



## **ASX OTC Interest Rate Derivatives Clearing**

**Response to Consultation Feedback on Draft Operating Rules**

**1 May 2013**

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## Contacts

To discuss any aspects of this document, please contact:

Ms Catherine Eakin

Legal Counsel

T: 02 9227 0472

E: catherine.eakin@asx.com.au

## Executive summary

On 19 February 2013, ASX released a Consultation Paper seeking comment on the draft Operating Rules that will provide the foundation for the first phase of ASX's central counterparty clearing service for OTC Interest Rate Derivatives ("OTC Clearing Service"). This document presents the results of that public consultation.

ASX received a total of 10 formal submissions from Clearing Participants and professional and industry associations, 8 of which were confidential. ASX has published the non-confidential submissions at <http://www.asx.com.au/clearing/otc-irs-clearing.htm>.

To address the comments made by respondents, ASX proposes to make a number of refinements to the proposals outlined in the Consultation Paper, including:

<b>Single default fund</b>	Maintain a single default fund, however ASX will formally review its default fund structure in consultation with the Risk Committee annually
<b>Changes to Futures CP Commitments</b>	Increase symmetry between Futures and OTC Commitments by: <ul style="list-style-type: none"><li>Reducing Futures Clearing Participant Commitments from \$120mn to \$100mn;</li><li>ASX Group injecting a further \$20mn, which will increase to \$120mn ASX Group's "first loss" tranche in the default waterfall; and</li><li>Removing Futures Clearing Participant Secondary Commitments.</li></ul>
<b>Transitional OTC CP Commitments clarified</b>	The trigger points for the "scaling up" process for OTC Commitments have been clarified. Aggregate OTC Commitment will be equal to: <ul style="list-style-type: none"><li>(where there are less than eight OTC Clearing Participants) \$12.5mn x Number of OTC Clearing Participants, however if (1) total OTC initial margin (including offsetting futures) reaches \$500mn, (2) a competent regulatory authority directs ASX, or (3) all OTC Clearing Participants agree, then aggregate OTC Commitment will increase to \$100mn;</li><li>(where there are eight or more OTC Clearing Participants) \$100mn, with each OTC Clearing Participant providing a Commitment comprising a fixed component (\$5mn) and a variable component (based on each CP's relative share of IM and sufficient to bring aggregate OTC Commitment to \$100mn).</li></ul>
<b>ASX Group to meet next \$100mn default fund requirement</b>	ASX Group will provide the next \$100mn, added in increments as required, if total Commitment requirements increase beyond \$470mn for the single default fund in the future. This will protect Clearing Participants from growth in cleared market risk in OTC and Futures and the impact of emerging regulatory changes.
<b>Increase returns paid on CP Commitments</b>	ASX will increase the returns paid to Clearing Participants on Commitments by an additional 50 bps, to 150 bps above OCR. ASX will pay the same rate of return on Futures and OTC Commitments.
<b>Ballot</b>	Voting rights to be one vote per Clearing Participant, rather than one vote per authorisation held by a Clearing Participant.
<b>Juniorisation of Commitments</b>	Only those OTC Clearing Participants that fail to bid in default auctions when they are required to bid will have their OTC Commitment juniorised. ASX will continue to consult with the Risk Committee on alternative juniorisation mechanisms.
<b>Default Management Group advice</b>	In accordance with its regulatory obligations, ASX will retain the ultimate decision whether to implement the DMG's advice but ASX will be required to explain its reasons where it does not follow the DMG's advice.

ASX has published a FAQ which responds to requests for further information about the OTC Clearing Service. The FAQ can be found at <http://www.asx.com.au/clearing/otc-irs-clearing.htm>.

## Consultation Process

On 19 February 2013, ASX released a Consultation Paper seeking comment on the draft Operating Rules that will provide the foundation for the first phase of ASX's OTC Clearing Service.

The Operating Rules and Procedures outlined in the Consultation Paper are in two categories:

- Rules which are relevant to all Clearing Participants (whether clearing ASX 24 Futures or OTC Derivatives) – these relate primarily to:
  - Default waterfall;
  - Resignation processes;
  - Ensure there is no uncapped liability for Clearing Participants; and
  - Introduction of a Risk Committee.
- Rules that relate specifically to Phase 1 of the OTC Clearing Service and which apply only to those Clearing Participants that seek to clear OTC Derivatives.

The Consultation Paper can be found at:

[http://www.asxgroup.com.au/media/OTC\\_Derivatives\\_Clearing\\_Rule\\_changes\\_Consultation\\_Paper\\_19Feb13.pdf](http://www.asxgroup.com.au/media/OTC_Derivatives_Clearing_Rule_changes_Consultation_Paper_19Feb13.pdf).

During the consultation period, ASX held bilateral meetings with all Clearing Participants, and other financial market participants that have an interest in the OTC Clearing Service, to explain the OTC Clearing Service, respond to questions and collect stakeholder input.

The consultation period ended on 29 March 2013. A total of 10 formal submissions were received, 8 of which were confidential. Schedule 1 contains a list of non-confidential respondents to the Consultation Paper. ASX has published the non-confidential submissions at <http://www.asx.com.au/clearing/otc-irs-clearing.htm>.

ASX has made a number of significant changes in response to stakeholder input. Those changes are outlined in this document.

ASX thanks all those who have shared their views and expertise during the consultation period.

# Consultation Feedback and ASX Responses

## Substantive Feedback

ASX received a significant amount of substantive feedback on the draft Operating Rules. A summary of unattributed feedback, and ASX's responses, is set out in the table attached as Schedule 4.

A number of ASX's responses in Schedule 4 refer to:

- ASX's proposed changes to the single default fund – see Schedule 2. Those changes increase symmetry between Futures and OTC Commitments by:
  - Reducing Futures Clearing Participant Commitments from \$120mn to \$100mn;
  - ASX Group injecting a further \$20mn, which will increase to \$120mn ASX Group's "first loss" tranche in the default waterfall; and
  - Removing Futures Clearing Participant Secondary Commitments.
- a Default Management Process Overview – see Schedule 3. ASX has prepared this overview to provide greater clarity regarding:
  - the different default management approaches ASX intends to take for different categories of cleared products; and
  - the calculation methodology for the determination of "Termination Values" of open contracts of a defaulting Clearing Participant.

ASX also received feedback on a number of existing Futures Rules that were not the subject of proposed amendments in the Consultation Paper. ASX has sought to accommodate those comments where possible in the tight timeframe for regulatory clearance and launch of Phase 1 of ASX's OTC Clearing Service. ASX is willing to continue to discuss with contributors those suggested amendments which it has not been possible to incorporate in this package of rule amendments.

## Drafting Feedback

ASX received a number of drafting comments on the draft Operating Rules. These drafting comments have been incorporated where possible.

## Client Clearing

ASX received a number of comments and questions that related specifically to client clearing. ASX welcomes that input and will respond bilaterally or, where the comments and questions are of more general application, through the working groups that ASX is establishing for consultation with clients and Clearing Participants on the design of ASX's OTC derivatives client clearing service.

## FAQs

ASX has published a FAQ which responds to requests for further information about the OTC Clearing Service. The FAQ can be found at <http://www.asx.com.au/clearing/otc-irs-clearing.htm>.

## **Revised Operating Rules**

The revised Operating Rules, incorporating the changes made by ASX in response to consultation feedback, are contained in Schedule 5.

A comparison of the revised Operating Rules against the draft rules annexed to the February Consultation Paper is available at <http://www.asx.com.au/clearing/otc-irs-clearing.htm>. Those comparison documents highlight the changes made by ASX in response to consultation feedback.

**The proposed amendments to the Operating Rules remain subject to the usual regulatory clearance process by ASIC and RBA.**

## **Next Steps**

The proposed amendments to Rules 5-7 of the Futures Operating Rules are subject to approval by Futures Clearing Participants. The other changes to the Operating Rules that form part of this package and are required to implement the OTC Clearing Service will only be made by ASX if the proposed amendments to Rules 5-7 are approved by Futures Clearing Participants.

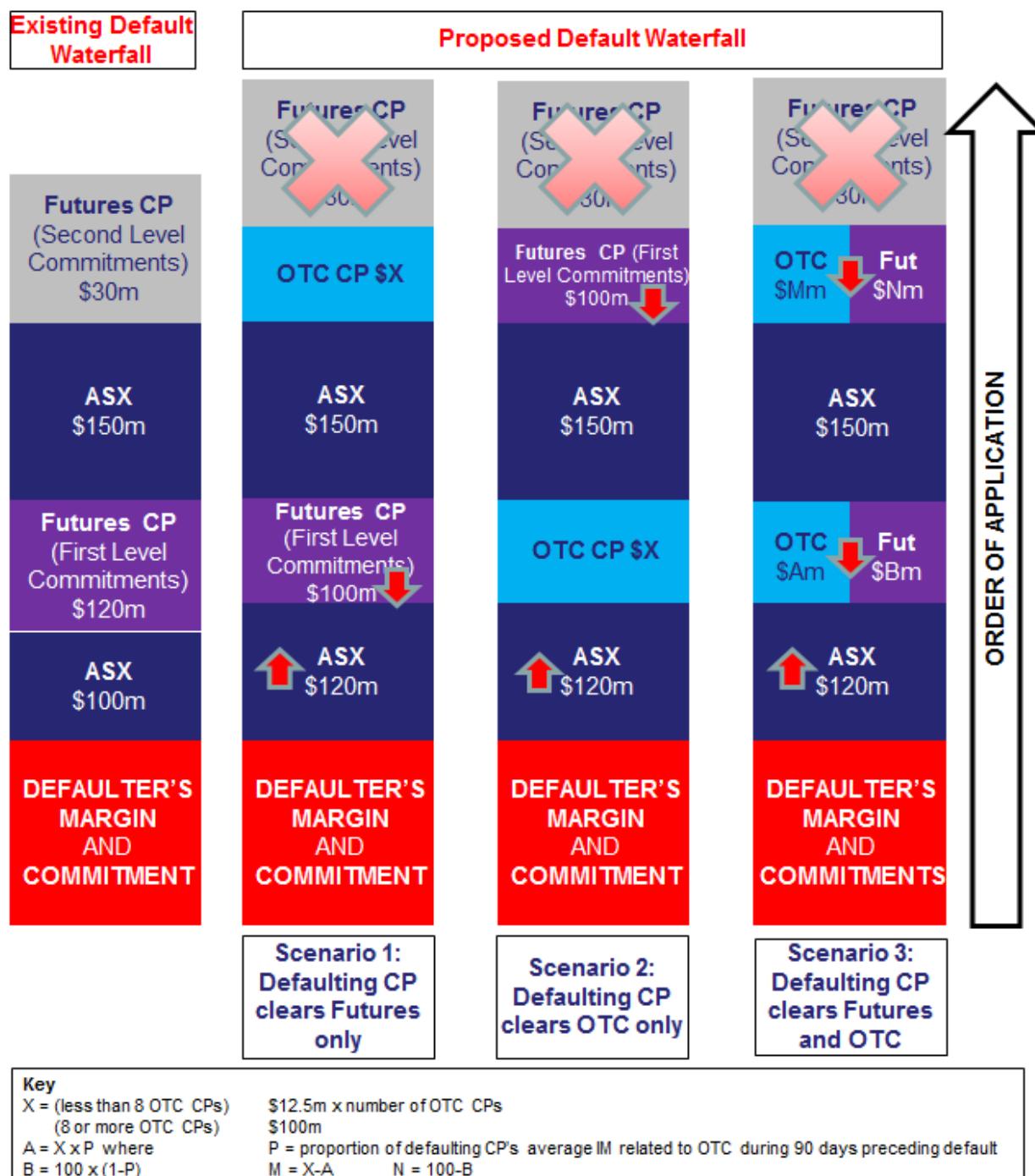
# Schedules

## Schedule 1: List of Non-confidential Respondents

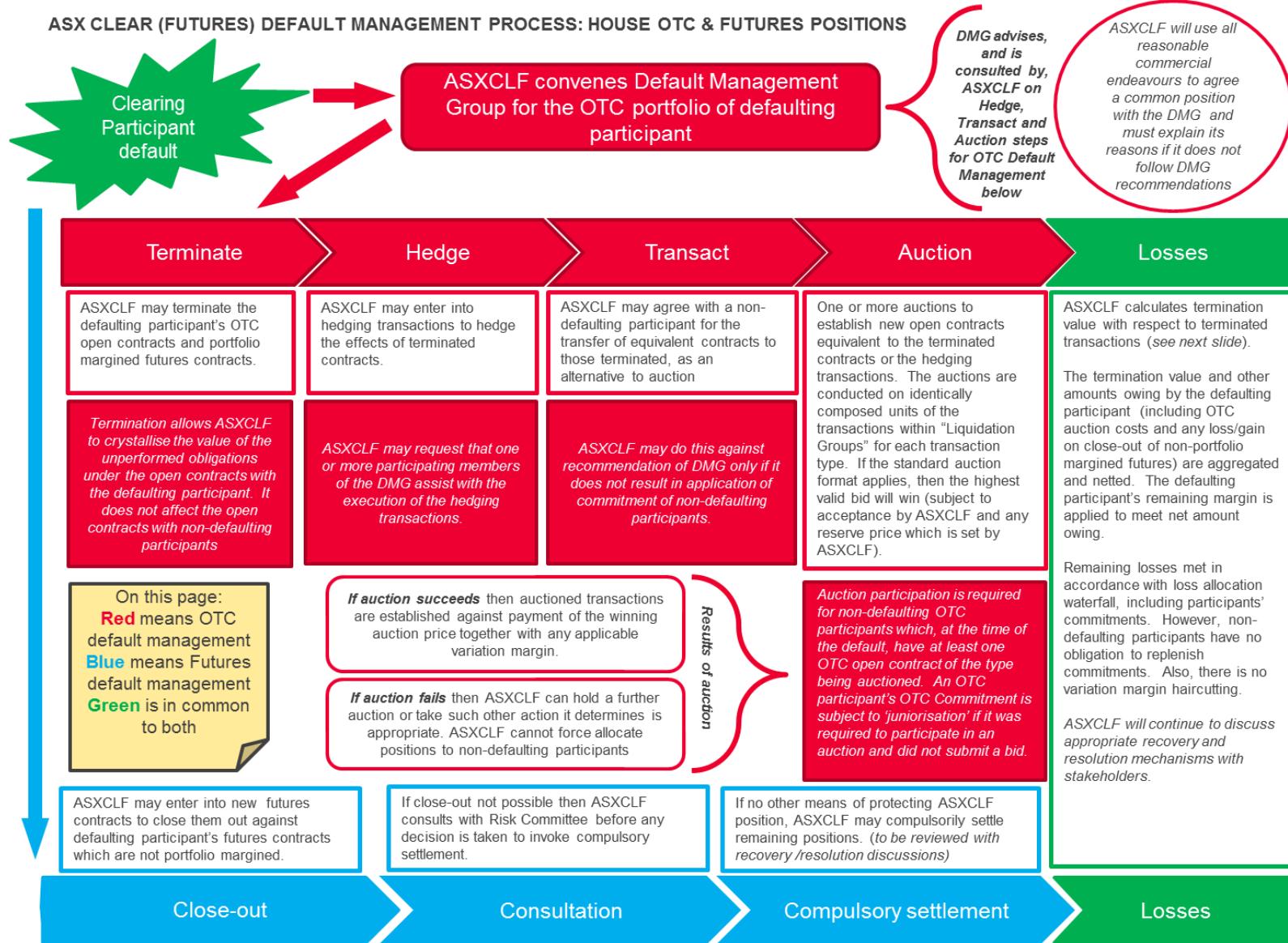
- ISDA
- AFMA

ASX has published the non-confidential submissions at <http://www.asx.com.au/clearing/otc-irs-clearing.htm>.

## Schedule 2: Default Fund (revised)

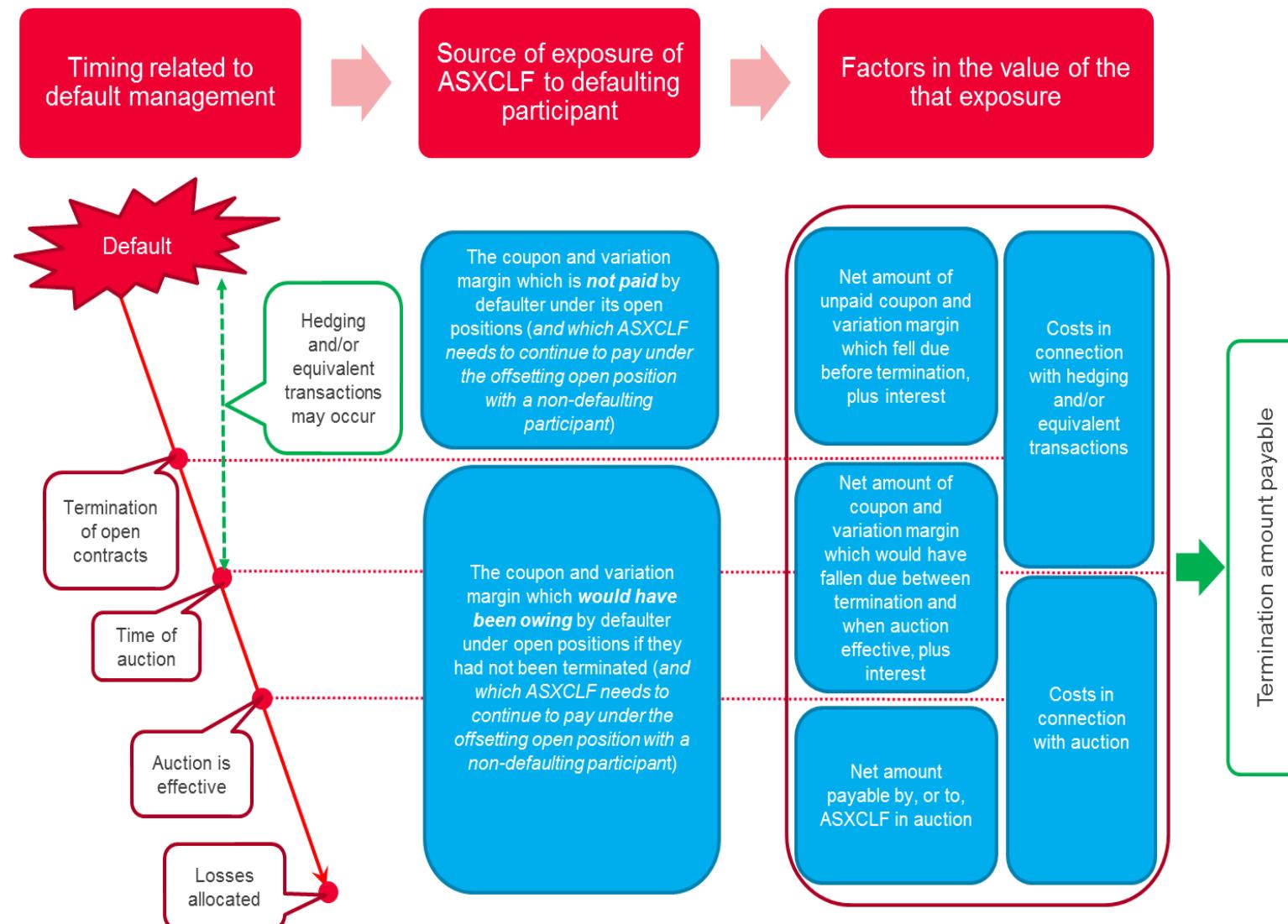


## Schedule 3: Default Management Process Overview



## Schedule 3: Default Management Process Overview (cont.)

### ASX CLEAR (FUTURES) DEFAULT MANAGEMENT PROCESS: CALCULATION OF TERMINATION VALUE FOR TERMINATED TRANSACTIONS



## Schedule 4: Table of substantive feedback and ASX responses

No.	Key Issue	Comment	ASX Response
<b>OTC RULES AND HANDBOOK</b>			
<b>Participation and General</b>			
1.	Participant eligibility criteria	<p>Jurisdictional nexus should be broader to include corporations, financial institutions (other than Australian banks) or foreign branches of foreign banks with a history of financial, business standing and repute.</p> <p>However, consideration needs to be given to whether there are negative consequences and whether this may introduce additional risk.</p>	<p>ASX intends to maintain its proposed eligibility criteria for Phase 1 (dealer-to-dealer clearing) due to potential foreign regulatory implications that may be caused by broadening the scope of eligible participants to include wholly offshore entities. Further consideration of eligibility criteria and ongoing participation requirements for remote clearing is also required. ASX will revisit the participant eligibility criteria, and in particular the jurisdictional nexus, as part of the development of its client clearing service.</p> <p>ASX intends to accept for clearing in Phase 1 trades executed through or booked in overseas branches or related entities of a CP, subject to confirmation that no additional overseas regulatory obligations apply to ASX. OTC Rule 4.2 has been modified accordingly.</p>
2.	Product Committee	ASX should clarify the circumstances in which it wouldn't accept the recommendations of the Product Committee.	<p>Two examples of circumstances where ASX would not accept a Product Committee recommendation are where:</p> <ul style="list-style-type: none"> <li>the recommendation was unsupported by a business case demonstrating net benefits to ASX and its customers;</li> <li>the recommendation was contrary to the licence or other regulatory obligations of the ASX. These include the obligation to do all things necessary to reduce systemic risk and to provide its services in a fair and effective way.</li> </ul>

No.	Key Issue	Comment	ASX Response
3.	Product Committee	If ASX is not obliged to adopt Product Committee's recommendations there should be strict governance model around service enhancement and additional products for clearing. Product Committee should have a "veto" power over ASX's suggested course of action.	The ASX Clear (Futures) Board is responsible by law for the discharge by the CCP of its regulatory obligations. The ASX Board cannot fetter its ability to discharge those obligations by subordinating itself to a veto of the Product Committee. However, ASX is agreeing to consider all Product Committee recommendations in good faith and to either act on those recommendations or explain why it cannot act. ASX recognises that the success of its OTC Clearing Service depends on its responsiveness to customer requirements. ASX's review of the practices of other CCPs internationally is that recommendations of the Product Committee (where there is a Product Committee) generally are not binding on the CCP.
4.	Termination of OTC Clearing Service	Further details required on termination trigger and process for CCP service. Will the Risk Committee be involved in the decision-making?	ASX has committed to provide the OTC Clearing Service for at least 5 years from launch. After that period (or any extension), ASX reserves (but does not expect to exercise) the right to discontinue the service. The notice and other process requirements for discontinuation are outlined in the OTC Rules (Rule 2.12) in terms that are similar to those of SwapClear.  OTC Rule 2.12 has been modified to require ASX to consult OTC CPs in relation to any proposal to terminate the clearing service. The Risk Committee mandate (Futures Rule 20) has been modified to expressly include termination of ASX's clearing service.
5.	Termination of OTC Clearing Service	Need more transparency around ASX's determination of the price at which terminated OTC open contracts will be cash settled.	ASX proposes that the price at which terminated OTC open contracts will be cash settled will be determined by reference to the last OTC Daily Closing Value. OTC Rule 2.12 has been modified accordingly.
<b>Commitments and Financial Requirements</b>			
1.	Financial requirements	Consider requiring an OTC CP's capital to be more than x% of the average monthly figure of its IM.	This is effected by Capital Based Position Limits (CBPL). The Futures Rules incorporate a power for ASX to impose Capital Based Position Limits on OTC CPs.

No.	Key Issue	Comment	ASX Response
2.	Financial requirements	AUD 50m is not a very high threshold. Higher financial requirements would lead to better quality members. However the level is appropriate to maintain ability to obtain DCO status.	ASX intends to maintain its proposed financial requirements for OTC CPs, which are aligned with CFTC requirements for Derivatives Clearing Organisations.
3.	Commitments	Require details of the anticipated time frame for the scaling-up process for variable OTC commitments.	<p>The trigger points for the scaling up process for OTC Commitments have been clarified. Aggregate OTC Commitment will be equal to:</p> <ul style="list-style-type: none"> <li>• (where there are less than eight OTC Clearing Participants) \$12.5mn x Number of OTC Clearing Participants, however if: <ul style="list-style-type: none"> <li>○ total OTC initial margin (including offsetting futures) reaches \$500mn;</li> <li>○ all OTC Clearing Participants concur; or</li> <li>○ a competent regulatory authority so directs ASX,</li> </ul> aggregate OTC Commitment will increase to \$100mn at the next scheduled quarterly rebalancing date for participant Commitments;</li> <li>• (where there are eight or more OTC Clearing Participants) \$100mn.</li> </ul> <p>Where aggregate OTC Commitment is:</p> <ul style="list-style-type: none"> <li>• less than \$100mn, each OTC Clearing Participant will provide a Commitment of \$12.5mn (flat rate);</li> <li>• \$100mn, each OTC Clearing Participant will provide a Commitment comprising a fixed component (\$5mn) and a variable component (based on each CP's relative share of IM and sufficient to bring aggregate OTC Commitment to \$100mn), from the first quarterly rebalancing date on or after which aggregate Commitment is required to be \$100mn.</li> </ul>

No.	Key Issue	Comment	ASX Response
			If one or more CPs join between quarterly Commitment rebalancing dates, ASX may, for the remaining portion of that quarter, hold more than \$100mn. This is consistent with the treatment of new Futures CP Commitments.
4.	Commitments	Seeks clarity as to the likely size and timing of any additional commitments and further details regarding the governance process that will be followed prior to the establishment of client clearing.	ASX Group will provide the next \$100mn, added in increments as required, if total Commitment requirements increase beyond \$470mn for the single default fund in the future. This will protect CPs from growth in cleared market risk in OTC and Futures and the impact of emerging regulatory changes.  Aggregate CP Commitments can only be increased with the approval of a majority of CPs, and regulatory clearance.
5.	Commitments	There should be a grace period to enable OTC Clearing Participants to source extra funds needed for an increase in the OTC Commitments.	Appropriate notice of any increase in aggregate CP Commitments will be provided, as increases are subject to the approval of a majority of CPs, and regulatory clearance.
6.	Commitments	The AUD100m (or AUD 12.5m per Clearing Participant) figure is relatively high for Singapore and Japanese branches. It will perhaps be useful to mention the treasury return for the default fund contribution to ease the way for internal membership approval discussions.	ASX will increase the returns paid to Clearing Participants on Commitments by an additional 50 bps, to 150 bps above OCR. ASX will pay the same rate of return on Futures and OTC Commitments.
7.	Commitments	What comfort can be given to Futures-only CPs that the capital OTC CPs introduce is commensurate with increased exposure?	ASX continually monitors the sufficiency of its financial resources through its daily stress testing of CPs' open positions and will extend its current processes to facilitate the launch of the OTC Clearing Service. The Risk Committee will receive reports of stress testing exposures on a regular basis.  In order to model potential exposure from OTC Clearing Service, ASX used trade data from its 2012 design study with the largest nine Australian and international banks active in the A\$ interest rate swap

No.	Key Issue	Comment	ASX Response
			<p>market to obtain stress testing and margin estimates. This indicated that aggregate OTC Commitments of \$100mn would be sufficient once the OTC Clearing Service is established.</p> <p>ASX has also committed that should volumes grow significantly such that a further increase to the default resources is required, ASX Group would provide the next \$100mn of funds.</p> <p>Furthermore, the Risk Committee will also receive metrics on a regular basis designed to determine the continuing appropriateness of a single default fund and the ASX Board will formally review it on an annual basis.</p>
8.	Commitments	<p>Concerned that new OTC Commitments:</p> <ul style="list-style-type: none"> <li>• are capped at \$100mn in contrast to \$120mn from futures clearers; and</li> <li>• do not include a Second Level Commitment in contrast to futures clearers.</li> </ul>	<p>Following feedback received by ASX in this consultation process, ASX is amending its proposed default waterfall to address concerns over the asymmetry of risks between OTC and Futures CPs:</p> <ul style="list-style-type: none"> <li>• Futures CP commitments will be reduced from \$120mn to \$100mn</li> <li>• ASX Group will inject a further \$20mn, ahead of the first CP tranche</li> <li>• Futures CP's secondary commitment requirements will be deleted from the Rules</li> </ul> <p>It should also be noted that the efficacy of the distribution of risks relative to the provision of capital in the default waterfall will be continually monitored. Reports will be shared with the Risk Committee which will be able to recommend any changes to the default waterfall.</p>

No.	Key Issue	Comment	ASX Response
9.	Commitments	Variable commitments should be calculated monthly (and not quarterly).	ASX proposes to keep the calculation of variable commitments as a quarterly calculation because although OTC could be calculated at one month intervals, there is merit in aligning them with futures exposures, which have a natural three month cycle.
10.	Commitments	There should be a minimum number of CPs before the service can commence.	ASX agrees that there needs to be a minimum number of CPs for the service to commence. Determining that number is a matter of judgement for ASX, having regard to the size of business of initial OTC CPs and the time at which they wish to commence clearing, to ensure the service can operate effectively in accordance with ASX's regulatory obligations.
11.	Commitment of new CP	What would happen to the commitment of a new CP that has not commenced clearing in a default?	A CP's Commitment is at risk from the effective date of its participation, irrespective of whether it has open positions.
12.	Commitments	From a liquidity perspective preferable if Commitment must be in cash.	<p>Commitments from OTC CPs will be required to be in cash, consistent with the Financial Stability Standards. However, ASX acknowledges that existing Futures CPs may not be in a position to replace the letters of credit provided as Commitment by the commencement date of the OTC Clearing Service.</p> <p>The conversion of Futures CP's letters of credit to cash will potentially be the subject of future rule changes relating to the Financial stability Standards following formal consultation.</p>
13.	Variable Commitments	Variable Commitments should be based on the aggregate risk of the cleared OTC contracts instead of cleared volume.	This is already proposed. Once the aggregate Commitment of OTC CPs is \$100mn, the variable component of the OTC Commitments will be calculated using a risk measure: initial margin. Initial margin is based on open positions of CPs rather than cleared volume.

No.	Key Issue	Comment	ASX Response
<b>Registration</b>			
1.	Related entity transactions	<p>Can a CP submit trades on behalf of related entities (including NZ entities)?</p> <p>Suggest that ASX should consider including affiliate clearing as part of dealer-to-dealer clearing (i.e. affiliates should not be treated as clients).</p>	<p>ASX intends to accept for clearing in Phase 1 trades executed through or booked in overseas branches or related entities of a CP, subject to confirmation that no additional overseas regulatory obligations apply to ASX. Analysis of the potential offshore licensing requirements will be undertaken by ASX as CPs notify ASX of the overseas branches or related entities in respect of which they wish to submit trades. A CP that clears through ASX a trade executed through a related entity will be liable to ASX as principal for the performance of all clearing obligations in respect of the trade. OTC Rule 4.2 has been modified accordingly.</p>
2.	ASX deferral of acceptance	<p>The ability of ASX to defer acceptance (because intraday calculation indicates OTC CP is approaching exposure limit) removes certainty of registration and should be for a very short time period only. Require clarity on process and time limits.</p> <p>Suggest margin 'buffer' be put in place for CPs given no pre-trade collateral check.</p> <p>More detail on risk-based limit check required.</p>	<p>ASX acknowledges the need for rapid registration and accordingly chose an 'enhanced futures style approach' to novation. Trades would only be deferred if the per trade risk-based limit check was failed. Circumstances where an exposure limit was being approached would not cause a deferral or rejection but, in extremis, were an exposure limit to be breached and the Participant be unwilling to provide more collateral, a trade may be rejected.</p> <p>ASX will assist CPs to manage exposure limits by permitting CPs to maintain excess margin with ASX. The submission of excess margin will assist intraday registration speed, and is encouraged but will not be mandated.</p> <p>The details of the risk-based limit check are yet to be finalised and will be subject to ongoing review and amendment where necessary. It is ASX's intention that the limit will be per trade and based on a publicly available risk metric, such as PV01, that protects the CCP from novating trades that present significant unacceptable risks to the CCP, caused, for instance, by 'fat finger' errors.</p>

No.	Key Issue	Comment	ASX Response
3.	Novation	Clarity required regarding the ASX's proposed trade acceptance time and criteria in order to ensure compliance with Dodd-Frank.	Refer to FAQ for more information about trade registration. ASX is aware of the CFTC's trade registration requirements for Derivatives Clearing Organisations (DCOs), and notes that those requirements will not apply to ASX until such time as it obtains DCO registration.
4.	Novation	We would be interested in understanding more about ASX's comment that novation "potentially facilitates swap execution facilities". We do support ASX's forward thinking to ensure its OTC Clearing Service facilitates linkages with swap execution facilities.	ASX's 'enhanced futures style approach' to novation facilitates swap execution because it does not require pre-collateralisation of cleared exposures. A pre-collateralisation requirement could be a significant impediment to the efficient operation of swap execution facilities.
5.	Trades submitted outside hours	Provide clarity on procedure and process for OTC contracts submitted outside hours.	Refer FAQ for more information about trade registration.
6.	Rebilateralisation	When would ASX rebilateralise OTC contracts (other than at the request of the original contracting parties)? At what price would those contracts be invoiced back? Concerned about uncapped liability.	Rebilateralisation of cleared trades can occur only with a request by the CPs on both sides. There is no invoicing back by the CCP in this event: the terms of the rebilateralised contract will be as agreed between the original counterparties. Accordingly, no question of uncapped liability arises.  OTC Rule 4.13 has been modified to make it clear that rebilateralisation of OTC Open Contracts is only by agreement of the CPs on both sides and is not to be directed by ASX.
7.	Transfers	We seek clarity on the operational aspects of a transfer of OTC Open Contracts, such as the handling of fees, margin etc.	Refer FAQ for more information about transfers.
8.	Transfers	Will the transfer of OTC Open Contracts (under OTC Rule 4.14) be done with the agreement of the transferee Clearing Participant?	Yes. OTC Rule 4.14 says: "The OTC Participant to which the OTC Open Contact is to be transferred must consent to the transfer before it can be effected."

No.	Key Issue	Comment	ASX Response
9.	Portfolio compression	We seek clarity on the practical implementation of the portfolio compression process.	Refer FAQ for more information about portfolio compression.
<b>Accounts and margin</b>			
1.	Accounts	<p>Believe separate House Accounts are necessary – i.e. one including OTC contracts and portfolio-margined futures, the other non-portfolio-margined futures, because:</p> <ul style="list-style-type: none"> <li>• differing capital calculations and reporting requirements apply to OTC and Futures;</li> <li>• a single House Account could cause increased complexities within a Clearing Participant's own systems and reporting.</li> </ul>	ASX treats all of a CP's own cleared exchange traded derivatives, OTC derivatives positions and collateral as being in a single legal House Account for the purposes of enabling a single net settlement between ASX and the CP on a daily basis. To facilitate appropriate levels of disaggregation between a CP's exchange traded derivatives and OTC derivatives portfolios, ASX provides a number of Operational Accounts across separate systems. This would facilitate CP reconciliation of calculations performed by ASX in the provision of its clearing service. Refer to the Account Structure and Cross-Margin Fact Sheet (via the FAQ) for further information.
2.	Initial Margin	<p>Issues of bankruptcy remoteness may not be able to be fully resolved through the structure proposed by the ASX as the operation of applicable insolvency laws is crucial to this analysis.</p> <p>ASX to provide a legal opinion to indicate proposed approach is bankruptcy remote as specified in APS 112.</p>	ASX will provide appropriate Australian law legal opinions when it introduces a bankruptcy remote collateral holding structure (not Phase 1).
3.	Initial Margin	Require a transparent investment policy	ASX will publish its investment policy in accordance with its regulatory obligations. An outline of the investment policy is contained in the ASX Group's 2012 Annual Report, available at: <a href="http://www.asxgroup.com.au/media/PDFs/ASX_Full-Year_Annual_Report.pdf">http://www.asxgroup.com.au/media/PDFs/ASX_Full-Year_Annual_Report.pdf</a> (refer to the notes to the accounts at pages 62-67).

No.	Key Issue	Comment	ASX Response
4.	Initial Margin	ASX should have defined investment parameters to protect the Clearing Participants' collateral. The primary aim should be to reduce interest rate, investment and credit risk but still maintain liquidity.	ASX's investment policy, and its compliance with the policy, is subject to continuous review and assessment by the Reserve Bank. The policy incorporates conservative credit risk and liquidity parameters.
5.	Initial Margin	The house collateral should be adequately segregated from the CCP's own assets. Collateral posted should be held by a custodian, in order to obtain a 0% risk weighting under Basel III.	Collateral for initial margin requirements is held on ASX's balance sheet, with appropriate book level segregation from ASX's own assets. ASX bears the investment risk on its investment of the collateral. ASX will continue to consult CPs and clients on bankruptcy remote collateral holding arrangements. As indicated in ASX's February Consultation Paper, those arrangements will not be implemented as part of Phase 1 of the OTC Clearing Service.
6.	Additional IM	Will there be a CP and/or CCP level cap on bank bills/NCDs?	Yes. OTC Rule 5.4 provides ASX with a broad discretion whether to accept particular property as Securities Initial Margin. This rule has been modified to permit ASX to prescribe caps on the aggregate amount of non-cash collateral that has been lodged in satisfaction of AIMs, whether on a CP or other basis, as determined by ASX.
7.	Intra-day margin and Extra margin	Further details on how OTC Intra-day margin and Extra margin are calculated, and the timing and frequency of calls and settlement, is required.	Refer FAQ for more information about intra-day and extra margin.
8.	Variation Margin	We seek clarity on the process for the final settlement cash flows for variation margin – will margin be incorporated as part of the cash flow settlement amount and one payment made to ASX or will margin and cash flow settlement be 2 separate payments to ASX?	Margin will be incorporated as part of the cash flow settlement amount and one payment made to/by ASX. Refer to the FAQ for more information.
9.	Portfolio-margining	Cross-margining should be limited to Futures contracts which are the natural hedges of OTC contracts.	Only sufficiently liquid and correlated futures contracts will be eligible for portfolio margining. ASX's selection of futures contracts for this purpose is subject to regulatory oversight by the Reserve Bank.

No.	Key Issue	Comment	ASX Response
10.	Portfolio-margining	ASX needs to demonstrate that the benefit provided by portfolio margining will not financially disadvantage other members where a combined OTC and Futures CP defaults.	ASX's portfolio margining approach is consistent with its licence obligations to comply with standards for prudent CCP risk management, to operate a fair and effective clearing facility and to do all other things necessary to reduce systemic risk. The Reserve Bank assesses annually and publically ASX's compliance with those obligations.
11.	Portfolio-margining	More operational details around portfolio-margining required.	Refer to the FAQ for more information about portfolio margining.
12.	Portfolio-margining	We seek further details on the risk parameters ASX will use in its margin calculation. Will ASX be providing a margin calculator such as the one provided by CME?	<p>The key risk parameters ASX will use in its margin calculation are set out below.</p> <p>Variation Margin:</p> <ul style="list-style-type: none"> <li>Number of 90d BAB futures contracts used to construct BBSW curve: 8 (contracts 2 – 9)</li> <li>Note: most key VM features are structural rather than parametric (e.g. instrument selection, discounting method, curve fitting &amp; interpolation techniques, etc)</li> </ul> <p>Initial Margin:</p> <ul style="list-style-type: none"> <li>Confidence interval: 99.7%</li> <li>Holding period: 5 business days</li> <li>Simulation history: 5 years</li> <li>Volatility filtering decay rate: TBD, but estimated at 0.97</li> <li>Volatility floor: TBD</li> </ul>

No.	Key Issue	Comment	ASX Response
			<ul style="list-style-type: none"> <li>Liquidity add-ons: TBD, but will be based on the incremental close out costs above observed market levels for transaction sizes that are deemed by Clearing Participants (via ASX survey) to move market prices</li> </ul> <p>Additional Initial Margins (AIMs) based stress testing:</p> <ul style="list-style-type: none"> <li>Holding period: 5 business days</li> <li>Benchmark parallel curve shift: TBD based on modelling of futures basis risk, but starting at an average of 17% U &amp; D (relative shift) before any basis risk is added</li> </ul> <p>Note: most key ST features are structural rather than parametric (e.g. combinations of risk scenarios, recognition of futures offsets, etc) ASX will provide a margin calculator. In the first instance it will be a standard simulator from ASX's primary clearing platform provider (Calypso), and not a bespoke simulator.</p>
<b>Default Management Process</b>			
1.	Default Management Process	General need for more clarity and granularity regarding the default management (including auction) process.	There is necessarily a limit to the amount of granularity that can be provided in the rules and procedures, as these are intended to provide a framework for decision making and must be flexible enough to operate effectively in any given default situation. ASX's draft rules contain at least as much detail on the default management and auction processes, and in some respects considerably more detail, as other CCPs such as SGX, CME, SwapClear, JSCC and Eurex.

No.	Key Issue	Comment	ASX Response
2.	Events of default	Clarify whether ASX proposes to follow the ISDA definitions specific to an asset class (moratorium, restructure etc)	Yes. The OTC Eligibility Criteria and OTC Terms set out in Schedules 1 and 2 of the OTC Handbook set out the key terms of each Transaction entered into between the parties. As the OTC Terms at present are only designed to cover interest rate swap transactions, the 2006 ISDA Definitions are incorporated (as amended by the OTC Terms). Restructuring and moratorium adjustment events are not relevant to interest rate swaps. However, when ASX extends its clearing offering to other classes of derivative transaction, it is envisaged that the relevant ISDA definitions applicable to the particular type of transaction will be incorporated into the OTC Terms.
3.	DMG composition	Only one DMG is required. Need to clarify DMG's proposed composition in terms of futures-only, OTC-only and futures and OTC CPs.	The DMG is convened for default by an OTC CP and will comprise a selection (rotational) of non-defaulting OTC CPs (who may or may not also clear futures).  ASX intends to retain flexibility to convene multiple DMGs (e.g. separate DMGs for different Liquidation Groups).
4.	DMG recommendations	ASX should be bound by DMG recommendation	The ASX Clear (Futures) Board is responsible by law for the discharge by the CCP of its regulatory obligations. The ASX Board cannot fetter its ability to discharge those obligations by agreeing to be bound by the decisions of the DMG. However, ASX is agreeing to use all reasonable commercial endeavours to agree a common position with the DMG in relation to its recommendations (OTC Rules, Schedule 3, clause 1.8). This is consistent with the approach of CME, SwapClear and Eurex in relation to advice provided by equivalent bodies.
5.	DMG recommendations	If ASX does not follow DMG recommendation it should follow an "if not why not" approach	The Default Management Process (OTC Rules, Schedule 3, clause 1.8) has been modified to require ASX, where it does not follow a DMG recommendation, to explain its reasons to the DMG.

No.	Key Issue	Comment	ASX Response
6.	DMG recommendations	DMG should be under an obligation to act in the collective interests of CPs	The Default Management Process (OTC Rules, Schedule 3, clause 1.7) requires DMG members to assist ASX to ensure the ongoing integrity of the clearing facility, which is in the collective interests of all non-defaulting CPs.
7.	DMG recommendations	The role of the DMG should be enhanced so that the necessary expertise and skill in managing the risks of the CCP will be handled by those whose contributions are at risk.	ASX's proposed rules give the DMG a mandate comparable to the mandates given to equivalent bodies by the rules of CME, SwapClear and Eurex. As the licensed operator of a CCP, ASX is subject to stringent regulatory requirements and oversight with respect to the skills, expertise and resourcing necessary to operate the CCP and to manage defaults.  With regard to those whose contributions are at risk, ASX is appropriately incentivised to ensure that any default event is well managed, as over 50% of the default waterfall resources of \$470mn will be contributed by ASX, and of that contribution \$120mn will be first at risk in the waterfall.
8.	Fire drills	The ASX should commit to regular fire drills in relation to the auction process and convening of a DMG.	ASX is committing to at least one and no more than three fire drills per year (refer to the Default Management Process (OTC Rules, Schedule 3, clause 4)).
9.	Auction	Recommend defaulting CP's portfolios should be divided into sub-portfolios.  Based on the concentration anticipated due to the big 5 Australian Banks, limiting the size of the auction lots to manageable sizes may be appropriate.	The Default Management Process (OTC Rules, Schedule 3, clause 1.4) provides a framework for a defaulting CP's portfolio to be divided into sub-portfolios, but in order to preserve flexibility does not require this.

No.	Key Issue	Comment	ASX Response
10.	Auction	<p>OTC and Futures should be separately auctioned unless closely offsetting.</p> <p>If a Futures contract has been nominated for cross-margining, then this Futures contract should be 'moved' to the OTC Clearing Service and be auctioned with the OTC Contracts in the event of a default.</p> <p>The possibility of splitting out the Futures and OTC auctioning process may cause issues and increase risk with associated portfolio margining or collateral arrangements.</p>	<p>ASX will only auction OTC positions, portfolio-margined futures positions and any related hedges. ASX does not propose to auction futures positions of a defaulting CP that have not been portfolio-margined. Existing default management procedures (i.e. on-market close out) will apply to non-portfolio-margined futures. Refer to the Default Management Process Overview.</p> <p>Futures eligible to be cross-margined are based on related interest rate products with each CP selecting the open positions it wishes to include in the portfolio margining. As a result, the futures included in an auction will naturally tend to be offsetting. Even if this were not the case, the hedging process that precedes the auction would ensure that all futures positions in the auction comprised a hedge for OTC or other futures positions. In constructing the hedge, it is possible that any futures not naturally offsetting the OTC portfolio would be closed out.</p>
11.	Auction	Do not think it is prudent to mandate a CP to bid on a combined portfolio of OTC and Futures.	<p>The auction process is central to the default management process. Good quality bids are important to the efficacy of the process and the minimisation of risk to the CCP, the providers of its capital and the wider market. Mandating all OTC Participants that are active in the relevant transaction types to bid on the portfolio will ensure the most competitive process. Removal of futures from the auction portfolio, to be closed out in another process, increases the risks and prevents ASX from using futures to hedge the OTC portfolio. In practice, all OTC Participants are large users of the ASX24 futures products and arrangements are in place to accommodate those that are not Futures CPs.</p>
12.	Auction	Under what circumstances can a bid be rejected?	In any circumstances affecting the integrity of the auction process, e.g. evidence of collusive bidding.

No.	Key Issue	Comment	ASX Response
13.	Auction	When would an auction be a failed auction?	For example, where no bids are received, or where the best bid would result in the failure of the CCP.
14.	Auction	What action could ASX take if the auction fails (are invoicing back / forced allocation permitted)?	Given ASX's "hedge then auction" approach, ASX could hold the hedged portfolio until market conditions improve and seek to auction again, probably having established a finer hedge in the meantime. Alternatively, ASX could seek to dispose of the hedged portfolio through negotiation (bilaterally). Invoicing back and forced allocation are not permitted. The OTC Rules have been modified to ensure clarity (Schedule 3, clause 3.1).
15.	Auction	There should be no reserve price for a DM auction (this would be an arbitrary price set by ASX).	The setting of a reserve price requires the CCP to make an ex ante judgement about the lowest price it would be prepared to accept. In ASX's view this enhances the integrity of the auction process. ASX needs to retain the flexibility to set reserve prices.
16.	Auction	Unnecessarily complicated to use auction units, minimum prices and permissible spreads. Auction bidders have market awareness to price portfolios appropriately.	ASX needs to retain the flexibility to divide a defaulting CP's portfolio into auction units and to set reserve prices, to allow it to implement the optimum auction strategy.  The OTC Rules have been amended to remove the concept of permissible spreads, as juniorisation will apply only to non-bidders initially.
17.	Auction participation	There should be a minimum of 3 CPs in an auction	ASX intends to retain flexibility to permit an auction to proceed with only 2 bidders.  Under the operating rules of SGX, JSCC, CME, SwapClear and Eurex, no minimum number of participants required to participate in an auction is specified.

No.	Key Issue	Comment	ASX Response
18.	Auction participation	<p>How will ASX determine that the non-defaulting CP has the capacity to take on the OTC and/or futures portfolio? Will ASX determine that a Clearing Participant does not need to be in the auction process if that non-defaulting Clearing Participant is already under duress from the prevailing market conditions, whether or not caused by the defaulting Clearing Participant?</p> <p>ASX may want to take into account an OTC Clearing Participant's ability in making a market in the product class that is being auctioned and its operational capacity and financial ability to bid on a large portfolio of OTC and Futures contracts.</p>	<p>CPs that are required by the default auction rules to bid for a portfolio (or part of a portfolio) – that is, where the CP has at least one open contract in the relevant Liquidation Group at the time of the default – have a legal obligation to bid. It is incumbent on CPs to ensure they have the capacity to bid where they are required to do so and to accept any portfolio they may win at auction. A failure to comply with this obligation is a breach of the rules and itself an event of default.</p> <p>ASX proposes to undertake pre-auction risk checks. The Default Management Auction Procedures (OTC Handbook, Schedule 4, clause 5.2) permit ASX to take into account the relative exposure of bidders with respect to each Liquidation Group in setting bidding requirements for the Liquidation Group. Given that the portfolio will be hedged at that stage, risks are more likely to relate to operational concerns than margin/exposure concerns. ASX retains a power to waive the requirement to bid. That power may be exercised in extenuating circumstances (for example, where ASX is directed by regulators to excuse a financially distressed CP from bidding).</p>
19.	Auction participation	ASX should not have the ability to waive the requirement for a Mandatory OTC Participant to participate in the auction.	ASX intends to retain the power to waive the requirement to bid. That power may be exercised in extenuating circumstances (for example, where an OTC-only CP's futures clearer is the entity in default).
20.	Auction participation	The proposed 'no positions, no participation' policy could limit the possibility of the auction.	ASX recognises that not all OTC CPs are active in, or have the capacity to clear, all OTC currencies or tenors. Accordingly, ASX intends to adhere to its proposed 'no positions, no participation' policy. This will ensure that non-defaulting CPs are not required to bid for contracts of a type which they do not have the capacity to accept.
21.	Contingency plan	What is ASX's contingency plan in the event that a winning bidder's Futures Clearer refuses to take on the futures positions or cannot take on the future positions because it is the defaulting participant?	On admission, ASX will require evidence of the OTC-only CP's arrangement with a Futures CP and this arrangement must remain in place. This is the obligation of the OTC CP.

No.	Key Issue	Comment	ASX Response
			<p>However, if a winning bidder's futures clearing arrangement is not available for any reason (for example, because the Futures CP declines to accept the futures positions) , ASX may seek to:</p> <ul style="list-style-type: none"> <li>• arrange an alternative Futures CP as the winning bidder's new Futures CP (with the alternative Futures CP's consent); or</li> <li>• put in place temporary arrangements to allow the winner to itself hold the Futures portfolio as a Futures CP; or</li> <li>• accept the next best bid.</li> </ul>
22.	Transfers and bankruptcy regime	<p>For the default management process to work it is essential that the Australian bankruptcy regime allows ASX to transfer the defaulting Clearing Participant's portfolio to a non-defaulting Clearing Participant. The assets held by ASX should not be used in the resolution of the defaulting Clearing Participant. The defaulting Clearing Participant's assets should be easily transferred to the counterparty of the trade in the event of a close-out or to the non-defaulting Clearing Participant in the event of an auction or transfer of portfolio.</p> <p>We hope ASX would be able to provide a legal opinion that enforces this as well as for other bankruptcy regimes in jurisdictions in which a Clearing Participant may be incorporated.</p>	<p>Legal certainty in Australia in relation to ASX's exercise of its default management powers is given by the Payment Systems and Netting Act 1998 (Cth) (PSNA). As all collateral provided by a CP is titled-transferred to ASX, it will be located in Australia, and all open contracts will be subject to Australian jurisdiction and therefore within the ambit of the PSNA. Accordingly, the legislation of foreign jurisdictions would not be relevant to the enforcement of ASX's default management powers.</p>
23.	Alternative to auction	<p>As an alternative to an auction, the Rules should enable CCPs to novate any contracts from the defaulted CP to a non-defaulted CP who is willing to take on the position (reflected in rules of LCH and HK)</p>	<p>The Default Management Process allows for the defaulter's portfolio to be transferred to a non-defaulting participant (OTC Rules, Schedule 3, clause 3.1(a)), as an alternative to auction.</p>

No.	Key Issue	Comment	ASX Response
24.	Juniorisation	<p>Require clarity around juniorisation mechanism. What factors will be used by ASX to determine a bid is unrepresentative of market value?</p> <p>Trends observed offshore indicate that bidding for defaulted portfolios has been highly competitive. As such it is expected that Clearing Participants will be appropriately incentivised to participate in the auction.</p>	Juniorisation of non-bidders, or non-competitive bidders, is a common practice among CCPs internationally. ASX intends initially to make rules for juniorisation of non-bidders only, and to continue to discuss with OTC Participants (through the Risk Committee) the possibility of introducing rules for juniorisation of non-competitive bidders in a way that responds to stakeholders' desire for an objective and measured approach.
25.	Juniorisation	<p>What is the extent of the proposed juniorisation? Does it (i) extend to only that portion of the Commitment that reflects the product(s) in the Liquidation Group not bid for, or which may constitute a bid unrepresentative of such product(s) market value and/or (ii) become subject to a capped limit reflective of the proportion of the Participant's non-bid to the defaulting portfolio product(s) or otherwise?</p> <p>Will there be a right to object to a finding of 'bids unrepresentative of market value' and a review process?</p>	<p>A participant may be juniorised up to the full amount of its OTC Commitment – this is a capped amount. The extent of juniorisation is not dependent on the "extent of non-compliance" of the non-bidder.</p> <p>Juniorisation will apply to non-bidders only so no objection/review process is required.</p>
26.	Juniorisation	Juniorisation should be subject to a defined cap.	A participant may be juniorised up to the full amount of its OTC Commitment – this is a capped amount.
27.	Juniorisation	Concerned about impact of juniorisation on OTC-only CP where combined OTC-Futures portfolio.	OTC-only CPs can avoid juniorisation by complying with their obligation to bid when required to do so.
28.	Auction format	Require clarity where there is more than one highest bidder.	The OTC Handbook provides that if two or more bidders enter the same bid for the same auction unit, the winning bid will be the bid first received (OTC Handbook, Schedule 4, clause 7.1).

No.	Key Issue	Comment	ASX Response
29.	Auction format	Believe that DMG should have some discretion on whether auction is winner takes all.	The DMG will be an expert advisory body. Under the Default Management Process the DMG will have a mandate to advise and make recommendations to ASX on the holding of DM auctions, including the auction format (OTC Rules, Schedule 3, clause 1.5(d)(iii)).
30.	Auction format	Flexibility to include other auction formats other than a winner takes all approach should ensure a successful auction.	The Default Management Auction Procedures give flexibility to adopt auction formats other than "winner takes all" (OTC Handbook, Schedule 4, clause 8).
31.	Termination of OTC Open Contracts	<p>Termination value of the defaulter's terminated contract should be determined by DMG, or in consultation with DMG.</p> <p>The termination value should take into account stresses, the increase in volatility and the impact on valuation and pricing.</p> <p>ASX to clarify how it will determine 'termination value'.</p>	Termination values are a function of coupons and variation margin that either fell due and payable by the defaulter prior to the date of termination (default declaration) or that would have been due and payable by the defaulter (but for termination) between the dates of termination and the default auction. As coupons and variation margins are routinely calculated by ASX, ASX should calculate termination values also. Refer to the Default Management Process Overview for more information about how ASX will determine termination value.
32.	Termination of OTC Open Contracts	Implies that the opposite side of the trade has to be cancelled as well. This could cause an issue once OTC Clearing Service will open to clients of clearing participants.	Termination of a defaulting CP's open contracts does not result in termination of the corresponding open contracts of non-defaulting CPs. Refer to the Default Management Process Overview.
33.	Termination / Close-out	How will the ASX determine that a close out/termination or otherwise is appropriate given the relative speed needed on these decisions for a defaulting Clearing Participant's portfolio and to maintain an orderly market?	ASX's OTC Default Management Process provides for the hedging and then auction of OTC positions, portfolio-margined futures positions and any related hedges. ASX does not propose to auction futures positions of a defaulting CP that have not been portfolio-margined. Existing default management procedures (i.e. on-market close out) will apply to non-portfolio-margined futures. Refer to the Default Management Process Overview.

No.	Key Issue	Comment	ASX Response
34.	Close-out	Why does the definition of "Close-out" not apply to OTC Open Contracts? How would OTC Open Contracts be closed-out? Can contracts be closed-out by invoicing back, which would automatically close-out positions of non-defaulting Clearing Participants on the opposite side? Or is the only means of closing-out contracts for a defaulting Clearing Participant by putting in contracts via exchange?	"Close-out" as defined in the Futures Rules excludes OTC Open Contracts because OTC Open Contracts (together with portfolio margined futures) will be auctioned in accordance with the OTC Default Management Process. Refer previous response and the Default Management Process Overview.  The Rules been amended to clarify that OTC Open Contracts may not be invoiced back or compulsorily settled (Futures Rule 72.1(k) and OTC Rules, Schedule 3, clause 3.1).
<b>FUTURES RULES</b>			
<b>Withdrawal of CP Commitment / Resignation</b>			
1.	Resignation notice period	Minimum notice period should be increased from 30 days to 60 days.	ASX's review of resignation notice periods enforced by other CCPs (SGX, JSCC, CME, SwapClear and Eurex) supports ASX's proposal for a notice period of 30 days.
2.	Resignation notice period	Resignation should be effective the greater of 30 days and when the CP satisfies resignation conditions. Specified period for return of Commitment after 1 quarter is too long. A member could face a 90 day wait for the return of its Commitment. Latest date for return of Commitments should be 30 days after CP's membership has been terminated.	ASX intends to adhere to quarterly resignation intervals, as this strikes an appropriate balance between the interests of resigning participants in the expeditious termination of their obligations to the CCP, and the interests of the CCP and continuing participants in regularity and predictability in the recalculation and rebalancing of Commitment obligations.
3.	Resignation – exposure	<p>Need to clarify the exposure and rights of a CP after it has resigned but before its Commitment is returned at the end of the quarter.</p> <p>In particular, clarity is required regarding exposure of CP (a) if CP has no open positions (b) if CP has open positions but has tendered their resignation prior to default.</p>	<p>Futures Rule 6.2 has been modified by adding a clarification to the effect that a resigning CP's Commitment cannot be used by ASX in respect of any default that is declared after the effective date of resignation but before its Commitment is returned (Commitment may not be returned until shortly after the end of the quarter).</p> <p>A CP's resignation takes effect on the last day of the quarter in which notice is given, provided that it has closed all of its positions at least</p>

No.	Key Issue	Comment	ASX Response
			<p>30 days prior to quarter end.</p> <p>A resigning CP's Commitment is "at risk" until its resignation takes effect, irrespective of:</p> <ul style="list-style-type: none"> <li>• whether it has open positions;</li> <li>• the time of lodgement of notice of resignation.</li> </ul>
4.	Resignation – exposure	<p>There should be a cap on losses of a CP that has resigned if a default occurs between the time the CP resigns and the end of a quarter (particularly if it has no open positions).</p> <p>If a Clearing Participant has resigned but its resignation is not effective, it would still be liable for any replenishment during that period. Consequently, a shorter resignation period is needed to minimise the risk a Clearing Participant faces of multiple replenishment requirements.</p>	<p>A resigning CP's exposure is capped by the amount of its Commitment. No CP has any legal obligation to replenish its Commitment at any time.</p> <p>A resigning CP's Commitment must be "at risk" (i.e. available for application to default losses) in respect of defaults occurring up to the effective date of resignation, otherwise the CCP would have access to less than the required aggregate amount of Commitments.</p>
5.	Resignation – exposure	Suggests some scaling and/or capping of obligations in terms of financial impact and/or requirement to participate in default auction if CP has open positions but has tendered their resignation prior to default.	A CP must bear the obligations of participation (including the exposure of its Commitment, and the obligation to bid at default auctions if it has open positions) up to the effective date of its resignation.
6.	Resignation	Given the amendments around resignation, is there a minimum quorum of OTC CPs to address any potential concentration risk for OTC CPs?	Yes, there is a minimum number of OTC CPs that is needed to sustain the service. Determining that number is a matter of judgement for ASX, having regard to the size of business of OTC CPs at any given time, to ensure the service can operate effectively in accordance with ASX's regulatory obligations.

No.	Key Issue	Comment	ASX Response
7.	Resignation	<p>Why is it necessary for ASX to confirm to the Clearing Participant in writing that it is not subject to any disciplinary proceedings or enforcement proceedings? A Clearing Participant may be the subject of exchange disciplinary proceedings or enforcement actions that are not related to clearing activity.</p> <p>Could ASX please elaborate on what type of enforcement / proceedings are contemplated in Futures Rule 11.1(b)(2)(B)?</p>	<p>Resignation should not take effect while disciplinary proceedings or enforcement action is pending.</p> <p>Futures Rule 11.1(b)(2)(B) has been amended to clarify that the required confirmation relates only to disciplinary proceedings or enforcement action within the jurisdiction of the CCP (i.e. related to clearing activity).</p>
8.	Multiple defaults	Need to clarify the impact of multiple defaults on a CP's commitments and whether an upper limit on losses suffered will be applied.	As CPs have no legal obligation to replenish their Commitments, it is unnecessary to make provision in the rules in relation to the impact of multiple defaults on the timing/frequency of calls for replenishment. A CP's exposure to the default waterfall is capped by the amount of its Commitment (including any voluntary replenishment).
9.	Termination of participant	Clarify in what circumstances ASX thinks a CP's membership could be terminated.	<p>The ASX may terminate a CP's participation for default. An express power of termination in this circumstance has been added to Futures Rule 72.</p> <p>Existing Futures Rules 3.2.2(b) and 4.11(d) have been modified to remove ASX's power to terminate a CP's participation for failure to pay clearing fees or to undertake to comply with the operating rules. This is to avoid the disadvantage to other CPs which may arise from the need, resulting from termination, to rebilateralise OTC open contracts to which the terminated CP is a party. ASX intends to deal with such instances of non-compliance through its default powers. Consequentially, Futures Rule 11.1A has been removed and, to the extent necessary, incorporated in the new default termination power referred to above.</p>
10.	Return of excess Commitment	Under what scenarios/circumstances would the excess Commitment of a non-defaulting Clearing Participant not be returned (Futures Rule 5.7)?	An example is where amounts were due and payable to ASX but unpaid, or obligations to ASX were unperformed, by the non-defaulting CP.

No.	Key Issue	Comment	ASX Response
<b>Default Waterfall</b>			
1.	Default waterfall	Require clarity around relative use of Commitments on a default of a combined OTC and Futures CP.	Refer to Futures Rule 7.
2.	Default waterfall	Further clarity required on the circumstances in which an OTC default event could diminish the capital of the CPs only doing Futures.	Refer to Futures Rule 7.
3.	Default waterfall	In favour of separate default funds (cites CME as example where portfolio-margining offered but separate default funds)	ASX has considered the relative costs and benefits of alternative models, such as that of CME, where multiple default funds are maintained. Taking into account those costs and benefits, and ASX's regulatory obligations to comply with the Reserve Bank's Financial Stability Standards, ASX has concluded that a single default fund is the most efficient model for the Australian market. ASX will keep its default fund structure under review, and commits to formally review it on an annual basis in consultation with CPs through the Risk Committee. The Risk Committee will receive metrics on a regular basis designed to determine the continuing appropriateness of a single default fund.
4.	Default waterfall	Amendments to the default fund add additional risk to Futures only participants without any upside in revenues. The additional risk for Futures only participants is more present in the transitional period and may further increase if not all foundation customers decide to make a binding commitment to ASX and the proposed AUD 100m additional Commitments falls short. We would prefer ASX to separate the margin/default pools for OTC derivatives and ASX24 Futures.	ASX has a licence obligation to ensure that its default resources are adequate, as defined by the Reserve Bank's Financial Stability Standards, at all times. The transitional "ramp up" of OTC Commitments has been designed to ensure that aggregate OTC Commitments are commensurate with the level of risk introduced by OTC Clearing Service. The efficacy of the distribution of risks relative to the provision of capital in the default waterfall will be continually monitored. Reports will be shared with the Risk Committee which will be able to recommend any changes to the default waterfall.

No.	Key Issue	Comment	ASX Response
5.	Default waterfall	<p>We seek clarity on the default waterfall, particularly after the second level commitments have been utilised. A Clearing Participant has the ability to decline a further commitment, consequently, if ASX is still suffering losses after all the second level Commitment has been utilised, we believe the steps ASX takes in such an instance should be clearly stated in the operating rules.</p> <p>We seek clarity on what “monies and assets” are in the 9th step in the waterfall.</p> <p>We seek clarity as to what happens when a Clearing Participant defaults before the completion of a previous default and auction process.</p>	<p>Rules-based recovery and resolution plans will not be in place for launch of the OTC Clearing Service. ASX intends to continue to consult CPs and regulators over the next 12 months regarding the form of its recovery and resolution plans. The Reserve Bank has deferred its Financial Stability Standards on CCP recovery and resolution until March 2014 at the earliest, and draft legislation for an Australian regime of statutory management/step in for CCPs is not expected until 2014. The relatively high proportion of aggregate default resources provided by ASX (over 50%), compared with other CCPs, means that ASX is relatively less dependent on replenishment by CPs to maintain its clearing service.</p> <p>The ninth step in the waterfall (“any other monies or other assets” available to the CCP) is a “catch all” for residual monies or assets, if any – no assets are provisioned in this category at this time.</p> <p>The Default Management Process is sufficiently flexible for contemporaneous defaults to be managed jointly or separately. This is a decision on which the DMG would be asked to provide advice, and ASX would make a decision taking into account the advice.</p>
6.	Default waterfall	<p>In the default of a combined OTC and Futures CP the formula for calculating the proportion of the Futures Commitment used in the waterfall excludes the Initial Margin for the cross margined futures positions (because this is incorporated in the Initial Margin for OTC Commitment Participation). This means each of the proportions will be affected by the level of the defaulter's portfolio margining activity.</p> <p>Accordingly, it would be useful for CPs to understand the basis of ASX's discretion to accept or refuse a class of Futures Contracts for portfolio margining. It would also be useful for the default fund allocation purposes that the methodology for the ratio of the margin requirements for OTC and Futures Contracts are specifically prescribed and consistent in application.</p>	<p>The eligibility of futures products for portfolio-margining will be determined by several key factors:</p> <ol style="list-style-type: none"> <li>1. The extent to which the product is correlated and used as a hedge for OTC exposures;</li> <li>2. The operational and technical ability of ASX to portfolio margin the products together;</li> <li>3. The ability of OTC Participants to bid on a portfolio containing the class of products; and</li> <li>4. User demand.</li> </ol> <p>The Risk Committee will be able to recommend that products be included or excluded from the eligible list.</p>

No.	Key Issue	Comment	ASX Response
			The methodology for determining the ratio of OTC vs Futures Commitments applicable is set out in Futures Rule 7.1(d)(iii). It is designed to avoid disadvantaging CPs with significantly different business characteristics to the defaulter (e.g. the Commitment of a futures-only CP should be more at risk to a defaulter with mainly futures exposures than an OTC Participant).
7.	Replenishment	What are the consequences if a Clearing Participant does not replenish when requested?	A CP that declines to replenish its Commitment when requested is deemed to give notice of resignation (Futures Rule 7.6). It has no legal obligation to replenish its Commitment. A rules-based regime for managing the implications for ASX of insufficient (or nil) replenishment by CPs, or from other sources, will be considered as part of ASX's resolution and recovery planning.
8.	Replenishment	Lack of granularity regarding process and governance procedures that would be followed if a CP does replenish default fund.	As a CP has no legal obligation to replenish its Commitment, any replenishment request by ASX would need to be on terms that were satisfactory to non-defaulting CPs.  ASX intends to continue to consult stakeholders on the replenishment mechanism as part of the continuing dialogue concerning CCP recovery and resolution.
9.	Replenishment	Absence of requirement to replenish may result in uncertainty regarding the CCP's ongoing viability. What is the minimum number of CPs to maintain viable business?	A minimum number of OTC CPs is needed to sustain the service. Determining that number is a matter of judgement for ASX, having regard to the size of business of OTC CPs at any given time, to ensure the service can operate effectively in accordance with ASX's regulatory obligations.  As indicated above, ASX intends to continue to consult stakeholders on the replenishment mechanism as part of the continuing dialogue concerning CCP recovery and resolution. Part of that discussion will be whether compulsory (but capped) replenishment should be introduced.

No.	Key Issue	Comment	ASX Response
10.	Replenishment	Clearing Participants should be able to vote on replenishment of the Commitment for each Clearing Participant.	The status quo is that replenishment is the prerogative, but not an obligation, of each individual non-defaulting CP. ASX intends to maintain the status quo for now, but as indicated above this suggestion will be considered as part of recovery and resolution discussions.
11.	Replenishment	Reliance on voluntary replenishment of Commitment of an amount that is not known in advance seems a stringent approach. CPs will not be able to determine their maximum liability in advance. ASX should try to establish a cooling off period (as other global CCPs have done) during which CPs can be assessed on a multiple of their commitment.	No CP has any legal obligation to replenish its Commitment. Accordingly, there is no question of "liability" to replenish, and therefore no question of uncapped liability.
12.	Replenishment	Will there be VM haircutting?	No. The rules do not contain variation margin haircutting procedures. These will be considered later in 2013 once CPSS-IOSCO international best practice standards have been published in the context of wider CCP recovery and resolution processes.
13.	Loss allocation	The loss attribution of ASX following the completion of all auctions requires further detail and if ASX has utilised any of the non-defaulting Clearing Participant's contributions. There needs to be certainty as to how these losses will be allocated to the remaining non-defaulting Clearing Participants' default contribution.	Futures Rule 7 comprehensively defines the loss allocation process and the circumstances in which non-defaulting CPs' Commitments may be utilised.
14.	Compulsory settlement	Compulsory settlement of futures can result in uncapped liability. Prior to taking action will ASX consult with Risk Committee? The CCP should not have the ability to invoice back or force allocate contracts in the event of a default.	ASX recognises the shortcomings of compulsory settlement as a default management tool. For this reason, ASX has deliberately not reserved compulsory settlement powers in relation to OTC contracts. However, ASX's existing compulsory settlement power in relation to futures can only be removed as part of the wider set of rule amendments that will be required to implement CCP recovery and resolution plans (refer above).

No.	Key Issue	Comment	ASX Response
			The Futures Rules allow ASX to exercise its compulsory settlement power only where it has used all possible endeavours to close out the defaulter's futures contracts or to otherwise protect its position. Futures Rule 72.1(h) has been modified to require ASX to consult the Risk Committee before invoking the compulsory settlement power.
15.	Compulsory Settlement	If ASX closes out positions of a non-defaulting CP, who then takes a loss due to replacement costs, then in what scenarios would this CP be liable for twice its Commitment?	<p>The capped amount (twice the non-defaulting CP's Commitment) defines the aggregate maximum settlement amount a non-defaulting CP is required to pay ASX pursuant to compulsory settlements effected under Rule 102. Futures Rule 102.6 has been modified to clarify that the cap applies per default.</p> <p>The replacement cost falls on the non-defaulting CP. Refer to comments above regarding the planned review of the compulsory settlement power in the context of recovery and resolution planning.</p>
16.	Powers of ASX on default	ASX's power to "do all such other necessary acts and things as are in the opinion of ASX necessary to crystallise or reduce its exposure" provides it with the ability to invoice back/force allocate contracts and should be removed.	Futures Rule 72.1(k) has been modified to clarify that this power does not entitle ASX to invoice back/force allocate contracts (except futures under Rule).
<b>Termination with respect to ASX Clear (Futures)</b>			
1.	Termination	Delays by ASX in effecting credit for "technical reasons" will not lead to an ASX payment default under Futures Rule 76. This provision should be more specific as to what is meant by "technical reasons". The provisions should be subject to the condition that any such "technical reason" is promptly remedied by ASX.	Futures Rule 76 has been modified to include similar language often found in bilateral OTC transaction documents that makes it clear that ASX must have had the funds available for payment despite the technical reason causing non-payment.

No.	Key Issue	Comment	ASX Response
<b>Voting – Amendment to the Rules/Handbook</b>			
1.	Voting rights	<p>Voting rights should be limited to one per CP (given imbalance in numbers).</p> <p>Voting rights should be one vote per authorisation per CP (i.e. 2 votes if 2 authorisations).</p>	While different views have been expressed to ASX on this matter, the balance of consultation feedback favours one vote per CP entity (and one vote per two or more related CP entities). This is consistent with the status quo and Futures Rule 14 has been modified accordingly.
2.	Rule amendments	ASX should be required to consult with Clearing Participants and adequate notice should be provided in the case of any amendments to the Rules (Futures Rule 14.2A(b)).	Proposed Futures Rule 14.2A already requires ASX to consult CPs on proposed rule changes. The rule has been modified to require ASX to give reasonable notice of rule changes.
3.	Handbook amendments	OTC Handbook should be subject to a consultancy obligation.	Futures Rule 14.2A has been modified to include consultation on proposed changes to the Handbook that in ASX's view are likely to have a material impact on CPs.
<b>Risk Committee</b>			
1.	Composition and mandate	A good cross section of the market should be included in the Risk Committee. This cross section should have oversight of the impacts of inherent risks whether within Clearing Participants, client, the domestic and global market and the QCCP itself.	Membership of the Risk Committee will be open to all CPs. ASX expects the composition of the Risk Committee may evolve as Client Clearing is introduced and as ASX becomes subject to overseas regulatory regimes, such as Dodd-Frank and EMIR, that have highly prescriptive requirements regarding Risk Committee membership. The mandate of the Risk Committee is defined by the Operating Rules and is focused on ASX's clearing risk management policies and processes.
2.	Recommendations	ASX should follow Risk Committee recommendation.	The ASX Clear (Futures) Board is responsible by law for the discharge by the CCP of its regulatory obligations. The ASX Board cannot fetter its ability to discharge those obligations by agreeing to follow Risk Committee recommendations. However, ASX is agreeing to consider all Risk Committee recommendations in good faith and to

No.	Key Issue	Comment	ASX Response
			either act on those recommendations or explain why it cannot act. ASX's review of the practices of other CCPs internationally is that recommendations of the Risk Committee (where there is a Risk Committee) are not binding on the CCP.
3.	Mandate	Risk Committee should be consulted on membership approvals, positions and liquidity limits of all CPs. Also consulted on the model used to calculate margin and the start of the default process following a Force Majeure event.	The Risk Committee mandate expressly includes changes to the risk model (which includes margin models) (Futures Rule 20(a)).  The Risk Committee will not consider individual membership approvals, positions and liquidity limits. However, the Risk Committee mandate has been modified to expressly include consideration of ASX policies (and proposed changes thereto) on those matters.
4.	Quorum	Quorum of 3 CPs is too low given large number of Futures CPs and the different risk profiles of OTC v Futures.	Participation in the Risk Committee is optional. ASX sees no reason to impose a higher quorum: if at least three CPs are prepared to invest their time in the Risk Committee forum, ASX is prepared to work in good faith with that forum.
<b>Existing Futures Rules where no changes were proposed</b>			
1.	Futures rules 8.1 and 8.2	Will ASX have the ability to make one-off exceptions for some Clearing Participants such that required Net Tangible Assets is lower than the AUD5m specified in Futures Rule 8.1?  If it will only be increased over AUD5m then this should be made clear.	No, unless a waiver from Futures Rule 8.1 is given. Futures Rule 8.2 (a), which allows the Board to prescribe financial requirements relating to "the minimum level of each Clearing Participants' Net Tangible Assets", permits ASX to increase the minimum Net Tangible Assets for a particular Clearing Participant above \$5,000,000 but not to lower it.
2.	Futures Rule 5.7A	Why do Clearing Participants need to provide Commitment for a period of 5 days (Futures Rule 5.7A)? How is the amount that a Clearing Participant would need to provide determined?	This rule is intended to make it clear that a CP's Commitment is at risk for the full amount of the Commitment at the time of default, notwithstanding any reduction in the amount of its Commitment calculated after the occurrence of the default.

No.	Key Issue	Comment	ASX Response
3.	Futures Rule 5.8	For what risk would ASX provide an accommodation fee to a Clearing Participant (Futures Rule 5.8)? If 2 Clearing Participants of different categories provide the same amount of commitment, why would the accommodation fee for each such Clearing Participant possibly be different?	ASX pays CPs an accommodation fee in respect of the risk that Commitments may be utilised to meet default losses, in accordance with the default waterfall prescribed by Futures Rule 7. The same rate of accommodation fee applies to all CPs.
4.	Futures Rule 5.11	Under what circumstances would ASX waive the requirement of a particular BRC Participant to make a Commitment (Futures Rule 5.11)? Could this not result in inadequate financial resources to cover losses from a default?	The BRC Participant category is inactive.
5.	Futures Rule 7.2(a)	What type of financial arrangements does or will ASX have in order to meet timely obligation to non-defaulting Clearing Participants (Futures Rule 7.2(a))? What is/will the size of such financial arrangements be? Will it be sufficient to cover liquidity needs as a result of default of largest one/two Clearing Participants?	All financial resources that are available to ASX to manage the default of a CP are invested subject to pre-defined and regularly reviewed default liquidity requirements, to ensure that the CCP can meet its obligations to non-defaulting CPs in a timely way. The adequacy of ASX's default liquidity requirements is overseen by the Reserve Bank under the Financial Stability Standards.
6.	Futures Rule 9.3(f)	Under what circumstances would ASX declare a Clearing Participant in default in respect of exceeding or the "apparently likely" exceeding of position limits applicable to that Clearing Participant (Futures Rule 9.3(f))?	ASX would be unlikely to declare default on the sole basis that a CP appeared likely to breach limits. In other words, it is likely a default declaration would be made only where the CP had independently committed an event of default as defined by Futures Rule 71.3 or OTC Rule 6.4.

## **Schedule 5: Revised Operating Rules**

**OTC Rules (Subject to Regulatory Clearance)**

***Consolidated rules (incorporating changes made in  
response to consultation feedback)***



ASX CLEAR (FUTURES) PTY LIMITED

ACN 050 615 864

**ASX OTC RULEBOOK**

Version 1 ( 2013)

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# ASX OTC Rulebook

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## 1 SCOPE AND INTERPRETATION

### 1.1 ASX Clear (Futures), OTC Rules and OTC Clearing

These rules are the ASX OTC Operating Rules of ASX Clear Futures Pty Limited. These rules are referred to as the **OTC Rules** and ASX Clear Futures Pty Limited is referred to as **ASX Clear (Futures)**.

ASX Clear (Futures) may provide clearing facilities for over-the-counter derivatives (referred to as **OTC Clearing**) in accordance with these OTC Rules.

### 1.2 Futures Rules and their application

These OTC Rules form part of:

- (a) the Operating Rules of ASX Clear (Futures), which are referred to as the **Futures Rules**; and
- (b) the contract constituted between ASX Clear (Futures) and Clearing Participants, and between each Clearing Participant, under the Futures Rules.

For the purpose of the Futures Rules, each “Futures Term” in the following table includes the corresponding “OTC Term” used in these OTC Rules:

Futures Term	OTC Term
Clearing Participants	OTC Participants
Market Contracts	OTC Transactions
Open Contracts	OTC Open Contracts
Open Position	OTC Open Position
Commitment	OTC Commitment
Initial Margin	OTC Initial Margin
Variation Margin	OTC Daily Variation Margin

Accordingly, unless these OTC Rules, (or the Futures Rules), specify otherwise, the provisions of the Futures Rules which apply to one of these Futures Terms also applies to OTC Clearing as if it referred to its corresponding OTC Term.

At the beginning of each OTC Rule a “signpost” provision has been included to specify to which Futures Rules that OTC Rule relates and the extent to which those Futures Rules apply to OTC Clearing. Where a signpost specifies that particular Futures Rules apply to OTC Clearing it means it applies as if it referred to its corresponding OTC Terms on the basis of the table set out above.

These OTC Rules prevail if they specify that a Futures Rule does not apply to OTC Clearing, or if these OTC Rules are inconsistent with, or vary, the Futures Rules. For clarity, Schedule 1 (Relationship with Futures Rules) to these OTC Rules sets out a matrix showing which Futures Rules are disapplied to OTC Clearing and OTC Open Contracts.

### **1.3 Meanings of terms**

Unless they are defined in these OTC Rules (including in this OTC Rule 1 (Scope and Interpretation)), capitalised terms used in these OTC Rules have the meaning which they have in the Futures Rules.

### **1.4 OTC Handbook**

The ASX OTC Handbook of ASX Clear (Futures) is referred to as the **OTC Handbook**. The OTC Handbook sets out the terms and procedures relating to OTC Clearing and other related matters. Each OTC Participant undertakes to comply with the provisions of the OTC Handbook and a failure to do so is a contravention of these OTC Rules. However, the OTC Handbook does not form part of these OTC Rules or the Futures Rules. Also, these OTC Rules (and, if applicable, the Futures Rules) prevail in the event of any inconsistency between these OTC Rules and the OTC Handbook.

### **1.5 OTC Participants**

A Clearing Participant who is authorised to clear OTC Transactions in accordance with these OTC Rules is referred to as an **OTC Participant**.

### **1.6 OTC Transactions and OTC Transaction Type**

These OTC Rules govern the clearing of over-the-counter derivatives that meet the eligibility criteria set out in the OTC Handbook, which are referred to as **OTC Transactions**. The categories of OTC Transactions described in the OTC Handbook are referred to as **OTC Transaction Types**.

### **1.7 OTC Open Contract**

The contract of the OTC Participant with ASX Clear (Futures) which is taken to arise from the registration of an OTC Transaction is referred to as an **OTC Open Contract**.

### **1.8 OTC Open Position**

The entitlements and obligations of an OTC Participant under an OTC Open Contract which have not been completed or Terminated (as described in Rule 6 (Default)) is referred to as an **OTC Open Position**.

All OTC Open Positions are House Positions for the purpose of the Futures Rules.

### **1.9 OTC Terms**

The terms of OTC Open Contracts are referred to as the **OTC Terms** and are set out in the OTC Handbook.

### **1.10 Interpretation**

Unless the contrary intention appears, in these OTC Rules:

- (a) a reference to a particular “OTC Rule” is a reference to that rule in these OTC Rules;
- (b) a reference to any thing (including an amount) is a reference to the whole and each part of it;

- (c) a reference to a document (including the Futures Rules, these OTC Rules and the OTC Handbook) includes any variation or replacement of it;
- (d) the word “law” includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) a reference to Australian dollars, dollars, AUD, \$ or A\$ is a reference to the lawful currency of Australia;
- (f) a reference to a time of day is a reference to Sydney time;
- (g) the word “person” includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- (h) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (i) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (j) a reference to the Corporations Act is a reference to the *Corporations Act 2001 (Cwlth)*;
- (k) an expression in an OTC Rule which deals with a matter dealt with in a provision of the Corporations Act has the same meaning that it has in that provision of the Corporations Act; and
- (l) in the interpretation of an OTC Rule, a construction that would promote the purpose or object underlying the OTC Rules (whether that purpose or object is expressly stated in the OTC Rules or not) is to be preferred to a construction which would not promote that purpose or object.

### **1.11 Number**

In these OTC Rules, the singular includes the plural and the plural includes the singular.

### **1.12 Headings**

Headings (including those in brackets at the beginning of paragraphs) in these OTC Rules are for convenience only and do not affect the interpretation of these OTC Rules.

### **1.13 Signpost: Good standing**

For the purposes of these OTC Rules, and for the purposes of any OTC Participant, the provisions of Futures Rule 1.2 (Good Standing) apply.

## **2 PARTICIPATION AND GENERAL**

### **2.1 Signpost to related Futures Rules**

The OTC Rules in this OTC Rule 2 (Participation and General) relate to matters addressed in Part 2 (General) of the Futures Rules, other than Futures Rules 5

(Commitment to Support Obligations of ASX Clear (Futures)) to 8 (Financial Requirement) (to which OTC Rules 3 and 6 are related). Of these related Futures Rules the following Futures Rules apply to OTC Clearing, where relevant as supplemented and varied by these OTC Rules:

- 3.2 (Fees)
- 4 (Becoming a Clearing Participant), other than 4.3 and 4.14(j), (ja), (k) and (l)
- 9A (Regulation)
- 10 (Appointment of Board as Agent)
- 11 (Resignation and Change in Control)
- 12 (Appeals)
- 13 (Access to Records)
- 14 (Amendment to Rules)
- 16 (Use of Exchange System)
- 17 (Terms relating to Exchange Equipment).
- 18 (Terms relating to Both Licensed Software and Exchange Equipment)

## **2.2 Becoming an OTC Participant**

To be an OTC Participant, an entity must be admitted as a Clearing Participant under the Futures Rules and authorised by ASX Clear (Futures) to participate in OTC Clearing in accordance with these OTC Rules. If an entity which was an OTC Participant ceases to be a Clearing Participant, then it also ceases to be an OTC Participant.

However, an OTC Participant need not be a Futures Participant as defined in the Futures Rules.

A Clearing Participant may apply for an authorisation to clear OTC Transactions, or certain OTC Transaction Types, in accordance with these OTC Rules. The application for this authorisation is referred to as an application to "become an OTC Participant".

## **2.3 Conditions to become an OTC Participant**

A Clearing Participant which satisfies the following conditions may apply to become an OTC Participant:

- (a) it is one of the following:
  - (i) an Australian Bank; or
  - (ii) an Australian subsidiary of an Australian Bank,

in each case, which is regulated by the Australian Prudential Regulation Authority in accordance with the *Banking Act 1959 (Cwlth)* or is the holder of an appropriate (as determined by ASX Clear (Futures), in its sole discretion) Australian Financial Services Licence; and

- (b) it meets the applicable Financial Requirements under OTC Rule 3.3 (Financial Requirements of OTC Participants); and
- (c) it can demonstrate to the satisfaction of ASX Clear (Futures) its ability to participate in the default management process maintained by ASX Clear (Futures) and referred to in OTC Rule 6.2 (Default management process), including participating in a DM Auction which includes both OTC Open Contracts and, if applicable, other Open Contracts of the Defaulted OTC Participant; and
- (d) such other conditions as are set out in the OTC Handbook.

In special circumstances to the satisfaction of ASX Clear (Futures), and with ASX Clear (Futures)'s consent, a person not satisfying these requirements may apply to become an OTC Participant.

## **2.4 Application to be an OTC Participant**

An applicant intending to become an OTC Participant must lodge with ASX Clear (Futures):

- (a) an application in the form required by ASX Clear (Futures) duly executed by the applicant;
- (b) such information and evidence concerning the applicant as ASX Clear (Futures) may require;
- (c) an undertaking by the applicant in the form required by ASX Clear (Futures) to abide by these OTC Rules, the OTC Handbook and the Futures Rules as varied from time to time;
- (d) an application fee of an amount determined by ASX Clear (Futures); and
- (e) such other documents, information or evidence as are set out in the OTC Handbook.

In considering an application to become an OTC Participant, ASX Clear (Futures) may request any information or evidence which it thinks fit.

## **2.5 Approval of application**

In its discretion ASX Clear (Futures) may approve an application where it:

- (a) is satisfied that the applicant meets the conditions in OTC Rule 2.3 (Conditions to become an OTC Participant); and
- (b) expects that the applicant will continue to meet all applicable admission and general conduct requirements for Clearing Participants under the Futures Rules.

These requirements are continuing and need to be satisfied for as long as the Clearing Participant is an OTC Participant.

The approval of ASX Clear (Futures) to authorise a Clearing Participant as an OTC Participant may be limited to a particular OTC Transaction Type.

## **2.6 Fees and OTC Commitment**

Any authorisation of a Clearing Participant as an OTC Participant does not take effect until the applicant has:

- (a) paid the fees as required by ASX Clear (Futures) in accordance with the OTC Handbook; and
- (b) provided its OTC Commitment to ASX Clear (Futures) in accordance with OTC Rule 3 (Commitments and Financial Requirements).

Unless these requirements are satisfied within two months of the date of the approval by ASX Clear (Futures) to authorise such Clearing Participant as an OTC Participant, or such further time as ASX Clear (Futures) may in its discretion allow, the approval lapses.

## **2.7 Conditions on authorisation**

In addition to the requirements set out in OTC Rule 2.5 (Approval of application) above, ASX Clear (Futures) may impose any additional conditions on an authorisation as an OTC Participant as it thinks fit from time to time. This may include limitations with respect to the OTC Transaction Types which an OTC Participant may clear.

At any time, if an OTC Participant does not comply, or is likely to not comply, with any of the conditions of its authorisation as an OTC Participant then it must notify ASX Clear (Futures) immediately.

## **2.8 Limitations on authorisation**

Authorisation as an OTC Participant is a privilege granted by ASX Clear (Futures) and may be withdrawn by ASX Clear (Futures) at any time. ASX Clear (Futures) will act reasonably and in good faith in deciding to withdraw the authorisation of an OTC Participant and will provide notice in writing to the OTC Participant outlining the reasons for the withdrawal of its authorisation under this OTC Rule.

An OTC Participant may not assign, charge, declare a trust in respect of, or otherwise deal with its rights or privileges under these OTC Rules. ASX Clear (Futures) is not required to recognise any purported interest of any person in the rights of an OTC Participant under these OTC Rules.

## **2.9 Fees**

ASX Clear (Futures) may impose different fees on an OTC Participant from those which are imposed on a Clearing Participant which is not an OTC Participant. Also, ASX Clear (Futures) may impose different fees on OTC Participants authorised to clear different OTC Transaction Types.

Each OTC Participant must pay the fees imposed on it on demand or at such other specified time. Fees which are due and payable under these OTC Rules or the Futures Rules for which payment has not been received by ASX Clear (Futures) by the due date may be deducted by ASX Clear (Futures) from any credit balance of the House Clearing Account of the OTC Participant.

## **2.10 Relationship with ASX Clear (Futures)**

Each OTC Participant deals with ASX Clear (Futures) under these OTC Rules and the Futures Rules as principal, not on behalf of any other person and not as trustee.

ASX Clear (Futures) need not recognise the interests of any person who claims to have an interest in the rights which an OTC Participant has against ASX Clear (Futures) and ASX Clear (Futures) is not responsible for the performance or liabilities of any OTC Participant to any person.

## **2.11 Variations to OTC Handbook**

ASX Clear (Futures) may vary or replace the OTC Handbook from time to time. Any such variation or replacement of the OTC Handbook will become effective at the time specified by ASX Clear (Futures). ASX Clear (Futures) agrees to notify in advance the OTC Participants of any such variation or replacement. The accidental omission to give notice under this provision to, or the non-receipt of notice under this provision by, any OTC Participant does not invalidate any variation or replacement.

## **2.12 Termination of OTC Clearing service**

If at any time ASX Clear (Futures) decides to cease providing the OTC Clearing service provided under these OTC Rules, it agrees to provide at least six months' notice to all OTC Participants of the date on which the service will cease. However, this is not invalidated by any OTC Participant not receiving this notice.

ASX Clear (Futures) will consult with the Risk Committee regarding the process for the discontinuation of the OTC Clearing service in accordance with the Futures Rules.

If there are any OTC Open Contracts on the date for cessation of the service which has been notified by ASX Clear (Futures) then ASX Clear (Futures) may, at its sole discretion:

- (a) terminate any or all of such OTC Open Contracts and require them to be cash settled at a price determined by ASX Clear (Futures) by reference to the last determined OTC Daily Closing Value for such OTC Open Contracts; or
- (b) postpone the date of the cessation of the service until such time as ASX Clear (Futures) determines.

## **2.13 Obligations of OTC Participant prior to termination**

The termination or suspension of a Clearing Participant or termination of its authorisation as an OTC Participant in respect of an OTC Transaction Type does not affect any accrued rights or obligations existing as between the OTC Participant and each of ASX Clear (Futures), a Related Body Corporate of ASX Clear (Futures), or other OTC Participants.

Without limiting the above, following the termination or suspension of a Clearing Participant or termination of its authorisation as an OTC Participant in respect of an OTC Transaction Type under these OTC Rules:

- (a) the OTC Rules continue to apply and ASX Clear (Futures) will continue to have jurisdiction in respect of the OTC Participant concerning any conduct or any failure to comply with the OTC Rules which occurred before the termination or suspension, whether that conduct or failure was by the OTC Participant or by any other person for whose conduct the OTC Participant was responsible;
- (b) the OTC Participant continues to be bound by any indemnity given by the OTC Participant under these OTC Rules or the Futures Rules; and
- (c) other Futures Rules and OTC Rules continue to apply in respect of the Participant to the extent required to give effect to paragraphs (a) and (b).

Without limiting the above, ASX Clear (Futures) is entitled to require any outstanding OTC Open Contract of the OTC Participant to be removed in accordance with OTC Rule 4.13 (Re-bilateralisation).

## **2.14 OTC Product Committees**

Committees related to OTC Clearing (referred to as **OTC Product Committees**) may be established in accordance with the procedures set out in the OTC Handbook. Each OTC Participant must comply with the procedures set out in the OTC Handbook in respect of any OTC Product Committee of which it is a member.

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## **3 COMMITMENTS AND FINANCIAL REQUIREMENTS**

### **3.1 Signpost to related Futures Rules**

These OTC Rules relate to matters which are addressed in Futures Rules:

- 5 (Commitment to Support Obligations of ASX Clear (Futures))
- 6 (Withdrawal of Clearing Participant Commitment)
- 8 (Financial Requirements).

These Futures Rules are applicable to OTC Clearing, as supplemented and varied by these OTC Rules.

### **3.2 OTC Commitment**

OTC Participants must provide a commitment to the financial support of the obligations of ASX Clear Futures (**OTC Commitment**) in the form prescribed by ASX Clear (Futures) as set out in the OTC Handbook and as calculated in accordance with Schedule 2 (OTC Commitment).

The aggregate amount of OTC Commitment is one hundred million dollars (A\$100,000,000), subject to the transitional arrangements set out in the OTC Handbook. The amount of OTC Commitment held by ASX Clear (Futures) may exceed the Aggregate OTC Commitment determined in accordance with Schedule 2 during a period where an OTC Participant is admitted but has not been previously included in the quarterly recalculation of OTC Commitment.

An OTC Participant that is also a Futures Participant must provide an additional Futures Commitment calculated in accordance with the Futures Rules.

### **3.3 Financial Requirements of OTC Participants**

An OTC Participant must:

- (a) have:
  - (i) if it is an Australian Bank, a minimum Tier 1 capital of \$50,000,000; or
  - (ii) if it is not an Australian Bank, a minimum level of Net Tangible Assets equal to \$50,000,000. For this purpose, Net Tangible Assets has the same meaning as it has in the Futures Rules; and
- (b) lodge with ASX Clear (Futures) the following financial information:
  - (i) if it is an Australian Bank, a quarterly capital statement of its Tier 1 capital in the form prescribed by ASX Clear (Futures); or

- (ii) if it is not an Australian Bank, the financial information required of a Clearing Participant in accordance with the Futures Rules; and
- (c) immediately advise ASX Clear (Futures) if any of the financial circumstances set out in the OTC Handbook occur in respect of the OTC Participant (if any such financial circumstances are set out in the OTC Handbook).

ASX Clear (Futures) may determine that the Financial Requirements of a particular OTC Participant are to exceed those specified above. ASX Clear (Futures) will make such a determination having regard to the number or value of OTC Open Contracts held by the OTC Participant, its assessment of the OTC Participant's risk under such OTC Open Contracts, the requirement of insurers or any other relevant factor. Where an OTC Participant is also a Futures Participant, ASX Clear (Futures) may also make such a determination having regard to both OTC Open Contracts and other Open Contracts. Any increased Financial Requirements determined by ASX Clear (Futures) apply to that OTC Participant until ASX Clear (Futures) determines otherwise.

An OTC Participant who is also a Futures Participant will only be required to comply with an amount equal to the greater of:

- (a) the Financial Requirements applicable to it as a Futures Participant; or
  - (b) the Financial Requirements applicable to it as an OTC Participant,
- unless otherwise provided under this OTC Rule 3.3.

## **4 REGISTRATION**

### **4.1 Signpost to related Futures Rules**

These OTC Rules relate to matters which are addressed in Part 3 (Registration of Market Contracts and Obligations of ASX Clear (Futures)) of the Futures Rules. However, to the extent that those Futures Rules could be applicable to OTC Clearing they are replaced by these OTC Rules. Accordingly, Part 3 of the Futures Rules does not apply to OTC Clearing.

### **4.2 OTC Participants and OTC Participant Related Entities**

Only OTC Participants are entitled to have OTC Transactions registered in their name.

Each OTC Participant must be acting as principal in respect of each OTC Transaction and each OTC Participant represents and warrants that it is acting as principal in respect of an OTC Transaction.

However, ASX Clear (Futures) may approve a Related Body Corporate of an OTC Participant to be an **OTC Participant Related Entity**. OTC Transactions which have been entered into by an OTC Participant Related Entity may also be submitted for registration as an OTC Transaction of the related OTC Participant in accordance with OTC Rule 4.3 (Submission of OTC Transactions). If such an OTC Transaction is accepted for registration in accordance with OTC Rule 4.6 (Creation of OTC Open Contracts) then the OTC Transaction will be registered by ASX Clear (Futures) in the name of the related OTC Participant.

The related OTC Participant:

- (a) will be taken to be, and will be taken to have been, party to that OTC Transaction for the purposes of these OTC Rules, the OTC Handbook

and the Futures Rules, regardless of the identity of the original contracting party to the OTC Transaction;

- (b) will be taken to be acting as principal in respect of that OTC Transaction and ASX Clear (Futures) will not in any way be required to recognise any OTC Participant Related Entity and is not in any way responsible for the performance of the obligations under OTC Open Contracts to any OTC Participant Related Entity;
- (c) will ensure that the OTC Transaction is terminated in accordance with OTC Rule 4.6(b) as if it were an original contracting party to that OTC Transaction and represents and warrants that it has the full capacity and authority to terminate the OTC Transaction on behalf of the OTC Participant Related Entity; and
- (d) indemnifies and will keep indemnified ASX Clear (Futures) and its officers, representatives, agents and contractors against all actions proceedings, claims, demands, damages, costs, expenses and any other amounts including any transaction taxes, goods and services taxes or any other duties or taxes (extending to include any taxes payable by ASX Clear (Futures) on a payment made under this indemnity) against or incurred by any of ASX Clear (Futures), its officers, representatives, agents or contractors arising out of or in connection with the registration of the OTC Transaction submitted by an OTC Participant Related Entity, or any action taken by, or any inaction by, any of ASX Clear (Futures) or its officers, representatives, agents or contractors in connection with the registration of the OTC Transaction submitted by an OTC Participant Related Entity, to the extent that it was not caused by the negligence, fraud or wilful default of ASX Clear (Futures).

ASX Clear (Futures) will not in any way have any obligation in connection with, or be on notice in relation to, any matter arising between the OTC Participant and any OTC Participant Related Entity or otherwise affecting the OTC Participant Related Entity. Nothing in this provision means that any OTC Participant Related Entity:

- (a) is an OTC Participant for the purpose of these OTC Rules, the OTC Handbook and the Futures Rules;
- (b) has any rights against ASX Clear (Futures); or
- (c) has any interest in any OTC Open Contract.

In addition, nothing in this provision limits OTC Rule 2.10 (Relationship with ASX Clear (Futures)).

#### **4.3 Submission of OTC Transactions**

An OTC Transaction to be submitted for registration must be presented to ASX Clear (Futures) in accordance with the OTC Handbook.

Once consent has been obtained, or is taken to have been obtained (in accordance with the OTC Handbook), from the OTC Participants with whom the OTC Open Contracts would be created by the registration of that OTC Transaction, then the OTC Transaction is taken to have been submitted to ASX Clear (Futures) for registration.

#### **4.4 Reliance on correctness**

ASX Clear (Futures) is entitled to rely on the particulars of any OTC Transaction notified to it as being correct and it is not bound to recognise any error in relation to such particulars.

#### **4.5 Acceptance for registration**

ASX Clear (Futures) will accept the submission of an OTC Transaction for registration if:

- (a) the OTC Transaction has been submitted for registration in accordance with the OTC Handbook;
- (b) each OTC Participant with whom an OTC Open Contract would be registered in respect of that OTC Transaction:
  - (i) was not in Default as at the time at which the OTC Transaction was received by ASX Clear (Futures) for registration;
  - (ii) is authorised as an OTC Participant in respect of the relevant OTC Transaction Type;
  - (iii) is entitled under these OTC Rules and the Futures Rules to have an OTC Transaction registered in its name;
- (c) the OTC Transaction satisfies the OTC Eligibility Criteria set out in the OTC Handbook;
- (d) the OTC Transaction passes the limit check applicable to it in accordance with the OTC Handbook for each OTC Participant with whom an OTC Open Contract would be registered in respect of that OTC Transaction;
- (e) ASX Clear (Futures) does not reasonably believe that its registration of the OTC Transaction will contravene applicable law; and
- (f) each applicable additional condition relevant to the OTC Transaction set out in the OTC Handbook is satisfied.

Where ASX Clear (Futures) has accepted the submission of an OTC Transaction for registration, that OTC Transaction will be deemed to have been registered as at the time it was received by ASX Clear (Futures).

Each OTC Open Contract registered by ASX Clear (Futures) will be registered in the House Clearing Account.

#### **4.6 Creation of OTC Open Contracts**

The effect of registration of an OTC Transaction is that ASX Clear (Futures) will be interposed, by novation, as the counterparty under an OTC Open Contract to each OTC Participant which was, or was taken to be, a party to the OTC Transaction. The result of this is that:

- (a) two OTC Open Contracts are created, one between ASX Clear (Futures) and each OTC Participant which was, or was taken to be, a party to the OTC Transaction. Under each OTC Open Contract, ASX Clear (Futures) has the same rights against, and obligations to, each OTC Participant which the other OTC Participant had, or was taken to have, under the OTC Transaction (this reference to the "same" rights or obligations is a reference to rights or obligations which are the same in

- nature and character as those rights or obligations rather than the same as to the person entitled to them or obliged to perform them);
- (b) the OTC Transaction is terminated so that each OTC Participant is released from its obligations to the other OTC Participant which was, or was taken to be, a party to the OTC Transaction, except for outstanding obligations which have fallen due for performance and which have not been performed at the time of registration; and
  - (c) each OTC Participant which was, or was taken to be, a party to the OTC Transaction is bound by its respective OTC Open Contracts with ASX Clear (Futures) automatically and without any further action on their part.

The terms of these OTC Open Contracts incorporate all applicable terms of the OTC Rules and the OTC Handbook (including the OTC Terms set out in the OTC Handbook which are applicable to the relevant OTC Open Contract). Each OTC Open Contract is between ASX Clear (Futures) and an OTC Participant as principal and not as agent. No other person has any rights or obligations under any OTC Open Contract between the OTC Participant and ASX Clear (Futures).

The OTC Open Contracts are not dependent on the valid existence of the associated OTC Transaction. If the OTC Transaction is rendered invalid after it has been registered, the corresponding OTC Open Contracts are not affected. However, this does not limit OTC Rule 4.7 (Exclusion of certain OTC Open Contracts).

#### **4.7 Exclusion of certain OTC Open Contracts**

ASX Clear (Futures) is not obliged to meet its obligations under an OTC Open Contract with an OTC Participant where the OTC Transaction the registration of which gave rise to the OTC Open Contract:

- (a) was entered into fraudulently;
- (b) was, to the knowledge of the parties to the OTC Transaction, entered into with an intention by either party to the OTC Transaction to Default; or
- (c) was otherwise not entered into in a bona fide manner by the parties to the OTC Transaction,

provided that:

- (i) the rights provided under this OTC Rule to ASX Clear (Futures) does not relieve the OTC Participant from any obligations to ASX Clear (Futures) under the OTC Open Contract; and
- (ii) the existence or exercise of any rights under this OTC Rule by ASX Clear (Futures) in relation to an OTC Open Contract does not affect or avoid ASX Clear (Futures)' obligations under any other OTC Open Contract whether or not arising from the registration of the same OTC Transaction.

ASX Clear (Futures) will act reasonably and in good faith in determining the existence of the events set out in OTC Rule 4.7(a), (b) and (c) and will provide notice in writing to the OTC Participant outlining the reasons for its determinations and the exercise of any rights provided under this OTC Rule.

#### **4.8 Incorrectly registered OTC Transactions**

If an OTC Transaction is incorrectly registered by ASX Clear (Futures) then ASX Clear (Futures) may, in its discretion:

- (a) with the agreement of the parties to the OTC Open Contracts created by the registration, correct the registration of the OTC Transaction so that it is taken to have been registered as corrected and these OTC Rules and the Futures Rules apply accordingly; or
- (b) not amend the registration, in which case the original terms so registered will apply to that OTC Transaction and the consequent OTC Open Contracts created by the registration.

Any such correction in accordance with OTC Rule 4.8(a) may be made subject to any conditions imposed by ASX Clear (Futures) including provision of Margin. ASX Clear (Futures) is not liable to any person in connection with any correction so made.

#### **4.9 Authoritative Record**

The record of OTC Open Contracts and OTC Open Positions maintained by ASX Clear (Futures) is the authoritative record and is conclusive at all times.

#### **4.10 Performance of OTC Open Contracts**

Each OTC Participant must perform all of its obligations under the terms of each OTC Open Contract registered in its name.

#### **4.11 Trade amendment and cancellation**

Variation of the terms of an OTC Open Contract by OTC Participants may only be effected in accordance with the OTC Handbook.

Cancellation of an OTC Open Contract by OTC Participants may only be effected in accordance with the OTC Handbook.

#### **4.12 Backloading**

OTC Transactions may be backloaded in accordance with the OTC Handbook.

#### **4.13 Re-bilateralisation**

Two OTC Open Contracts which have equal but offsetting terms (except for the identity of the parties) may be removed by ASX Clear (Futures) if:

- (a) each OTC Participant which holds an OTC Open Position in respect of one of those OTC Open Contracts notifies ASX Clear (Futures) of its instructions to remove the OTC Open Contract;
- (b) any conditions on accepting such instructions determined by ASX Clear (Futures) in its discretion (which may include the provision of Margin from either or both OTC Participants) have been satisfied; and
- (c) ASX Clear (Futures) chooses, at its discretion, to accept those instructions.

The effect of the removal is that the OTC Open Contracts are terminated and ASX Clear (Futures) no longer has any rights against, or obligations to, either of the OTC Participants which held an OTC Open Position with respect to that OTC

Open Contract under the terms of those OTC Open Contracts. The OTC Handbook sets out the procedures and timing for the removal of OTC Open Contracts. The OTC Participants may agree the terms of a transaction between them following, and in connection with, removal of the OTC Open Contract.

#### **4.14 Transfer of OTC Open Contracts**

Any transfer of an OTC Open Contract by an OTC Participant may only be effected in accordance with this OTC Rule 4.14 and the OTC Handbook. Any purported transfer not in accordance with this OTC Rule and the OTC Handbook will not be effective.

ASX Clear (Futures) may, on the request of an OTC Participant, transfer an OTC Open Contract held in the name of that OTC Participant to another OTC Participant that is authorised in respect of the OTC Transaction Type to which that OTC Open Contract relates.

ASX Clear (Futures) may in its discretion, decline any request without cause or impose such conditions on accepting such a request as it thinks fit, including requiring Margin.

The OTC Participant to which the OTC Open Contract is to be transferred must consent to the transfer before it can be effected.

The transfer of an OTC Open Contract is effected by novation so that:

- (a) a new OTC Open Contract is created between ASX Clear (Futures) and the OTC Participant to whom the OTC Open Contract is to be transferred. Under this OTC Open Contract:
  - (i) ASX Clear (Futures) has the same rights against, and obligations to, the receiving OTC Participant which it had under the OTC Open Contract between ASX Clear (Futures) and the transferring OTC Participant; and
  - (ii) the receiving OTC Participant has the same rights against, and obligations to, ASX Clear (Futures) which the transferring OTC Participant had against ASX Clear (Futures) under the OTC Open Contract between ASX Clear (Futures) and the transferring OTC Participant.

However, this reference to the “same” rights or obligations is a reference to rights or obligations which are the same in nature and character as those rights or obligations rather than the same as to the person entitled to them or obliged to perform them; and

- (b) the OTC Open Contract between ASX Clear (Futures) and the transferring OTC Participant is terminated so that each of ASX Clear (Futures) and that OTC Participant is released from its obligations to the other, except for outstanding obligations which have fallen due for performance and which have not been performed at the time of registration.

The OTC Handbook sets out the procedures and timing for such transfers.

#### **4.15 OTC Portfolio Compression**

If the requirements for portfolio compression set out in the OTC Handbook are met, then ASX Clear (Futures) will facilitate a portfolio compression cycle in accordance with the procedures set out in the OTC Handbook.

#### **4.16 Market netting contract**

ASX Clear (Futures) and each OTC Participant acknowledge that OTC Open Contracts are market netting contracts (as defined in the *Payment Systems and Netting Act 1998 (Cwlth)*) the terms of which incorporate any and all Futures Rules, OTC Rules and provisions of the OTC Handbook which provide for or relate to the exercise of default rights, the netting, set-off or termination of obligations, the calculation or payment of termination values or net amounts, the obligation to make a payment, or transfer of property, to meet a deposit or margin call, the enforcing of security, and the transfer of, or dealing with, rights, obligations or property or which otherwise affect the rights and obligations of the parties to the contracts.

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### **5 ACCOUNTS AND MARGIN**

#### **5.1 Signpost to related Futures Rules**

These OTC Rules relate to matters which are addressed in Part 4 (Accounts and Daily Settlement) of the Futures Rules. However, to the extent that those Futures Rules could be applicable to OTC Clearing they are replaced by these OTC Rules. Accordingly, Part 4 of the Futures Rules (except Futures Rules 47.2 to 47.4) does not apply to OTC Clearing except to the extent set out in this OTC Rule 5.

#### **5.2 House Clearing Account**

All money or property owing or deliverable to or from ASX Clear (Futures) in relation to OTC Open Positions of an OTC Participant is registered in that OTC Participant's House Clearing Account (which is the same account as is established under Futures Rule 41.1).

ASX Clear (Futures) may, but is not obliged to, withdraw an amount owing to it by an OTC Participant in connection with OTC Open Positions (including Margin) from that OTC Participant's House Clearing Account.

#### **5.3 Transfer of OTC Initial Margin**

In respect of each of its OTC Open Positions, each OTC Participant must transfer to ASX Clear (Futures) an amount of money in Australian dollars (or such other currency set out in the OTC Handbook as ASX Clear (Futures) accepts in its discretion) equal to the OTC Initial Margin required as determined by ASX Clear (Futures) from time to time. The amounts must be transferred upon demand or by such time as is set out in the OTC Handbook or is otherwise required by ASX Clear (Futures). These transferred amounts are to be dealt with by ASX Clear (Futures) in accordance with these OTC Rules and the Futures Rules.

OTC Initial Margin is Margin for the purpose of the Futures Rules.

#### **5.4 Securities as OTC Initial Margin**

ASX Clear (Futures) may in its absolute discretion:

- (a) accept the transfer of securities or other property set out in the OTC Handbook as OTC Initial Margin; and
- (b) prescribe limits on the aggregate amount of securities or other property that an OTC Participant can lodge as OTC Initial Margin, whether applicable to a particular OTC Participant or otherwise.

All such transfers are absolute transfers of all right, title and interest in the securities or other property to ASX Clear (Futures).

ASX Clear (Futures) may determine the valuation of any such securities or other property in its sole discretion. ASX Clear (Futures) may apply valuation haircuts to such valuations as set out in the OTC Handbook as varied from time to time, but subject to the right of ASX Clear (Futures) to determine different valuations at any time in its sole discretion.

ASX Clear (Futures) may from time to time require an OTC Participant to:

- (a) transfer further OTC Initial Margin to ensure that ASX Clear (Futures)' valuations of the money, securities or other property comprising the OTC Initial Margin is at least equal to the amount of OTC Initial Margin required from the OTC Participant; or
- (b) replace any securities or other property which have been transferred by the OTC Participant as OTC Initial Margin with money, other securities or other property required by ASX Clear (Futures).

The obligation upon an OTC Participant to make a transfer under this OTC Rule 5.4 is in addition to any other obligation of the OTC Participant to make transfers of cash amounts, securities, collateral or property as otherwise provided in accordance with the OTC Rules.

## **5.5 Change of OTC Initial Margin obligations**

ASX Clear (Futures) may in appropriate circumstances, or for particular OTC Open Contracts or classes of OTC Open Contracts, determine a higher or lower rate of OTC Initial Margin for a particular OTC Participant or class of OTC Participants.

In addition, ASX Clear (Futures) may, from time to time and in its discretion, require that an OTC Participant transfers in relation to OTC Open Positions a greater OTC Initial Margin than that which the OTC Participant would otherwise be required to provide.

## **5.6 Portfolio Margining**

ASX Clear (Futures) may, from time to time, notify OTC Participants of specified classes of Open Contracts (other than OTC Open Contracts) that it may take into account in determining the amount of OTC Initial Margin required to be transferred by an OTC Participant.

An OTC Participant may, in accordance with the OTC Handbook, request that Open Contracts with that OTC Participant registered in the OTC Participant's House Clearing Account of a class so notified by ASX Clear (Futures) be taken into account in determining the amount of OTC Initial Margin required from that OTC Participant.

If ASX Clear (Futures) accepts such a request from an OTC Participant, then ASX Clear (Futures) will:

- (a) take into account such Open Contracts in determining the amount of OTC Initial Margin required from that OTC Participant; and
- (b) not take such Open Contracts into account in determining the amount of Initial Margin other than OTC Initial Margin required from that OTC Participant,

in each case, in accordance with the OTC Handbook.

Without limiting its discretion to refuse such a request from an OTC Participant (including if it has previously been requested), ASX Clear (Futures) may refuse such a request if it is of the view that such portfolio margining would not reduce risk in respect of the clearing facilities provided in accordance with these OTC Rules. ASX Clear (Futures) is not required to demonstrate the basis for any such view.

### 5.7 OTC Intra-day Margin and OTC Extra Margin

An OTC Participant must, on each Business Day, transfer to ASX Clear (Futures) by way of **OTC Intra-day Margin** amounts owing as a result of any OTC Intra-day Margin call made by ASX Clear (Futures). The manner and timing of such payments are set out in the OTC Handbook.

In addition to, or instead of, the OTC Intra-day Margins ASX Clear (Futures) may at any time require, at its absolute discretion, any one or more OTC Participants (by a time determined by ASX Clear (Futures)) to transfer as **OTC Extra Margin** further cash, securities, margin or cover for OTC Open Contracts or OTC Transactions eligible to be registered. Such OTC Participants must, in accordance with such a requirement, transfer to ASX Clear (Futures) by way of OTC Extra Margin further cash, securities, margin or cover as ASX Clear (Futures) determines.

Any OTC Intra-day Margin and OTC Extra Margin transferred to ASX Clear (Futures) by an OTC Participant is to comply with the requirements for, be treated as, held by and dealt with ASX Clear (Futures) as OTC Initial Margin.

### 5.8 OTC Daily Closing Value

The closing value of OTC Open Contracts (referred to as **OTC Daily Closing Value**) will be determined by ASX Clear (Futures) in the manner, and at such times, as is set out in the OTC Handbook. This calculation by ASX Clear (Futures) is conclusive and final.

### 5.9 OTC Daily Variation Margin

ASX Clear (Futures) will calculate the OTC Daily Variation Margin applicable to OTC Open Contracts in the manner set out in the OTC Handbook.

Following each such determination:

- (a) if ASX Clear (Futures) determines that an OTC Participant needs to pay OTC Daily Variation Margin to ASX Clear (Futures) then the OTC Participant must pay to ASX Clear (Futures) the amount of any OTC Daily Variation Margin which ASX Clear (Futures) has determined is owing by the OTC Participant; or
- (b) if ASX Clear (Futures) determines that it needs to pay OTC Daily Variation Margin to an OTC Participant then ASX Clear (Futures) must pay to the OTC Participant the amount of any OTC Daily Variation Margin which ASX Clear (Futures) has determined is owing to the OTC Participant.

OTC Daily Variation Margin must be paid in Australian dollars, or such other currency that ASX Clear (Futures) determines is acceptable in its discretion from time to time. The payment of OTC Daily Variation Margin is made absolutely and is to be in accordance with the OTC Handbook.

An OTC Participant is not entitled to repayment of the amount of OTC Daily Variation Margin except in accordance with these OTC Rules, the OTC Handbook and ASX Clear (Futures)' margining policy.

OTC Daily Variation Margin is Margin for the purposes of the Futures Rules.

### **5.10 Price Alignment Interest**

Price Alignment Interest is payable on OTC Daily Variation Margin in the manner set out in the OTC Handbook.

### **5.11 Excess Margin**

All amounts held by ASX Clear (Futures) in an OTC Participant's House Clearing Account, including any monies transferred in excess of an OTC Participant's Margin obligations at the time of the transfer, are taken to have been transferred for the purpose of satisfying Margin obligations of that OTC Participant.

Amounts held by ASX Clear (Futures) which are in excess of an OTC Participant's Margin obligations from time to time are refundable to the OTC Participant by ASX Clear (Futures) upon demand, provided that ASX Clear (Futures) is satisfied, in its absolute discretion, that such amounts will not be required to satisfy the OTC Participant's obligations (present, future or contingent) under the Rules (including a Margin obligation).

### **5.12 Errors, corrections and related disputes**

In the event ASX Clear (Futures) determines that an error has been made in relation to a calculation, payment, amount or similar under the OTC Rules, OTC Handbook or Futures Rules, whether paid or unpaid, due and payable or prospective, retrospective or contingent, ASX Clear (Futures) may, in its sole discretion:

- (a) carry out any or all adjustments or corrections that ASX Clear (Futures) deems appropriate in relation to that error; and
- (b) impose such conditions or undertake any such actions as ASX Clear (Futures) considers appropriate to deal with the consequential impacts (whether actual or potential) in relation to making such adjustments or corrections.

Where ASX Clear (Futures) determines to take any such actions under (a) or (b) above, ASX Clear (Futures) will notify the parties involved as soon as reasonably practicable after making such a determination. Where any adjustment or correction involves an adjustment payment to any previous amounts paid by an OTC Participant, the relevant party shall pay the adjustment amount within one Business Day of its receipt of ASX Clear (Futures)' determination.

ASX Clear (Futures) may determine any disputes in relation to errors, purported errors or any other related matters contemplated by this OTC Rule 5.12 including, but not limited to, matters relating to the calculation, payment or valuation of OTC Initial Margin, OTC Daily Variation Margin, OTC Intra-day Margin, OTC Extra Margin, coupons and Price Alignment Interest. Where ASX Clear (Futures) makes such a determination in relation to a dispute, that determination will be final and binding on all the parties.

ASX Clear (Futures) is not liable to any person in connection with any adjustment, correction, condition, action, consequential impact (whether actual or potential) or determination made or incurred under this OTC Rule.

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## 6 DEFAULT

### 6.1 Signpost to related Futures Rules

These OTC Rules relate to matters which are addressed in:

- Futures Rule 7 (Satisfaction of Obligations of ASX Clear (Futures)); and
- Part 7 (Procedures on a Default) of the Futures Rules.

These OTC Rules supplement those Futures Rules, which continue to apply to OTC Clearing.

Part 7A (Termination with respect to ASX Clear (Futures)) of the Futures Rules applies to OTC Clearing.

### 6.2 Default management process

The provisions of these OTC Rules, the Futures Rules and the OTC Handbook relating to default management (referred to as the **Default Management Provisions**) include:

- Futures Rule 7 and Part 7 of the Futures Rules;
- this OTC Rule 6 (Default);
- default management process set out in Schedule 3 (Default Management Process) to these OTC Rules;
- the procedures for the default management group set out in the OTC Handbook; and
- the procedures for default management auctions set out in the OTC Handbook.

Each OTC Participant must:

- (a) comply with its obligations in connection with the Default Management Provisions;
- (b) approve ASX Clear (Futures) as a counterparty with which it can enter into DM Hedging Transactions, Independent DM Transactions or DM Auction Transactions in accordance with the Default Management Provisions;
- (c) co-operate with, and not cause any hindrance to, ASX Clear (Futures) in the course of the management of any Default or Termination; and
- (d) if requested by ASX Clear (Futures), take part in tests designed and implemented by ASX Clear (Futures) from time to time that evaluate the OTC Participant's ability to fulfil its default management obligations and appoint:
  - (i) one of its employees as Designated DMG Member; and
  - (ii) one of its employees as Designated DMG Deputy,

as primary contacts for ASX Clear (Futures) for all general matters relating to default management. Each OTC Participant must notify ASX

Clear (Futures) of the appointment in the manner prescribed by ASX Clear (Futures) in the OTC Handbook from time to time.

### 6.3 Default and Defaulted OTC Participants

In accordance with Futures Rule 71.1 an OTC Participant must notify ASX Clear (Futures) if an event of Default occurs under Futures Rule 71.3 (as supplemented by OTC Rule 6.4 (Events of Default) below), or if the OTC Participant has reasonable grounds to suspect that an event of Default may occur.

Whether or not such notice is given, if ASX Clear (Futures) is of the opinion that there is an event of Default with respect to an OTC Participant then ASX Clear (Futures) may declare the OTC Participant to be in Default and for the purposes of the Futures Rules that OTC Participant is taken to have **Defaulted**.

Without limiting the above, an OTC Participant is automatically taken to have Defaulted if an event occurs in connection with insolvency or bankruptcy with respect to it of a type which is specified by ASX Clear (Futures) from time to time. If such an event occurs, than all of the OTC Participant's Open Contracts are subject to Termination having a Termination Time immediately upon the occurrence of such event.

### 6.4 Events of Default

The events of Default set out in Futures Rules 71.3 apply to OTC Participants. In addition, each of the following events are included in the list of the events of Default set out in Futures Rule 71.3 with respect to an OTC Participant and apply to OTC Participants:

- (a) the OTC Participant is in breach of the rules of any recognised, designated or overseas investment exchange or clearinghouse;
- (b) the OTC Participant fails to pay any sum due and payable, or threatens to suspend payment under the terms of any agreement;
- (c) the OTC Participant breaches any of the Financial Requirements prescribed by ASX Clear (Futures);
- (d) the OTC Participant breaches any conditions prescribed by ASX Clear (Futures) on its admission as a Clearing Participant or on its authorisation as an OTC Participant;
- (e) upon request by ASX Clear (Futures), which may be made at any time, the OTC Participant fails to confirm on or before the cut-off time reasonably specified by ASX Clear (Futures) in its request that it is able to pay its debts as they become due;
- (f) the OTC Participant:
  - (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
  - (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
  - (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;

(iv)

- (A) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official; or
- (B) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in clause (A) above and either (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (2) is not dismissed, discharged, stayed or restrained in each case within 15 days of the institution or presentation thereof;
- (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (vii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 15 days thereafter;
- (viii) causes or is subject to any of the events specified in clauses (i) to (vii) above (inclusive); or
- (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

## 6.5 Terminable Open Contracts

ASX Clear (Futures) may, from time to time, notify OTC Participants of classes of Open Contracts (other than OTC Open Contracts) that may be Terminated pursuant to OTC Rule 6.6 (Termination and Terminated Open Contracts). Open Contracts (other than OTC Open Contracts) of such classes are referred to as **Terminable Open Contracts**.

## 6.6 Termination and Terminated Open Contracts

The powers of ASX Clear (Futures) set out in Futures Rules 72 (Powers of ASX Clear (Futures) Upon A Default and Determination of a Loss) apply to OTC Participants.

By way of supplement, and not by limitation, if an OTC Participant is in Default then ASX Clear (Futures) can declare that the obligations of the OTC Participant and ASX Clear (Futures) under:

- (a) OTC Open Contracts; and
- (b) any or all Terminable Open Contracts as determined by ASX Clear (Futures),

to be the subject of a **Termination** and the time at which such Termination is to be effective (referred to as the **Termination Time**). The Open Contracts (whether OTC Open Contracts or Terminable Open Contracts) which are the subject of such a declaration are referred to as **Terminated Open Contracts**.

If ASX Clear (Futures) makes such a declaration then the present and future obligations of ASX Clear (Futures) and the OTC Participant to make payments under the terms of the Terminated Open Contracts (including payments of OTC Daily Variation Margin and Variation Margin) are terminated and the payments are no longer required to be made.

## 6.7 Termination Value

ASX Clear (Futures) may, at any time, calculate a **Termination Value** in respect of one or more Terminated Open Contracts as selected by ASX Clear (Futures).

Without limiting the factors which ASX Clear (Futures) may take into account in determining such Termination Value, it may take into account its determination of:

- (a) the value of obligations which fell due in connection with the Terminated Transaction(s) (including payment of OTC Daily Variation Margin and Variation Margin) before the Termination Time but which have not been performed;
- (b) the value of obligations which would have been due for performance under the Terminated Transactions after the Termination Time if the Terminated Transaction(s) had not been Terminated (including payment of OTC Daily Variation Margin and Variation Margin); and
- (c) its losses, costs, charges and expenses in connection with the Default Management Process with respect to the Terminated Transaction(s) including, without limitation, DM Hedging Transaction Costs and amounts payable by it in respect of the DM Auctions.

ASX Clear (Futures) may include the amount of interest in any or all of (a), (b) and (c), calculated in a manner consistent with OTC Rule 8.3 (Interest on overdue amounts).

ASX Clear (Futures) may include a Termination Value calculated by it in any netting conducted in accordance with Futures Rule 72.3.

ASX Clear (Futures)' determination of a Termination Value is conclusive, but does not limit any of its rights under these OTC Rules, the Futures Rules or at law.

## 6.8 Application of OTC Initial Margin and all other amounts

In addition to any other rights which ASX Clear (Futures) has in connection with the Default of an OTC Participant, ASX Clear (Futures) may apply or appropriate any amount of OTC Initial Margin, OTC Intra-day Margin or OTC Extra Margin or any other amount standing to the credit of the OTC Participant, and any other

amount held by ASX Clear (Futures) in respect of the OTC Participant, towards the payment or discharge of the amounts payable by the Defaulted OTC Participant.

## **6.9 Information Sharing**

ASX Clear (Futures) may co-operate, by the sharing of information or otherwise, with any regulatory body or exchange, any relevant office-holder acting in relation to a Defaulted OTC Participant or its estate and any other authority or body having responsibility for, or any OTC Participant having an interest in, any matter arising out of or connected with the circumstances mentioned in these OTC Rules.

## **6.10 Advice and Assistance**

Without prejudice to any other OTC Rule, if an OTC Participant is in Default, ASX Clear (Futures) may obtain such assistance or advice, whether legal advice or otherwise, as ASX Clear (Futures) may deem necessary and at the expense of a Defaulted OTC Participant for any matter arising out of or in connection with the Default of that OTC Participant.

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## **7 EMERGENCIES AND FORCE MAJEURE**

### **7.1 Signpost to related Futures Rules**

Part 8 (Emergency situations and force majeure) of the Futures Rules is applicable to OTC Clearing.

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## **8 MISCELLANEOUS**

### **8.1 Signpost to related Futures Rules**

These OTC Rules relate to matters addressed in Part 9 (Miscellaneous) of the Futures Rules. Futures Rules 96 (Notification to the Exchange) and 102 (Compulsory Settlement) do not apply to OTC Clearing. However, all of the other Futures Rules in Part 9 apply to OTC Clearing, where relevant.

In addition the following OTC Rules apply.

### **8.2 Payments by OTC Participants**

Each payment made by an OTC Participant under these OTC Rules or the OTC Handbook must:

- (a) transfer all right, title and interest in the amount of money paid to ASX Clear (Futures);
- (b) be in the currency in which it is due and in immediately available and freely transferable funds;
- (c) be made on the due date for value on that date in Sydney;
- (d) be in full without set-off, cross-demand or counterclaim and without any deduction for taxes, levies, imposts, charges or duties (including stamp and transaction duties) imposed by any authority unless prohibited by law. Payments in respect of which such deduction or withholding is required to be made by law, by the OTC Participant, will be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, ASX Clear (Futures) receives and retains (free

- from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made; and
- (e) be made into the House Clearing Account held of that OTC Participant or such other account nominated by ASX Clear (Futures).

However, on each Business Day, ASX Clear Futures may aggregate or net any or all payments due between it and an OTC Participant on that day (whether related to OTC Open Contracts, Futures Contracts or otherwise) in the same currency to produce a single net amount which is payable between them in that currency. The obligations which were netted or aggregated to produce the single net amount are discharged by its payment.

### **8.3 Interest on overdue amounts**

If the OTC Participant does not pay any amount under the Futures Rules, these OTC Rules or the OTC Handbook on the due date for payment, the OTC Participant agrees to pay interest on that amount at a rate per annum equal to ASX Clear (Futures)' cost (without proof or evidence of any actual cost) to ASX Clear (Futures) (as certified by ASX Clear (Futures)) if ASX Clear (Futures) were to fund, or of funding, the relevant amount plus 2% (per annum). The interest accrues daily from (and including) the due date to (but excluding) the date on which ASX Clear (Futures) is paid the amount and is calculated on actual days elapsed and a year of 365 days.

The OTC Participant agrees to pay interest under this clause on demand from ASX Clear (Futures).

### **8.4 Discretion in exercising rights**

ASX Clear (Futures) may exercise a right or remedy or give or refuse its consent under these OTC Rules in any way it considers appropriate (including by imposing conditions).

Any exercise of discretion or other choice by ASX Clear (Futures) under these OTC Rules may be made in the absolute discretion of ASX Clear (Futures) unless these OTC Rules expressly state otherwise. However, ASX Clear (Futures) will exercise such rights and remedies in good faith having regard to the obligations, duties, powers and discretions which it has as the holder of, or in connection with the holding of, an Australian CS facility licence under Part 7.3 of the Corporations Act.

The rights and remedies of ASX Clear (Futures) under these OTC Rules may be exercised even if ASX Clear (Futures) has a personal interest in their exercise.

### **8.5 Consents**

Each OTC Participant agrees to comply with all conditions in any consent ASX Clear (Futures) gives in connection with these OTC Rules.

### **8.6 Partial exercising of rights**

If ASX Clear (Futures) does not exercise a right or remedy under these OTC Rules fully or at a given time, it may still exercise it later.

## **8.7 No liability for loss**

ASX Clear (Futures) is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy under these OTC Rules.

## **8.8 Remedies cumulative**

The rights and remedies of ASX Clear (Futures) under these OTC Rules are in addition to other rights and remedies available under the Futures Rules or given by law independently of these OTC Rules.

## **8.9 When ASX Clear (Futures) taken to have performed its obligations**

Where an OTC Rule specifies a time by which a party to an OTC Open Contract must perform its obligations or exercise its rights under that OTC Open Contract (including with respect to OTC Daily Variation Margin), ASX Clear (Futures) will be taken to have complied with that OTC Rule if it performs its obligations or exercises its rights as soon as practicable after the time specified, unless the OTC Rule expressly provides that ASX Clear (Futures) must perform or exercise at or before the time specified.

## **8.10 OTC Participant to have e-mail**

A OTC Participant must acquire and maintain an operating e-mail system for the purposes of receiving notices under these OTC Rules.

## **8.11 Governing law**

These OTC Rules are to be interpreted in accordance with the laws of New South Wales.

# ASX OTC Rulebook

## Schedule 1 – Relationship with Futures Rules

*This schedule sets out whether, for each Futures Rule, it is replaced by a specific OTC Rule or is varied or supplemented by a specific OTC Rule, and, if neither, whether it otherwise applies to OTC Clearing, or is not relevant to OTC Clearing.*

A <b>Futures Rule</b>	B <b>Replaced by OTC Rule (and Futures Rule does not apply)</b>	C <b>Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	If not referred to in column B or C:	
			D <b>Futures Rule applies</b>	E <b>Futures Rule not relevant (and does not apply)</b>
1.1		1.3		
1.2		1.13		
1.3		1.2		
1.4	1.10(K)			
1.5	1.12			
1.6		1.10(d)		
1.7		1.10(e)		
1.8				Not relevant
1.9				Not relevant
1.10			Applicable	
3.1.1			Applicable	
3.1.2			Applicable	
3.2.1		2.9		
3.2.2			Applicable	
3.2.3			Applicable	
3.3				Not relevant
4.1		2.2, 2.3		
4.2		2.4		

<b>A Futures Rule</b>	<b>B Replaced by OTC Rule (and Futures Rule does not apply)</b>	<b>C Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	<b>If not referred to in column B or C:</b>	
			<b>D Futures Rule applies</b>	<b>E Futures Rule not relevant (and does not apply)</b>
4.3				Not relevant
4.4		2.3		
4.5			Applicable	
4.6		2.6		
4.7		2.6		
4.7A		2.7		
4.7B		2.6		
4.8			Applicable	
4.9		2.8		
4.10		2.7		
4.11			Applicable	
4.12			Applicable	
4.13			Applicable	
4.14 (except 4.14(j), (ja), (k), (l))			Applicable	
4.14(j), (ja), (k), (l)				Not relevant
4.15			Applicable	
5.1		3.2		
5.2			Applicable	
5.3			Applicable	
5.4			Applicable	
5.5			Applicable	
5.5A			Applicable	

<b>A Futures Rule</b>	<b>B Replaced by OTC Rule (and Futures Rule does not apply)</b>	<b>C Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	<b>If not referred to in column B or C:</b>	
			<b>D Futures Rule applies</b>	<b>E Futures Rule not relevant (and does not apply)</b>
5.6	3.2			
5.7			Applicable	
5.7A			Applicable	
5.8			Applicable	
5.9			Applicable	
5.10			Applicable	
5.11				Not relevant
6.1			Applicable	
6.2			Applicable	
6.3			Applicable	
7.1			Applicable	
7.2			Applicable	
7.3			Applicable	
7.4			Applicable	
7.5			Applicable	
7.6			Applicable	
7.7			Applicable	
7.8			Applicable	
7.9			Applicable	
7.10			Applicable	
8.1	3.2, 3.3			
8.2			Applicable	
8.3			Applicable	

<b>A Futures Rule</b>	<b>B Replaced by OTC Rule (and Futures Rule does not apply)</b>	<b>C Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	<b>If not referred to in column B or C:</b>	
			<b>D Futures Rule applies</b>	<b>E Futures Rule not relevant (and does not apply)</b>
8.4		3.3		
8.5			Applicable	
8.6			Applicable	
9.1			Applicable	
9.2			Applicable	
9.3			Applicable	
9.4			Applicable	
9.5				Not relevant
9.6			Applicable	
9.7			Applicable	
9A.1			Applicable	
9A.2			Applicable	
9A.3.8			Applicable	
10.9			Applicable	
10.11			Applicable	
10.12		2.13		
10.13			Applicable	
10.14			Applicable	
10.18			Applicable	
11.1			Applicable	
11.2			Applicable	
12.1			Applicable	
12.6			Applicable	

<b>A Futures Rule</b>	<b>B Replaced by OTC Rule (and Futures Rule does not apply)</b>	<b>C Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	<b>If not referred to in column B or C:</b>	
			<b>D Futures Rule applies</b>	<b>E Futures Rule not relevant (and does not apply)</b>
12B				Not relevant
13			Applicable	
14			Applicable	
15				Not relevant
16			Applicable	
17			Applicable	
18			Applicable	
19			Applicable	
20			Applicable	
30				Not relevant
31.1	4.3			
31.2	4.5			
31.3	4.6			
31.4	4.2			
31.5(a)	4.4			
31.5(b)				Not relevant
31.6	4.2, 4.5			
31.7	4.7			
31.8		4.16		
31A				Not relevant
32				Not relevant
33	4.14			
34		2.9		

<b>A Futures Rule</b>	<b>B Replaced by OTC Rule (and Futures Rule does not apply)</b>	<b>C Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	<b>If not referred to in column B or C:</b>	
			<b>D Futures Rule applies</b>	<b>E Futures Rule not relevant (and does not apply)</b>
35				Not relevant
36				Not relevant
37				Not relevant
40	5.1			
41.1	5.2			
41.2				Not relevant
41.3				Not relevant
41.4				Not relevant
41.5				Not relevant
41.6				Not relevant
41.7				Not relevant
41.8				Not relevant
41A				Not relevant
42				Not relevant
43.1	5.3, 5.4			
43.2	5.5			
43.3	5.5			
43.4				Not relevant
43.5	5.6			
43A				Not relevant
44	5.8			
44A				Not relevant
45	5.7			

<b>A Futures Rule</b>	<b>B Replaced by OTC Rule (and Futures Rule does not apply)</b>	<b>C Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	<b>If not referred to in column B or C:</b>	
			<b>D Futures Rule applies</b>	<b>E Futures Rule not relevant (and does not apply)</b>
45A				Not relevant
46				Not relevant
47.1				Not relevant
47.2			Applicable	
47.3			Applicable	
47.4			Applicable	
48				Not relevant
49	5.11			
50				Not relevant
51				Not relevant
52				Not relevant
53				Not relevant
54				Not relevant
60				Not relevant
61				Not relevant
62				Not relevant
63				Not relevant
63A				Not relevant
64				Not relevant
70			Applicable	
71.1		6.3		
71.3		6.4		
72.1		6.6		

<b>A Futures Rule</b>	<b>B Replaced by OTC Rule (and Futures Rule does not apply)</b>	<b>C Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	<b>If not referred to in column B or C:</b>	
			<b>D Futures Rule applies</b>	<b>E Futures Rule not relevant (and does not apply)</b>
72.1A			Applicable	
72.2		6.6		
72.3		6.7		
73		6.7		
74			Applicable	
75			Applicable	
75A			Applicable	
76			Applicable	
80			Applicable	
81			Applicable	
82			Applicable	
90		8		
92.1		8.11		
92.2			Applicable	
92.3				Not relevant
93.1			Applicable	
93.2			Applicable	
93.3		8.4		
93.4		8.9		
93.5			Applicable	
93.6			Applicable	
93.7		8.6		
93.8		8.8		

<b>A Futures Rule</b>	<b>B Replaced by OTC Rule (and Futures Rule does not apply)</b>	<b>C Supplementary OTC Rule (and Futures Rule applies as varied or supplemented)</b>	<b>If not referred to in column B or C:</b>	
			<b>D Futures Rule applies</b>	<b>E Futures Rule not relevant (and does not apply)</b>
94			Applicable	
95			Applicable	
96				Not relevant
97			Applicable	
99			Applicable	
101			Applicable	
102				Not relevant
103			Applicable	
104			Applicable	
105			Applicable	
106			Applicable	
107			Applicable	

# ASX OTC Rulebook

## Schedule 2 – OTC Commitment

*This schedule sets out the manner of calculating the OTC Commitments.*

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### 1 OTC Commitment

The OTC Commitment for each OTC Participant is comprised of:

- (a) a Fixed OTC Commitment as set out in paragraph 2 (Fixed OTC Commitment) below; and
- (b) a Variable OTC Commitment calculated in the manner set out in paragraph 3 (Variable OTC Commitment) below.

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### 2 Fixed OTC Commitment

The Fixed OTC Commitment of each OTC Participant is five million dollars (\$5,000,000).

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### 3 Variable OTC Commitment

#### 3.1 Variable OTC Commitment Calculations

The following are the calculations (and the terms relevant to them) which are to be performed by ASX Clear (Futures) in order to calculate the Variable OTC Commitment of each OTC Participant in respect of each Quarter:

Aggregate Daily Average Initial Margin      For a Calculation Period, the sum of the Daily Average Initial Margin for all OTC Participants for that Calculation Period:

- (a) *excluding* the Daily Average Initial Margin of any OTC Participant which is not to have a Variable OTC Commitment at the commencement of the Quarter related to that Calculation Period; and
- (b) *including* ASX Clear (Futures)' estimation of the Daily Average Initial Margin of each entity which will be an OTC Participant as at the commencement of the Quarter related to that Calculation Period.

Aggregate Fixed OTC Commitment:      For a Calculation Period, is equal to the total Fixed OTC Commitment received by ASX Clear (Futures).

Aggregate OTC Commitment:      One hundred million dollars (\$100,000,000).

Aggregate Variable OTC Commitment:      For a Calculation Period, is equal to the greater of zero and:

	<ul style="list-style-type: none"> <li>(a) the Aggregate OTC Commitment</li> </ul> <p><i>minus</i></p> <ul style="list-style-type: none"> <li>(b) the Aggregate Fixed OTC Commitment.</li> </ul>
Calculation Period:	<p>In respect of a Quarter, the period:</p> <ul style="list-style-type: none"> <li>(a) from, and including, the 11<sup>th</sup> day of the final month of the Quarter which immediately preceded the immediately preceding Quarter;</li> <li>(b) to, and including, the 10<sup>th</sup> day of the final month of the immediately preceding Quarter.</li> </ul>
Daily Average Initial Margin	<p>For an OTC Participant in respect of a Calculation Period is equal to:</p> <ul style="list-style-type: none"> <li>(a) sum of that OTC Participant's OTC Initial Margin on each Business Day in that Calculation Period</li> </ul> <p><i>divided by</i></p> <ul style="list-style-type: none"> <li>(b) the number of Business Days in that Calculation Period.</li> </ul>
Quarter:	<p>Each three month period:</p> <ul style="list-style-type: none"> <li>(a) starting on 1 March, 1 June, 1 September and 1 December of each year; and</li> <li>(b) ending on 30 May, 31 August, 30 November and 28 February (or 29 February in a leap year), respectively.</li> </ul>
Rounding:	<p>Each OTC Variable Commitment will be rounded to the nearest multiple of ten thousand dollars on the basis that an amount of \$5,000 and above is rounded up and an amount of \$4,999.99 down <i>provided that</i> the rounding must ensure that ASX Clear (Futures) has exactly the Aggregate Variable OTC Commitment required.</p>
Variable OTC Commitment:	<p>For an OTC Participant in respect of a Quarter is equal to:</p> <ul style="list-style-type: none"> <li>(a) the Aggregate Variable OTC Commitment</li> </ul> <p><i>multiplied by</i></p> <ul style="list-style-type: none"> <li>(b) that OTC Participant's Variable OTC Commitment Proportion,</li> </ul> <p>each in respect of the relevant Calculation Period.</p>
Variable OTC Commitment Proportion	<p>For an OTC Participant in respect of a Calculation Period is equal to (expressed as a percentage):</p> <ul style="list-style-type: none"> <li>(a) the Daily Average Initial Margin of that OTC Participant</li> </ul>

*divided by*

- (b) the Aggregate Daily Average Initial Margin,  
each in respect of that Calculation Period.

### **3.2 Timing of Variable OTC Commitment Calculations**

The Variable OTC Commitment for each OTC Participant will be calculated by ASX Clear (Futures) so as to take effect from the first day of each Quarter (as of midnight on the last day of the immediately preceding Quarter).

ASX Clear (Futures) will notify each OTC Participant of its Variable OTC Commitment for a Quarter before the close of business of the seventeenth day of the final month of the previous Quarter (or, if that day is not a Business Day, the next following Business Day).

Each OTC Participant must complete any adjustments to its Variable OTC Commitment for a new Quarter before 10.30am (Sydney time) on the second last Business Day of the previous Quarter.

If an OTC Participant's Variable OTC Commitment ceases on a day other than the first day of a Quarter then it is at ASX Clear (Futures)' discretion as to the date when the OTC Variable OTC Commitments of all OTC Participants should be adjusted.

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## **4 Transitional Arrangements**

The calculations in this Schedule 2 are subject to any transitional arrangements set out in the OTC Handbook.

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## **5 New OTC Participants**

The calculation of the Variable OTC Commitment for an OTC Participant not previously included in the quarterly recalculation (referred to as **New OTC Participant**) will be estimated by ASX Clear (Futures). Any estimates by ASX Clear (Futures) will be final and not be open to dispute. ASX Clear (Futures) may take into account any of the factors included in clauses 10.1, 10.2, 10.3 and 10A of Schedule 10 of the Futures Rules, but is not required to do so nor limited to these factors. For the purposes of those clauses, 'New Clearing Participant' is taken to refer to a New OTC Participant, and 'Variable Commitment' is taken to refer to Variable OTC Commitment.

# ASX OTC Rulebook

## Schedule 3 – Default Management Process

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### 1 Default Management Groups

#### 1.1 Establishment of DMGs

ASX Clear (Futures) will establish default management groups (each referred to as a **DMG**) for the purpose of advising and assisting ASX Clear (Futures) with respect to all DMG Matters (as defined below).

#### 1.2 DMG Procedures

Each DMG is governed by the terms set out in the default management group procedures as scheduled to the OTC Handbook (referred to as the **DMG Procedures**) from time to time. The DMG Procedures as at a particular time form part of the OTC Handbook at that time.

#### 1.3 Participating DMG Member Institutions

ASX Clear (Futures) will inform each OTC Participant selected to participate in a DMG (referred to as a **Participating DMG Member Institutions**) at least three months before to the establishment of the relevant DMG. Participating DMG Members must comply with the duties and responsibilities set out in the OTC Rules and the DMG Procedures.

#### 1.4 Liquidation Groups

A DMG will be established with respect to one or more groups of OTC Open Contracts (and OTC Allocated Futures Contracts, if applicable) cleared pursuant to the OTC Rules and relating to one or more OTC Transaction Types, as determined by ASX Clear (Futures) (each referred to as a **Liquidation Group**).

#### 1.5 DMG Matters

ASX Clear (Futures) may choose to convene a meeting of one or more DMGs in any of the following circumstances:

- (a) upon the occurrence of a Default;
- (b) upon the occurrence of a Termination;
- (c) for OTC Default Simulations (as defined in Paragraph 4 (OTC Default Simulations) below); or
- (d) to obtain advice on any of the following matters (referred to as **DMG Matters**) as thought appropriate by ASX Clear (Futures):
  - (i) the establishment of DM Hedging Transactions in accordance with Paragraph 2 (DM Hedging Transactions), including the selection of the relevant counterparties and the relevant hedging terms and strategy, and the assistance in the execution of DM Hedging Transactions;

- (ii) the entry into of Independent DM Transactions pursuant to (and as defined under) Paragraph 3 (Establishment of OTC Open Contracts);
- (iii) the holding of one or more DM Auctions pursuant to (and as defined under) Paragraph 3 (Establishment of OTC Open Contracts), including the timing, the procedures and the terms and conditions of a DM Auction; and
- (iv) any further matters relating to the consequences and risks of a Default or Termination.

In any case, ASX Clear (Futures) will convene a DMG Meeting (in accordance with the OTC Handbook) of the DMG for the Liquidation Group applicable to each OTC Open Contract which is the subject of a Termination.

## 1.6 Role of DMG

Each DMG will advise, assist and make proposals to ASX Clear (Futures) with respect to the relevant DMG Matters. ASX Clear (Futures) will at all times maintain the ultimate decision on whether and under what terms and conditions the DMG proposals are implemented or not.

## 1.7 DMG Members

The members of a DMG (referred to as the **DMG Members**) are appointed in accordance with the DMG Procedures. The DMG Members remain employees of their DMG Member Institution and do not, by being a DMG Member, become employees, officers or representatives of ASX Clear (Futures).

Whenever a DMG Member assists ASX Clear (Futures) in the execution of DM Hedging Transactions or other legal declarations, such DMG Member will not have the rights of, or be deemed to be, an attorney or agent of ASX Clear (Futures).

Each OTC Participant accepts that:

- (a) representatives of Participating DMG Member Institutions serving on the DMG are doing so in order to assist ASX Clear (Futures) in ensuring the on-going integrity of the clearing facility;
- (b) representatives of Participating DMG Member Institutions serving on the DMG and their employers will have no liability for disinterested advice or actions, mandated or otherwise, that are undertaken as part of the default management process. However, nothing in this Paragraph 1.7 (DMG Members) will exclude the liability of such representatives and employers for any personal injury or death caused by their negligence or for any fraud or wilful default on the part of such representatives and employers;
- (c) representatives of Participating DMG Member Institutions serving on the DMG (each referred to as a **Protected Person**) will, to the extent legally possible, not have any fiduciary duties or other duties to protect third parties in relation to ASX Clear (Futures), any directors, managers or officers of it, the OTC Participants or any other person (each a **Non-protected Person**) by reason of such service as a DMG Member; and
- (d) to the extent that, for any reason, a Protected Person has any such duties and liabilities relating to its status as a DMG Member to a Non-protected Person, such Protected Person acting under the DMG Procedures will not be liable to such Non-protected Person for breach of

any such duty if they relied in good faith on the DMG Procedures, the OTC Rules or the OTC Handbook.

### **1.8 ASX Clear (Futures) dealings with DMG**

ASX Clear (Futures) agrees that, in exercising its rights and obligations in consulting with the DMG pursuant to the Default Management Provisions, it will use all reasonable commercial endeavours to agree a common position with the DMG, provided that nothing in the OTC Rules or the OTC Handbook will prevent ASX Clear (Futures) acting in a way which it reasonably determines necessary to manage its risk or otherwise meet its continuing regulatory obligations including those applicable to it as a CS facility licensee. If ASX Clear (Futures) does not follow the recommendations or advice of the DMG, ASX Clear (Futures) will provide a notice in writing to the DMG Chairman setting out its reasons for not following such recommendations or advice. ASX Clear (Futures) will not be required to provide such reasons or information relating to reasons where that information is commercially sensitive.

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## **2 DM Hedging Transactions**

At any time after an OTC Participant Defaults, ASX Clear (Futures) may in its discretion enter into transactions in order to hedge the effects of the Termination of one or more OTC Open Contracts and other Terminable Open Contracts which has occurred or which may occur as a result of the OTC Participant's Default (each of these transactions are referred to as a **DM Hedging Transaction**).

DM Hedging Transactions may be of any OTC Transaction Type or class of Terminable Open Contract of a Defaulting OTC Participant. The costs and expenses incurred in connection with the entry into DM Hedging Transactions are referred to as **DM Hedging Transaction Costs**.

ASX Clear (Futures) may request one or more Participating DMG Members (as defined in the OTC Handbook) of a DMG to assist ASX Clear (Futures) in the execution of DM Hedging Transactions.

ASX Clear (Futures) will at all times maintain the ultimate decision on whether or not and under what terms and conditions a DM Hedging Transaction is executed or not.

However, nothing in this Paragraph 2 (DM Hedging Transactions) restricts ASX Clear (Futures) entering into hedging or replacement transactions in the normal course of its business.

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## **3 Establishment of OTC Open Contracts**

### **3.1 Independent DM Transactions, DM Auctions and DM Auction Transactions**

At any time after the Termination Time (with respect to the relevant Defaulted OTC Participant), ASX Clear (Futures) may in its discretion:

- (a) enter into independent trades to establish new OTC Open Contracts or other Open Contracts which are, taken as a whole, equivalent to the Terminated Open Contracts which were subject to Termination (each an **Independent DM Transaction**) or reciprocal to DM Hedging Transactions, as deemed appropriate by ASX Clear (Futures) in consultation with the relevant DMG(s); and

- (b) if it is deemed appropriate by ASX Clear (Futures) in consultation with the relevant DMG(s), conduct one or more auctions with respect to one or several Liquidation Groups (in whole or in part), as deemed appropriate by ASX Clear (Futures) in consultation with the relevant DMG(s) (each referred to as a **DM Auction**) to establish new OTC Open Contracts or other Open Contracts specified by ASX Clear (Futures) which are – taken as a whole – equivalent to the Terminated Open Contracts which were subject to Termination or reciprocal to DM Hedging Transactions (each a **DM Auction Transaction**).

However, before a DM Auction, ASX Clear (Futures) will enter into Independent DM Transactions against a recommendation of the relevant DMG(s) only if the entering into such trades does not result in an application of the Commitment of the OTC Participants other than the Defaulted OTC Participant in accordance with Part 7 (Procedures on a Default) of the Futures Rules and if the terms and conditions of the resulting Open Contracts are fixed prior to entering into the respective trades.

ASX Clear (Futures) will not be entitled to invoice back or force allocate any Terminated Open Contracts.

### **3.2 DM Auction Procedures and Auction Units**

DM Auctions are governed by the procedures set out in the default management auctions procedures, as scheduled to the OTC Handbook (referred to as the **DM Auction Procedures**) from time to time. DM Auctions will be conducted with regard to identically composed units of DM Auction Transactions of each Liquidation Group (or, in consultation with the relevant DMG(s), parts of each Liquidation Group), as specified by ASX Clear (Futures) for each DM Auction after consultation with the relevant DMG(s) (each referred to as an **Auction Unit**).

### **3.3 Mandatory OTC Participants**

OTC Participants:

- (a) authorised to act as OTC Participants with respect to all DM Auction Transactions that are OTC Open Contracts comprised in the relevant Auction Unit;
- (b) having, or having access to, the necessary account structure to settle all DM Auction Transactions comprised in the relevant Auction Unit;
- (c) which, at the time of default of the relevant Defaulted OTC Participant, have at least one OTC Open Contract of each relevant Liquidation Group; and
- (d) with respect to which no Default has occurred and is continuing,

(each referred to as a **Mandatory OTC Participant**), must participate in DM Auctions in accordance with the DM Auction Procedures.

However, ASX Clear (Futures) may, in its sole discretion, waive the requirement that a Mandatory OTC Participant participate in a DM Auction related to such Mandatory OTC Participant.

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## **4 OTC Default Simulations**

ASX Clear (Futures) will arrange for at least one and no more than three default simulations per year to ensure the best practicable level of preparation for any Default of an OTC Participant (each referred to as an **OTC Default Simulation**).

The OTC Participants will support ASX Clear (Futures) in carrying out any such OTC Default Simulation.

Upon request of ASX Clear (Futures), each OTC Participant will in the course of such OTC Default Simulations act as potential counterparty for a simulated DM Hedging Transaction and will support any simulated DM Auction, as further described in the DM Auction Procedures, with respect to the Liquidation Groups that such OTC Participant is active in.

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## 5 Information Regarding Default Management Process

Whenever the default management process implemented by ASX Clear (Futures) in respect of a Defaulted OTC Participant, ASX Clear (Futures) will endeavour, in consultation with each relevant DMG, to keep OTC Participants reasonably informed of the progress of the default management process.

Nothing in this Paragraph 5 will require ASX Clear (Futures) to disclose information in respect of the default management process which, in the reasonable opinion of ASX Clear (Futures), may be subject to obligations of confidentiality, may constitute market sensitive data or is, in the opinion of ASX Clear (Futures), inappropriate for disclosure to OTC Participants.

## **Schedule 5: Revised Operating Rules**

**OTC Handbook (Subject to Regulatory Clearance)**

***Consolidated rules (incorporating changes made in response to consultation feedback)***



ASX CLEAR (FUTURES) PTY LIMITED

ACN 050 615 864

## ASX OTC HANDBOOK

Version 1 ( 2013)

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## **1 INTRODUCTION**

### **1.1 ASX Clear (Futures) and OTC Handbook**

This handbook sets out procedures, timings, contract terms and other details in connection with the clearing facility operated by ASX Clear Futures Pty Limited in respect of over-the-counter derivatives. This handbook is referred to as the **OTC Handbook** and ASX Clear (Futures) Pty Limited is referred to as **ASX Clear (Futures)**.

### **1.2 Futures Rules and OTC Rules**

This handbook refers to the Operating Rules of ASX Clear (Futures) (which are referred to as the **Futures Rules**) and the ASX Clear OTC Operating Rules set out in the ASX OTC Rulebook (which are referred to as the **OTC Rules**).

However, the OTC Handbook does not form part of the OTC Rules or the Futures Rules. The OTC Rules prevail in the event of any inconsistency between those OTC Rules and this OTC Handbook.

### **1.3 Meanings of terms**

Unless they are defined in this OTC Handbook, capitalised terms used in this OTC Handbook have the meaning which they have in the OTC Rules or, if they are not defined in the OTC Rules, in the Futures Rules.

### **1.4 Approved Trade Source Systems**

The following are **Approved Trade Source Systems**:

- MarkitWire

If ASX Clear (Futures) approves additional Approved Trade Source Systems, it will notify OTC Participants.

ASX Clear (Futures) is not liable or responsible for any corruption or alteration of messages or loss of data which may take place within any Approved Trade Source System.

ASX Clear (Futures) makes no warranty (and accepts no liability) as to the effectiveness or performance or any other aspect or matter in connection with an Approved Trade Source System.

### **1.5 OTC Terms and OTC Transaction Types**

The terms of OTC Open Contracts (referred to as **OTC Terms**) and the OTC Transaction Types are set out in Schedule 2 (OTC Terms).

### **1.6 Operating times and calendars**

ASX Clear (Futures) will publish a circular detailing the days on which ASX Clear (Futures) will be open for business.

The OTC Clearing service will be operational during the following hours on a Business Day: 6:00am to 9:00pm Sydney time.

### **1.7 Interpretation**

Unless the contrary intention appears, in this OTC Handbook:

- (a) a reference to a particular “Paragraph” is a reference to that paragraph in this OTC Handbook. Where practical, Paragraph numbering (and labelling) matches the relevant OTC Rule;
- (b) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (c) a reference to a document (including this OTC Handbook, the Futures Rules and the OTC Rules) includes any variation or replacement of it;
- (d) the word “law” includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) a reference to Australian dollars, AUD, dollars, \$ or A\$ is a reference to the lawful currency of Australia;
- (f) a reference to US dollars, USD or US\$ is a reference to the lawful currency of the United States of America;
- (g) a reference to a time of day is a reference to Sydney time;
- (h) the word “person” includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- (i) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (j) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (k) a reference to the Corporations Act is a reference to the Corporations Act 2001 (Cwlth);
- (l) an expression in this OTC Handbook which deals with a matter dealt with in a provision of the Corporations Act has the same meaning that it has in that provision of the Corporations Act; and
- (m) in the interpretation of this OTC Handbook, a construction that would promote the purpose or object underlying this OTC Handbook (whether that purpose or object is expressly stated in this OTC Handbook or not) is to be preferred to a construction which would not promote that purpose or object.

## **1.8 Number**

In this OTC Handbook, the singular includes the plural and the plural includes the singular.

## **1.9 Headings**

Headings (including those in brackets at the beginning of paragraphs) in this OTC Handbook are for convenience only and do not affect the interpretation of this OTC Handbook.

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## **2 PARTICIPATION AND GENERAL**

### **2.3 Conditions to become an OTC Participant**

If a Clearing Participant who applies to be an OTC Participant is not a Futures Participant, then it must have in place arrangements (which may not be withdrawn without ASX Clear (Futures)' consent) for a Futures Participant to clear Market Contracts which the applicant acquires in any DM Auction. The applicant must provide evidence of these arrangements to ASX Clear (Futures) in form and substance satisfactory to ASX Clear (Futures).

### **2.4 Application to be an OTC Participant**

An applicant intending to become an OTC Participant must provide such legal opinions in respect of the enforceability of the OTC Rules, this OTC Handbook and, if necessary, the Futures Rules against it as ASX Clear (Futures) requires.

### **2.6 Fees and OTC Commitment**

The fees applicable to becoming an OTC Participant are as published by ASX Clear (Futures) from time to time.

### **2.14 OTC Product Committees**

An OTC Product Committee will be established if there are at least three (3) OTC Participants willing to participate in the committee.

The OTC Product Committee is established for the purpose of consulting with ASX Clear (Futures) on:

- (a) the types of OTC Transactions which are eligible for OTC Clearing;
- (b) material amendments to the OTC Terms; and
- (c) such other matters as ASX Clear (Futures) determines.

The procedures for the OTC Product Committee are set out in Schedule 5 (Procedures for the OTC Product Committee).

Proposals and recommendations of the OTC Product Committee will be disclosed to the Board. ASX Clear (Futures) does not have any obligation to accept any proposal or recommendation made by, or take any action proposed by, the OTC Product Committee. However, ASX Clear (Futures) will provide reasons to the OTC Product Committee if it chooses not to follow any proposal or recommendation of the OTC Product Committee prior to taking, or not taking, any action.

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## **3 COMMITMENTS AND FINANCIAL REQUIREMENTS**

### **3.2 OTC Commitment**

An OTC Participant must provide its OTC Commitment to ASX Clear (Futures) as an amount of money in Australian dollars.

#### **Transitional Arrangements**

During the Transitional Period, the Variable OTC Commitment of each OTC Participant in respect of the Initial Period and each subsequent Quarter (including any OTC Participant that is admitted during such Initial Period or Quarter) will be equal to \$7,500,000.

*[Explanatory Note: The Fixed OTC Commitment of each OTC Participant will be \$5,000,000 in accordance with Schedule 2 (OTC Commitment) of the OTC Rules]*

**Initial Period** means the period from [effective date of the OTC Rules] to (but excluding) 1 September 2013.

**Transitional Period** means the period from the first day of the Initial Period to the end of the Quarter in which the first Trigger Event occurs.

**Trigger Event** means:

- (a) there are eight or more OTC Participants;
- (b) all OTC Participants have agreed that the aggregate OTC Commitment will be \$100,000,000;
- (c) the OTC Initial Margin is more than \$500,000,000; or
- (d) a competent regulatory authority has directed ASX Clear (Futures) that the aggregate OTC Commitment will be \$100,000,000.

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## 4 REGISTRATION

### 4.3 Submission of OTC Transactions

OTC Transactions must be submitted for registration using an Approved Trade Source System.

OTC Transactions submitted through an Approved Trade Source System must be in an acceptable message format, as prescribed by ASX Clear (Futures) from time to time.

The Approved Trade Source System will send details of the OTC Transaction to ASX Clear (Futures) once it has been bilaterally agreed.

Consent is taken to have been obtained from the OTC Participants with whom the OTC Open Contracts would be created when the relevant OTC Transaction is reported to ASX Clear (Futures) by an Approved Trade Source System.

ASX Clear (Futures) will process any such reported OTC Transaction without making any verification or investigation and, subject to the OTC Rules and the OTC Handbook, will register the OTC Transaction on the basis of the data provided to it by the Approved Trade Source System.

Upon an OTC Transaction being submitted to ASX Clear (Futures) for registration and the satisfaction of the conditions to registration set out in the OTC Rules, ASX Clear (Futures) will respond, after processing, with a message confirming the registration.

OTC Transactions submitted for registration that do not meet the product or other eligibility criteria prescribed from time to time by ASX Clear (Futures) or which contain invalid or incomplete message data will be rejected. If, at any time, ASX Clear (Futures) does not register a trade presented for registration it will send to the originating Approved Trade Source System notification of the rejection.

Submission for registration of OTC Transactions will only occur from 6:00am to 9:00pm (Sydney time) on each Business Day.

## **4.5 Acceptance for registration**

The following are applicable to acceptance of an OTC Transaction for registration:

### **(a) OTC Eligibility Criteria**

The OTC Eligibility Criteria are set out in Schedule 1 (OTC Eligibility Criteria).

### **(b) Limit checks**

A risk-based limit check per trade will be conducted by ASX Clear (Futures) for each OTC Transaction submitted for registration.

If an OTC Transaction fails to pass the risk-based limit check then the OTC Participant may seek the approval of ASX Clear (Futures) to re-submit the OTC Transaction. ASX Clear (Futures) may choose whether or not to give such approval in its sole discretion and may impose such conditions as it thinks fit on granting any approval. If such approval is given then the OTC Transaction need not pass the risk-based limit check when re-submitted provided it satisfies all other conditions imposed by ASX Clear (Futures).

### **(c) Deferral of acceptance**

If ASX Clear (Futures) determines that the intraday calculation of the OTC Initial Margin and OTC Daily Variation Margin required from an OTC Participant is approaching the OTC Participant's exposure limit then it may defer the registration of an OTC Transaction to which that OTC Participant is, or is taken to be, a party.

### **(d) Timing of registration of OTC Open Contracts**

If an OTC Transaction satisfies the conditions for registration in OTC Rule 4.5 (Acceptance for registration), then it is registered as an OTC Open Contract with effect from the time of receipt of the relevant submission by ASX Clear (Futures).

## **4.6 Creation of OTC Open Contracts**

OTC Open Contracts created by registration of an OTC Transaction are created on the applicable OTC Terms.

Payments of amounts due under an OTC Open Contract on the next scheduled payment date after the date on which registration of the relevant OTC Transaction has taken place are to be effected in accordance with the OTC Terms for the entire calculation period. This also applies if part of the calculation period has already elapsed at the day of registration. However, ASX Clear (Futures) may make a call for OTC Intra Day Margin in respect of an OTC Open Contract on the day of its registration.

Payments under the relevant OTC Transaction that were due on or before the day of registration will not be owed under the relevant OTC Open Contract and are not subject to OTC Clearing.

## **4.11 Trade amendment and cancellation**

An OTC Open Contract may only be cancelled by OTC Participants in accordance with OTC Rule 4.13 (Re-bilateralisation).

#### **4.12 Backloading**

Backloading of OTC Transactions requires bilateral agreement between the OTC Participants which are, or are taken to be, parties to the OTC Transactions of the full particulars required by ASX Clear (Futures) for each OTC Transaction.

Following such agreement and submission of the OTC Transaction to be backloaded the backloaded transactions are taken to have been submitted for registration by ASX Clear (Futures).

However, registration of any backloaded transaction is subject to:

- (a) the absolute discretion of ASX Clear (Futures); and
- (b) the provision of any Margin that is required to be provided by the relevant OTC Participants in respect of the relevant backloaded transaction.

#### **4.13 Re-bilateralisation**

The conditions for the removal of two OTC Open Contracts which have equal but offsetting terms (except for the identity of the parties) are:

- (a) the OTC Open Contracts must not have matured; and
- (b) there must be no cash flows (e.g. coupon settlement) under the OTC Open Contracts due on the day of declearing.

All removal requests must be lodged and agreed by both OTC Participants through the Approved Trade Source System.

Removal requests will be processed as follows:

- (a) first, ASX Clear (Futures) will check that the conditions above are satisfied;
- (b) second, ASX Clear (Futures) will calculate the net Margin impact for each OTC Participant;
- (c) third, providing the net Margin impact is within ASX Clear (Futures)' approved limits for each OTC Participant, or ASX Clear (Futures) otherwise approves the removal, ASX Clear (Futures) will send an instruction to the Approved Trade Source System confirming the removal request is approved; and
- (d) fourth, the Approved Trade Source System will provide an updated Trade Status to the OTC Participants, confirming the removal.

Removal is to take effect from the time that such removal is approved by ASX Clear (Futures).

#### **4.14 Transfer of OTC Open Contracts**

The conditions for transferring an OTC Open Contract upon the request of an OTC Participant are:

- (a) the OTC Open Contract must not have matured;
- (b) there must be no cash flows under the OTC Open Contract due on the day of transfer; and

(c) the transferee of the OTC Open Contract must be an OTC Participant.

All transfer requests must be lodged and agreed by the relevant OTC Participants through the Approved Trade Source System.

Transfer requests will be processed as follows:

- (a) first, ASX Clear (Futures) will check that the conditions above are satisfied;
- (b) second, ASX Clear (Futures) will calculate the net Margin impact for each OTC Participant;
- (c) third, providing the net Margin impact is within ASX Clear (Futures)' approved limits for each OTC Participant, or ASX Clear (Futures) otherwise approves the transfer, ASX Clear (Futures) will send an instruction to the Approved Trade Source System confirming the transfer request is approved; and
- (d) fourth, the Approved Trade Source System will provide an updated Trade Status to the OTC Participants, confirming the transfer.

The transfer of an OTC Open Contract takes effect from the time that it is registered.

#### 4.15 OTC Portfolio Compression

The following are requirements for portfolio compression with respect to an OTC Transaction Type:

- (a) the OTC Product Committee relating to such OTC Transaction Type votes to execute a portfolio compression cycle not less than two months prior to the scheduled execution date of such compression cycle; and
- (b) the selected portfolio compression service provider for such OTC Transaction Type can facilitate the portfolio compression requirements of the OTC Product Committee.

The proceedings for any compression cycle will be notified by ASX Clear (Futures), following consultation with the OTC Product Committee.

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## 5 ACCOUNTS AND MARGIN

### 5.3 Transfer of OTC Initial Margin

The currencies, valuation haircuts and timing for providing OTC Initial Margin as an amount of money are set out below.

Currency	Valuation Haircut <sup>1</sup>		Payment Timing
AUD	6%	The Valuation Haircut is not applicable if the currency is the same as that in which the OTC Open Contract is denominated	▪ Payment by 9am on S <sup>2</sup>
NZD	6%		
EUR	11%		
JPY	13%		

<sup>1</sup> Valuation haircuts are deducted from the market value of the instrument, as defined by ASX Clear (Futures), in all cases

<sup>2</sup> The settlement day.

Currency	Valuation Haircut <sup>1</sup>		Payment Timing
USD	10%		
GBP	8%		

#### 5.4 Securities as OTC Initial Margin

Subject to approval and on such conditions as ASX Clear (Futures) may determine from time to time, the following may be provided in respect of OTC Initial Margin:

Approved Cover	Cover Requirement	Valuation Haircut <sup>3</sup>	Lodgement Process and Timing
AUD Treasury Notes	<ul style="list-style-type: none"> <li>▪ Minimum maturity: 2 weeks</li> <li>▪ Minimum holding<sup>4</sup>: \$500,000</li> <li>▪ Fixed rate bond issuance only, but excluding Capital Indexed or Inflation indexed bonds, or any other specific series that ASX may exclude</li> </ul>	2%	<ul style="list-style-type: none"> <li>▪ Lodgement notification by 4pm on S-1</li> <li>▪ Exigo transaction by 9am on S</li> </ul>
AUD Treasury Bonds <sup>5</sup>	<ul style="list-style-type: none"> <li>▪ Minimum maturity: 6 months</li> <li>▪ Minimum holding: \$500,000</li> </ul>	<ul style="list-style-type: none"> <li>▪ Maturity less than 3 Years: 2%</li> <li>▪ Maturity greater than 3 Years: 6%</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lodgement notification by 4pm on S-1</li> <li>▪ Exigo transaction by 9am on S</li> </ul>
US Treasury Bills	<ul style="list-style-type: none"> <li>▪ Minimum maturity: 2 weeks</li> <li>▪ Minimum holding: US\$500,000</li> <li>▪ Minimum transaction: US\$500,000</li> </ul>	1%	<ul style="list-style-type: none"> <li>▪ Lodgement notification by 4pm on S-1</li> <li>▪ Exigo transaction by 9am on S</li> </ul>

#### 5.6 Portfolio Margining

Upon request, ASX Clear (Futures) may take into account certain Open Contracts registered in the OTC Participant's House Clearing Account (other than OTC Open Contracts) (referred to as **Eligible Open Contracts**) in determining the amount of OTC Initial Margin required to be transferred by an OTC Participant, subject to the following:

- (a) timing of allocations of Eligible Open Contracts to the Clearing Participant's Clearing Accounts are not affected by the allocation to the House Clearing Account. Allocations in the relevant Clearing Accounts are complete by 7:30PM on a daily basis;
- (b) ASX Clear (Futures) will notify OTC Participants of any determinations with respect to Eligible Open Contracts; and
- (c) despite clause (b) above, ASX Clear (Futures) may determine that a particular Eligible Open Contract is ineligible for determining the amount of OTC Initial Margin required to be transferred, the Clearing Participant will be notified of the exception by a report. In addition, each Eligible

<sup>3</sup> Valuation haircuts are deducted from the market value of the instrument, as defined by ASX Clear (Futures), in all cases;

<sup>4</sup> Minimum holding and transaction values apply to face value lodgements of a single expiry in the instrument;

<sup>5</sup> Treasury Index Bonds are not accepted.

Open Contract deemed ineligible by ASX Clear (Futures) will be margined under the CME SPAN methodology for ASX Clear (Futures).

Eligible Open Contracts are as follows:

Eligible Futures Contract Code	Contract Name
IB	ASX 30 Day Interbank Cash Rate Futures
IR	ASX 90 Day Bank Accepted Bill Futures
YT	ASX 3 Year Treasury Bond Futures
XT	ASX 10 Year Treasury Bond Futures

### 5.7 OTC Intra-day Margin and OTC Extra Margin

ASX Clear (Futures) is entitled to make additional margin calls for payment on the same day whenever ASX Clear (Futures) considers it necessary. Such calls may be made at any time during normal ASX operating times for cash settlement on a Business Day. Each OTC Intra-day Margin call must be met by the OTC Participant within two hours of it being made.

If ASX Clear (Futures) determines that the aggregate value of the OTC Initial Margin actually delivered to ASX Clear (Futures) by an OTC Participant is insufficient to provide the cover required in order to fulfil their total margin requirement also taking into account all OTC Transactions which are expected to be registered during the course of the day, ASX Clear (Futures) may require the OTC Participant to provide additional OTC Initial Margin.

### 5.8 OTC Daily Closing Value

ASX Clear (Futures) will in general use its own determination of yield curves to calculate the net present value of each OTC Open Contract. This calculation will be conducted at least once on each Business Day in the determination of the OTC Daily Closing Value.

ASX Clear (Futures) will determine, at its sole discretion, appropriate instruments, maturity points and market prices required for the determination of zero coupon rates, discount factors and implied forward curves rates, as well as any other factors it deems necessary to produce a net present value for any OTC Open Contract or OTC Daily Closing Value.

The yield curves selected will use market prices and rates taken at a point in time determined by ASX at its discretion to reflect local market fair value to OTC Participants.

These calculations by ASX Clear (Futures) are conclusive and final.

### 5.9 OTC Daily Variation Margin

ASX Clear (Futures) will determine the OTC Daily Variation Margin in respect of OTC Open Contracts of an OTC Participant following the calculation of the OTC Daily Closing Values for those OTC Open Contracts. The OTC Daily Variation Margin is determined by reference to the change in the OTC Daily Closing Value of the OTC Open Contract since the previous Business Day.

All OTC Daily Variation Margin must be paid to ASX Clear (Futures) by 11:00am (Sydney time) on the Business Day following ASX Clear (Futures)' request for the OTC Daily Variation Margin. In addition, instructions for the payment of OTC Daily Variation Margin must be matched in Austraclear by 10:30am (Sydney time). All payments by ASX Clear (Futures) in connection with OTC Daily Variation Margin (including any Price Alignment Interest) are to be made to accounts located in Australia, unless otherwise agreed by ASX Clear (Futures).

Unless otherwise agreed by ASX Clear (Futures):

- (a) each OTC Participant which is a non-Australian resident for tax purposes represents and warrants that each payment received or to be received by it in connection with OTC Daily Variation Margin (including any Price Alignment Interest) will be effectively connected with its conduct of a trade or business in Australia carried on at or through a permanent establishment in Australia; and
- (b) each OTC Participant which is an Australian resident for tax purposes represents that it does not derive the payments in connection with OTC Daily Variation Margin (including any Price Alignment Interest) in part or in whole in carrying on business in a country outside Australia at or through a permanent establishment of itself in that country,

and this applies despite the location of any branch of any OTC Participant or any OTC Participant Related Entity through which any particular OTC Transaction is entered into in accordance with OTC Rule 4.2.

## 5.10 Price Alignment Interest

ASX Clear (Futures) will charge interest on the cumulative net OTC Daily Variation Margin in respect of all OTC Open Contracts (referred to as **Cumulative Variation Margin**) paid to an OTC Participant and pay interest on Cumulative Variation Margin received from that OTC Participant. The amount of interest (PAI) is calculated and payable for each currency on each Business Day with respect to each OTC Open Contract in accordance with the following formula:

$$PAI = MtM_T \times Rate_T \times D/365$$

where:

"**MtM<sub>T</sub>**" means the amount of Cumulative Variation Margin received from, or payable by, the OTC Participant, as applicable, on the close of business of the day of calculation.

"**Rate<sub>T</sub>**" means such rate published on Reuters page RBA30 (or such other successor page(s) or rates as published by the Reserve Bank of Australia) and determined by ASX Clear (Futures) on the close of business of the day of calculation.

"**D**" means the actual number of days from (but excluding) the last day on which the PAI is calculated to (and including) the day of calculation.

# Schedule 1 – OTC Eligibility Criteria

An OTC Transaction is eligible to be registered by ASX Clear (Futures) if it is a Clearable OTC Transaction (as defined in Paragraph 1 below) which has the Clearable Characteristics (as defined in Paragraph 2 below).

However, there are other conditions in the OTC Rules and this OTC Handbook for the registration of an OTC Transaction which also apply, including that an OTC Participant is, or is taken to be (in accordance with the OTC Rules), a party to the OTC Transaction, and that the required matched information in respect of that OTC Transaction has been submitted to and accepted by ASX Clear (Futures).

Terms defined in the 2006 ISDA Definitions as published by the International Swaps and Derivatives Association, Inc., as amended, varied or supplemented from time to time as notified to the OTC Participants in accordance with Paragraph 1.2 of Schedule 2 (OTC Terms) of the OTC Handbook, have the same meaning when used in this Schedule.

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## 1 Clearable OTC Transaction

An OTC Transaction is a Clearable OTC Transaction if it:

- (a) is an interest rate swap or overnight index swap; and
- (b) has a fixed Notional Amount for the Term.

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## 2 Clearable Characteristics

An OTC Transaction has the Clearable Characteristics if it satisfies each of the characteristics set out in Paragraphs 2.1 (Cash Settlement Currency) to 2.8 (Designated Maturity) below.

### 2.1 Cash Settlement Currency

The Cash Settlement Currency is AUD.

### 2.2 Floating Rate Option

The Floating Rate Option is either of the options specified in the following table in respect of the Cash Settlement Currency:

Cash Settlement Currency	Floating Rate Options
AUD	AUD-BBR-BBSW AUD-AONIA-OIS-COMPOUND

### 2.3 Remaining term

The number of years from the Business Day on which the OTC Transaction is submitted to ASX Clear (Futures) for registration until its scheduled Termination Date is as specified in the following table in respect of the Cash Settlement Currency and Floating Rate Option:

Cash Settlement Currency	Floating Rate Options	Maximum Remaining Term
AUD	AUD-BBR-BBSW	Less than or equal to thirty (30) years
	AUD-AONIA-OIS-COMPOUND	Less than or equal to three (3) years

## 2.4 Day Count Fraction

The Day Count Fraction of the OTC Transaction is one of those specified in the following table:

Day Count Fraction	MarkitWire/FpML Code
Actual/365 (Fixed)	ACT/365.FIXED
Actual/Actual	ACT/ACT.ISDA
Actual/Actual (ICMA)	ACT/ACT.ICMA

## 2.5 Business Day Convention

The Business Day Convention is one of Following, Modified Following or Preceding.

## 2.6 Stub Periods

Non-standard Calculation Periods (referred to as **Stub Periods**) may only occur at either the start or end of the OTC Transaction. OTC Transactions with Stub Periods at both the start and end of the transaction will not be eligible, as will transactions with Stub Periods greater than any term specified by ASX Clear (Futures) at its discretion.

## 2.7 Effective Date

Any OTC Transaction submitted for registration with an effective date later than the submission date is subject to rejection by ASX Clear (Futures) at its discretion.

## 2.8 Designated Maturity

The Designated Maturity is a period specified by ASX Clear (Futures) as acceptable at its discretion. Excepting Stub Periods, the Designated Maturity must be a whole number (not a fraction) of calendar months.

# Schedule 2 – OTC Terms

The terms of an OTC Open Contract includes these OTC Terms. They are separated into 3 parts, Interpretation, Economic Terms and Standard Terms. These OTC Terms are applicable to calculate the amounts payable to, or by, ASX Clear (Futures) under each OTC Open Contract.

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## 1 Interpretation

### 1.1 ISDA definitions

The 2006 ISDA Definitions (referred to as the **2006 ISDA Definitions**), as published by the International Swaps and Derivatives Association, Inc., are incorporated into these OTC Terms.

Accordingly, terms defined in the 2006 ISDA Definitions have the same meaning when used in these OTC Terms and references to **Articles** means Articles in the ISDA 2006 Definitions.

References in the 2006 ISDA Definitions to a “Swap Transaction” are taken to be references to an “OTC Open Contract” for the purposes of these OTC Terms.

The 2006 ISDA Definitions apply to an OTC Open Contract despite the selection of any other definitions in the data transmitted in the submission of an OTC Transaction for registration.

### 1.2 Amendments

If the 2006 ISDA Definitions are amended then the amendments are incorporated into these OTC Terms in respect of each OTC Open Contract which has a Trade Date after the time that the amendment is effective, unless ASX Clear (Futures) notifies OTC Participants to the contrary. ASX Clear (Futures) agrees to notify the OTC Participants of any such amendments after it becomes aware of them.

The accidental omission to give notice under this provision to, or the non-receipt of notice under this provision by, any OTC Participant does not invalidate the amendment with which the notice is concerned.

### 1.3 Inconsistency

In the event of an inconsistency between the OTC Rules or the OTC Handbook and the 2006 ISDA Definitions, the OTC Rules or the OTC Handbook, as the case may be, prevails.

In the event of any inconsistency between the Economic Terms and the Standard Terms, the Standard Terms prevail.

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## 2 Economic Terms

### 2.1 Economic Terms

The economic terms of an OTC Open Contract (referred to as **Economic Terms**) are taken from the information submitted to ASX Clear (Futures) by the parties to the corresponding OTC Transaction.

### 2.2 Matched information

It is a condition to the registration that the particulars of a OTC Transaction presented to ASX Clear (Futures) must include matched information in respect of the Economic Terms, except that information in respect of 2.3(k)(vii) or (k)(viii) (not both).

### 2.3 OTC Transaction Type: Interest Rate Swaps

The Economic Terms for interest rate swaps comprise:

- (a) Notional Amount (see Article 4.7 for definition);
- (b) Currency (see Article 1.7 for definition);
- (c) Trade Date (see Article 3.7 for definition);
- (d) Effective Date (see Article 3.2 for definition);
- (e) Termination Date (see Article 3.3 for definition);
- (f) Initial Exchange (if applicable):
  - (i) Initial Exchange Amount payer;
  - (ii) Initial Exchange Amount (see Article 4.1 for definition);
  - (iii) Initial Exchange Date (see Article 3.4 for definition);
- (g) Interim Exchange or Periodic Exchange (if applicable):
  - (i) Interim Exchange Amount payer or Periodic Exchange Amount payer;
  - (ii) Interim Exchange Amount or Periodic Exchange Amount (see Article 4.2 for definition);
  - (iii) Interim Exchange Date or Periodic Exchange Date (see Article 3.5 for definition);
- (h) Final Exchange (if applicable):
  - (i) Final Exchange Amount payer;
  - (ii) Final Exchange Amount (see Article 4.3 for definition);
  - (iii) Final Exchange Date (see Article 3.6 for definition);
- (i) Business Days (see Article 1.4 for definition);
- (j) Business Day Convention (see Article 4.12 for definition);

- (k) Where Fixed Rate – Floating Rate Swap:
- (i) Fixed Rate Payer (see Article 2.1 for definition);
  - (ii) Fixed Rate Payer Payment Dates;
  - (iii) Fixed Amount (see Article 4.4 for definition) [or Fixed Rate and Fixed Rate Day Count Fraction][or Fixed Rate Payer Schedule];
  - (iv) Floating Rate Payer (see Article 2.2 for definition);
  - (v) Floating Rate Payer Payment Dates;
  - (vi) Floating Rate Payer compounding dates (if applicable);
  - (vii) Floating Amount (see Article 4.5 for definition);
  - (viii) Floating Rate Option (see Article 6.2(h) for definition);
  - (ix) Designated Maturity (see Article 7.3(b) for definition);
  - (x) Spread (see Article 6.2(e) for definition);
  - (xi) Reset Dates (see Article 6.2(b) for definition);
  - (xii) Floating Rate Day Count Fraction (see Article 6.2(f) for definition).
- (l) Where Floating Rate – Floating Rate Swap (“basis” swap):
- (i) Floating Rate Payer 1 (see Article 2.2 for definition):
    - (A) Floating Rate Payer Payment Dates;
    - (B) Floating Rate Payer Compounding Dates (if applicable);
    - (C) Floating Rate Option (see Articles 6.2(i) and 6.2(h) for definition);
    - (D) Designated Maturity (see Article 7.3(b) for definition);
    - (E) Spread (see Article 6.2(e) for definition);
    - (F) Reset Dates (see Article 6.2(b) for definition);
    - (G) Floating Rate Day Count Fraction (see Article 6.2(f) for definition)
  - (ii) Floating Rate Payer 2 (see Article 2.2 for definition):
    - (A) Floating Rate Payer Payment Dates;
    - (B) Floating Rate Payer Compounding Dates (if applicable);
    - (C) Floating Rate Option (see Article 6.2(h) for definition);
    - (D) Designated Maturity (see Article 7.3(b) for definition);
    - (E) Spread (see Article 6.2(e) for definition);

- (F) Reset Dates (see Article 6.2(b) for definition);
- (G) Floating Rate Day Count Fraction (see Article 6.2(f) for definition).

## **2.4 Financial Centres**

In addition to the Business Days for the financial centres specified in the Economic Terms, the Business Days for Sydney will apply to OTC Open Contracts.

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## **3 Standard Terms**

### **3.1 Standard Terms**

The following terms are referred to as the **Standard Terms** of an OTC Open Contract.

### **3.2 Original documentation**

Regardless of the documentation of an original OTC Transaction, these OTC Terms apply to all OTC Open Contracts.

### **3.3 Calculation Agent**

The Calculation Agent (see Article 4.14 for definition) for each OTC Open Contract is ASX Clear (Futures).

### **3.4 Business Days**

In addition to the Business Days for the Financial Centres specified in the Economic Terms, the Business Days specified in the calendar published by ASX Clear (Futures), from time to time, will apply to an OTC Open Contract.

### **3.5 Negative Interest Rates**

The “Negative Interest Rate Method” as set out in Article 6.4(b) applies to an OTC Open Contract.

### **3.6 Stamp Tax**

Each OTC Participant will pay any Stamp Tax or duty levied or imposed upon it in respect of any OTC Open Contract to which it is a party and indemnifies ASX Clear (Futures) against any Stamp Tax or duty levied or imposed upon ASX Clear (Futures) in respect of any OTC Open Contract registered by ASX Clear (Futures) and to which that OTC Participant is a party.

### **3.7 Payments under an OTC Open Contract**

Each OTC Participant agrees to make the payments due to be made by it under each of its OTC Open Contracts in accordance with the OTC Rules and the OTC Handbook. Payments under, and in respect of, an OTC Open Contract are calculated by ASX Clear (Futures) and are made by, or to, the OTC Participant in accordance with the provisions of the OTC Handbook and the OTC Rules.

### **3.8 OTC Rules and OTC Handbook**

An OTC Open Contract is subject to the OTC Rules and the OTC Handbook, which forms part of its terms. In the event of any inconsistency between these

OTC Open Contract Terms and the OTC Rules and the OTC Handbook, the OTC Rules and OTC Handbook (as applicable) prevails.

### **3.9 Governing law**

Each OTC Open Contract is governed by the law in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

# Schedule 3 – Default Management Group Procedures

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## 1 Introduction

The purpose of these default management group procedures (referred to as the **DMG Procedures**) is to set out the authority, organisation, manner of appointment and other matters relating to Default Management Groups (each referred to as a **DMG**) established by ASX Clear (Futures) pursuant to Paragraph 1.1 of Schedule 3 (Default Management Process) of the OTC Rules (referred to as the **Default Management Process**).

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## 2 Definitions

Terms used and not otherwise defined in these DMG Procedures have the meanings which they have in the OTC Rules (including the Default Management Process).

Paragraphs of these DMG Procedures are referred to as DMG Paragraphs.

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## 3 DMG Establishment

### 3.1 DMG Composition Table

ASX Clear (Futures) will maintain a table which lists Liquidation Groups and the number of persons required to participate in a DMG relating to such Liquidation Groups (referred to as a **DMG Composition Table**).

The DMG Composition Table will be updated or adjusted by ASX Clear (Futures) annually for each upcoming DMG term.

### 3.2 Establishment of DMGs

ASX Clear (Futures) will establish a DMG with respect to each Liquidation Group specified in the DMG Composition Table, provided that there are at least five OTC Participants having OTC Open Contracts relating to such Liquidation Group.

However, ASX Clear (Futures) may, in its discretion, decide not to establish a DMG with respect to a Liquidation Group which does not have a substantial size.

## 4 Selection of Participating DMG Member Institutions

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### 4.1 Participating DMG Member Institution

ASX Clear (Futures) will select the OTC Participants entitled to nominate a DMG Member (each referred to as a **Participating DMG Member Institution**) in accordance with this DMG Paragraph 4 (Selection of Participating DMG Member Institutions).

#### **4.2 Applicable List**

With respect to each DMG and the relevant DMG term, ASX Clear (Futures) will compile a list of eligible Participating DMG Member Institutions according to and ordered by the time when such eligible Participating DMG Member Institutions became OTC Participants (each referred to as an **Applicable List**). The applicable number of OTC Participants of each Applicable List will automatically qualify as Participating DMG Member Institutions for the relevant DMG in the order of appearance on the Applicable List, unless ASX Clear (Futures) determines, in its reasonable opinion, that there is a good reason for excluding a qualifying OTC Participant.

#### **4.3 Substitution**

Each Participating DMG Member Institution may arrange for another OTC Participant to perform its default management functions. Any such entity performing must be acceptable to ASX Clear (Futures) (in its sole discretion) and comply with the conditions imposed by ASX Clear (Futures) including signing the Agreement for the Participation in a Default Management Group in the form provided by ASX Clear (Futures) from time to time. Upon doing so the relevant OTC Participant will cease to be a Participating DMG Member Institution and, on acceptance by ASX Clear (Futures), the substitute is taken to be a Participating DMG Member Institution.

#### **4.4 ASX Clear (Futures) to inform of selection**

ASX Clear (Futures) will inform each Participating DMG Member Institution of its selection as a Participating DMG Member Institution for the relevant DMG for the initial DMG term as soon as practicable following the commencement of OTC Clearing.

For each selection of Participating DMG Member Institutions in respect of each subsequent DMG term for the relevant DMG, ASX Clear (Futures) will inform each Participating DMG Member Institution of its selection as a Participating DMG Member Institution at least three months prior to the commencement of the relevant DMG term.

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### **5 Designated DMG Members**

#### **5.1 Designated DMG Members**

By no later than two months following receipt of ASX Clear (Futures)'s notice pursuant to DMG Paragraph 4.4 (ASX Clear (Futures) to inform of selection), each Participating DMG Member Institution will nominate:

- (a) an individual as a potential DMG Member (referred to as the **Designated DMG Member**); and
- (b) another individual as a potential deputy (referred to as the **Designated DMG Deputy**),

for the DMG term of the relevant DMG by notifying ASX Clear (Futures) in writing or by fax of the identities and contact information (including personal telephone number and email address) of the nominated individuals (referred to as the **Designation Notice**).

If ASX Clear (Futures) does not receive the Designation Notice by the time set out above then the relevant Participating DMG Member Institution will cease to be a Participating DMG Member Institution. Another OTC Participant will be selected by ASX Clear (Futures) in accordance with DMG Paragraph 4

(Selection of Participating DMG Member Institutions) to nominate a Designated DMG Member and a Designated DMG Deputy for the DMG term of the relevant DMG. ASX Clear (Futures) will notify the relevant Participating DMG Member Institution of its failure to receive the Designation Notice.

## 5.2 DMG Member Undertaking

ASX Clear (Futures) will prepare and provide to each Designated DMG Member and Designated DMG Deputy a form of letter under which a Designated DMG Member or Designated DMG Deputy acknowledge and agree to its respective rights and responsibilities as described in these DMG Procedures.

The Participating DMG Member Institution will ensure that both the Designated DMG Member and the Designated DMG Deputy return the letter completed and duly executed, by the earlier of:

- (a) five Business Days after becoming a Designated DMG Member or a Designated DMG Deputy; and
- (b) the last Business Day prior to the commencement of the relevant DMG term (referred to as the **Designation Cut-Off Time**).

Failure by a Designated DMG Member or a Designated DMG Deputy to return a properly completed and executed letter by the Designated Cut-Off Time will result in the relevant Designated DMG Member or a Designated DMG Deputy ceasing to be a Designated DMG Member or a Designated DMG Deputy. In this circumstance, ASX Clear (Futures) will request the Participating DMG Member Institution to nominate a new DMG Member or DMG Deputy in accordance with this DMG Paragraph 5 (Designated DMG Members).

## 5.3 DMG Eligibility Criteria

Each Designated DMG Member and Designated DMG Deputy must satisfy the following eligibility criteria (referred to as the **DMG Eligibility Criteria**) evidenced by adequate information provided by the relevant Participating DMG Member Institution to ASX Clear (Futures):

- (a) the designated individual must be an employee of the Participating DMG Member Institution and must have agreed to participate in a DMG;
- (b) the designated individual must be qualified with respect to the relevant Liquidation Group and must have appropriate expertise and experience in relation to the relevant DMG Matters;
- (c) the designated individual is not already a DMG Member or DMG Deputy in a DMG or a similar committee of another central counterparty, clearinghouse or exchange;
- (d) the designated individual will not be subject to conflicts of interest following its acceptance as a DMG Member or DMG Deputy and will not be unable to act as DMG Member or DMG Deputy for any other reason; and
- (e) the designated individual must be available for prompt participations in person in a DMG Meeting within two hours after receipt of a DMG Invitation (as defined in DMG Paragraph 9 (Convening DMG Meetings) below).

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## **6 Acceptance by ASX Clear (Futures)**

### **6.1 Assessment**

Upon receipt of a Designation Notice, ASX Clear (Futures) will assess the candidacy of the Designated DMG Member and the Designated DMG Deputy on the basis of the information given by the Participating DMG Member Institution to evidence compliance with the DMG Eligibility Criteria.

The Participating DMG Member Institution will provide any further information or evidence of compliance with the DMG Eligibility Criteria reasonably requested by ASX Clear (Futures).

### **6.2 Acceptance of DMG Member and DMG Deputy by ASX Clear (Futures)**

Upon acceptance of a Designated DMG Member and Designated DMG Deputy by ASX Clear (Futures), such Designated DMG Member will be a **DMG Member** for the DMG term of the relevant DMG and such Designated DMG Deputy will be a **DMG Deputy** for such DMG Member for the DMG term of the relevant DMG. Where these DMG Procedures refer to a DMG Member, such reference will also or only refer to the DMG Deputy if and to the extent the context so requires.

### **6.3 Rejection**

ASX Clear (Futures) will only reject a Designated DMG Member or a Designated DMG Deputy if the Designated DMG Member or the Designated DMG Deputy does not satisfy the DMG Eligibility Criteria. ASX Clear (Futures) will notify the relevant Participating DMG Member Institution of such rejection and provide written reasons.

### **6.4 Second Nomination**

Upon a rejection of a Designated DMG Member or a Designated DMG Deputy by ASX Clear (Futures), the relevant Participating DMG Member Institution may nominate a second individual as Designated DMG Member or Designated DMG Deputy, as the case may be, in accordance with DMG Paragraph 5 (Designated DMG Members).

If ASX Clear (Futures) also rejects such second individual nominated as Designated DMG Member or Designated DMG Deputy, as the case may be, ASX Clear (Futures) will notify the relevant Participating DMG Member Institution and the relevant Participating DMG Member Institution will cease to be a Participating DMG Member Institution for that DMG for that DMG term.

ASX Clear (Futures) will then select another OTC Participant in accordance with DMG Paragraph 4 (Selection of Participating DMG Member Institutions) to nominate a Designated DMG Member and a Designated DMG Deputy for the DMG term of the relevant DMG.

### **6.5 List of DMG Members**

ASX Clear (Futures) will maintain a list of all DMG Members and DMG Deputies of the relevant DMG, including the relevant contact details (address, phone number, fax number, email address).

ASX Clear (Futures) is not obliged to make available such list to OTC Participants or any other person.

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## **7 Term of appointment**

### **7.1 DMG term**

The membership of a DMG Member or DMG Deputy in a DMG will end on the last day of the 12th month after it commenced (referred to as the **DMG term**). However, ASX Clear (Futures) may designate such longer initial DMG term of a DMG or otherwise extend the initial DMG term of a DMG following the commencement of OTC Clearing if it, and the relevant DMG (by majority vote), agree.

ASX Clear (Futures) is entitled to extend the DMG term of a DMG if the DMG Matters for which a DMG Meeting has been convened are not resolved before the end of such DMG term or if it, and the relevant DMG (by majority vote), otherwise agree to extend.

An individual appointed as a DMG Member or DMG Deputy may serve on the same DMG for consecutive DMG terms if duly appointed.

### **7.2 Information undertaking**

Each Participating DMG Member Institution will inform ASX Clear (Futures) without undue delay if:

- (a) the relevant DMG Member or DMG Deputy no longer complies with the DMG Eligibility Criteria; or
- (b) it merges with any other Participating DMG Member Institution(s) and if therefore more than one DMG Member or DMG Deputy nominated by the Participating DMG Member Institutions (which are related bodies corporate) is a DMG Member or DMG Deputy in the same DMG.

### **7.3 Resignation**

A DMG Member or DMG Deputy may at any time resign from its appointment by giving not less than 30 calendar days prior written notice of its resignation to the DMG Secretary provided that in any event such resignation will only become effective upon the acceptance by ASX Clear (Futures) of a successor DMG Member or DMG Deputy.

### **7.4 Automatic Removal**

A DMG Member or DMG Deputy will be automatically removed from a DMG on which it serves without any further notice upon:

- (a) the declaration or occurrence of a Default in relation to the Participating DMG Member Institution (or the OTC Participant (which it is substituting for) in the case of DMG Paragraph 4.3 (Substitution)) which has nominated such DMG Member or DMG Deputy; or
- (b) such Participating DMG Member Institution ceasing to be an authorised OTC Participant; or
- (c) ceasing to be an employee of the Participating DMG Member Institution.

In the case of (c), the Participating DMG Member Institution is to nominate a successor who meets the DMG Eligibility Criteria.

## **7.5 Removal in the case of a merger**

If two or more Participating DMG Member Institutions are subject to a merger and become related bodies corporate, ASX Clear (Futures) will upon consultation with these Participating DMG Member Institution(s), remove all appointed DMG Members and DMG Deputies of such original Participating DMG Member Institutions except for one DMG Member and one DMG Deputy.

## **7.6 Removal by ASX Clear (Futures)**

ASX Clear (Futures) has the right to remove a DMG Member or DMG Deputy from the DMG on which it serves by giving not less than five calendar days prior written notice to the DMG Member or DMG Deputy and the Participating DMG Member Institution if:

- (a) the DMG Member or DMG Deputy fails to participate in at least two DMG Meetings without good reason; or
- (b) the DMG Member or DMG Deputy fails to comply with its duties under the DMG Procedures and such failure (if capable of remedy) has not been remedied after receipt of written notice thereof from the DMG Secretary giving a reasonable remedy period; or
- (c) the DMG Member or DMG Deputy no longer complies with the DMG Eligibility Criteria.

In the case of (c), the Participating DMG Member Institution is to nominate a successor who meets the DMG Eligibility Criteria.

## **7.7 Removal by Participating DMG Member Institution**

Participating DMG Member Institutions may remove the DMG Member or DMG Deputy nominated by it from the DMG on which it serves provided that such removal will only become effective upon the appointment of a successor DMG Member or DMG Deputy (as applicable).

## **7.8 Removal**

Any DMG Member or DMG Deputy that resigns or is replaced or removed from a DMG under these DMG Procedures will no longer be a DMG Member or DMG Deputy, as the case may be, and ASX Clear (Futures) will, in each case, accept a successor DMG Member or DMG Deputy for the remaining DMG term of the relevant DMG who complies with the DMG Eligibility Criteria.

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# **8 Office holders**

## **8.1 DMG Chairman and DMG Deputy Chairman**

Once all DMG Members for a respective DMG and a respective DMG term have been appointed, these DMG Members will, upon notification by ASX Clear (Futures), appoint (by Majority vote) a DMG Member to each of the following:

- (a) the chairman of the DMG (referred to as the **DMG Chairman**); and
- (b) the deputy chairman who will perform the functions of the DMG Chairman at any DMG Meeting at which the DMG Chairman is not present (referred to as the **DMG Deputy Chairman**).

The appointment as DMG Chairman and DMG Deputy Chairman will be valid for the DMG term of the relevant DMG.

## **8.2 DMG Secretary**

ASX Clear (Futures) will serve as the secretary of each DMG (referred to as the **DMG Secretary**) and will perform the administrative duties set out in these DMG Procedures.

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# **9 Convening DMG Meetings**

## **9.1 DMG Secretary to convene**

The DMG Secretary may at any time convene a meeting of a DMG (referred to as a **DMG Meeting**) by delivering a meeting request notice to all DMG Members (copied to each DMG Deputy) of the relevant DMG.

Such meeting requests are to be provided to each DMG Member by telephone or email at the telephone number or email address given to ASX Clear (Futures) and addressed to such DMG Member personally.

Meeting requests will be delivered to DMG Members as soon as practicable, but not less than 2 hours, before the DMG Meeting giving details about the date and time of the DMG Meeting.

## **9.2 Regular meetings**

DMG Meetings will be convened at regular intervals in order to:

- (a) keep under review the Default Management Process, together with any guidance issued in respect of it;
- (b) keep under review the terms of reference of the DMG to ensure they remain appropriate;
- (c) consider appropriate supplements or amendments to the Default Management Process or guidance to improve the procedures in place; and
- (d) consider any other business relevant to the DMG which any member of the DMG from time to time considers appropriate.

## **9.3 Default management meetings**

In addition to the regular meetings described in DMG Paragraph 9.2 (Regular meetings), DMG Meetings will be convened in accordance with the Default Management Process.

## **9.4 DMG Meeting Agenda**

The DMG Secretary may consult with the DMG Chairman or the DMG Deputy Chairman prior to convening a DMG Meeting.

The DMG Secretary will prepare a meeting agenda which will be distributed to the DMG Members once the DMG Meeting has been opened by the DMG Chairman (referred to as the **DMG Meeting Agenda**).

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## **10 Conduct of DMG Meetings**

### **10.1 Location of DMG Meetings**

DMG Meetings will take place at the premises of ASX Clear (Futures) in Sydney.

### **10.2 Participating DMG Members**

DMG Members must participate in each DMG Meeting in person.

The relevant DMG Deputy must attend the DMG Meeting if the DMG Member does not attend. A DMG Deputy is not entitled to attend a DMG Meeting if the DMG Member for its Participating Member Institution is attending.

The DMG Members (and any DMG Deputies) attending a DMG Meeting are each referred to as a **Participating DMG Member**.

### **10.3 Representatives of Defaulted OTC Participants**

For the purpose of DMG Meetings convened to deal with a specific Defaulted OTC Participant, ASX Clear (Futures) may, after consultation with the DMG, invite the Defaulted OTC Participant to nominate one or more representatives to join the DMG to assist it in carrying out its functions in the Default Management Process for that Defaulted OTC Participant, and also request representatives from any other OTC Participants.

If it receives such request, the OTC Participant must make available its nominated representative, or an alternate with appropriate skills, experience and expertise.

Each such representative:

- (a) must, before attending the meeting, sign an acknowledgement and undertaking letter provided by the DMG Secretary; and
- (b) will form part of the relevant DMG but will not have a right to vote at the DMG Meeting.

### **10.4 Other Attendees**

ASX Clear (Futures) may invite any outside counsel, other outside experts, Futures Participants or clients to designate one of its employees to attend one or more DMG Meetings of a specific DMG to the extent and as long as such attendance is considered appropriate by ASX Clear (Futures) (referred to as an **Other Attendee**).

Each Other Attendee:

- (a) must sign an acknowledgement and undertaking letter provided by the DMG Secretary prior to its attendance in a DMG Meeting; and
- (b) will form part of the relevant DMG but will not have the right to vote in a DMG Meeting.

### **10.5 Employees of ASX Clear (Futures)**

Employees of ASX Clear (Futures) may attend DMG Meetings at any time but will not have a right to vote and will not be taken to form part of the DMG.

## **10.6 No Communication**

Participating DMG Members are not permitted to engage in any communication with the relevant Participating DMG Member Institution or any other third party with respect to DMG Matters or any other information obtained during DMG Meetings.

No Participating DMG Members may engage in any communication with another member of a DMG outside of the DMG Meeting with respect to DMG Matters.

Participating DMG Members of a DMG are not permitted to bring any means of electronic communication to the premises of the DMG Meeting.

## **10.7 Leaving**

Participating DMG Members may not leave the DMG Meeting until the DMG Meeting has been officially closed by the DMG Secretary.

## **10.8 Voting Procedure and Majority**

Subject to DMG Paragraph 8.1 (DMG Chairman and DMG Deputy Chairman), all decisions to be made by the DMG will be made at a DMG Meeting by Majority vote of the Participating DMG Members.

For this purpose, **Majority** will mean at least 50% of the Participating DMG Members.

Each Participating DMG Member will have one single vote. In the event that any vote is tied, the DMG Chairman will have the casting vote.

## **10.9 DMG Minutes**

Minutes will be taken of all DMG Meetings and signed by the DMG Secretary (referred to as **DMG Minutes**). The DMG Minutes will include the place and date of the DMG Meeting, the Participating DMG Members, the DMG Matters on the DMG Meeting Agenda, the substance of the deliberations and the votes taken by the DMG.

The DMG Secretary will record in the DMG Minutes the identity of each Participating DMG Member with respect to any matter raised by such Participating DMG Member in the DMG Meeting.

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# **11 Statements of DMG**

## **11.1 DMG Statement**

The DMG may appoint by Majority vote one or more Participating DMG Members to prepare, on behalf of the DMG, any proposal, response, statement or other document setting out the views of the DMG with respect to any DMG Matter (referred to as a **DMG Statement**).

The DMG Chairman may refer the DMG Statement to a DMG Meeting for approval by Majority vote or may, if the DMG Chairman is satisfied that the DMG Statement represents the views of the Majority of Participating DMG Members after circulating such DMG Statement to the Participating DMG Members, deliver such DMG Statement to ASX Clear (Futures), following which such DMG Statement will be incorporated into the DMG Minutes and will be deemed to set out the view of the DMG.

## **11.2 DMG Statements Non-binding**

ASX Clear (Futures) will respect a statement or advice from the DMG. However ASX Clear (Futures) is not required to follow such statement or advice. In exercising its rights and obligations in consulting with a DMG, ASX Clear (Futures) will use all reasonable commercial endeavours to agree a common position with the DMG, provided that nothing in the OTC Rules, the OTC Handbook (including the DMG Procedures) or the Default Management Process will prevent ASX Clear (Futures) acting in a way which it reasonably determines necessary to manage its risk or otherwise meet its continuing regulatory obligations including those applicable to it as a CS facility licensee.

If ASX Clear (Futures) does not follow the recommendations or advice of the DMG, ASX Clear (Futures) will provide a notice in writing to the DMG Chairman setting out its reasons for not following such recommendations or advice. ASX Clear (Futures) will not be required to provide such reasons or information relating to reasons where that information is commercially sensitive.

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## **12 Conduct of DMG Members**

### **12.1 Status**

Each Participating DMG Member always remains an employee of the respective Participating DMG Member Institution and does not become an employee of ASX Clear (Futures).

### **12.2 Information Undertakings**

Each DMG Member will inform ASX Clear (Futures) without undue delay and, if possible, in advance if it is unable to attend any DMG Meeting due to holidays, sickness or any other absence or unavailability.

Each DMG Member and each DMG Deputy will promptly inform ASX Clear (Futures) of any change of its contact details provided to ASX Clear (Futures).

### **12.3 Confidentiality**

Except as expressly contemplated in these DMG Procedures or as may be required by applicable law or court order or by a authority having appropriate jurisdiction, each DMG Member and each DMG Deputy will:

- (a) maintain absolute confidentiality regarding any and all information relating to ASX Clear (Futures) and any and all business and trade secrets of ASX Clear (Futures) both towards the Participating DMG Member Institution and towards third parties;
- (b) maintain absolute confidentiality with respect to all aspects of any DMG Matters of any current or past DMG Meetings in which such DMG Member was involved, including any discussions, deliberations, proceedings, or results of any votes, or any determinations or acts made under these DMG Procedures (referred to as the **Confidential Information**) both towards the Participating DMG Member Institution and towards third parties; and
- (c) not use any Confidential Information pursuant to item (a) or (b) for its own benefit or the benefit of the Participating DMG Member Institution or the benefit of any third parties (referred to as the **Confidentiality Obligation**).

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## **13 Compensation**

### **13.1 No Remuneration**

DMG Members and DMG Deputies are not entitled to receive remuneration from ASX Clear (Futures).

### **13.2 Costs and Expenses**

Participating DMG Members may request from ASX Clear (Futures) reimbursement of all reasonable costs and expenses incurred in connection with their participation in a DMG Meeting, unless the relevant Participating DMG Member Institution is obliged to reimburse such costs and expenses.

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## **14 Governing Law; Place of Jurisdiction**

The rights and obligations arising out of, and in connection with, these DMG Procedures will be governed by the law in force in New South Wales.

The exclusive place of jurisdiction for all disputes arising out of, or in connection with, these DMG Procedures is New South Wales.

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## **15 Amendments**

ASX Clear (Futures) reserves the right to amend the DMG Procedures from time to time.

# Schedule 4 – Default Management Auction Procedures

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## 1 DM Auction Procedures

Each DM Auction is governed by these default management auction procedures (referred to as the **General DM Auction Procedures**), as supplemented by specific auction terms (referred to as the **Specific DM Auction Terms**), which will be substantially in the form of the annex to this Schedule. The General DM Auction Procedures and the Specific DM Auction Terms are together referred to as the **DM Auction Procedures**.

A summary of the applicable timings and steps to be taken in respect of a DM Auction (referred to as the **DM Auction Process Timeline**) is set out in the Addendum to these General DM Auction Procedures. The DM Auction Process Timeline is provided by way of guidance only and does not form part of the DM Auction Procedures or override the DM Auction Procedures for any particular DM Auction.

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## 2 Definitions

Terms used and not otherwise defined in the DM Auction Procedures will have the meaning given to them in the OTC Rules (including the Default Management Process).

Paragraphs of these DM Auction Procedures are referred to as DM Auction Paragraphs.

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## 3 DM Auctions and DM Auctions Price

DM Auctions will enable the bidders participating in accordance with the DM Auction Procedures to enter into the DM Auction Transactions comprised in the relevant Auction Units with ASX Clear (Futures) at an auction price for the relevant Auction Unit determined in accordance with these DM Auction Procedures (the price for an Auction Unit in each case is referred to as an **Auction Price**).

ASX Clear (Futures) will, after consultation with the relevant DMG(s), specify in the Specific Terms for each DM Auction the relevant Auction Units, and the total number of Auction Units, to be auctioned in the relevant DM Auction.

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## 4 Participation in DM Auctions

### 4.1 Participating Bidders

Each Mandatory OTC Participant which is obliged to participate in the relevant DM Auction in accordance with the Default Management Process may:

- (a) either itself; or

(b) arrange for another OTC Participant in its place,

make a submission of a Bid (as defined below) with regard to a specific Auction Unit, such bidder referred to as a **Participating Bidder**.

## 4.2 Disclosure

A Mandatory OTC Participant may not disclose the Specific DM Auction Terms or any additional information with respect to any DM Auction.

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# 5 Pre-Auction Procedures

## 5.1 DM Auction Invitees

For each DM Auction ASX Clear (Futures) will provide all Mandatory OTC Participants (each referred to as a **DM Auction Invitee**) with the Specific DM Auction Terms and with any further relevant information relating to the DM Auction.

The distribution of the Specific DM Auction Terms constitutes an invitation of ASX Clear (Futures) to the DM Auction Invitees to submit a Bid to enter into each of the DM Auction Transactions comprised in the relevant Auction Unit with ASX Clear (Futures) at the Auction Price.

## 5.2 Auction Units

In addition, ASX Clear (Futures) will specify in the Specific DM Auction Terms or by email for each Mandatory OTC Participant a minimum number of Auction Units for which such individual Mandatory OTC Participant will bid. Such number will depend on the relative exposure of the relevant Mandatory Participant with respect to the relevant Liquidation Group(s), in particular with regard to:

- (a) the number of OTC Open Contracts held by the Mandatory OTC Participant with respect to the relevant Liquidation Group(s);
- (b) the notional amount of OTC Open Contracts held by the Mandatory OTC Participant with respect to the relevant Liquidation Group(s); and
- (c) the risks inherent in the OTC Open Contracts held by the Mandatory OTC Participant with respect to the relevant Liquidation Group(s).

Auction Units can include both OTC Open Contracts and, if applicable, other Open Contracts of the Defaulted OTC Participant.

## 5.3 Content of Specific DM Auction Terms

The Specific DM Auction Terms will contain:

- (a) the Auction Units (including information regarding the DM Auction Transactions comprised in them);
- (b) the auction currency;
- (c) the scheduled auction date (referred to as the **Auction Date**) and the commencement time, as of which the respective Bids can be submitted (referred to as the **Commencement Time**);
- (d) the scheduled expiration time by which the respective Bids have to be submitted pursuant to DM Auction Paragraph 6 (Bidding Procedures) by

- the relevant Mandatory OTC Participant (referred to as the **Expiration Time**);
- (e) the Auction Format (as defined in DM Auction Paragraph 8 (Auction Format) below); and
  - (f) the date and time of acceptance of the winning Bids (referred to as the **Acceptance Date** and **Acceptance Time**) and the date and time of settlement of the auction (referred to as the **Settlement Date** and the **Settlement Time**).

#### **5.4 Changes**

ASX Clear (Futures) is entitled at any time prior to the Expiration Time to change the Auction Date, Commencement Time, Expiration Time, the Auction Format, or the bidding procedures pursuant to DM Auction Paragraph 6 (Bidding Procedures), or to cancel a DM Auction, in each case by notice, provided that ASX Clear (Futures) will reasonably extend the Expiration Time to allow for the exercise of the revocation right pursuant to DM Auction Paragraph 5.5 (Revocation of Bids) below. ASX Clear (Futures) will inform all Participating Bidders about any such changes.

#### **5.5 Revocation of Bids**

If ASX Clear (Futures) amends the Specific DM Auction Terms or any provisions of the General DM Auction Procedures prior to the Expiration Time of a DM Auction and such amendment is, in the reasonable opinion of ASX Clear (Futures), materially prejudicial to any Participating Bidder that has already submitted its Bid(s) before such amendment was announced and became effective, then such Participating Bidder may revoke its Bid(s) in accordance with this DM Auction Paragraph 5.5, provided that a revocation of the respective Bid(s) will only become effective if received by ASX Clear (Futures) prior to the Expiration Time (as amended). Any extension, cancellation, or re-opening of a DM Auction will be deemed not to be materially prejudicial so that a Participating Bidder not revoke its Bid in case of any such change.

### **6 Bidding Procedures**

#### **6.1 Principles**

With respect to each DM Auction the following principles will apply:

- (a) each Mandatory OTC Participant is obliged to provide ASX Clear (Futures) with its mandatory bid(s); and
- (b) each Mandatory OTC Participant is permitted to provide ASX Clear (Futures) with a Bid for any further Auction Unit for which it is not obliged to bid.

#### **6.2 Bids and Bidding Periods**

Participating Bidders will submit their offered price for each Auction Unit in accordance with the Auction Format (each referred to as a **Bid**) in accordance with DM Auction Paragraph 8 (Auction Format) from, and including, the relevant Commencement Time to, and including, the relevant Expiration Time (referred to as the **Bidding Period**).

### **6.3 Bids Irrevocable**

A Bid constitutes an offer to enter into the DM Auction Transactions comprised in the relevant Auction Unit (as referred to in the Bid in accordance with the Auction Format) with ASX Clear (Futures) at the Auction Price. Subject to DM Auction Paragraph 5.5 (Revocation of Bids), a Bid will be irrevocable.

### **6.4 Bids may be Positive or Negative**

Bids may be positive or negative. If the Bid is positive, the Participating Bidder will be required to pay the Auction Price to ASX Clear (Futures). If the Bid is negative, ASX Clear (Futures) will be required to pay the Auction Price to the Participating Bidder.

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## **7 Determination of Winning Bid and Auction Price**

### **7.1 Winning Bids**

After the Expiration Time, ASX Clear (Futures) will determine the winning Bid for each Auction Unit in accordance with the Auction Format specified in the Specific DM Auction Terms and will inform the winning Participating Bidder on the Acceptance Date and at the Acceptance Time about the acceptance of the respective Bid.

If two or more Participating Bidders enter the same Bid for the same Auction Unit, the winning Bid will be the Bid that was received first by ASX Clear (Futures).

### **7.2 DM Auction Transactions**

Upon acceptance of the winning Bid for an Auction Unit by ASX Clear (Futures), the DM Auction Transactions of such Auction Unit will be established at the Settlement Time on the Settlement Date against payment of the Auction Price for such Auction Unit in accordance with the standard practices of ASX Clear (Futures). The relevant DM Auction Transactions will be established between ASX Clear (Futures) and either:

- (a) the Participating Bidder; or
- (b) in respect of DM Auction Transactions equivalent to Terminated Open Contracts, in circumstances where the Participating Bidder is not a Futures Participant, the Futures Participant nominated by the Participating Bidder in accordance with paragraph 2.3 (Conditions to become an OTC Participant) of the OTC Handbook.

### **7.3 Notification**

ASX Clear (Futures) will inform all Participating Bidders as soon as practically feasible whether their Bid(s) qualified as winning Bid(s) with respect to each Auction Unit.

### **7.4 Failed Auction**

If ASX Clear (Futures) determines that a DM Auction has failed for any reason, ASX Clear (Futures) may reallocate Auction Units and hold a further DM Auction, or take such other action as ASX Clear (Futures) determines in its discretion is appropriate.

## **7.5 Non-disclosure**

ASX Clear (Futures) will not disclose:

- (a) the identity of the Participating Bidder that submitted the winning Bid for an Auction Unit;
- (b) the Auction Price for any Auction Unit of a DM Auction, to any party other than the Participating Bidder who submitted the winning Bid; or
- (c) Bids of Participating Bidders to other Participating Bidders,

unless it is required to do so by law.

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## **8 Auction Format**

### **8.1 General**

The Specific DM Auction Terms will specify the format of the relevant DM Auction with regard to the content of a Bid, the specific procedures of the bidding and the determination of the winning Bid (referred to as the **Auction Format**).

When conducting a DM Auction in accordance with these DM Auction Procedures, ASX Clear (Futures) will, unless stated otherwise in the Specific DM Auction Terms, apply the Auction Format of a "Standard Auction Format" as described in DM Auction Paragraph 8.3 (Standard Auction Format).

### **8.2 Reserve Price**

The Specific DM Auction Terms may specify that ASX Clear (Futures) can set a reserve price with respect to a DM Auction. If a reserve price so specified is higher than the otherwise winning bid, then despite any other provision of these DM Auction Procedures there is taken to be no winning bid for that DM Auction.

### **8.3 Standard Auction Format**

If the Specific DM Auction Terms specify "Standard Auction Format" as the applicable Auction Format, the following applies:

- (a) all Bids will be made in accordance with the DM Auction Procedures;
- (b) ASX Clear (Futures) will not disclose to the Mandatory OTC Participants which of the two portfolios comprise the DM Auction Transactions and which comprise the opposite transactions. The binding Bid only relates to an Auction Unit;
- (c) subject to DM Paragraph 8.2 (Reserve Price) and acceptance of the winning Bid by ASX Clear (Futures), the highest valid Bid will be the winning Bid with respect to each Auction Unit and such highest Bid will be the Auction Price for the respective Auction Unit; and
- (d) subject to DM Paragraph 8.2 (Reserve Price), ASX Clear (Futures) will accept the winning Bid pursuant to DM Auction Paragraph 7.1 (Winning Bids) above with respect to each Auction Unit irrespective of whether Bids were submitted for all Auction Units of the respective DM Auction unless ASX Clear (Futures) chooses not to accept any Bids (in which case it may choose to initiate another DM Auction).

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## **9 Settlement of Auction Price**

At the Settlement Time on the Settlement Date, the payment of the Auction Price becomes due and payable and will be paid, together with any applicable OTC Daily Variation Margin or Variation Margin associated with the successful Bid.

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## **10 Irregularities**

All questions as to the validity, form and eligibility (including the time of receipt) of any Bid or revision of it, will be determined by ASX Clear (Futures), which determination will be final and binding.

ASX Clear (Futures) reserves the absolute right to reject at any time any and all Bids that do not comply with these DM Auction Procedures.

ASX Clear (Futures) reserves the absolute right to waive any requirement under the DM Auction Procedures.

ASX Clear (Futures) will be under no duty to give notice to Participating Bidders of any irregularities in Bids.

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## **11 Representations, Warranties and Undertakings**

### **11.1 Agreements**

By submitting a Bid in accordance with the DM Auction Procedures, each Participating Bidder agrees at the time of the submission of its Bid, with ASX Clear (Futures) that:

- (a) it accepts the DM Auction Procedures;
- (b) it accepts that ASX Clear (Futures) is under no obligation to accept a Bid which is not made in accordance with the DM Auction Procedures;
- (c) it accepts the rights of ASX Clear (Futures) set out in DM Auction Paragraph 10 (Irregularities); and
- (d) it will indemnify on an after tax basis ASX Clear (Futures) against all and any losses, costs, claims, liabilities, expenses, charges, actions or demands which ASX Clear (Futures) may incur or which may be made against ASX Clear (Futures) as a result of any breach of any of the DM Auction Procedures of, or any of the acknowledgements, representations, warranties and undertakings given pursuant to, the DM Auction Procedures (including any Bid thereunder) by the Participating Bidder, up to a maximum capped amount for that Participating Bidder in respect of all DM Auctions which may occur as a result of the applicable OTC Participant's Default, of fifty million dollars (\$50,000,000).

### **11.2 Acknowledgments**

By submitting a Bid in accordance with the DM Auction Procedures, each Participating Bidder acknowledges at the time of the submission of its Bid, to ASX Clear (Futures) that:

- (a) it understands that ASX Clear (Futures) may, at its own discretion, extend, re-open, amend or waive any condition of, or cancel the DM Auction at any time in accordance with DM Auction Paragraph 5.4

(Changes), and that in the event of a cancellation of the DM Auction, the Bids will be cancelled;

- (b) it understands that acceptance by ASX Clear (Futures) of a submitted Bid will constitute a binding contract regarding the entering into the DM Auction Transactions comprised in the relevant Auction Unit;
- (c) that ASX Clear (Futures) will rely upon the truth and accuracy of the acknowledgments, agreements, representations, warranties and undertakings contained in this DM Auction Paragraph 11 (Representations, Warranties and Undertakings); and
- (d) that an OTC Daily Variation Margin requirement or Variation Margin requirement with respect to the respective DM Auction Transactions comprised in the relevant Auction Unit may become due at the relevant Settlement Time.

### **11.3 Representations**

By submitting a Bid in accordance with the DM Auction Procedures, each Participating Bidder represents and warrants at the time of the submission of its Bid, to ASX Clear (Futures) that:

- (a) it will keep confidential and will not disclose directly or indirectly the Specific DM Auction Terms or any other information regarding the relevant DM Auction, including any information with respect to the DM Auction Transactions or the Auction Units, that it respects to be permitted to use any such information solely for the purpose of evaluating the relevant Auction Unit and that it will, unless it has provided the winning Bid in accordance with DM Auction Paragraph 8.3(c) (Standard Auction Format), immediately delete and destroy such information after the respective Expiration Time and will promptly certify to ASX Clear (Futures) in writing that such deletion has been completed;
- (b) it has not made and will not make available any information about Bids to, or discuss any Bids with, any other Participating Bidder;
- (c) it has neither taken, nor omitted to take, any action in breach of the DM Auction Procedures or which will or may result in ASX Clear (Futures) or any other person acting in breach of the legal or regulatory requirements of any jurisdiction in connection with a Bid;
- (d) it does not engage in any trading activity which could have an impact on the value of any DM Auction Transaction or Auction Unit;
- (e) no order has been made or applied for or resolution passed for the suspension of payments or dissolution, termination of existence, liquidation, winding-up, bankruptcy, insolvency, judicial management or curatorship;
- (f) no moratorium in respect of all or any debts or a composition or an arrangement with creditors or any similar proceeding or arrangement by which its assets are submitted to the control of its creditors is ordered, declared or applied for;
- (g) no liquidator, trustee, administrator, receiver, statutory manager or similar officer has been appointed in respect of it or in respect of all or a substantial part of its assets;

- (h) it is able to pay its debts as and when they fall due, will not become unable to pay its debts as a consequence of entering into the DM Auction Transactions; and
- (i) no event has occurred or circumstance arisen with respect to it, which might (whether or not with the giving of notice or the passage of time or the fulfilment of any other requirement) constitute a Default.

The representations and warranties pursuant to this DM Auction Paragraph 11.3 (Representations) will be repeated by each Participating Bidder on the Settlement Date.

#### **11.4 Duty to Inform**

If a Participating Bidder is unable to give the agreements, acknowledgements, representations and warranties set out in this DM Auction Paragraph 11 (Representations, Warranties and Undertakings), such Participating Bidder will notify ASX Clear (Futures) without undue delay informing ASX Clear (Futures) about the relevant circumstances.

---

### **12 Governing law; Place of jurisdiction**

The rights and obligations arising out of, and in connection with, the DM Auction Procedures will be governed by the law in force in New South Wales.

The exclusive place of jurisdiction for all disputes arising out of, or in connection with, these DM Auction Procedures is New South Wales.

---

### **13 Amendment of DM Auction Procedures**

ASX Clear (Futures) reserves the right to amend the DM Auction Procedures.

## Addendum – Default Management Auction Process Timeline

### 1 Guidance

This Addendum summarises the applicable timings and steps to be taken in respect of a DM Auction.

The DM Auction Process Timeline is provided by way of guidance only and does not form part of the DM Auction Procedures or override the DM Auction Procedures for any particular DM Auction.

### 2 DM Auction Process Timeline

Step:	Applicable time:	Action:
1	Prior to the Commencement Time	ASX Clear (Futures) to provide all DM Auction Invitees with the Specific Auction Terms in respect of the DM Auction.  ASX Clear (Futures) will specify the minimum number of Auction Units which must be bid for by each Mandatory OTC Participant.
2	At the Commencement Time on the Auction Date	The DM Auction commences.
3	During the Bidding Period	Participating Bidders to submit Bids for each Auction Unit.
4	Prior to the Expiration Time	ASX Clear (Futures) may change the Auction Date, Commencement Time, Expiration Time, Auction Format or bidding procedures.  If such changes are materially prejudicial to a Participating Bidder that has already submitted a Bid, the Participating Bidder may revoke its Bid, if such revocation is received prior to the Expiration Time (as amended).
5	Expiration Time	Submission of Bids closes.
6	Acceptance Time on the Acceptance Date	ASX Clear (Futures) will inform the winning Participating Bidder of the acceptance of its winning Bid for an Auction Unit.
7	Settlement Time on the Settlement Date	DM Auction Transactions of each Auction Unit are established as of the Settlement Time on the Settlement Date against payment of the Auction Price for such

	Auction Unit.  Any applicable OTC Daily Variation Margin or any Variation Margin associated with the successful Bid becomes due and payable.
--	--

## ANNEX - Form of Specific Terms for DM Auctions

**[*Letterhead of ASX Clear (Futures)*]**

To The Mandatory OTC Participants  
[Date]

### **SPECIFIC TERMS FOR DM AUCTIONS**

You have been invited by ASX Clear (Futures) to participate in a DM Auction (as further described by the details below).

These Specific DM Auction Terms must be read in conjunction with the General DM Auction Procedures as set out in Schedule 4 (Default Management Auction Procedures) of the ASX OTC Handbook by ASX Clear (Futures) Pty Ltd and constitute in conjunction with the General DM Auction Procedures the DM Auction Procedures for this DM Auction. In case of any differences between the General DM Auction Procedures and these DM Auction Specific Terms, these Specific DM Auction Terms will prevail.

Each Mandatory OTC Participant will keep confidential and will not disclose directly or indirectly the Specific DM Auction Terms or any other information regarding the relevant DM Auction, including any information with respect to the DM Auction Transactions or the Auction Units. It will further respect to be permitted to use any such information solely for the purpose of evaluating the relevant Auction Unit and it will, unless it has provided the winning Bid in accordance with DM Auction Paragraph 8.3(c) (Standard Auction Format) of the General DM Auction Procedures, immediately delete and destroy such information after the respective Expiration Time and will promptly certify to ASX Clear (Futures) in writing that such deletion has been completed.

#### **General Information:**

Liquidation Group(s): [      ]

DM Auction Transactions: See attached spreadsheet

Auction Units: See attached spreadsheet

Auction Currency:

#### **Auction Timetable:**

Auction Date: [      ]

Commencement Time: [      ]

Expiration Time: [      ]

Acceptance Date and [      ]

Acceptance Time: [      ]

Announcement Time: [      ]

Settlement Date and Settlement [ ]

Time:

**Bidding and Auction Procedure Details:**

Auction Format: [ ] [Standard Auction Format]

[ ] Other: *[describe]*

**[other]** [ ]

**[other]** [ ]

# Schedule 5 – Procedures for the OTC Product Committee

---

## 1 Scope of Application and Definitions

The following procedures (referred to as the **Committee Procedures**) will apply to the OTC Product Committee (referred to as the **Committee**).

Terms used and not otherwise defined in these Committee Procedures will have the meanings given to them in the OTC Rules.

Paragraphs of these Committee Procedures are referred to as Paragraphs.

---

## 2 Committee Members

### 2.1 Committee Members

Each OTC Participant may nominate a single representative for the Committee (each referred to as a **Committee Member**).

However, a person may not be nominated to be a Committee Member unless that person:

- (a) has appropriate expertise and experience in relation to the matters to be considered by the Committee; and
- (b) is acceptable to ASX Clear (Futures) in its reasonable discretion.

If ASX Clear (Futures) rejects a Committee Member nominated by an OTC Participant then the OTC Participant may nominate a replacement for consideration by ASX Clear (Futures).

### 2.2 ASX Appointees

ASX Clear (Futures) may select and appoint any number of further Committee Members in its sole discretion, where this is necessary in order for ASX Clear (Futures) to meet requirements under applicable law with respect to the composition of the Committee.

### 2.3 Change of Committee Members

An OTC Participant may, at any time, notify ASX Clear (Futures), that it intends to change its nominated Committee Member by nominating a replacement nominee in accordance with Paragraph 2.1 (Committee Members). Once accepted by ASX Clear (Futures), the replacement nominee replaces the previous nominee on the Committee.

### 2.4 Related bodies corporate

If two or more OTC Participants are or become related bodies corporate, as determined by ASX Clear (Futures), such OTC Participants are entitled to appoint only one single Committee Member. If at any time OTC Participants

(which are related bodies corporate) have appointed more than one Committee Member, such OTC Participants will promptly notify ASX Clear (Futures) of the single Committee Member who will represent them in the future.

## **2.5 Chairman**

From time to time the Committee will appoint a Committee Member by majority vote to serve as chairman (referred to as the **Chairman**). Such appointment will be for a period determined by ASX Clear (Futures). If the Chairman ceases to be a Committee Member or resigns, a new Chairman will be appointed by the Committee.

## **2.6 Committee Secretary**

ASX Clear (Futures) will serve as the secretary of the Committee (referred to as the **Committee Secretary**) and will perform administrative duties.

## **2.7 Suspension of Membership**

A Committee Member will be suspended from its capacity as Committee Member upon the occurrence of a Default in relation to the OTC Participant which has nominated such Committee Member.

---

# **3 C convening the Committee**

## **3.1 Meeting and Notice**

The Committee Secretary will convene a meeting of the Committee (referred to as a **Meeting**):

- (a) at the request of the Chairman or any two Committee Members (provided such request is accompanied by a draft Agenda (as defined below) for such Meeting); and
- (b) at its own discretion,

by delivering notice (referred to as a **Notice**) in accordance with this Paragraph 3. Meetings will be held at a location as determined by the Committee Secretary. Any Committee Members who do not attend in person may participate by telephone or video conference.

## **3.2 Urgent Matters**

The Committee Secretary may convene a Meeting upon such notice and in such manner as it determines, in order to consider any matter which it determines requires the urgent attention of the Committee.

## **3.3 Participating Committee Member**

The Committee Members attending a respective Meeting (either in person or by telephone or video conference) are each referred to as a **Participating Committee Member**.

## **3.4 Proxies**

The Chairman may make such arrangements for the appointment of proxies (including setting out the terms on which such proxies may vote or constitute a quorum) as it in its discretion determines.

---

## **4 Quorum**

The quorum for a valid Meeting will be one third of all Committee Members (referred to as the **Quorum**).

In the event that a Quorum is not present at the start of and throughout a duly convened Meeting, such Meeting will be adjourned by the Chairman to the next following Business Day or such other day as is agreed with the Committee Secretary. A Quorum at such adjourned Meeting will consist of the Participating Committee Members provided that notice of the Meeting has been given to all Committee Members in accordance with Paragraph 3 (Convening the Committee).

---

## **5 Voting**

All decisions and recommendations made by the Committee will be made at a Meeting by majority vote of the Participating Committee Members.

For the purpose of all voting procedures each Participating Committee Member will have one single vote. In the event that any vote is tied, the Chairman will have the casting vote.

---

## **6 Participation of Employees**

A Committee Member may invite one employee of the OTC Participant which it is representing (or of a related bodies corporate) to participate in a Meeting in respect of which such employee has particular expertise. The Committee Member may, by notice to the Chairman, delegate the authority to vote on its behalf on a particular issue to any such employee.

ASX Clear (Futures) will send employees to Meetings in order to perform its function as Committee Secretary. The Committee may invite further employees and members of corporate bodies of ASX Clear (Futures) to Meetings.

---

## **7 Minutes and Statements**

### **7.1 Committee Minutes**

Minutes will be taken of all Meetings (referred to as the **Committee Minutes**) by the Committee Secretary.

### **7.2 Committee Statements**

The Committee may appoint one or more Committee Members to prepare, on behalf of the Committee, any proposal, response, statement or other document setting out the views of the Committee with respect to any relevant matter (referred to as a **Committee Statement**). The Chairman may refer the Committee Statement to a Meeting for approval or may, if the Chairman is satisfied that the Committee Statement represents the views of the majority of Committee Members after circulating such Statement to the Committee Members, deliver such Committee Statement to ASX Clear (Futures) for incorporation into the Committee Minutes and will be taken to set out the view of the Committee.

---

## **8 Compensation**

Each OTC Participant will be responsible for the costs associated with its Committee Member's participation in the Committee and will not be entitled to demand or receive any fee or compensation from ASX Clear (Futures) for such participation.

---

## **9 Confidentiality**

Except as expressly contemplated in these Committee Procedures or as required by applicable law or court order or by a regulatory, self-regulatory or supervising authority having appropriate jurisdiction, each OTC Participant agrees and procures that its relevant Committee Member agrees:

- (a) to maintain confidentiality as to all aspects of the Committee, including any discussions, deliberations, proceedings or results of any vote, or any determinations produced by these proceedings (referred to as the **Confidential Information**); and
  - (b) not to use any Confidential Information for its own benefit, the benefit of any of its related bodies corporate or a third person. Each OTC Participant will conclude and maintain a corresponding confidentiality agreement with its Committee Member.
- 

## **10 Fiduciary Duties; Limitation of Liability**

### **10.1 Protected Persons**

Neither any Committee Member nor any other person invited to participate in a Meeting (each referred to as a **Protected Person**) will, to the extent legally possible, have any fiduciary duties or other duties to protect third parties in relation to ASX Clear (Futures), any directors, managers or officers of it, the OTC Participants or any other person (each referred to as a **Non-protected Person**) by reason of such service on the Committee or the appointment of a Committee Member to the Committee.

### **10.2 No Liability**

Despite anything to the contrary in the OTC Rules or the OTC Handbook, to the extent that, for any reason, a Protected Person has any such duties and liabilities relating to its membership of the Committee to a Non-protected Person, such Protected Person acting under the Committee Procedures will not be liable to such Non-protected Person for breach of any such duty if they relied in good faith on the Committee Procedures, the OTC Rules, the OTC Handbook or other provisions of ASX Clear (Futures).

---

## **11 Governing Law**

These Committee Procedures, and all rights and obligations under them will be governed by and construed in accordance with the law in force in New South Wales.

---

## **12 Amendments**

These Committee Procedures may be amended by ASX Clear (Futures), provided that the Committee Secretary will present details of any such

amendment to a Meeting held no later than 30 days after such amendment comes into effect.

## **Schedule 5: Revised Operating Rules**

**Futures Rules (Subject to Regulatory Clearance)**

***Consolidated rules (incorporating changes made in response to  
consultation feedback)***



**ASX CLEAR (FUTURES) PTY LIMITED**

**ACN 050 615 864**

**OPERATING RULES**

**&**

**SCHEDULES TO THE OPERATING RULES**

| Version ~~34 (January 2012)~~35 (2013)

**Previous Updates:**

Update 14	September 2000 (reprint)
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Update 16	September 2001
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Update 18	August 2002
Update 19	November 2002
Update 20	December 2002
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Update 22	September 2004
Update 23	January 2005 (reprint)
Update 24	July 2007
Update 25	March 2008
Update 26	March 2008
Update 27	September 2008
Update 28	July 2009
Update 29	November 2009
Update 30	December 2009
Update 31	August 2010
Update 32	July 2011
Update 33	October 2011
Update 34	January 2012
<u>Update 35</u>	<u>[ ] 2013</u> (current)

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## 1.1 Definitions

In these Rules, except where the content otherwise requires, words and expressions shall have the same meaning as in the Articles, provided that, except where the context otherwise requires the words and expressions in the first column in Rule 1.1 hereunder shall have the meaning assigned to them in the second column. In the absence of a contrary definition in these Rules, words and expressions shall have the same meaning as in the Exchange Operating Rules.

<u>Words</u>	<u>Meanings</u>
Abandonment	The abandonment of an Option in accordance with Exchange Operating Rules and these Rules.
Account	In relation to a Clearing Participant, means a House Clearing Account and/or Client Clearing Account as established in accordance with Part 4 of the Rules.
Adoption Date	The date on which the new Constitution of Australian Securities Exchange Limited, as approved at an extraordinary general meeting of Full Members of that Exchange on 22 July 2000, comes into effect.
<u>Appeal Tribunal</u>	<del>The tribunal convened in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.</del>  <u>Introduced 01/08/10</u> <u>[Explanatory Note: The term “Appeal Tribunal” has been shifted alphabetically. No changes to the definition have been made.]</u>
Allocation	An allocation of an Open Contract ( <u>other than an OTC Open Contract</u> ) or Market Contract ( <u>other than an OTC Transaction</u> ) as provided by the Exchange Operating Rules.
Alternative Clearing and Settlement Facility	A Clearing and Settlement Facility, approved by the Exchange, that the operator is licensed to conduct under an Australian CS Facility Licence that is operated by a Facility Participant. (Added 4/12/02)
API	Applications Programming Interface. (Added 10/12/01)
<u>Appeal Tribunal</u>	<u>The tribunal convened in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.</u>  <u>Introduced 1/1/1/1</u>  <u>[Explanatory Note: The term “Appeal Tribunal” has been shifted alphabetically. No changes to the definition have been made.]</u>
Approved Warehouse	That term as defined in the Exchange Operating Rules. ( <u>Added 26/3/96</u> )
Articles or Articles of Association	The Articles of Association contained in the Constitution of ASX Clear (Futures) Pty Ltd.
<u>ASX Clear (Futures)</u>	<u>ASX Clear (Futures) Pty Ltd (ABN 91 050 615 864). Where the Rules confer on ASX Clear (Futures) a power to do or refrain from doing</u>

<u>Words</u>	<u>Meanings</u>
	<p>some act or to exercise a discretion, a reference to ASX Clear (Futures) includes a reference to the Board, the Managing Director or other officer of ASX Clear (Futures) authorised by the Board or Managing Director to exercise that power or who is otherwise properly authorised to exercise that power.</p> <p><u>Introduced [ ]/[ ]/[ ]</u>  <i>[Explanatory Note: The term “ASX Clear (Futures)” has been shifted alphabetically. No changes to the definition have been made.]</i></p>
Australian Bank	Australian Bank within the meaning of the Corporations Act.
Australian CS Facility Licence	A licence granted to the operator of a Clearing and Settlement Facility in accordance with the Corporations Act that authorises it to operate a facility providing clearing and settlement services in respect of all products traded on the Exchange.
Australian Financial Services Licence or AFSL	A licence granted by ASIC that authorises a person who carries on a financial services business to provide financial services.
Board	Board of ASX Clear (Futures) Pty Ltd and except in relation to any power to expel a Clearing Participant, a delegate of the Board duly approved pursuant to the Articles.
Bond	A Bond issued by the Commonwealth of Australia or the Government of a State or Territory or issued by a borrowing authority of the Commonwealth, a State or a Territory.
<b><u>Bond Position</u></b> <b><u>Bond Transaction</u></b>	<b><u>The net result of Bond purchases and sales.</u></b> <b><u>Purchase or sale of a Bond.</u></b>
Bond and Repurchase Clearing	The clearing of Bond Transactions and/or Repurchase Agreements.
	<u>Introduced [ ]/[ ]/[ ]</u> <i>[Explanatory Note: The term “Bond and Repurchase Clearing” has been shifted alphabetically. No changes to the definition have been made.]</i>
<b><u>Bond Position</u></b> <b><u>Bond Transaction</u></b>	<b><u>The net result of Bond purchases and sales.</u></b> <b><u>Purchase or sale of a Bond.</u></b>
	<i>[Explanatory Note: The term “Bond and Repurchase Clearing” has been shifted alphabetically. No changes to the definition have been made.]</i>
BOS	Back Office Server which connects to the OM SECUR BOC. (Added 10/12/01)
BRCA	Bond and Repurchase Clearing
BRCA Business Day	Day on which ASX Clear ( <del>Futures</del> <ins>Futures</ins> ) is open for the conduct of BRCA transactions.
BRCA House Account	An account established under By-law 41A.1.

<u>Words</u>	<u>Meanings</u>
BRC Participant	A Clearing Participant who notifies ASX Clear (Futures) of its intention to undertake Bond and Repurchase Clearing and who complies with these Rules and the ASX Clear (Futures) procedures regarding Bond and Repurchase Clearing.
BRC Variation Margin	The adjustment amount calculated by ASX Clear (Futures) in the mark to market process under Rule 44A. (Added 28/10/02)
Bulk Handler	Any company which operates Delivery Depots with whom ASX Clear (Futures) has entered into an arrangement for the storage and handling of the Underlying Commodity.  Introduced 24/10/11
Bulk Handler Agreement	An agreement with a Bulk Handler governing the storage and handling of an Underlying Commodity.  Introduced 24/10/11
Business Day	Day on which the office of the ASX Clear (Futures) is open for business.
Business Day of the Relevant Exchange	Day on which the office of the relevant exchange is open for business.
Buyer	(a) In relation to a Market Contract, the Trading Participant who enters into the Market Contract as buyer or if such Trading Participant is a Non-Clearing Trading Participant, its Guarantor Clearing Participant, or if prior to Registration that Market Contract is Allocated or deemed to be Allocated to another Exchange Participant as buyer in accordance with the Exchange Operating Rules and that Allocation is accepted or confirmed or deemed to be accepted or confirmed by that Exchange Participant, that Exchange Participant, or if that Exchange Participant is a Non-Clearing Trading Participant its Guarantor Clearing Participant. (b) In relation to an Open Contract the Clearing Participant in the buying position with respect to such Open Contract. (c) In relation to a Bond the Clearing Participant in the buying position. (d) In relation to a Repurchase Agreement the Clearing Participant in the buying position. (Amended 01/09/08)
Cash Settlement Contract	A Futures Contract which is to be performed by cash settlement only without delivery of a Commodity.
CFD or Contract For Difference	A Futures Contract designated by the Exchange as a Contract for Difference
CFD Client	In relation to both a Clearing Participant and Full Participant, any person firm or corporation (including a Related Body Corporate) on behalf of whom that Participant enters, acquires or disposes of a CFD or from whom the participant accepts instructions to enter, acquire or dispose of CFDs on behalf of others.
Clearing Account	A Client Clearing Account or a House Clearing Account.
Clearing and Settlement Facility	“Clearing and Settlement Facility” as that term is defined in the Corporations Act.

<u>Words</u>	<u>Meanings</u>
Clearing Infrastructure Fee	Any and all charges determined by ASX Clear (Futures) from time to time, payable by the Clearing Participant in consideration for, or in any way connected with, the use of the Exchange System. (Added Jan 05)
Clearing Participant	Any person who is admitted and remains recognised as a Clearing Participant pursuant to these Rules and unless the context otherwise requires, a reference in these Rules to a Clearing Participant will include a reference to a Facility Participant. (Amended 4/12/02)
Clearing Software	The Software developed by or on behalf of ASX Clear (Futures) or a Related Body Corporate from time to time to operate the Exchange System and required by a Clearing Participant in order to access the Exchange System for the purpose of carrying out its activities as a Clearing Participant. (Added Jan 05)
Client	“Client” as defined by Exchange Operating Rules.
Client Clearing Account	An Account established under Rule 41.2.
Client Positions	Open Positions designated as Client Positions under Rule 41 or 41A.
Clients’ Segregated Account	An account maintained in accordance with the Exchange Operating Rules or where applicable a client bank account as defined in Regulation 2 of the Futures Industry (Client Funds) Regulations 1990 (New Zealand).
Close Out	To extinguish an Open Contract ( <a href="#">other than an OTC Open Contract</a> ) by matching it with an offsetting Open Contract ( <a href="#">other than an OTC Open Contract</a> ) and effecting the settlement of each such Open Contract against the other.
Commitment	The commitment of a Clearing Participant to provide Financial Support to the obligations of ASX Clear (Futures) as provided by <a href="#">Rule 5 comprising these Rules</a> .
<u>Amended 1/1/13</u>	
<i>[Explanatory Note: Where the Clearing Participant is a Futures Participant and/or an OTC Participant, the definition of “Commitment” includes the Futures Commitment and/or the OTC Commitment (respectively).]</i>	
<p style="color: red;">(a) <a href="#">The First Level Commitment</a>.</p> <p style="color: red;">(b) <a href="#">The Second Level Commitment</a>.</p> <p style="color: red;">(c) <a href="#">Any Commitment required in accordance with Rule 7.6.</a></p>	
Commodity	Any thing <del>entitlement</del> or instrument including stock and shares capable of delivery or transfer.
Compulsory Settlement	Compulsory Settlement as provided by Rule 102.
Corporation	Any body corporate.
Corporations Act	The Corporations Act 2001 (Cth) as amended from time to time. (Amended 2/1/02)
Daily Closing Value	The closing value of a Bond Transaction or Repurchase Agreement determined by ASX Clear (Futures) under Rule 44A.

<u>Words</u>	<u>Meanings</u>
Daily Settlement	Daily Settlement pursuant to Rule 44. (Amended 28/10/02)
Daily Settlement Amount	The Amount payable by or to a Clearing Participant pursuant to Rule 44 calculated as the difference between the value of an Open Contract ( <a href="#">other than an OTC Open Contract</a> ) at the last Daily Settlement Price (or in the case of an Open Contract arising subsequent to the last Daily Settlement Price, the contract price) and the value of that Open Contract at the current Daily Settlement Price.  In addition, the Daily Settlement Amount for a CFD Contract will include such cashflow amounts as determined by the Exchange.
Daily Settlement Price	The Daily Settlement Price determined under Exchange Operating Rules or if no such price is available a price determined by ASX Clear (Futures) having regard to prevailing market prices and/or such other factors as ASX Clear (Futures) considers relevant.
Dealer	Dealer as defined by NZFOE Rules.
Default	The existence of a Default with respect to a Clearing Participant as provided in Rule 71 as declared by the Board or Managing Director following an event of Default. Similar meanings shall apply to “in Default” and “to have Defaulted” as referred to in that Rule.
Deliverable Contract	A Futures Contract to be performed by Delivery of a Commodity.
Delivery	Delivery in accordance with Exchange Operating Rules and Part 6 of the Rules.
Delivery Depot	A facility for the storage and handling of the Underlying Commodity in a location approved by the Exchange in consultation with ASX Clear (Futures).
	Introduced 24/10/11
Delivery Month	The calendar month in which the Maturity Date falls.
	Introduced 24/10/11
Delivery Period	In relation to a Grain Contract, the period commencing on the second Business Day of the Delivery Month and ending on the Maturity Date.
	Introduced 24/10/11
Deny Automatic Exercise Request	The notice which may be lodged in the Exchange Allocation & Clearing System by Participants holding a bought option position in the Exchange Allocation & Clearing System pursuant to which the automatic exercise on the Declaration Date of an Option Contract in the money is denied. (Added 10/12/01)
Derivative	“Derivative” as that term is defined in the Corporations Act
‘Employee’, ‘member of staff’, ‘officer’, ‘official’, ‘ASX Clear (Futures) staff’, ‘staff of ASX Clear (Futures)’ and like words	‘employee’, ‘member of staff’, ‘officer’, ‘official’ and like words of ASX Clear (Futures) Pty Limited or any of its related bodies corporate. (Added 21/1/02)

<u>Words</u>	<u>Meanings</u>
Exchange	Australian Securities Exchange Limited (ABN 000 943 377) formerly known as Sydney Futures Exchange Limited and/or the Related Exchange. The use in these Rules of the term "Exchange or Related Exchange" shall not detract from this wide definition of "Exchange".
Exchange Allocation & Clearing System	Amended 02/01/02, 01/08/10 The computer system known as OM SECUR which includes the OMnet Gateway and related systems, and which comprises the central clearing system of the Exchange and all of its Related Bodies Corporate used for the receipt of matched trade records from SYCOM, and the processing of Allocations and Confirmations of each Trade.
Exchange Contract	Introduced 10/12/01 Amended 01/08/10 A class of Futures Contract and Options Contract listed on a Market of the Exchange.
Exchange Dealing Participant	A Participant of the Exchange which:  <ul style="list-style-type: none"> <li>(a) holds an Australian Financial Services Licence under the Corporations Act;</li> <li>(b) is a body regulated by APRA; or</li> <li>(c) has declared to the Exchange that it will accept instructions from or deal on behalf of persons or corporations,</li> </ul> or a Dealer of a Related Exchange which under the relevant Exchange Operating Rules and law of the place of incorporation of the Related Exchange is entitled to deal on behalf of clients.
Exchange Equipment	Equipment required by a Clearing Participant in order to access the Exchange System for the purposes of carrying out its activities as a Clearing Participant, which may be supplied from time to time by the Exchange, ASX Clear (Futures) or a Related Body Corporate. (Added Jan 05)
Exchange Markets	The markets of the Australian Securities Exchange Limited and any Related Exchange.
Exchange Operating Rules	The operating rules of the Exchange.
Exchange System	Any system, including the clearing system, computer system or other electronic system (including the Licensed Software and the Exchange Equipment) utilised by ASX Clear (Futures) or any of its Related Bodies Corporate from time to time in connection with any business of ASX Clear (Futures) or any of its Related Bodies Corporate. (Added Jan 05)
Exercise Price	Amended 01/08/10 The price at which an Option Contract may be exercised.
Exercise Request	The notice to be lodged by Participants holding a bought option position in the Exchange Allocation & Clearing System pursuant to which options (whether or not in the money) are exercised prior to their expiry on the Declaration Date. (Added 10/12/01)
Extra Margin	A deposit with ASX Clear (Futures) pursuant to Rule 45.2 or 45A.2.
Facility Participant	Any person approved by the Exchange who has an Australian CS Facility Licence and is a Clearing Participant. (Added 4/12/02)

**Words****Meanings**

Financial Requirements

Net Tangible Assets of not less than five million dollars (\$5,000,000) or such other requirements as may be prescribed in the Schedules or which otherwise apply to a Clearing Participant pursuant to Rule 8.

Financial Support

In relation to a Clearing Participant the financial support provided by that Clearing Participant pursuant to Rule 5 or Rule 7.6.

**First Level Commitment**

**The Fixed Commitment and Variable Commitment provided pursuant to Rule 5.6(a).**

*[Explanatory Note: The concept of the “First Level Commitment” is now referred to as the “Futures Commitment”, as per the amendments to Rule 5.6.1]*

Fixed Commitment

The Commitment provided pursuant to Rule 5.6(a)(i).

**Fixed OTC Commitment**

**Has the meaning given to it in the OTC Rules.**

Introduced [ ]/ [ ]/13

*[Explanatory Note: The term “Fixed OTC Commitment” is used in Rule 7.5.]*

**Futures Commitment**

**The commitment of a Futures Participant to provide financial support to the obligations of ASX Clear (Futures) as set out in Rule 5.**

Introduced [ ]/ [ ]/13

*[Explanatory Note: The term “Futures Commitment” is used in Rules 5.5A, 5.6, 6.2 and 6.3, and schedule 10 of the Procedures.]*

Futures Contract

A Derivative other than an OTC Transaction.

Amended [ ]/ [ ]/13

*[Explanatory Note: The amendment to this definition excludes an OTC Transaction from the definition of “Futures Contract”.]*

Futures Option Contract

An option over a Futures Contract.

**Futures Participant**

**Each:**

- (a) Clearing Participant who has been authorised to participate in the clearing of Futures Contracts through ASX Clear (Futures); and
- (b) BRC Participant.

Introduced [ ]/ [ ]/13

*[Explanatory Note: The term “Futures Participant” is used in Rules 5.5A, 5.6, 7.1, 7.5, 7.6 and 7.10, and schedule 10 of the Procedures.]*

Grain Contract

One of the matching deliverable grain contracts, as determined by the Exchange, between ASX Clear (Futures) and a Clearing Participant which arise when a Futures Contract for grain is registered by and novated to ASX Clear (Futures) under these Rules.

Introduced 24/10/11

Group of Contracts

A group of contracts which, in the opinion of ASX Clear (Futures), have similar characteristics (including, but not being limited to being contracts which are denominated in a currency other than Australian dollars).

**Words****Meanings**

Guarantor Clearing Participant	A Clearing Participant who in accordance with Exchange Operating Rules is the guarantor of the Market Contracts of a Participant which is not a Clearing Participant and who enters into or receives an Allocation of a Market Contract in accordance with Exchange Operating Rules and unless the context otherwise requires, a reference to Guarantor Clearing Participant will include a reference to a Facility Participant. (Amended 4/12/02).
Holding Company	Holding Company within the meaning of the Corporations Act as if that Act applies to all Clearing Participants.
House Clearing Account	An Account established under Rule 41.1 or a BRC House Account established under By-law 41A.1.
House Positions	Open Positions held other than Client Positions.
In Writing	Written, typed, printed or lithographed, or partly one and partly another and includes any other mode of representing or reproducing words in a visible form, including electronically produced, displayed and recorded matter.
Individual Contract Specifications	The terms of a Class of Contracts identified in the relevant Sub-Section (numbered from 6A to 6E) of Section 6 of the Exchange Operating Rules.
Initial Margin	A deposit with ASX Clear (Futures) in accordance with Rule 43 or 43A.
Intellectual Property	(a) any patent, trade mark (whether registered or common law), copyright, registered design or other design right and any corresponding property right under the laws of any jurisdiction throughout the world; (b) any right under the laws of Australia, or of any jurisdiction throughout the world, to apply for the grant or registration of a patent, trade mark, copyright, design, or any corresponding property or right; and (c) any rights throughout the world in respect of an invention, discovery, trade secret, know-how, concept, idea, information, data, algorithm or formula. (Added Jan 05)
Intra-Day Margin	A deposit with ASX Clear (Futures) pursuant to Rule 45.1 or 45A.1.
Licence	In clearing Rule 16.1 means a licence or a sub-liscence. (Added Jan 05)
Licensed Software	The Clearing Software which is the subject of a licence granted by Clearing rule 16.1. (Added Jan 05)
Licensor	Means any third party who, as the owner of Intellectual Property rights, licenses ASX Clear (Futures) or a Related Body Corporate to use those Intellectual Property rights in the manner set out in the relevant licence. (Added Jan 05)
Local Participant	(Deleted 01/09/08)
Managing Director	The Managing Director of ASX Clear (Futures) or where there is no Managing Director, the principal executive officer of ASX Clear (Futures).  The principal executive officer of ASX Clear (Futures) shall be:

**Words****Meanings**

	(a) the Managing Director and CEO of SFE Corporation Limited; or (b) any other person or persons he delegates to perform or share the role of principal executive officer; or (c) in the absence of: (i) the Managing Director; or (ii) where there is no Managing Director, the principal executive officer.
	then a person delegated by the Managing Director or the principal executive officer to perform some or all of the powers and functions of the Managing Director conferred by the By-Laws. <u>(Amended 19/7/96, 5/08/02)</u>
Mandatory Cash Settlement	Cash settlement pursuant to the Exchange Operating Rules and Part 6 of the Rules.
Margin	Initial Margin, Variation Margin, Intra Day Margin or Extra Margin. (Amended 28/10/02)
Market Contract	(a) A contract traded on a market of the Exchange which market is listed in accordance with the Exchange Operating Rules, or otherwise executed in accordance with the Exchange Operating Rules (and, in the case of a Related Exchange, is prescribed in the schedules or has been accepted in writing by the Managing Director for clearing by ASX Clear (Futures)), provided that where a transaction is for more than one lot there shall be nevertheless deemed to be a separate contract with respect to each lot and includes, where the context so requires, either the position of the Buyer or the position of the Seller as the case may be; or (Amended 4/12/02) (b) A Bond Transaction; <del>or</del> (c) A Repurchase Agreement; <u>or</u> (d) <u>An OTC Transaction.</u>
	<u>Amended [ ]/ [ ]/13.</u>
	<i>[Explanatory Note: The amendments include an OTC Transaction in the definition of "Market Contract".]</i>
Maturity Date	In relation to a Grain Contract, the third Thursday of the month in which the Grain Contract is expressed to mature.
	Introduced 24/10/11
Net Liquid Assets	The net liquid assets of a Clearing Participant as Prescribed in the Schedules.
Net Tangible Assets	That term as defined in the Exchange Operating Rules or as otherwise Prescribed by the Board in the Schedules.
Non-Clearing Trading Participant	A Trading Participant of the Exchange which is not a Clearing Participant.
Non-Defaulting Clearing Participant	A Clearing Participant not in Default.
NZFOE	New Zealand Futures & Options Exchange Limited (ARBN 061 299 269).

<u>Words</u>	<u>Meanings</u>
NZFOE Commencement Time	The date and time on which ASX Clear (Futures) commences to operate as the Clearing and Settlement Facility for NZFOE.
Officer	Includes director, partner or employee
OM SECUR Back Office Software	The set of software components including the OM SECUR BOPC and OM SECUR BOC, supplied by the Exchange that handles the interaction between Participants and the Exchange Allocation & Clearing System and the downloading of clearing information. (Added 10/12/01)
OM SECUR BOC	Back office client being the Exchange Allocation & Clearing System users program which connects with the BOS and resides on the OM SECUR BOPC. (Added 10/12/01)
OM SECUR BOPC	The physical workstation where back office applications are executed. (Added 10/12/01)
OMnet API	The software application for use by Participants which allows the Participants to have direct interaction with the Exchange Allocation & Clearing System. (Added 10/12/01)
Omnet Gateway	The network comprising of a set of components for handling communications between Participant's applications and OM SECUR Back Office Software. (Added 10/12/01)
Open Contract	<p>(a) Except where paragraph (b) applies, a contract of a Clearing Participant with ASX Clear (Futures) deemed to arise from:</p> <p>(amended 4/12/02)</p> <ul style="list-style-type: none"> <li>(i) the registration of a Market Contract;</li> <li>(ii) an Allocation;</li> <li>(iii) a Transfer;</li> <li>(iv) the Exercise of an Option Contract; or</li> <li>(v) a daily settlement in accordance with Rule 44.</li> </ul> <p>(Amended 28/10/02)</p> <p>(b) In the case of a Facility Participant, unless the context otherwise requires, a contract between ASX Clear (Futures) and the Facility <b>Participant</b> referred to in Clearing By-laws 31A.7 and 31A.8. (Added 4/12/02)</p>
Open Position	The entitlement of a Clearing Participant under Open Contracts (including Open Contracts replacing previous Open Contracts by Daily Settlement in accordance with Rule 44 or 44A) which has not been closed out or completed by Delivery or Mandatory Cash Settlement. In the case of BRC transactions, the entitlement of a BRC Participant under an Open Contract which has not been completed or closed out.
Option Contract	Includes both a Futures Options Contract and a Physical Options Contract.
<u>OTC Allocated Futures Contracts</u>	<p><u>Futures Contracts allocated to the calculation of OTC Initial Margin in accordance with these Rules (including the OTC Rules).</u></p> <p><u>Introduced [ ]/ [ ]/13</u></p> <p><u>[Explanatory Note: The term "OTC Allocated Futures Contracts" is used in Rules 7.1, 43.5 and 102.7.1]</u></p>

**Words****Meanings**

OTC Clearing The clearing of an OTC Transaction in accordance with the OTC Rules.

Introduced [ ]/ [ ]/13

[Explanatory Note: The term “OTC Clearing” is used in Rule 1.10.]

OTC Commitment

The commitment of an OTC Participant to provide financial support to the obligations of ASX Clear (Futures) as set out in the OTC Rules.

Introduced [ ]/ [ ]/13

[Explanatory Note: The term “OTC Commitment” is used in Rules 5.5A, 6.2, 6.3, 7.1 and 7.5.]

OTC Initial Margin

Has the meaning given to it in the OTC Rules.

Introduced [ ]/ [ ]/13

[Explanatory Note: The term “OTC Initial Margin” is used in the definition of OTC Allocated Futures Contracts, Rules 5.6, 43.6, and schedule 10 of the Procedures.]

OTC Open Contract

Has the meaning given to it in the OTC Rules.

Introduced [ ]/ [ ]/13

[Explanatory Note: The term “OTC Open Contract” is defined in Rule 1.7 (OTC Open Contract) of the OTC Rules. It is used in Rules 7.1, 10.9, 76, 82.1 and item 15 of Schedule 13.]

OTC Open Position

Has the meaning given to it in the OTC Rules.

Introduced [ ]/ [ ]/13

[Explanatory Note: The term “OTC Open Position” is defined in OTC Rule 1.8 (OTC Open Position). It is used in Rule 5.6.]

OTC Participant

A Clearing Participant who has been authorised to participate in the clearing of OTC Transactions through ASX Clear (Futures).

Introduced [ ]/ [ ]/13

[Explanatory Note: The term “OTC Participant” is used in the definition of OTC Commitment and Rules 1.10, 5.5A, 7.1, 7.5, 7.6, 8.6, 14.4, 43.6, 70.2, 75A and 82.1.]

OTC Rules

The OTC Rules of ASX Clear (Futures), as amended from time to time.

Introduced [ ]/ [ ]/13

[Explanatory Note: The term “OTC Rules” is used in the definitions of Fixed OTC Commitment, OTC Allocated Futures Contracts, OTC Clearing, OTC Commitment, OTC Initial Margin, OTC Open Contract, OTC Open Position, Rules and Variable OTC Commitment, and Rules 1.10, 4.7B, 5.5A, 5.7, 7.1, 7.5, 8.6, 14.4, 14.5, 20, 31.8, 43.6, 70.2, 72.1, 72.3, 75A, 76 and 82.1.]

<u>Words</u>	<u>Meanings</u>
<u>OTC Transaction</u>	<p>An over-the-counter Derivative.</p> <p>Introduced [ ]/ [ ]/13</p> <p><i>[Explanatory Note: The term “OTC Transaction” is used in the definitions of Futures Contract, Market Contract, OTC Clearing and OTC Participant, and Rules 1.10, 4.7A and Item 11 of Schedule 10.]</i></p>
Participant (in relation to the Exchange or a Related Exchange)	Includes a person which is not a member or shareholder of Exchange or of a corporation which constitutes a Related Exchange but which under Exchange Operating Rules is entitled to directly access the market of that Exchange or has otherwise bound itself to comply with those operating rules other than as a client in accordance with the rules and includes a Participant of the Exchange or Dealer of NZFOE.
Person	Includes an individual and a body corporate.
Physical Option Contract	An option over a Commodity or index (as opposed to an option over a futures contract).
Position	The position of a Buyer or Seller under an Open Position.
Prescribed	Prescribed by the Board.
Prescribed in the Schedules	Prescribed by the Board and set out in the Schedules.
Premium	The amount payable by the Buyer of an Option Contract to the Seller as consideration for the Option Contract.
Publish or Published	Make information available to the public and/or to Participants by any means including electronic means.
<u>Procedures</u>	<u>The procedures, determinations and practice notes relating to the ASX Clear (Futures) Operating Rules, including, where relevant, the ASX OTC Handbook of ASX Clear (Futures), as published by ASX Clear (Futures) and as amended from time to time.</u>
Recorded by the Exchange	In relation to a Market Contract, recorded by the Relevant Exchange as Prescribed in the Schedules, on the day on which the Contract is traded or in the case of trades effected after the Close of Trading, on the next Business Day of the Relevant Exchange.
Registered Contract	A Market Contract which has been registered under Rule 31.
Related Body Corporate	Has the same meaning as in the Corporations Act 2001 (Cwlth). (Added 21/1/02)
Related Exchange	New Zealand Futures & Options Exchange Limited (NZFOE).
Relevant Exchange	The Exchange (either the Australian Securities Exchange Limited or a Related Exchange) on which particular Market Contracts have been traded or are to be traded.
Representative	Includes a person who has been engaged in or is otherwise subject to an agreement, arrangement or understanding whereby that person will act on behalf of a Clearing Participant.

<u>Words</u>	<u>Meanings</u>
Repurchase Agreement	A repurchase transaction entered pursuant to The Bond Market Association and International Securities Market Association Global Master Repurchase Agreement (known as the TBMA-ISMA Global Master Repurchase Agreement), as amended from time to time.
Rules	These Rules including the Schedules <a href="#">and, where relevant, the OTC Rules.</a> , as amended from time to time.  Amended 01/08/10, <a href="#">1/1/13</a>
	<i>[Explanatory Note: The term "Rules" is expanded to include, where relevant, the OTC Rules.]</i>
Schedules	Schedules to the Rules.
<b>Second Level Commitment</b>	<b>The Commitment provided pursuant to Rule 5.6(b).</b>
Security Interest	Any mortgage pledge guarantee charge or security of any kind.
Seller	<ul style="list-style-type: none"> <li>(a) In relation to a Market Contract the Trading Participant who enters into the contract as seller or if such Trading Participant is a Non-Clearing Trading Participant, its Guarantor Clearing Participant, or if prior to Registration that Market Contract is Allocated or deemed to be Allocated to another Exchange Participant as seller in accordance with the Exchange Operating Rules and that Allocation is accepted or confirmed or deemed to be accepted or confirmed by that Participant, that Exchange Participant or if that Exchange Participant is a Non-Clearing Trading Participant, its Guarantor Clearing Participant.</li> <li>(b) In relation to an Open Contract the Clearing Participant in the selling position with respect to such Open Contract.</li> <li>(c) In relation to a Bond the Clearing Participant in the selling position.</li> <li>(d) In relation to a Repurchase Agreement the Clearing Participant in the selling position.</li> </ul>
	Amended 01/09/08
Settlement Time	The time specified in the Procedures or, where settlement is deferred under the Rules, a later time determined by ASX Clear (Futures).  Introduced 24/10/11
<b>ASX Clear (Futures)</b>	<del>ASX Clear (Futures) Pty Ltd (ABN 91 050 615 864). Where the Rules confer on ASX Clear (Futures) a power to do or refrain from doing some act or to exercise a discretion, a reference to ASX Clear (Futures) includes a reference to the Board, the Managing Director or other officer of ASX Clear (Futures) authorised by the Board or Managing Director to exercise that power or who is otherwise properly authorised to exercise that power.</del> <i>[Explanatory Note: The term "ASX Clear (Futures)" has been shifted alphabetically. No changes to the definition have been made.]</i>

**Words****Meanings**

Substantial Change in Control

In relation to a Clearing Participant means:

- (a) The transfer of twenty percent (20%) or more of the issued capital of the Clearing Participant.
- (b) The transfer of such lesser percentage of the issued capital of the Clearing Participant and/or the issue of new shares (or options in relation thereto) whereby one party becomes the holder of twenty percent (20%) or more of the issued capital of the Clearing Participant.
- (c) A change of 50% or more in the composition of the Board of the Clearing Participant.
- (d) Any transfer or issue of shares in any corporation which would result in a corporation becoming or ceasing to be a holding company of the Clearing Participant.
- (e) A change of 50% or more in the composition of the Board of a holding company of the Clearing Participant.
- (f) Any change in the partners of a Clearing Participant being a firm.
- (g) The entering into any agreement the completion of which will result in the application of paragraphs (a) to (e) above.
- (h) Any other event, agreement or act which in the reasonable opinion of the Board results in a substantial change in the control of the Clearing Participant.

And for the purposes of Rule 11.2 means the occurrence of one of the events referred to in paragraphs (a) to (f) since the admission of a Clearing Participant as a Clearing Participant or since the last approval of an event specified in the paragraph, given under Rule 11.2.

Support Fee

The fee determined by ASX Clear (Futures) from time to time for the provision of support services in relation to the Licensed Software.  
(Added Jan 05)

SYCOM®

The computerised trading facility operated by the Exchange and known as "Sydney Computerised Market".

Tender Documentation

The documentation in the form set out in the Procedures for the purposes of Schedule 14.

Introduced 24/10/11

Trading Participant

A Trading Participant of the Exchange pursuant to the Exchange Operating Rules. (Added 13/12/99)

Amended 01/08/10

Warehouse Receipt

That term as defined in the Exchange Operating Rules. (Added 26/3/96)

Variable Commitment

The Commitment provided pursuant to Rule 5.6(a)(ii).

Variable OTC Commitment

Has the meaning given to it in the OTC Rules.

Introduced 1/1/13

*[Explanatory Note: The term "Variable OTC Commitment" is defined in Schedule 2 (OTC Commitment) of the OTC Rules. It is used in Rule 7.5.1]*

**Words****Meanings**

Variation Margin

An amount determined by ASX Clear (Futures) in its mark to market procedures, being BRC Variation Margin or Daily Settlement Amount. (added 28/10/02).

Underlying Commodity

In relation to a Grain Contract, the type of grain which underlies the contract, as determined by the Exchange.

Introduced 24/10/11

The next page is 15.

## 1.2 Good Standing

For the purposes of these Rules a Clearing Participant or a prospective Clearing Participant may be deemed by the Board not to be in good standing if in the opinion of the Board:

- (a) The Clearing Participant or prospective Clearing Participant is suspended as a Participant of the Exchange or a Related Exchange or of ASX Clear (Futures), or any disciplinary proceedings or enforcement action within the jurisdiction of the Exchange or a Related Exchange or ASX Clear (Futures) for which a penalty of suspension or expulsion from the Exchange or Related Exchange or ASX Clear (Futures) could be imposed are pending against the Clearing Participant or prospective Clearing Participant.
- (b) Any proceedings for which a penalty of suspension or revocation of a license held under the Corporations Act or the revocation of an authorisation under the Securities Amendment Act 1988 of New Zealand or a similar penalty under the law of any other jurisdiction could be imposed are pending against the Clearing Participant or prospective Clearing Participant.
- (c) Arrangements satisfactory to the Exchange or a Related Exchange or ASX Clear (Futures), as the case may be, have not been made for the resolution of any claim, action or proceeding against the Clearing Participant or prospective Clearing Participant or any related company, affiliate or officer of such Clearing Participant or prospective Clearing Participant which in the opinion of the Exchange or a Related Exchange or ASX Clear (Futures), as the case may be, might adversely affect the goodwill or public image of the Exchange or a Related Exchange, its Participants or markets, or ASX Clear (Futures).
- (d) Arrangements satisfactory to the Exchange or a Related Exchange or ASX Clear (Futures) as the case may be have not been made for the payment of any moneys due by the Clearing Participant or prospective Clearing Participant to the Exchange or Related Exchange or ASX Clear (Futures).
- (e) A person who has been convicted (in Australia or New Zealand or any other jurisdiction) within the preceding 10 years of an offence involving fraud or dishonesty punishable upon conviction by imprisonment for three months or more or has within the last five years been convicted of an offence referred to in Part 2D.6 of the Corporations Act (or a similar offence in a jurisdiction other than Australia) or is an Insolvent under Administration within the meaning of the Corporations Act (or has similar status in a jurisdiction other than Australia including New Zealand):
  - (i) is a director, officer or partner of the Clearing Participant or prospective Clearing Participant;
  - (ii) is concerned or takes part in the management of the Clearing Participant or prospective Clearing Participant; or
  - (iii) has control, or substantial control, of the Clearing Participant or prospective Clearing Participant.
- (f) there is any subsisting matter which would constitute an event of Default under Rule 71.3 in respect of the Clearing Participant or prospective Clearing Participant.

Amended 01/08/10

- 1.3 These Rules shall constitute a contract between ASX Clear (Futures) and Clearing Participants and between each Clearing Participant.
- 1.4 Except so far as the contrary intention appears in these Rules an expression has in a provision of these Rules that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.
- 1.5 The headings in these Rules are for convenience only and shall not affect the interpretation of the Rules.
- 1.6 Unless the contrary intention appears, a reference to a law, statute or provision of a law or statute includes that law, statute or provision as amended or replaced from time to time.

- 1.7 Except where the contrary intention appears from the Rules or any determination of ASX Clear (Futures):
- (a) Subject to paragraph (b) any reference in the Rules to an amount of money shall refer to that amount in the lawful currency of Australia; and
  - (b) Any reference in or in relation to Open Contracts arising from Market Contracts traded on NZFOE and any Margin in relation to such contract shall be taken to be New Zealand dollars.
- 1.8 (a) Each person who was a Clearing Member immediately prior to the adoption Date is to be taken, for the purposes of these Rules, to be a Clearing Participant on the Adoption Date.
- (b) The amendment of these Rules on the Adoption Date:
- (i) shall not affect any liability, obligation or responsibility existing under the Rules prior to that date, of a person who was a Clearing Member prior to that date; and
  - (ii) shall not disturb the continuity, status, operation or effect of any act or thing done pursuant to the Rules in effect prior to that date.
- In paragraph (b)(ii), "act or thing done" includes, but is not limited to:
- the making of a determination or passing of a resolution;
  - the granting or exercise of a power, including a delegated power;
  - the execution of a document; or
  - the appointment of a person or removal of a person from an office or position.
- 1.9 As from the Effective Time (as defined in Rule 12B), these Rules (formerly known as the Clearing Rules of SFE Clearing) have been renamed the ASX Clear (Futures) Operating Rules.

Introduced 01/08/10

~~The next page is 19.~~

### 1.10 OTC Clearing and OTC Rules

The clearing facilities which may be provided by ASX Clear (Futures) in accordance with the terms of these Rules include the clearing of OTC Transactions under the OTC Rules. The OTC Rules supplement, and form part of, these Rules.

However, if a Clearing Participant is not an OTC Participant, has not been an OTC Participant and has not applied to be an OTC Participant, then the OTC Rules do not:

- (a) vary the application of these ASX Clear (Futures) Operating Rules to that Clearing Participant; and
- (b) impose any additional obligations on that Clearing Participant,

except as expressly set out in these ASX Clear (Futures) Operating Rules. Subject to this, in connection with OTC Clearing and OTC Participants, the OTC Rules prevail over these ASX Clear (Futures) Operating Rules to the extent of any inconsistency between them.

Introduced [ ]/1/13

[Explanatory Note: The effect of the new Rule 1.10 is that:

- ASX Clear (Futures) may provide clearing of OTC Transactions under the OTC Rules;
- the OTC Rules supplement, and form part of, these Rules;
- except as expressly set out in these ASX Clear (Futures) Operating Rules, the OTC Rules do not amend the application of these ASX Clear (Futures) Operating Rules to, or impose any additional obligations on, a Clearing Participant that is not an OTC Participant;
- in connection with OTC Clearing and OTC Participants, the OTC Rules prevail over these ASX Clear (Futures) Operating Rules to the extent of any inconsistency between them.]

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2. [Deleted]

### **3. Establishment of ASX Clear (Futures)**

- 3.1.1 These Rules relate to the Clearing and Settlement Facility operated by ASX Clear (Futures) Pty Ltd.
- 3.1.2 ASX Clear (Futures) may provide clearing facilities in accordance with the terms of these Rules.

#### **3.2 Fees**

- 3.2.1 The Board may impose the following fees in such amount as it may determine from time to time:
- (a) an application fee for admission as a Clearing Participant, which shall be applied against the cost of investigation into the suitability of the applicant and shall not be refundable to the applicant.
  - (b) an admission fee;
  - (c) an annual fee;
  - (d) a transaction fee for each contract or transaction which is registered in the name of the Clearing Participant;
  - (e) a fee for the acceptance of securities or collateral for Initial Margins or their realisation or renewal of such securities as collateral;
  - (f) a fee for mandatory cash settlement and delivery or exercise of options;
  - | (g) a Clearing ~~Infrastructure~~ Infrastructure Fee;
  - | (h) a Support Fee if the Clearing Participant requires support as described in Rule 16, 17 or 18; and
  - | (i) such other fees as it may determine.

and may impose different fees on different categories of Clearing Participant.

Clearing Participants shall pay any fees so imposed, upon demand unless another time is specified. Fees payable pursuant to the Rules may be deducted by ASX Clear (Futures) from any credit balance of any account of the Clearing Participant with ASX Clear (Futures). (Amended Jan 05)

#### **3.2.2 Obligation to Pay Fees**

- (a) Payment of annual fees shall be due on 1 January in each year or such other date as may be specified. Such annual fees shall be payable notwithstanding the suspension of a Clearing Participant's status and rights.
- (b) If a Clearing Participant fails to pay an annual fee within one (1) month of the due date its Participant status and rights shall, unless the Board or the Managing Director grants an extension of time for payment, thereupon be suspended until the sum due is paid together with interest from the due date at twelve per cent (12%) per annum or such other rate as may be fixed by the Board or the Managing Director from time to time. ~~Should default not be remedied within a further month of the due date, as extended, then ASX Clear (Futures) may terminate the defaulting Clearing Participant's rights and status as a Clearing Participant but such termination~~ No such suspension shall ~~not~~ release the Clearing Participant from its liability in respect of its Commitment ~~for the full period of its Commitment~~ and no Commitment shall be liable to be returned ~~until the expiry of such Commitment. Notwithstanding a decision by ASX Clear (Futures) to terminate the Clearing Participant, ASX Clear (Futures) may by legal action pursue payment of the annual fee and interest or accept security therefor~~ except in accordance with Rule 6.

Amended [ ]/ [ ]/13

*[Explanatory Note: The effect of the amendment to Rule 3.2.2(b) is to remove the reference to ASX Clear (Futures) terminating a Clearing Participant's participation due to a failure to pay an annual fee. Termination will now be dealt with by Rule 72.1A.]*

### 3.2.3 Monies Deposited with ASX Clear (Futures)

The Board may prescribe from time to time:

- (a) the interest rate which shall be payable with respect to monies on deposit with ASX Clear (Futures); and
- (b) the interest rate which shall be payable by Clearing Participants with respect to any monies which remain owing to ASX Clear (Futures) after the due time for payment.

ASX Clear (Futures) and Clearing Participants shall pay or receive such interest as the case may be. Subject to this provision any interest obtained by ASX Clear (Futures) from the investment of monies on deposit with ASX Clear (Futures) shall be monies to which ASX Clear (Futures) is absolutely entitled. Any monies so deposited may be invested as ASX Clear (Futures) sees fit and ASX Clear (Futures) shall not be liable for any failure to invest or to invest in a particular way.

### 3.3 **Client Agreement Forms**

The Board or the Managing Director may prescribe minimum terms for agreements to be entered into between Clearing Participants and their clients and may amend those terms from time to time.

Any prescriptions and variations thereto made by the Board or the Managing Director shall for the purposes of the Corporations Act be deemed to be an amendment to the Rules of ASX Clear (Futures).

#### **4. Becoming a Clearing Participant**

- 4.1 A corporation (or in special circumstances to the satisfaction of the Board and with the consent of the Board a person or body other than a corporation not being an individual) may apply to become a Clearing Participant with access to the facilities of ASX Clear (Futures).
- 4.2 An applicant who wishes to be approved as a Clearing Participant shall lodge with the Board:
- (a) an application in the Prescribed form signed by the applicant;
  - (b) such information concerning the applicant and supported by such evidence as the Board may prescribe
  - (c) an undertaking by the applicant in the Prescribed form to abide by these Rules as amended from time to time, if the application is granted; and
  - (d) an application fee of an amount determined from time to time in accordance with Rule 3.2.

##### **Explanatory Note**

Link to Procedures. Procedure\_Four\_point\_Two\_A

- 4.3 Where the applicant is a prospective Participant or Dealer of the Exchange the applicant shall lodge or cause to be lodged with ASX Clear (Futures) a copy of the application to become an Exchange Participant or Dealer, as the case may be, made by the prospective Participant or Dealer. The Board may rely on any information contained in such application as if it formed part of its application for approval as a Clearing Participant. (Amended 2/1/02)
- 4.4 In considering the application, the Board may call for the information provided pursuant to Rule 4.2(b) and such other information as it considers necessary and where the Board is satisfied that:
- (a) the applicant satisfies or will satisfy the Financial Requirements;
  - (b) the applicant is in good standing;
  - (c) the applicant is of good character, high business integrity and financial probity;
  - (d) in the case of a Corporation, the directors of the applicant, those concerned in its management and those who have control or substantial control of the corporation are of good character and of high business integrity and financial probity;
  - (e) the applicant has or will have managerial, operational, financial and appropriate complementary business continuity arrangements in place to enable it to meet its ongoing obligations as a Clearing Participant pursuant to the Rules and in particular is in a position to make immediate transfer of funds to meet its obligations;
  - (f) in the case of a Corporation the applicant is incorporated in Australia or registered in Australia as a foreign company unless the corporation does not carry on business in Australia and this requirement is waived by the Board on condition that the applicant has nominated an address for service in Australia, and on such other conditions as it sees fit;
  - (g) the applicant satisfies or will satisfy any legal requirements either in Australia or elsewhere to operate as a Clearing Participant; and
  - (h) the applicant is otherwise a fit and proper person to be a Clearing Participant,
- the Board may in its absolute discretion approve the application.
- 4.5 Any meeting of the Board held for the purpose of approving an application shall only be held on notice in writing of not less than forty-eight (48) hours given to all members of the Board and any resolution approving

an application to become a Clearing Participant shall require the affirmative votes of not less than seventy-five per cent (75%) of all Board members present and entitled to vote at such meeting. The Board shall not be obliged to furnish any reason for its decision. The Board may as a condition of its approval impose such conditions on the applicant as it sees fit and the applicant shall comply with any conditions. Any such conditions may be required by the Board to be complied with before or after admission as a Clearing Participant or may be of a continuing nature.

| 4.6 An approval of the Board to admit a Clearing Participant shall not take effect until ~~-(a)~~ the Clearing Participant has paid to ASX Clear (Futures):

- (i) an admission fee of such amount as the Board may determine from time to time; and
- (ii) an annual fee or a proportion thereof, as the Board may determine in each case;
- ~~(b) the applicant has lodged with the Secretary of ASX Clear (Futures) a statement of its current financial position in the Prescribed form which demonstrates to the satisfaction of the Board that the applicant meets the Financial Requirements; and~~
- ~~(c) the applicant has provided its Commitment to ASX Clear (Futures) as required by the Rules.~~

4.7 Unless the requirements of clause 4.6 are satisfied within two months of the date of the approval by the Board or such further time as the Board may in its absolute discretion allow, the approval shall lapse.

4.7A At the time when ASX Clear (Futures) admits an applicant as a Clearing Participant, or at any later time on the application of a Clearing Participant, ASX Clear (Futures) will impose a standard condition on the admission of the Clearing Participant that specifies the category or categories of Market Contracts (including, if applicable, OTC Transactions) that the Clearing Participant is authorised to clear through ASX Clear (Futures).

Introduced [ ]/1/13

[Explanatory Note: The effect of the new Rule 4.7A is that, on the admission of a Clearing Participant or the application of a Clearing Participant thereafter, ASX Clear (Futures) will impose a condition on the admission that specifies the category or categories of Market Contracts that the Clearing Participant is authorised to clear.]

4.7B Any approval of ASX Clear (Futures) to authorise a Clearing Participant to clear a category or categories of Market Contracts does not take effect until the applicant has provided its Commitment to ASX Clear (Futures) as required by these Rules and, if applicable, the OTC Rules. Unless this requirement is satisfied within two months of the date of the approval by ASX Clear (Futures), or such further time as ASX Clear (Futures) may in its discretion allow, the approval lapses.

Introduced [ ]/1/13

[Explanatory Note: The effect of the new Rule 4.7B is that any approval of ASX Clear (Futures) authorising a Clearing Participant to clear a category or categories of Market Contracts does not take effect until the applicant has provided its Commitment. The approval lapses unless the Commitment is provided within 2 months of the date the approval was granted or such further time as ASX Clear (Futures) may allow.]

4.8 Subject to these Rules, a Clearing Participant shall be entitled to have a Market Contract registered in its name, or receive an Allocation or Transfer, after it has to the reasonable satisfaction of the Board or Managing Director established all necessary financial, managerial, operational and appropriate complementary business continuity arrangements to carry out its obligations as a Clearing Participant in respect of the relevant category of Market Contract.

4.9 Recognition as a Clearing Participant is a privilege granted by the Board and subject to the Rules may be withdrawn by the Board for cause at any time. A Clearing Participant shall not purport to pledge or otherwise encumber its rights as a Clearing Participant and ASX Clear (Futures) shall not be required to recognise any trust in relation to any such rights.

4.10 The requirements of Rule 4.4 (a) to (h) are continuing. ASX Clear (Futures) may impose or vary any conditions it sees fit on admission at any time. A Clearing Participant shall at all times ensure that these requirements are satisfied and otherwise comply with the Rules. A Clearing Participant shall immediately notify ASX Clear (Futures) if it breaches or is likely to breach any of these requirements.

| Amended 30/12/09, [\[ \]](#)/[\[ \]](#)/[\[ \]](#)

### **Undertaking to Abide by the Rules**

- 4.11 (a) Subject to Rule 4.11(b), each Clearing Participant agrees to be bound by the Rules in its dealings with ASX Clear (Futures) and with each other Clearing Participant and each Clearing Participant agrees that the provisions of the Rules shall be binding on the Clearing Participant as between the Clearing Participant and ASX Clear (Futures) and as between the Clearing Participant and every other Clearing Participant. Each Clearing Participant shall also comply in full with any undertaking given, or condition imposed by the Rules. Further, each Clearing Participant must comply with any condition imposed by ASX Clear (Futures) on the admission of a Participant.
- (b) Rule 4.11(a) applies to each Clearing Participant that is a Facility Participant except to the following extent:
- (i) Rules 31 and 43 do not apply to a Facility Participant and to a Market Contract that becomes registered with the Facility Participant.
  - (ii) Rules 44, 45 and 47 do not apply to a Facility Participant where both the position of a Seller and the position of a Buyer under a Market Contract are registered with the Facility Participant.
- (c) Clearing Participants shall lodge with ASX Clear (Futures) on request from time to time, an undertaking in the form required by ASX Clear (Futures) and to the effect set out in Rule 4.11(a) duly signed by the Clearing Participant.
- (d) If ASX Clear (Futures) has not received an undertaking as referred to above signed by the Clearing Participant on the due date, the status and rights of the Clearing Participant will be suspended until the signed undertaking is received by ASX Clear (Futures). ~~Should default not be remedied within one (1) month of the due date, the Board may without further notice terminate the status and rights of the Clearing Participant.~~ No such suspension or termination shall release the Clearing Participant from its liability in respect of its Commitment ~~for the full period of its Commitment~~ and no Commitment shall be liable to be returned ~~until the expiry of such Commitment except in accordance with Rule 6.~~
- [Explanatory Note: The effect of the amendments to Rule 4.11(d) is to remove the reference to ASX Clear (Futures) terminating a Clearing Participant's participation due to a failure to provide an undertaking. Termination will now be dealt with by Rule 72.1A.]*
- (e) A Clearing Participant has the primary responsibility for compliance with the Rules and shall ensure that its officers and representatives shall comply with them.
- (f) Where any Clearing Participant:
- (i) undertakes any action, or course of actions which is contrary to a provision of the Rules; or
  - (ii) fails for any reason to act in accordance with a provision of the Rules, including, without limitation, failure to maintain any document or record, failure to give any notice or notification, or failure to comply with an undertaking or condition, required by or imposed under the Rules; or
  - (iii) fails to comply with or continue to comply with any requirement or condition for application for Participation Entitlements;
- then the Clearing Participant shall thereby have committed a breach of the Rules and/or relevant provisions of the Rules.
- (g) The ASX Enforcement and Appeals Rulebook form part of the Rules where relevant for the purposes of the Corporations Act.

| Amended 04/12/02, 31/03/08, 30/12/09, 01/08/10, [\[ \]](#)/[\[ \]](#)/[\[ \]](#)

### **General Conduct of Clearing Participants**

- 4.12 (a) Clearing Participants shall at all times:

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~~RULES OF ASX CLEAR (FUTURES) PTY LIMITED~~  
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- (i) Act in a manner consistent with the promotion and protection of the goodwill and public image of ASX Clear (Futures) and its Clearing Participants.
- (ii) Pay its debts as and when they fall due.
- (iii) Comply in all respects with the Corporations Law and Rules and accept and act consistently with decisions of the Board, its Committees and the Business Conduct Committee.
- (b) Where the Operating Rules of Exchange purport to impose an obligation on a Clearing Participant, the Clearing Participant shall comply with that obligation as though it were an obligation created by, and included in, these Rules.
- (c) Clearing Participants shall at all times co-operate with ASX Clear (Futures), the Appeal Tribunal and ASX Clear (Futures) staff:
  - (i) in complying with any conditions imposed on it under these Rules;
  - (ii) in complying with the Rules, directions and decisions and requirements of ASX Clear (Futures); and
  - (iii) in the performance of their respective duties imposed by ASX Clear (Futures) (including as may be affirmed or varied by the Appeal Tribunal (as the case may be following an appeal against such action) pursuant to the provisions of the ASX Enforcement and Appeals Rulebook) and Exchange Officials, Appeal Tribunals and ASX Clear (Futures) staff, in particular make available to those Appeal Tribunals or ASX Clear (Futures) staff its accounting and other records.

Amended 31/08/04, 30/12/09, 01/08/10

4.13 No Clearing Participant shall:

- (a) Deal on behalf of a person other than in accordance with instructions accepted by the Participant from that person.
- (b) Cheat, defraud, or deceive or attempt to cheat, defraud, or deceive any Client.
- (c) Make or cause to be made to a Client a report, or enter or cause to be entered for a Client a record, which report or record the Participant knows (or ought reasonably to know) to be false.
- (d) Submit information to ASX Clear (Futures) or its agents which the Clearing Participant knows (or ought reasonably to know) to be false or misleading.

4.14 Subject to Rule 4.15 it shall be the responsibility of each Clearing Participant

- (a) To provide to ASX Clear (Futures) an annual audit certificate in the prescribed form within three (3) months of its financial year end unless the Clearing Participant is an Australian Bank.  
*[Explanatory Note: The effect of the amendments to Rule 4.14(a) is to exempt a Clearing Participant that is an Australian Bank from providing an annual audit certificate to ASX Clear (Futures).]*
- (b) To provide to ASX Clear (Futures) a copy of any licence or approval granted to it by a regulatory authority to enable it to carry on its business and to advise ASX Clear (Futures) of any variation to the conditions of such licence or of the suspension or cancellation of such licence.
- (c) Not to employ any person who has been a Clearing Participant (or a Director, partner, employee or representative of a Clearing Participant), without first obtaining the written approval of ASX Clear (Futures), if that person has to the knowledge of the Clearing Participant taken part or been concerned in any failure to comply with the Rules which failure has been found to have occurred by the Board or ASX Clear (Futures) under Rule 10, and where the Board or ASX Clear (Futures)

has determined (at the time that action is taken under Rule 10 or at some later time) that this provision shall apply in relation to the person.

For the purposes of this sub-clause (c) the words “to employ” and cognate expressions shall include agreeing or arranging with a person for that person to act as the Clearing Participant’s representative in relation to transactions cleared by ASX Clear (Futures).

- (d) To advise ASX Clear (Futures) In Writing of any change in its partners, Directors or shareholders within twenty-one (21) days of such occurring provided that in the case of a listed public company it shall be deemed sufficient compliance with this paragraph in relation to shareholders if the Clearing Participant provides to ASX Clear (Futures) copies of all notifications given by it to the home stock exchange on which the Clearing Participant is listed, or if it is not listed then copies of notices served upon it pursuant to any law requiring shareholders to disclose a share holding in excess of five per cent (5%) of the issued capital of that Clearing Participant or such other percentage as may be provided for in the Corporations Act for the purposes of ascertaining substantial shareholding.
- (e) To effect and maintain such form of indemnity as ASX Clear (Futures) may from time to time determine to be appropriate to protect the interests of Clients of the Clearing Participant.
- (f) To notify ASX Clear (Futures) In Writing immediately upon the happening of any one or more of the following:
  - (i) the appointment of a receiver or liquidator in respect of the property of the Clearing Participant; and/or
  - (ii) the bankruptcy of any partner or Director of the Clearing Participant.
- (g) To maintain internal records of instructions received from Clients and clearing services provided for Clients showing:
  - (i) the time and date of receipt of instructions;
  - (ii) the nature of the instructions received;
  - (iii) the time and date of transmission of instructions; and
  - (iv) the time and date of execution of instructions,
 for a period of not less than seven (7) years from the date of the service.
- (h) To maintain separate internal records of its own orders and trading, showing:
  - (i) the time and date of receipt of instructions;
  - (ii) the nature of the instructions received;
  - (iii) the time and date of transmission of those instructions; and
  - (iv) the time and date of execution of those instructions,
 for a period of not less than seven (7) years.
- (i) To maintain such accounting records as correctly record and explain the transactions of the Clearing Participant and the financial position of the Clearing Participant and in addition will enable compliance with these Rules to be conveniently ascertained by ASX Clear (Futures), such records to be maintained in a form that will enable them to be conveniently and properly audited.
- (j) Before accepting a person as a Client, to have in force with such person an agreement duly signed by the Clearing Participant and the Client containing minimum terms to the following effect:
  - (i) **Governing Law and Rules**

The Client and Participant are bound by the ASX Clear (Futures) Rules and the customs, usages and practices of ASX Clear (Futures) and the Exchange’s Markets.

  - (ii) **Client to Provide Information**

In relation to the Client's trading on the Exchange, the Client will upon the Clearing Participant's request, provide all information and documentation relevant to that trading, to the Clearing Participant and the Clearing Participant is authorised by the Client to provide the information and documentation to the Exchange and ASX Clear (Futures).

**(iii) Benefit to Participant of Contract Registration with ASX Clear (Futures)**

Any benefit or right obtained by any Clearing Participant upon registration of a contract with ASX Clear (Futures) by way of assumption of liability of ASX Clear (Futures) under any contract or any other legal result of such registration is personal to the Clearing Participant and the benefit of such benefit or right does not pass to the Client.

**(iv) Client only has Rights Against Participant**

In relation to all trades conducted on the Exchange by a Full Participant and all Contracts registered by the Clearing Participant with ASX Clear (Futures) the Client has no rights whether by way of subrogation or otherwise, against any person or corporation other than the Clearing Participant.

**(v) Margins**

An acknowledgment by the Client that:

- (A) the Clearing Participant may call for payment of Margin such money or property (or Call for the lodgement of Approved Securities in lieu thereof) as the Clearing Participant, in its absolute discretion, feels is necessary to protect itself from the personal obligation incurred by Dealing in Contracts on behalf of the Client.
- (B) should the Client fail to meet the Call (or lodge Approved Securities) then the Clearing Participant may (without prejudice to any other rights or powers under the Agreement) in its absolute discretion, and without creating an obligation to do so, Close Out, without notice, all or some of the Client's Contracts.
- (C) the time for payment of Margins is of the essence and if no other time is stipulated by the Clearing Participant prior to calling a Margin then the Client is required to comply within twenty-four (24) hours.
- (D) liability to pay the Initial Margin accrues at the time the trade is executed regardless of when a Call is made.
- (E) liability to pay Margin accrues at the time the Margin comes into existence regardless of when a Call is made.
- (F) the Client is responsible to pay in cash any deficit owing to the Clearing Participant after closure and that if the Client defaults in payment of such deficit, the Clearing Participant may realise any securities held by the Clearing Participant and apply the proceeds against that deficiency.

**(vi) Appointment of Attorney**

An appointment by the Client of the Managing Director of ASX Clear (Futures) as the Client's attorney to do all things necessary to transfer any Open Position held by the Clearing Participant on the Client's behalf to another Clearing Participant where the Clearing Participant status of the Clearing Participant has been suspended or terminated.

**(vii) Exchange Data**

An acknowledgment by the Client who has access to electronic order facilities that:

- (A) data made available to the Client by access to electronic order entry facilities is not the property of the Clearing Participant and remains the valuable property of the Exchange; and
- (B) the client is prohibited from publicly displaying, redistributing or re-transmitting the data in any way without having executed a Market Data Distribution Agreement or similar agreement with the Exchange.

**(viii) Tape Recordings**

An acknowledgment by the Client that the Client's telephone conversations with the Clearing Participant can be recorded by the Clearing Participant or the Exchange. The Client is to be given the right to listen to any recording in the event of a dispute or anticipated dispute.

**(ix) Right to Refuse to Deal**

An acknowledgment by the Client that the Clearing Participant reserves the right to refuse to Deal on behalf of the Client in relation to any Dealings in Contracts (other than closing out existing Open Positions held in the Clearing Participant's account on behalf of the Client) or limit the number of Open Positions held on behalf of the Client or both. The Clearing Participant will inform the Client of any refusal at or before the time of the Client placing the order or as soon as possible thereafter.

**(x) Termination and Closing Out**

An acknowledgment that:

- (A) without affecting any existing obligations or liabilities, either the Client or the Clearing Participant may terminate the agreement at any time by giving the other notice In Writing to that effect;
  - (B) upon termination of the Client Agreement that unless otherwise agreed In Writing the Clearing Participant will Close out all the Client's Futures Contracts and Close Out, abandon or exercise any Options not yet exercised.
- (ja) Rule 4.14(j) does not apply where the Client is a Full Participant, in which case an agreement containing this term is deemed to have been entered and come into effect immediately upon the Clearing Participant accepting the first instruction from the Client to enter a contract on the Exchange's Markets and/or register a contract with ASX Clear (Futures);
- (k) To ensure that whilst such person is a Client an agreement as referred to in paragraph (j) above remains in force.
- (l) Not to permit any one Client (in which context the expression "Client" shall include all persons, Firms and corporations related to associated or affiliated with the Client or otherwise financially dependent upon the Client) to represent such a percentage of the business operations of the Clearing Participant as may prejudice or diminish the ability of the Clearing Participant to meet its obligations under these Rules.
- (m) Not knowingly to deal on behalf of any Director, partner or employee of any other Clearing Participant, entitled to deal on behalf of Clients, or on behalf of any account in which such Director, partner or employee has an interest either direct or indirect. For the purpose of this sub-clause "employee" shall include persons who as a representative of the Clearing Participant advise or solicit instructions from persons or corporations in relation to transactions cleared by ASX Clear (Futures). The provisions of this sub-clause shall not apply to clearing by a Clearing Participant through another Clearing Participant.
- (n) Not to advertise or permit any other person, firm or corporation over which the Clearing Participant has control to advertise in any manner which may be false or misleading or prejudicial to the goodwill and public image of ASX Clear (Futures) or Clearing Participants.
- (o) Not to issue, or cause to be issued, any unsolicited business communication In Writing to any person or persons (such expressions not to include companies listed on any Australian Stock Exchange for the purpose of this clause other than its Client without first obtaining the written approval of ASX Clear (Futures)).

| Amended 31/03/08, 02/11/09, 30/12/09, [ ]/I [ ]/13

**Explanatory Note**

Link to Procedures. Procedure\_Four\_point\_Fourteen

- 4.15 ASX Clear (Futures) may dispense with or temporarily postpone compliance by the Clearing Participant with any of the provisions of Rule 4.14 upon such conditions (if any) as ASX Clear (Futures) sees fit.

Amended 31/03/08

## 5. Commitment to Support Obligations of ASX Clear (Futures)

- 5.1 Each Clearing Participant shall provide a commitment to the financial support of the obligations of ASX Clear (Futures) in accordance with and subject to the Rules (the Commitment):
- (a) of such amount and for such term as is provided for in the Rules;
  - (b) in cash or in such other form as the Board may allow; and
  - (c) which may readily, unequivocally and irrevocably be applied to support and discharge the financial obligations of ASX Clear (Futures) under Open Contracts, in the event of a Default, in accordance with Rule 7.
- 5.2 Without limiting the generality of Rule 5.1 the Board may determine that the Commitment may be provided in the form of an irrevocable Letter of Credit issued by an Australian Bank or by the provision of securities or other collateral, or in such other form as may be determined by the Board. The Board may prescribe limits on the letters of credit or other securities or collateral which may be provided from any one Bank or other entity.
- 5.3 The Board may in its absolute discretion determine the value of any Commitment provided otherwise than in cash or irrevocable commitment to provide cash for the purpose of determining whether a Clearing Participant has provided a Commitment of an amount which satisfies the provisions of the Rules.
- 5.4 The Board may at any time require a Clearing Participant to alter the form of its Commitment in any way and the Clearing Participant shall effect such alteration forthwith or by such time as the Board requires. Failing such alteration the Board may realise or apply any security or collateral when in the opinion of the Board such alteration or realisation is necessary to ensure compliance with Rule 5.1.
- 5.5 Without limiting the generality of Rule 5.4 the Board may at any time require the provision of replacement or additional letters of credit, substitute or additional securities or collateral or such other form of Commitment as is necessary to satisfy the Board that the Commitment of the Clearing Participant is of an amount and form which meets the requirements of By-law 5.1. A Clearing Participant shall comply with such requirement.

**5.5A The Futures Commitment required from a Futures Participant is determined in accordance with Rule 5.6. The OTC Commitment required from an OTC Participant is determined in accordance with the OTC Rules. A Clearing Participant which is both a Futures Participant and an OTC Participant must comply with the Commitment obligations of a Futures Participant and of an OTC Participant.**

Amended 11/1/13

[Explanatory Note: New Rule 5.5A sets out the rules that apply to the calculation of the Futures Commitment and OTC Commitment of a Futures Participant and an OTC Participant (respectively) and provides that a Clearing Participant that is both a Futures Participant and an OTC Participant must comply with the Commitment obligations of both those categories of Clearing Participant.]

- 5.6 Subject to Rule 7.6 the Futures Commitment ~~shall comprise the First Level Commitment and the Second Level Commitment of a Futures Participant~~ shall be:
- ~~(a) The amount of the First Level Commitment shall be:~~
- ~~(i) A "Fixed Commitment" comprising:~~
    - ~~(A) A minimum Commitment of two million dollars (\$2,000,000) by each Clearing Futures Participant; or~~
    - ~~(B) Where the Clearing Futures Participant is also a BRC Participant and engages in Futures Contracts and Options Contracts clearing and in Bond and Repurchase Clearing, a minimum Commitment of four million dollars (\$4,000,000) for that Participant.~~

Provided however that where a Clearing Futures Participant is a BRC Participant and engages only in Bond and Repurchase Clearing, paragraph (B) shall not apply and the

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minimum Commitment shall be two million dollars (\$2,000,000) in accordance with paragraph (A).

- (ii) An additional Commitment (the “Variable Commitment”) by each ~~Clearing Futures~~ Participant sufficient to bring the total aggregate amount committed by ~~Clearing Futures~~ Participants under the ~~First Level Futures~~ Commitment (~~FLCFC~~) to an amount in dollars calculated in accordance with the following formula:

$$\text{FLCFC} = d + (n \times \$2,000,000)$$

where:

- n = number of ~~Clearing Futures~~ Participants which are also BRC Participants (excluding those which cease clearing Futures Contracts and Options Contracts and which engage only in Bond and Repurchase Clearing); and
- d = one hundred ~~and twenty~~ million dollars (~~\$120,000,000~~~~\$100,000,000~~) or such lesser amount determined by the Board calculated by reference to ~~the Clearing Participant's share of all Futures Participants' Open Positions (excluding OTC Open Positions)~~ or Aggregate Initial Margins ~~(excluding OTC Initial Margins)~~ or on such other similar basis as the Board may determine.

The manner of calculation of the Variable Commitment shall be as Prescribed in the Schedules. For any period during which the total aggregate Fixed Commitments under sub-paragraph (i) are in excess of ~~FLCFC~~, no Variable Commitment shall be capable of being called pursuant to Rule 7.1. The Variable Commitment calculated in accordance with this sub-paragraph (ii) shall be recalculable at the intervals Prescribed in the Schedules.

For the purposes of this sub-paragraph (ii), in the case of BRC Participants the Variable Commitment may be determined by the Board at its discretion by reference to the value of Bond Transactions or Repurchase Agreements cleared by each BRC Participant (rather than by reference to Open Positions or Aggregate Initial Margins) or on such other similar basis as the Board may determine. In all other respects this sub-paragraph (ii) applies to BRC Participants.

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The amount of the Futures Commitment held by ASX Clear (Futures) may exceed the amount as determined in accordance with the foregoing in circumstances where a Futures Participant is admitted at a time other than the beginning of a new quarter.

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Amended 01/03/08, [ ]/1/13

[Explanatory Note: The amendments to Rule 5.6 provide that:

- the Rule relates to the calculation of the Futures Commitment of a Futures Participant;
- OTC Open Positions and OTC Initial Margins are excluded from the calculations of Futures Commitment;
- the amount of the Futures Commitment may exceed the amount determined where a Futures Participant is admitted at a time other than the beginning of a new quarter;
- the Second Level Commitment has been removed.]

- 
- (b) ~~The amount of the Second Level Commitment shall be a Commitment of such amount determined by the Board being sufficient to bring the total aggregate amounts committed by Clearing Participants under the Second Level Commitment to thirty million dollars (\$30,000,000) or such lesser amount determined by the Board calculated by reference to the Clearing Participant's share of Open Positions or aggregate initial margins or on such other similar basis as the Board may determine. The manner of calculation shall be as Prescribed in the Schedules. The Second Level Commitment calculated in accordance with this sub-paragraph (b) shall be recalculable at the intervals Prescribed in the Schedules.~~

Amended 01/03/08

- 5.7 Each Clearing Participant shall provide by such time as Prescribed Additional Commitment to ensure that its obligations under Rule ~~5.6-5.1~~ are met at all times. ASX Clear (Futures) may release a Clearing Participant's Commitment in whole or in part to enable the Commitment of a Clearing Participant to be reduced to that required by Rule 5.6 and the OTC Rules. Where there is a Default the Commitment of a Clearing Participant shall notwithstanding this Rule 5.7 not be reduced below the Clearing Participant's liability or likely liability under Rule 7.5 and pending the finalisation of the Default procedures under Part 7 of the Rules and the OTC Rules the requirement of a Clearing Participant to provide a Commitment shall be adjusted accordingly.

Amended [ ]/ [ ]/13

*[Explanatory Note: The amendments to Rule 5.7 update the cross-references to Rules and OTC Rules to correspond to the relevant rules concerning Commitment of a Futures Participant and OTC Participant and the Default procedures in these Rules and OTC Rules.]*

#### **Adjustment of Clearing Participant Commitments**

- 5.7A Notwithstanding anything else in the Rules, the Board or Managing Director may determine that Clearing Participants or a Clearing Participant shall provide to ASX Clear (Futures) a Commitment for a period of not more than five business days after the amount of Commitment is adjusted in accordance with the Rules or a Commitment expires, of an amount equivalent to that required prior to that adjustment or expiry to be available to meet any default arising prior to that adjustment or expiry. (Added 19/7/96)
- 5.8 ASX Clear (Futures) may in its absolute discretion pay each Clearing Participant an Accommodation fee in respect of its Commitment in recognition of and to compensate for the assumption of risk by the Clearing Participant. Such fee shall be as determined from time to time by the Board with due regard for the risk, exposure and amount of the Commitment of a Clearing Participant and may be, set on different bases for different categories of Clearing Participants ~~who are BRC Participants and those who are not~~.

Amended [ ]/ [ ]/13

*[Explanatory Note: The amendments to Rule 5.8 provide that the Accommodation fee in respect of a Clearing Participant's Commitment may be set on different bases for different categories of Clearing Participant.]*

- 5.9 ASX Clear (Futures) ~~may retain any interest or other income earned on a Commitment will pay a Clearing Participant interest on a Commitment provided in cash at the rate determined by ASX Clear (Futures) from time to time, provided that ASX Clear (Futures) may withhold any interest~~ where in the opinion of the Board or Managing Director withholding such interest ~~or income~~ is necessary to ensure that the Clearing Participant ~~to which that Commitment relates~~ is in compliance with Rule ~~5.6-5.1~~ and in such case such interest ~~or income~~ may be used by the Board as part of the Participant Commitment. ~~Otherwise, except as provided in the Rules any such interest or income shall be paid to the Clearing Participant.~~

Amended [ ]/ [ ]/13

*[Explanatory Note: The amendments to Rule 5.9 provide for ASX Clear (Futures) to pay a Clearing Participant interest on Commitments made in cash at the rate determined by ASX Clear (Futures). Interest may be withheld where, in the opinion of the Board or Managing Director, this is necessary to ensure that the Clearing Participant complies with its Commitment obligations under these Rules.]*

- 5.10 The Board may, with the agreement of a Clearing Participant and in addition to the obligation of a Clearing Participant to provide financial support under this Rule 5, obtain from a Clearing Participant additional financial backing to support the obligations of ASX Clear (Futures) on such terms as is agreed with the Clearing Participant.
- 5.11 The Board may, in its absolute discretion, waive the requirement for particular BRC Participants to make the Commitment under this clause 5.

## 6. Period Withdrawal of Clearing Participant Commitment

- 6.1 Subject to the Rules a Clearing Participant's Commitment shall be for a minimum of two years and fourteen (14) days or such other period as may be Prescribed.
- 6.2 A Clearing Participant shall:
- (a) Not less than twelve (12) months and fourteen (14) days prior to the expiry of its Commitment give notice in the Prescribed form if it elects not to renew its Commitment for:
    - (i) a further twelve (12) months; or
    - (ii) such other period notified to the Clearing Participant by ASX Clear (Futures) not less than fourteen (14) days prior to it being required to make the election, such other period being specified for the purpose of ensuring that the expiry date of Clearing Participant commitments fall on a common date.
  - The period notified under sub paragraph (ii) shall be a period of not less than six (6) months and not more than eighteen (18) months.
  - (b) Unless it makes an election under paragraph (a), provide such additional Commitment to ASX Clear (Futures) as is necessary to give effect to the renewal of its Commitment for a further period of twelve (12) months or other period notified by ASX Clear (Futures) under paragraph (a) from the date of the expiry of its Commitment, not less than fourteen (14) days after the expiry of the period for the giving of notice under paragraph (a).
- 6.3 Where a Clearing Participant makes an election under Rule 6.2 not to renew its Commitment then it shall be terminated as a Clearing Participant fourteen (14) days prior to the date of the Expiry of its Commitment.
- 6.4 No termination or suspension of or resignation by a Clearing Participant shall relieve a Clearing Participant from its liability with respect to its Commitment for the full period of that Commitment, and references to Clearing Participant in relation to the provision of Commitment shall be read as including such a Clearing Participant which has been terminated, suspended or resigned. (Amended 19/7/96)
- 6.5 If a Clearing Participant declines to meet a request of the Board for a further Commitment under Rule 7.6 or otherwise fails to meet any request of the Board to provide further or substituted Commitment in accordance with the Rules, then it shall be terminated as a Clearing Participant immediately. This shall not release the Clearing Participant from its liability in respect of its Commitment for the full period of its Commitment and no Commitment shall be liable to be returned until the expiry of such period.
- 6.6 For the purposes of this Rule 6 the first period of the Clearing Participant's Commitment shall commence:
- (a) on the date the approval of the Board to admit the Clearing Participant becomes effective, pursuant to Rule 4.6 as in force on the Adopted Date; or
  - (b) on the date the approval of the Board to admit the Clearing Participant pursuant to Rule 4.6 as in force prior to the Adoption Date or 1 December 1991, whichever is the later.
- 6.7 The Board may in its absolute discretion release the Commitment of a Clearing Participant upon the resignation of the Clearing Participant:
- (a) Where a member of the same group of Corporations becomes a Clearing Participant upon the resignation of the first Clearing Participant and complies with Rule 5.1.
  - (b) In such other circumstances as the Board considers appropriate subject to the approval by Clearing Participants by the same procedure as is provided in Rule 14.1 for the approval of amendments to the Rules.
- 6.1 A Clearing Participant is not entitled to withdraw its Commitment, and ASX Clear (Futures) is not obliged to repay or transfer Commitment, except on the Clearing Participant's resignation of the authorisation to which the Commitment relates in accordance with Rule 11.1, or termination of its rights and status as a Clearing Participant in accordance with Rule 72.1(i).

[Explanatory Note: The new Rule 6.1 sets out the circumstances in which a Clearing Participant is entitled to withdraw Commitment, and ASX Clear (Futures) is obliged to repay or transfer Commitment.]

6.2 A Clearing Participant's Futures Commitment or OTC Commitment (as applicable) shall remain available for application by ASX Clear (Futures) in accordance with Rule 7 in respect of a Default by any Clearing Participant that occurs prior to the Clearing Participant's resignation of the relevant authorisation or termination becoming effective in accordance with Rule 11.1 or Rule 72.1A (as applicable). ASX Clear (Futures) must not apply the Clearing Participant's Commitment in accordance with Rule 7 in respect of a Default by another Clearing Participant that occurs after the Clearing Participant's resignation or termination becomes effective.

*[Explanatory Note: The new Rule 6.2 provides that a Clearing Participant's Commitment remains available for application by ASX Clear (Futures) in accordance with the default waterfall in Rule 7 until the Clearing Participant's resignation of the relevant authorisation or termination is effective.]*

6.3 The Clearing Participant's Futures Commitment or OTC Commitment will be returned to it on the first Business Day of the calendar quarter immediately following the date on which its resignation in respect of the relevant authorisation or termination is effective.

Amended [ ]/[ ]/13

*[Explanatory Note: The new Rule 6.3 sets out when a Clearing Participant's Commitment is returned following a resignation of the relevant authorisation or termination.]*

## 7 Satisfaction of Obligations of ASX Clear (Futures)

7.1 Without affecting ASX Clear (Futures)'s rights as otherwise provided in the Rules, upon Default by a Clearing Participant the Board shall be entitled, in satisfying ASX Clear (Futures)'s obligations, subject to Part 7 of the Rules, to apply the following assets in the order stipulated in whole or in part:

- (a) *first*, any moneys, securities, collateral or property held by ASX Clear (Futures) in any account of, or in respect of, the Clearing Participant in Default or Clearing Participants in Default (including, subject to the provisions of Rules 41.5, 41.6 and 41.7 restricting access to a Client Clearing Account, a Client Clearing Account of the Clearing Participant or Clearing Participants in Default);
- (b) *second*, the proceeds of the Commitment (including all Futures Commitment and all OTC Commitment) of the Clearing Participant in Default or Clearing Participants in Default;
- (c) *third*, any assets of ASX Clear (Futures) designated at any time by under the Board Procedures for the purposes of this paragraph up to the amount specified in the Procedures;
- (d) *fourth*:
  - (i) if the Clearing Participant in Default is a Futures Participant and is not an OTC Participant, the proceeds of the First Level Futures Commitments of the Clearing all Futures Participants (other than the Clearing Participant in Default or Clearing Participants in Default) as provided by Rule 7.5, up to the total aggregate amount committed by all Clearing Futures Participants under the First Level Futures Commitment (FLC FC) calculated in accordance with the formula set out in Rule 5.6(a) (including the Commitment of the Clearing Participant in Default) ("Relevant Futures Commitments");
  - (ii) if the Clearing Participant in Default is an OTC Participant and is not a Futures Participant, the proceeds of the OTC Commitments of all OTC Participants (other than the Clearing Participant in Default) as provided by Rule 7.5, up to the total aggregate amount of OTC Commitment committed by all OTC Participants calculated in accordance with the OTC Rules (including the OTC Commitment of the Clearing Participant in Default) ("Relevant OTC Commitments");
  - (iii) if the Clearing Participant in Default is both a Futures Participant and an OTC Participant, an amount equal to the aggregate of:
    - (A) the Futures Commitment Proportion of the Relevant Futures Commitments; and
    - (B) the OTC Commitment Proportion of the proceeds of the Relevant OTC Commitments.

For this purpose:

**"Futures Commitment Proportion"** is the proportion calculated by dividing:

- (a) the daily average Initial Margin obligation of the Clearing Participant in Default that was attributable to Open Contracts other than OTC Open Contracts and OTC Allocated Futures Contracts

by:

- (b) the daily average Initial Margin obligation of the Clearing Participant in Default that was attributable to all of its Open Contracts (including OTC Open Contracts and OTC Allocated Futures Contracts).

**"OTC Commitment Proportion"** is the proportion calculated by dividing:

- (a) the daily average Initial Margin obligation of the Clearing Participant in Default that was attributable to OTC Open Contracts and OTC Allocated Futures Contracts

by:

- (b) the daily average Initial Margin obligation of the Clearing Participant in Default that was attributable to all of its Open Contracts (including OTC Open Contracts and OTC Allocated Futures Contracts).

For the purpose of each of the above calculations, the “**daily average Initial Margin obligation**” is calculated by dividing the sum of the Clearing Participant’s Initial Margin obligation for the relevant Open Contracts on each Business Day in the 90 days immediately preceding the day on which the Default first occurred by the number of Business Days in that period.

- (e) fifth, proceeds of any insurance or other financial backing assets available to ASX Clear (Futures) as designated for the purposes of this paragraph up to the amount specified in the Procedures provided that in the case of any relevant policy of insurance the relevant excess has been exceeded;

~~(f) the proceeds of the Second Level Commitment of Clearing Participants other than the Clearing Participant in Default or Clearing Participants in Default as provided by Rule 7.5;~~

~~(g) the proceeds of any remaining First Level Commitments of Clearing Participants other than the Clearing Participant or Clearing Participants in Default as provided in Rule 7.5;~~

(f) sixth: proceeds of

(i) the Relevant Futures Commitments; and

(ii) the Relevant OTC Commitments,

in each case to the extent that they have not already been applied above. If there is both Relevant Futures Commitments and Relevant OTC Commitments available to be applied then the allocation between them is to be conducted proportionally on the basis of the total amount of each of them which was available to be applied under this paragraph (f);

- ~~(h)~~ (g) seventh, the proceeds of any additional financial backing of Clearing Participants as referred to in Rule 5.10; and

- ~~(i)~~ eighth, any other monies or other assets available to ASX Clear (Futures).

Amended 15/07/11, 1/1/13

[Explanatory Note: The amendments to Rule 7.1 amend the default waterfall to include OTC Commitments as follows:

<u>Order of application</u>	<u>Assets to be applied</u>		
<u>First</u>	<u>Any moneys, securities, collateral or property held by ASX Clear (Futures) in any account of, or in respect of, the defaulted Clearing Participant</u>		
<u>Second</u>	<u>The proceeds of the Commitment (including all Futures and OTC Commitment) of the defaulted Clearing Participant</u>		
<u>Third</u>	<u>Any assets of ASX Clear (Futures) designated under the Procedures, up to the amount specified in the Procedures. The Procedures designate the proceeds of a subordinated loan to ASX Clear (Futures) from, and share capital invested in ASX Clear (Futures) by, ASX Clearing Corporation Limited, having an aggregate value of A\$120,000,000</u>		
<u>Fourth</u>	<u>Category of Clearing Participant in Default:</u> <table border="1"> <tr> <td><u>(a) Futures Participant but not OTC Participant</u></td><td><u>Proceeds of the Futures Commitments of all Futures Participants (other the defaulted Clearing Participant), up to the total aggregate amount committed by all Futures Participants under the Futures Commitment (“Relevant Futures</u></td></tr> </table>	<u>(a) Futures Participant but not OTC Participant</u>	<u>Proceeds of the Futures Commitments of all Futures Participants (other the defaulted Clearing Participant), up to the total aggregate amount committed by all Futures Participants under the Futures Commitment (“Relevant Futures</u>
<u>(a) Futures Participant but not OTC Participant</u>	<u>Proceeds of the Futures Commitments of all Futures Participants (other the defaulted Clearing Participant), up to the total aggregate amount committed by all Futures Participants under the Futures Commitment (“Relevant Futures</u>		

<u>Order of application</u>	<u>Assets to be applied</u>
	<p><u>(b) OTC Participant but not Futures Participant</u></p> <p style="text-align: right;"><u>Commitments”)</u></p> <p><u>(c) OTC Participant and Futures Participant</u></p> <p style="text-align: right;"><u>An amount equal to the aggregate of:</u></p> <p style="text-align: right;"><u>(A) the Futures Commitment</u></p> <p style="text-align: right;"><u>Proportion of the Relevant Futures Commitments; and</u></p> <p style="text-align: right;"><u>(B) the OTC Commitment Proportion of the Relevant OTC Commitments</u></p>
<u>Fifth</u>	<u>Proceeds of any insurance or other assets available to ASX Clear (Futures) designated under the Procedures, provided that, in the case of any relevant policy of insurance, the relevant excess has been exceeded. The Procedures designate the proceeds of a subordinated loan to ASX Clear (Futures) from ASX Clearing Corporation Limited having an aggregate value of A\$150,000,000</u>
<u>Sixth</u>	<u>The proceeds of any Relevant Futures Commitments or Relevant OTC Commitments that have not already been applied. If there are both Relevant Futures Commitments and Relevant OTC Commitments, then the allocation between them is to be conducted proportionally on the basis of the total amount of each of them which was available to be applied</u>
<u>Seventh</u>	<u>The proceeds of any additional financial backing of Clearing Participants referred to in Rule 5.10</u>
<u>Eighth</u>	<u>Any other monies or other assets available to ASX Clear (Futures)</u>

7.2 To enable ASX Clear (Futures) to meet its obligations in a timely manner to Clearing Participants not in Default:

- (a) Pending the realisation of any part of the assets referred to in Rule 7.1 the Board may borrow or otherwise seek accommodation or make other financial arrangements as it sees fit.
- (b) Pending recovery of an asset in a paragraph of Rule 7.1 access may be had by ASX Clear (Futures) to assets referred to in a subsequent paragraph of Rule 7.1 subject to prompt adjustment when an asset in a preceding paragraph has been recovered PROVIDED THAT no access shall be had to the assets referred to in paragraphs (d), or (f) or (g) of Rule 7.1 until the assets referred to in paragraph (c) have been exhausted. AND PROVIDED FURTHER that ASX Clear (Futures) shall not be required to have access to assets referred to in a paragraph of Rule 7.1 pending the realisation of available assets referred to in a preceding paragraph.

Amended 15/07/11

7.3 Any application of monies or assets, whether permitted by Rule 7.1 or any other provision of these Rules, shall not preclude or limit ASX Clear (Futures) from seeking recovery from the Clearing Participant in Default or Clearing Participants in Default of any amount properly payable by that Participant or Participants including, without limitation, any Commitment.

7.4 The Board shall have absolute discretion to determine whether to seek recovery in accordance with Rule 7.3. However, if any one or more Non-Defaulting Clearing Participants provides ASX Clear (Futures) with:

- (a) an indemnity of any payment, liability or obligation which ASX Clear (Futures) may thereby incur, in such form as the Board may prescribe; and

- (b) security for the costs of ASX Clear (Futures) in the form and in an amount as advised by the Board,

then the Board shall proceed to seek recovery in accordance with Rule 7.27.3, except where the Board resolves that to do so would be contrary to the best interests of ASX Clear (Futures) or the Clearing Participants, or to the maintenance of an orderly and fair market.

- 7.5 For the purposes of Rule 7.1(d, (f) and (g)), ASX Clear (Futures) shall be entitled in satisfying its obligations to call in full or in part any Commitment up to the total amount committed by a Clearing Participant. Such call to be calculated as follows:

#### **First Level Futures Commitment of Futures Participants**

- (a) Until the Fixed Commitment of the **First Level Futures** Commitment of each **Clearing Futures** Participant is exhausted a call or calls on Futures Commitments of Futures Participants shall be met equally by **Clearing Futures** Participants.
- (b) Once the Fixed Commitments of the **First Level Futures** Commitment **Clearing of Futures** Participants have been exhausted then any further call or calls or part of a call or calls against the **First Level Futures** Commitment shall be met by **Clearing Futures** Participants in the same proportion as their Variable Commitment as at the date of the Default bears to the Variable Commitments of all non-defaulting **Clearing Futures** Participants. If the **First Level Futures** Commitment of any **Clearing Futures** Participant is exhausted then any remaining liability shall be shared on the same basis between the remaining Non-defaulting **Clearing Futures** Participants.

#### **Second Level OTC Commitment of OTC Participants**

- (c) Until the Fixed OTC Commitment of each OTC Participant is exhausted a call or calls on Fixed OTC Commitments of OTC Participants shall be met equally by OTC Participants.
- (e) Any (d) Once the Fixed OTC Commitments of the OTC Participants have been exhausted then any further call or calls or part of a call or calls against on the **Second Level OTC** Commitment shall be met by **Clearing OTC** Participants in the same proportion as their **Second Level Variable OTC** Commitment as at the date of the Default bears to the **Second Level Variable OTC** Commitments of all **Non defaulting Clearing non-defaulting OTC** Participants. If the **Second Level OTC** Commitment of any **Clearing OTC** Participant is exhausted then any remaining liability shall be shared on the same basis between the remaining Non-defaulting **Clearing OTC** Participants.
- (e) However, if ASX Clear (Futures) determines that one or more OTC Participants which were required to participate in a DM Auction as defined in, and in accordance with, the OTC Rules and did not submit a Bid (as defined in the OTC Handbook) for one or more Auction Units,  
then, despite (c) and (d), ASX Clear (Futures) will apply those OTC Participants' Fixed OTC Commitment and Variable OTC Commitment ahead of all other OTC Participants' Fixed OTC Commitment and Variable OTC Commitment (respectively).

Where Commitments or any part thereof of a Clearing Participant or Clearing Participants are utilised under this or any other provision of the Rules in satisfying the obligations of ASX Clear (Futures), subject to Rule 73.4, ASX Clear (Futures) shall be under no obligation to return or repay to the Clearing Participant any Commitment or any monies, securities or property constituting such Commitment or an amount equivalent thereto to the extent that they are so utilised. (Amended 3/6/97)

Amended 15/07/11

#### *[Explanatory Note: The amendments to Rule 7.5:*

- *reflect that the Futures Commitments are required from Futures Participants;*
- *provide that:*
  - *until the Fixed OTC Commitment of each OTC Participant is exhausted, calls on Fixed OTC Commitments are to be met equally by OTC Participants;*

- thereafter, calls on OTC Commitment are to be met by OTC Participants in the same proportion as their Variable OTC Commitment bears to the Variable OTC Commitments of all non-defaulting OTC Participants;
- however, the OTC Commitment of an OTC Participant will be subject to so-called 'juniorisation' i.e. an OTC Participant's Fixed and Variable OTC Commitments will be applied ahead of all other OTC Participants' Fixed and Variable OTC Commitments (respectively) if the OTC Participant was required to participate in a DM Auction and did not submit a Bid for one or more Auction Units.]

7.6 If a call is made on the Commitments of the Clearing Participants in full or part, the Board may request the Clearing Participants to make such further Commitment by way of deposit of cash, securities, collateral or property in such amount and at such times as the Board believes necessary to provide continuing financial support of the obligations of ASX Clear (Futures). A Clearing Participant which receives such a request may either provide the requested further Commitment or may decline to provide the further Commitment requested. A Clearing Participant which declines to provide such further Commitment in accordance with this Rule shall ~~cease to be a Clearing Participant pursuant to Rule 6.5~~ be deemed to have given notice of resignation in accordance with Rule 11 (unless it has already provided such notice or has been given notice of termination in accordance with Rule 72.1A) but shall be under no ~~further~~ obligation to provide such further Commitment. If one or more Clearing Participants decline to provide such further Commitment, the Board may issue such further or amended requests to other Clearing Participants under this Rule 7.6 as it considers necessary to provide continuing financial support of the obligations of ASX Clear (Futures). Each such further or amended request may be declined in accordance with, and with the resulting consequences set out in, this Rule 7.6.

Where further Commitments are provided pursuant to this Rule 7.6 the provisions of the Rules relating to the provision of and utilisation of Commitments provided by Clearing Participants shall be read mutatis mutandis on the basis that the Commitments of Clearing Participants comprise the First and Second Level Futures Commitments (for Futures Participants) or the OTC Commitments (for OTC Participants), as applicable, and the further Commitments provided under this Rule 7.6.

Amended [ ]/1/13, [ ]/1/13

[Explanatory Note: The amendments to Rule 7.6 provide that a Clearing Participant that is requested to provide further Commitments following a call on Commitments may either provide, or decline to provide, the requested further Commitment. If it declines to provide the further Commitment then it is deemed to have given notice of resignation (unless it has already given such notice or notice of termination), and the Board may issue such further or amended requests to other Clearing Participants (which such other Clearing Participants may also decline to provide).]

7.7 The application of any of the assets referred to in Rule 7.1 with respect to a Default or Defaults shall not preclude the use of any remaining assets in any subsequent Default or Defaults.

7.8 The Board may designate particular assets of ASX Clear (Futures) for the purposes of Rule 7.1(c) and may add to or vary such designated assets as it sees fit from time to time.

7.9 The Board may in its absolute discretion without being under any express or implied obligation to do so elect to meet any Default from assets available pursuant to paragraph (h) of Rule 7.1 and determine that such assets shall replace the obligation to apply assets referred to in any or all of paragraphs (d), (e), (f), (g) or (h) of Rule 7.1.Amended [ ]/1/13

[Explanatory Note: The amendments to Rule 7.9 update the cross-references in that Rule.]

7.10 The Board will review the size, structure and composition of ASX Clear (Futures)' financial resources, taking into account any recommendations made by the Risk Committee, changes (including anticipated changes) in ASX Clear (Futures)' regulatory obligations and any other matters considered relevant by the Board. The Board will conduct its review once in every successive period of 12 months following the effective date of this rule. The results of the review will be published.

Inserted [ ]/1/13

[Explanatory Note: The amendments to Rule 7.10 provide for review by the Board of the size, structure and composition of ASX Clear (Futures)' financial resources, taking into account certain matters, once in every successive period of 12 months following the effective date of the Rule.]

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**RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

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## 8. Financial Requirements

- 8.1 A Clearing Participant shall at all times comply with the Financial Requirements as from time to time prescribed by the Board and set out in the Schedules. Pending any such prescription the Financial Requirements shall be a requirement that the Clearing Participant have Net Tangible Assets of not less than five million dollars (\$5,000,000).
- 8.2 Without affecting the generality of Rule 8.1 the Board may prescribe financial requirements relating to:
- (a) the minimum level of each Clearing Participants' Net Tangible Assets; and
  - (b) the amount of Net Liquid Assets to be held by each Clearing Participant.
- 8.3 The Board or the Managing Director, or the delegate of either may determine that the Financial Requirements of a particular Clearing Participant shall be in excess of those applying pursuant to Rule 8.1 having regard to the number or value of Open Contracts held by the Clearing Participant, the Board, or the Managing Director or their delegate's assessment of the Clearing Participant's risk under such Open Contracts, the requirement of insurers or without limitation any other relevant factor and the Financial Requirements of that Clearing Participant shall be deemed to be Prescribed accordingly.
- 8.4 A Clearing Participant shall lodge with ASX Clear (Futures) in the Prescribed form a statement of its financial position as at the end of each month by no later than the Prescribed date or such other date as the Board may require.
- 8.5
- (a) A Clearing Participant shall immediately advise ASX Clear (Futures) if:
    - (i) the value of its financial position at any time is less than 150% of the Financial Requirements;
    - (ii) the value of the Participant's financial position is less than 150% of the Financial Requirements and has decreased by more than 20% since the last advice provided to ASX Clear (Futures) pursuant to sub-paragraphs (a) or (b) hereof;
    - (iii) its financial position has varied such that it exceeds the Position limits prescribed pursuant to Rule 9;
    - (iv) its financial position has altered in such circumstances as are Prescribed in the Schedules;
    - (v) an event of Default occurs under By-law 71, or the Clearing Participant has reasonable grounds to suspect that an event of Default may occur.
  - (b) The Clearing Participant shall also provide such additional statement or statements of its financial position, in such form or forms as ASX Clear (Futures) may require, at such time or times as it may direct

The Managing Director shall immediately advise the Board of any such notice.

### 8.6 Financial Requirements for OTC Participants apply in accordance with the OTC Rules.

Introduced [ ] / [ ]/13

[Explanatory Note: The new Rule 8.6 provides that the Financial Requirements for OTC Participants apply in accordance with the OTC Rules.]

## 9. Position Limits

9.1

- (a) The Board may Prescribe limits on the number of Open Positions (whether Client Positions or House Positions) a Participant may hold in any Futures Contract or OTC Transaction or Options Contract or Bond Positions or Repurchase Agreements or on any market.
- (b) The Board may prescribe limits relating to the exposure of the Clearing Participant under Open Contracts by reference to:
  - (i) the initial and/or variation margin and/or daily settlement liability of the Clearing Participant;
  - (ii) the number of Open Positions held by a Clearing Participant in any Futures Contract or OTC Transaction or Options Contract or Bond Positions or Repurchase Agreements;
  - (iii) the financial position of the Clearing Participant; or
  - (iv) any other criteria relating to the Clearing Participant's Open Positions or exposure as the Board thinks fit.

*[Explanatory Note: The amendments to Rule 9.1 extend limits to OTC Transactions if applicable.]*

9.2

The Board may require a Clearing Participant to comply with special limits having regard to any requirements of insurers to ASX Clear (Futures) or such other matters as it sees fit.

9.3

Where a Clearing Participant's position is in excess of or appears likely to exceed the limits applicable to that Clearing Participant pursuant to Rule 9.1 or 9.2 the Board or the Managing Director or his delegate may in its or his absolute discretion do, without being limited to such actions, all or any of the following:

- (a) Determine that the Clearing Participant shall lodge additional Initial Margin with respect to all or any Open Positions held by the Clearing Participant of such amount as the Board or the Managing Director or his delegate may determine. (Amended 19/7/96)
- (b) Direct that the Clearing Participant reduce the number of its Open Positions so as not to exceed such limits.
- (c) Direct that the Clearing Participant transfer all or any Open Contracts to another Clearing Participant. In the case of Bond Transactions or Repurchase Agreements such transfer may only be to a BRC Participant.
- (d) Refuse to register further Market Contracts on behalf of the Clearing Participant or accept any Allocation or Transfer to the Clearing Participant.
- (e) Exercise the powers set out in Rule 72.1(d) or (g) as if there were a Default.
- (f) Declare the Participant to be in Default.

and a Clearing Participant shall do all things necessary to give effect to any such determination, direction or decision by such time as is required by the Board.

9.4

Without in any way limiting its powers under Rule 9.3 the Board may at any time determine in relation to a Clearing Participant or Clearing Participants the requirements which will apply pursuant to Rule 9.3 in the absence of any other determination under Rule 9.3 should the relevant Clearing Participant be in breach of the applicable limits or appear likely to be in breach of such limits.

9.5

ASX Clear (Futures) shall immediately advise the Exchange and any Related Exchange of any determination pursuant to Rule 9.3 or 9.4.

9.6

The Board may Prescribe in the Schedules requirements which shall apply to Clearing Participants upon the breach of applicable limits of a Clearing Participant in the absence of any determination pursuant to Rule 9.3 or 9.4. Such requirements may include any of the matters referred to in Rule 9.3.

- 9.7 A Clearing Participant shall comply with all requirements and limits Prescribed by the Board under this Rule 9.

## **9A Regulation**

### **9A.1 Introduction and Oversight of Regulatory Affairs**

9A.1.1 ASX Clear (Futures) shall undertake the detection, investigation and determination of potential and alleged breaches of the Rules and the provision of fair procedures and the taking of enforcement action in relation thereto.

Amended 01/08/10

9A.1.2 To assist it in doing so ASX Clear (Futures) may appoint agents, which may include officers and committeees of bodies corporate which are related to ASX Clear (Futures). Subject to any right of appeal, Clearing Participants shall comply with decisions of agents of ASX Clear (Futures) as though they were decisions of the Board, and any failure to comply shall be deemed to be a breach of these Rules.

Amended 02/01/02, 31/03/08

9A.1.3 In the event that ASX Clear (Futures) appoints agents, those agents shall be responsible to the Chairman of ASX Clear (Futures) or his delegate for the efficient and effective performance of their functions and shall, upon request, report on their activities to that person in such detail as that person may reasonably require.

9A.1.4 The appointment of such agents shall in no way limit the authority of the Board to deal ultimately with any and all violations of the Rules either on its own initiative or upon appeal.

9A.1.5 Certain investigations and hearings may be conducted by ASIC, as determined by agreement between ASX Clear (Futures) and ASIC.

9A.1.6 Where ASIC makes a finding regarding a breach of the Corporations Act, by a Clearing Participant, ASX Clear (Futures) may impose a penalty without further investigation of the matter by ASX Clear (Futures).

9A.1.7 In the case of a breach by a Clearing Participant of a provision of the Rules which was committed on its behalf in whole or in part by a Representative of the Clearing Participant it shall be deemed to be, or have been, committed by that Clearing Participant.

### **9A.2 ASX Clear (Futures) Investigation and Enforcement Function**

The functions of ASX Clear (Futures) referred to in Rule 9A.1 include:

- (a) such investigations as it sees fit;
- (b) such investigations, as it sees fit, of any allegations by a Clearing Participant or any other person which it considers to warrant investigation;
- (c) maintenance of a program of inspections of the records and operations of Clearing Participants for the purpose of ensuring compliance with, and detecting breaches of, the Rules and in particular ensuring that Clearing Participants have appropriate procedures in place to prevent the occurrence of such breaches;
- (d) where practical and relevant, maintenance of a program for the monitoring of the markets for which ASX Clear (Futures) provides services, and Open Positions and Open Contracts held by Clearing Participants and their Clients;
- (e) ensuring that Clearing Participants lodge Financial Statements as required by the Rules;
- (f) taking action in accordance with the provisions of the ASX Enforcement and Appeals Rulebook where it considers that a breach of the Rules may have occurred; and
- (g) to co-opt the services of the auditors of ASX Clear (Futures) and such other persons as ASX Clear (Futures) may approve, to assist in its activities.

- (h) referring matters to ASIC where ASIC has jurisdiction over such matters or by agreement between ASX Clear (Futures) and ASIC.

Amended 31/03/08, 01/08/10

**9A.3      Exemptions**

9A.3.1 [Deleted – 31/03/08]

9A.3.2 [Deleted – 31/03/08]

9A.3.3 [Deleted – 31/03/08]

9A.3.4 [Deleted – 31/03/08]

9A.3.5 [Deleted – 31/03/08]

9A.3.6 [Deleted – 31/03/08]

9A.3.7 [Deleted – 31/03/08]

9A.3.8 ASX Clear (Futures) may where it believes it to be just and equitable, and to the extent permitted by law, and on payment of the application fee (if any) prescribed by the Board, exempt a Clearing Participant or person or class of Clearing Participant from compliance with such provisions of the Rules and on such conditions as it sees fit, including conditions relating to the payment of fees or costs in relation to the monitoring of such exemption. ASX Clear (Futures) may, at any time, revoke such exemption. A breach of a condition imposed in respect of an exemption shall be deemed to be a breach of these Rules.

Any exemption granted to a class of Clearing Participants or persons (but not an exemption granted to a specified Clearing Participant) shall, for the purposes of the Corporations Act, be deemed to be an amendment to the Rules.

Amended 31/03/08

9A.3.9 [Deleted – 31/03/08]

## **10 Appointment of Board as Agent**

10.1 [Deleted – 31/03/08]

10.2 [Deleted – 31/03/08]

10.3 [Deleted – 31/03/08]

10.4 [Deleted – 31/03/08]

10.5 [Deleted – 31/03/08]

10.6 [Deleted]

10.7 [Deleted – 31/03/08]

10.8 [Deleted – 31/03/08]

10.9 Each Clearing Participant shall be deemed to have irrevocably appointed each member of the Board jointly and severally as its duly authorised agent to do all things and execute all documents, in the name of the Clearing Participant or otherwise, necessary to transfer any Open Positions or Open Contracts held by that Clearing Participant in the circumstances described in clause 15 of Schedule 13.

The Board may nominate one of its members to take all action in the name of the Clearing Participant and to execute all documents and do all things necessary to give effect to such transfer.

## **Automatic Suspension**

10.11 A Clearing Participant shall automatically be suspended without a meeting of the Board being required, if:

- (a) the Clearing Participant is in Default;
- (b) the Clearing Participant is in breach of the Financial Requirements or the requirements of Rule 8.4 and fails to rectify that breach within 24 hours or such longer period as the Board in its absolute discretion may allow; or
- (c) where a liquidator, receiver, receiver and manager or administrator or some other form of external management is appointed in respect of the property of the Clearing Participant or if the Clearing Participant or a partner of the Clearing Participant becomes bankrupt. Such suspension shall, unless the Board at its absolute discretion approves otherwise, continue for the duration of the liquidation or receivership, administration, bankruptcy or external management.

Amended 31/03/08

10.12 The suspension or termination of a Clearing Participant shall not affect any subsisting rights which the Board or ASX Clear (Futures) may have in respect of that Clearing Participant under the Rules or any subsisting obligations of the Clearing Participant to the Board or ASX Clear (Futures) under the Rules and in the case of a suspension shall not affect any continuing obligations of the Clearing Participant under the Rules.

10.13 A suspended Clearing Participant shall not except to the extent allowed by the Board or Managing Director in its or his absolute discretion be entitled to have Market Contracts registered in its name or to receive an Allocation or Transfer of an Open Contract and shall not be entitled to vote.

## **Interim Suspensions**

10.14 Notwithstanding any other provision of this Rule 10, the Board may, by unanimous resolution of those present at a meeting and entitled to vote and on the basis that it reasonably believes it is necessary to do so in the interest of the public, or ASX Clear (Futures), suspend a Clearing Participant pending the conduct of proceedings in accordance with this Rule 10. Such suspension shall not be for more than twenty-one (21) days but may be extended from time to time by a unanimous resolution of those present

and entitled to vote at a subsequent meeting. Where a suspension is made pursuant to this provision, proceedings shall commence within twenty-one (21) days or within the period of any extension.

10.15 [Deleted]

10.16 [Deleted – 31/03/08]

**10.17 ~~Former Clearing Participant~~[Deleted – 1/1/13]**

~~Proceedings may be commenced under the provisions of this Rule 10 against a former Clearing Participant within twelve (12) months after that former Clearing Participant ceased to be a Clearing Participant and such former Clearing Participant shall be bound by any decision, or finding, or penalty imposed.~~

### **Conduct of Associated Parties**

10.18 Where the Board reasonably believes that the character, reputation, business integrity, or financial probity or conduct of:

- (a) an Associated Company;
- (b) a Representative of a Clearing Participant, or of an Associated Company;
- (c) a former Representative of a Clearing Participant or of an Associated Company;
- (d) any person who has, or who has in the past had, the capacity to exercise control over a Clearing Participant, or an Associated Company;
- (e) any other person which the Board reasonably believes is associated with, or connected to, the Clearing Participant or an Associated Company; or
- (f) a non-Clearing Participant in any way associated or connected with a Clearing Participant,

is such that the interests of the public or ASX Clear (Futures) or its Clearing Participants, are being prejudiced by reason of the behaviour of the entities listed in Rule 10.18(a)-(f), then the Board may, without prejudice to any other action it may take under the Rules, direct the Clearing Participant to cause the behaviour of its entities to cease. If the behaviour of the entities listed in Rule 10.18(a)-(f) does not cease, the enforcement action may be taken against the Clearing Participant in accordance with this Rule 10 as if the conduct was that of the Clearing Participant.

For the purposes of this Rule, an “Associated Company” is a company which is in any way associated with, or connected to, the Clearing Participant. Without limiting the generality of the foregoing, a company shall be deemed to be associated or connected with a Clearing Participant where one has the power, directly or indirectly, to control the other. Without limiting the generality of the term “control”, such control shall be deemed to exist where one holds twenty per cent (20%) or more of the issued share capital of the other or where a Director of one is a Director of the other.

Amended 01/08/10

10.19 [Deleted – 31/03/08]

## 11 Resignation and Change in Control

~~11.1 A Clearing Participant may at any time resign as a Clearing Participant, but such resignation shall not subject to these Rules affect the effective period of the Clearing Participant's Commitment. The resignation shall not take effect without the consent of the Board provided that the refusal to give such consent shall not extend the effective period of the Clearing Participant's Commitment.~~

### 11.1 Resignation

- (a) A Clearing Participant may give notice of resignation in respect of one or more of its authorisations to clear a category or categories of Market Contracts to ASX Clear (Futures). If it notifies that it is resigning all of its authorisations then it is taken to also notify its resignation as a Clearing Participant.
- (b) Resignation is not effective unless:
  - (1) the Clearing Participant has given notice of resignation in writing to ASX Clear (Futures);
  - (2) ASX Clear (Futures) confirms to the Clearing Participant in writing that the Clearing Participant has satisfied the following conditions:
    - (A) it has performed all of its accrued obligations under the Rules (including but not limited to the payment of all fees);
    - (B) it is not the subject of any disciplinary proceedings or enforcement action within the jurisdiction of ASX Clear (Futures);
    - (C) it has no Open Contracts applicable to the authorisation in respect of which it has given notice of resignation.

ASX Clear (Futures) will provide such confirmation, or reasons why such confirmation cannot be given, within 5 Business Days of receipt of a written request from a Clearing Participant which has given notice of resignation.

- (c) Resignation will be effective at the end of the last day of the calendar quarter in which the Clearing Participant meets the conditions in (1) and (2) above, provided those conditions are met at least 30 days prior to the last day of the quarter. If the Clearing Participant meets those conditions less than 30 days prior to the last day of the quarter, the Clearing Participant's resignation will be effective at the end of the last day of the following quarter.

Amended [ ]/[ ]/13

[Explanatory Note: The amendments to Rule 11.1 provide for the manner in which a Clearing Participant may give notice of in respect of one or more of its authorisations, the circumstances in which resignation will be effective and when it will be effective.]

### 11.2 Change in Control

~~11.2~~Where there is or is proposed to be a Substantial Change in Control of a Clearing Participant the Clearing Participant shall advise ASX Clear (Futures) forthwith in writing giving full particulars of such change. The Board shall consider such change and may in its absolute discretion approve such change.

Amended [ ]/[ ]/13

## 12 Appeals

12.1 The following decisions may be appealed in accordance with the provisions of the ASX Enforcement and Appeals Rulebook:

- (a) the Board's decision to refuse an Applicant its application for Clearing Participant status; or
- (b) a decision of the ASX Clear (Futures) to issue an Enforcement Notice under Section 2 of the ASX Enforcement and Appeals Rulebook or any sanction imposed in the Enforcement Notice.

Amended 31/03/08, 01/08/10

12.2 [Deleted – 31/03/08]

12.3 [Deleted – 31/03/08]

12.4 [Deleted – 31/03/08]

12.5 [Deleted – 31/03/08]

12.6 If a notice of appeal is given in accordance with the ASX Enforcement and Appeals Rulebook, then pending a decision of the Appeal Tribunal unless the Appeal Tribunal otherwise determines:

- (a) (i) any decision to refuse an application to become a Clearing Participant shall stand;
- (ii) any suspension imposed by the Board or ASX Clear (Futures) shall remain in force;
- (iii) where applicable, any termination of a Clearing Participant shall be deemed to be a suspension pending the decision of the Appeal Tribunal; and
- (b) where there has been a finding of a breach of the Rules and an imposition of a sanction by ASX Clear (Futures) under the ASX Enforcement and Appeals Rulebook:
  - (i) any monetary penalty imposed shall not be required to be paid.

Amended 31/03/08, 01/08/10

12.7 [Deleted – 31/03/08]

12.8 [Deleted – 31/03/08]

12.9 [Deleted – 31/03/08]

12.10 [Deleted – 31/03/08]

12.11 [Deleted – 31/03/08]

12.12 [Deleted – 31/03/08]

12.13 [Deleted – 31/03/08]

## 12A      Transitional Provisions – [Deleted]

Introduced 31/03/08 Deleted 01/08/10

## 12B      Transitional Provisions

### 12B.1      Transitional Provision Definitions

For the purposes of this Rule 12B:

**"Commence"** means:

- (a) in relation to disciplinary proceedings relating to conduct or a failure prior to the Effective Time, the provision of a contravention notice by ASX Clear (Futures) to the Regulated Person pursuant to Rule 2.1 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook; and
- (b) in relation to appeal proceedings relating to conduct or a failure prior to the Effective Time, the provision of notice of appeal by the relevant person pursuant to Rule 3.1 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook.

**"Effective Time"** means the date of commencement of Schedule 1 to the Corporations Amendment (Financial Market Supervision) Act 2010.

**"Old SFE Clearing Rules"** means the SFE Clearing Rules in force before the Effective Time.

**"Old Australian Securities Exchange Disciplinary Processes and Appeal Rulebook"** means the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook in force before the Effective Time;

**"Old Tribunal"** means the Disciplinary Tribunal or Appeal Tribunal (as the context requires) convened in accordance with the Old Australian Securities Exchange Disciplinary Processes and Appeal Rulebook, irrespective of whether it is convened before or after the Effective Time.

**"Relevant Person"** or **"Regulated Person"** means a Clearing Participant or a Representative or a person applying to ASX Clear (Futures) for admission as a Clearing Participant pursuant to Rule 4 of the Rules.

Introduced 01/08/10

## Sanctions

### 12B.2      Following the Effective Time:

- (a) ASX Clear (Futures) will have jurisdiction pursuant to Rule 9A.2(f) and the ASX Enforcement and Appeals Rulebook and may take any action under that rule or rulebook in respect of a Relevant Person concerning any conduct or failure under:
  - (i) these Rules, where that conduct or failure occurred on or after the Effective Time; or
  - (ii) these Rules and the Old SFE Clearing Rules, where the relevant conduct or failure the subject of the action spans both prior to and following the Effective Time,
 irrespective of when ASX Clear (Futures) became aware of, or should have become aware of, that conduct or failure;
- (b) the Appeal Tribunal will have jurisdiction pursuant to the ASX Enforcement and Appeals Rulebook and may conduct appeal proceedings (including the holding of any hearings or engaging in any procedures) under those Rules in respect of a Relevant Person concerning any conduct or failure under:

- (i) these Rules, where that conduct or failure occurred on or after the Effective Time; or
  - (ii) these Rules and the Old SFE Clearing Rules, where the relevant conduct or failure the subject of the proceedings spans both prior to and following the Effective Time, irrespective of when ASX Clear (Futures) became aware of, or should have become aware of, that conduct or failure;
- (c) ASX Clear (Futures) will continue to have jurisdiction pursuant to Rule 9A.2(f) of the Old SFE Clearing Rules and the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook and may take disciplinary action under that rule or rulebook after the Effective Time in respect of a Regulated Person concerning any conduct under or any failure to comply with the Old SFE Clearing Rules, where that conduct or failure occurred prior to the Effective Time, irrespective of when ASX Clear (Futures) became aware of, or should have become aware of, that conduct or failure;
- (d) the Old Tribunal shall continue to have jurisdiction to conduct disciplinary proceedings (including any appeal proceedings from those disciplinary proceedings) or appeal proceedings (as the case may be) in accordance with, and pursuant to its jurisdiction under, the provisions of the Old Australian Securities Exchange Disciplinary Processes and Appeal Rulebook in respect of a Regulated Person concerning any conduct under or any failure to comply with the Old SFE Clearing Rules, where that conduct or failure occurred prior to the Effective Time, irrespective of whether disciplinary or appeal proceedings have Commenced prior to the Effective Time or when ASX Clear (Futures) became aware of, or should have become aware of, that conduct or failure;
- (e) for the purposes of paragraphs (c) and (d) above:
- (i) the maximum penalty that may be imposed on a Regulated Person shall be the maximum penalty that would have been imposed for the relevant conduct or failure under the rules in existence at the time that the relevant conduct or failure occurred, irrespective of whether the disciplinary proceedings or appeal proceedings (as the case may be) were Commenced before or after the Effective Time;
  - (ii) ASX Clear (Futures) and the Old Tribunal shall take disciplinary action and conduct the disciplinary proceedings or appeal proceedings (as the case may be) with due regard to the relevant rules that were in force at the time that they were alleged to be contravened;
- (f) the Old SFE Clearing Rules and the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook continue to apply in respect of the Regulated Person to the extent required to give effect to the paragraphs above;
- (g) Nothing in this Rule 12B.2 limits the continued operation of rule 12A of the Old SFE Clearing Rules where disciplinary proceedings or appeal proceedings have Commenced (as defined in the Old SFE Clearing Rules) prior to the Effective Time (as defined in the Old SFE Clearing Rules).

12B.3 For the avoidance of doubt, where the relevant conduct or failure the subject of the action or proceeding spans both prior to and following the Effective Time:

- (a) ASX Clear (Futures) and the Appeal Tribunal will have the jurisdiction and may take action or conduct appeal proceedings as referred to in Rules 12B.2(a) & (b) above;
- (b) Rules 12B.2(c), (d) and (e) do not apply to such conduct or failure.

Introduced 01/08/10

## **13 Access to Records**

- 13.1 A Clearing Participant shall provide ASX Clear (Futures) with immediate access to information and records concerning the Clearing Participant's trading and financial position, including the financial position of a related company if requested, whether for client or principal trading and ASX Clear (Futures) may itself inspect the records of the Clearing Participant or may appoint a person or persons to inspect the records on its behalf.
- 13.2 ASX Clear (Futures) may request the Exchange or any related company to provide any information in its possession concerning a Clearing Participant and may request the Exchange or any related company to conduct an inspection of the Participant, or to appoint a person or persons to conduct an inspection, to assist ASX Clear (Futures) to obtain information for the purposes of Rule 13.1.
- 13.3 ASX Clear (Futures) shall provide to the Exchange or any related company, information concerning a Clearing Participant and Open Positions held by that Clearing Participant as may reasonably be required by the Exchange or any related company as the case may be from time to time. Where such information includes information concerning or arising from Market Contracts traded on a market of an exchange other than the Exchange making the requirement then ASX Clear (Futures) may decline in its absolute discretion to provide such information if it reasonably believes that such request is not made in accordance with an information sharing agreement between the Exchange and any related company.
- 13.4 ASX Clear (Futures) shall provide to relevant Australian regulation authorities and to the Securities Commission of New Zealand all information requested by the authority or Commission in the performance of its duties relating to the operations of ASX Clear (Futures) or a Clearing Participant and Open Positions held by that Clearing Participant.
- 13.5 Except as provided by these Rules or as required by law ASX Clear (Futures) shall keep confidential information concerning Clearing Participants or Open Positions held by them and shall only disclose such information to any other party as provided by these Rules, as required by law or for the purposes of discharging any of its functions or obligations under the Articles or the Rules including, without limiting the generality of the foregoing, the provision of information to any insurers to ASX Clear (Futures) or to a provider of delivery facilities or regulatory body. For the avoidance of doubt, "law" when used in this Rule includes the law of any relevant jurisdiction including Australia or New Zealand.

Amended 30/12/09

## 14 Amendment to Rules

14.1 Any amendment to ~~Rules 5-7 of~~ the Rules (other than any amendment to the Schedules) concerning the subject matter set out in the following table which has been approved by the Board after the Commencement Date, shall not be effective unless and until ~~either:~~it is approved by the applicable Voting Clearing Participants:

<u>Subject matter</u>	<u>Voting Clearing Participants</u>	
<u>The aggregate amount of Commitment.</u>	<u>All Clearing Participants.</u>	
<u>The order of application of assets upon Default by a Clearing Participant under Rule 7.1 if the amendment would reduce the amount of assets that may be applied in priority to the Commitment of a Clearing Participant (“Affected Clearing Participant”).</u>	<u>All of the Affected Clearing Participants.</u>	

Subject to the following, each Voting Clearing Participant is entitled to one vote. However, any two or more Voting Clearing Participants that are Related Bodies Corporate are together entitled to one vote only.

An amendment is approved by the applicable Voting Clearing Participants for the purposes of this Rule 14.1 when it is either:

- (a) approved at a meeting of Voting Clearing Participants convened by the Secretary on not less than 21 days' notice (or such shorter notice as may be agreed in writing by Voting Clearing Participants entitled to not less than 75% of Clearing Participants~~the votes~~) at which a resolution is passed by ~~a majority of~~Voting Clearing Participants present in person or by proxy and entitled to vote at the meeting;~~or with a majority of votes; or~~
- ~~(b)~~a majority of (b) Voting Clearing Participants entitled to ~~vote a majority of votes~~ sign a document approving an amendment of which notice has been given to all Clearing Participants.

Amended [ ]/ [ ]/ [ ]

[Explanatory Note: The amendments to Rule 14.1 provide that amendments concerning the subject matter set out in the table are not effective unless and until they are approved by the applicable Voting Clearing Participants specified in the table.]

14.2 Except as provided in Rule 14.1, a meeting held for the purposes of that Rule shall be conducted as if it were a general meeting of ASX Clear (Futures) convened pursuant to the Articles provided that the quorum for a meeting of Clearing Participants shall be no less than one half of Clearing Participants entitled to vote.

14.2A ASX Clear (Futures) will provide reasonable notice to Clearing Participants of any proposed amendments to the Rules and Procedures prior to the amendments taking effect. However, any omission by ASX Clear (Futures) to give notice to one or more Clearing Participants does not affect the validity of any amendments to the Rules or Procedures.

[Explanatory Note: The new Rule 14.2A provides that ASX Clear (Futures) will provide reasonable prior notice to Clearing Participants of proposed amendments to the Rules and Procedures.]

Introduced [ ]/ [ ]/13

14.2B ASX Clear (Futures) will consult with the applicable Consulting Clearing Participants on any proposed changes to the Rules and Procedures set out in the following table, unless:

- (a) ASX Clear (Futures) is directed by any competent regulatory authority (whether or not located in an Australian or other jurisdiction) to amend the Rules or Procedures;
- (b) ASX Clear (Futures) considers, in good faith but otherwise in its discretion, that such amendment is to correct a manifest error; or
- (c) ASX Clear (Futures) considers, in good faith but otherwise in its discretion, that an amendment is required to comply with its CS facility license obligations or other applicable regulatory requirements (whether or not required under the laws of an Australian or other jurisdiction).

ASX Clear (Futures) may determine the form of such consultation, which may be by way of consultation with the Risk Committee.

<u>Rules and Procedures being amended</u>	<u>Consulting Clearing Participants</u>
<u>Rules (other than OTC Rules), where the amendment affects a Clearing Participant (“Affected Clearing Participant”)</u>	<u>All of the Affected Clearing Participants.</u>
<u>OTC Rules</u>	<u>All OTC Clearing Participants.</u>
<u>OTC Handbook, where ASX Clear (Futures) is of the view that the amendment is likely to have a material impact on Clearing Participants</u>	<u>All OTC Clearing Participants.</u>
<u>Procedures, Determinations and Practice Notes where ASX Clear (Futures) is of the view that the amendment is likely to have a material impact on a Clearing Participant (“Materially Affected Clearing Participant”)</u>	<u>All of the Materially Affected Clearing Participants.</u>

Introduced [ ] / [ ]/13

*[Explanatory Note: The new Rule 14.2B provides that ASX Clear (Futures) will consult with the Consulting Clearing Participants in respect of any proposed amendment to the Rules and Procedures set out in the table, except in the circumstances referred to in sub-paragraphs (a), (b)and (c) above.]*

14.3 Subject to Rule 14.1~~and~~ 14.2 and 14.2A, the Rules may be amended from time to time in the manner provided in the Articles.

14.4 Only ASX Clear (Futures) can change the Rules or OTC Rules.

Introduced [ ] / [ ]/13

*[Explanatory Note: The new Rule 14.4 provides that only ASX Clear (Futures) can change the Rules or OTC Rules.]*

## **15 Bond and Repurchase Transactions**

- 15.1 (a) Upon the registration of each Market Contract in the form of a Bond Transaction or upon registration of each Market Contract in the form of a Repurchase Agreement (each such case being referred to in this clause 15 as a 'BRC Contract') with ASX Clear (Futures) such BRC Contract shall be extinguished and replaced by a BRC Contract with ASX Clear (Futures) in accordance with the Rules and the original parties shall be released from their obligations to each other.
- (b) All BRC Contracts referred to in paragraph (a) shall be between BRC Participants as principals and ASX Clear (Futures) shall not be obliged to recognise the interest of any party other than such BRC Participants and upon the registration of a BRC Contract with ASX Clear (Futures) ASX Clear (Futures) shall not be obliged to recognise the interest of any party other than the party to the BRC Contract with ASX Clear (Futures).
- (c) Where a BRC Contract is registered with ASX Clear (Futures), references in ASX Clear (Futures) Rules to the Buyer or Seller in a BRC Contract shall be read as references to the BRC Participant party to the BRC Contract with ASX Clear (Futures).
- (d) Where the BRC Participants to a BRC Contract wish to renegotiate or unwind a BRC Contract, they shall directly renegotiate between themselves and notify ASX Clear (Futures) of the agreed renegotiated details. ASX Clear (Futures) shall then amend the details of the BRC Contract. ASX Clear (Futures) shall not be liable to any person for loss or damage arising in relation to the making of any such amendment.

**16 Use of Exchange System**  
 (Added Jan 05)

**16.1 Licence over Clearing Software**

By meeting and continuing to meet the conditions set out in Rule 16.2, and subject to the Rules, a Clearing Participant is granted by ASX Clear (Futures) and continues to hold a non-transferable, non-exclusive Licence to use such part of the Clearing Software as is approved by ASX Clear (Futures).

**16.2 Conditions of Licence**

The conditions of a Licence granted by ASX Clear (Futures) under Rule 16.1 are that the Clearing Participant must:

- (a) use the Licensed Software solely for purposes in the ordinary course of business directly related to the Clearing Participant's activities as a Clearing Participant;
- (b) pay the Clearing Infrastructure Fee and any Support Fee;
- (c) not breach any Intellectual Property rights of ASX Clear (Futures) or any other third party in relation to the Licensed Software;
- (d) use the Licensed Software only in accordance with the Rules;
- (e) not make or permit others to make any copy of the Licensed Software other than for back-up purposes and only in the ordinary course of its back-up procedures;
- (f) not sub-license or otherwise transfer, assign, disclose or otherwise make available or supply the Licensed Software, or any part, version, copy, adaptation, enhancement, amendment, modification or new release of the Licensed Software to any other person without the consent of ASX Clear (Futures);
- (g) not transfer the Licensed Software to or network it with any site other than the site authorised by ASX Clear (Futures) from time to time;
- (h) not use the Licensed Software to process the data of any third party for the purposes of the business of such third party, except in accordance with the Rules;
- (i) not change, modify, amend or alter the Licensed Software or permit, employ or contract any other party (other than ASX Clear (Futures) or a party authorised by ASX Clear (Futures)) to do so;
- (j) not remove or deface any identification of ownership of copyright, trade mark or other proprietary rights connected with the Licensed Software;
- (k) not reverse assemble, reverse compile, reverse engineer, adapt, alter, decompile, modify, unlock or permit, assist or cause any other person to reverse assemble, reverse compile, reverse engineer, adapt, alter, decompile, modify or unlock the Licensed Software;
- (l) not derive works from the Licensed Software which infringe the Copyright Act 1968 (Cth);
- (m) not use or permit the use of the Licensed Software by any persons not authorised to do so;
- (n) not attach to the Licensed Software any item which is not Exchange Equipment or equipment approved by ASX Clear (Futures);
- (o) not disseminate data or confidential information generated by the Exchange System to a third party or allow a third party access to the Exchange System for the purpose of dissemination of that data or confidential information to others;

- (p) install any enhancements or upgrades to the Licensed Software as ASX Clear (Futures) may from time to time direct;
- (q) upon ASX Clear (Futures) giving the Clearing Participant reasonable notice, allow ASX Clear (Futures) to effect any enhancements or upgrades to the Licensed Software as required by ASX Clear (Futures);
- (r) only use the Licensed Software on a site or sites as ASX Clear (Futures) may from time to time agree to in writing;
- (s) use the Licensed Software in accordance with any operating instructions supplied by ASX Clear (Futures) or by any other party on behalf of ASX Clear (Futures);
- (t) use all reasonable endeavours to prevent reckless or negligent use or wilful abuse of the Licensed Software;
- (u) bear all costs of repairing or replacing damaged Licensed Software where such damage results from negligent or reckless use or wilful abuse of the Licensed Software on the part of the Clearing Participant, its officers or agents;
- (v) notify ASX Clear (Futures) as soon as possible in the event of a breakdown of, or malfunction in, or defect in, the Licensed Software;
- (w) not permit any unauthorised software to be installed or loaded in conjunction with the Licensed Software.

### **16.3 Title to Licensed Software and Ownership of any Intellectual Property rights**

- (a) With the exception of the non-exclusive Licence granted pursuant to Rule 16.1, use by a Clearing Participant of the Exchange System will not confer upon the Clearing Participant any right, title or interest in the Licensed Software.
- (b) Ownership of any Intellectual Property Rights in:
  - (i) The Licensed Software; and
  - (ii) any works within the meaning of the Copyright Act 1968 (Cth) derived from the Licensed Software,

will vest or remain vested in ASX Clear (Futures) or the relevant Licensor or any other entity as ASX Clear (Futures) or its Licensor (as the case may be) may in their sole discretion elect.

### **16.4 Warranty as to Title**

ASX Clear (Futures) warrants to each Clearing Participant to whom it grants a Licence in accordance with Rule 16.1 that it is authorised to grant the Licence and that the Clearing Participant is entitled to use the Licensed Software in accordance with the Rules.

### **16.5 Intellectual Property Rights Indemnity**

- (a) ASX Clear (Futures) agrees to indemnify each Clearing Participant to whom a Licence has been granted against any loss the Clearing Participant may suffer due to any claim by any third party that the use or possession by the Clearing Participant of the Licensed Software infringes any Intellectual Property right of that third party but only to the extent to which ASX Clear (Futures) is actually indemnified by its Licensors under the relevant licence agreements and provided that:
  - (i) ASX Clear (Futures) is given notice of the claim as soon as practicable after receipt of a written claim by the Clearing Participant from any such third party;

- (ii) ASX Clear (Futures) or its Licensors (as the case may be) are given complete control over such claim, and the Clearing Participant fully co-operates with ASX Clear (Futures) at ASX Clear (Futures)'s or its Lessor's reasonable expense in the conduct of such claim;
  - (iii) the Clearing Participant does not prejudice in any manner ASX Clear (Futures)'s or the Lessor's conduct of such claim;
  - (iv) the claim is not based upon the use of the Licensed Software in a manner:
    - (A) not authorised under these Rules;
    - (B) for which the Licensed Software was not designed; or
    - (C) not in accordance with the documentation provided by ASX Clear (Futures) or its Licensors; and
  - (v) ASX Clear (Futures) will not be obliged to indemnify the Clearing Participant for any claim of infringement based on the:
    - (A) use of an altered version of the Licensed Software unless such alteration was authorised in writing by ASX Clear (Futures);
    - (B) combination, operation or use of the Licensed Software with software, hardware, equipment or other materials not supplied by ASX Clear (Futures); or
    - (C) use of a superseded version of the Licensed Software where the Clearing Participant has failed to install an upgraded or enhanced version of the Licensed Software as directed by ASX Clear (Futures).
- (b) If a final injunction is obtained against the use of any part of the Licensed Software as a result of a claim under which ASX Clear (Futures) is obliged to indemnify the Clearing Participant under this Rule 16.5 and provided the Clearing Participant has fully complied with its obligations regarding any such claim, ASX Clear (Futures) may, at its absolute option and expense either:
- (i) procure for the Clearing Participant the right to continue to use the Licensed Software;
  - (ii) modify the Licensed Software so that it becomes non-infringing;
  - (iii) replace the Licensed Software with software offering substantially similar functions; or
  - (iv) terminate the Licence without any further liability to the Clearing Participant.
- (c) The Clearing Participant agrees to indemnify ASX Clear (Futures) for any loss or damage ASX Clear (Futures) may suffer due to any claim by a third party for actual or alleged infringement of any Intellectual Property right arising out of the Clearing Participant's use of the Exchange System in any manner prohibited by the Rules. [The maximum liability of the Clearing Participant to ASX Clear \(Futures\) under this paragraph \(c\) is \\$50,000,000.](#)

[Amended \[ \]/ \[ \]/2013\]](#)

#### **Explanatory Note**

Link to Procedures. Use\_of\_Exchange\_Systems

**17 Terms Relating to Exchange Equipment**  
 (Added Jan 05)

**17.1 Supply of Exchange Equipment**

- (a) Any Exchange Equipment supplied to a Clearing Participant will be supplied, installed and serviced subject to the Clearing Participant complying with the conditions in Rule 17.2 and subject to the Rules.
- (b) The quantity and type of Exchange Equipment supplied pursuant to Rule 17.1(a) shall be as approved by ASX Clear (Futures).
- (c) Any equipment supplied by a Clearing Participant in lieu of Exchange Equipment must comply with specifications approved by ASX Clear (Futures) and, if ASX Clear (Futures) so determines, must be installed by ASX Clear (Futures).

**17.2 Conditions of use of Exchange Equipment**

The conditions applicable to the supply and use of the Exchange Equipment by a Clearing Participant are that the Clearing Participant must:

- (a) pay the Clearing Infrastructure Fee and any Support Fee;
- (b) use the Exchange Equipment in accordance with any operating instructions supplied by ASX Clear (Futures) or by any other party on behalf of ASX Clear (Futures);
- (c) use all reasonable endeavours to maintain an environment suitable to keep the Exchange Equipment in effective working order and condition;
- (d) use all reasonable endeavours to prevent reckless or negligent use or wilful abuse of the Exchange Equipment;
- (e) bear all costs of repairing or replacing damaged Exchange Equipment where such damage results from negligent or reckless use or wilful abuse of the Exchange Equipment on the part of the Clearing Participant, its officers or agents;
- (f) notify ASX Clear (Futures) as soon as possible in the event of a breakdown of, or malfunction in, or defect in, the Exchange Equipment;
- (g) insure the Exchange Equipment to its full market value, such value to be advised in writing by ASX Clear (Futures);
- (h) not permit any unauthorised software to be installed or loaded onto the Exchange Equipment.

**17.3 Title to the Exchange Equipment and Insurance Requirements**

- (a) Title to the Exchange Equipment will remain with the Exchange and shall not pass to a Clearing Participant upon delivery of the Exchange Equipment to the Clearing Participant.
- (b) A Clearing Participant must effect and maintain adequate insurance cover with a reputable insurance company with respect to loss or damage to the Exchange Equipment and for any potential liability, loss or damage arising out of use of the Exchange Equipment and must produce on demand by ASX Clear (Futures) evidence of such insurance cover.

**18 Terms Relating to Both Licensed Software and Exchange Equipment**  
 (Added Jan 05)

**18.1 Responsibility of ASX Clear (Futures)**

ASX Clear (Futures) will:

- (a) supply and service the Exchange Equipment and the Licensed Software in the Sydney central business district, or such other location(s) as ASX Clear (Futures) may designate in writing, in accordance with the installation and servicing instructions for the Exchange Equipment and the Licensed Software or as otherwise provided by ASX Clear (Futures) from time to time;
- (b) subject to Rules 16.2(u) and 17.2(e), as soon as reasonably possible repair or replace damaged Exchange Equipment and Licensed Software;
- (c) liaise with the Clearing Participant concerning the Clearing Participant's requirements for Exchange Equipment and Licensed Software;
- (d) co-ordinate additions, reductions and relocations of Exchange Equipment and Licensed Software;
- (e) maintain an inventory of Exchange Equipment and Licensed Software and provide a copy of the same to the Clearing Participant upon reasonable request;
- (f) provide a facility for the Clearing Participant to report faults in the Exchange Equipment and Licensed Software to operational staff;
- (g) provide the Clearing Participant with upgrades or enhancements of the Licensed Software as and when they become available;
- (h) in consideration for payment by the Clearing Participant of Support Fee, provide the Clearing Participant with on-going support services during working hours (8.00 am to 5.00 pm Monday to Friday Sydney time), which will consist of:
  - (i) telephone support;
  - (ii) remote access support.
  - (iii) on-site support where ASX Clear (Futures) determines that support cannot be provided through the use of telephone support, or remote access capability.

**18.2 Responsibility for Security**

A Clearing Participant will be solely responsible for the use of the Exchange System by any person not authorised by ASX Clear (Futures) or for any misuse, damage or destruction of the Exchange System resulting from the use of the Exchange System by the Clearing Participant.

**18.3 Termination of Licence**

ASX Clear (Futures) may terminate a Licence granted under Rule 16.1 and the Clearing Participant's access to the Exchange System in the event that the Clearing Participant ceases to be a Clearing Participant under these rules.

Amended 01/08/10

**18.4 Suspension of Licence**

ASX Clear (Futures) may suspend a Clearing Participant's access to the Exchange System in the event that:

- (a) the Clearing Participant has been suspended under these Rules or

- (b) in the opinion of the Managing Director or his or her delegate, a physical emergency (as described in these Rules) occurs and the Managing Director (or in his or her absence, his or her delegate) or the Board, as the case may be, determines that such suspension is necessary to deal with the emergency;
- (c) except where such amount is disputed in good faith and without prejudice to any other rule relating to rights for late payment of fees in these Rules, the Clearing Participant fails to pay the Clearing Infrastructure Fee or any Support Fee within 30 days of the due date where ASX Clear (Futures) has issued a notice in writing to that effect to the Clearing Participant requiring payment, the Clearing Participant has failed to pay the amount set out in that notice within thirty days, ASX Clear (Futures) has issued a second notice, the Clearing Participant has failed to pay the amount set out in ASX Clear (Futures)'s second notice within a further seven days and the total amounts referred to in the second notice exceed 25% of the total amount due under that invoice.

## **18.5 Suspension to be Lifted**

If:

- (a) the Clearing Participant's suspension is lifted; or
- (b) a physical emergency ceases to exist; or
- (c) the Clearing Participant pays to ASX Clear (Futures) the amount referred to in Rule 18.4(c) as well as any other outstanding amount which has accrued from the date of the last notice issued by ASX Clear (Futures),

then ASX Clear (Futures) must immediately lift the suspension of the Clearing Participant's access to the Exchange System.

## **18.6 Clearing Participant's Obligations on Termination of Licence**

Upon termination of the Licence granted to it under Rule 16.1, a Clearing Participant will within 7 days of termination:-

- (a) cease use of the Exchange System, return all documentation relating to the Exchange System to ASX Clear (Futures) and certify in writing to ASX Clear (Futures) that it has complied with the foregoing;
- (b) return the Exchange Equipment and Licensed Software to ASX Clear (Futures); and
- (c) pay any outstanding Clearing Infrastructure Fee, Support Fee and other charges and expenses.

## **19 Miscellaneous**

### **19.1 Notice, Notification and Service of Documents**

If any Rule requires or permits the giving of notice of any matters to any person, the Rule requires or permits the giving to that person of a written document containing those matters.

Without limiting any other provision of Rules 19.1 (a) to (e) any notice to be given by a Clearing Participant to the Exchange must be given to the person holding the position notified by the Exchange to Clearing Participants and may be given in the manner set out in the Procedures. Any notice to be given by the Exchange to a person, firm or corporation may be given in the manner set out in the Procedures.

For the purposes of any Rule that requires or permits a document to be given to a person, whether the expression 'serve', 'give' or 'send' or any other expression is used, the document may be given, and will be taken to have been received, at the time and in the manner set out in the Procedures.

Nothing in this Rule 19.1(c) or the Procedures prevents documents being sent or given to, or served on, a person in any other manner required or permitted by law.

A Clearing Participant must acquire and maintain an operating e-mail system for the purposes of receiving notices under Rule 19.1(c).

If under these Rules the Exchange is to give notice to some or all Clearing Participants, accidental omission by the Exchange to give notice to one or more Clearing Participants does not affect the validity or enforceability of any resolution, decision, proceeding or act in connection with which the notice was to be given.

Introduced 01/01/12

## **20 Risk Committee**

ASX Clear (Futures) will invite all Clearing Participants to participate in a Risk Committee subject to the procedures set out in the Procedures, for the purpose of consulting on:

- (a) changes of the risk model of ASX Clear (Futures);
- (b) changes to the procedures on a Default set out in Part 7 (Procedures on a Default) of these Rules or the total size, structure and composition of the amounts available under Rule 7 or the default management process as described in Schedule 3 (Default Management Process) of the OTC Rules;
- (c) proposed amendments to the Rules;
- (d) introducing new asset classes for clearing or by forming new products through combining existing products;
- (e) changes to the method to determine eligible margin or the methods to determine haircuts (provided that ASX Clear (Futures) will be entitled to make such changes without consultation of the Risk Committee in individual cases in the normal course of business);
- (f) changes to the admission criteria (including the required minimum capital) for new Clearing Participants;
- (g) formation of new, and changes to existing, Liquidation Groups (as defined in the Default Management Procedures) of the OTC Rules;
- (h) policies of ASX Clear (Futures) which relate to membership approvals, positions or liquidity limits of Clearing Participants, and any proposed changes to those policies;

- (i) the process for the discontinuation of OTC Clearing (if applicable); and
- (j) all other matters which may have an impact on the risk management of ASX Clear (Futures) and its Clearing Participants.

Proposals and recommendations of the Risk Committee will be disclosed to the Board. ASX Clear (Futures) does not have any obligation to accept any proposal or recommendation made by, or take any action proposed by, the Risk Committee. However, it will provide reasons to the Risk Committee if it chooses not to follow any proposal or recommendation of the Risk Committee prior to taking, or not taking, any action.

**Explanatory Note**

Link to Procedures.

Introduced [ ]/f ]/13

[Explanatory Note: The new Rule 20 provides that ASX Clear (Futures) will invite all Clearing Participants to participate in a Risk Committee subject to the procedures set out in the Procedures, for the purpose of consulting with ASX Clear (Futures) on specified matters.]

~~20-21~~ to 29 Not in use.

The next page is 59.

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30

## Introduction

- 30.1 This Part of the Rules contains provisions dealing with the legal relationship created between Clearing Participants and ASX Clear (Futures). In particular this part provides for ASX Clear (Futures) to become a principal to each side of a contract traded on the Exchange or a BRC transaction notified to ASX Clear (Futures), and accepted for registration, by way of substitution of ASX Clear (Futures) as the opposite party to each contract.

### **31 Registration of a Market Contract with ASX Clear (Futures)**

- 31.1 (a) A Market Contract Recorded by the Exchange, or a BRC transaction notified to ASX Clear (Futures), in the manner Prescribed in the Schedules shall be deemed to have been presented to ASX Clear (Futures) by the Buyer and Seller (and in the case of a Market Contract in respect of which only the position of one party is to be registered with ASX Clear (Futures), by that Buyer or that Seller as the case may be) and shall be deemed to be registered with ASX Clear (Futures) at the time Prescribed in the Schedules. Only Clearing Participants shall be entitled to have Market Contracts registered in their name. (Amended 4/12/02)
- (b) (i) Where a Market Contract is Recorded by the Exchange incorrectly, upon correction of any such Recording in accordance with the Exchange Operating Rules the Market Contract registered shall also be deemed to be corrected and the Rules shall be read as if such Market Contract had originally been registered as corrected. ASX Clear (Futures) shall not be liable to any party as a result of any correction so made.
- (ii) In relation to Bond and Repurchase Clearing, where a Market Contract is recorded by ASX Clear (Futures) incorrectly, upon correction of any such recording the Market Contract registered shall be deemed to be corrected and the Rules shall be read as if such Market Contract had originally been registered as corrected. ASX Clear (Futures) shall not be liable to any party as a result of any correction so made.
- (c) Where a Market Contract is allocated and such allocation confirmed in accordance with Exchange Operating Rules prior to registration that Market Contract shall for the purposes of this Rule be deemed to be Recorded by the Exchange as so allocated and confirmed.
- (d) Particulars of a Market Contract not Recorded by the Exchange (through failure of the parties to advise particulars of that Contract to the Exchange or otherwise) may subsequently be presented for registration in the Prescribed manner and confirmed to ASX Clear (Futures) by both parties to the Market Contract if they are Clearing Participants (and in the case of a Market Contract in respect of which only the position of one party is to be registered with ASX Clear (Futures), by that Buyer or that Seller as the case may be) or if they are not Clearing Participants, their Guarantor Clearing Participant or Guarantor Clearing Participants and upon the acceptance of such particulars by ASX Clear (Futures) with the approval of the Relevant Exchange the Market Contract shall be registered with ASX Clear (Futures) and these Rules shall apply accordingly. (Amended 4/12/02)
- (e) (i) Where on the application of a Clearing Participant ASX Clear (Futures) is satisfied that a Market Contract which has been registered by ASX Clear (Futures) has been inadvertently Recorded by the Exchange incorrectly it may in its absolute discretion with the agreement of all parties, being the Buyer and Seller of the Market Contract and any Buyer and Seller of an Open Contract arising from the registration of such contract, correct the registration of such Market Contract so that such Market Contract shall be deemed to be registered as so corrected and the Rules shall apply accordingly. Any such correction may be made subject to any conditions imposed by ASX Clear (Futures), including the payment of Margin.
- (ii) In relation to Bond and Repurchase Clearing, where ASX Clear (Futures) is satisfied that a Market Contract which has been registered by ASX Clear (Futures) has been registered incorrectly it may in its absolute discretion with the agreement of all parties, being the Buyer and Seller of the Market Contract and any Buyer and Seller of an Open Contract arising from the registration of such contract, correct the registration of such Market Contract so that such Market Contract shall be deemed to be registered as so corrected and the Rules shall apply accordingly. Any such correction may be made subject to any conditions imposed by ASX Clear (Futures), including the payment of Margin and ASX Clear (Futures) shall not be liable to any party as a result of any correction so made.
- (f) **Misallocation**

Subject always to any objection made by the Exchange and/or ASX Clear (Futures) where an Open Contract has been incorrectly allocated by reason of inadvertence, then the Participant may, with the consent of:

- (i) the holder of the Open Contract; and
- (ii) the proposed holder of the Open Contract (the new holder),

correct such allocation within the Exchange Allocation & Clearing System, and such Open Contract shall be deemed to be held by the new holder of the open position as if the Open Contract had been allocated to the new holder of the Open Contract on the day of the trade, and the Rules shall be deemed to apply to such Open Contract as if such allocation had occurred in accordance with the Rules of the Relevant Exchange. Amounts held in the relevant Clearing Account shall be adjusted accordingly. (Amended 10/12/01)

31.2 Notwithstanding Rule 31.1 the Board or Managing Director or a delegate of either may in their absolute discretion at any time prior to registration decline to register a Market Contract in the name of a Clearing Participant or may impose conditions (including the deposit of Margin) on the registration of any Market

Contract, without being required to give any reason and shall notify any such decision to the Clearing Participant. ASX Clear (Futures) shall where practical consult with the Exchange and where registration relates to a Market Contract traded on a Related Exchange, that Related Exchange with respect to any decision under this Rule 31.2.

- 31.3
- (a) Upon and by virtue of registration with ASX Clear (Futures), a Market Contract shall be extinguished and two new contracts which shall be binding on ASX Clear (Futures) and Clearing Participants, shall come into existence:
    - (i) an Open Contract between ASX Clear (Futures) and the Buyer in terms identical to the Market Contract except that ASX Clear (Futures) shall have the rights and obligations as seller; and
    - (ii) an Open Contract between ASX Clear (Futures) and the Seller in terms identical to the Market Contract except that ASX Clear (Futures) shall have the rights and obligations of buyer.

The terms of each Open Contract shall be subject to these Rules.

- (b) Upon and by virtue of registration with ASX Clear (Futures) of only the position of the Buyer or of the Seller in a Market Contract, the Market Contract shall be extinguished and a new contract which shall be binding on ASX Clear (Futures) and the Clearing Participant, shall come into existence:
  - (i) an Open Contract between ASX Clear (Futures) and the Buyer in terms identical to the Market Contract except that ASX Clear (Futures) shall have the rights and obligations as seller; or
  - (ii) an Open Contract between ASX Clear (Futures) and the Seller in terms identical to the Market Contract except that ASX Clear (Futures) shall have the rights and obligations of buyer.

The terms of the Open Contract shall be subject to these Rules.

(Added 4/12/02)

31.4 Each Open Contract (whether Designated to a House Clearing Account or a Client Clearing Account) shall be between ASX Clear (Futures) and a Clearing Participant as a principal and not as an agent. No other person (including any Non-Clearing Trading Participant which is guaranteed by the Clearing Participant or with which the Clearing Participant has a Clearing agreement) shall have any rights or obligations under any Open Contract between the Clearing Participant and ASX Clear (Futures).

- 31.5
- (a) ASX Clear (Futures) shall be entitled to rely on the particulars of any Market Contract recorded with the Exchange being correct and shall not be bound to recognise any error in relation to such particulars.
  - (b) In relation to Bond and Repurchase Clearing ASX Clear (Futures) shall be entitled to rely on the particulars of any Market Contract notified to it as being correct and shall not be bound to recognise any error in relation to such particulars.

31.6 ASX Clear (Futures) shall not register any Market Contract in the name of a Clearing Participant which is not entitled under the Rules (whether under Rule 105 or otherwise) or Exchange Operating Rules to have a Market Contract registered in its name.

31.7 ASX Clear (Futures) shall not be obliged to meet its obligations under an Open Contract with a Clearing Participant where the Market Contract the registration of which gave rise to the Open Contract:

- (a) was entered into fraudulently by the Clearing Participant or the party to such Market Contract in relation to which the Clearing Participant holds an equivalent position (ie. of Buyer or Seller); or
  - (b) was, to the knowledge of the Clearing Participant or such party entered into with an intention by one or both parties to the Market Contract to Default; or
  - (c) was otherwise not entered into in a bona fide manner by the Clearing Participant or such party,
- provided that:
- (i) the rights provided under this Rule to ASX Clear (Futures) shall not relieve the Clearing Participant from any obligations to ASX Clear (Futures) under the Open Contract; and
  - (ii) the existence of or exercise of any rights under this Rule by ASX Clear (Futures) in relation to an Open Contract shall not affect or avoid ASX Clear (Futures) obligations under any other Open Contract whether or not arising from the registration of the same Market Contract.

31.8 ASX Clear (Futures) and each Clearing Participant acknowledge that Open Contracts are market netting contracts (as defined in the Payment Systems and Netting Act 1998) the terms of which incorporate any and all Rules which provide for or relate to the exercise of default rights, the netting, set-off or termination of obligations, the calculation or payment of termination values or net amounts ~~and obligations to pay deposits or margin calls, the obligation to make a payment, or a transfer of property, to meet a deposit or margin call, the enforcing of security, and the transfer of, or dealing with, rights, obligations or property~~ or which otherwise affect the rights and obligations of the parties to the contracts, including, without limitation, Part 4 of the Rules (including Rule 49.2), and Rule 72 and the OTC Rules (including OTC Rule 5).

| Introduced 13/07/09, amended 1/1/13

**31A Registration of a Market Contract Allocated to a Facility Participant**  
 (Added 4/12/02)

- 31A.1 Where a Market Contract is Allocated to a Facility Participant by a Full Participant, the Facility Participant agrees to accept that Market Contract or the position of either a Buyer or a Seller under a Market Contract for registration in accordance with these Rules provided the Full Participant arranges to have its trades registered with the Facility Participant by an entity that is a participant (as that term is defined in the Corporations Act) of the Facility Participant.
- 31A.2 Where the positions of a Buyer and of a Seller under a Market Contract are registered separately with ASX Clear (Futures) and a Facility Participant respectively, upon such registration the Market Contract shall be extinguished and two new contracts which shall be binding on ASX Clear (Futures) and the Facility Participant respectively shall come into existence:
- (a) an Open Contract between ASX Clear (Futures) and the Buyer or the Seller, as the case may be, in terms identical to the Market Contract except that ASX Clear (Futures) shall have the rights and obligations as the Seller or the Buyer as the case may be.
  - (b) a contract between a Facility Participant and the Seller or Buyer as the case may be in accordance with the rules of the Facility Participant.
- 31A.3 Where a Market Contract is Allocated to a Facility Participant prior to registration with ASX Clear (Futures), that Market Contract will not be registered with ASX Clear (Futures) in accordance with Rule 31 and the Market Contract will be deemed to be registered with the Facility Participant by the Buyer and Seller (or in the case of a Market Contract in respect of which only the position of one party is to be registered with ASX Clear (Futures), either the Buyer or the Seller, as the case may be) at the time the Market Contract is recorded with the Exchange.
- 31A.4 Subject to Rule 31A.5, where the Market Contract is not Allocated to a Facility Participant at the time it is recorded by the Exchange, the Market Contract will be registered with ASX Clear (Futures) in accordance with Rule 31.
- 31A.5 Where an Open Contract is Allocated to a Facility Participant after registration with ASX Clear (Futures) in the Exchange Allocation and Clearing System, the registration of that Open Contract with ASX Clear (Futures) shall be extinguished and a new open contract will be registered with the Facility Participant in accordance with its rules, such registration with the Facility Participant being deemed to have come into existence when the Market Contract was recorded by the Exchange in the manner prescribed in Schedule 1.
- 31A.6
- (a) Where a Market Contract is Recorded by the Exchange incorrectly, upon correction of any such Recording in accordance with the Exchange Operating Rules, the Market Contract registered with the Facility Participant shall also be deemed to be corrected, the Rules shall be read as if such Market Contract had originally been registered as corrected and ASX Clear (Futures) shall not be liable to any party as a result of any correction so made.
  - (b) Where a Market Contract is allocated and such allocation confirmed in accordance with Exchange Operating Rules prior to registration, that Market Contract shall for the purposes of this Rule be deemed to be Recorded by the Exchange as so allocated and confirmed.
  - (c) Particulars of a Market Contract not Recorded by the Exchange (through failure of the parties to advise particulars of that Contract to the Exchange or otherwise) may subsequently be presented for registration in the Prescribed manner and confirmed to the Facility Participant by both parties to the Market Contract or in the case of a Market Contract in respect of which only the position of one party is to be registered with ASX Clear (Futures), either the Buyer or the Seller, as the case may be and upon the acceptance of such particulars by ASX Clear (Futures) with the approval of the Relevant Exchange the Market Contract shall be registered with the Facility Participant and these Rules shall apply accordingly.
- 31A.7 In the case of a Market Contract in respect of which only the position of one party is to be registered with ASX Clear (Futures), there will exist a contract between the Facility Participant and ASX Clear (Futures) by virtue of the position of a party to a Market Contract that has been registered with the Facility Participant so that the Facility Participant will be subject to the same obligations of any other Clearing Participant in the same way as if that position had been registered with ASX Clear (Futures) in the name

of the Facility Participant including without limitation the obligations to pay Daily Settlement Amounts and Intra Day and Extra Margins.

- 31A.8 ASX Clear (Futures) will have contractual rights and obligations only with the Facility Participant and no other person (including any Clearing Participant of the Facility Participant) will have any rights or obligations under the contractual relationship referred to in Rule 31A.7 or otherwise.

## **32 Allocation of Open Contracts**

- 32.1 A Clearing Participant (the Allocating Clearing Participant) may within the period allowed by the Exchange Operating Rules, subject to the confirmation of the allocation by the Clearing Participant receiving the Allocation (the Allocated Clearing Participant), Allocate an Open Contract to another Clearing Participant (the Allocated Clearing Participant). An allocation pursuant to the Exchange Operating Rules to a Non-Clearing Trading Participant shall be deemed to be an Allocation to the Guarantor Clearing Participant of that Non-Clearing Trading Participant and an Allocation by a Non-Clearing Trading Participant pursuant to the Exchange Operating Rules shall be deemed to be an Allocation by the Guarantor Clearing Participant of the Non-Clearing Trading Participant. Upon the Allocated Clearing Participant confirming the Allocation within the period allowed by the Exchange Operating Rules or as Prescribed in the Schedules, unless ASX Clear (Futures) declines to accept an Allocation, the Open Contract between the Allocating Participant and ASX Clear (Futures) shall be extinguished and a new Open Contract will come into existence between ASX Clear (Futures) and the Allocated Clearing Participant on the same terms as the extinguished Open Contract.
- 32.2 ASX Clear (Futures) shall only accept Allocations by one Clearing Participant to another Clearing Participant. No Open Contract traded on the Exchange or a Related Exchange shall be allocated to any Clearing Participant which is not entitled under the Exchange or Related Exchange as the case may be Exchange Operating Rules to have a Market Contract registered with ASX Clear (Futures) in its name.
- 32.3 ASX Clear (Futures) may in its absolute discretion without giving any reason decline to accept the Allocation of an Open Contract or to accept such Allocation subject to conditions (including the deposit of Margin) being satisfied before or after such Allocation and a Clearing Participant shall comply with any such conditions. Any such decision shall be promptly notified to the relevant Clearing Participants.
- 32.4 The provisions of the Exchange Operating Rules relating to the allocation, confirmation and designation of Exchange Contracts insofar as they are stated to apply to Clearing Participants shall apply as though they were Rules of ASX Clear (Futures).
- 32.5 This clause 32 shall not apply to Open Contracts in the form of Bond Transactions or Repurchase Agreements.

### **33 Transfer of Contracts**

- 33.1 ASX Clear (Futures) may:
- (i) upon the request of a Clearing Participant and the consent of the Relevant Exchange; or
  - (ii) where provided in Exchange Operating Rules, at the direction of the Relevant Exchange; or
  - (iii) pursuant to Part 7 or Part 8 of the Rules,
- transfer an Open Contract held in the name of a Clearing Participant (the Transferor Clearing Participant) to another Clearing Participant (the Transferee Clearing Participant).
- 33.2 The Board or Managing Director may in their absolute discretion decline to effect a transfer without giving any reason.
- 33.3 A Transfer may be made subject to the Transferor Clearing Participant and Transferee Clearing Participant complying with any conditions imposed by ASX Clear (Futures) including the deposit of Margin, cash, securities, collateral or property by either or both of the Transferor and Transferee Clearing Participant or any other party.
- 33.4 The Transfer shall be effected in such manner and at such time as ASX Clear (Futures) determines and shall be subject to the acceptance of the Transferee Clearing Participant. For the purposes of determining the terms of the Open Contract to be transferred the determining time shall be the time of acceptance.
- 33.5 Upon the Transferee Clearing Participant accepting the Transfer in the manner prescribed in the Schedules the Open Contract between the Transferor Clearing Participant and ASX Clear (Futures) shall be extinguished and a new Open Contract will come into existence between ASX Clear (Futures) and the Transferee Clearing Participant to which the Open Contract has been transferred on the same terms as the extinguished Open Contract.

**34 Registration Fees and Exchange Fees**

- 34.1 A Clearing Participant shall pay to ASX Clear (Futures) such fees for the Registration of Market Contracts, creation of Open Contracts on the exercise of Option Contracts, the Transfer or Allocation of Open Contracts etc, as may be determined in accordance with Rule 3.2. Fees duly payable pursuant to the Rules may be deducted by ASX Clear (Futures) from any credit balance of any account of the Clearing Participant with ASX Clear (Futures).
- 34.2 ASX Clear (Futures) may deduct from the relevant Account held by the Clearing Participant with ASX Clear (Futures) any fees payable by the Clearing Participant to the Exchange whether on its own behalf or on behalf of another Participant of the Exchange with respect to the trading of Market Contracts in accordance with Exchange Operating Rules and shall remit such fees to the Exchange.

**35 Bond and Repurchase Clearing Fees**

- 35.1 A BRC Participant shall pay to ASX Clear (Futures) such fees for the Registration of Market Contracts as are determined in accordance with By-law 3.2. Fees duly payable pursuant to this Rule may be deducted by ASX Clear (Futures) from any credit balance of any account of the BRC Participant with ASX Clear (Futures).
- 35.2 The Board or Managing Director may, in their absolute discretion, waive the requirement for particular BRC Participants to pay fees; and for particular BRC Participants may vary the level of fees payable.

## 36 Transitional Provisions Relating to NZFOE Contracts After the Closure of the NZFOE Market

### 36.1 Definitions

For the purposes of this Rule 36:

Changeover Day	in respect of a Class of Contract listed on NZFOE, means the day which a Rule 10.2A determination becomes effective.
Class of Contract	All those Contracts which have the same Individual Contract Specifications
Dealer	means Dealer within the meaning of the Rules of NZFOE.
NZFOE	means New Zealand Futures & Options Exchange Limited
NZFOE Contract	means a contract which was executed on NZFOE in accordance with the Rules of NZFOE on or before the Changeover Day
Rule 10.2A determination	<p>means a determination made by NZFOE pursuant to Rule 10.2A of the NZFOE Rules:</p> <ul style="list-style-type: none"> <li>▪ to delete a Class of Contract from those listed for trading by NZFOE, where a Class of Contract is listed on the Exchange with substantially the same Contract Specifications as those of the Class of Contract to be deleted;</li> <li>▪ that all existing Open Positions in the NZFOE Contract the subject of the deletion shall cease to be NZFOE contracts; and</li> <li>▪ that all trading on the NZFOE of Contracts in the relevant class shall cease</li> </ul>
Time of Conversion	Time immediately after the time at which NZFOE determines that contracts which were executed on NZFOE cease to be NZFOE Contracts
Equivalent Class of Exchange Contract	A Class of Contract which is listed <del>on the</del> <ins>on the</ins> Exchange is an Equivalent Class of Exchange Contract to a Class of Contract listed on NZFOE <del>if the</del> <ins>if the</ins> Exchange has so determined.

36.2 This Rule 36 provides for NZFOE Contracts to be treated for the purposes of these Rules, as though they had been executed ~~on the~~ on the Exchange. Where such contracts are to be so treated they will, after the Time of Conversion, be subject to the Exchange Operating Rules.

36.3 Where an Open Position in an NZFOE Contract exists after the time on the Changeover Day which has been determined by NZFOE as the time at which trading shall cease in the Class of Contract to which the NZFOE Contract belongs, at the Time of Conversion:

- (a) the holder of that Open Position will be deemed to be the holder of an Open Position in an Equivalent Class of Exchange Contract;
- (b) each relevant Open Position in an NZFOE Contract will be deemed to be an Open Position in an Equivalent Class of Exchange Contract; and
- (c) moneys or securities provided to ASX Clear (Futures) for the purpose of initial margin and other deposits in respect of the Open Position in the NZFOE Contract will be held by ASX Clear (Futures) for the purpose of initial margin and other deposits in respect of the Open Position in an Equivalent Class of Exchange Contract.

36.4 If, after the Time of Conversion, it appears that there is no-one properly authorised to give instructions in relation to an Open Contract to which Rule 36.3 applies, or if there is no guarantee from a Clearing Participant (the Guarantor Clearing Participant) relevant to that Open Contract, then ASX Clear (Futures) may invoke Compulsory Settlement in respect of the relevant Open Position and the provisions of Rule 102 shall apply.

**37 Transitional Provisions Relating to ASX Grains Contracts**

**37.1 Definitions**

For the purposes of this Rule 37:

ASX	means ASX Limited.
Changeover Day	in respect of a Class of Contract listed on ASX, means the day which that Class of Contract becomes listed on the Exchange.
Class of Contract	means all those Contracts which have the same Individual Contract Specifications.
Equivalent Exchange Contract	Means an Exchange Contract which is equivalent to a Grains Contract (as determined by the Exchange).
Grains Contract	means a contract which was executed on ASX in accordance with the Rules of ASX on or before the Changeover Day, and which is to be transferred to the Exchange.
Time of Conversion	means the time immediately after the time at which ASX determines that contracts which were executed on ASX cease to be ASX Contracts.

Introduced 24/10/11

- 37.2 This Rule 37 provides for Grains Contracts to be treated, for the purposes of these Rules, as though they had been executed on the Exchange. Where such contracts are to be so treated they will, after the Time of Conversion, be subject to the ASX 24 Operating Rules.

Introduced 24/10/11

- 37.3 Where an open position in a Grains Contract exists, after the time on the Changeover Day which has been determined by ASX as the time at which trading shall cease in the Class of Contract to which the Grains Contract belongs, at the Time of Conversion:

- (a) the holder of that Open Position will be deemed to be the holder of an Open Position in an Equivalent Exchange Contract;
- (b) each relevant Open Position in an ASX Grains Contract will be deemed to be an Open Position in an Equivalent Exchange Contract;
- (c) moneys or securities provided to ASX Clear Pty Limited for the purpose of initial margin and other deposits in respect of the Open Position in the ASX Grains Contract will be held by ASX Clear (Futures) for the purpose of initial margin and other deposits in respect of the Open Position in an equivalent Exchange Contract.

Introduced 24/10/11

- 37.4 If, after the Time of Conversion, it appears that there is no-one properly authorised to give instructions in relation to an Open Position to which Rule 37.3 applies, or if there is no guarantee from a Clearing Participant (the Guarantor Clearing Participant) relevant to that Open Contract, then ASX Clear (Futures) may invoke Compulsory Settlement in respect of the relevant Open Position and the provision of Rule 102 shall apply.

Introduced 24/10/11

- 38-39 Not in use.

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**RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

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## Introduction

This Part of the Rules contains provisions whereby Open Positions are settled on a daily basis by ASX Clear (Futures) by a procedure known as settlement to market and new contracts opened on the same terms other than that they are at the Daily Settlement Price.

## 41 Accounts

- 41.1 An account shall be established at ASX Clear (Futures) with respect to each Clearing Participant and (unless otherwise Prescribed) in respect of such Relevant Exchanges at which the Market Contracts from the Clearing Participants' House Positions were originally traded, each such account to be known as a House Clearing Account. Each House Clearing Account shall be the account to which all monies or property owing to or from ASX Clear (Futures) in relation to relevant House Positions of a Clearing Participant shall be referable.
- ASX Clear (Futures) may establish an additional House Clearing Account for a Clearing Participant with respect to a single Relevant Exchange, to which all monies or property owing to or from ASX Clear (Futures) in relation to relevant House Positions of a Clearing Participant for a prescribed Group of Contracts shall be referable.
- 41.2 In addition to each House Clearing Account Participant which is an Exchange Dealing Participant a Client Clearing Account shall be established at ASX Clear (Futures) and (unless otherwise Prescribed) in respect of each Relevant Exchange at which the Market Contracts which Clearing Participants' Client Positions arose were originally traded, each such account to be known as a Client Clearing Account. Each Client Clearing Account shall be the account to which all monies or property owing to or from a Clearing Participant with respect to relevant Client Positions shall be referable and to which all liabilities relating to such Client Positions shall attach.
- ASX Clear (Futures) may establish an additional Client Clearing Account for a Clearing Participant with respect to a single Relevant Exchange, to which all monies or property owing to or from a Clearing Participant with respect to relevant Client Positions for a prescribed Group of Contracts shall be referable and to which all liabilities relating to such Client Positions shall attach.
- 41.3 Initial Margin, Variation Margin, Intra Day Margin or Extra Margin shall be calculable separately and (unless otherwise Prescribed) in respect of each Relevant Exchange for each House Clearing Account and Client Clearing Account of each Clearing Participant. Any Margin deposited with ASX Clear (Futures) by a Clearing Participant with respect to an Open Position shall be designated to the Account of that Clearing Participant to which the Open Position is designated. (Amended 28/10/02)
- 41.4 A Clearing Participant shall, with respect to all Positions held in its name with ASX Clear (Futures), designate in accordance with Exchange Operating Rules whether such Positions are Client Positions or House Positions. A Clearing Participant may with the approval of the Relevant Exchange and ASX Clear (Futures) alter such designation where the previous designation was made in error or is otherwise required in order to comply with the Exchange Operating Rules. Any such change in designation may be made subject to any condition imposed by ASX Clear (Futures) including a requirement that the Clearing Participant deposits further Initial Margins in relation to any Account of the Clearing Participant with ASX Clear (Futures).
- Pending any designation all positions shall be deemed to be House Positions unless ASX Clear (Futures) in its absolute discretion designates them as Client Positions.
- 41.5 Upon a Default by a Clearing Participant ASX Clear (Futures) may in accordance with Part 7 of the Rules apply any surplus in any House Clearing Account or any other account of that Clearing Participant with ASX Clear (Futures) (whether or not arising from obligations under the Rules) to meet any deficiency in any Client Clearing Account of the Clearing Participant but shall not apply any surplus in any Client Clearing Account to meet any deficiency in any House Clearing Account of that Clearing Participant.
- 41.6 All securities or other collateral or property held by ASX Clear (Futures) with respect to Positions designated to a Client Clearing Account or House Clearing Account shall be dealt with by ASX Clear (Futures) in the same way as monies paid to the relevant Account and shall be allocated by ASX Clear (Futures) to such account.
- 41.7 In no circumstances shall any monies payable to, or securities, collateral or other property required to be allocated to, a Client Clearing Account be paid to or allocated to or used on the account of or in relation to Positions designated to a House Clearing Account.

- 41.8 With respect to CFD Positions, Clearing Participants must maintain Client accounts referable to each CFD Client within the Client Clearing Account.

Explanatory Note:

For clarity, any money, security or other collateral or property held by ASX Clear (Futures) with respect to Positions referable to CFD Clients under Rule 41.8 can be used by ASX Clear (Futures) to meet any obligations with respect to a Client Clearing Account and are subject to the same rules in relation to the treatment of money, security or other collateral or property held by ASX Clear (Futures) in a Client Clearing Account.

#### **41A Bond and Repurchase Clearing Accounts**

- 41A.1 (a) An account shall be established at ASX Clear (Futures) with respect to each BRC Participant, each such account to be known as a BRC House Account. Each BRC House Account shall be the account to which all monies or property owing to or from ASX Clear (Futures) in relation to relevant House Positions of a BRC Participant shall be referable.
- (b) Amounts payable to ASX Clear (Futures) by a BRC Participant in relation to House Positions may be paid from the House Clearing Account or the BRC House Account, at the discretion of the BRC Participant.
- 41A.2 Margins shall be calculable separately for each BRC House Account of each BRC Participant. Any Margin deposited with ASX Clear (Futures) by a BRC Participant with respect to an Open Position shall be designated to the Account of that BRC Participant to which the Open Position is designated.
- 41A.3 Upon a Default by a BRC Participant ASX Clear (Futures) may in accordance with Part 7 of the Rules apply any surplus in any BRC House Account or any other account of that BRC Participant with ASX Clear (Futures) (whether or not arising from obligations under the Rules) to meet any deficiency of the BRC Participant.

**Relationship with ASX Clear (Futures)**

The payment of margin or settlement monies into a Client Clearing Account of a Clearing Participant or the designation by a Clearing Participant of an Open Position as a Client Position shall not in any way derogate from the fact that ASX Clear (Futures) is dealing with Clearing Participants as principals as provided for in Rule 31 and 31A, and ASX Clear (Futures) shall not in any way be required to recognise any clients of the Clearing Participant and shall not be in any way responsible for the performance of the obligations under Open Contracts to such clients. ASX Clear (Futures) shall not in any way, be on notice in relation to any matter arising between the Clearing Participant and any Client or otherwise affecting the Client. A Clearing Participant's obligations as principal to ASX Clear (Futures) shall extend to any monies owing to ASX Clear (Futures) in relation to any account established in relation to a Clearing Participant at ASX Clear (Futures) including (subject to Rule 41.7) any Client Clearing Account.

## 43 Initial Margin and Other Deposits

- 43.1 A Clearing Participant shall deposit with respect to each Open Position with ASX Clear (Futures) an amount determined by ASX Clear (Futures) in its absolute discretion from time to time (whether before or after the opening of such Open Position) upon demand or by such time as is Prescribed in the Schedules or is required by the Board or the Managing Director or his delegate. Such amount shall be held by ASX Clear (Futures) which shall be entitled to apply it in satisfaction of performance by the Clearing Participant of its obligations pursuant to these Rules. The Clearing Participant shall not be entitled to a refund or repayment of any amount so deposited except in accordance with these Rules and until the Position is Closed Out or completed by Delivery or acceptance of Delivery or is Mandatory Cash Settled. In this regard ASX Clear (Futures) shall without limitation of any other rights of ASX Clear (Futures) under the Rules have the rights of set-off referred to in Rule 47. ASX Clear (Futures) may in its absolute discretion accept the provision of securities or other collateral or property as a deposit instead of cash and may determine the valuation of any such property or securities for that purpose. ASX Clear (Futures) may from time to time require the provision of a deposit by way of further cash, securities, collateral or property to be deposited to ensure that the valuation of such securities or property and any cash is at least equal to the Initial Margin Liability of the Clearing Participant or may require that any securities or property be replaced with cash. The obligation upon a Clearing Participant to make a deposit pursuant to this Rule shall be in addition to any other obligation of the Clearing Participant to make deposits of cash, securities, collateral or property as otherwise provided in accordance with the Rules.
- 43.2 ASX Clear (Futures) may determine a higher rate of Initial Margin for a particular Clearing Participant or for all or some Clearing Participants for a particular Exchange Contract or contract month or options series or in such other manner as it considers appropriate.
- 43.3 Initial Margins applicable to Open Positions held by Clearing Participants may be changed from time to time and relate to both existing and new Open Positions.
- 43.4 The Board may Prescribe the amount of Initial Margin which a Clearing Participant shall deposit in relation to Open Contracts in the absence of any other determination requiring a greater Initial Margin pursuant to Rule 43. Such prescription may include provision for reduced amounts in circumstances Prescribed in the Schedules for example in relation to spread positions or where there are offsetting positions (whether registered or not). The Board may not reduce the amount of Initial Margin applicable pursuant to this Rule 43.4 relating to products executed on the Exchange or a Related Exchange without the consent of the Exchange, and where the Exchange Contract is that of a Related Exchange, the consent of the Related Exchange.
- 43.5 If a Clearing Participant is an OTC Participant then, without limiting the discretions of ASX Clear (Futures) in the calculation of Initial Margin, the calculation of Initial Margin with respect to that Clearing Participant will take into account any OTC Allocated Futures Contracts.

Introduced [ ]/[ ]/13

*[Explanatory Note: The new Rule 43.5 provides for portfolio margining in respect of a relevant OTC Participant.]*

## **43A      BRC Initial Margins and Other Deposits**

- 43A.1 A BRC Participant shall deposit with respect to each Open Position with ASX Clear (Futures) an amount determined by ASX Clear (Futures) in its absolute discretion from time to time (whether before or after the opening of such Open Position) upon demand or by such time as is Prescribed in the Schedules or is required by the Board or the Managing Director or his delegate. Such amount shall be held by ASX Clear (Futures) which shall be entitled to apply it in satisfaction of performance by the BRC Participant of its obligations pursuant to these Rules. The BRC Participant shall not be entitled to a refund or repayment of any amount so deposited except in accordance with these Rules and until the Bond Transaction or Repurchase Agreement is Closed Out or completed. In this regard ASX Clear (Futures) shall without limitation of any other rights of ASX Clear (Futures) under the Rules have the rights of set-off referred to in Rule 48.
- ASX Clear (Futures) may in its absolute discretion accept the provision of securities or other collateral or property as a deposit instead of cash and may determine the valuation of any such property or securities for that purpose. ASX Clear (Futures) may from time to time require the provision of a deposit by way of further cash, securities, collateral or property to be deposited to ensure that the valuation of such securities or property and any cash is at least equal to the Initial Margin Liability of the BRC Participant or may require that any securities or property be replaced with cash. The obligation upon a BRC Participant to make a deposit pursuant to this Rule shall be in addition to any other obligation of the BRC Participant to make deposits of cash, securities, collateral or property as otherwise provided in accordance with the Rules.
- 43A.2 ASX Clear (Futures) may in appropriate circumstances or for particular transactions or class of transactions, waive the requirement to pay Margins or determine a higher or lower rate of Initial Margin for a particular BRC Participant.
- 43A.3 Initial Margins applicable to Open Positions held by BRC Participants may be changed from time to time and relate to both existing and new Open Positions.
- 43A.4 The Board may Prescribe the amount of Initial Margin which a BRC Participant shall deposit in relation to Open Contracts in the absence of any other determination requiring a greater Initial Margin pursuant to Rule 43A. Such prescription may include provision for reduced amounts in circumstances Prescribed in the Schedules.

#### **44 Daily Settlement**

- 44.1 ASX Clear (Futures) shall on each Business Day of the Relevant Exchange after the determination of the Daily Settlement Price and at any other Prescribed time effect settlement to market of all Open Contracts arising from Market Contracts traded prior to the Prescribed time, at the Daily Settlement Price.
- 44.2 Daily Settlement of an Open Contract shall be effected by:
- (a) the deemed creation of an Open Contract on the same terms as the Open Contract to be Daily Settled (other than as to price which shall be the Daily Settlement Price) except that the Open Contract created shall be to the opposite effect such that an Open Contract where ASX Clear (Futures) is Buyer shall give rise to an Open Contract where ASX Clear (Futures) is Seller and vice versa. The Open Contract so created shall be referred herein as a Settlement Contract;
  - (b) such Settlement Contract shall be settled against the relevant Open Contract, and Daily Settlement Amounts paid in accordance with Rule 44.4. Upon such settlement, the Open Contract being settled and the Settlement Contract shall be extinguished; and
  - (c) a New Open Contract on the same terms as the Open Contract settled shall be created on the same terms other than as to price (which in the case of Option Contracts shall refer to the Premium) and such contracts shall be created at the Daily Settlement Price.
- 44.3 In the case of Options the settlement made under Rule 44.1 and 44.2 shall be made with respect to the premium.
- 44.4 Subject to Rule 47, on the Business Day of the Relevant Exchange following the determination of the relevant Daily Settlement Price in relation to an Open Position:
- (a) Each Clearing Participant shall by the Prescribed time or on demand, pay to ASX Clear (Futures) any Daily Settlement Amount owing with respect to Open Positions held by it.
  - (b) ASX Clear (Futures) shall pay any Daily Settlement Amounts owing to the Clearing Participant holding the Open Position to the respective Clearing Participant.
- 44.5 Amounts paid to ASX Clear (Futures) by a Clearing Participant with respect to Open Positions which have been designated as House Open Positions and Client Open Positions shall be paid to the relevant House Clearing Account and Client Clearing Account respectively held with respect to that Clearing Participant.
- 44.6 Amounts paid to a Clearing Participant with respect to Open Positions which have been designated as House Open Positions or Client Open Positions shall be paid from the relevant House Clearing Account or Client Clearing Account held with respect to that Clearing Participant, respectively.
- 44.7 Amounts paid by ASX Clear (Futures) from a Client Clearing Account held with respect to a Clearing Participant shall be paid to a Clients' Segregated Account of the Clearing Participant.
- 44.8 Amounts payable under this Rule 44 shall be paid by the Prescribed time.

**44A      BRC Variation Margin**

- 44A.1 By-law 44 shall not apply to Bond Transactions and Repurchase Agreements. ASX Clear (Futures) will specify the method of calculation for, or directly determine, the Daily Closing Values and BRC Variation Margins applicable to Bond Transactions and Repurchase Agreements. (Amended 28/10/02)
- 44A.2 ASX Clear (Futures) shall on each BRC Business Day after the determination of the Daily Closing Values for Bond Transactions and Repurchase Agreements and at any other Prescribed time calculate BRC Variation Margins by marking to market all Open Contracts arising from Market Contracts for Bond Transactions and Repurchase Agreements notified to and accepted by ASX Clear (Futures) prior to the Prescribed time. (Amended 28/10/02)
- 44A.3 Subject to Rule 48:
- (a) On the BRC Business Day following the determination by ASX Clear (Futures) of the relevant Daily Closing Value and BRC Variation Margin in relation to each BRC Open Position, each BRC Participant shall by the Prescribed time or on demand pay to ASX Clear (Futures) any BRC Variation Margin owing with respect to each BRC Open Positions held by it. (Amended 28/10/02)
  - (b) BRC Variation Margin paid to ASX Clear (Futures) shall be retained by ASX Clear (Futures) until ASX Clear (Futures) returns the BRC Variation Margin to the BRC Participant who paid it, either on settlement of the relevant Bond Transaction or Repurchase Agreement or prior to settlement in accordance with ASX Clear (Futures)'s margining policy. (Amended 28/10/02)
- 44A.4 ASX Clear (Futures) will pay interest to the BRC Participant, at a rate determined by ASX Clear (Futures), during the period that a BRC Variation Margin is retained by ASX Clear (Futures) under Rule 44A.3(b). (Added 28/10/02)
- 44A.5 Amounts paid to ASX Clear (Futures) by a BRC Participant with respect to Open Positions which have been designated as BRC House Open Positions shall be paid to the relevant BRC House Account held with respect to that BRC Participant.
- 44A.6 Amounts paid to a BRC Participant with respect to Open Positions which have been designated as House Open Positions shall be paid from the relevant BRC House Account held with respect to that BRC Participant.
- 44A.7 Amounts payable under this Rule 44A shall be paid by the Prescribed time.

## **45 Intra Day and Extra Margins**

- 45.1 A Clearing Participant shall by no later than the Prescribed time on each Business day of the Relevant Exchange deposit with ASX Clear (Futures) by way of Intra Day Margin amounts owing as a result of the revaluation in the prescribed manner of Open Contracts held by it.
- 45.2 In addition to or instead of the Intra Day Margins provided by Rule 45.1 ASX Clear (Futures) may at any time require at its absolute discretion a Clearing Participant or all or any Clearing Participants by a time determined by the Board or Managing Director to deposit as Extra Margin further cash, securities, margin or cover for Open Contracts or Market Contracts eligible to be registered having regard to movements in the price of Market Contracts traded in any market of the Exchange.
- 45.3 In the absence of any other determination by the Board or Managing Director either generally or in a particular case the time for deposit of Extra Margin called pursuant to Rule 45.2 shall be one hour.
- 45.4 Where a Market Contract, in respect of which only the position of one party is to be registered with the Facility Participant, is registered with a Facility Participant, the Facility Participant may call on ASX Clear (Futures) to deposit with the Facility Participant by way of Intra Day Margin amounts owing as a result of the revaluation in the prescribed manner of Open Contracts held by it with respect to the other position of that Market Contract. (Added 4/12/02)
- 45.5 In addition to or instead of the Intra Day Margins provided by Rule 45.4, where a Market Contract, in respect of which only the position of one party is to be registered with the Facility Participant, is registered with a Facility Participant, the Facility Participant may at any time require ASX Clear (Futures) to deposit as Extra Margin further cash, securities, margin or cover for Open Contracts or Market Contracts eligible to be registered having regard to movements in the price of Market Contracts traded in any market of the Exchange. (Added 4/12/02)

**45A      BRC Intra Day and Extra Margins**

- 45A.1 A BRC Participant shall by no later than the Prescribed time on each business day deposit with ASX Clear (Futures) by way of Intra Day Margin amounts owing as a result of the revaluation in the prescribed manner of Open Contracts held by it.
- 45A.2 In addition to or instead of the Intra Day Margins ASX Clear (Futures) may at any time require at its absolute discretion a BRC Participant or all or any BRC Participants by a time determined by the Board or Managing Director to deposit as Extra Margin further cash, securities, margin or cover for Open Contracts or Market Contracts eligible to be registered having regard to movements in the price of Market Contracts.
- 45A.3 In the absence of any other determination by the Board or Managing Director either generally or in a particular case the time for deposit of Extra Margin called pursuant to Rule 45A.2 shall be one hour.

## 46 Daily Close-Out of Matched Positions

- 46.1 At the prescribed time on a Business Day of the Exchange, or of any Related Exchange in relation to those Open Positions as determined by ASX Clear (Futures) arising from Exchange and a Related Exchange each Clearing Participant shall advise ASX Clear (Futures), in the manner Prescribed of the number of Open Positions which it wishes to remain open and ASX Clear (Futures) shall Close Out any excess opposite Open Positions. Contracts so Closed Out and the resulting settlement amount shall be payable by or to ASX Clear (Futures) as the case may be.
- 46.2 Any advice provided to ASX Clear (Futures) pursuant to Rule 46.1 shall be made in compliance with any applicable provisions of the Exchange Operating Rules relating to the maintenance of Open Positions at ASX Clear (Futures).
- 46.3 Where a Clearing Participant advises that a request made pursuant to Rule 46.1 was made in error and requests that Open Contracts extinguished in accordance with Rule 46.2 be reinstated ASX Clear (Futures) may subject to the approval of the Relevant Exchange reinstate such Open Contracts and such Open Contracts shall be deemed never to have been Closed Out. Such reinstatement may only occur subject to any conditions imposed by ASX Clear (Futures) including the payment of Margin.
- 46.4 Where Rule 46.1 does not apply to a Related Exchange a Clearing Participant may request ASX Clear (Futures) to Close Out any opposite Open Positions and ASX Clear (Futures) may give effect to such request.
- 46.5 ASX Clear (Futures) may give directions to Clearing Participants to exclude from its advice pursuant to Rule 46.1 certain Open Positions which do not, in the opinion of ASX Clear (Futures), contribute to market liquidity. A Clearing Participant must comply with any such direction given by ASX Clear (Futures).

### **Explanatory Note**

Link to Procedures. Procedure\_Forty\_Six\_point\_Five

A Determination has been made that an Open Position in a CFD contract cannot be closed out under Rule 46.1 unless the Open Position are for the same beneficial client for the same CFD Contract. The definition of client for the reporting of Open Positions for the Open Interest Charge calculation means;

“Any person, firm or corporation (including a Related Body Corporate) on behalf of whom a Participant or a client of a Participant provides instructions to enter, acquire or dispose of a CFD”.

## 47 Offset – Daily Settlement Amounts

- 47.1 Each Business Day of the Relevant Exchange ASX Clear (Futures) shall in relation to each Clearing Participant calculate separately with respect to its relevant Client Clearing Accounts and House Clearing Accounts:
- (a) The sum of all Daily Settlement Amounts payable by the Clearing Participant in respect of the Daily Settlements of the previous Business Day of the Relevant Exchange and all amounts payable by the Clearing Participant to ASX Clear (Futures) in respect of Open Contracts which were Closed Out prior to that Daily Settlement and after the previous Daily Settlement.
  - (b) The sum of all Daily Settlement Amounts payable by ASX Clear (Futures) to the Clearing Participant in respect of Daily Settlements of the previous Business Day of the Relevant Exchange and all amounts payable by ASX Clear (Futures) to the Clearing Participant in respect of Open Contracts which were Closed Out prior to that Daily Settlement and after the previous Daily Settlement.
- If the amount payable by the Clearing Participant under paragraph (a) is greater than the amount payable by ASX Clear (Futures) under paragraph (b) then the Clearing Participant shall pay the difference to ASX Clear (Futures).
- If the amount payable by ASX Clear (Futures) under paragraph (b) is greater than the amount payable by the Clearing Participant under paragraph (a) then, subject to this Rule 47, and the deduction of any amounts otherwise owing by the Clearing Participant or to the Clearing Participant including amounts with respect to Mandatory Settlements, Deliveries or otherwise, ASX Clear (Futures) shall pay the difference to the Clearing Participant.
- 47.2 ASX Clear (Futures) may, at any time:
- (a) combine or consolidate the balances (whether arising from Settlements, Margin payments or otherwise) in respect of all or any of the Open Contracts relating to Open Positions designated to a Clearing Participant's House Clearing Accounts; and/or
  - (b) set-off any amount or amounts standing from time to time to the credit of any of the Clearing Participants House Clearing Accounts, in or towards payment or satisfaction of all or any of that Clearing Participant's liabilities to ASX Clear (Futures) in respect of:
    - (i) Open Contracts relating to Open Positions designated to any of that Participant's House Clearing Accounts; or
    - (ii) Open Contracts relating to Open Positions designated to any of the Clearing Participant's Client Clearing Accounts, to the extent of any shortfall where proceeds of a Client Clearing Account are insufficient to meet its liabilities to ASX Clear (Futures) in respect of Open Contracts designated to that Account.
- 47.3 ASX Clear (Futures) may combine or consolidate the balances (whether arising from Settlements, Margin payments or otherwise) in respect of all or any of the Open Contracts designated to a Clearing Participant's Client Clearing Accounts and to set-off any amount or amounts standing from time to time to the credit of any of a Clearing Participant's Client Clearing Accounts in or towards payment or satisfaction of all or any of the Clearing Participant's liabilities to ASX Clear (Futures) in respect of Open Contracts designated to the Clearing Participant's Client Clearing Accounts.
- 47.4 Debit balances due to ASX Clear (Futures) on the Clearing Participant's House Clearing Accounts or Client Clearing Accounts are to be paid by the Clearing Participant to ASX Clear (Futures) on demand.

**48 BRC Offset**

- | 48.1 BRC Variation ~~Margin~~Margin payable to a BRC Participant may be offset against any BRC Variation payable by that BRC Participant. (Amended 28/10/02)
- 48.2 Debit balances due to ASX Clear (Futures) on the BRC Participant's BRC House Accounts are to be paid by the BRC Participant to ASX Clear (Futures) on demand.

**49 Excess Deposits**

(Added 21/06/04, amended 1/1/13)

- 49.1 All deposits held by ASX Clear (Futures) in a Clearing Participant's House Clearing Account or Client Clearing Account, including any monies deposited in excess of a Clearing Participant's Margin and Daily Settlement obligations at the time of the deposit, are deemed to have been deposited for the purpose of satisfying Margin and Daily Settlement obligations.
- 49.2 Deposits held by ASX Clear (Futures) which are in excess of a Clearing Participant's Margin and Daily Settlement obligations from time to time are refundable to the Clearing Participant by ASX Clear (Futures) upon demand, provided that ASX Clear (Futures) is satisfied, in its absolute discretion, that such deposits will not be required to satisfy the Clearing Participant's obligations under the Rules (including a Margin or Daily Settlement obligation ~~regarding an Open Position~~).

*[Explanatory Note: The amendment to Rule 49.2 provides that excess deposits held by ASX Clear (Futures) are refundable to a Clearing Participant on demand provided that ASX Clear (Futures) is satisfied that such deposits will not be required to satisfy the Clearing Participant's obligations under the Rules.]*

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## Introduction

50.1 This part of the Rules contains provisions in relation to the exercise of options and premiums.

**51      Obligations of ASX Clear (Futures) Regarding Options**

51.1     ASX Clear (Futures) shall give effect to the exercise of Open Positions which are Option Contracts, in accordance with Exchange Operating Rules and the Rules.

## 52 Exercise and Abandonment of Options

- 52.1 ASX Clear (Futures) shall act on an Exercise Request and/or Deny Automatic Exercise Request with respect to an Option Contract in accordance with the terms of Open Contracts and the Exchange Operating Rules. (Amended 10/12/01)
- 52.2 Subject to any provisions in the Exchange Operating Rules relating to the Exercise of Options, a Clearing Participant that has not previously lodged an Exercise Request and/or Deny Automatic Exercise Request in accordance with Rule 52, will at the last time for exercise of an Option Contract be deemed to have exercised an Option Contract:
- (a) where in the case of a Futures Option Contract upon the exercise of which the Futures Contract which vests in the holder of the Option Contract would result in an obligation of ASX Clear (Futures) to pay a Mandatory Settlement Amount to the holder, (an “in the money option”);
  - (b) in the case of a Physical Option Contract, in the prescribed circumstances,
- and shall be deemed to have abandoned all other Option Contracts. (Amended 10/12/01)
- 52.3 Exercise Requests and/or Deny Automatic Exercise Requests must be lodged in the Exchange Allocation & Clearing system in the Prescribed form and any exercise made pursuant to such requests shall be final and may not be withdrawn. ASX Clear (Futures) may act upon any such Exercise Request and/or Deny Automatic Exercise Requests and is under no obligation to check the accuracy or validity of any Exercise Request and/or Deny Automatic Exercise Requests lodged in the Exchange Allocation & Clearing System but may reject such exercise or denial if it believes it to be made contrary to the Exchange Operating Rules or the Rules. (Amended 10/12/01)
- 52.4 ASX Clear (Futures) may Exercise or Abandon Option Contracts in accordance with Part 7 or Part 8 of the Rules.
- 52.5 Upon the Exercise of a Futures Option Contract, in relation to the Futures Contract which is the subject of the Futures Option Contract (underlying Futures Contract).
- (a) In the case of a call option:
    - (i) an Open Contract in the underlying Futures Contract shall arise at the exercise price between ASX Clear (Futures) and the Buyer of the Option with ASX Clear (Futures) as Seller and the Buyer of the Option as Buyer;
    - (ii) an Open Contract in the underlying Futures Contract shall arise at the exercise price between ASX Clear (Futures) and a Seller, as appointed by ASX Clear (Futures) in its absolute discretion, (being a Seller holding the Selling position under an Open Contract which is a Futures Option Contract in the same series) of an option, with ASX Clear (Futures) as Buyer and the Seller of the Option as Seller and such option shall thereby be deemed to be exercised.
  - (b) In the case of a put option:
    - (i) an Open Contract in the underlying Futures Contract shall arise at the exercise price between ASX Clear (Futures) and the Buyer of the Option with ASX Clear (Futures) as Buyer and the Buyer of the Option as Seller;
    - (ii) an Open Contract in the underlying Futures Contract shall arise at the exercise price between ASX Clear (Futures) and a Seller as appointed by ASX Clear (Futures) in its absolute discretion, (being a Seller holding the selling position under an Open Contract which is a Futures Option Contract in the same series) of an option, with ASX Clear (Futures) as Seller and the Seller of the Option as Buyer and such option shall thereby be deemed to be exercised,
- and the Open Contracts thereby arising in each case shall be deemed to arise from the registration of a Market Contract.

**53 Premium**

- 53.1 Premiums shall be paid by and to Clearing Participants in accordance with the Rules and the Exchange Operating Rules.
- 53.2 Sellers of Futures Option Contracts shall only be entitled to receive premiums where there is a corresponding obligation of Buyers to pay premiums in accordance with the Exchange Operating Rules.

**54 Settlement of Physical Options Contracts**

54.1 Upon the exercise of a Physical Options Contract it shall be settled in the manner provided in Exchange Operating Rules or as Prescribed in the Schedules.

55-59 Not in use.

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## Introduction

- 60.1 This Part of the Rules contains provisions for the Mandatory Cash Settlement of Cash Settlement Contracts and for delivery under Deliverable Contracts.

**61      Obligations of ASX Clear (Futures)**

- 61.1     ASX Clear (Futures) shall effect the Mandatory Cash Settlement of Open Contracts which are Cash Settlement Contracts, in accordance with Exchange Operating Rules and these Rules.
- 61.2     ASX Clear (Futures) shall make and take or cause to be made and taken by buyers and sellers delivery of Commodities in relation to Open Contracts which are Deliverable Contracts, in accordance with the Exchange Operating Rules and these Rules.

**62 Mandatory Cash Settlement**

- 62.1 Mandatory Cash Settlement shall be effected subject to the Rules by ASX Clear (Futures) paying or receiving the Mandatory Cash Settlement Amount in accordance with the terms of Open Contracts and the Exchange Operating Rules.

## 63 Delivery Procedures

- 63.1 Subject to the Exchange Operating Rules, Delivery under Deliverable Contracts shall at the absolute discretion of ASX Clear (Futures) be effected by:
- (a) ASX Clear (Futures) directing Clearing Participants holding Open Contracts under which they are obliged to make or take delivery to make delivery to or take delivery from a Clearing Participant holding an opposite obligation nominated by ASX Clear (Futures) and to make or receive the settlement amount accordingly. Clearing Participants shall comply with any direction so given and any failure to do so shall be deemed to be a Default; or
  - (b) ASX Clear (Futures) making or taking delivery under Open Contracts subject to delivery obligations and paying or receiving the settlement amounts accordingly. Any failure by a Clearing Participant to give or take delivery or pay the settlement amount under an Open Contract with ASX Clear (Futures) shall be deemed to be a Default.
- 63.2 Delivery effected under Rule 63.1 shall be a full and complete discharge of obligations under the relevant Open Contracts.
- 63.3 A Clearing Participant shall comply with all provisions of Exchange Operating Rules or the Rules and the terms of Open Contracts relating to the delivery of information, documents or Commodity to ASX Clear (Futures) or to Clearing Participants and shall comply with all time limits therein imposed. Clearing Participants shall be obliged to accept Delivery of any Commodity made in accordance with the Rules and the Exchange Operating Rules.
- 63.4 ASX Clear (Futures) shall be under no obligation to check any Commodity or document received from a Clearing Participant in relation to an obligation to give or take delivery under an Open Contract. The passing on of such Commodity or a direction to deliver to a Clearing Participant in respect to which ASX Clear (Futures) is making or taking delivery shall not be taken to be acceptance of such Commodity or document by ASX Clear (Futures) and rejection of such Commodity or documents by such Clearing Participant in accordance with the Exchange Operating Rules or the Rules shall be deemed to be a rejection by ASX Clear (Futures).
- 63.5 ASX Clear (Futures) shall have no liability with respect to any forged Commodity or document delivered to Clearing Participants pursuant to Rule 63.1 (whether by or at the direction of ASX Clear (Futures)) and the sole recourse of the Clearing Participant receiving such forged Commodity or document shall be to the Clearing Participant which delivered or caused to be delivered that forged Commodity or document to the Clearing Participant or ASX Clear (Futures) and ASX Clear (Futures) shall have no liability under any Open Contract as a result of any ~~non-fulfilment~~ non-fulfilment of that Open Contract because of such forgery.
- 63.6 Where ASX Clear (Futures) is obliged under Open Contracts to make or have effected delivery of a Commodity and does not receive delivery or delivery is not available, under an Open Contract opposite in effect in accordance with the Rules it shall not be obliged to effect or have effected delivery of the Commodity but may effect cash settlement with the Buyer at a price determined by the Relevant Exchange which price may include any compensation determined by the Relevant Exchange pursuant to Exchange Operating Rules. Where ASX Clear (Futures) is satisfied that any failure by a Clearing Participant to deliver to ASX Clear (Futures) or to deliver at its direction is due to delivery being rendered impossible ASX Clear (Futures) may instead direct that such Clearing Participant may make cash settlement to it in such an amount as it determines.
- 63.7 If ASX Clear (Futures) invoice is not ready by the time Prescribed then ASX Clear (Futures) may estimate the amount of such invoice and the Buyer shall pay such invoice on account. ASX Clear (Futures) shall likewise estimate the amount payable to the Seller and shall pay the amount on account, pending final calculation.
- 63.8 Subject to any shorter period specified in the Exchange Operating Rules, any dispute or claim with respect to the delivery of a Commodity shall be referred to arbitration in accordance with Rule 91 within seven (7) Business Days of the Relevant Exchange.

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**RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

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## **63A      BRC Delivery Procedures**

- 63A.1      Delivery under a BRC transaction shall, at the absolute discretion of ASX Clear (Futures), be effected by:
- (a) ASX Clear (Futures) directing BRC Participants holding Open Contracts under which they are obliged to make or take delivery to make delivery to or take delivery from a Clearing Participant holding an opposite obligation nominated by ASX Clear (Futures) and to make or receive the netted settlement amount accordingly. BRC Participants shall comply with any direction so given and any failure to do so shall be deemed to be a Default; or
  - (b) ASX Clear (Futures) making or taking delivery under Open Contracts subject to delivery obligations and paying or receiving the netted settlement amounts accordingly. Any failure by a Clearing Participant to give or take delivery or pay the netted settlement amount under an Open Contract with ASX Clear (Futures) shall be deemed to be a Default.
- 63A.2      Delivery effected under Rule 63A.1 shall be a full and complete discharge of obligations under the relevant Open Contracts.
- 63A.3      A BRC Participant shall comply with all provisions of the Rules and the terms of Open Contracts relating to the delivery of information or documents to ASX Clear (Futures) or to BRC Participants and shall comply with all time limits therein imposed.
- 63A.4      ASX Clear (Futures) shall be under no obligation to check any document received from a BRC Participant in relation to an obligation to give or take delivery under an Open Contract. The passing on of a document to a BRC Participant in respect to which ASX Clear (Futures) is making or taking delivery shall not be taken to be acceptance of such document by ASX Clear (Futures) and rejection of such document by such BRC Participant in accordance with the Rules shall be deemed to be a rejection by ASX Clear (Futures).
- 63A.5      ASX Clear (Futures) shall have no liability with respect to any forged document delivered to BRC Participants pursuant to Rule 63A (whether by or at the direction of ASX Clear (Futures)) and the sole recourse of the BRC Participant receiving such forged document shall be to the BRC Participant which delivered or caused to be delivered that forged document to the BRC Participant or ASX Clear (Futures) and ASX Clear (Futures) shall have no liability under any Open Contract as a result of any ~~non-fulfilment~~ non-fulfilment of that Open Contract because of such forgery.
- 63A.6      In the event of a failure to settle a BRC transaction by the time required for settlement under ASX Clear (Futures)'s BRC procedures, ASX Clear (Futures) may, in its absolute discretion, determine the Clearing Participant at fault and may direct Clearing Participants to pay and receive compensation calculated in accordance with a methodology determined by ASX Clear (Futures). A Clearing Participant required to pay compensation pursuant to a direction under this Rule shall do so promptly. ASX Clear (Futures) is authorised to access any credit balance in a BRC Participant's BRC House Account for the purpose of satisfying a direction to pay compensation.

### **Explanatory Note**

Link to Procedures. Procedure\_Sixty\_Three\_A\_point\_Six

**64 Warehouse Receipts (Added 26/3/96)**

- 64.1 In Rules 64.2, 64.3, 64.4 and 64.5, "Warehouse Receipt" includes a Warehouse which is forged or which contains any endorsement or signature which is forged, irregular, or which has been placed on the Warehouse Receipt without the authority of the person whose signature it purports to be.
- 64.2 None of the Exchange, ASX Clear (Futures), their respective Boards, directors and employees will be liable in respect of, or in connection with:
- (a) the delivery of a Warehouse Receipt;
  - (b) the transfer of title, or failure to transfer title, of a commodity by an Approved Warehouse in respect of a Warehouse Receipt;
  - (c) the limitation or exclusion of liability by an Approved Warehouse in respect of a Warehouse Receipt.
- 64.3 The Exchange, ASX Clear (Futures) and Approved Warehouse intend that the rights represented by a Warehouse Receipt may be transferred by the endorsement and delivery of that Warehouse Receipt by the holder, and that Warehouse Receipts will be used by all market participants on that basis. However, the Approved Warehouse, in issuing the Warehouse Receipt does not warrant the negotiability of the Warehouse Receipt, and neither ASX Clear (Futures) nor the Exchange warrant the negotiability of a Warehouse Receipt. No right of action can be acquired by any person (including the holder of a Warehouse Receipt) against an Approved Warehouse, ASX Clear (Futures) or the Exchange by reason only of a Warehouse Receipt being in fact not negotiable.
- 64.4 Provided that the seller has acted in good faith and in the ordinary course of business:
- (a) the delivery to a buyer or ASX Clear (Futures) of an endorsed Warehouse Receipt and certificates as required by these Rules or the Exchange Operating Rules in respect of a futures contract shall fully discharge the obligations of the seller;
  - (b) the seller is not required to prove that the endorsement (if any) are regular and were made by or under the authority of the persons whose endorsement they purport to be; and
  - (c) the buyer has no right of action against the seller of the Warehouse Receipt even if it contains any endorsement or signature which is forged, irregular, or which has been placed on the Warehouse Receipt without the authority of the person whose signature it purports to be.
- 64.5 The buyer agrees with ASX Clear (Futures), the Exchange and Clearing Participants that the buyer has no right of action against any holder or previous holder of the Warehouse Receipt even if it contains endorsements which are irregular, unauthorised or forged provided that the holder was a bona fide purchaser without notice. These Rules constitute an effective release of liability that such a holder would but for this sub-clause otherwise be under.
- 64.6 Rules 64.2, 64.3 64.4 and 64.5 operate without limiting the generality of Rules 63.4, 63.5 and 63.6
- 65-69 Not in use.

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## 70 Introduction

70.1 This Part of the Rules contains provisions detailing circumstances in which a Clearing Participant will be deemed to have defaulted on its obligations to ASX Clear (Futures), the consequences of such default and the powers of ASX Clear (Futures) in that regard.

70.2 The OTC Rules contain supplementary provisions which apply if the Clearing Participant is an OTC Participant. These supplementary provisions do not limit the application of this Part of the Rules to an OTC Participant or any other Clearing Participant.

Introduced [ ] / [ ]/13

*[Explanatory Note: This new Rule 70.2 sets out the relationship between the supplementary provisions in the OTC Rules which apply if the Clearing Participant is an OTC Participant, and this Part 7 of the Rules.]*

## 71 Existence of Default

- 71.1 (a) A Clearing Participant shall immediately notify the Managing Director of ASX Clear (Futures) if an event of Default occurs under By-law 71.3, or if the Clearing Participant has reasonable grounds to suspect that an event of Default may occur.
- (b) Where there is in the opinion of the Board or Managing Director an event of Default as set out in Rule 71.3 with respect to a Clearing Participant, the Board or Managing Director may declare the Clearing Participant to be in Default and for the purpose of the Rules that Clearing Participant shall be taken to have Defaulted.
- 71.2 Deleted
- 71.3 Events of Default referred to in Rule 71.1 are where:
- (a) the Clearing Participant fails to meet any of its obligations under Open Contracts or the Rules or Exchange Operating Rules or any agreement or understanding entered into with ASX Clear (Futures) or fails to comply with any reasonable directions of ASX Clear (Futures);
  - (b) Deleted
  - (c) the Clearing Participant fails to pay Initial Margins or Variation Margins or Daily Settlement Amounts or Intra Day Margins or Extra Margins within the period provided by these Rules;
  - (d) the Clearing Participant fails to pay an amount or amounts other than an amount or amounts to which paragraph (c) is applicable in total exceeding A\$1,000, which is due and payable to ASX Clear (Futures);
  - (e) an administrator of the Clearing Participant or a related body corporate of the Clearing Participant or similar person is appointed;
  - (f) except for the purposes of a solvent reconstruction or amalgamation previously notified to ASX Clear (Futures):
    - (i) an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting or an application to a court or other steps are taken for:
      - (A) the winding up, dissolution or official management or administration of the Clearing Participant or a related body corporate of the Clearing Participant; or
      - (B) the Clearing Participant or a related body corporate of the Clearing Participant enters into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them; or
    - (ii) the Clearing Participant ceases or suspends or threatens to cease or suspend substantially all of its business or threatens to dispose of substantially all of its assets; or
    - (iii) the Clearing Participant is or is deemed under any applicable legislation to be unable to pay its debts as and when they fall due (other than as a result of failure to pay a debt or claim the subject of a good faith dispute) or stops or suspends or threatens to stop or suspend payment of all or a class of its debts.
  - (g) the Clearing Participant is suspended, expelled or terminated as a member of any Australian or overseas, futures, securities, commodity or stock exchange or is subject to sanctions by any Australian or overseas regulatory authority;
  - (ga) the Clearing Participant has failed to comply with a determination made by an Old Tribunal (as defined in Rule 12B) pursuant to the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook (as defined in Rule 12B);
  - (gb) the Clearing Participant fails to comply with any action taken by ASX Clear (Futures) in accordance with Rule 9A.2(f) or the provisions of the ASX Enforcement and Appeals Rulebook (including as may be affirmed or varied by the Appeal Tribunal (as the case may be following an appeal against such action) pursuant to the ASX Enforcement and Appeals Rulebook);

- (h) with respect to all or any of the assets and undertaking of the Clearing Participant or a related body corporate of the Clearing Participant:
  - (i) a receiver, receiver and manager, administrative receiver, administrator or similar officer is appointed;
  - (ii) a Security Interest is enforced; or
  - (iii) a distress, attachment, or other execution is levied or enforced.
- (i) an investigator, inspector or other officer is appointed or an investigation is directed or commenced under the Corporations Act or any other legislation to investigate all or any part of the affairs of the Clearing Participant or a related Company of the Participant, in circumstances which are material to its capacity to meet its obligations to ASX Clear (Futures);
- (j) anything analogous to anything referred to in paragraphs (a) to (i) inclusive, or having substantially similar effect, occurs with respect to the Clearing Participant including, without limitation, anything occurring outside Australia or under the law of a jurisdiction other than Australia;
- (k) the Clearing Participant is the subject of a notice under any insurance referred to in Rule 7.1(e), or any other insurance taken out by ASX Clear (Futures) to enable it to meet its obligations to Clearing Participants which affects the amount or conditions or operation of such insurance;
- (l) there is an event deemed or described as a default by the Exchange Operating Rules or as otherwise provided in the Rules including a failure to comply with the requirements of Rule 9 or Exchange Operating Rules relating to position limits;
- (m) the Clearing Participant acts fraudulently or in a misleading or deceptive manner with respect to any Open Contract or Market Contract the registration of which gave rise to an Open Contract; and
- (n) any other event or series of events, whether related or not, occurs (or appears likely to occur) which in the opinion of the Board or Managing Director has (or appears likely to have) a material effect on the capacity of the Participant to meet its obligations to ASX Clear (Futures).

| Amended 01/08/10, 15/07/11

## Powers of ASX Clear (Futures) Upon A Default and Determination of A Loss

72.1 Upon a Default by a Clearing Participant ASX Clear (Futures) shall in its absolute discretion have the power to do all or any of the following in any order:

- (a) to Close Out all or any Open Contracts of the Clearing Participant in Default including in its absolute discretion Open Contracts in the Client Account by Closing Out any opposite positions in each such Account and/or by buying or selling opposite positions on the Exchanges Markets as if a request to Close Out had been made by the Clearing Participant in Default pursuant to Rule 46 and to appropriate any excess after the application of Rule 47 or 48;
- (b) to sell, realise, apply and set off any monies, securities, collateral or other property deposited with ASX Clear (Futures) by the Clearing Participant in Default by way of Initial Margin, Commitment or otherwise (whether or not arising from obligations under the Rules) and to apply the proceeds towards satisfaction of any amount payable by the Clearing Participant in Default to ASX Clear (Futures) under or in connection with these Rules and the OTC Rules, without being required to give notice to or obtain the consent of the Clearing Participant in Default or any court order, with full power to execute any documents in its own name or as attorney for the Clearing Participant in Default for that purpose, PROVIDED ALWAYS that any monies, securities, collateral or other property deposited with ASX Clear (Futures) with respect to open positions designated to a Client Clearing Account or which are subject to a written agreement under Regulation 7.8.02(3) of the Corporations Regulations 2001, or an acknowledgment under Regulation 10 of the Futures Industry (Client Funds) Regulations 1990 of New Zealand, may be used to meet obligations in a Client Clearing Account and shall not be used to meet any obligations in a House Clearing Account; (Amended 3/6/97, 19/5/98, [ ]/[ ]/13);
- (c) to apply any surplus in any House Clearing Account of the Clearing Participant in Default to any deficiency on any Client Clearing Account of the Clearing Participant in Default;
- (d) to Transfer pursuant to Rule 74.1 all or any Open Positions designated to a Client Clearing Account of the Clearing Participant in Default to another Clearing Participant with the written authority of such transferee Clearing Participant, together with any Initial Margins which in the opinion of ASX Clear (Futures) are held with respect to such Open Positions;
- (e) to Exercise or Abandon any Option Contract of the Clearing Participant in Default. Any such Exercise or Abandonment shall be deemed to have been effected by the Clearing Participant which is the party to the Option Contract;
- (f) notwithstanding any direction given under Rule 63, to itself give or take delivery of any Commodity;
- (g) to Close Out any remaining Open Contracts of the Clearing Participant in Default in the manner referred to in Rule 72.2;
- (h) after, and only after, using all possible endeavours to close out the Open Positions of the Clearing Participant in Default under paragraph (g) and after, using all possible endeavours to cover its liability with respect to the Open Contracts of the Clearing Participant in Default not so closed out by trading on any available futures forward cash or spot market and such other means as are available to protect its position and having consulted with the Risk Committee, to effect Compulsory Settlement in accordance with Rule 102.

Compulsory Settlement effected pursuant to this paragraph (h) shall not in any way affect or diminish the rights of ASX Clear (Futures) against any Clearing Participant in Default; and

- (i) to terminate the Clearing Participant in Default's rights and status as a Clearing Participant in accordance with Rule 72.1A;
- (j) to do any thing permitted by the OTC Rules; and
- (k) to do all such other necessary acts and things as are in the opinion of ASX Clear (Futures) necessary to reduce or crystallise its exposure under Open Contracts or otherwise, arising from or as a result of the Default, except invoicing back or forced allocation of Open Contracts to another Clearing Participant other than pursuant to a Compulsory Settlement under Rule 102.

Amended [ ]/ [ ]/13

*[Explanatory Note: The amendments to Rule 72.1 clarify that ASX Clear (Futures) has the power to:*

- (a) apply the proceeds of the actions referred to in sub-paragraph (b) to towards satisfaction of any amount payable by the Clearing Participant in Default to ASX Clear (Futures) under or in connection with these Rules;
- (b) do any thing permitted by the OTC Rules; and
- (c) do all other necessary acts and things to reduce or crystallise its exposure, arising from or as a result of the Default, except invoicing back or forced allocation of Open Contracts to another Clearing Participant (other than pursuant to a Compulsory Settlement).]

#### 72.1A (a) A termination of the rights and status of a Clearing Participant in Default is not effective unless:

- (1) ASX Clear (Futures) has given notice of termination in writing to the Clearing Participant;
- (2) ASX Clear (Futures) confirms to the Clearing Participant in writing that the Clearing Participant has satisfied the following conditions:
  - (A) it has performed all of its accrued obligations under the Rules (including but not limited to the payment of all fees), or such obligations have been satisfied following the exercise of ASX Clear (Futures)'s powers under Rules 72.1 or 73;
  - (B) it is not the subject of any disciplinary proceedings or enforcement action within the jurisdiction of ASX Clear (Futures);
  - (C) it has no Open Contracts.
- (b) Following the Clearing Participant's receipt of the notice of termination referred to in paragraph (a)(1) above, the Clearing Participant may not use the clearing facilities provided by ASX Clear (Futures) in accordance with these Rules except with the prior written consent of ASX Clear (Futures).
- (c) Termination will be effective at the end of the last day of the calendar quarter in which the Clearing Participant meets the conditions in (a) above, provided those conditions are met at least 30 days prior to the last day of the quarter. If the Clearing Participant meets those conditions less than 30 days prior to the last day of the quarter, the Clearing Participant's termination will be effective at the end of the last day of the following quarter.

Inserted [ ]/ [ ]/13

*[Explanatory Note: The new 72.1A sets out the circumstances in which a termination in accordance with Rule 72.1(i) will be effective and when it will be effective. It also provides that a Clearing Participant may not use the clearing facilities following its receipt of a notice of termination except with the prior written consent of ASX Clear (Futures).]*

#### 72.2 ASX Clear (Futures) may offset any exposure arising from a Default by trading Market Contracts by means of:

- (a) trading on any trading system maintained by the Relevant Exchange through a Participant of the Relevant Exchange; or
- (b) by direct agreement with market participants or any other persons or as may be permitted or directed by the Relevant Exchange in accordance with Exchange Operating Rules,

and shall register any Market Contract so traded and may Close Out the Open Contract so traded against Open Contracts of the Clearing Participant as if such Market Contracts had been entered into by the Clearing Participant in Default.

72.3 ASX Clear (Futures) may calculate a net amount or amounts due and payable by the Clearing Participant in Default to ASX Clear (Futures) or ASX Clear (Futures) to the Clearing Participant in Default following the exercise by ASX Clear (Futures) of any or all of its rights under Rule 72, and demand immediate payment of any net amount payable by the Clearing Participant in Default to ASX Clear (Futures).

[Without limitation, the amounts netted by ASX Clear \(Futures\) may include the amounts determined to be payable under, or in connection with, the OTC Rules.](#)

Introduced 13/07/09, amended [ ]/I [ ]/13

[\[Explanatory Note: The amendment to Rule 72.3 provides that the amounts netted in accordance with that rule may include the amounts determined to be payable under or in connection with the OTC Rules.\]](#)

**73 Loss**

- 73.1 Any deficiency in the Accounts of the Clearing Participant in Default or Clearing Participants in Default after the application of Rule 72.1 shall be termed the Loss of ASX Clear (Futures) on the Default.
- 73.2 To meet any Loss ASX Clear (Futures) shall first apply up to the amount of the Loss, the Commitment of the Clearing Participant in Default made pursuant to the Rules.
- 73.3 Subject to the Rules, ASX Clear (Futures) shall meet any remaining Part of the Loss in accordance with paragraphs (c) to (h) of Rule 7.1.
- [Explanatory Note: The amendment to Rule 73.3 is to reflect the amendments to remove the Second Level Commitment.]*
- Amended [ ]/[ ]/2013
- 73.4 Any amount later recovered from the Defaulting Clearing Participant shall to the extent of such recovery reduce the Loss of ASX Clear (Futures).

## 74 Clients Not in Default to Clearing Participant in Default

- 74.1 Without prejudice to Rule 31.4 and without being under any obligation to do so the Board or Managing Director or the delegate of either may in their absolute discretion and with regard to the necessity to crystallise ASX Clear (Futures) position as soon as possible and after having regard to the liability or potential liability of ASX Clear (Futures) and any other relevant matter permit the Transfer to another Clearing Participant of all or any Open Contracts designated as Client Positions of a Clearing Participant in Default where ASX Clear (Futures) is advised by the Relevant Exchange that the Open Contract is held on behalf of a Client of the Clearing Participant which is not in default of its obligations to the Clearing Participant. For that purpose ASX Clear (Futures) may transfer monies from a Client Clearing Account of the Clearing Participant in Default to the relevant Clearing Account of the Clearing Participant to whom the Open Contract is being transferred. The Loss of ASX Clear (Futures) shall be adjusted accordingly.
- 74.2 A Transfer of Open Contracts under Rule 74.1 may be made subject to conditions including without limitation;
- (a) the receipt of the written authority of the Clearing Participant to whom the Open Contracts are to be transferred; or
  - (b) an indemnity from any person, or conditions relating to Margin to be provided to ASX Clear (Futures) before or after such transfer.
- 74.3 Where ASX Clear (Futures) permits a Transfer of Open Contracts pursuant to Rule 74.1 ASX Clear (Futures) may transfer such of the monies in or securities, collateral or property allocated to, a Client Clearing Account of the Clearing Participant as ASX Clear (Futures) believes is referable to such Positions.

## 75 Indemnity from Clearing Participants in Default

- 75.1 Each Clearing Participant indemnifies and will keep indemnified ASX Clear (Futures) and its officers, representatives, agents and contractors against all actions, proceedings, claims, demands, damages, costs, expenses and any other amounts including any transaction taxes, goods and services taxes or any other duties or taxes (extending to include any taxes payable by ASX Clear (Futures) on a payment made under this indemnity) against or incurred by any of ASX Clear (Futures), its officers, representatives, agents or contractors arising out of or in connection with any event of Default by the Clearing Participant, or any action taken by, or any inaction by, any of ASX Clear (Futures) or its officers, representatives, agents or contractors in connection with the Default, to the extent that it was not caused by the negligence, fraud or wilful default of ASX Clear (Futures).  
 The rights, powers and remedies of ASX Clear (Futures) under this Rule 75.1 in relation to a Clearing Participant survive its termination or suspension as a Clearing Participant or termination of its authorisation to clear a category or categories of Market Contract.

Introduced [ ]/1/13

*[Explanatory Note: The new Rule 75.1 provides for an indemnity from each Clearing Participant in favour of ASX Clear (Futures) and certain other persons against certain amounts arising out of or in connection with any event of Default by the Clearing Participant, or any action taken by, or inaction by, ASX Clear (Futures) and certain other persons in connection with the Default.]*

- 75A If a Futures Participant has agreed with an OTC Participant to clear DM Auction Transactions (as defined in the OTC Rules) that are Futures Contracts in respect of which the OTC Participant entered the winning Bid as defined in, and in accordance with, the OTC Handbook, then the Futures Participant must clear such DM Auction Transactions.

Inserted [ ]/1/13

*[Explanatory Note: The new Rule 75A obliges a Futures Participant to clear DM Auction Transactions that are Futures Contracts where it agreed with an OTC Participant to clear such transactions if the OTC Participant entered the winning Bid.]*

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**RULES OF ASX CLEAR (FUTURES) PTY LIMITED**  
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## Part 7A – Termination With Respect To ASX Clear (Futures)

### 76 Termination

If:

(a) **ASX Clear (Futures) Payment Default.** all of the following occur:

- (i) ASX Clear (Futures) fails to make, when due, any payment in respect of a payment claim of a Clearing Participant against ASX Clear (Futures) arising from an Open Contract;
- (ii) such Clearing Participant has notified ASX Clear (Futures) of such failure;
- (iii) such Clearing Participant notifies ASX Clear (Futures) again of such failure after the expiry of a period of not less than five Business Days after the notification in (ii); and
- (iv) ASX Clear (Futures)'s failure to make such payment to such Clearing Participant continues for a period of more than five Business Days after notification in (iii),

and for this purpose and without limitation, a payment will be considered to have been made by ASX Clear (Futures) if a corresponding amount has been credited to the relevant account of the relevant Clearing Participant. Delays in effecting such credit for technical reasons will not lead to an ASX Clear (Futures) Payment Default provided that funds were available to enable ASX Clear (Futures) to make the credit; or

(b) **ASX Clear (Futures) Insolvency Event.** ASX Clear (Futures) is wound-up in insolvency under the Corporations Act or is subject to statutory management either instituted by it or against it by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in Australia,

then, at the election of either ASX Clear (Futures) or any Clearing Participant (if a Clearing Participant makes this election then only its Open Contracts are affected):

- (I) the present and future obligations of ASX Clear (Futures) and each Clearing Participant to make payments and deliveries under the terms of the Open Contracts are terminated and are no longer required to be made;
- (II) ASX Clear (Futures) is to calculate the termination value of those terminated obligations. The termination values are to take into account the amount which would be payable on the Daily Settlement of the relevant Futures Contracts or the Termination Value of the relevant OTC Open Contracts under the OTC Rules (as applicable); and
- (III) ASX Clear (Futures) will net the termination values so calculated in respect of each Clearing Participant so that only a net cash amount is payable in respect of them between ASX Clear (Futures) and each respective Clearing Participant. The net cash amount is to be payable by the party who is determined to owe it on the Business Day on which it is determined and notified to the Clearing Participant.

If ASX Clear (Futures) is, for operational reasons, unable to make one or more calculations or determinations required to be made under this Rule then those particular calculations are to be made by the relevant Clearing Participant.

Inserted [ ]/[ ]/13

*[Explanatory Note: The new Rule 76 provides for close-out netting of obligations between ASX Clear (Futures) and each Clearing Participant, at the election of either ASX Clear (Futures) or any Clearing*

*Participant following an ASX Clear (Futures) Payment Default or ASX Clear (Futures) Insolvency Event.]*

| ~~75-79~~77-79 Not in use.

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**80**

## **Introduction**

- 80.1 This Part of the Rules details the powers of ASX Clear (Futures) in the event of a market emergency or in the event that the market is affected by force majeure.

81

**Emergency Situations****Physical Emergencies**

- 81.1
- (a) For the purposes of this Rule 81.1, a physical emergency occurs when a situation arises where the physical functions of ASX Clear (Futures) are or are threatened to be severely and adversely affected by an event external to the trading of ASX Clear (Futures), such as (but not limited to) fire, accident, flood, bomb threat, threat of violence, substantially inclement weather, power failure, communication breakdown, computer malfunction or danger to personnel.
  - (b) If in the opinion of the Managing Director or his delegate a physical emergency occurs or is likely to occur, he or she may take such action as shall be deemed necessary to deal with the emergency.
  - (c) Upon a determination by the Managing Director or his delegate, that the emergency has sufficiently abated to permit the orderly functioning of ASX Clear (Futures), he shall order restoration of business and the removal of any restrictions which may have been imposed under this Rule, and may make such additional orders as he deems necessary or appropriate to minimise the effect of the emergency.
  - (d) No person shall be entitled to make any claim or commence any action against ASX Clear (Futures), the Board or the person making decisions referred to in sub-clauses (b) and (c) hereof in respect of any decision made or action taken pursuant to this Rule 81.1.

**Market Emergencies at Organisations for Which ASX Clear (Futures) Provides Services**

- 81.2
- If ASX Clear (Futures) determines that an undesirable situation or practice is developing or has developed which is contrary to the maintenance of a fair and orderly market ~~of an organisation to which ASX Clear (Futures) provides services~~, ASX Clear (Futures) may take or refrain from taking or direct a Clearing Participant to take or refrain from taking, any action which ASX Clear (Futures) considers is appropriate and in the interests of maintaining a fair and orderly market or underlying market.

For the purposes of this Rule 81.2:

‘market’ means a market:

- (i) conducted by the Exchange;
- (ii) conducted by an organisation to which ASX Clear (Futures) provides services; or
- (iii) a market in which an organisation to which ASX Clear (Futures) provides services is a participant.

‘underlying market’ means, in relation to:

- (i) a Market Contract or an Open Contract which in either case is a futures contract, the market in the underlying commodity, security or index or things which comprise the underlying index; and
- (ii) a Market Contract or Open Contract which in either case is an options contract, a market in the underlying futures contract or the underlying market in relation to the futures contract as defined in (i) above.

*[Explanatory Note: The amendments to Rule 81.2 remove the references to an organisation to which ASX Clear (Futures) provides services.]*

- 81.3
- ASX Clear (Futures) shall be entitled to give effect to any direction of the Australian Securities and Investments Commission made pursuant to the Corporations Act or requirement of the Securities Commission pursuant to the Securities Act of New Zealand in relation to Market Contracts or the operation of ASX Clear (Futures) or any other lawful direction. ASX Clear (Futures) shall as soon as practicable notify the Commission which did not make such direction or requirement of the direction or requirement. (Amended 2/12/99)

- 81.4 In giving effect to a determination referred to in this Rule 81.1 or a direction referred to in Rule 81.2 ASX Clear (Futures) shall be entitled to apply the Rules as varied or modified so far as necessary to give effect to a relevant decision or direction.

82

**Force Majeure**

82.1 Where the business of ASX Clear (Futures) is materially adversely affected for any reason including, without limiting the generality of the foregoing, the intervention of any government or government authority or agency, fire, power failure or restrictions, communication breakdown, accident, flood, war or the threat of war, embargoes, boycotts, labour disputes, unavailability of data processing or bank clearance systems or act of God such that the ASX Clear (Futures) is unable to properly conduct the business of ASX Clear (Futures) in whole or in part ASX Clear (Futures) shall be released from its obligations under the Rules to the extent that the performance of such obligations are prevented or hindered in whole or in part by circumstances referred to above and ASX Clear (Futures) may vary or modify the Rules to the extent that in the opinion of ASX Clear (Futures) is reasonably necessary in the circumstances and without limiting the generality of the above the steps which ASX Clear (Futures) may take shall include:

- (a) The Compulsory Settlement in accordance with Rule 102 of all or some Open Contracts at a price determined by the Relevant Exchange or failing that by ASX Clear (Futures).
- (b) The Mandatory Cash Settlement of any Open Contract (including Open Contracts which are deliverable contracts) at a price determined by the Relevant Exchange or failing that by ASX Clear (Futures).
- (c) The Close Out of any Open Contract.
- (d) The exercise of any power which would be exercisable by ASX Clear (Futures) in the event of a Default.
- (e) Any thing permitted under the OTC Rules in connection with an OTC Participant or an OTC Open Contract.

Amended [ ]/[ ]/13

[Explanatory Note: The amendments to Rule 82.1 include as a step which ASX Clear (Futures) may take in the event of a force majeure to include any thing permitted under the OTC Rules in connection with an OTC Participant or an OTC Open Contract.]

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90

## Introduction

90.1 This Part of the Rules contains provisions of a miscellaneous nature not dealt with in the preceding parts.

91

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**92 Governing Law and Submission to Jurisdiction**

92.1 These Rules will be interpreted in accordance with the laws of NSW and Australia.

**Submission to Jurisdiction**

92.2 ASX Clear (Futures) and each Clearing Participant:

- (a) irrevocably submit to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales;
- (b) irrevocably waive any immunity from or any objection to any action in the courts exercising any jurisdiction in New South Wales; and
- (c) irrevocably waive any claim that they may have that any action brought in New South Wales has been brought in an inconvenient forum or that the courts of New South Wales do not have jurisdiction.

92.3 Notwithstanding Rules 92.1 and 92.2 the law of an Open Contract arising from a Market Contract traded ~~on the~~ on the Exchange shall be the law of New South Wales and Australia and the Courts having exclusive jurisdiction will be those of NSW, Australia and the law of an Open Contract arising from a Market Contract traded on NZFOE shall be the law of New Zealand and the Courts having exclusive jurisdiction will be those of New Zealand.

**93 Rights, Obligations and Powers of ASX Clear (Futures)**

- 93.1 Any right, entitlement, relief, obligation or power of ASX Clear (Futures) arising pursuant to the Rules shall be a right, entitlement, relief, obligation or power as the case may be of ASX Clear (Futures).
- 93.2 Any power or function which under these Rules may be exercised or performed by ASX Clear (Futures) may be exercised or performed by the Board, Managing Director or other duly authorised officer or delegate of ASX Clear (Futures).
- 93.3 No power conferred on ASX Clear (Futures) by these Rules including without limitation any power to Close Out, Transfer or call Initial Margin, Daily Settlement Amounts, Variation margins, Intra Day Margins or Extra Margins, Exercise or Abandon any Option Contract, or realise any security shall impose any duty on the Board or ASX Clear (Futures) to exercise such powers or to exercise such powers in a particular way, and no person shall have any claim against ASX Clear (Futures) in relation to any decision made bona fide to exercise or refrain from exercising such powers. (Amended 28/10/02)
- 93.4 Where ASX Clear (Futures) is under the terms of an Open Contract obliged to perform an obligation by a particular time it shall be sufficient performance by ASX Clear (Futures) if it performs that obligation promptly after that time.
- 93.5 Any reference in the Exchange Operating Rules to the obligations of the Buyer and Seller of a Market Contract shall in relation to an Open Contract arising upon the registration of a Market Contract:
- (a) be read as a reference to ASX Clear (Futures) as a party to an Open Contract where appropriate;
  - (b) in relation to an obligation of the Buyer and Seller to satisfy requirements of or do things in relation to ASX Clear (Futures) be read as relating to the obligations of Buyers and Sellers under Open Contracts other than ASX Clear (Futures); and
  - (c) be otherwise read in conjunction with these Rules.
- 93.6 Any provision of these Rules which is prohibited or unenforceable in any jurisdiction will be ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That will not invalidate the remaining provisions of these Rules nor affect the validity or enforceability of that provision in any other jurisdiction.
- 93.7 No failure to exercise and no delay in exercising any right, power or remedy under any Rule operates as a waiver. Nor does any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.
- 93.8 The rights, powers and remedies provided to ASX Clear (Futures) under these Rules are cumulative and not exclusive of any rights, powers or remedies provided by law.

## **94 Limit on Obligations of ASX Clear (Futures)**

- 94.1 The obligations of ASX Clear (Futures) under these Rules shall not extend to the performance by Clearing Participants of obligations arising other than under Open Contracts and these Rules (whether relating to the payment of commissions or otherwise) whether or not ASX Clear (Futures) provides facilities with respect to the fulfilment of such obligations.
- 94.2 ASX Clear (Futures) in performance of its obligations is entitled to rely upon the accuracy of information provided by the Exchange and its systems and shall not be liable with respect to any loss suffered as a result of any incorrect information provided to ASX Clear (Futures) or breakdown of Exchange systems.
- 94.3 (a) Neither ASX Clear (Futures) nor the Exchange nor the developer of any trading system or of any computer system ("Clearing Systems") utilised by ASX Clear (Futures) in connection with the business of ASX Clear (Futures) will accept or bear any liability whatsoever in respect of the operation of any Clearing System or otherwise, whether for any breach of a provision of any relevant legislation, any act or omission (whether negligent or not), injury, death, damage to physical property, any direct or indirect losses including but not limited to lost profits, loss of files, loss of contracts, loss of data or use of data (including any error in information supplied or made available), loss of operation time or loss of equipment or process, economic loss, loss of reputation or losses or damages incidental or consequential to the installation, use or operation of any Clearing System. All warranties and conditions, both express and implied as to the condition, description, quality, performance, durability or fitness for purpose or otherwise of the Clearing Systems or any component thereof are excluded except as required by law; and neither ASX Clear (Futures) nor the Exchange warrants or forecasts that the Clearing Systems or any component thereof or any services performed in respect thereof will meet the requirements of any user, or that operation of the Clearing Systems will be uninterrupted or error-free, or that any services performed in respect of the Clearing Systems will be uninterrupted or error-free. Nothing in this Rule 94.3 shall limit any liability of a developer of any Clearing System to ASX Clear (Futures).
- (b) ASX Clear (Futures) will not accept or bear any liability whatsoever in respect of any act done or omitted, in good faith and in the performance or purported performance of a function or power conferred on it by the Corporations Act or by any other legislative instrument or direction of any legislature or government authority having jurisdiction over it. [94.3(b) is effective from 17/01/05].
- 94.4 Every exemption from liability, defence or immunity applicable to ASX Clear (Futures) or to which ASX Clear (Futures) is entitled under Rule 94.3 shall also be available and shall extend to protect every one of ASX Clear (Futures)'s officers, agents or employees, and for the purposes of Rule 94.3(a), the Exchange and any developer of any Clearing Systems shall be deemed to have been acting as and to be agents of and for the benefit of all persons who are or might be its agents or employees from time to time, as well as on its own behalf.
- 94.5 Where the Trade Practices Act 1974 of Australia or the Commerce Act of New Zealand or any similar State or Territorial legislation implies in this Agreement any term, condition or warranty, and makes void or prohibits application of or exercise of, or liability under such term, condition or warranty, such term, condition or warranty shall be deemed to be included herein. Provided that, the liability of ASX Clear (Futures) or the Exchange for any breach of such term, condition or warranty shall be limited, at the option of ASX Clear (Futures) or the Exchange, to any one or more of the following:
- (a) If the breach relates to goods:
- (i) the replacement of the goods or the supply of equivalent or similar goods;
  - (ii) the repair of the goods;
  - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
  - (iv) the payment of the cost of having the goods repaired.
- (b) If the breach related to services:
- (i) the supplying of the services again; or
  - (ii) the payment of the cost of having the services supplied again.

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**RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

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**RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

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**95 Prescriptions and Schedules**

- 95.1 The Board may Prescribe and set out in the Schedules any matters incidental to the Rules or as otherwise provided in the Rules. In the event of any inconsistency between the Rules and the Schedules, the Rules shall prevail. Any Prescription by the Board shall not depend for its effectiveness on it being set out in the Schedules and any such Prescription shall have full effect notwithstanding any delay or failure in so setting it out and such setting out shall be for the purposes of record only. The Board may otherwise Prescribe matters without setting out in the Schedules where otherwise authorised to Prescribe by the Rules. Any prescription made for the purposes of the Definition of Net Tangible Assets, Net Liquid Assets or Financial Requirements or Rule 54.1 shall for the purposes of Chapter 7 of the Corporations Act be deemed to be an amendment to the Rules.

**96      Notification to the Exchange**

- 96.1     ASX Clear (Futures) shall promptly notify the Exchange and the Relevant Exchange where it exercises any powers where expressly so provided in the Rules or where the relevant power is listed in the Schedules for the purpose of this provision.

**97 ASX Clear (Futures) Reports**

- 97.1 ASX Clear (Futures) shall issue to Clearing Participants a daily registration statement in the form prescribed in the Schedules and shall provide such other statements as to Open Positions of the Clearing Participant and/or financial dealings between the Clearing Participant and ASX Clear (Futures) as is prescribed in the Schedules.

**98                  Minor Fines – [Deleted]**

98.1                  [Deleted – 31/03/08]

98.2                  [Deleted – 31/03/08]

**99 Conversion of Currency**

- 99.1 Subject to Rule 99.2 any liability to or by ASX Clear (Futures) payable in any currency or amount standing to the credit of a Clearing Participant in any currency shall if required to be paid to or by ASX Clear (Futures) in another currency in accordance with ASX Clear (Futures) Rules or Exchange Operating Rules or a determination of the Board be converted at a rate in that currency determined by ASX Clear (Futures) from time to time.
- 99.2 For the purposes of any set-off, combination or consolidation of, or in relation to, any accounts or any amounts standing to the credit of any accounts, or of performing any calculation or determination contemplated by these Rules (including without limitation any determination necessary to give effect to Rules 72 or 73) or by Exchange Operating Rules, unless ASX Clear (Futures) otherwise determines all amounts which are not Australian dollar amounts shall be converted to Australian dollars at such rate as determined by ASX Clear (Futures) for the day at which the conversion is made.
- 100 Not use

**101 Taxes and Charges**

- 101.1 All taxes, charges, stamp duty or any other government or statutory charges payable with respect to Open Contracts or the registration of Market Contracts or monies deposited by a Clearing Participant with ASX Clear (Futures) shall be the sole responsibility of Clearing Participants and Clearing Participants shall indemnify ASX Clear (Futures) with respect to any such taxes or charges and any taxes, charges or stamp duty referable to the registration of Market Contracts in the name of the Clearing Participant or Open Contracts of the Clearing Participant or monies paid to or from the Clearing Participant or deposited by the Clearing Participant may be debited to any account held by the Clearing Participant with ASX Clear (Futures).

**102 Compulsory Settlement**

- 102.1 For the purposes of Rules 72.1(h) and 82 the provisions of this Rule 102 shall apply where ASX Clear (Futures) invokes Compulsory Settlement or where such Compulsory Settlement is directed by the Relevant Exchange as referred to in Rule 81.
- 102.2 Upon ASX Clear (Futures) determining an Open Contract or Open Contracts shall be subject to Compulsory Settlement the Open Contract shall be deemed to be Closed Out by an Opposite Open Contract at the price determined by the Relevant Exchange pursuant to Exchange Operating Rules or failing any determination by the Relevant Exchange at a price which in the opinion of ASX Clear (Futures) is fair and reasonable.
- 102.3 Compulsory Settlement shall be effected by ASX Clear (Futures) giving notice to the Clearing Participant holding the Open Contract or Open Contracts to be subject to Compulsory Settlement specifying the price at which that Compulsory Settlement is to occur and in such other manner and form as ASX Clear (Futures) in its absolute discretion shall determine.
- 102.4 Subject to any Relevant Exchange direction and subject to Rule 72.1(h), ASX Clear (Futures) shall direct the Compulsory Settlement of Open Contracts in its absolute discretion having regard as far as practicable to the proportion of Open Contracts held by Clearing Participants and with respect to Open Contracts and Clearing Participants selected by ASX Clear (Futures).
- 102.5 Compulsory Settlement (and the determination of any price for Compulsory Settlement) shall be final and binding on all parties and Compulsory Settlement shall be a full and effective discharge of obligations under Open Contracts.
- 102.6** In respect of each Default which results in a Compulsory Settlement of Open Contracts of a Clearing Participant (other than a Clearing Participant in Default) in accordance with this Rule 102, the maximum liability of that Clearing Participant to ASX Clear (Futures) in respect of the Compulsory Settlement is equal to twice the Futures Commitment of that Clearing Participant immediately before that Default.  
*[Explanatory Note: The new Rule 102.6 caps the liability of a Clearing Participant (other than a defaulted Clearing Participant) in respect of any Compulsory Settlement of its Open Contracts to an amount equal to twice its Commitment immediately before the relevant Default.]*
- 102.7** References in this Rule 102 to Open Contracts are to be taken to exclude OTC Open Contracts and OTC Allocated Futures Contracts.  
*[Explanatory Note: This Rule 102 only applies to Open Contracts that are not OTC Open Contracts and is not intended to be exercised for futures which are subject to OTC default management.]*

**103 Manner and Form of Settlement**

- 103.1 Notwithstanding any provision in Exchange Operating Rules or in Open Contracts monies, securities, property, collateral or Commodity required to be paid or delivered to ASX Clear (Futures) or paid to or delivered by ASX Clear (Futures) shall be paid and delivered in such manner and form as is required or determined by ASX Clear (Futures).

**104 Directions and Requirements of ASX Clear (Futures) and Exchange**

- 104.1 A Clearing Participant shall comply with the Rules and any Prescriptions pursuant to the Rules with all requests directions or requirements of ASX Clear (Futures) or the Exchange or a Related Exchange made pursuant to their powers under the Rules or the Exchange Operating Rules or which are reasonably ancillary to or incidental to such powers.

**105      Appointment of Agents**

A Clearing Participant which does not have a place of business in a place where ASX Clear (Futures) carries on business may if approved by ASX Clear (Futures) and shall, if required by ASX Clear (Futures) appoint an agent approved by ASX Clear (Futures) in a manner approved by ASX Clear (Futures) to perform on behalf of the Clearing Participant the obligations of the Clearing Participant under the Rules in that place.

Where ASX Clear (Futures) has required a Clearing Participant to appoint an agent ASX Clear (Futures) may, until arrangements approved by ASX Clear (Futures) for the appointment of an agent are in place, refuse to register in the name of the Clearing Participant Market Contracts traded on a Relevant Exchange following advice to the market of that Relevant Exchange of such refusal by ASX Clear (Futures).

For the purposes of the Goods and Services Tax (GST), ASX Clear (Futures) is authorised to issue Recipient Created Tax Invoices (RCTIs) in any situation which satisfies the requirements of the GST legislation, GST Regulations or Tax Office Rulings. These requirements include the creation of a written agreement between ASX Clear (Futures), as an entity issuing the RCTI and the supplier on whose behalf it is issued. This Rule puts in place the required agreement between ASX Clear (Futures) and each Clearing Participant:

- ASX Clear (Futures) is authorised to issue RCTIs to Clearing Participants;
- a Clearing Participant will not issue a tax invoice in circumstances where ASX Clear (Futures) issues an RCTI on behalf of that Clearing Participant;
- a Clearing Participant on whose behalf an RCTI is issued acknowledges that it is registered for GST purposes and will notify ASX Clear (Futures) if it ceases to be registered;
- ASX Clear (Futures) acknowledges that it is registered for GST purposes and will notify the Clearing Participant if it ceases to be registered; and
- ASX Clear (Futures) indemnifies the Clearing Participant for any liability for GST and penalty arising from an understatement of the GST payable on any supply for which ASX Clear (Futures) issues an RCTI.

107

**Recording of Information by ASX Clear (Futures)**

- (i) ASX Clear (Futures) shall be entitled to record all conversations conducted on its telecommunications equipment.
- (ii) Disclosure to any other person of information obtained by ASX Clear (Futures) pursuant to this Rule 107 shall be subject to the consent of the Clearing Participant.

| The next page is [461-142](#) (Schedules).

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**RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

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**SCHEDULE 1****REGISTRATION AND PERFORMANCE OF CONTRACTS**

(Amended 2/12/99)

**Australian Securities Exchange Limited (Exchange)**

The following clauses relate to registration of Market Contracts traded on the Exchange:

- 1 For the purposes of Part 3 of the Rules the procedures for the registration of Market Contracts shall be as set out in this Schedule.
- 2 In this Schedule all expressions shall have the same meaning as in either the Exchange Operating Rules or the Rules.
- 3 For the purposes of the definition of Recorded with the Exchange:
  - (a) A Market Contract Traded on SYCOM® shall be deemed to be Recorded by the Exchange upon SYCOM® producing a matched trade record of the Trade.
  - (b) A Market Contract Traded other than on SYCOM® shall be deemed to be Recorded by the Exchange upon being submitted to and accepted for registration by ASX Clear (Futures).
- 4 Where there is an objection to a Trade, for the purposes of the definition of Recorded with the Exchange, a Market Contract Traded on SYCOM® shall be deemed to be Recorded by the Exchange in substitution for the original recording where the Trade is Confirmed upon resolution of an objection in accordance with Exchange Operating Rules.
- 5 For the purposes of Rule 31.1 a Market Contract shall be deemed to be registered with ASX Clear (Futures) when recorded by the Exchange in the manner set out in this Schedule.
- 6 For the purposes of Rule 31A a Market Contract shall be deemed to be registered with a Facility Participant in accordance with its rules when recorded by the Exchange in the manner set out in this Schedule if the Trade:
  - (a) is Allocated to the Facility Participant at the time it is recorded by the Exchange; or
  - (b) is subsequently Allocated to the Facility Participant in the Exchange Allocation and Clearing System.

(Added 4/12/02)
- 7 Any allocation:
  - (a) effected and confirmed in accordance with Operating Rule 4 of Exchange Operating Rules or otherwise in accordance with Exchange Operating Rules; or
  - (b) effected and confirmed in accordance with any procedures as determined from time to time by the Exchange or ASX Clear (Futures),

subsequent to the registration or deemed registration of a Market Contract with ASX Clear (Futures) shall be deemed to be an Allocation for the purposes of the Rules and for this purpose any Allocation made by or to a Full Participant which is not a Clearing Participant shall be deemed to be Allocated by or to the Guarantor Clearing Participant of that Full Participant.
- 8 All Designations of Trades (being the bought or sold side of a Market Contract) as House or Client Trades:
  - (a) effected under Operating Rule 4 of the Exchange Operating Rules or otherwise under the Exchange Operating Rules; or

- (b) otherwise effected in accordance with any other procedures as determined from time to time by the Exchange or ASX Clear (Futures);

shall be deemed to be a Designation to a House Clearing Account or Client Clearing Account respectively under the Rules in relation to an Open Contract arising from that Trade. Where no Designation as a House Trade or Client Trade has been made or the Open Contract otherwise Designated to a House Clearing Account or Client Clearing Account under the Rules such Open Contract shall be deemed to be Designated to the relevant House Clearing Account unless the Trade is deemed to be Designated to a Client Clearing Account under Exchange Operating Rules or ASX Clear (Futures) in its absolute discretion Designates the Open Contract to a Client Clearing Account.

- 9 The confirmation of a Trade pursuant to Operating Rule 4 of the Exchange Operating Rules or otherwise pursuant to Exchange Operating Rules or the execution of a Trade on SYCOM® shall be deemed to be presentation of the Trade to ASX Clear (Futures) for registration and consent to such registration by the Clearing Participant which is the party to such Trade or if the party to the Trade is not a Clearing Participant the Guarantor Clearing Participant of that party.
- 10 Where a Trade is Allocated to a Facility Participant, the confirmation of a Trade pursuant to Operating Rule 4 of the Exchange Operating Rules or otherwise pursuant to Exchange Operating Rules or the execution of a Trade on SYCOM® shall be deemed to be presentation of the Trade to the Facility Participant for registration. (Added 4/12/02)

### **Bond and Repurchase Clearing**

The following clauses relate to registration of Bond Transactions and Repurchase Agreements.

- 1 For the purposes of By-law 31.1 a Market Contract in the form of a Bond Transaction or a Repurchase Agreement shall be deemed to be registered with ASX Clear (Futures) when the relevant transaction is submitted to and accepted for registration by ASX Clear (Futures).

### **New Zealand Futures & Options Exchange Limited (NZFOE)**

The following clauses relate to registration of Market Contracts traded on the NZFOE:

- 1 For the purposes of Part 3 of the Rules the procedures for the registration of Market Contracts shall be as set out in this Schedule.
- 2 In this Schedule all expressions shall have the same meaning as in either NZFOE Rules or the Rules.
- 3 For the purposes of the definition of Recorded by the Exchange:
- (a) A Market Contract traded on NZFOE SYCOM® shall be deemed to be Recorded by the Exchange upon SYCOM® producing a matched trade record of the trade.
  - (b) A Market Contract traded other than on NZFOE SYCOM® shall be deemed to be Recorded by the Exchange upon being submitted to and accepted for registration by ASX Clear (Futures). (Amended 25/11/96)
- 3A Where there is an objection to a Trade, for the purposes of the definition of Recorded with the Exchange, a Market Contract Traded on SYCOM® shall be deemed to be Recorded by the Exchange in substitution for the original recording where the Trade is Confirmed upon resolution of an objection in accordance with NZFOE Rules.
- 4 For the purposes of Rule 31.1 a Market Contract shall be deemed to be registered with ASX Clear (Futures) when Recorded by the Exchange in the manner set out in this Schedule.

5 Any allocation:

- (a) effected and confirmed in accordance with NZFOE Rules; or
- (b) effected and confirmed in accordance with any other procedures as determined from time to time by NZFOE or ASX Clear (Futures),

subsequent to the registration or deemed registration of a Market Contract with ASX Clear (Futures) shall be deemed to be an Allocation for the purposes of the Rules and for this purpose any Allocation made by or to a Trading Participant which is not a Clearing Participant shall be deemed to be Allocated by or to the Guarantor Clearing Participant of that Trading Participant.

6 All Designations of Trades (being the bought or sold side of a Market Contract) as House or Client Trades:

- (a) effected under NZFOE Rules; or
- (b) otherwise effected in accordance with any other procedures as determined from time to time by the NZFOE or ASX Clear (Futures),

shall be deemed to be a Designation to a House Clearing Account or Client Clearing Account respectively under the Rules in relation to an Open Contract arising from that trade. Where no Designation as a House Trade or Client Trade has been made or the Open Contract otherwise Designated to a House Clearing Account or Client Clearing Account under the Rules such Open Contract shall be deemed to be Designated to the relevant House Clearing Account unless the Trade is deemed to be Designated to a Client Clearing Account under NZFOE Rules or ASX Clear (Futures) in its absolute discretion designates the Open Contract to a Client Clearing Account.

7 The confirmation of a Trade pursuant to NZFOE Rules or the execution of a Trade shall be deemed to be presentation of the Trade to ASX Clear (Futures) for registration and consent to such registration by the Clearing Participant which is the party to such trade or if the party to the trade is not a Clearing Participant the Guarantor Clearing Participant of that party.

**SCHEDULE 2****DAILY SETTLEMENT PAYMENTS AND PAYMENT OF MARGINS USING THE SPAN  
MARGINING SYSTEM**

- 1 The Initial Margins determined by the Board pursuant to Rule 43.4 or any other determination of Initial Margins made pursuant to Rule 44 may refer to the following categories of Initial Margin including concessional rates:
- 1.1 **Full Initial Margin or Price Scanning Range:** This is the rate that applies to the net futures equivalent to all futures positions in a Clearing Participant's account for each commodity (ie the net uncovered position). It is also the movement in the underlying futures prices used in determining initial margins on net options positions.
  - 1.2 **Volatility Scanning Range:** This is the change in volatility applied to the net options positions in a Clearing Participant's account for each commodity.
  - 1.3 **Inter Month Rate:** This is the rate that applies to the futures equivalent of any options and futures positions offset against any options and futures positions in a different delivery month for the same commodity.
  - 1.4 **Inter Commodity Concession:** This is the concession to the Initial Margin on a Clearing Participant's account for offsetting positions in specified commodities.
  - 1.5 **Short Option Minimum:** This is the minimum charge on short option for each commodity in a Clearing Participant's account.
  - 1.6 **Initial Margin on Options:** Initial margins on options or combinations of options and futures will be calculated using the "SPAN" methodology developed by the Chicago Mercantile Exchange and the parameters defined in Section 1 above.

**Margins for Bond and Repurchase Transactions**

1. Initial Margins prescribed by the Board pursuant to By-law 43A.4 or any other determination of Initial Margins made pursuant to Rule 44A may refer to the following categories of Initial Margin. There are four key elements that contribute to the initial margin on a trade. All are considered margin parameters:

**(a) Bond Volatility Margin**

The amount of initial margin charged for the bond leg equals the change in value of the position if the clean price were to change by an amount equal to the haircut applied to the bond. The haircut applied to each bond represents the maximum expected change in price of the most volatile bond in each band and is set by considering historical price data. The characteristics of a bond – such as term, issuer and so on, also contribute to the banding of the bonds.

**(b) Correlation/Savings Multiplier**

The bonds will be grouped by characteristics of the bond, which may be volatility, maturity or yield. Correlation's will be calculated on offsetting positions for margin concessions between each bond group.

**(c) Repurchase Agreement rate volatility Margin**

In the event of counterparty default, ASX Clear (Futures) may be exposed to movements in Repurchase Agreement rate. To cover this risk, an amount will be factored into initial margin (as an additive amount) to cover potential movement.

**(d) The counterparty multiplier**

The counterparty multiplier is used to apply differential margins between BRC Participants. For example a BRC Participant with a credit rating of A-1+ may have a counterparty multiplier of 1 whilst an A-1 participant may have a multiplier of 1.5. It is expected that all initial BRC Participants will have a counterparty multiplier if 1.

The **total initial margin** is the sum of the results of the first three components multiplied by the counterparty multiplier.

**SCHEDULE 3****PRESCRIBED TIMES**

(Amended 25/11/97)

The time or date prescribed for the purposes of the Rule shown in the first column as described briefly in the second column is that shown in the third column.

<b>Rule</b>	<b>Description</b>	<b>Time</b>
43.1 *	Time for payment of Initial Margins and Daily Settlement Amounts	10.30 am (Sydney time) in the case of the Exchange or 12.30 pm (Auckland time) in the case of NZFOE on the Business Day of the Relevant Exchange following day of trade (or as otherwise demanded by ASX Clear (Futures))
43A.1 *	Time for payment of Initial Margins (Amended 28/10/02)	10.30 am (Sydney time) on the BRC Business Day following day of trade (or as otherwise demanded by ASX Clear (Futures)) (Amended 28/10/02)
44A.3	Time for payment of BRC Variation Margins (Added 28/10/02)	10:30 am (Sydney time) on the BRC Business Day following day of trade (or as otherwise demanded by ASX Clear (Futures)) (Added 28/10/02)
46.1	Time for advice to ASX Clear (Futures) of Open Positions (the reported Long and Short Positions) (otherwise referred to as the reported position file)	8.00 pm (Sydney time) on each business day of the Relevant Exchange, or in the case of serial options or other specified contract, any time specified by Exchange Operating rules for the submission of a reported position file or such other time as may be determined by ASX Clear (Futures)
32.1	Confirmation of Allocation	Time permitted by Exchange Operating Rules or time within which Recording by Exchange may occur as defined in Rule 1.1 whichever is the earlier

\* Please refer to determinations for up-to-date times. Procedure\_Schedule\_Three

**SCHEDULE 4****PRESCRIBED FEES AND CHARGES**

The fee or charge prescribed for the purposes of the Rule referred to in the first column, as described briefly in the second column, shall be that shown in the third column in relation to the Relevant Exchange.

Rule	Description	Exchange (\$AUD)	Fee NZFOE (\$NZ)
100.1(c)	Delivery fee (payable by both Buyer and Seller)		-

Amended 01/01/12

## **SCHEDULE 5 APPROVED SECURITIES AND COVER**

### **5.1 – Initial Margins**

Pursuant to Clearing Rule 43.1, subject to approval and on such conditions as ASX Clear (Futures) may determine from time to time, the following cover may be provided in respect of Initial Margins:

Approved Cover	Cover Requirement	Valuation Haircut <sup>1</sup>	Lodgement Process and Timing <sup>2</sup>
AUD Cash	Nil	6%	▪ Lodgement notification by 9am on S <sup>3</sup>
NZD Cash		6%	
EUR Cash		11%	
JPY Cash		13%	
USD Cash		10%	
GBP Cash		8%	
AUD Treasury Notes	▪ Minimum maturity: 2 weeks ▪ Minimum holding <sup>4</sup> : AU\$500,000	2%	▪ Lodgement notification by 4pm on S-1 ▪ Exigo transaction by 9am on S
AUD Treasury Bonds <sup>5</sup>	▪ Minimum maturity: 6 months ▪ Minimum holding: AU\$500,000 ▪ <u>Fixed rate bond issuance only, but excluding Capital Indexed or Inflation indexed bonds, or any other specific series that ASX may exclude</u>	▪ Maturity less than 3 Years: 2% ▪ Maturity greater than 3 Years: 6%	▪ Lodgement notification by 4pm on S-1 ▪ Exigo transaction by 9am on S
US Treasury Bills	▪ Minimum maturity: 2 weeks ▪ Minimum holding: US\$500,000 ▪ Minimum transaction: US\$500,000	1%	▪ Lodgement notification by 4pm on S-1 ▪ Exigo transaction by 9am on S

<sup>1</sup> Valuation haircuts are deducted from the market value of the instrument, as defined by ASX Clear (Futures), in all cases;

<sup>2</sup> Clearing Participants are referred to SFE Notice 052/08 for arrangements for replacing cash with non cash collateral;

<sup>3</sup> Settlement day;

<sup>4</sup> Minimum holding and transaction values apply to face value lodgements of a single expiry in the instrument;

<sup>5</sup> Treasury Index Bonds are not accepted.

## 5.2 – Additional Initial Margins (AIMs)

Pursuant to Clearing Rule 43.1, subject to approval and on such conditions as ASX Clear (Futures) may determine from time to time, the following cover may be provided in respect of stress test induced additional Initial Margins (AIMs):

Approved Cover	Cover Requirement	Valuation Haircut <sup>65</sup>	Lodgement Process and Timing <sup>76</sup>
AUD Cash	Nil	N/A	<ul style="list-style-type: none"> <li>▪ Lodgement notification by 9am on S<sup>77</sup></li> </ul>
AUD Treasury Bonds <sup>98</sup>	<ul style="list-style-type: none"> <li>▪ Minimum maturity: 6 months</li> <li>▪ Minimum holding<sup>109</sup>: AU\$500,000</li> </ul>	<ul style="list-style-type: none"> <li>▪ Maturity less than 3 Years: 2%</li> <li>▪ Maturity greater than 3 Years: 6%</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lodgement notification by 4pm on S-1</li> <li>▪ Exigo transaction by 9am on S</li> </ul>
Bank Bills/NCDs	<ul style="list-style-type: none"> <li>▪ Issuer: Authorised Deposit-taking Institution (banks only)<sup>110</sup></li> <li>▪ No Clearing Participant issued or parent/associated entity issued</li> <li>▪ Issuer rating: S&amp;P short term credit rating of A-1+</li> <li>▪ Minimum maturity: 2 weeks</li> <li>▪ Maximum maturity: 1 year</li> <li>▪ Minimum transaction: AU\$50,000,000</li> <li>▪ Subject to issuer limits</li> </ul>	2%	<ul style="list-style-type: none"> <li>▪ Lodgement notification by 4pm on S-1</li> <li>▪ Exigo transaction by 9am on S</li> </ul>
Letters of Credit	<ul style="list-style-type: none"> <li>▪ <del>▪ Issuer: Authorised Deposit taking Institution (banks only)</del></li> <li>▪ <del>▪ No Clearing Participant issued or parent/associated entity issued</del></li> <li>▪ <del>▪ Issuer rating: S&amp;P short term credit rating of A-1+</del></li> <li>▪ <del>▪ Subject to issuer limits</del></li> </ul>	N/A	<ul style="list-style-type: none"> <li>▪ <del>▪ Lodgement notification by 4pm on S-5</del></li> </ul>

| Amended 23/08/10, [ I/I/I ]

| *[Explanatory Note: The amendments to the two tables above change the types of Approved Cover and the cover requirement for Initial Margins and additional Initial Margins.]*

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<sup>65</sup> Valuation haircuts are deducted from the market value of the instrument, as defined by ASX Clear (Futures), in all cases;

<sup>76</sup> Clearing Participants are referred to SFE Notice 052/08 for arrangements for replacing cash with non cash collateral;

<sup>77</sup> Settlement day;

<sup>98</sup> Treasury Index Bonds are not accepted;

<sup>109</sup> Minimum holding and transaction values apply to face value lodgements of a single expiry in the instrument;

<sup>110</sup> Authorised Deposit Taking Institution within the meaning of Section 5 of the Banking Act 1959 (Cwth) which is in a class of Australian-owned banks, foreign subsidiary banks or branches of foreign banks as published from time to time by the Australian Prudential Regulation Authority pursuant to Section 9C of the Banking Act 1959 (Cwth).

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Amended 23/08/10

## **SCHEDEULE 6**

### **CLOSE OUT, SETTLEMENT AND DELIVERY**

#### **1 Daily Close Out of Matched Positions**

- 1.1 For the purposes of Rule 46.1 advice to ASX Clear (Futures) of net position close-outs shall be effected by the delivery to ASX Clear (Futures) by no later than 7 pm (Sydney time) or other Prescribed time on a Business Day of the Relevant Exchange or such later time as may be authorised by ASX Clear (Futures) of a form of advice required by ASX Clear (Futures) from time to time stating the total number of bought or sold positions to Close Out in respect of each of the Client Clearing Accounts and House Clearing Accounts of the Clearing Participant. Participants should calculate the number of positions to Close Out according to instructions notified by ASX Clear (Futures) from time to time and should make the details available by such electronic method(s) as may be approved from time to time by ASX Clear (Futures) (or any other procedure which may be agreed by ASX Clear (Futures)).
- 1.2 Such advice will be given effect either by the Participant submitting position close outs directly into the Exchange Allocation & Clearing System via the OMnet API using a third party system or the OM SECUR BOPC or by such other means as ASX Clear (Futures) may determine from time to time.
- 1.3 Advice provided in accordance with clause 1.2 must be consistent with the Open Position of the Clearing Participant following the previous advice and Open Positions to which the Clearing Participant has become entitled since that advice. In the event of such inconsistency ASX Clear (Futures) shall only Close Out such Open Contracts as will not result in such an inconsistency.

**SCHEDULE 7****CALCULATION OF INTEREST**

1 For the purposes of the Rules:

- (a) In relation to monies deposited with ASX Clear (Futures) for Initial Margins interest shall be payable on such funds at such rate or rates as are set by ASX Clear (Futures) and notified to Clearing Participants from time to time.
- (b) Interest shall be payable by the Clearing Participant on any debit balance(s) at such rate or rates as are prescribed by ASX Clear (Futures) and notified to Clearing Participants from time to time.

**SCHEDULE 8****OPTIONS**

No provisions have been prescribed for the purposes of this Schedule.

**SCHEDULE 9****MISCELLANEOUS PRESCRIPTIONS BY BOARD****1 Financial Requirements**

1.1 No additional requirements are prescribed for the purpose of the definitions of Net Tangible Assets or Net Liquid Assets as for the purposes of Rule 8.1.

With effect from 30 September 1995 the Financial Requirements are net tangible assets of not less than five million dollars (\$5,000,000).

1.2 No circumstances are prescribed for the purposes of Rule 8.5(d).

Amended 30/12/09

**2 Acceptance of Transfers**

2.1 For the purposes of Rule 33.5 transfers shall be accepted by written advice to ASX Clear (Futures) to that effect signed by the Transferee Clearing Participant or by such other means as ASX Clear (Futures) may allow.

3 No prescriptions are made for the purposes of Rule 98.1.

**4 ASX Clear (Futures) Reports**

In accordance with Rule 97 ASX Clear (Futures) will provide Clearing Participants in relation to Open Positions held in relation ~~to the~~ to the Exchange with the following Reports:

**AUD Denominated Contracts**

DAILY	- Daily Registration Statement in the form attached hereto
	- Position Summary
	- Daily Margin Summary
	- Financial Status Advice
	- Daily Commission Statement
	- Exchange Fees Daily Statement

MONTHLY - Fees Interest and Commissions Statements

All these documents will be issued separately in respect of a Participants House Clearing Account and Client Clearing Account.

**Bond and Repurchase Clearing**

DAILY	- Daily Net Settlement Report
	- Interest Earned Statement
	- Financial Status Advice
	- Open Positions Report
	- Daily Novated Trades Report
	- Daily Fees Statement

- Coupon Report
  - Same Day Novated Trades Report
  - Same Day Net Settlement Report
  - Margin Detail Report
  - BRC Variation Margin Reconciliation Report
  - Repo Volume Reconciliation Report
- (amended 28/10/02)
- MONTHLY - Fees Interest and Commissions Statements

4.3

NZD Denominated Contracts

- |         |  |
|---------|--|
| DAILY   | <ul style="list-style-type: none"> <li>- Registration Statement</li> <li>- Trade Instructions Listing</li> <li>- Liquidation Advice</li> <li>- Final Settlement Report</li> <li>- Financial Status Advice</li> <li>- Option Exercise/Abandon Summary</li> <li>- Original Trade Listing Participants Option Position &amp; Daily Margin Summary Statement</li> <li>- Participants Margin Summary</li> </ul> |
| MONTHLY | <ul style="list-style-type: none"> <li>- Statement of Account</li> <li>- Monthly Commission Analysis Report</li> </ul>   |

All these documents will be issued separately in respect of a Participants House Clearing Account and Client Clearing Account other than the Trade Instructions Listing and Monthly Commission Analysis Report.

**FORM 1 – AUDITOR'S CERTIFICATE – [DELETED]**

Amended 13/06/08 Deleted 30/12/09

**FORM 2 – DAILY REGISTRATION STATEMENT****Contracts Registered (Rule 97) ASX Clear (Futures) Pty ~~Limited~~Limited**

ABN 91 050 615 864

20 Bridge Street Sydney 2000 Australia

Telephone: (02) 9256 0555 Facsimile: (02) 9256 0426

Client/House Clearing Account

Participant Mnemonic: \_\_\_\_\_

Participant: \_\_\_\_\_

Fax: \_\_\_\_\_

Trade Date: \_\_\_\_\_

Contract/clearing product: \_\_\_\_\_

Trans Type	Month/Year	Exercise Price	Futures/ Call/Put	Sold	Bought	Price/Premiu m	Value	Settlement Price	Settlement Value	Daily Settlement Amount

ISSUED SUBJECT TO THE CORRECTION OF ERRORS AND OMISSIONS.

11350863\_2RULES OF ASX CLEAR (FUTURES) PTY LIMITED11406363\_9

**SCHEDULE 10****CALCULATION OF FUTURES COMMITMENTS OF A FUTURES PARTICIPANT**~~**COMMITMENTS**~~**Definitions Used in This Schedule**

1 Aggregate Fixed Commitment: The aggregate of all Clearing Futures Participants' Fixed Commitment [as defined in Rule 5.6(a)].

Aggregate Initial Margins: The aggregate of all Clearing Futures Participants' Initial Margins held with ASX Clear (Futures).

Aggregate Variable Commitment: If the Aggregate Fixed Commitment is less than the total aggregate amount committed by Clearing Futures Participants under the First Level Futures Commitment, as calculated in accordance with the formula set out in Rule 5.6(a), (FLFC) then the Aggregate Variable Commitment is the difference between the First Level Futures Commitment and the Aggregate Fixed Commitment.

Calculation Period: From the 11th day of the final month in the second previous quarter to the 10th day (inclusive) of the final month in the previous quarter.

Clearing Futures Commitment: As defined in the Rules.

Futures Participant Initial Margins: The total initial margins (the sum of total house and total client accounts) (other than OTC Initial Margin) deposited by each Clearing Futures Participant with ASX Clear (Futures).

Clearing Futures Participant Variable Commitment: The Variable Commitment (as defined in Rule 5.6(a)(ii)) of each Clearing Futures Participant for the New Quarter.

Clearing Futures Participant Variable Commitment Proportion: Each Clearing Futures Participant's percentage of the Aggregate Variable Commitment for the New Quarter.

First Level Commitment: As defined in the Rules.New Futures Participant: A Futures Participant who has not previously been included in the Variable Commitment Calculation.

New Quarter: The quarter for which the Variable Commitment is being calculated—It corresponds to a quarterly breakup of the period of Clearing Participant Commitment. These quarters will start on 1 March, 1 June, 1 September and 1 December and will end 30 May, 31 August, 30 November and 28/29 February respectively.

New Clearing Participant: A Clearing Participant who has not previously been included in the Variable Commitment Calculation.

Retiring Clearing Participant: A Clearing Participant whose Period of Clearing Participant Commitment will end with the commencement of the New Quarter.

Period of Clearing Participant Commitment: As defined in the Rules.

Previous Quarter: The three calendar months preceding the New Quarter.

Second Level Commitment: As defined in the Rules.

Retiring Futures Participant: A person whose admission as a Clearing Participant was resigned or terminated effective during the Previous Quarter.

Second Previous Quarter: The quarter prior to the Previous quarter Quarter.

Transition Period: From midnight on 14/11/93 to midnight on 30 November 1993.

Amended [ ] / [ ]/13

2 The First Level Futures Commitment is the sum of fixed and variable commitments. If the aggregate of the Fixed Commitment, pursuant to Rule 5.6(a), of all Clearing Futures Participants (the "Aggregate Fixed Commitment") is equal to or in excess of the total aggregate amount committed by Clearing Futures Participants under the First Level Futures Commitment as calculated in accordance with the formula set out in Rule 5.6(a)) (FLCFC), then there will be no requirement for any Variable Commitment to be made by any Clearing Futures Participant. If on the other hand the Aggregate Fixed Commitment is less than FLCFC, the Variable Commitment for each Clearing Futures Participant shall be calculated by ASX Clear (Futures) using the procedures set out in paragraphs 4 to 10 below of this Schedule, (except during the period from [insert date when amendments become effective] to (but excluding) 1 September 2013, when the Transitional Arrangements in paragraph 15 below of this Schedule apply).

Amended [ ]/1/13

3 ~~If the Board determines that a Second Level Commitment is required from Clearing Participants it will be calculated in accordance with paragraphs 11 to 14 of this Schedule.~~

## **First Level Commitment**

### **Variable Commitment Calculation**

43 Except where Transition Arrangements apply (or the New Clearing Futures Participant or Retiring Clearing Futures Participant provisions of paragraph 9 and 10 apply), the Variable Commitment will be calculated so as to take effect from the first day of each new quarterNew Quarter. The Transition Arrangements for the purposes of this Schedule are outlined in paragraph 15 of this Schedule.

Amended [ ]/1/13

54 The Aggregate Variable Commitment for all Clearing Futures Participants will be determined for the first day of each quarter by ASX Clear (Futures) using the following formula:

Aggregate Variable Commitment = FLCFC - Aggregate Fixed Commitment

(where FLCFC is the total aggregate amount committed by Clearing Futures Participants under the First Level Futures Commitment, as calculated in accordance with the formula set out in Rule 5.6(a),

Amended [ ]/1/13

65 The Clearing Futures Participant Variable Commitment Proportion shall be calculated by taking the percentage that the daily average of each Clearing Futures Participant Initial Margins (where the average is calculated by taking the sum of each Clearing Futures Participant's initial margin on every Business Day in the Calculation Period and dividing it by the number of Business Days in the Calculation Period) represents of the aggregate of these daily average Clearing Futures Participant Initial Margins.

$$\frac{\text{Clearing Futures Participant Variable Commitment}}{\text{Average of Aggregate Initial Margins}} = \frac{\text{Average Clearing Futures Participant Initial Margins}}{\text{Average of Aggregate Initial Margins}}$$

Note: For the purposes of this clause, in the case of BRC Participants the Variable Commitment Proportion may be determined by the Board at its discretion by reference to the value of Bond Transactions or Repurchase Agreements cleared by each BRC Participant (rather than by reference to Initial Margins) or on such other similar basis as the Board may determine.

To ensure that such a calculation can be performed in time to take effect from the first day of the New quarterQuarter, the Calculation Period of Clearing Futures Participant Variable Commitment Proportion

will be from the eleventh day of the final month of the second previous quarter up to and including the tenth day of the final month in the previous quarter.

Amended [ ]/1/13

- 76** (a) The Variable Commitment requirement for each Clearing Futures Participant (the "Clearing Futures Participant Variable Commitment" or "CPVC FPVC") will be calculated by multiplying the Aggregate Variable Commitment by each Clearing Futures Participant Variable Commitment Proportion. That is:

Clearing Futures Participant Variable Commitment =  
Aggregate Variable Commitment X Clearing Futures Participant Variable Commitment Proportion

- (b) The Clearing Futures Participant Variable Commitment will be rounded to the nearest multiple of ten thousand dollars (if the CPVC FPVC so calculated is not a multiple of ten thousand dollars and the difference between the calculated number and the next lowest multiple of ten thousand dollars is less than five thousand dollars then the CPVC FPVC will be rounded down to the nearest multiple of ten thousand, otherwise it will be rounded up to the nearest multiple of ten thousand dollars, or as otherwise ensures that ASX Clear (Futures) has exactly the Aggregate Variable Commitment required).

Amended [ ]/1/13

- 8**~~Except where transition arrangements apply, each~~ **7** Each Futures Participant will be advised by ASX Clear (Futures) of its Clearing Futures Participant Variable Commitment by the close of business of the seventeenth day of the final month of the previous quarter. If the seventeenth day of the final month is not a Business Day then the next succeeding Business Day will apply. These Variable Commitments will apply as of midnight on the last day of the previous quarter. Any adjustments to Futures Participant Variable Commitment held with ASX Clear (Futures) must be completed by 10.30am on the second last Business Day of the previous quarter.

Amended [ ]/1/13

- 9**~~If the previous quarter is the last quarter in a~~ **8** If a Retiring Clearing Participant ~~Period of Clearing Participant Commitment (a "Retiring Clearing Participant"), then~~'s resignation or termination was effective during the Previous Quarter, then for the purpose of calculating each Clearing Futures Participant's Variable Commitment Proportion, in accordance with Paragraph 6 of this Schedule, the Retiring Clearing Futures Participant's average Total Initial Margins will be deducted from the actual average Aggregate Initial Margins and this adjusted Aggregate Initial Margin formula will be used as the basis of calculation.

~~If the Retiring Clearing Participant's Variable Commitment should cease on a day other than the first day of a new quarter then it is at the Board's discretion as to the date when the Clearing Participant Variable Commitments of all Clearing Participants (including the Retiring Clearing Participants) should be adjusted.~~

Amended [ ]/1/13

- 109** The calculation of the Clearing Futures Participant Variable Commitment Proportion for a Clearing Futures Participant not previously included in the quarterly recalculations (a "New Clearing Futures Participant") will be estimated by ASX Clear (Futures). Any estimates by ASX Clear (Futures) will be final and not be open to dispute. The following factors may be incorporated into any such estimate of the New Clearing Futures Participant's Variable Commitment:

Amended [ ]/1/13

- 10.1** If the New Clearing Futures Participant, or any related companies or any business operations it has acquired, have not held any Initial Margins in a Clearing Account with ASX Clear (Futures), or with a Clearing Futures Participant, prior to the commencement of the Variable Commitment calculation then its Clearing Futures Participant Variable Commitment will be estimated by ASX Clear (Futures) on the basis of forecast levels of market activity during the New Quarter.

Amended [ ]/1/13

10.2 If the New Clearing Futures Participant, any related companies or business operations it has acquired, have held any Initial Margins in a Clearing Account, or in the accounts of a futures broker or brokers, prior to the commencement of the Variable Commitment calculation then these Initial Margins will be incorporated into the calculation its Futures Participant Variable Commitment. In addition, ASX Clear (Futures) may, at its absolute discretion, incorporate additional initial margins based on forecast levels of market activity into the calculation of its Futures Participant Variable Commitment. Where the New Futures Participant has not held Initial Margins, for the full duration of the previous quarter an Average Clearing Futures Participant Variable Commitment Proportion will be calculated for the period the Clearing Futures Participant held initial margins with ASX Clear (Futures). To calculate the final Variable Commitment Proportion for each Clearing Futures Participant the original Aggregate Initial Margins will have to be recalculated including the Average Clearing Futures Participant Variable Commitment Proportion for the New Clearing Futures Participant.

Amended [ ]/1/13

10.3 If the New Clearing Futures Participant's Variable Commitment commences with the first day of a New quarter Quarter then the New Clearing Futures Participant will be incorporated into the recalculation of all Clearing Futures Participants. This will involve recalculating the Clearing Futures Participant Variable Commitment proportion for all Clearing Futures Participants after incorporating the initial margin estimate for the New Clearing Futures Participant (provided by paragraphs 10.1 and 10.2 of this schedule) and readjusting each Clearing Futures Participant's Variable Commitment on the first day of each New Clearing Futures Participants Variable Commitment.

Amended [ ]/1/13

10A Where a Clearing Futures Participant has acquired the business of a former Clearing Futures Participant, the calculation of the Clearing Futures Participant Variable Commitment Proportion for the Clearing Futures Participant will be estimated by ASX Clear (Futures) in accordance with section 10 above, as though "the New Clearing Futures Participant" referred to in that section were the Clearing Futures Participant which has acquired the business. (Amended 7/10/99)

### **Second Level Commitment Calculation**

~~11 If the Board determines that a Second Level Commitment is required from Clearing Participants the Second Level Commitment will be calculated so as to take effect from the first day of each new quarter. The Transition Arrangements for the purposes of this Schedule are outlined in paragraph 15 of this Schedule.~~

~~12 The Second Level Commitment requirement for each Clearing Participant ("Clearing Participant Second Level Commitment" or "CPSLC") is calculated by multiplying the Second Level Commitment (as defined in Rule 5.6(b)) by each Clearing Participant Variable Commitment Proportion (as calculated in paragraph 6 of this Schedule). That is:~~

$$\text{Clearing Participant Second Level Commitment} = \\ \text{Second Level Commitment} \times \text{Clearing Participant Variable Commitment Proportion}$$

~~The Clearing Participant Second Level Commitment will be rounded to the nearest multiple of ten thousand dollars (if the CPSLC so calculated is not a multiple of ten thousand dollars and the difference between the calculated number and the next lowest multiple of ten thousand dollars is less than five thousand dollars then the CPSLC will be rounded down to the nearest multiple of ten thousand, otherwise it will be rounded up to the nearest multiple of ten thousand dollars, or as otherwise ensures that ASX Clear (Futures) has exactly the Second Level Commitment required).~~

~~13 Each Clearing Participant will be advised of, and be expected to provide, its Clearing Participant Second Level Commitment at the same time as the Variable Commitment (outlined in paragraph 8 of this Schedule).~~

Amended [ ]/1/13

[Explanatory Note: The amendments to the above provisions:

- reflect that this schedule concerns the calculation of Futures Commitments of Futures Participants;

- *insert definitions used in the calculations of the Futures Commitments;*
- *remove the reference to Transition Arrangements (as they were defined), which ceased to apply from midnight on 30 November 1993;*
- *have been updated to reflect when resignations or terminations of a Clearing Participant become effective.]*

~~14~~ Clearing Participant Second Level Commitments will be adjusted for Retiring and New Clearing Participants in the same manner as Clearing Participant Variable Commitments as outlined in paragraphs 9 and 10 of this Schedule.

## Transition Arrangements

~~15~~ For the purposes of this Schedule the Transition Arrangements will apply for the period 30 October 1993 to 30 November 1993. Under these Arrangements, to ensure appropriate security is in place by the start of the new commitment period, all Participants will be informed of their First and Second Level Commitments on 9 November 1993 and will be required to provide all First and Second Level Commitments by 26 November 1993.

~~In order to meet this timetable, the calculation period for the new commitment quarter starting 1 December 1993 will be shortened. For the purpose of paragraph 6 of this Schedule the Calculation Period will be from 11 August 1993 to 30 October 1993.~~

15 Despite any other provision of the Rules, the Transition Arrangements will apply for the period from (and including) *[insert date when amendments become effective]* to (but excluding) 1 September 2013 (the Transitional Period). Under these Transition Arrangements ASX Clear (Futures) will notify each Participant of its Futures Commitment for the Transitional Period on *[to be inserted]* and each Participant will be required to provide that Futures Commitment by *[1 July 2013]*.

Each Participant's Futures Commitment for the Transitional Period will be a recalculation of the Futures Commitment applicable to the Quarter ending on 31 August 2013, using the same Futures Participant Variable Commitment Proportion applicable to such Quarter but using an aggregate Futures Commitment (FC) equal to \$100,000,000.

ASX Clear (Futures) will pay to each Participant the difference (if any) between such Participant's Futures Commitment for the Quarter ending on 31 August 2013 and its Futures Commitment as recalculated for the Transitional Period, as soon as practicable following *[insert date when amendments become effective]*.

Subject to the Transition Arrangements, on and from *[insert date when amendments become effective]*, Commitments of Clearing Participants will continue to be held by ASX Clear (Futures) in accordance with these Rules, and will be treated as not being subject to the period of Commitment that applied immediately before such date. The amendments to these Rules which take effect on *[insert date when amendments become effective]* are without prejudice to any election made by a Clearing Participant before such date not to renew its Commitment.

Amended [ ]/ [ ]/13

[Explanatory Note: The amendments to paragraph 15 set out the Transition Arrangements that apply to Commitments as of the date on which these amendments become effective.]

## An Example

~~16~~ An example of the Variable Commitment ~~and Second Level Commitment Calculations (except where Transition Arrangements apply)~~ Calculation is set out below:

Amended [ ]/ [ ]/13

~~17~~ Assume we are about to start a new quarter and the number of Clearing Futures Participants remains unchanged from the previous quarter at 30 Clearing Futures Participants. The \$2 million Fixed Commitment of each of these Clearing Futures Participants will sum to give an Aggregate Fixed

Commitment of \$60 million. ~~The Board also determines that a \$30 million Second Level Commitment is required.~~ Following paragraph 5 of this Schedule we calculate the following:

$$\text{Aggregate Variable Commitment} = \$120\text{-}100 \text{ million} - \$60 \text{ million} = \$60\text{-}40 \text{ million}$$

~~**Second Level Commitment**~~ = \$30 million

- 18 The average Aggregate Initial Margins for the previous quarter is equal to \$200 million. After calculating the Clearing Futures Participant Initial Margins for the previous quarter the Clearing Futures Participant Variable Commitment Proportions are distributed as follows:

<u>Clearing Futures</u> Participant Variable Commitment Proportion (%)	No. of <u>Clearing Futures</u> Participants	Share of Aggregate Initial Margins
6	4	24%
4.33	6	26%
3	10	30%
2	<u>10</u> 30	<u>20%</u> 100%

- \* Note for simplicity this assumes only four different levels of Clearing Futures Participant Variable Commitment Proportion. In practice this is likely to be different for each Clearing Futures Participant.

- 19 From these Clearing Futures Participant Variable Commitment Proportions ("CPVCP FPVCP") we can calculate the Variable Commitment ~~and Second Level Commitment~~ of each Clearing Futures Participant by multiplying each CPVCP FPVCP by the Aggregate Variable Commitment of ~~\$60 million and the Second Level Commitment of \$30-40 million~~. That is,

CPVCP %	Participant Variable Commitment	Participant Fixed Commitment	Second Level Commitment	Total Participant Commitment	No of <u>Clearing Futures</u> Participants	Total Commitment
6	\$3.60m <u>2.40m</u>	\$2m	\$1.80m	\$7.40m <u>4.40m</u>	4	\$29.60m <u>\$17.60m</u>
4.33	\$2.60m <u>1.732m</u>	\$2m	\$1.30m	\$5.90m <u>3.732m</u>	6	\$35.40m <u>\$22.392m</u>
3	\$1.80m <u>1.20m</u>	\$2m	\$0.90m	\$4.70m <u>3.20m</u>	10	\$47.00m <u>\$32.00m</u>
2	\$1.20m <u>0.80m</u>	\$2m	\$0.60m	\$3.80m <u>2.80m</u>	10	\$38.00m <u>\$28.00m</u>
					30	\$150.00m <u>\$100m</u>

As is evident, the exact manner in which the \$120-100 million First Level Commitment and any Second Level Futures Commitment is divided amongst Clearing Futures Participants will depend upon the number of Clearing Futures Participants and the proportion each has of the total initial margins held by ASX Clear (Futures).

Amended 01/03/08, 11/11/2013

[Explanatory Note: The amendments update the example to reflect that it concerns the calculation of Futures Commitments of Futures Participants.]

**SCHEDULE 11****Deleted**

**SCHEDULE 11A****ADDITIONAL PRESCRIPTIONS**

(Amended 2/12/99)

- A1 For the purposes of Rule 6.1 the commitment to be provided by a Clearing Participant is prescribed to be for that period of not less than eighteen months and not more than 30 months and 14 days which will result in the date for making the election not to renew under Rule 6.2(a) falling on 1 December in each year.
- 1 For the purposes of Rule 6.2(a) the prescribed form of notice of election is as set out in Form 1 attached.
- 21 For the purposes of Rule 8.4 the prescribed date for lodgement of the statement of financial position is no later than one calendar month after the end of each month.
- 32 For the purposes of Rule 9.1(b) (Position Limits) the prescribed limit is a limit of Initial Margin (other than OTC Initial Margin) liability of no more than 200% of the Net Tangible Assets of a Clearing Participant.
- 43 For the purposes of Rule 31.1(d) the manner of presentation shall be the lodgement with the Relevant Exchange for presentation to ASX Clear (Futures) of a form (signed by the relevant parties) as determined by the Relevant Exchange and ASX Clear (Futures) from time to time.
- 4A4 For the purposes of Rule 41.1 and 41.2, contracts which are listed on the Exchange and which are denominated in New Zealand dollars are a prescribed Group of Contracts.
- 5 For the purposes of Rule 44.1 the Prescribed time prior to which the relevant market contracts are traded is the close of trading on a Business Day of the Relevant Exchange. No additional time for Daily Settlements is Prescribed.
- 5A For the purposes of Rule 44A.2 the Prescribed time is 6:00 pm on each BRC Business Day.
- 6 For the purposes of Rule 44.4 and 44.8 the prescribed time is 10.30 am on a Business Day of the Relevant Exchange or as otherwise demanded by ASX Clear (Futures).
- 6A For the purposes of Rule 44A.3 and 44A.7 the prescribed time is 10:30 am on a BRC Business Day.
- 7 No prescriptions are made for the purposes of Rule 45.1 or 45A.1 (intra-day margins).
- 8 No prescriptions are made for the purposes of Rule 52.2 and 54.1 (Physical Option Contracts).
- 9 For the purposes of Rule 52.2(b) the prescribed circumstances are those circumstances specified in the Exchange Operating Rules.
- 10 For the purposes of Rule 52.3 the Prescribed Form of Exercise is by electronic lodgment in the Exchange Allocation & Clearing System or such other form as determined by ASX Clear (Futures) from time to time including, without limitation, as set out in Form 2 attached. (Amended 10/12/01)
- 11 For the purpose of Rule 63.7 (ASX Clear (Futures) invoice) the prescribed time is 9.00 am on settlement day. In this prescription 9.00 am shall refer to Sydney time in the case of the Exchange and Auckland time in the case of the NZFOE.
- 12 The form of application for a Clearing Participant has been separately prescribed and may be obtained from the Secretary.
- 13 The Prescribed form of financial statements is the same as has been prescribed by the Exchange and set out in its Compliance Manual and may be obtained from the Secretary.

**FORM 1     NOTICE OF ELECTION**[Deleted]

To the Secretary

ASX Clear (Futures) Pty Ltd

(Name of Clearing Participant)

~~hereby elects, pursuant to Rule 6.2(a) not to renew its Commitment for a further year from the date of the expiry of its Commitment.~~

Dated: \_\_\_\_\_

The Common Seal of: \_\_\_\_\_

~~was affixed hereto on the aforementioned date in accordance with its Constitution.~~

## **FORM 2     NOTICE OF EXERCISE OR ABANDONMENT**

ASX Clear (Futures) Pty Ltd  
 20 Bridge Street  
 SYDNEY NSW 2000  
 Facsimile: (02) 9256 0426

Date: \_\_\_\_\_

### **Notice of Option Exercise / Abandonment**

We hereby instruct you, in terms of the rules of the Exchange / NZFOE \*\* and ASX Clear (Futures) to:

- \*\*      Exercise / Abandon the option contracts listed below which are held in our
- \*\*      House / Client Account.
- (\*\* Delete whichever is not applicable)

CCMY	Strike Price	Number of
	<u>Call / Putt Lots</u>	

---

Clearing Participant

---

Signature

---

Transaction authorised by:  
(ASX Clear (Futures) Officer)

---

Date

This document is for same day exercise / abandonment if received by ASX Clear (Futures) by 5:30 pm except on the Last Trading Day for 3-Year and 10-Year bond options when this document must be lodged by 1:00 pm.

**SCHEDULE 12**

**Deleted.**

**SCHEDULE 13****BOARD POWERS ON SUSPENSION OF CLEARING PARTICIPANT**

(See Rule 10)

1. [Deleted – 31/03/08]
2. [Deleted – 31/03/08]
3. [Deleted – 31/03/08]
4. [Deleted – 31/03/08]
5. [Deleted – 31/03/08]
6. [Deleted – 31/03/08]
7. [Deleted – 31/03/08]
8. [Deleted – 31/03/08]
9. [Deleted – 31/03/08]
10. [Deleted – 31/03/08]
11. [Deleted – 31/03/08]
12. [Deleted – 31/03/08]
13. [Deleted – 31/03/08]
14. [Deleted – 31/03/08]
15. Where a Clearing Participant's status and rights have been suspended or terminated, or the Clearing Participant has been ordered not to trade on a specified Market or Markets, or the Clearing Participant has resigned, the Open Positions or Open Contracts held by the Clearing Participant (whether on its own behalf or on behalf of Clients) may be transferred to another Clearing Participant,~~at~~ at the direction of the Board by operation of any Power of Attorney given by the Client to any member or members of the Board or by operation of the agency created by Rule 10.9.
16. In deciding whether to make such a direction, the Board may take into account whether indebtedness of that Client to that Clearing Participant has been satisfied.
17. Any such transfer of Open Positions or Open Contracts will be subject to the Rules where applicable.
18. The Clearing Participant to whom such Open Positions or Open Contracts are transferred shall be entitled to commission on any subsequent trades.
19. The Board may appoint a Clearing Participant to assist the Board and act at the Board's direction in relation to the management of the business of the first named Clearing Participant.
20. The Board may nominate one of its members to take all action in the name of the Clearing Participant first named in Clause 15 of this Schedule 13, and to execute all documents and do all things necessary to give effect to such transfer.
21. [Deleted – 31/03/08]

## **SCHEDULE 14 – GRAIN CONTRACTS**

### **14.1 APPLICATION**

#### **14.1.1 Application of Rules**

Schedule 14 applies to Grain Contracts.

### **14.2 TENDER PROCESS**

#### **14.2.1 Election to tender by Seller**

Where the Seller in respect of a contract elects to effect delivery and settle its obligations during the Delivery Period, the Seller must submit Tender Documentation with ASX Clear (Futures) in the form and manner determined by ASX Clear (Futures) in accordance with the Procedures. In any event, the Seller must submit Tender Documentation on the Last Trading Day by the time set out in the Procedures. Tender Documentation submitted after the time prescribed in the Procedures, other than on the Last Trading Day, will be taken to have been submitted on the following Business Day.

At the time of submitting Tender Documentation the Seller must ensure that ASX Clear (Futures) holds for the benefit of the Seller an Interest of at least the Specified Quantity for each contract in accordance with Rule 14.4.

#### **14.2.2 Acceptance of Tender Documentation**

ASX Clear (Futures) is not obliged to accept any Tender Documentation and will notify the Seller, in accordance with Rule 14.2.6, when it has accepted Tender Documentation submitted by the Seller under Rule 14.2.1. Without limiting ASX Clear (Futures) discretion whether or not to accept Tender Documentation, ASX Clear (Futures) may reject Tender Documentation where, for example, ASX Clear (Futures) is not satisfied that ASX Clear (Futures) holds a sufficient portion of the Interest for the benefit of the Seller to enable the Seller to discharge its settlement obligations in respect of the contracts the subject of the Tender Documentation under Rule 14.3.2.

If ASX Clear (Futures) rejects Tender Documentation, it will notify the Seller in accordance with the Procedures of that rejection, and the reasons for that rejection, as soon as practicable.

#### **14.2.3 Tender Documentation may not be amended or withdrawn**

A Seller may not amend or withdraw Tender Documentation submitted under Rule 14.2.1 without the prior written consent of ASX Clear (Futures).

#### **14.2.4 ASX Clear (Futures) to allocate tender**

If Tender Documentation is accepted by ASX Clear (Futures) in respect of one or more contracts under Rule 14.2.2 and the Tender Documentation is not withdrawn under Rule 14.2.3, ASX Clear (Futures) will allocate for settlement a corresponding number of contracts in the same Series or Delivery Month registered in the name of one or more Buyers.

#### **14.2.5 Procedures for allocation**

The allocation under Rule 14.2.4 will be on the basis of random selection or other process determined by ASX Clear (Futures) from time to time and set out in the Procedures.

#### **14.2.6 ASX Clear (Futures) to confirm acceptance of Tender Documentation and allocation**

ASX Clear (Futures) will, as soon as practicable and in accordance with the Procedures, notify the Seller of the acceptance of Tender Documentation under Rule 14.2.2 and notify the Buyer or Buyers of the allocation under Rule 14.2.4.

#### **14.2.7 Tender Documentation and allocation restrictions**

ASX Clear (Futures) may at any time impose a restriction on the acceptance of Tender Documentation or the allocation under Rule 14.2.4 if it determines the restriction is appropriate having regard to ASX 24 Operating Rule 6120. If ASX Clear (Futures) imposes a restriction on one or more Participants, those Participants must comply with that restriction.

### **14.3 SETTLEMENT**

#### **14.3.1 Settlement process**

The settlement of rights and obligations under the relevant Futures CCP Contracts following the allocation process in Rule 14.2.4 will be effected in accordance with this Rule 14.3.

#### **14.3.2 Settlement with the Seller**

Subject to these Rules, where the Seller elects to effect delivery, it must, in respect of the Futures CCP Contract between the Seller and ASX Clear (Futures), have lodged Tender Documentation in accordance with the Procedures. ASX Clear (Futures) must, in respect of the Futures CCP Contract between the Seller and ASX Clear (Futures), pay the Settlement Amount to the Seller at the applicable Settlement Time. ASX Clear (Futures) will amend its records at or as soon as practicable after the applicable Settlement Time, to record that, effective at the applicable Settlement Time, the proportion (by volume) of the Interest which ASX Clear (Futures) holds for the benefit of the Seller falls by the Specified Quantity.

#### **14.3.3 Settlement with the Buyer**

Subject to these Rules, the Buyer must, in respect of the Futures CCP Contract between the Buyer and ASX Clear (Futures), pay the Settlement Amount to ASX Clear (Futures) by the applicable Settlement Time. Subject to the Buyer paying that amount by that time, ASX Clear (Futures) will amend its records at or as soon as practicable after that time to record that, effective from the applicable Settlement Time, the proportion (by volume) of the Interest which ASX Clear (Futures) holds for the benefit of the Buyer (which may, immediately before the applicable Settlement Time, be zero) increases by the Specified Quantity.

### **14.4 HOLDING THE INTEREST**

#### **14.4.1 Transfer of Interest by Participant to ASX Clear (Futures)**

When a Participant transfers or procures the transfer of an Interest in a quantity of the Underlying Commodity to ASX Clear (Futures), ASX Clear (Futures) will hold that Interest for the benefit of that Participant from the time at which the Bulk Handler records ASX Clear (Futures) as the owner of that interest under the terms of the Bulk Handler Agreement.

#### **14.4.2 Holding of Interest for Buyer following settlement of Futures CCP Contract**

On the settlement of a Futures CCP Contract between ASX Clear (Futures) and the Buyer under Rule 14.3.4, ASX Clear (Futures) will, from the applicable Settlement Time, hold the Interest referred to in Rule 14.3.2 for the benefit of the Buyer referred to in that Rule.

A Buyer may at any time thereafter direct ASX Clear (Futures) to transfer the Interest to the Buyer's account or another account at the Bulk Handler in accordance with the Procedures.

#### **14.4.3 Application of Bulk Handler Agreement**

Each Participant for whom ASX Clear (Futures) holds the Interest under these Rules acknowledges that the Bulk Handler will store the Underlying Commodity for a number of clients of the Bulk Handler and will recognise the interest of ASX Clear (Futures) in the stored Underlying Commodity with other clients of the Bulk Handler (as owners in common). Those Participants acknowledge that the Bulk Handler will recognise ASX Clear (Futures) as the owner of the Underlying Commodity and is not bound to recognise that ASX Clear (Futures) holds any part of that interest for the benefit of one or more Participants.

#### **14.4.4 Co-mingling**

Each Participant for whom ASX Clear (Futures) holds the Interest under these Rules also acknowledges the Interest which ASX Clear (Futures) holds at any point in time may be held for the benefit of more than one Participant. The proportion of the Interest held for the benefit of each Participant will be determined by ASX Clear (Futures) in accordance with its records, which will record that proportion as a volume of the Underlying Commodity.

#### **14.4.5 ASX Clear (Futures) right to convert old season grain**

Each Participant acknowledges that the Bulk Handler Agreement may give ASX Clear (Futures), as the holder of the Interest the right to convert "old season grain" to "new season grain". ASX Clear (Futures) intends, to the extent permitted under the Bulk Handler Agreement, to exercise that right.

Where ASX Clear (Futures) cannot exercise that right, ASX Clear (Futures) will notify Participants accordingly and will make a direction in accordance with Rule 14.4.7.

#### **14.4.6 Interest held at location specified by ASX Clear (Futures)**

Each Participant acknowledges that ASX Clear (Futures) holds the portion of the Interest held for the Participant's benefit at the location specified by ASX Clear (Futures).

Without limiting Rule 14.4.10, any costs and expenses incurred by ASX Clear (Futures) in respect of the conversion will be borne by the Participants for whom ASX Clear (Futures) holds the Interest at the time of conversion.

#### **14.4.7 ASX Clear (Futures) direction to take Interest or Underlying Commodity**

ASX Clear (Futures) may direct a Participant to:

- (a) accept a transfer from ASX Clear (Futures) of all or part of the Interest which ASX Clear (Futures) holds for its benefit; or
- (b) accept physical delivery from ASX Clear (Futures) (or its agent) of all or part of the Underlying Commodity represented by the Interest which ASX Clear (Futures) holds for its benefit.

The Participant must immediately comply with any direction given by ASX Clear (Futures) under this Rule 14.4.7 and take all steps and execute all documents required to give effect to that direction.

#### **14.4.8 Failure to comply with direction**

If a Participant fails to comply with a direction under Rule 14.4.7, the Participant irrevocably authorises ASX Clear (Futures) to take any action which ASX Clear (Futures) considers appropriate to dispose of the relevant portion of the Interest including, without limitation:

- (a) sell the Underlying Commodity represented by that portion of the Interest and following such sale, account to the Participant for the proceeds of sale after deducting any costs, expenses, taxes or other amounts incurred by ASX Clear (Futures) in connection with the sale;
- (b) out-turn from the Bulk Handler the Underlying Commodity represented by that portion of the Interest and deliver the Underlying Commodity to another location selected by ASX Clear (Futures) in its discretion.

The Participant indemnifies ASX Clear (Futures) in respect of all losses, damages, liabilities, claims, costs and expenses arising in connection with any failure by the Participant to comply with a direction under Rule 14.4.7 and any exercise by ASX Clear (Futures) of its powers under this Rule 14.4.8.

#### **14.4.9      Representations by Participant**

Each Participant:

- (a) which transfers, or procures the transfer of an Interest to ASX Clear (Futures) under Rule 14.4.1 or which requests the transfer or procures the transfer of an Interest from ASX Clear (Futures) under this Rule 14.4:
  - (i) represents and warrants that it has and will continue to have for so long as it is the relevant Participant in respect of that Interest, the capacity and authority to do so; and
  - (ii) warrants to ASX Clear (Futures) and to each other Participant that the Interest or any other interest in the Underlying Commodity is free from any encumbrance, lien, tax or levy;
- (b) for whom ASX Clear (Futures) holds a portion of the Interest under Rule 14.4.2 represents and warrants that it has and will continue to have for so long as it is the relevant Participant in respect of that Interest, the capacity and authority to do so; and
- (c) indemnifies ASX Clear (Futures) in respect of all losses, damages, liabilities, claims, costs and expenses arising from any representation or warranty by that Participant under paragraphs (a) or (b) of this Rule 14.4.9 being incorrect.

#### **14.4.10    Indemnity from Participants**

Each Participant for whom ASX Clear (Futures) holds the Interest under these Rules indemnifies ASX Clear (Futures) in respect of all losses, damages, liabilities, claims, costs and expenses arising in connection with the holding of that Interest. The apportionment of liability under this indemnity among Participants will be determined by ASX Clear (Futures) acting reasonably and having regard to the proportion of the Interest which it holds for the benefit of each of the relevant Participants at the relevant times.

#### **14.4.11    Insurance**

ASX Clear (Futures) has no obligation to insure any Interest or any Underlying Commodity represented by that Interest.

Introduced 24/10/11



**PROCEDURES  
DETERMINATIONS  
AND  
PRACTICE NOTES**

**RELATING TO THE ASX CLEAR (FUTURES)  
OPERATING RULES**

(ABN 91 050 615 864)

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**Rule 4.2(a) Becoming a Clearing Participant**

Application Form – Please contact the Exchange for a copy of the Clearing Participant Application Form.

#### **Rule 4.14     Becoming a Clearing Participant**

Each Clearing Participant must provide to ASX Clear (Futures) an annual audit certificate, in the form determined by ASX Clear (Futures), within 3 months of its financial year end.

Each Clearing Participant is to submit Form 1 and 2 and where a Clearing Participant is an AFSL licensee a copy of the FS 71 audit report. Clearing Participants which are foreign ADIs and who are exempted by ASIC Class Order CO 03/823 from the requirement to prepare FS71 audit reports, may lodge the equivalent audit report that they lodge with ASIC. Exceptions to the above require the approval of ASX Clear (Futures).

Forms 1 and 2 should be submitted via email to CRAteam@ASX.com.au. FS71 or an equivalent audit report should be forwarded to Compliance@asx.com.au.

Foreign Participants can choose to have their internal controls and return audited according to Australian auditing standards and code of ethics or auditing standards and code of ethics of their home jurisdiction. The appropriate selection should be made in the Form 1 and Form 2. Notwithstanding this selection, ASX Clear (Futures) reserves the right to require an auditor to provide a report based on the Australian auditing standards and/or code of ethics.

**KEY**

\* delete as applicable

**Note:**

Where it may be necessary to make a deletion, the words to be deleted have been highlighted in bold and as noted above are followed by an asterisk (i.e. \*).

Any other deletions, amendments or omissions other than those listed above will deem the auditor's report as incorrect or incomplete.

#### **Form 1 – Independent Auditor’s Report on Net Tangible Assets Rules**

##### **Independent Auditor’s Report to the Directors of [Participant \_name]**

We have audited the internal control policies and procedures (“internal controls”) of [Participant Name] (the “Participant”) designed to ensure compliance with the requirements of:

| ASX Clear (Futures) Pty Limited’s (“ASX Clear (Futures)”) **Operating Rule 8.1-OTC Rule 3.3(a)(ii)\*** in relation to the maintenance of net tangible assets (the “Net Tangible Assets Rules”)

in order to express an opinion about their effectiveness for the [period/year] ended [date].

##### **The Responsibility of the Directors for Internal Controls**

The directors of the Participant are responsible for maintaining an effective internal control structure, including establishing and maintaining accounting records and effective internal controls designed to ensure compliance with the requirements of the Net Tangible Assets Rules. We have conducted an independent audit of the internal controls designed to ensure compliance with the requirements of the Net Tangible Assets Rules in order to express an opinion on them to the directors of the Participant for the [period/year] ended [date].

##### **Auditor’s Responsibility**

Our audit has been conducted in accordance with **Australian Auditing Standard AUS810 “Special Purpose Reports on the Effectiveness of Control Procedures”/[insert auditing standards applicable to Participant’s home jurisdiction]\*** and accordingly included such tests and procedures as we considered necessary in the circumstances. These procedures have been undertaken to form an opinion whether in all material aspects, the Participant maintained suitably designed and effective internal controls to ensure compliance with the requirements of the Net Tangible Assets Rules for the [period/year] ended [date].

## **INHERENT LIMITATIONS**

Because of the inherent limitations of any internal control structure it is possible that fraud, errors or non-compliance with laws and regulations may occur and not be detected. Further, the overall internal control structure, within which the internal controls designed to ensure compliance with the requirements of the Net Tangible Assets Rules operate, has not been audited, and no opinion is expressed as to its effectiveness.

An audit is not designed to detect all weaknesses in internal controls or all instances of non-compliance with the requirements of the Net Tangible Assets Rules as it is not performed continuously throughout the period/year and the tests performed over the internal controls are on a sample basis having regard to the nature and size of the Participant.

Any projection of the evaluation of internal controls to future periods is subject to the risk that the internal controls may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

The audit opinion expressed in this report has been formed on the above basis.

**BASIS FOR QUALIFIED OPINION (IF APPLICABLE)**

## **[QUALIFIED] AUDITOR'S OPINION**

In our opinion, [except for the matters referred to in the qualification below,] [Participant Name]:

maintained, in all material respects, during the [period] ended [date] suitably designed and effective internal controls to comply with the requirements of ASX Clear (Futures) Pty Limited's **Operating Rule 8.1**/**OTC Rule 3.3(a)(ii)\*** in relation to the maintenance of net tangible assets.

## **RESTRICTION ON DISTRIBUTION AND USE**

This report has been prepared for the Participant in order to meet its obligations to lodge this report with ASX Clear (Futures) Pty Limited. We disclaim any assumption of responsibility for reliance on this report to any person other than the Participant and ASX Clear (Futures) Pty Limited or for any purpose other than that for which it was prepared.

**Audit Firm Signature** .....

Name of Audit Firm .....

Partner's Signature .....

Name of Partner \_\_\_\_\_

## **Address of Audit Firm**

Approved 24/12/10 - 01/12/11

## **Form 2 – Auditor's Report on Audited NTA Return**

### **Independent Auditor's Report to the Directors of [Participant\_name]**

We have audited the financial information set out in the attached Audited NTA Return, excluding the:

- Directors Statement Relating to Net Tangible Assets and
- Financial information set out in the “Prior Period”, “Movement \$” and “Movement %” columns, (the “Return”) of [Participant\_name] (“the Participant”) for the [period] ended [date].

#### ***The Responsibility of the Directors for the Return***

The **directors** of the Participant are responsible for the preparation and fair presentation of the financial information set out in the Return in accordance with the requirements of the **ASX Clear (Futures) Pty Limited (“ASX Clear (Futures)” Operating Rules**. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial information set out in the Return to ensure that the Return is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### ***Auditor's Responsibility***

Our responsibility is to express an opinion on the financial information set out in the Return based on our audit. We conducted our audit in accordance with **Australian Auditing Standards/[insert auditing standards applicable to Participant's home jurisdiction]**. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance, whether the financial information set out in the attached Return, is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures of the financial information set out in the Return. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial information set out in the Return whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the Participant's preparation and fair presentation of the financial information set out in the Return in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Participant's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors of the Participant, as well as evaluating the overall presentation of the financial information set out in the Return.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### **INDEPENDENCE**

In conducting our audit, we have complied with the independence requirements of **APES 110: Code of Ethics for Professional Accountants/[code of conduct legislation applicable to Participant's home jurisdiction]**.

#### **BASIS FOR QUALIFIED OPINION (IF APPLICABLE)**

#### **[QUALIFIED] AUDITOR'S OPINION**

In our opinion, **[except for the matters referred to in the qualification below]**, the Return of [Participant\_name] for the [period] ended [date] presents fairly, in all material respects, the financial information of the Participant for the [period] ended [date] as required by **ASX Clear (Futures) in accordance with the ASX Clear (Futures) Operating Rules** that are relevant to the preparation and presentation of the Return.

#### **BASIS OF PREPARATION AND RESTRICTION ON DISTRIBUTION AND USE**

Without modifying our opinion, we draw attention to the basis of preparation of the Return. The Return has been **prepared in accordance with ASX Clear (Futures) Pty Limited Operating Rule 8.5(b)/OTC Rule 3.3(b)(ii)\***.

This report has been prepared for the Participant in order to meet its obligations to lodge this report with ASX Clear (Futures) Pty Limited. We disclaim any assumption of responsibility for reliance on this report to any person other than the Participant and ASX Clear (Futures) Pty Limited or for any purpose other than that for which it was prepared.

Dated this ..... day of .....

**Audit Firm “Signature”** .....

Name of Audit Firm .....

Address of Audit Firm .....

Partner’s Signature .....

Name of Partner .....

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**If an auditor is not satisfied as to any matter a qualified audit opinion should be expressed.**

Introduced 24/12/10, 01/12/11

## Appendix

### Director's Declaration

As directors of [Entity Name] (“the Participant”), we are responsible for maintaining an effective internal control structure, including establishing and maintaining effective internal controls designed to ensure compliance with the requirements of:

- ASX Clear (Futures) Pty Limited’s (“ASX Clear (Futures)”) **Operating Rule 8.1-/OTC Rule 3.3(a)(ii)\*** in relation to the maintenance of net tangible assets.

In carrying out this responsibility, we have had regard to the interests of the clients and owners of the Participant, and to the general effectiveness and efficiency of the operations of the Participant.

In the opinion of the directors of the Participant:

- (a) maintained, in all material respects, during the [period] ended [date] suitably designed and effective internal controls to comply with the requirements of ASX Clear (Futures) Pty Limited’s **Operating Rule 8.1-/OTC Rule 3.3(a)(ii)\*** in relation to the maintenance of net tangible assets.

\_\_\_\_\_  
Director / Authorised Signatory

Name: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Director / Authorised Signatory

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date of Board Resolution (if applicable) .....  
.....

**INSTRUCTIONS:**

This Director’s Declaration is to be signed by two signatories (where both signatories must be either a director or an authorised signatory) or alternatively, in accordance with a resolution of the board of directors (where the date of the resolution must be specified), by a single director (or authorised signatory).

If a Participant considers it necessary to qualify this standard statement, the reasons should be explained in full in an accompanying statement.

This statement is required to be completed and lodged annually by each Participant within three months of the Participant’s financial year end.

Amended 24/12/10, 01/12/11, 09/11/12

**Rule 7.1 Satisfaction of Obligations of ASX Clear (Futures)**

- (a) For the purposes of Rule 7.1(c), the designated assets are the proceeds of a subordinated loan to ASX Clear (Futures) from, and share capital invested in ASX Clear (Futures) by, ASX Clearing Corporation Limited, having an aggregate value of A\$120,000,000.
- (b) For the purposes of Rule 7.1(e), the designated assets are the proceeds of a subordinated loan to ASX Clear (Futures) from ASX Clearing Corporation Limited having an aggregate value of A\$150,000,000.

*[Explanatory Note: This procedure sets out the designated assets for the purposes of Rules 7.1(c) and 7.1(e).]*

## **Rule 16      Use of Exchange Systems**

Rule 16 and the comparable Exchange Rule do not have any application, in respect of the OM SECUR and SYCOM systems respectively, to Clearing Participants who entered into individual agreements with ASX Clear (Futures) before 4 January 2005 (the commencement date of this Rule) for the use of those systems. Those individual agreements are in substantially the same terms as the Rule. Rule 16 and the comparable Exchange Rule do not supersede these individual agreements.

The Rule however applies, in respect of the OM SECUR, to all Clearing Participants who became participants after 4 January 2005 or to Clearing Participants who had not for some reason executed an agreement for the use of that system prior to 4 January 2005.

It will also apply to all Clearing Participants, irrespective of when they became Clearing Participants, in relation to all other systems of ASX Clear (Futures) provided those systems have been approved by ASX Clear (Futures) pursuant to the Rule.

The Rule only applies if the particular Clearing Software or Clearing Equipment has been approved by ASX Clear (Futures) pursuant to the Rule. The ~~only approval~~-approvals given to date ~~is~~-are in respect of:

- OM SECUR software and OM SECUR equipment for use by entities which become Clearing Participants on or after 4 January 2005, being the date of commencement of Rule 16 (a similar approval has been given under the Exchange Operating Rules in respect of SYCOM Software and Equipment).
- [Calypso](#)

Where, in future, new systems are developed necessitating the granting of software licences and supply of equipment to Clearing Participants, this software and equipment will be approved by ASX Clear (Futures) pursuant to this Rule for application to all Clearing Participants. Details will be set out here and by means of a Bulletin.

| [Amended \[ \]/\[ \]/\[ \]](#)

## **Rule 19.1 Notice, Notification and Service of Documents**

### **Notice and Notification**

For the purposes of Rule 19.1(b), unless otherwise specified in correspondence with a Clearing Participant, documents addressed to the Exchange should be addressed to the person holding the following position:

General Manager – Clearing and Settlement Operations  
 ASX Limited  
 Level 4, Exchange Centre  
 20 Bridge Street  
 SYDNEY NSW 2000  
 Telephone: 1800 814 051  
 Facsimile: 02 9235 1857

### **Notice to the Exchange**

Notice to the Exchange may be given by:

1. Delivering it personally to the person specified above or otherwise specified in correspondence with the Clearing Participant;
2. Leaving it at or by sending it by courier or post to the address specified above or otherwise specified in correspondence with the Clearing Participant;
3. Sending it by facsimile to the facsimile number specified above or otherwise specified in correspondence with the Clearing Participant;
4. Updating the Clearing Participant's corporate details on axxonline where applicable, unless otherwise directed by the Exchange;
5. Submitting it via the web-based system interface known as ASX Compliance Monitor ("ACM") where applicable, unless otherwise directed by the Exchange; or
6. Specific email by any method which identifies an Exchange department or an Exchange employee's name or title as addressee and no notice of non-delivery has been received.

### **Notice by the Exchange**

The Exchange may give notice to any person, firm or corporation by any of the following methods:

1. Delivering it to the recipient personally;
2. Leaving it at or by sending it by courier or post to the address of the recipient last notified to the Exchange;
3. Sending it by facsimile to the recipient's facsimile number last notified to the Exchange;
4. A circular or bulletin addressed to a class of persons and delivered or communicated by any means permitted under this Procedure;
5. Specific email by any method which identifies a person or person's title as addressee and no notice of non-delivery has been received;
6. Broadcast email by any method which identifies the addressee and which, having regard to all the relevant circumstances at the time, was as reliable as appropriate for the purposes for which the information was communicated; or
7. Sending it via the web-based system known as ACM.

### **Service of Documents**

For the purposes of any Rule that requires or permits a document to be given to a person, whether the expression 'serve', 'give' or 'send' or any other expression is used, the document may be given, and will be taken to have been received, at the time and in the manner set out in the Procedures.

Nothing in Rule 19.1(c) or the Procedures prevents documents being sent or given to, or served on, a person in any other manner required or permitted by law.

For the purpose of Rule 19.1(c) the time and manner in which a notice may be given is as follows:

**SCHEDULES TO THE RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

Notice by:

1. Post is taken to be given on the second Business Day after the document is put in the post, in a stamped envelope or other covering addressed to the recipient;
2. Courier is taken to be given at the time of delivery to the address referred to in this Procedure Rule 19.1;
3. Facsimile is taken to be given when the sender's facsimile machine indicates a successful transmission to the facsimile number referred to in this Procedure Rule 19.1;
4. Email, under this Procedure Rule 19.1 is taken to be given 2 hours after the time the email enters the recipient's information system, unless a response to the contrary is received (e.g. an out of office notification); and
5. The web-based system known as ACM is taken to be given at the time which that system records the transmission.

For the purposes of the Rules, a notice given in accordance with this Procedure Rule 19.1 to a person is received by that person at the time it is taken to be given to that person under this Procedure Rule 19.1.

Introduced 01/01/12

### **Rule 46.1 Daily Close-Out of Matched Positions**

An Open Position in a CFD contract cannot be closed out under Rule 46.1 unless the Open Position are for the same beneficial client for the same CFD Contract. The definition of client for the reporting of Open Positions for the Open Interest Charge calculation means;

“Any person, firm or corporation (including a Related Body Corporate) on behalf of whom a Participant or a client of a Participant provides instructions to enter, acquire or dispose of a CFD”.

### **Rule 46.5 Daily Close-Out of Matched Positions (including Back-to-Back Open Positions)**

In accordance with Rule 46.5, ASX Clear (Futures) directs Clearing Participants as to the correct treatment of Back-to-Back Open Positions in this Direction. Where a Clearing Participant fails to comply with this Direction, such a failure will constitute a breach of the Rules and the Clearing Participant will be subject to the disciplinary process associated with such a breach.

Specifically, ASX Clear (Futures) directs Clearing Participants as follows:

- Clearing Participants must Close Out Back-to-Back Open Positions within each Individual Account no later than the time prescribed for the purposes of Rule 46.1 on the Business Day following the creation of those Back-to-Back Open Positions;
- Except as specified below in so far as it relates to Open Positions across multiple Individual Accounts of a single legal entity, Open Positions held within an Individual Account, whether or not it is a sub-account of an Affiliated Account, must not at any time be settled or offset against Open Positions held within another Individual Account or sub-account, unless these positions are formally transferred on market into the same Individual Account; and
- If a Clearing Participant wishes to Close Out Open Positions across multiple Individual Accounts of a single legal entity, the Clearing Participant must ensure legal advice is obtained that such activity does not constitute a breach of the Rules or the law.

Amended 01/07/10

### **Introduction**

Open Interest (OI) is one of a number of indicators of a market’s depth of liquidity. Exchange’s OI is derived from the summing of Open Positions held by all Clearing Participants in their House Clearing Accounts and Client Clearing Accounts (collectively referred to as “Clearing Accounts”) at the end of each trading day. These figures are submitted daily by the relevant Clearing Participant into ASX Clear (Futures)’s OM SECUR clearing system in accordance with Rule 46.1.<sup>421</sup>

A Clearing Participant would derive the figures to be submitted into OM SECUR from the summing in its back office of Open Positions held in Individual House Accounts<sup>432</sup> and Individual Client Accounts<sup>443</sup> (collectively referred to as “Individual Accounts”).<sup>454</sup> Accordingly, the fundamental level at which market liquidity is held is at the level of the Individual Account.

<sup>421</sup> Rule 46.1 requires a Clearing Participant to advise SFE Clearing on a daily basis of the number of Open Positions which it wishes to remain open. This advice is effected through the Clearing Participant submitting that information into OM SECUR.

<sup>432</sup> An ‘Individual House Account’ is an individual account established by an Exchange Participant on its own behalf for the purposes of Trading on the Exchange.

<sup>443</sup> An ‘Individual Client Account’ is an individual account established by an Exchange Participant for a Client for the purposes of Trading on the Exchange.

<sup>454</sup> The total Open Positions held in a particular Clearing Participant’s House Clearing Account should be derived in that Clearing Participant’s back office from summing the number of Open Positions held in each of its Individual House Accounts. The total Open Positions held in a particular Clearing Participant’s Client Clearing Account should be derived in that Clearing Participant’s back office from summing the number of Open Positions held in each of its Individual Client Accounts.

It has come to ASX Clear (Futures)'s attention that not all Clearing Participants have been netting Individual Accounts in their back offices in a manner which enables the most accurate OI to be derived. In particular, ASX Clear (Futures) is concerned with the failure of certain Clearing Participants to consistently Close Out in their back offices Back-to-Back Open Positions<sup>165</sup> within Individual Accounts. If submitted into OM SECUR, such Back-to-Back Open Positions may inflate the OI figure without actually indicating an increase in the true liquidity of the market.

To enhance the integrity of OI, ASX Clear (Futures) now requires that, in fulfilling their obligations under Rule 46.1, Clearing Participants must (as outlined in this Direction) Close Out Back-to-Back Open Positions within each Individual Account no later than the time prescribed for the purposes of Rule 46.1 on the Business Day following the creation of those Back-to-Back Open Positions in their back offices in order that such positions do not form part of the total number of Open Positions submitted into OM SECUR towards the relevant Clearing Account.<sup>166</sup>

The Tables below illustrate how Clearing Participants must comply with this Direction.

Amended 01/07/10

### **Application of this Direction**

In Table 1 below, assume that a Client Clearing Account of a Clearing Participant contains Individual Client Accounts which hold the following Open Positions in a particular futures contract<sup>187</sup>:

Table 1 - Example of a Client Clearing Account

<u>Client Clearing Account</u>	<u>Short</u>	<u>Long</u>	<u>Net (to be submitted into OM SECUR)</u>
Individual Client Account 1	-400	+50	-350
Individual Client Account 2	0	+500	+500
Individual Client Account 3	-300	+500	+200
<i>Total</i>	<i>-700</i>	<i>+1050</i>	<i>-350, +700</i>

### Closing Out Back-to-Back Open Positions in Individual Accounts

In the above table, Individual Client Account 1 holds Back-to-Back Open Positions of 50 lots and Individual Client Account 3 holds Back-to-Back Open Positions of 300 lots. Individual Client Account 2 does not contain any Back-to-Back Open Positions. Before determining each Individual Client Account's contribution to the Client Clearing Account, Back-to-Back Open Positions are to be eliminated from each Individual Client Account in the Clearing Participant's back office. As shown in the 'Net' column of the above table, the resulting net positions to form part of the total to be submitted into OM SECUR would be -350 short in Individual Client Account 1 and +200 long in Individual Client Account 3. As no Back-to-Back Open Positions are held in Individual Client Account 2, the entire +500 long positions held would form part of the total to be submitted into OM SECUR as part of the Client Clearing Account total.

Therefore, for the purposes of submitting the most accurate representation of the Open Positions within the above Client Clearing Account into OM SECUR, the Clearing Participant must submit the gross sum of the individual net positions of each Individual Client Account, -350/+700.

### Affiliated Accounts

Individual Accounts may be grouped together as an "Affiliated Account."<sup>198</sup> Within an Affiliated Account, there may be a mix of long and short positions in a given contract in separate Individual Accounts (sub-accounts). In order to

<sup>165</sup> 'Back-to-Back Open Positions' are Open Positions within an Individual Account which can be matched and settled against each other.

<sup>176</sup> Such a practice would also reduce the risk of incorrect settlements being made in error.

<sup>187</sup> The same principle would apply to a House Clearing Account and Individual House Accounts.

<sup>198</sup> An Affiliated Account is defined in the Sydney Futures Exchange Limited Business Rules and is also known as an "omnibus account" (but is distinct from a Clearing Account). Affiliated Accounts are often held on behalf of fund management entities and

**SCHEDULES TO THE RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

provide an accurate representation of the holdings within an Affiliated Account, Clearing Participants are required to submit the gross sum of the net holdings of each sub-account into OM SECUR. That is, each sub-account within the Affiliated Account, as opposed to the Affiliated Account as a whole, is considered to be an Individual Account for the purposes of calculating and Closing Out Back-to-Back Open Positions.

By way of illustration in the table below, assume that an Affiliated Account of a Clearing Participant contains sub-accounts which hold the following Open Positions in a particular futures contract:

Table 2 - Example of a Client Clearing Account

<u>Client Clearing Account</u>	<u>Short</u>	<u>Long</u>	<u>Net (to be submitted into OM SECUR)</u>
Affiliated Account			
Sub-account 1	0	+100	+100
Sub-account 2	-600	+150	-450
Sub-account 3	-500	+700	+200
<i>Total</i>	<i>-1100</i>	<i>+950</i>	<i>-450, +300</i>

### Closing Out Back-to-Back Positions in Affiliated Accounts

For the example in the above table, it would not be appropriate for a Clearing Participant to Close Out positions within the Affiliated Account as though the Affiliated Account were one Individual Account (i.e. by netting -1100 short against +950 long, resulting in a net position of -150 short). Rather, each separate sub-account would be netted individually and the resulting net positions form part of the total to be submitted into OM SECUR. In the above table, Sub-account 2 in the Affiliated Account holds Back-to-Back Open Positions of 150 lots and Sub-account 3 holds Back-to-Back Open Positions of 500 lots. Sub-account 1 does not contain any Back-to-Back Open Positions. Before determining each sub-account's contribution to the Client Clearing Account, these Back-to-Back Open Positions must be eliminated from calculation in the Clearing Participant's back office.

As shown in the 'Net' column of the above table, the resulting net positions to form part of the total to be submitted into OM SECUR would be -450 short in Sub-account 2 and +200 long in Sub-account 3. As no Back-to-Back Open Positions are held in Sub-account 1, the entire +100 long positions held would form part of the total to be submitted into OM SECUR as part of the Client Clearing Account total.

Thus for the above Affiliated Account, a -450/+300 holding (which has been derived from a sum of the individual net position figures in each sub-account within the Affiliated Account) would be submitted to OM SECUR as the most accurate representation of the holdings in that Client Clearing Account.

In order that an account can be treated as an Affiliated Account (and be entitled to hold Back-to-Back Open Positions), Participants must request explicit instructions in this regard (as well as the rationale for it) from their clients (which may include entities related to the Participant) and must retain these instructions on file. Further, Participants must instruct their clients to provide them with daily instructions as to the number of Back-to-Back Positions required to be left open in order to report their Affiliated Account in accordance with this Direction.

If a Participant does not receive instructions from its client that an account is being operated as an Affiliate Account, this Direction must be followed and Back-to-Back Open Positions must be closed out of the account. If the Client wishes to operate an account as an Affiliated Account, they must commit to informing the Participant daily of how many open positions are to be maintained (or how many back-to-back positions are to be closed out) in line with this Direction.

Amended 01/07/10

### **Exception to this Direction**

#### Differentiated Deliverable Commodities

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trading desks which run a number of books for different purposes. In addition, SFE Clearing is aware that some Clients mandate use of a single account to trade multiple strategies (for example, long trades for funding, short trades for hedging). SFE Clearing considers that such an account is in fact a number of Individual Accounts comprising an Affiliated Account and should be treated by Clearing Participants as such for the purposes of submitting Open Positions into OM SECUR.

**SCHEDULES TO THE RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

This Direction to Close Out Back-to-Back Open Positions outlined above applies to cash-settled contracts (e.g. SPI 200™ futures contracts, Commonwealth Treasury Bond futures contracts etc) and deliverable contracts where all deliverable commodities are functionally identical (e.g. Individual Share Future contracts, currency future contracts etc), as Back-to-Back Open Positions in such contracts do not contribute to market liquidity.

However, Back-to-Back Open Positions which are held in deliverable contracts where the deliverable commodities may vary in quality, nature or some other means (e.g. Greasy Wool) may represent a contribution to market liquidity, where there is intent or likelihood to both take and make a delivery at a single expiry. Accordingly, such Back-to-Back Open Positions may be maintained and included as part of the number of Open Positions submitted into OM SECUR.

Amended 01/07/10

### **Inappropriate Practices**

Except as specified below in so far as it relates to Open Positions across multiple Individual Accounts of a single legal entity, Open Positions held within an Individual Account, whether or not it is a sub-account of an Affiliated Account, must not at any time be settled or offset against Open Positions held within another Individual Account or sub-account, unless these positions are formally transferred on market into the same Individual Account.

Any such activity may represent inappropriate off-market trading and may constitute a breach of the Rules or the law.

If a Clearing Participant wishes to Close Out Open Positions across multiple Individual Accounts of a single legal entity, the Clearing Participant must ensure legal advice is obtained that such activity does not constitute a breach of the Rules or the law.

For example, in Table 1 above, if the Open Positions within Individual Client Account 1 are inappropriately offset against the Open Positions within Individual Client Account 3 the resulting net position would be -150 short. However, the correct number of Open Positions to be included in the total to be submitted to OM SECUR are -350 short for Individual Client Account 1 and +200 long for Individual Client Account 3.

Amended 01/07/10

### **Implementation**

Clearing Participants are required to follow this Direction in their treatment of Back-to-Back Open Positions.

Where a Clearing Participant fails to comply with this Direction, such a failure will constitute a breach of the Rules and the Clearing Participant will be subject to the disciplinary process associated with such a breach.

Clearing Participants are also reminded of the importance of maintaining appropriate Close Out procedures and audit trails. Documentation held in this regard may be reviewed as part of a Clearing Participant compliance inspection or operational review and must be made available to ASX Clear (Futures) on request.

Amended 01/07/10

**Rule 63A.6                  BRC Delivery Procedures (Compensation Policy)**

Under Rule 63A.6(*to take effect 11 March 2004*), in the event of a failure to settle a BRC transaction by the due time, ASX Clear (Futures) may direct that compensation be payable in accordance with a calculation methodology determined by ASX Clear (Futures).

**Determination**

ASX Clear (Futures) has determined the calculation methodology for the purpose of Rule 63A.6 is the Standard Inter-Organisation Compensation Rules published by Australian Payments Clearing Association Limited (APCA) from time to time, subject to the following modifications:

<b>APCA Rule</b>	<b>ASX Clear (Futures) modification</b>
Makes provision for non-failing party to be reimbursed for administration fee.	ASX Clear (Futures) may, in its absolute discretion, determine that the administration fee will be waived.
Claims must be in writing and received within 90 days.	ASX Clear (Futures) will determine at its absolute discretion whether compensation is payable without formal claim.
Compensation events.	The only compensation event will be Delayed Payment under Rule 6.
None	BRC Participants responsible for a settlement failure will be informed of a claim against them within 7 days.
None	BRC Participants receiving a claim against them must pay the calculated compensation within 14 days of demand.
None	BRC Participants validly requiring compensation will be paid at the month end 21 days after the incident.

**Schedule 3 Prescribed Times**

Rule	Description	Time
43.1 and 44.4	Time for payment of Initial margins and Daily Settlement Amounts	<p>SFE AUD denominated contracts – 10:30 am (Sydney time), to be pending RTGS.</p> <p>SFE AUD denominated contracts – 11:00 am (Sydney Time), funds to be cleared.</p> <p>SFE NZD denominated Contracts – 10:30 am (Sydney Time), to be pending RTGS.</p> <p>SFE NZD denominated Contracts – 11:00 am (Sydney Time), funds to be cleared.</p> <p>SFE US denominated contracts – 12:00 pm (Sydney time), payment to be confirmed via authenticated SWIFT message to Exchange USD Bank.</p> <p>SFE US denominated contracts – 5:00 pm (New York time), funds to be received by Exchange US Correspondent Bank.</p> <p>EUR denominated contracts – 12pm (Sydney time), Payment to be confirmed via authenticated SWIFT message to Exchange EUR Bank.</p> <p>EUR denominated contracts – Funds to be received by Exchange EUR Correspondent Bank by local cutoff for same day value.</p> <p>GBP denominated contracts – 12pm (Sydney time), Payment to be confirmed via authenticated SWIFT message to Exchange GBP Bank.</p> <p>GBP denominated contracts – Funds to be received by Exchange GBP Correspondent Bank by local cutoff for same day value.</p> <p>JPY denominated contracts – 10am (Sydney time), Payment to be confirmed via authenticated SWIFT message to Exchange JPY Bank.</p> <p>JPY denominated contracts – Funds to be received by Exchange JPY Correspondent Bank by local cutoff for same day value.</p>
43A.1	Time for payment of Initial Margins	<p>SFE – 10:30 am (Sydney Time), to be pending RTGS</p> <p>SFE – 11:00 am (Sydney Time), Funds to be cleared</p>

## **Schedule 14 Grains Contracts**

*Note: Tender Documentation in relation to this Schedule 14 can be obtained from the Exchange by contacting Clearing and Settlement Operations via email at: [ClearingandSettlementOperations@asx.com.au](mailto:ClearingandSettlementOperations@asx.com.au).*

### **SETTLEMENT OF DELIVERABLE DERIVATIVE CONTRACTS OVER A COMMODITY WHICH IS GRAIN.**

#### **Bulk Handlers**

For the purpose of this schedule, the following companies have entered into arrangements with ASX Clear (Futures) to act as Bulk Handlers for the storage and handling of the Underlying Commodity:

- Australian Bulk Alliance Pty Ltd
- AWB Grainflow Pty Ltd
- Co-operative Bulk Handling Limited
- GrainCorp Operations Limited
- Viterra Operations Ltd

#### **14.2.1 ELECTION TO TENDER BY SELLER**

When a Seller elects to effect delivery during the Delivery Period, the Participant is required to lodge the following tender documentation with ASX Clear (Futures):

- (a) Grain Futures Tender/Redemption Notice.

The Tender Notice is submitted to ASX Clear (Futures) in the following manner:

- (a) The Participant completes the Tender Notice section of the Grain Futures Tender/Redemption Notice and lodges with ASX Clear (Futures). A Tender Notice may only be lodged with ASX Clear (Futures) where the Confirmed Lodgement Status relating to the specified quantity of Underlying Commodity that is the subject of the tender, is aged two days; and
- (b) The Tender Notice must be submitted to ASX Clear (Futures) by 12:00 noon on any Notice Day other than the last Notice Day (the Maturity Date). On the Last Notice Day, the Tender Notice must be lodged by 3:00 pm, unless otherwise notified by ASX Clear (Futures).

*Note: The Seller may elect to settle a Deliverable Contract which is Grain by either closing out the position in the market or by effecting delivery against the contract. A Participant is required to submit a Tender Notice to ASX Clear (Futures) to indicate their intention to deliver against an open sold position in the Delivery Period.*

#### **14.2.2 ACCEPTANCE OF TENDER DOCUMENTATION**

##### **Rejection of Tender Documentation**

If ASX Clear (Futures) rejects a Tender Notice, the Participant will be informed of the rejection and the reasons for the rejection, before the commencement of the end-of-day processing on the day the Tender Notice is received.

#### **14.2.5 PROCEDURES FOR ALLOCATION**

The allocation of tenders in the Delivery Month is done by random selection against the gross bought position.

#### **14.2.6 ASX CLEAR (FUTURES) TO CONFIRM ACCEPTANCE OF TENDER DOCUMENTATION AND ALLOCATION**

##### **Seller's Delivery Advice**

If ASX Clear (Futures) accepts the Tender Documentation, the Participant will receive a Seller's Advice prior to 6:30pm on the Business Day the Tender Documentation is lodged.

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On the day the Tender Documentation is received, the Seller's Advice, incorporating the current Business Day's settlement price, is sent to the Seller. This will be sent prior to the commencement of end-of-day processing. The Seller's Advice details the Settlement Amount to be received by the Seller on the following Business Day.

#### **Buyer's Delivery Advice**

ASX Clear (Futures) will notify a Buyer they have been allocated a tender by issuing a Buyers Advice prior to 6:30pm on the Business Day the buyer is allocated the tender.

Prior to the commencement of end-of-day processing on the day the Buyer is allocated a tender, the Buyer's Advice, incorporating the current Business Day's settlement price, is sent to the Buyer. The Buyer's Advice details the Settlement Amount to be paid by the Buyer on the following Business Day.

#### **14.4.2 HOLDING OF INTEREST FOR BUYER FOLLOWING SETTLEMENT OF FUTURES CCP CONTRACT**

ASX Clear (Futures) will continue to hold the interest in the Underlying Commodity for the benefit of a Participant unless the Participant instructs ASX Clear (Futures) to transfer the interest to their account or a nominated account at the Bulk Handler. The procedure for doing this is:

- (a) the Participant must complete the Redemption section of the Grain Futures Tender/Redemption Notice and send to ASX Clear (Futures). A Redemption Notice must be received by the ASX Clear (Futures) before 3:00pm (Sydney time). Redemption Notices received after this time will be processed the following Business Day.
- (b) ASX Clear (Futures) will initiate and send a signed TTF Form to the Participant. The Participant will sign and send to the Bulk Handler for processing or alternatively ASX Clear (Futures) will process an Electronic Title Transfer to a nominated account as specified by the Participant;
- (c) the Bulk Handler will confirm the details on the Title Transfer and, if they accord with the Bulk Handler's records, transfer the specified quantity in the Underlying Commodity from the account of ASX Clear (Futures) to the nominated account;
- (d) the Bulk Handler will confirm to both ASX Clear (Futures) and the Bulk Handler's client advising the transfer has been completed by the Bulk Handler; and
- (e) ASX Clear (Futures) will adjust its records accordingly and this will confirm the following:
  - (i) the transfer of the specified quantity of the Underlying Commodity has been successful;
  - (ii) the specified quantity in the Underlying Commodity is no longer held in ASX Clear (Futures) account and thus is no longer deliverable stock; and
  - (iii) the specified quantity in the Underlying Commodity has been transferred by the Bulk Handler to the nominated account.

Introduced 24/10/11

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## Schedule 15 – Procedures for the Risk Committee

### **1 SCOPE OF APPLICATION AND DEFINITIONS**

The following procedures (referred to as the Committee Procedures) will apply to the Risk Committee (referred to as the Committee).

Terms used and not otherwise defined in these Committee Procedures will have the meanings given to them in the Rules.

Paragraphs of these Committee Procedures are referred to as Paragraphs.

### **2 COMMITTEE MEMBERS**

#### **2.1 Committee Members**

4 Becoming a Each Clearing Participant 24 may nominate a single representative for the Committee (each referred to as a Committee Member).

However, a person may not be nominated to be a Committee Member unless that person:

(a) has appropriate expertise and experience in relation to the matters to be considered by the Committee; and

5 Commitment to Support Obligations of (b) is acceptable to ASX Clear (Futures) 32 in its reasonable discretion.

6 Withdrawal of If ASX Clear (Futures) rejects a Committee Member nominated by a Clearing Participant Commitment35 then the Clearing Participant may nominate a replacement for consideration by ASX Clear (Futures).

#### **2.2 ASX appointees**

ASX Clear (Futures) may select and appoint any number of further Committee Members in its sole discretion, where this is necessary in order for ASX Clear (Futures) to meet requirements under applicable law with respect to the composition of the Committee.

#### **2.3 Change of Committee Members**

A Clearing Participant may, at any time, notify ASX Clear (Futures), that it intends to change its nominated Committee Member by nominating a replacement nominee in accordance with Paragraph 2.1 (Committee Members). Once accepted by ASX Clear (Futures), the replacement nominee replaces the previous nominee on the Committee.

#### **2.4 Related bodies corporate**

If two or more Clearing Participants are or become related bodies corporate, as determined by ASX Clear (Futures), such Clearing Participants are entitled to appoint only one single Committee Member. If at any time Clearing Participants (which are related bodies corporate) have appointed more than one Committee Member, such Clearing Participants will promptly notify ASX Clear (Futures) of the single Committee Member who will represent them in the future.

#### **2.5 Chairman**

SCHEDULES TO THE RULES OF ASX CLEAR (FUTURES) PTY LIMITED

From time to time the Committee will appoint a Committee Member by majority vote to serve as chairman (referred to as the Chairman). Such appointment will be for a period determined by ASX Clear (Futures). If the Chairman ceases to be a Committee Member or resigns, a new Chairman will be appointed by the Committee.

## **2.6 Committee Secretary**

ASX Clear (Futures) will serve as the secretary of the Committee (referred to as the Committee Secretary) and will perform administrative duties.

## **2.7 Suspension of Membership**

A Committee Member will be suspended from its capacity as Committee Member upon the occurrence of a Default in relation to the Clearing Participant which has nominated such Committee Member.

# **3 CONVENING THE COMMITTEE**

## **3.1 Meeting and Notice**

The Committee Secretary will convene a meeting of the Committee (referred to as a Meeting):

- (a) at the request of the Chairman or any two Committee Members (provided such request is accompanied by a draft Agenda (as defined below) for such Meeting); and
- (b) at its own discretion.

by delivering notice (referred to as a Notice) in accordance with this Paragraph 3. Meetings will be held at a location as determined by the Committee Secretary. Any Committee Members who do not attend in person may participate by telephone or video conference.

## **3.2 Urgent Matters**

The Committee Secretary may convene a Meeting upon such notice and in such manner as it determines, in order to consider any matter which it determines requires the urgent attention of the Committee.

## **3.3 Participating Committee Member**

The Committee Members attending a respective Meeting (either in person or by telephone or video conference) are each referred to as a Participating Committee Member.

## **3.4 Proxies**

The Chairman may make such arrangements for the appointment of proxies (including setting out the terms on which such proxies may vote or constitute a quorum) as it in its discretion determines.

# **4 QUORUM**

The quorum for a valid Meeting will be one third of all Committee Members (referred to as the Quorum).

In the event that a Quorum is not present at the start of and throughout a duly convened Meeting, such Meeting will be adjourned by the Chairman to the next following Business Day or such other day as is agreed with the Committee Secretary. A Quorum at such adjourned Meeting will consist of the Participating Committee Members provided that notice of the Meeting has been given to all Committee Members in accordance with Paragraph 3 (Convening the Committee)

# **5 VOTING**

All decisions and recommendations made by the Committee will be made at a Meeting by majority vote of the Participating Committee Members.

For the purpose of all voting procedures each Participating Committee Member will have one single vote. In the event that any vote is tied, the Chairman will have the casting vote.

**SCHEDULES TO THE RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

## **6 PARTICIPATION OF EMPLOYEES**

A Committee Member may invite one employee of the Clearing Participant which it is representing (or of a related bodies corporate) to participate in a Meeting in respect of which such employee has particular expertise. The Committee Member may, by notice to the Chairman, delegate the authority to vote on its behalf on a particular issue to any such employee.

ASX Clear (Futures) will send employees to Meetings in order to perform its function as Committee Secretary. The Committee may invite further employees and members of corporate bodies of ASX Clear (Futures) to Meetings.

## **7 MINUTES AND STATEMENTS**

### **7.1 Committee Minutes**

Minutes will be taken of all Meetings (referred to as the Committee Minutes) by the Committee Secretary.

### **7.2 Committee Statements**

The Committee may appoint one or more Committee Members to prepare, on behalf of the Committee, any proposal, response, statement or other document setting out the views of the Committee with respect to any relevant matter (referred to as a Committee Statement). The Chairman may refer the Committee Statement to a Meeting for approval or may, if the Chairman is satisfied that the Committee Statement represents the views of the majority of Committee Members after circulating such Statement to the Committee Members, deliver such Committee Statement to ASX Clear (Futures) for incorporation into the Committee Minutes and will be taken to set out the view of the Committee.

## **8 COMPENSATION**

Each Clearing Participant will be responsible for the costs associated with its Committee Member's participation in the Committee and will not be entitled to demand or receive any fee or compensation from ASX Clear (Futures) for such participation.

## **9 CONFIDENTIALITY**

Except as expressly contemplated in these Committee Procedures or as required by applicable law or court order or by a regulatory, self-regulatory or supervising authority having appropriate jurisdiction, each Clearing Participant agrees and procures that its relevant Committee Member agrees:

- (a) to maintain confidentiality as to all aspects of the Committee, including any discussions, deliberations, proceedings or results of any vote, or any determinations produced by these proceedings (referred to as the Confidential Information); and
- (b) not to use any Confidential Information for its own benefit, the benefit of any of its related bodies corporate or a third person. Each Clearing Participant will conclude and maintain a corresponding confidentiality agreement with its Committee Member.

## **10 FIDUCIARY DUTIES; LIMITATION OF LIABILITY**

### **10.1 Protected Persons**

Neither any Committee Member nor any other person invited to participate in a Meeting (each referred to as a Protected Person) will, to the extent legally possible, have any fiduciary duties or other duties to protect third parties in relation to ASX Clear (Futures), any directors, managers or officers of it, the Clearing Participants or any other person (each referred to as a Non protected Person) by reason of such service on the Committee or the appointment of a Committee Member to the Committee.

### **10.2 No Liability**

Despite anything to the contrary in the Rules, to the extent that, for any reason, a Protected Person has any such duties and liabilities relating to its membership of the Committee to a Non-protected Person, such Protected Person acting under the Committee Procedures will not be liable to such Non-protected Person for breach of any such duty if they relied in good faith on the Committee Procedures, the Rules or other provisions of ASX Clear (Futures).

**SCHEDULES TO THE RULES OF ASX CLEAR (FUTURES) PTY LIMITED**

## **11 GOVERNING LAW**

These Committee Procedures, and all rights and obligations under them will be governed by and construed in accordance with the law in force in New South Wales.

## **12 AMENDMENTS**

These Committee Procedures may be amended by ASX Clear (Futures), provided that the Committee Secretary will present details of any such amendment to a Meeting held no later than 30 days after such amendment comes into effect.

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