

**CIRCULAR TO:**

**ALL MEMBERS**

**NO: 48 /2000**

**MEMBER BRIEFING**  
**GST IMPLEMENTATION AT SFE**

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The SFE has been working in conjunction with external parties to identify and address all the critical issues associated with the introduction of GST and the possible implications for both the SFE and its members.

This document summarises some of the key issues identified to date and provides draft responses, based on the information currently available, that may assist Members with their GST projects. Given the nature of the legislation and the ongoing interpretation these responses may be subject to change.

**1 EXCHANGE FEE**

Members were reminded in Circular number 52/94 issued 18 February 1994, that the liability for Exchange Fee is with Full Members.

Full Members remain liable for such fees regardless of whether clients meet their financial obligations to the Member. As such, clients have no direct responsibility to the Exchange with respect to Exchange fees and it should be clear in documentation with clients that any fees or commissions are payable to the Member by them and not to the Exchange. For this reason, it is recommended that to avoid any misunderstanding by clients in this regard, there should be no separate financial statement of the portion of commissions which Members use to pay Exchange fees but rather that Members charge clients an all-up commission/fee for their services. This does not of course, preclude Members making clients aware in general terms of the costs incurred by them in trading on their behalf.

**1.1 *How will GST impact the SFE execution fee?***

The SFE previously charged Full Members \$1.00 per trade. This charge was recently discounted to \$0.90 to encourage a switch to electronic trading.

This charge will be a taxable supply for GST purposes. The board has not yet determined the extent to which the \$0.90 charge will increase as a result of GST. The final fee will be disclosed to members following the SFE Board meeting at the end of March 2000 and will reflect the SFE's compliance with ACCC guidelines including compliance with the appropriate rules arising from the recent debate about rounding up prices as a result of the GST inclusion.

**1.2 *When will GST be charged by the SFE to members on exchange fees, will it be on a transaction by transaction, daily, monthly basis?***

GST is essentially a transaction tax and as such, GST will be charged or identified on a transaction by transaction basis. From an administrative point of view we accept that logistically the processing of hundreds of invoices would not be acceptable to members. The SFE is exploring how only one tax invoice a month can be issued to members which will be a consolidation of all the daily transactions. For exchange fees it is anticipated one tax invoice per month will be issued.

**1.3 *Who will be responsible for paying GST on exchange fees to the ATO?***

Currently, the SFE charges a fee to Full Members for each trade executed. This fee will attract GST and the SFE will remit GST to the ATO and will invoice GST to the Full Member. Each Full Member is responsible for paying this GST to the SFE as part of the GST inclusive fee and, to the extent that it can claim an *Input Tax Credit* from the ATO. In turn, each member will be responsible for invoicing GST, where appropriate, on these fees to their clients.

The SFE may collect a payment of such fees from a Clearing Member on behalf of a Full Member by arrangement between the Members, but this process will need to be mapped out and an appropriate solution explored with members for its continuance under GST. This process does not remove the primary liability from the Full Member.

## **2 COMMISSION**

### **Client Commission**

#### **2.1 *Does the member collect GST from clients on behalf of the exchange?***

Legally, to trade on the SFE you must be a Member. The SFE transacts only with Members. The Member to client relationship is a separate GST supply by the Member to the client and it is therefore the Member's obligation to account for GST appropriately.

### **Brokerage Commission**

#### **2.2 *How will the SFE administer the commission that passes between members?***

The process of commissions where one member deals with another member, for example "give in" and "give up" commission is currently administered by the Exchange and a "net position" statement is provided to each member outlining the commission they have earned or paid to other members at the end of each month. The Exchange provides this administration service free of charge in order to assist Members. The SFE is looking into the possible solutions and legalities associated with issuing a monthly tax invoice on behalf of the Members.

#### **2.3 *When will GST be charged on brokerage commission, will it be on a transaction by transaction, daily, monthly basis?***

The Exchange is exploring how only one tax invoice a month can be issued on behalf of Members in relation to brokerage commission which will be a consolidation of all the daily transactions. For information purposes, it is envisaged that daily statements of the transactions will still be provided to members.

## **3 ACCOMMODATION FEES**

#### **3.1 *What is the GST treatment of the accommodation fee charged by the SFE Clearing House?***

Clearing Members provide a guarantee to the SFE Clearing House (SFECH) of \$60 million in the form of cash and letter of credit. SFECH in turn pays Clearing Members an accommodation fee, which is currently set at 12%. The accommodation fee is set by the Clearing House Board each year in order to

provide a reasonable return to members having regard to the risks and exposures involved.

For GST purposes we consider that this is a form of guarantee or indemnity and therefore input taxed financial supply by the Clearing Member to the SFECH. Accordingly, the fee is input taxed and should not be subject to GST. PricewaterhouseCoopers has reviewed the existing available documentation and concur with this view.

## **4 DELIVERABLE CONTRACTS**

### **4.1 *When is GST charged on a deliverable contract?***

GST is payable on the settlement prices in regard to a deliverable commodity contract. No GST is payable on “cash settled” contracts. The taxable status of premiums/options remains unclear, pending a private Tax Ruling requested by the SFE. We are anticipating that the ruling will be favourable, such that GST will not be payable on premiums/options. This has yet to be confirmed.

### **4.2 *What is the position regarding the issuing of tax invoices by the seller when the seller does not know the identity of the ultimate buyer?***

The Exchange is exploring possible solutions so that the Exchange can administer the invoicing arrangements on behalf of Members by means of Recipient Created Invoicing.

The Exchange has sought a determination from the ATO to permit the Clearing House to issue a Recipient Created Invoices to the seller’s clearing member-broker, and in turn for invoices to be issued by the clearing broker and seller’s executing broker. This has yet to be confirmed.

## **5 EXPORT SERVICES**

### **5.1 *Will the SFE provide information to determine the residence of the counter party of a futures trade so that GST free status can be applied?***

From the SFE perspective, all trades currently between Members are transactions between Australian residents and are therefore described as “in connection” with Australia according to the GST Act. It is however, the underlying trade between the member and the client that is eligible, subject to satisfying certain rules, for GST-free export status. We note that the exact GST-

free treatment under the “export” provisions in the GST Act as it applies to financial suppliers, is still a point for clarification with the ATO. It is anticipated that the residency status of the member’s clients will probably be the main determinate of the GST treatment of a supply, although there are exceptions to this such as a deliverable contract where the underlying asset is physically located in Australia at the time of supply.

In accordance with the Member/Client relationship described in paragraph 2.1, it is the SFE’s view that such GST accounting treatment will be carried out in the “downstream” accounting systems of Members. The SFE recommends Members obtain individual professional advice as to their IT systems set up for GST.

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For further information regarding GST related issues, initial enquiries will be coordinated by Kay Hurst, GST Assistant Project Manager who can be contacted either by phone on (02) 9256 0146 or via email [khurst@sfe.com.au](mailto:khurst@sfe.com.au)

For further information regarding GST impacts on Deliverable Contracts please contact Paul Baranov, Legal Council, either by phone on (02) 9256 0597 or via email [pbaranov@sfe.com.au](mailto:pbaranov@sfe.com.au).