

Consultation Paper

# Proposed SGX-DC Remote Clearing Membership and Derivatives Clearing Organisation Rules

25 October 2013

## Responding to this Consultation Paper

SGX invites comments on this Consultation Paper between 25 October 2013 and 8 November 2013 via:

Electronic mail: rules@sgx.com  
Facsimile: (65) 6534 2207  
Mail: Singapore Exchange Limited  
2 Shenton Way  
#19-00 SGX Centre 1  
Singapore 068804  
(Attention: Jeth Lee  
Legal, Risk Management & Regulation)

Comments should be organised in the following manner:

- cover page;
- statement of interest;
- table of contents;
- summary of major points;
- comments; and
- conclusion.

Supporting material may be placed in an annex. All submissions should be clearly and concisely written, and should provide a reasoned explanation for any proposed revision to the rules. Where feasible, participants should identify the specific rule on which they are commenting. In any case in which a participant chooses to suggest revisions to the text of the rules, the participant should state clearly the specific changes to the text that they are proposing.

All submissions should be made on or before 8 November 2013. Participants submitting comments should include their personal/company particulars as well as their correspondence address, contact numbers and email addresses on the cover page of their submissions.

Respondents to this Consultation Paper are asked to identify the specific proposal or rule that they are commenting on. The Exchange reserves the right to make public all or parts of any written submission and to disclose the identity of the source. Participants may request confidential treatment for any part of the submission that the participant believes to be proprietary, confidential or commercially sensitive. Any such information should be clearly marked and placed in a separate annex. If the Exchange grants confidential treatment, it will consider the comments but will not publicly disclose the information. If the Exchange rejects the request for confidential treatment, it will return the information to the party that submitted it and will not consider the information as part of its review. In the interests of market transparency, participants should limit any request for confidential treatment of information submitted. The Exchange will not accept any submission that requests confidential treatment of all, or a substantial part, of the submission.

*This Consultation Paper is available for download from the SGX's website at [www.sgx.com](http://www.sgx.com)*

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## Introduction

### 1. Scope of Consultation

- 1.1. Singapore Exchange Derivatives Clearing Limited (“**SGX-DC**”) seeks public comment on proposed amendments to its clearing rules (the “**Rules**”):
  - (a) to introduce remote clearing members (“**RCMs**”) as a new category of SGX-DC’s clearing membership; and
  - (b) to generally align the Rules with regulations promulgated by the U.S. Commodity Futures Trading Commission (“**CFTC**”) in respect of SGX-DC’s obligations as a potential derivatives clearing organisation (“**DCO**”).

### 2. Background

- 2.1. SGX-DC has applied for registration with the CFTC as a DCO.
- 2.2. Upon SGX-DC’s registration as a DCO, SGX-DC would be required to comply with applicable U.S. laws and regulations, including the U.S. Commodity Exchange Act (“**CEA**”) and the CFTC’s regulations. This includes a requirement under section 4d(f)(1) of the CEA that an intermediary accepting collateral from a U.S. person for a swaps contract<sup>1</sup> cleared through a DCO must be a futures commission merchant (“**FCM**”) registered with the CFTC.
- 2.3. To meet with its potential DCO obligations, SGX-DC proposes Rules to allow for RCMs. FCMs based in the U.S. or otherwise can apply to become members of SGX-DC under this class in order to clear swaps contracts for their U.S. customers through SGX-DC.
- 2.4. An FCM may also be admitted as an SGX-DC clearing member under one of the other membership classes (i.e. as a General Clearing Member (“**GCM**”) or Bank Clearing Member). However, it is envisioned that FCMs are likely to be admitted as RCMs at the outset, given that a large proportion of FCMs are currently based in the U.S.
- 2.5. While SGX-DC currently intends to initially accept only FCMs as RCMs, SGX-DC envisages that licensed entities from foreign jurisdictions deemed acceptable by SGX-DC will be considered for admittance as RCMs on a case-by-case basis in due course.

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<sup>1</sup> In SGX-DC’s context, a swaps contract would include an over-the-counter (“**OTC**”) commodities contract or an OTC financial derivatives (“**OTCF**”) contract cleared by SGX-DC.

- 2.6. The introduction of a remote clearing membership is in line with the practices of other major clearing houses. Further details on the remote clearing framework are discussed in paragraph 3 below.
- 2.7. The proposed Rule amendments also provide for (a) specific requirements that the FCM would need to comply with in addition to the usual membership criteria for compliance with the CFTC regulations and (b) general alignment of the Rules with Part 39 of the CFTC regulations, which set out a DCO's obligations. These amendments are respectively discussed in paragraphs 4 and 5 below.
- 2.8. The proposed Rule amendments are set out in the Appendix and are subject to regulatory concurrence by the Monetary Authority of Singapore (the "**MAS**").
- 2.9. Capitalised terms used in this Consultation Paper, which are not otherwise defined, have the same meaning as defined under the Rules.

## Details of the proposal

### 3. Remote Clearing Members

- 3.1. The proposed Rule amendments provide for the admission criteria and continuing obligations by which RCMs have to abide.

#### Standards aligned to existing membership classes

- 3.2. The standards imposed on RCMs are closely aligned to the robust requirements imposed on other membership classes.

- 3.3. For instance, RCMs must be regulated and licensed by a recognised regulator and governed by the laws of a jurisdiction acceptable to SGX-DC. In determining whether a jurisdiction is acceptable, SGX-DC would consider the following factors:

- (a) the comparability of the laws of the foreign jurisdiction and regulatory standards of the foreign regulator with Singapore laws and regulations (in particular, the provisions of the Securities and Futures Act, Chapter 289 of Singapore, and its subsidiary legislation);
- (b) the licensing and supervision of OTC activities by an independent statutory regulator; and
- (c) the existence of an information sharing arrangement between MAS and the statutory foreign regulator or between SGX-DC and any foreign self-regulatory organisation responsible for the supervision of the RCM.

- 3.4. An RCM clearing Non-Relevant Market contracts and/or customer OTCF contracts is required to have, or have a parent entity who has, a long term credit rating indicating strong overall creditworthiness supporting fulfilment of its financial obligations. The RCM or its parent entity must also be licensed and regulated by a financial authority. Further, the RCM must obtain a guarantee from a bank or the RCM's parent entity. The bank or parent entity providing the guarantee is subject to licensing, regulation and credit rating requirements to ensure the strength of the guarantee. The requirements are similar for an RCM clearing proprietary OTCF positions, save that the guarantee must always be obtained from a bank. These requirements are consistent with those for SGX-DC GCMs.

- 3.5. As with other clearing members, RCMs will be subject to SGX-DC's risk-based capital framework, which is scalable and commensurate with the level of risk posed by the RCM to the clearing system.

- 3.6. Requirements to be imposed on RCMs relating to, among other things, reporting, access to records, appointment of management personnel, segregation of positions and collateral and default management are similar to those for GCMs.

Additional criteria imposed on RCMs

- 3.7. Certain membership requirements additional to those required of Singapore-based Clearing Members are proposed for RCMs in the framework. These requirements seek to address any differences there may be between locally situated Clearing Members and RCMs.
- 3.8. The following table contains a summary of the key additional membership criteria for RCMs:

	<b>Additional Membership Criteria</b>
<b>Clearing rights</b>	Only Non-Relevant Market contracts and OTCF contracts for persons outside of Singapore, based on licensing requirements of the foreign regulator
<b>Licence</b>	Licensed and regulated by a recognised regulator of a foreign jurisdiction for which the RCM provides clearing services and governed by the laws of a jurisdiction acceptable to SGX-DC
<b>Location requirements</b>	RCMs should not have a business presence in Singapore related to the provision of financial services or serve Singapore-domiciled customers in respect of such business
<b>Ability to conduct business</b>	RCMs must have the ability to conduct its clearing activities during SGX-DC's business hours, including maintaining adequate contactable staff

- 3.9. RCMs are also subject to ongoing obligations further to those imposed on other membership classes, as follows:

	<b>Ongoing Obligations</b>
<b>Margin requirements</b>	RCMs will generally be subject to SGX-DC's existing margin framework. Additional margin requirements, potentially in the form of a liquidity margin multiplier, will be imposed on RCMs to manage liquidity risks
<b>Reporting requirements</b>	In addition to general reporting requirements, RCMs have to submit to SGX-DC any reports it provides to its foreign regulator or to a foreign self-regulatory organisation with oversight over

	the RCM
<b>Audit requirements</b>	In addition to general audit requirements, external auditors may be engaged to conduct an annual audit of the RCM's operations in lieu of physical inspections carried out by SGX-DC. The external auditors will be required to provide an opinion on whether the Rules are complied with

3.10. Please refer to the Rule amendments in the Appendix for further details.

Proposal 1:

SGX-DC seeks your views on its proposal to introduce remote clearing members as a new class of clearing membership and the corresponding membership criteria.



#### 4. Futures Commission Merchants

- 4.1. As discussed in paragraph 2.7 above, the proposed Rule amendments provide for the admission of FCMs as clearing members of SGX-DC in order for them to clear Non-Relevant Market contracts and OTCF contracts on behalf of their U.S. customers (such customers are referred to in this Consultation Paper as “**cleared swaps customers**”).
- 4.2. An FCM must first be admitted as an SGX-DC clearing member. It will accordingly be subject to the membership criteria imposed on the relevant membership class. For instance, if the FCM is admitted as an RCM, it would be subject to RCM membership requirements under the Rules.
- 4.3. In addition to the general requirements for the membership class, FCM clearing members are subject to certain further key requirements for compliance with applicable CFTC regulations, including the following:
- (a) FCM clearing members must be regulated and licensed by the CFTC and comply with any relevant CFTC regulations;
  - (b) FCM clearing members must at all times maintain an adjusted net capital, in accordance with the CFTC regulations, of not less than US\$50 million;
  - (c) FCM clearing members must submit to SGX-DC information to clearly identify (i) cleared swaps customers when it first clears for such customers and (ii) the positions and associated collateral of cleared swaps customers on a daily basis thereafter;
  - (d) FCM clearing members must maintain written records of authorisation by cleared swaps customers when their collateral is held outside of the U.S. with a permitted depository;
  - (e) each cleared swaps customer account maintained by a FCM clearing member with SGX-DC is to be treated as being an Applicable Customer Account<sup>2</sup>; and
  - (f) FCM clearing members may only transfer cleared swaps customer positions to another FCM clearing member.

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<sup>2</sup> SGX-DC had separately consulted the public on 3 October 2012 in relation to proposed Rule amendments for, among other things, an Enhanced Customer Collateral Protection model. An “**Applicable Customer Account**” is an account that offers added protection against fellow-customer risk in the event of a clearing member’s default caused by the default of one of its customers.

- 4.4. In line with the CFTC regulations, Rules that solely apply to FCMs and which relate to the protection of cleared swaps customers in default situations are to be governed by U.S. federal law.
- 4.5. Please refer to the Rule amendments in the Appendix for further details.

Proposal 2:

SGX-DC seeks your views on its proposal to allow the admission of FCM as clearing members and the corresponding membership criteria.

## 5. Alignment with CFTC's DCO Regulations

- 5.1. As discussed in paragraph 2.7 above, Rule amendments have been proposed for alignment with Part 39 of the CFTC regulations, which relate to a registered DCO's obligations. The key amendments proposed are described below, together with their corresponding rationale.
- 5.2. In order to comply with fair and open access requirements under the CFTC regulations:
- (a) SGX-DC will not be specifically requiring the quantum of group shareholders' funds that GCMs should maintain. However, GCMs continue to be subject to the MAS' licensing requirements for capital market services licensees, on which the relevant Rule was based;
  - (b) SGX-DC will no longer strictly require that GCMs clearing OTCF contracts have a corporate structure comprising a holding company, so long as the GCM can demonstrate that it or its holding company fulfils credit rating criteria, is licensed or regulated by a financial authority and the GCM obtains a guarantee in a form acceptable to SGX-DC. The criteria previously imposed on the GCM's holding company therefore still remain where a GCM complies with the requirements at its own entity level; and
  - (c) the S\$1 billion base capital requirement for Bank Clearing Members clearing exchange-traded derivatives and Non-Relevant Market contracts is proposed to be removed. This amendment is for consistency across contract classes, given that the same requirement was proposed to be removed for Bank Clearing Members clearing OTCF contracts in a previous public consultation<sup>3</sup>.
- 5.3. SGX-DC is also proposing, in accordance with the CFTC regulations, to provide in the Rules for the accepting or rejecting for clearing of swap contracts as quickly after execution as would be technologically practicable if fully automated systems were used. The CFTC has provided guidance that the threshold for compliance with this requirement is for acceptance and rejection to be within 60 seconds of the submission of a trade to SGX-DC.
- 5.4. Certain additional duties have also been added for clearing members that are registered with and regulated by the CFTC or that clear for U.S. swap counterparties. In particular:
- (d) proposed Rule 2.13.1.8A provides that a clearing member so registered with and regulated by the CFTC must make information and documents relating to its risk

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<sup>3</sup> Please see SGX-DC's public consultation dated 3 October 2012 in relation to proposed Rule amendments for, among other things, a framework for customer clearing in OTCF contracts.

management policies, procedures and practices directly available to the CFTC upon the CFTC's request; and

- (e) proposed Rule 2.14.6 provides that clearing members who are subject to Part 45 of the CFTC regulations, which pertain to swap data recordkeeping and reporting requirements for U.S. swap counterparties, shall as soon as technologically practicable after registration for clearing of a swap transaction with SGX-DC report the identity of the swap data repository that the transaction was previously reported to, together with all primary economic terms data (as defined in the CFTC regulations).

5.5. Please refer to the Rule amendments in the Appendix for further details.

Proposal 3:

SGX-DC seeks your views on the proposed Rule amendments for alignment with Part 39 of the CFTC regulations.

## Appendix: Proposed amendments to the Clearing Rules

<b><u>Chapter 1: Application of Rules</u></b>	
<b>1.05</b>	<b>Amendment of Rules</b>
<b>1.05.1</b>	<p>The Clearing House is prohibited from making any amendments to this Rules unless it complies with such requirements as prescribed by the Authority, <del>or</del> under the SFA <u>or under any applicable laws</u>. In addition to these requirements, Board approval is required to effect any Rule amendments. These safeguards are designed to promote regulatory transparency and accountability on the part of the Clearing House with respect to its rulemaking process and thereby promote investor confidence.</p>
<b>1.05.2</b>	<p>Any amendment to this Rules shall not come into force unless the prescribed time periods for effecting rule amendments as contemplated under or pursuant to the SFA, <del>and</del> any regulations issued thereunder <u>and any applicable laws</u> are met.</p>
<b>1.06</b>	<b>Applicable Law, Conflict and Jurisdiction</b>
<b>1.06.1</b>	<p>This Rules shall be governed by and construed in accordance with the laws of Singapore, <u>unless otherwise specified</u>.</p>
<b>1.06.3</b>	<p>Save as <u>otherwise</u> provided <del>in Chapter 5 of in</del> this Rules, the courts of Singapore shall have exclusive jurisdiction to determine any dispute arising from or in connection with this Rules.</p>
<b><u>1.06.4</u></b>	<p><u>Rules 1.06.4, 2.02D.1.1, 2.02D.1.2, 2.14.5.2, 7.03A.1.4, 7.03A.5.1 and 7.03A.11, which apply solely to FCM Clearing Members, shall be governed by and construed in accordance with the federal laws of the United States of America. The federal courts of the United States of America shall have non-exclusive jurisdiction to determine any dispute arising from or in connection with such Rules.</u></p>
<b><u>Chapter 2: Clearing Membership</u></b>	

## 2.02 Eligibility Criteria for General Clearing Members

### 2.02.1

Unless otherwise prescribed by the Clearing House, to be eligible for Clearing Membership as a General Clearing Member, an applicant must satisfy the Clearing House that:—

2.02.1.2 ~~it or its holding company has group shareholders' funds of at least S\$100,000,000 [Rule has been deleted];~~

### 2.02.2<sup>4</sup>

Unless otherwise prescribed by the Clearing House, to be eligible for Clearing Membership as a General Clearing Member that clears (i) House OTCF Contracts or (ii) House OTCF Contracts and Customer OTCF Contracts, an applicant must, in addition to the eligibility criteria prescribed under Rule 2.02.1, satisfy the Clearing House that:

2.02.2.1 it has a base capital of not less than S\$50,000,000 or such other capital and financial requirements as may be prescribed by the Clearing House from time to time; ~~and~~

2.02.2.2 ~~it or~~ its holding company:

a. ~~is a bank or bank holding company that~~ is licensed and / or regulated ~~as such~~ by a financial authority; and

b. has obtained:

~~i. in the case of a bank, a long term credit rating that indicates, at least, a strong overall creditworthiness supporting the fulfilment of its financial obligations, and a credit rating that indicates, at least, adequate intrinsic safety and soundness, excluding external credit support, and a limited ability to withstand adverse business or economic conditions, from any rating agency registered with an appropriate authority; or~~

~~ii. in the case of a bank holding company,~~ a long term credit rating that indicates, at least, a strong overall creditworthiness supporting the fulfilment of its financial obligations; ~~and~~

2.02.2.3 ~~it has obtained a guarantee in a form acceptable to the Clearing House from a bank that:~~

~~a. is licensed and/or regulated as such by a financial authority; and~~

~~b. has obtained a long term credit rating that indicates, at least, a strong overall~~

<sup>4</sup> The Rule reflected here is based on the proposed Rule amendments set out in SGX-DC's public consultation dated 3 October 2012 in relation to, among other things, a framework for customer clearing in OTCF contracts.

creditworthiness supporting the fulfilment of its financial obligations, and a credit rating that indicates, at least, adequate intrinsic safety and soundness, excluding external credit support, and a limited ability to withstand adverse business or economic conditions, from any rating agency registered with an appropriate authority; and

2.02.2.34 it has in place the appropriate procedures and capabilities to participate in the default management activities contemplated under Rule 7A.02.1.5.

### **2.02.2A<sup>5</sup>**

Unless otherwise prescribed by the Clearing House, to be eligible for Clearing Membership as a General Clearing Member that clears only Customer OTCF Contracts, an applicant must, in addition to the eligibility criteria prescribed under Rule 2.02.1, satisfy the Clearing House that:

2.02.2A.1 it has a base capital of not less than S\$50,000,000 or such other capital and financial requirements as may be prescribed by the Clearing House from time to time;

2.02.2A.2 it has in place the appropriate procedures and capabilities to participate in the default management activities contemplated under Rule 7A.02.1.5; ~~and~~

2.02.2A.3 it or its holding company:

a. has obtained a long term rating from any rating agency registered with an appropriate authority, that indicates, at least, a strong overall creditworthiness supporting the fulfilment of its financial obligations; and

b. is licensed and / or regulated by a financial authority; ~~and~~

2.02.2A.4 it has obtained a guarantee in a form acceptable to the Clearing House from a bank or its holding company, provided that such bank or holding company:

a. is licensed and/or regulated by a financial authority; and

b. has obtained:

i. a long term rating from any registered rating agency that indicates, at least, a strong overall creditworthiness supporting the fulfilment of its financial obligations; and

ii. in the case of a bank, a rating that indicates, at least, adequate intrinsic safety and soundness, excluding external credit support, and a limited ability to withstand adverse business or economic conditions.

### **2.02.3**

If there is at any time any downgrade in the rating of ~~the holding company of~~ a General Clearing Member

<sup>5</sup> The Rule reflected here is based on the proposed Rule amendments set out in SGX-DC's public consultation dated 3 October 2012 in relation to, among other things, a framework for customer clearing in OTCF contracts.

approved by the Clearing House to clear OTCF Contracts or, as the case may be, its holding company, such that it falls below the minimum prescribed rating, the Clearing House may, in its absolute discretion, impose additional conditions as it deems fit for permitting the General Clearing Member to continue to clear OTCF Contracts.

## **2.02B<sup>6</sup> Eligibility Criteria for Bank Clearing Members**

### **2.02B.1**

Unless otherwise prescribed by the Clearing House, to be eligible for Clearing Membership as a Bank Clearing Member, an applicant must satisfy the Clearing House that:

~~2.02B.1.4(a) for Bank Clearing Members clearing exchange traded derivatives and Non-Relevant Market Contracts, it or its parent bank has at least S\$1,000,000,000 of paid-up ordinary share capital and unappropriated profit or loss or net head office funds, as the case may be;~~

~~2.02B.1.4(b) for Bank Clearing Members clearing OTCF Contracts only, it or its parent bank has~~ at least S\$50,000,000 of paid-up ordinary share capital and unappropriated profit or loss or net head office funds, as the case may be, and complies with such other capital and financial requirements as may be prescribed by the Clearing House from time to time;

## **2.02C Eligibility Criteria for Remote Clearing Members**

### **2.02C.1**

Unless otherwise prescribed by the Clearing House, to be eligible for Clearing Membership as a Remote Clearing Member that clears (i) Non-Relevant Market Contracts, and/or (ii) Customer OTCF Contracts, an applicant must satisfy the Clearing House that:

2.02C.1.1 it is licensed and regulated for the provision of clearing services by a recognised regulator of the jurisdiction for which it provides the remote clearing services, which shall be a jurisdiction outside of Singapore and acceptable to the Clearing House, and is governed by the laws of such jurisdiction;

2.02C.1.2 it is not incorporated in Singapore, has no business presence in Singapore related to the provision of financial services (including clearing services) and does not serve Singapore domiciled customers in respect of such business;

2.02C.1.3 it has a base capital of at least S\$50,000,000 and complies with such other capital and financial requirements as may be prescribed by the Clearing House from time to time;

2.02C.1.4 it has in place the appropriate procedures and capabilities to participate in the default management activities contemplated under Rule 7A.02.1.5;

<sup>6</sup> The Rule reflected here is based on the proposed Rule amendments set out in SGX-DC's public consultation dated 3 October 2012 in relation to, among other things, a framework for customer clearing in OTCF contracts.



<u>2.02C.1.5</u>	<u>it has, and upon admission will maintain, minimum capital and financial requirements pursuant to Rule 2.08;</u>
<u>2.02C.1.6</u>	<u>its managerial or executive staff have a high standard of integrity and a level of knowledge (as may be deemed acceptable by the Clearing House) on the nature, risks and obligations in respect of the market or contracts that it wishes to clear;</u>
<u>2.02C.1.7</u>	<u>it has in place sufficient resources and establishes and maintains adequate systems for preserving a sound liquidity and financial position at all times including the maintaining of adequate staff and facilities for monitoring its cashflow and funding requirements and maintaining sufficient liquidity for its day to day operations;</u>
<u>2.02C.1.8</u>	<u>it maintains segregated and adequate back-office functions;</u>
<u>2.02C.1.9</u>	<u>it has the ability to conduct its clearing activities, including the maintenance of adequate contactable staff, during the Clearing House's business hours; and</u>
<u>2.02C.1.10</u>	<u>it satisfies any and all other requirements and criteria for such Clearing Membership, which the Clearing House may from time to time hereafter prescribe.</u>

## 2.02C.2

Unless otherwise prescribed by the Clearing House, to be eligible for Clearing Membership as a Remote Clearing Member that clears (i) Non-Relevant Market Contracts, and/or (ii) Customer OTCF Contracts, an applicant must, in addition to the eligibility criteria prescribed under Rule 2.02C.1, satisfy the Clearing House that:

<u>2.02C.2.1</u>	<u>it or its holding company:</u>
	<u>a. has a long term rating that indicates, at least, a strong overall creditworthiness supporting the fulfilment of its financial obligations from any rating agency registered with an appropriate authority; and</u>
	<u>b. is licensed and regulated by a financial authority;</u>
<u>2.02C.2.2</u>	<u>it has obtained a guarantee in a form acceptable to the Clearing House from a bank or its holding company, provided that such bank or holding company:</u>
	<u>a. is licensed and/or regulated as such by a financial authority; and</u>
	<u>b. has obtained:</u>
	<u>i. a long term rating from any registered rating agency that indicates, at least, a strong overall creditworthiness supporting the fulfilment of its financial obligations; and</u>
	<u>ii. in the case of a bank, a rating that indicates, at least, adequate intrinsic safety and soundness, excluding external credit support, and a limited ability to withstand</u>

adverse business or economic conditions.

### **2.02C.3**

Unless otherwise prescribed by the Clearing House, to be eligible for Clearing Membership as a Remote Clearing Member that clears House OTCF Contracts, an applicant must, in addition to the eligibility criteria prescribed under Rule 2.02C.1, satisfy the Clearing House that:

2.02C.3.1 it or its holding company:

- a. is licensed and/or regulated by a financial authority; and
- b. has obtained a long term rating from any registered rating agency that indicates, at least, a strong overall creditworthiness supporting the fulfilment of its financial obligations; and

2.02C.3.2 it has obtained a guarantee in a form acceptable to the Clearing House from a bank that:

- a. is licensed and/or regulated as such by a financial authority; and
- b. has obtained:
  - i. a long term rating from any registered rating agency that indicates, at least, a strong overall creditworthiness supporting the fulfilment of its financial obligations; and
  - ii. a rating that indicates, at least, adequate intrinsic safety and soundness, excluding external credit support, and a limited ability to withstand adverse business or economic conditions.

### **2.02C.4**

If, at any time, the rating of a Remote Clearing Member or its holding company falls below the rating prescribed by and acceptable to the Clearing House, the Clearing House may in its absolute discretion impose additional conditions in permitting the Remote Clearing Member to continue its clearing activities.

## **2.02D Eligibility Criteria for FCM Clearing Members**

### **2.02D.1**

Unless otherwise prescribed by the Clearing House, to be eligible for Clearing Membership as an FCM Clearing Member, an applicant must, in addition to the relevant eligibility criteria prescribed under Rule 2.02, 2.02B or 2.02C, as the case may be, satisfy the Clearing House that:

2.02D.1.1 it is properly registered as an FCM with the CFTC; and

<a href="#">2.02D.1.2</a>	<a href="#">it complies with all regulatory financial requirements (whether relating to capital, equity, risk or otherwise) applicable to it as an FCM, including without limitation the applicable requirements of CFTC Regulation 1.17 and Part 22 of the CFTC Regulations.</a>
<b>2.06A</b>	<b>Reporting</b>
<b>2.06A.1</b>	<p>Except for a Bank Clearing Member, a Clearing Member must inform the Clearing House in writing immediately if it or any of its directors, officers, Registered Persons, employees, or agents:—</p> <p>2.06A.1.1 breaches the SFA, <del>or</del> SFR <a href="#">or any other applicable laws</a>;</p> <p>[...]</p> <p>2.06A.1.10 engages in conduct that has the effect of circumventing the SFA, SFR, <del>or</del> this Rules <a href="#">or any other applicable laws</a>;</p>
<b>2.08</b>	<b>Minimum Capital and Financial Requirements of Clearing Members Incorporated Outside Singapore</b>
<b><a href="#">2.08.1C</a></b>	<a href="#">Each Remote Clearing Member incorporated outside Singapore shall at all times:</a>
<b><a href="#">2.08.1C.1</a></b>	<p><a href="#">Base Capital Requirement</a></p> <p><a href="#">maintain paid-up ordinary share capital and unappropriated profit or loss of not less than S\$50,000,000;</a></p>
<b><a href="#">2.08.1C.2</a></b>	<p><a href="#">Financial Resources Requirement</a></p> <p><a href="#">not cause or permit its adjusted net head office funds to fall below its total risk requirement;</a></p>
<b><a href="#">2.08.1C.3</a></b>	<p><a href="#">Aggregate Indebtedness Requirement</a></p> <p><a href="#">not cause or permit its aggregate indebtedness to exceed 1,200% of its aggregate resources; and</a></p>
<b><a href="#">2.08.1C.4</a></b>	<p><a href="#">Other Requirements</a></p> <p><a href="#">comply with the accounting, reporting, book-keeping and any other financial and operational requirements prescribed by the Clearing House.</a></p>
<b><a href="#">2.08.1D</a></b>	

In addition to the other applicable requirements under Rule 2.08, each FCM Clearing Member shall at all times maintain an adjusted net capital, in accordance with CFTC Regulation 1.17, of not less than US\$50,000,000.

## **2.08A Early Warning Financial Requirements of Clearing Members Incorporated Outside Singapore**

### **2.08A.1**

Unless otherwise exempted under Rule 2.08.8, each Clearing Member incorporated outside Singapore shall immediately notify the Clearing House:

2.08A.1.1 if its adjusted net head office funds or cash and/or acceptable government securities deposited with the Clearing House or CDP pursuant to Rule 2.08.1B.1 (whichever is applicable), fall below 120% of its total risk requirement; or

2.08A.1.2 in the case of a General Clearing Member, ~~or~~ Direct Clearing Member or Remote Clearing Member, if its aggregate indebtedness exceeds 600% of its aggregate resources.

### **2.08A.2**

Unless otherwise exempted under Rule 2.08.8, if the Clearing House is notified by a Clearing Member under Rule 2.08A.1.1 or becomes aware (whether or not there has been any notification by the Clearing Member under Rule 2.08A.1.1) that such Clearing Member's adjusted net head office funds or cash and/or acceptable government securities deposited with the Clearing House or CDP pursuant to Rule 2.08.1B.1 (whichever is applicable), have fallen below 120% of its total risk requirement, the Clearing House may direct: ~~such Clearing Member to comply with one (1) or more of the directions prescribed under Regulation 7(3) of the SFR (Financial and Margin Requirements). For the avoidance of doubt, in the case where such Clearing Member is a Bank Clearing Member, reference in Regulation 7(3) of the SFR (Financial and Margin Requirements) to:~~

(a) "customer's positions, margins, collateral, assets and accounts", shall be read to mean customer's positions, margins, collateral, assets and accounts falling within the Bank Clearing Member's business governed by this Rules; and

(b) "business" shall be read to mean the Bank Clearing Member's business governed by this Rules.

2.08A.2.1 ~~where such Clearing Member is a General Clearing Member, to comply with one (1) or more of the directions prescribed under Regulation 7(3) of the SFR (Financial and Margin Requirements);~~ [Rule has been deleted]

2.08A.2.2 ~~where such Clearing Member is a Direct Clearing Member, to comply with one (1) or more of the directions described under Regulation 7(3) of the SFR (Financial and Margin Requirements);~~ [Rule has been deleted]

2.08A.2.3 ~~where such Clearing Member is a Bank Clearing Member, to comply with one (1) or more of~~

~~the directions described under Regulation 7(3) of the SFR (Financial and Margin Requirements). For the avoidance of doubt, reference in Regulation 7(3) of the SFR (Financial and Margin Requirements) to:~~

~~(a) "customer's positions, margins, collateral, assets and accounts", shall be read to mean customer's positions, margins, collateral, assets and accounts falling within the Bank Clearing Member's business governed by this Rules; and~~

~~(b) "business" shall be read to mean the Bank Clearing Member's business governed by this Rules. [Rule has been deleted]~~

### 2.08A.3

If the Clearing House is notified by a General Clearing Member, ~~or~~ a Direct Clearing Member, or a Remote Clearing Member under Rule 2.08A.1.2 or becomes aware (whether or not there has been any notification by such Clearing Member under Rule 2.08A.1.2) that such ~~General Clearing Member's or Direct Clearing Member's~~ aggregate indebtedness has exceeded 600% of its aggregate resources, the Clearing House may direct: ~~such Clearing Member to comply with one (1) or more of the directions prescribed under Regulation 17(2) of the SFR (Financial and Margin Requirements).~~

2.08A.3.1 ~~where such Clearing Member is a General Clearing Member, to comply with one (1) or more of the directions prescribed under Regulation 17(2) of the SFR (Financial and Margin Requirements).~~ [Rule has been deleted]

2.08A.3.2 ~~where such Clearing Member is a Direct Clearing Member, to comply with one (1) or more of the directions described under Regulation 17(2) of the SFR (Financial and Margin Requirements).~~ [Rule has been deleted]

## 2.12 Rights of Clearing Members

### 2.12.5

A Remote Clearing Member can, subject to the Rules and/or unless otherwise notified by the Clearing House:

2.12.5.1 clear its own trades, proprietary trades of its related corporations and trades of Third Parties; and

2.12.5.2 by its Clearing Membership with the Clearing House participate in the clearing system established and maintained by the Clearing House to clear only Non-Relevant Market Contracts and OTCF Contracts.

## 2.13 Duties and Responsibilities of Clearing Members

### 2.13.1

A Clearing Member shall, subject to the Rules, also have the following responsibilities and duties:—

<p>2.13.1.1</p> <p>[...]</p> <p>2.13.1.8</p> <p><a href="#">2.13.1.8A</a></p> <p>2.13.1.9</p>	<p>To maintain bank accounts in the currencies that may incur settlement and with banks acceptable to the Clearing House;</p> <p>To have in place sufficient resources and establish and maintain adequate internal control and risk management system, <a href="#">including written risk management policies and procedures</a>, for its business, and in the case of a Bank Clearing Member, its business governed by this Rules; <del>and</del></p> <p><a href="#">Where the Clearing Member is registered with and regulated by the CFTC, including as an FCM, swap dealer or major swap participant, it shall make information and documents regarding its risk management policies, procedures and practices directly available to the CFTC upon the CFTC's request; and</a></p> <p>To comply with such other requirements as may be prescribed by the Clearing House from time to time.</p>
<p><b>2.14</b></p> <p><b>2.14.1</b></p>	<p><b>Required Records and Reports</b></p> <p>Each Clearing Member shall prepare, maintain and keep current those books and records required by this Rules <del>and</del>, <a href="#">the SFA and any applicable laws</a>. Such books and records shall be open to inspection and promptly provided to the Clearing House upon request.</p>
<p><a href="#">2.14.5</a></p> <p><a href="#">2.14.5.1</a></p> <p><a href="#">2.14.5.2</a></p>	<p><a href="#">In addition to the foregoing requirements under Rule 2.14, each Remote Clearing Member shall submit to the Clearing House:</a></p> <p><a href="#">a. any other reports, including any early warning reports, which may be required to be provided by the Remote Clearing Member to its home regulator; and</a></p> <p><a href="#">b. any other reports, including any early warning reports, which may be required to be provided by the Remote Clearing Member to a self-regulatory organisation with oversight over the Remote Clearing Member, if applicable.</a></p> <p><a href="#">In addition to the other applicable requirements under Rule 2.14, each FCM Clearing Member shall submit to the Clearing House:</a></p> <p><a href="#">a. accurate and complete information –</a></p> <p><a href="#">i. the first time it clears on behalf of a Cleared Swaps Customer, to enable the identification of such Cleared Swaps Customer; and</a></p> <p><a href="#">ii. at least once each business day thereafter or on such more frequent basis as the</a></p>

Clearing House may require, to enable the identification of the positions of Cleared Swaps Customers and associated Cleared Swaps Customer Collateral, including the amount of Cleared Swaps Customer Collateral posted in excess of that required by the Clearing House, in accordance with the requirements of Part 22 of the CFTC Regulations; and

- b. the financial reports specified in CFTC Regulation 1.10.

## **2.15 Audit Requirements**

### **2.15.1C Audit Reports for Remote Clearing Members**

Without prejudice to such audit and/or reporting requirements as may be imposed by the Clearing House from time to time, a Remote Clearing Member shall furnish to the Clearing House:

2.15.1C.1 within five (5) months of the end of its financial year or within such longer period as may be permitted in writing by the Clearing House, the relevant forms which a Remote Clearing Member is required to lodge in prescribed format under Rule 2.26, a risk-based capital report prepared pursuant to standards prescribed by the Clearing House, management report and the annual accounts duly audited in accordance with the usual accounting standards of the Remote Clearing Member by, and the certificate of, its auditor or auditors who shall be a public accountant or a firm of public accountants acceptable to the Clearing House. The certificate shall pertain to the audit conducted by such auditor or auditors in respect of the financial year aforesaid and shall state, at a minimum:

- a. whether, in the opinion of the auditor or auditors, the Remote Clearing Member has complied with the capital and financial requirements set out in this Rules;
- b. whether, in the opinion of the auditor or auditors, the Remote Clearing Member's books of accounts and records are those usual in a business of that nature and appear to have been kept in a proper manner in accordance with the provisions of this Rules and any applicable laws and regulations;
- c. whether, in the opinion of the auditor or auditors, the financial position of the Remote Clearing Member is such as to enable it to conduct its business on sound grounds, having regard to the nature and volume of the business transacted during its past financial year as shown by its books of accounts and records; and
- d. whether the auditor or auditors has or have obtained all the necessary information and explanations for the proper conduct of the audit and to enable him or them to furnish his or their certificate;
- e. where, in the performance of his or their duties, the Remote Clearing Member's auditor or auditors becomes or become aware:
  - i. of any matter which in his or their opinion adversely affects or may adversely affect the financial position of the Remote Clearing Member to a material extent;

- ii. of any matter which in his or their opinion constitutes or may constitute a contravention of any provision of this Rules, the SFA and/or any applicable laws or an offence involving fraud or dishonesty;
- iii. of any irregularity that has or may have a material effect upon the accounts, including irregularities that jeopardize the moneys or other assets of any customer of the Remote Clearing Member; or
- iv. that the accounting system, internal accounting control and procedures for safeguarding moneys or other assets are inadequate and the inadequacies have a material effect on the accounts,

the auditor or auditors shall immediately report the matter to the Clearing House; and

2.15.1C.2

an audit report certified by an auditor or auditors, who shall be a public accountant or a firm of public accountants acceptable to the Clearing House, who shall have been engaged by the Remote Clearing Member to conduct an audit of its operations annually or at such times and within such scope as prescribed by the Clearing House and a report on the follow-up actions taken by the Remote Clearing Member by such time as may be prescribed by the Clearing House. The external audit report shall state, at a minimum:

- a. whether, in the opinion of the auditor or auditors, the Remote Clearing Member has complied with the requirements set out in this Rules;
- b. whether the auditor or auditors has or have obtained all the necessary information and explanations for the proper conduct of the audit and to enable him or them to furnish his or their external audit report; and
- c. where, in the performance of his or their duties, the Remote Clearing Member's auditor or auditors becomes or become aware of any matter which in his or their opinion constitutes or may constitute a contravention of any provision of this Rules, the SFA and/or any applicable laws, the auditor or auditors shall immediately report the matter to the Clearing House.

**2.15.2 Internal Audit Report**

A General Clearing Member, Remote Clearing Member or Bank Clearing Member shall cause its internal auditors to conduct an internal audit of its operations annually or at such times and within such scope as prescribed by the Clearing House and to submit a report of each internal audit conducted and the follow-up actions taken to the Clearing House by such time as may be prescribed by the Clearing House. Without prejudice to the foregoing, where the internal audit is conducted for a Bank Clearing Member, it shall be limited to the Bank Clearing Member's operations governed by this Rules.

2.14.6

Clearing Members who are subject to Part 45 of the CFTC Regulations, which pertain to swap data recordkeeping and reporting requirements, shall as soon as technologically practicable after registration of a



Non-Relevant Market Transaction or an OTCF Transaction for clearing with the Clearing House:

- a. report all primary economic terms data of the relevant transaction, as defined in CFTC Regulation 45.1, to the Clearing House; and
- b. inform the Clearing House of the identity of the swap data repository that the relevant transaction was previously reported to, if any.

**2.17 Limit on Lending to Directors, Officers or Employees of General Clearing Members**

2.17.1.1 A General Clearing Member or Remote Clearing Member must not grant, whether directly or indirectly, any unsecured advance, unsecured loan or unsecured credit facility as defined in the SFR (Licensing and Conduct of Business) to any of its directors (other than a director who is also its employee) or to a person who to its knowledge, is a connected person as defined in the SFA of such director.

2.17.1.2 Subject to Rule 2.17.1.1 and section 162 of the Act, a General Clearing Member or Remote Clearing Member must not grant, whether directly or indirectly, any unsecured advance, unsecured loan or unsecured credit facility to its officers (other than a director who is not its employee) or its employees (a "relevant person") which in the aggregate and outstanding at any one time exceeds one year's emoluments of such relevant person.

2.17.1.3 For the purpose of Rule 2.17.1.2, any unsecured advance, unsecured loan or unsecured credit facility granted by a General Clearing Member or Remote Clearing Member to any person to purchase, subscribe for or trade in any capital markets product for:—

- a. the account of a relevant person of the General Clearing Member or Remote Clearing Member;
- b. an account in which a relevant person of the General Clearing Member or Remote Clearing Member has an interest;
- c. an account of any person who acts jointly with, under the control of, or in accordance with, the direction of a relevant person of the General Clearing Member or Remote Clearing Member; or
- d. an account of any connected person (as defined in the SFA) of a relevant person of the General Clearing Member or Remote Clearing Member, where the connected person is not himself a relevant person of the General Clearing Member or Remote Clearing Member,

shall be deemed to be an unsecured advance, unsecured loan or unsecured credit facility granted by the General Clearing Member or Remote Clearing Member to that relevant person.

**2.22 Change or Intended Change**

**2.22.1**

Without prejudice to any other provisions of this Rules, every Clearing Member shall forthwith notify the Clearing House upon, or where practicable, pre-notify the Clearing House of, the happening of all or any of the following events:—

- 2.22.1.1 except for a Bank Clearing Member, any change in the legal or beneficial ownership of 20% or more of such Clearing Member's share capital and any subsequent increase of 5% or more of such Clearing Member's share capital;
- 2.22.1.1A in the case of a Bank Clearing Member:
  - (a) any change in the legal or beneficial ownership of that Bank Clearing Member's share capital ; and
  - (b) any subsequent increase of that Bank Clearing Member's share capital above any thresholds imposed by any law or regulation to which that Bank Clearing Member is subject.
- 2.22.1.2 any change in any circumstances which will have or may have the effect of altering the control of itself;
- 2.22.1.3 any change in the composition of its board of directors or of any director, or in the case of a Bank Clearing Member, any change in the composition of its board of directors or of any director, who are/is resident in Singapore and/or responsible for its business governed by this Rules, due to the appointment, removal or resignation of any of its directors. For the purpose of this Rule 2.22.1.3, a change of director includes a change in the director's appointment from a non-executive director to an executive director;
- 2.22.1.4 any change in its name;
- 2.22.1.5 any change or amendment to its Memorandum or Articles of Association or constitutive documents, notice of which should be given at least seven (7) days prior to the change or amendment being effected, except in the case of a Bank Clearing Member, notification will be furnished to the Clearing House by such times that a Bank Clearing Member has to notify MAS under the Banking Act, or any regulation or directive issued thereunder;
- 2.22.1.6 any death or bankruptcy of any of its directors or in the case of a Bank Clearing Member, its directors who are resident in Singapore and/or responsible for its business governed by this Rules;
- 2.22.1.7 the engagement or involvement or proposed engagement or involvement in any new business or any change in any of its business(es) or in the case of a Bank Clearing Member, its business governed by this Rules. For the purpose of this Rule 2.22.1.7, examples of such new business or change in business include, without limitation, market making and securities financing activities; ~~and~~
- 2.22.1.8 any change in its senior management, or in the case of a Bank Clearing Member, its senior management responsible for the Bank Clearing Member's business governed by this Rules; ~~and~~  
and
- 2.22.1.9 any application is contemplated or proposed to be made by the Clearing Member for

[registration as an FCM with the CFTC.](#)

**2.23 Notification of Reduction in Capital and Under-Segregation**

**2.23.1**

Every Clearing Member shall:—

2.23.1.1 except in the case of a Bank Clearing Member incorporated outside Singapore who has satisfied Rule 2.02B.1.11.a or b, report to the Clearing House within 48 hours of occurrence of any reduction in excess of 20% in its financial resources or adjusted net head office funds, as the case may be, from the previously submitted financial statement; or

2.23.1.2 except in the case of a Direct Clearing Member, immediately report to the Clearing House of any under-segregation of money, assets or properties margins as required under this Rules, ~~and/or~~ the SFA, [and/or any applicable laws](#).

**2.24 Appointment of Chief Executive Officer, Deputy Chief Executive Officer**

**2.24.1**

No General Clearing Member, [Remote Clearing Member](#) or Direct Clearing Member may appoint a chief executive officer or deputy chief executive officer unless prior written approval of the Clearing House is obtained.

**2.26 Special Call for Financial Statements**

**2.26.2**

Each Clearing Member must make and keep as a record formal computations of its capital and financial requirements pursuant to:—

a. in the case of a General Clearing Member, Rules 2.07, 2.07A, 2.07B, 2.07C, 2.08, 2.08A, 2.08B, 2.08C, 2.09 and 2.10;

b. in the case of a Direct Clearing Member, Rules 2.07, 2.07A, 2.07B, 2.07C, 2.08, 2.08A, 2.08B and 2.08C; ~~or~~

c. in the case of a Bank Clearing Member, Rules 2.07, 2.07A, 2.07B, 2.07C, 2.08, 2.08A, 2.08B and 2.08C; [or](#)

[d. in the case of a Remote Clearing Member, Rules 2.08, 2.08A and 2.08B,](#)

as of the close of business each month. The computations must be in such form as the Clearing House may prescribe and submitted to the Clearing House within fourteen (14) calendar days after the end of each month.

## 2.37 Contract Clause

### 2.37.1

All Contracts including Designated Futures Contracts shall be made subject to these Rules, the SFA, ~~and~~ SFR [and any other applicable laws](#) and all Clearing Members shall ensure that in their agreements with any Third Party to provide its clearing services that it be so provided and agreed.

## 2.38 The Authority

### 2.38.1

The responsibility for the conduct and supervision of the Clearing House shall rest with the Board but the Clearing House shall be subject to the supervision of the Authority [and any Other Regulator](#). The Clearing House may enter into arrangements with the Authority as in the opinion of the Board may be conducive to the objectives of the Clearing House and for the supervision of the Clearing House, and the Clearing House may give to the Authority [or \(subject to the confidentiality provisions of the SFA, SFR, this Rules and/or any applicable laws\) any Other Regulator](#) any information or document relating to transactions in the Clearing House or relating to any Clearing Member or any other person who shall be subject to this Rules.

## **Chapter 4: Enforcement of Rules**

### 4.01A Clearing House Investigations

#### 4.01A.1

The Clearing House may conduct an investigation if:—

4.01A.1.1 the investigation involves a possible breach of the SFA, SFR, ~~or~~ this Rules [and/or any applicable laws](#);

#### 4.01A.2

The Clearing House will conduct an investigation if the Authority [or any Other Regulator](#) directs.

### 4.03A Disciplinary Committee Powers

#### 4.03A.1

The Disciplinary Committee may exercise its powers against a Clearing Member who:—

4.03A.1.1 breaches the SFA or SFR;

4.03A.1.2 breaches this Rules;

4.03A.1.3	breaches any relevant law or regulation which governs that Clearing Member's other business activities;
4.03A.1.4	breaches the rules of any other exchange;
4.03A.1.5	breaches any provisions involving fraud or dishonesty, whether in or out of Singapore;
4.03A.1.6	breaches director's duties;
4.03A.1.7	engages in conduct that has the effect of circumventing the SFA, SFR or this Rules <a href="#">and/or any applicable laws</a> ; or
4.03A.1.8	engages in conduct detrimental to the financial integrity, reputation, interests or operation of the Clearing House.

## **Chapter 7: Clearing and Margins**

### **7.02A.2 Registration of Non-Relevant Market Transactions**

7.02A.2.1 Non-Relevant Market Transactions will be registered with the Clearing House for clearing through the Trade Registration System or other facility as prescribed by the Clearing House. [A submission for registration will be accepted or rejected by the Clearing House as quickly after submission as would be technologically practicable if fully automated systems were used.](#)

### **7.02AA.2 Registration of OTCF Transactions**

7.02AA.2.1 OTCF Transactions will be registered with the Clearing House for clearing through the Trade Registration System or other facility as prescribed by the Clearing House. [A submission for registration will be accepted or rejected by the Clearing House as quickly after submission as would be technologically practicable if fully automated systems were used.](#)

## **7.03A Collateral**

### **7.03A.1 Trust Arrangements**

7.03A.1.3 The Clearing House shall have the right to commingle any or all Collateral held by or otherwise deposited with or provided to it by Clearing Members solely in respect of Customer Contracts, [except where such Collateral is Cleared Swaps Customer Collateral](#), in the same account.

[7.03A.1.4 The Clearing House shall have the right to commingle any or all Cleared Swaps Customer Collateral held by or otherwise deposited with or provided to it by FCM Clearing Members in the same account.](#)

<p><b>7.03A.4</b></p>	<p><b>Collateral Deposit</b></p> <p>A Clearing Member shall deposit or otherwise provide to the Clearing House such Collateral, in such acceptable form and denomination as may be prescribed by the Clearing House from time to time, <u>and may deposit or otherwise provide to the Clearing House Collateral in excess of the amount required by the Clearing House</u>, subject to such terms and conditions prescribed by the Clearing House from time to time.</p>
<p><b>7.03A.5</b></p>	<p><b>Collateral Withdrawal</b></p> <p><u>7.03A.5.4 In the case of a defaulted or suspended FCM Clearing Member, any unused Collateral withdrawn and returned to such FCM Clearing Member is intended to be treated in accordance with applicable U.S. laws, including the U.S. Bankruptcy Code, the CEA and the CFTC Regulations.</u></p>
<p><b>7.03A.7</b></p>	<p><b>Investment and Use of Collateral</b></p> <p>7.03A.7.1 The Clearing House may invest, manage and use Collateral in such manner as it shall deem fit, provided that:</p> <ul style="list-style-type: none"> <li>a. Collateral in respect of Customer Contracts shall be invested in accordance with this Rules, the Security Deed, <del>and</del> the SFA <u>and any applicable laws</u>; and</li> <li>b. the Clearing House shall not use any Collateral received and notified to it as Collateral in respect of a Customer Contract to settle any obligations that are incurred in relation to a House Contract, except in accordance with this Rules, the Security Deed, <del>and</del> the SFA <u>and any applicable laws</u>.</li> </ul>
<p>7.03A.7.3</p>	<p>All Collateral deposited or provided by each Clearing Member to the Clearing House shall be subject to this Rules, the Security Deed, <del>and</del> the SFA (each as amended or supplemented from time to time) <u>and any applicable laws</u>. Each Clearing Member shall ensure that all Collateral deposited or provided to the Clearing House are deposited or provided only on the foregoing basis and shall also ensure that, prior to depositing or providing any Collateral to the Clearing House for the account or for the Contracts of any person, such person has been notified of and has accepted the foregoing.</p>
<p><b>7.03A.11</b></p>	<p><b><u>Permitted Depositories for Cleared Swaps Customer Collateral</u></b></p> <p><u>7.03A.11.1 The Clearing House shall deposit Cleared Swaps Customer Collateral with a permitted depository in accordance with the CFTC Regulations and ensure that the Cleared Swaps Customer Collateral is segregated in accordance with the CEA and CFTC Regulations. The Cleared Swap Customer Account and Cleared Swaps Customer Collateral shall be part of the cleared swaps account class for the purposes of Part 190 of the CFTC Regulations.</u></p> <p><u>7.03A.11.2 Each FCM Clearing Member shall maintain written records of the authorisation of each Cleared Swaps Customer for the deposit of its Cleared Swaps Customer Collateral outside of the United States with a permitted depository in accordance with Rule 7.03A.11.1.</u></p>

<p><b>7.16 Reports of Large Positions</b></p> <p><b>7.16.4</b></p> <p>Upon request of the Clearing House, Clearing Members shall obtain the information required by this Rule regarding the ownership and control of positions (whether assumed or entered into on any Relevant Market or elsewhere) within any Omnibus Account and any Sub-Account of any Omnibus Account. Provided that if the Omnibus Account Holder does not want the identity of any Sub-Account holder <a href="#">(save for a Cleared Swaps Customer, whose identity must always be disclosed)</a> to be disclosed to its carrying Clearing Member, the Omnibus Account Holder may apply to the Clearing House for a special identification for the Sub-Account thereof for reporting positions (whether assumed or entered into on any Relevant Market or elsewhere) covered within this Rule through its carrying Clearing Member.</p>
<p><b>7.27 Transfers of Trades</b></p> <p><a href="#">7.27.8</a></p> <p><a href="#">Transfers of positions under this Rule 7.27 will not require the close-out and re-booking of the relevant positions.</a></p>
<p><b>7.30 Customer Accounts</b></p> <p><a href="#">7.30.4 Each Cleared Swaps Customer Account shall be treated by the Clearing House as being an Applicable Customer Account.</a></p>
<p><a href="#">7.30.5 Each FCM Clearing Member shall provide to the Clearing House information relating to the identity of the Customer underlying each Cleared Swaps Customer Account as required by the Clearing House from time to time.</a></p>
<p><b><u>Chapter 7A: Suspension and Default</u></b></p>
<p><b>7A.02 Open Positions of Defaulted / Suspended Clearing Members</b></p> <p><b>7A.02.1</b></p> <p>When a Clearing Member having open positions has defaulted upon its obligation to the Clearing House, or has been suspended, the Clearing House may:—</p> <p>7A.02.1.1 transfer <a href="#">or facilitate the transfer of</a> all or any part of positions in Customer Contracts held by the defaulted or suspended Clearing Member to one (1) or more Clearing Members designated by the Clearing House <a href="#">in accordance with applicable laws, provided that all or any part of positions held in Cleared Swaps Customer Accounts may be transferred only to one (1) or more FCM Clearing Members designated by the Clearing House.</a> When such positions are so transferred, the following shall apply:</p>

- a. subject to Rule 7A.02.1.1.c. [and to the extent permitted by applicable laws](#), margins deposited with the Clearing House in respect of the positions shall be entrusted to the designated Clearing Member or Clearing Members;
- b. the margins entrusted to a designated Clearing Member pursuant to this Rule 7A.02.1.1 may not be in such form as was originally deposited with the Clearing House;
- c. the Clearing House shall have the discretion not to transfer all or any part of the margins and settlement monies to a designated Clearing Member as described in Rule 7A.02.1.1.a., if:
  - i. the positions are held in an omnibus account; or
  - ii. monies and other assets deposited with the Clearing House in relation to Customers' Contracts may be applied pursuant to Rule 7A.05.1.2.

Where margins and settlement monies are not transferred to the designated Clearing Member, the designated Clearing Member shall be required to collect the required margins and settlement monies from its Customer; and

- d. The margins not entrusted to designated Clearing Members shall be retained by the Clearing House and may be applied in accordance with Rule 7A.05.1.2. Any unused margins shall be returned to the defaulted or suspended Clearing Member, or entrusted to the designated Clearing Members, as the Clearing House deems appropriate:
  - i. following the settlement of losses arising from the event of default; or
  - ii. at such time that the Clearing House determines that the margins may not be used.

7A.02.1.5 where the open positions relate to OTCF Contracts, take one or more of the following actions:

- a. hedge or otherwise liquidate such open positions in OTCF Contracts;
- b. conduct an auction of such open positions in OTCF Contracts, whether hedged or otherwise;
- c. where it is in the Clearing House's good faith opinion that (b) is impossible or impracticable, assign and transfer any residual OTCF Contracts, whether hedged or otherwise, to a non-defaulting Clearing Member provided that:
  - i. the residual OTCF Contracts, whether hedged or otherwise, assigned and transferred to the non-defaulting Clearing Member shall not be of such amount as to increase its risk margin requirement by more than 100% of its average end-of-day risk margin requirement for OTCF Contracts in the 30 days preceding, and excluding, the day on which the event of default occurs, as declared by the Clearing House; and
  - ii. the non-defaulting Clearing Member has cleared such product group in such currency in the last three months,



or

- d. undertake any action which is ancillary or incidental to activities set out under (a) – (c) above.

provided that a Clearing Member participating in any activity set out in (b) and (c) above may authorise a qualified third party to act in its place.

## Chapter 9: Definitions and Interpretation

### 9.01 Definitions

#### 9.01.1

Unless the context otherwise requires, the following words and expressions shall be defined as follows:—

Term	Meaning
“adjusted net head office funds”	<p>— when used in reference to:—</p> <p>a. a General Clearing Member or Direct Clearing Member incorporated outside Singapore, shall bear the meaning ascribed thereto in paragraph 2 of the Second Schedule of the SFR (Financial and Margin Requirements); <del>and</del></p> <p>b. a Bank Clearing Member incorporated outside Singapore which has satisfied Rule 2.02B.1.11.c, shall bear the meaning ascribed thereto in paragraph 2 of the Second Schedule of the SFR (Financial and Margin Requirements), less the capital requirements for its banking business; <del>and</del></p> <p><u>c. a Remote Clearing Member, shall bear the meaning as ascribed to the term “financial resources” in paragraph 1 of the Second Schedule of the SFR (Financial and Margin Requirements), read as if the Remote Clearing Member is a capital market services licensee to which the SFR (Financial and Margin Requirements) applies.</u></p>
“aggregate resources”	<p>— when used in reference to:—</p> <p>a. a Clearing Member incorporated in Singapore, means its financial resources (including qualifying letters of credit referred to in Rule 2.07C) less its total risk requirement;</p> <p>b. a General Clearing Member or Direct Clearing Member incorporated outside Singapore or a Bank Clearing Member incorporated outside Singapore which has satisfied Rule 2.02B.1.11.c, means its adjusted net head office funds (including qualifying letters of credit referred to in Rule 2.08C) less its total risk requirement; <del>and</del></p> <p>c. a Bank Clearing Member incorporated outside Singapore</p>

	<p>which has satisfied Rule 2.02B.1.11.a or b, means its cash and/or acceptable government securities deposited with the Clearing House or CDP pursuant to Rule 2.08.1B.1 less its total risk requirement-; <u>and</u></p> <p><u>d. a Remote Clearing Member, means its adjusted net head office funds (including qualifying letters of credit referred to in Rule 2.08C) less its total risk requirement.</u></p>	
<u>“CEA”</u>	<u>means the U.S. Commodity Exchange Act.</u>	
<u>“CFTC”</u>	<u>means the U.S. Commodity Futures Trading Commission.</u>	
<u>“CFTC Regulations”</u>	<u>means the rules and regulations promulgated by the CFTC.</u>	
<u>“Cleared Swaps Customer”</u>	<u>means a customer of an FCM Clearing Member with positions in Cleared Swaps (as defined in CFTC Regulation 22.1, including Non-Relevant Market Contracts and OTCF Contracts, where applicable) that the FCM Clearing Member clears with the Clearing House, excluding any entity that controls, is controlled by or is under common control with such FCM Clearing Member, and the account of which would be considered a proprietary account of the FCM Clearing Member pursuant to the CFTC Regulations. Any such customer is deemed a Cleared Swaps Customer only with respect to its positions in Cleared Swaps.</u>	
<u>“Cleared Swaps Customer Account”</u>	<u>means an account carried on the books of the Clearing House for an FCM Clearing Member and for or on behalf of a Cleared Swaps Customer.</u>	
<u>“Cleared Swaps Customer Collateral”</u>	<u>means Collateral deposited with or provided to the Clearing House by an FCM Clearing Member in connection with a Cleared Swaps Customer Account.</u>	
<u>“FCM”</u>	<u>means a futures commission merchant, as defined under the CEA, that is registered in such capacity with the CFTC.</u>	
<u>“FCM Clearing Member”</u>	<u>means a Clearing Member that is also an FCM that clears Non-Relevant Market Contracts and/or OTCF Contracts for Cleared Swaps Customers.</u>	
<u>“financial resources”</u>	<p>— when used in reference to:—</p> <p>a. a General Clearing Member or a Direct Clearing Member incorporated in Singapore, shall bear the meaning ascribed thereto in paragraph 1 of the Second Schedule of the SFR</p>	

	<p>(Financial and Margin Requirements); <u>and</u></p> <p>b. a Bank Clearing Member incorporated in Singapore, shall bear the meaning ascribed thereto in paragraph 1 of the Second Schedule of the SFR (Financial and Margin Requirements), less the capital requirements for its banking business-; <u>and</u></p> <p><u>c. a Remote Clearing Member, shall bear the meaning ascribed thereto in paragraph 1 of the Second Schedule of the SFR (Financial and Margin Requirements), read as if the Remote Clearing Member is a capital market services licensee to which the SFR (Financial and Margin Requirements) applies.</u></p>	
"Other Regulator"	<u>means any regulator, other than the Authority, who has regulatory oversight over the clearing activities of the Clearing House.</u>	
"Remote Clearing Member"	<u>means a Clearing Member who has such rights and obligations as set out in Chapter 2.</u>	
"total risk requirement"	<p>—when used in reference to:—</p> <p>a. a General Clearing Member or a Direct Clearing Member, shall bear the meaning ascribed thereto in paragraph 1 of the Third Schedule of the SFR (Financial and Margin Requirements);</p> <p>b. a Bank Clearing Member incorporated in Singapore or a Bank Clearing Member incorporated outside Singapore which has satisfied Rule 2.02B.1.11.c, shall bear the meaning ascribed thereto in paragraph 1 of the Third Schedule of the SFR (Financial and Margin Requirements) except that such Bank Clearing Member shall only compute the total risk requirement for all Third Parties' and proprietary positions in derivatives and securities contracts traded on any exchange and all contracts (but shall not include any positions in OTCF Contracts in such computations) novated to any clearing facility; <u>and</u></p> <p>c. a Bank Clearing Member incorporated outside Singapore which has satisfied Rule 2.02B.1.11.a or b, shall bear the meaning ascribed thereto in paragraph 1 of the Third Schedule of the SFR (Financial and Margin Requirements) except that such Bank Clearing Member shall only compute the total risk requirement for all Third Parties' and proprietary positions in derivatives and securities contracts traded on the Exchange and SGX-ST and all contracts (but shall not include any positions in OTCF Contracts in such computations) novated to the Clearing House and CDP-; <u>and</u></p> <p><u>d. a Remote Clearing Member, shall bear the meaning ascribed thereto in paragraph 1 of the Third Schedule of the SFR (Financial and Margin Requirements) read as if the Remote</u></p>	

	<u><a href="#">Clearing Member is a capital market services licensee to which the SFR (Financial and Margin Requirements) applies.</a></u>	
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**Singapore Exchange** • London • Tokyo • Beijing  
2 Shenton Way, #19-00 SGX Centre 1, Singapore 068804  
Main: (65) 6236 8888 Fax: (65) 6557 2651