Business Day, the Clearing House must make available to each Clearing Participant a statement advising the Clearing Participant of funds (if any) which must be paid to the Clearing House on the same day and showing the Margin Performance

Bond which must be lodged with the Clearing House. The latest times by which the statements must be made available by the Clearing House and by which the payments must be made by the Clearing Participant shall be prescribed by the Clearing House from time to time.

- b) 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.

#### **615 Call for additional funds**

After due consideration of 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, 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. Such additional funds must be paid within one hour or such later time as may be specified by the Clearing House.

#### **616 Approved collateral**

- a) Approved Collateral is property from time to time prescribed by the Clearing House as Approved Collateral for any purpose under the Rules. Approved Collateral may only be deposited or pledged with or assigned to the Clearing House in such manner and on such conditions as may be determined by the Clearing House from time to time.
- b) Approved Collateral must be valued at such times and in such manner as may be determined by the Clearing House from time to time.
- c) The Clearing House may invest, manage and mobilise such Approved Collateral in such manner as the Clearing House deems fit or expedient.
- d) Any benefit, interest or gain received or accrued on any Approved Collateral belongs to the Clearing Participant that deposited or pledged with or assigned to the Clearing House such Approved Collateral and such interest or gain will be delivered to that Clearing Participant at such times and in such manner as may be determined by the Clearing House from time to time.
- de) Acceptance by the Clearing House of Approved Collateral is at the absolute discretion of the Clearing House after giving consideration to matters it considers relevant including, but not limited to its exposure or potential exposure to third parties.
- ef) Withdrawal of Approved Collateral by a Clearing Participant may be subject to any conditions which the Clearing House may determine from time to time.
- fg) The Clearing House is entitled to charge a fee in respect of the lodgement of Approved Collateral. Such fee will be determined from time to time by the Clearing House and may vary depending upon the form of such Approved Collateral.
- gh) This Rule 616 has effect despite anything else contained in the Rules.

**616A—Securities as Approved Collateral for Margin**

- a) ~~Eligible Securities may be deposited with the Clearing House as Approved Collateral for Margin. For the purpose of this Rule Eligible Securities means securities prescribed by the Clearing House under Rule 616 (a) as eligible to be deposited with the Clearing House by its Clearing Participants for the purpose of the Clearing Participants' Margin.~~
- b) ~~Where a Clearing Participant deposits Eligible Securities for Margin, the Clearing Participant shall execute a memorandum of deposit prescribed by the Clearing House, which is an agreement governing the terms for the deposit of securities for Margin and the rights and obligations of the Clearing Participant in relation thereto ("the Memorandum of Deposit"). The Clearing Participant shall comply with the terms of the Memorandum of Deposit and any breach thereof shall constitute a breach of this Rule.~~
- c) ~~The Clearing House may issue directions at any time and from time to time to prescribe terms and/or procedures in addition to those already stipulated in the Memorandum of Deposit which may include terms and procedures relating to administrative and operational matters and the computation of the value of the Eligible Securities for Margin. The Clearing Participant shall comply with the directions issued.~~

**617 Interest on cash balances**

The Clearing House ~~must~~ 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 Deposits at such rates, at such times and in such manner as may be determined from time to time by the Clearing House.

**618—Clearing fees**

~~A Clearing Fee is payable to the Clearing House by each Clearing Participant that is party to and in respect of each Open Contract arising from the Registration of a Market Contract. The Clearing Fee is such amount as determined by the Clearing House from time to time and is payable on the last Business Day of the Month in which such Market Contract was presented for Registration or at such other times as the Clearing House may determine from time to time.~~

**619—Guarantee fees**

- a) ~~A Guarantee Fee is payable by each Clearing Participant to the Clearing House in respect of Open Contracts to which the Clearing Participant is a party. The Guarantee Fee must be calculated each day and is an annual percentage determined by the Clearing House of the Clearing Participant's Margin at the time of calculation.~~
- b) ~~The Guarantee Fee is payable on the last Business Day of each Month or such other times as the Clearing House may, from time to time, determine.~~

### **61820 Clearing House records**

- a) The Clearing House will maintain Records in relation to Open Contracts created, liquidated, settled or otherwise dealt with in accordance with the Rules. Such Records maintained by the Clearing House under this Rule 61820 constitute prima facie evidence of the matters contained in those Records.
- b) 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 its Records maintained pursuant to Rule 61820(a).

### **61924 Clearing advice, statement or reports**

- ~~(a) The Clearing House In such form as may be determined by the Clearing House from time to time, the Clearing House will make available to each Clearing Participant such advice, statement or report documents showing details relating to:~~
  - ~~(ai) the Clearing Participant's Open Position;~~
  - ~~(bii) Approved Collateral lodged by the Clearing Participant;~~
  - ~~(eiii) the Clearing Participant's Margin;~~
  - ~~(div) cash deposited by the Clearing Participant with the Clearing House; and~~
  - ~~(ey) cash amounts credited and debited to the Segregated Account and Unsegregated Account of the Clearing Participant.~~
- ~~(b) A Clearing Participant must promptly check and reconcile with its own records details of such advice, statement and report and promptly notify the Clearing House in writing of any errors or erroneous omissions within 1 Business Day of receipt of the said advice, statement or report. The Clearing House reserves the right to rectify the error or omission at any time.~~
- ~~(c) 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.~~
- ~~(d) Except as otherwise provided, the failure of the Clearing Participant 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, subject to the Rules, 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.~~

**Chapter VIII~~8~~**

**CONTRACT SETTLEMENT**

**800 General**

- (a) Deliveries and the acceptance of Deliveries in accordance with the terms of an Open Contract must be performed in accordance with the Rules and such procedures as may from time to time be prescribed by the Clearing House.
- (b) For each Clearing Participant who as Buyer or Seller, as the case may be, to an Open Contract is making Delivery the Clearing House must select a Clearing Participant (which may or may not be the same Clearing Participant) who is Seller or Buyer, as the case may be, to an Open Contract the terms of which are identical in all aspects but not necessarily contract price and contract date. The Clearing House must make such selection in such manner as may from time to time be agreed with an Exchange.

**801 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 either:

- (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 from such Seller in accordance with the terms of the Open Contract; and
  - (ii) the Clearing House directing such Seller to Deliver to such Buyer in accordance with the terms of the Open Contract; and
  - (iii) the Buyer paying to the Clearing House a settlement amount and the GST amount referred to in Rule 11~~53~~(1) 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 and the GST payable on such 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 and the GST payable on such 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 and the GST amount referred to in Rule 11~~53~~(1) to the Clearing House calculated in accordance with the terms of the Open Contract to which the Buyer is party.

## **802 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:
    - (a) the Clearing House directing such Buyer to accept Delivery from such Seller in accordance with the terms of the Option Open Contract; and
    - (b) the Clearing House directing such Seller to Deliver to such Buyer in accordance with the terms of the Option Open Contract; and
    - (c) the Buyer paying to the Clearing House a settlement amount and the GST amount referred to in Rule 11~~53~~(1) in accordance with the terms of the Option Open Contract to which the Buyer is party and directions of the Clearing House; and
    - (d) the Clearing House paying to the Seller a settlement amount and the GST payable on such 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:
    - (a) the Clearing House directing such Seller to accept Delivery from such Buyer in accordance with the terms of the Option Open Contract; and
    - (b) the Clearing House directing such Buyer to Deliver to such Seller in accordance with the terms of the Option Open Contract; and
    - (c) the Seller paying to the Clearing House a settlement amount and the GST amount referred to in Rule 11~~53~~(1) in accordance with the terms of the Option Open Contract to which the Seller is party and the directions of the Clearing House; and
    - (d) the Clearing House paying to the Buyer a settlement amount and the GST payable on such 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:
  - (a) Delivery by such Seller to the Clearing House and the Clearing House paying a settlement amount and the GST payable on such 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
  - (b) Delivery by the Clearing House to such Buyer and the Buyer paying a settlement amount and the GST amount referred to in Rule 1153(1) 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:
  - (a) Delivery by such Buyer to the Clearing House and the Clearing House paying a settlement amount and the GST payable on such 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
  - (b) Delivery by the Clearing House to such Seller and the Seller paying a settlement amount and the GST amount referred to in Rule 1153(1) to the Clearing House calculated in accordance with the terms of the Option Open Contract to which the Seller is party.

### **803 Delivery procedures**

- (a) A Clearing Participant must comply 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 and must comply with all time limits imposed under the Rules and the terms of such Open Contract.
- (b) Acceptance of Delivery by a Clearing Participant effected in accordance with Rule 801 or 802 and payment to the Clearing House in accordance with Rule 801 or 802 and the terms of an Open Contract are deemed to be full and complete discharge of obligations under such Open Contract.
- (c) Delivery by a Clearing Participant in accordance with the terms of an Open Contract and payment by the Clearing House to such Clearing Participant in accordance with Rule 801 or 802 are deemed to be full and complete discharge of obligations under such Open Contract except if that Clearing Participant has delivered a forged or false Instrument or forged or false document evidencing title to such Instrument in which case such delivery does not constitute a discharge of its obligations under such Open Contract as against the Clearing House.
- (d) 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 from a Buyer to an Option Open Contract which is a Put.

- (e) 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 Seller to an Option Open Contract which is a Put 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.
- (f) Rejection in accordance with the procedures from time to time 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 Seller to an Option Open Contract which is a Put 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.

#### **804 Forgery**

The Clearing House does not have liability with respect to any forged instrument or Document delivered to Clearing Participants pursuant to Rule 801 or 802 and 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.

#### **805 Failure to Deliver or pay settlement amount**

- (a) A Clearing Participant, directed to Deliver in accordance with Rule 801 or 802 who fails to make such Delivery within the time prescribed by the Clearing House is in default of its obligations.
- (b) A Clearing Participant who fails to accept Delivery, pay a settlement amount or the GST amount referred to in Rule 11~~53~~(1) in accordance with Rule 801 or 802 is in default of its obligations.
- (c) 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 1102.

#### **806 Failure to accept Delivery**

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. Any Instrument which is the subject of such Delivery may be sold by the Clearing House. 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.

**807 Cash settlement**

In the case of an Open Contract which is an Adjustment Agreement, 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.

**808 Contract settlement fees**

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. Such fee and levies will be determined by the Clearing House from time to time.

**809 Consolidation of Positions and other powers of the Clearing House**

- (a) If at any time the Clearing House becomes aware of opposite Open Positions held by different Clearing Participants for the account of the same Seller or Buyer, the Clearing House may direct such Clearing Participants to take steps to liquidate the offsetting positions.
- (b) Where a Seller or Buyer has Open Positions with more than one Clearing Participant on the first Business Day following the Business Day designated for the trading of the relevant Market Contract, the Clearing House may consolidate all such open positions held by all the Clearing Participants for the same Seller or Buyer in such manner as it deems fit including, effecting the following:
- (i) appointing one or more of these Clearing Participants to whom all such Open Positions shall be transferred to be handled for such Seller or Buyer, where such appointment shall be binding;
  - (ii) setting-off any opposite Open Positions held by the appointed Clearing Participant(s) for the account of the same Seller or Buyer; or
  - (iii) taking such other actions or giving such other directions to the appointed Clearing Participant (s) as it deems fit.
- (c) Notwithstanding that the Clearing House is entitled to consolidate the Open Positions of the Clearing Participant with reference to the account of the Seller or Buyer, nothing in this Rule 809 shall imply or be construed to mean that a Seller or Buyer (who is not a Clearing Participant) shall have any right against the Clearing House with regard to its Open Positions which have been so consolidated.

## Chapter 9

### INSPECTION, INVESTIGATION AND DISCIPLINARY ACTION

#### 900 Interpretation

In this Chapter,

“Defaulting Participant” includes a Clearing Participant and Registered Person(s) of the Clearing Participant who have been found to have breached any of these Rules;

“disciplinary proceedings” where the context permits includes appeal proceedings under Rules 920 to 923; and

“Relevant Person” means the Clearing Participant’s Registered Persons, agents, directors and employees.

#### 901 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) give or procure for the Clearing House all information, Documents, Books and Records the Clearing House requests for and allow the Clearing House to take copies and extracts of such Documents, Books and Records; and
  - (b) give the Clearing House access to the relevant premises for the Clearing House to conduct an inspection under Rule 901.
- (3) A Clearing Participant and Relevant Person must:
  - (a) not hinder or obstruct the Clearing House during the inspection; and
  - (b) give the Clearing House all assistance the Clearing House reasonably requires to conduct the inspection.

#### 902 Inspection cost

Deleted.

#### 903 Reporting

- (1) The Clearing House will notify the Clearing Participant concerned of the findings of 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 stipulated 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.

**904 Provision of audit report to the Clearing House**

Deleted.

**905 Power of investigation**

- (1) The Clearing House may conduct an investigation 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) The Clearing House is empowered to:
- (a) require a Clearing Participant or Relevant Person to attend before the Clearing House at any time and to give such information that is relevant to the investigation;
  - (b) record statements from the persons referred to in Rule 905(2)(a). A recorded statement may be used in disciplinary proceedings against a Clearing Participant;
  - (c) require a Clearing Participant or Registered Person to procure the attendance of any Relevant Person or consultant before the Clearing House and to give or procure such information relevant to the investigation;
  - (d) require the Clearing Participant or Relevant Person to give or procure for the Clearing House information, Documents, Books or Records that may be relevant to the investigation including requiring the Relevant Person to make copies or the Clearing House taking extracts of the same;
  - (e) enter the Clearing Participant's or Relevant Person's premises to seize, detain or take possession of any property, Document, Books or Records found at the Clearing Participant's or Relevant Person's premises or in the possession, custody or control of a Relevant Person that may be relevant to the investigation; or
  - (f) impose such requirement on the Clearing Participant or Relevant Person that the Clearing House thinks reasonably necessary to facilitate the investigation.
- (3) 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) comply and give effect to any directions the Clearing House issues in exercising the powers under Rule 905(2).

**906 Investigation cost**

Deleted.

**907 Disciplinary powers**

The Clearing House may exercise its disciplinary powers under Rules 907 to 913 against a ~~Clearing Participant if the Clearing Participant is found to have breached any of these Rules~~ (“Defaulting Participant<sup>22</sup>). The Clearing House’s disciplinary powers include the taking of one or more of the following actions:

- (a) ~~terminate or~~ suspend ~~the its Defaulting Clearing Participantship~~ 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;
- ~~(bc)~~ 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;
- ~~(ed)~~ impose a fine not exceeding RM1 million on the Defaulting Participant;
- ~~(de)~~ reprimand (publicly or privately) the Defaulting Participant;
- ~~(ef)~~ impose any restriction or condition in relation to the breach committed or on the activities that a Defaulting Participant undertakes;
- ~~(fg)~~ 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;
- ~~(gh)~~ 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;
- ~~(hi)~~ 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;
- ~~(ij)~~ Deleted;
- ~~(jk)~~ 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
- ~~(kl)~~ any other action the Clearing House considers appropriate subject to consultation with the Commission.

**908 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.

**909 Agreed settlement**

- (1) A ~~Clearing-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 Rules 914 to 916 will apply.

**910 Request for oral representations**

- (1) A ~~Clearing-Defaulting~~ Participant may request for an oral representation to make submissions or to procure the attendance of witnesses or legal representation at such oral representation for proceedings commenced against the ~~Clearing-Defaulting~~ Participant.
- (2) A request under Rule 910(1) must be submitted with:
  - (a) a Response as provided under Rule 915; or
  - (b) a Notice of Appeal as provided under Rule 921.
- (3) The Clearing House may, in its absolute discretion, allow or disallow any request made pursuant to Rule 910(1), upon such terms and conditions as the Clearing House deems appropriate.

**911 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.

**912 Other rights**

The exercise of powers in Rule 907 does not in any way prejudice the other rights of the Clearing House against a ~~Clearing-Defaulting~~ Participant or any other person to whom these Rules are directed.

**913 Acts or omissions of a Relevant Person ~~employees, agents or directors~~**

Where the acts or omissions of an Relevant Person ~~employee, agent or director of a Clearing Participant~~ 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.

**914 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”).

**915 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.

**916 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).

**917 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 Rules 914 to 916 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.

**918 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. A Defaulting Participant is deemed to have agreed with the Determination if the Defaulting Participant does not respond within the specified time.
- (3) 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.

- (4) 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.
- (5) If the Defaulting Participant does not agree with the Determination, the matter will proceed under Rules 914 to 916. 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 914. In deliberating the matter under Rules 914 to 916, 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 Rules 914 to 916.

#### **919 No limitation**

Nothing in Rules 917 and 918 prevent the Clearing House from proceeding with disciplinary proceedings under Rules 914 to 916 for any breach of a Rule.

#### **920 Right of appeal**

- (1) In amplification of Rule 11~~34~~, any party to the disciplinary proceedings taken under Rules 914 to 916 and Rule 918(5) who is dissatisfied with a decision resulting from the disciplinary proceedings may appeal against such decision in the manner specified in Rule 921 unless the decision was recorded pursuant to an agreed settlement under Rule 909 ("the Appellant").
- (2) The Clearing House may suspend the enforcement of any action taken under Rule 90~~78~~ that is the subject of the appeal until the disposal of the appeal.

#### **921 Notice of appeal**

The Appellant must, within the time stated in the notification of decision given under Rule 916, 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.



**922 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 922(1) when submitting the Notice of Appeal.
- (3) The Clearing House may exercise its powers under Rule 905 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.

**923 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.

**924 General effect of disciplinary action**

- (1) A Defaulting Participant must give effect to a decision made under Rules 914 to 916 or Rule 918 or a decision affirmed or varied under Rule 922 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 907.

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

- (1) Without prejudice to Rule 924(2), a fine imposed by the Clearing House must be paid by the Defaulting Participant within the time stipulated in the notice under Rule 916 or Rule 923.
- (2) Pursuant to Rule 925(1) and Rule 918(4), 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 925(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 Clearing Participantship by notice of writing.

- (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.

**926 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 916 or Rule 923 (“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 926 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 from Clearing Participantship shall be subject to Rule 1001, wherever appropriate.

**927 Disciplinary action initiated prior to the Effective Date**

- (1) Unless these Rules or the Clearing House provides otherwise, the Clearing House will apply the penalties, rules and procedures on disciplinary actions applicable prior to the effective date of these new provisions on disciplinary actions (“Effective Date”) to a disciplinary action instituted by the Clearing House against a ~~Clearing Defaulting~~ Participant prior to the Effective Date.
- (2) The previous penalties, disciplinary rules and procedures will also apply to an appeal against a decision on a disciplinary action instituted prior to the Effective Date.

**928 Disciplinary action initiated on or after the Effective Date**

Unless these Rules or the Clearing House provides otherwise, the Clearing House may on or after the Effective Date, institute disciplinary actions against a ~~Clearing-Defaulting~~ Participant for acts or omissions committed prior to the Effective Date if no disciplinary action has been instituted. In doing so, the Clearing House may apply the new penalties, rules and procedures on disciplinary actions applicable from the Effective Date.

## Chapter 9A

### ARBITRATION

#### 900A 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 paragraph (a) above, 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 paragraphs (a) or (b), then such parties must settle the dispute by arbitration before an arbitral forum prescribed by the Clearing House.

#### 901A 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 900A:

- (a) the Clients must submit to arbitration; and
- (b) the Client complies with Rule 902A below.

#### 902A Arbitration Award

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

## Chapter 10

### DEFAULT PROCEDURES

#### 1000 Grounds for default action

Without limiting other powers of the Clearing House, the Clearing House may in its absolute discretion take action in accordance with Rule 1001 if a Clearing Participant (referred to in this Chapter as the “Clearing Participant in Default”):

- ~~(a) fails to meet in full a call for Margin;~~
- ~~(b) fails to pay a Premium under Rule 700 or any settlement difference pursuant to Rule 608 or 612;~~
- (ea) fails to comply with or settle any of promptly meet its obligations in relation to under the terms of an Open Contract under the Rules or the Exchange Rules including such terms relating to Delivery and the acceptance of any Delivery;
- (db) fails to meet in full its Clearing Fund Contribution;
- (ec) who is a Direct Clearing Participant, fails to meet in full its Direct Clearing Participant Deposit;
- ~~(fd) fails to meet in full its Security Deposit; 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;~~
- ~~(e) fails to comply with any of the financial requirements set out in Chapter 2 the Rules;~~
- ~~(f) fails to comply with or settle any of its financial obligations in relation to the Rules or the rules and regulations of any exchange or clearing house in which the Clearing Participant is a participant or member;~~
- ~~(g) fails to pay when due any sum due and payable, or is otherwise in default under the terms of any loan or other agreement relating to the Clearing Participant's indebtedness, or threatens or proposes to suspend, stop, defer or reschedule payment or to default under the terms of such loan or agreement;~~
- ~~(gh) 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 in the ordinary course of business; and~~
- (i) has a liquidator, receiver, manager, trustee, an administrative receiver or similar officer appointed or a composition or scheme of arrangement approved by a court of law against the Clearing Participant 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;

- ~~(hj)~~ files a petition for the winding up of its affairs, or, has been ordered to wind up its affairs (voluntary or involuntary winding up) 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; or
- ~~(k)~~ any distress, execution or other process is levied or enforced or served upon or against any property or assets of a Clearing Participant.

### 1001 Default action

Pursuant to Rule 1000, the Clearing House may:

- ~~(a)~~ suspend the Participantship of the Clearing Participant in Default;
- ~~(b)~~ liquidate and/or novate the rights and obligations under the Open Contracts of the Clearing Participant in Default in accordance with Rule 1002;
- ~~(cb)~~ liquidate any Approved Collateral and calculate the sum of all assets of the Clearing Participant in Default 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 Clearing Participant in Default must not be used to meet any obligations relating to Open Contracts in the Unsegregated Account;
- ~~(de)~~ set-off any loss incurred by the Clearing House pursuant to Rule 1001(~~ab~~) against the monies determined in accordance with 1001(~~bc~~) and~~;~~:
  - (i) any surplus monies must be utilised in accordance with Rule 1003;
  - (ii) any deficit must be met in accordance with Rule 1004~~;~~ and
- ~~(ed)~~ execute hedging transactions, on behalf of and at the risk of the Clearing Participant in Default, to eliminate or reduce market risk resulting from such Open Contracts.

### 1002 Novation or liquidation of Open Position

- (a) Pursuant to Rule 1001(~~ab~~) the Clearing House may in its absolute discretion take any one or more of the following actions at any time and in any order;
  - (i) in relation to Open Contracts recorded in the Unsegregated Account of the Clearing Participant in Default, appoint one or more Clearing Participants to liquidate such Open Contracts;
  - (ii) in relation to Open Contracts recorded in the Segregated Account of the Clearing Participant in Default;
    - (a) appoint one or more Clearing Participants to whom any such Open Contracts may be novated. ~~When all Open Contracts recorded in a Sub Account are so novated to a Clearing Participant, all monies and Approved Collateral held in relation to that Sub Account must be transferred to that Clearing Participant;~~ and/or

- (b) appoint one or more Clearing Participants to liquidate such Open Contracts;
  - (iii) take offsetting positions in any other markets, which in the opinion of the Clearing House will assist to preserve the financial integrity of the Clearing House;
  - (iv) take any other action which it deems necessary for the protection of the public interest.
- (b) The Clearing House in acting to liquidate and/or novate the Open Contracts of a Clearing Participant in Default pursuant to Rule 1002(a)(i) and Rule 1002(a)(ii)(b) may use any form of trading procedure open to a Clearing Participant under the relevant Exchange Rules.
- (c) If the Clearing House after considering all alternatives and after consultation with the relevant Exchange determines that there is no available market open to it or to liquidate the Open Position of a Clearing Participant in Default would disrupt a fair and orderly market, the Clearing House may take action in accordance with Rule 1101.
- (d) With reference to Rule 1002(a)(ii)(a), when all Open Contracts recorded in a Sub-Account are so novated to a Clearing Participant:
- (i) subject to Rule 1002(d)(iii) below, all monies and Approved Collateral held in relation to that Sub-Account must be transferred to that Clearing Participant;
  - (ii) the monies and Approved Collateral transferred to that Clearing Participant may not be in such form as was originally deposited with the Clearing House; and
  - (iii) the Clearing House has the discretion not to transfer all or any part of the monies or Approved Collateral to that Clearing Participant if the positions are held in an omnibus account or such monies or Approved Collateral may be applied pursuant to the default rules.

### **1003 Settlement of obligations**

The Clearing House must pay any surplus determined pursuant to Rule 1001(ed)(i) to the Clearing Participant in Default.

### **1004 Call upon funds**

Any shortfall determined pursuant to Rule 1001(ed)(ii) must be met and made good by the use and application of funds in accordance with Rule 4076. ~~If a shortfall still exists after taking all actions under Rule 406, then and only then may the Clearing House use any remaining shareholders' funds to the extent of the shortfall.~~

**1005 Advice to an Exchange and the Commission**

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

## Chapter 11

### SPECIAL ACTION RULES

#### 1100 Special action

If the Clearing House determines that a situation exists or is developing which threatens the financial integrity of the Clearing House or any Clearing Participant, it may take all or any of the following actions and/or any other action which in its absolute discretion it deems appropriate and which is consistent with the Rules:

- (a) direct any or all Clearing Participants to lodge additional cash and/or security with the Clearing House in respect of all or particular Open Contracts;
- (b) refuse to Register Market Contracts, or place such conditions as it, in its absolute discretion deems appropriate upon acceptance by the Clearing House of Market Contracts for Registration;
- (c) suspend or terminate 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.

#### 1101 Emergency settlement

Pursuant to Rule 1002(c) and if the Clearing House in its absolute discretion considers that a fair and orderly market is not available or is not likely to be available, the Clearing House may:

- (a) request the relevant Exchange to provide an emergency settlement price;
- (b) liquidate, by cash settlement pursuant to Rule 807 all or any Open Contracts as may be determined by the Clearing House with reference to the emergency settlement price determined in accordance with Rule 1101(a).

#### 1102 Substitute for Delivery

- (a) If a Seller or a Buyer, as the case may be, to an Open Contract has failed to Deliver, pursuant to Rule 805(c) the Clearing House ~~must~~ may:
  - (i) request the relevant Exchange to provide an emergency settlement price;
  - (ii) liquidate, by cash settlement pursuant to Rule 807 such Open Contract with reference to the emergency settlement price determined in accordance with Rule 1102(a).
- (b) Pursuant to Rule 1102(a) the Seller or Buyer, as the case may be, to such Open Contract is also liable to pay to the Clearing House such sum as may be determined by the Clearing House as compensation and upon receipt of such sum the Clearing House must pay that sum to the Clearing Participant who was disadvantaged by such failure to Deliver.



**1103 Position or other limits**

The Clearing House may, at any time and from time to time in its absolute discretion limit its exposure to all or any Clearing Participant(s). Such limit may be expressed in terms of number of Open Contracts that may be held by the Clearing Participant or its Client, or Margin the Performance Bond required from the Clearing Participant, or any other restriction or limitation imposed on a Clearing Participant, its Client or on any of their accounts. ~~Any Clearing Participant exceeding such limit is in breach of the Rules.~~

**1104 Notice to Commission and an Exchange**

The Clearing House must promptly notify the Commission and the relevant Exchange(s) of any action taken by it under Rules 1100 and 1101.

**Schedule 1**

**Computation of Net Tangible Assets under rule ~~21709~~**

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 ~~Member-Clearing Participant~~ by its Related Corporations except receivables due in the ordinary course of business from a financial institution licensed by Bank Negara;
- b) shares held in a Related Corporations unless otherwise approved by the ~~Board-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 ~~Board-Clearing House~~.

**3. Related Corporation**

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

**ANNEXURE 1**

**RULES OF BURSA MALAYSIA DERIVATIVES CLEARING BHD**  
**Rule Amendments in Relation to the Decoupling of Clearing Participantship from Trading Participantship**

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- a) in which the ~~Member~~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 ~~Member~~Clearing Participant;
- c) which effectively directs or has the ability to directly or indirectly influence the management policies of the ~~Member~~Clearing Participant;
- d) of which management policies the ~~Member~~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 ~~Member~~Clearing Participant.

**Schedule 2**

**Computation of Adjusted Net Capital under rule ~~218~~40**

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 from time to time 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 Bank Negara 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 Board Clearing House;
- viii) receivables resulting from the sale of inventories commonly associated with the business activities of the Member Clearing Participant, which in the opinion of the Member's Clearing Participant's auditors, are good for collection; and
- ix) such other amounts as may be determined by the Board Clearing House from time to time;
- 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 Member 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 Corporation unless otherwise approved by the Board Clearing House;
- e) all advances or loans to any director or employee of the Member Clearing Participant or any third party;
- f) all amounts owed to the Member Clearing Participant by its Related Corporations other than amounts falling within the description in subparagraph (b)(v);
- g) all intangible assets;
- h) all exchange participantships and participantships 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 Bank Negara Malaysia for which there are readily ascertained market prices;
  - iv) securities listed on a stock exchange approved by the Board Clearing House;
  - v) such other securities as may be approved by the Board Clearing House from time to time;
- j) such other items as may be determined by the Board Clearing House from time to time.

## 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:
  - i) which has a remaining term to maturity of not less than one year; and

- ii) to which an Exchange is a party,  
up to a maximum amount of four times the shareholders' funds of the ~~Member~~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 ~~Member-Clearing Participant~~ and applied for use in the normal course of the business of the ~~Member~~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 ~~Board~~Clearing House.

### 3. Additional Deductions

The ~~Board-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 ~~Board~~Clearing House;
- c) such other securities that may be approved by the ~~Board-Clearing House~~ from time to time;
- d) receivables due in the ordinary course of business from a financial institution licensed by Bank Negara;
- e) receivables from other Affiliates of the Clearing House or another clearing house approved by the ~~Board-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 ~~margin-Performance Bond~~ requirement on open contracts in the proprietary account of a ~~Member-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 ~~Board~~Clearing House from time to time.

#### 4. Related Corporation

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

- a) in which the ~~Member~~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 ~~Member~~Clearing Participant;
- c) which effectively directs or has the ability to directly or indirectly influence the management policies of the ~~Member~~Clearing Participant;
- d) of which management policies the ~~Member~~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 ~~Member~~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 ~~Member~~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 ~~Member~~Clearing Participant; and
- c) the ~~Member~~Clearing Participant has a legally enforceable written security agreement executed by the debtor in its favour under which the ~~Member~~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 ~~Member~~ Clearing Participant is computed.



*[Note: This document has been moved to Appendix 2 of Directive No. 2-001.]*

**Schedule 3**

**UNDERTAKING BY [name of applicant]**

To:

Bursa Malaysia Derivatives Clearing Berhad  
6<sup>th</sup> Floor Exchange Square  
Bukit Kewangan  
50200 Kuala Lumpur

**~~Compliance with the Business Rules of Bursa Malaysia Derivatives Clearing Berhad  
("the Clearing House")~~**

~~In consideration of the Clearing House \*approving / having approved the application for admission of ..... [name of applicant] (hereinafter referred to as "the Company") as a \*General Clearing Participant / Direct Clearing Participant of the Clearing House and for utilisation of the services and facilities made available by the Clearing House to the Company under this category of participantship **WE HEREBY ACKNOWLEDGE** that the Company can remain as a Clearing Participant of the Clearing House, and utilisation of any of such services and facilities by the Company can continue only during the pleasure of the Clearing House and **WE HEREBY UNDERTAKE AND AGREE** to comply with the Business Rules of the Clearing House which shall be in force from time to time, insofar as the same shall apply to the Company.~~

~~The above Undertaking has been signed by me for and on behalf of the Company as ..... [title] of the Company pursuant to authority granted to me by resolution of the board of directors of the Company on .....~~

Date:

Signature : \_\_\_\_\_

Name :

NRIC No.:

\*Delete whichever inapplicable