

## SECTION 5 RISK MANAGEMENT CAPITAL REQUIREMENTS

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## SECTION 5 RISK MANAGEMENT CAPITAL REQUIREMENTS

This section sets out 3 different capital regimes for Clearing Participants. All Clearing Participants will be required to comply with the capital regime that is appropriate for the Market Transactions that they clear. The three capital regimes are:

(a) Risk Based Requirements

This regime is required for all Clearing Participants wishing to clear Cash Market Transactions or Options Market Transactions.

A Clearing Participant clearing Futures Market Transactions may choose to comply under this regime instead of NTA requirements if they wish. The detailed requirements are in Schedule 1;

(b) NTA Requirements – Net Tangible Assets

This regime is permissible for Clearing Participants clearing Futures Market Transactions only.

The detailed requirements are in Schedule 2; and

(c) Other Capital Regime which ASX Clear considers appropriate.

This is in anticipation of applicants such as ADIs which are supervised by APRA.

### 5.1 CAPITAL REQUIREMENTS

#### 5.1.1 Applicable capital regime

A Participant must comply with the Risk Based Capital Requirements set out in Schedule 1 unless Rule 5.1.2 or Rule 5.2 applies.

Introduced 11/03/04 Origin OCH 2A.1.1

#### 5.1.2 Non-Risk Based Capital Requirements

(a) Subject to Rule 5.1.3, a Participant that is authorised to clear only Futures Market Transactions will be permitted to comply with the NTA Requirements in Schedule 2.

(b) Subject to Rule 5.1.3, where a Participant described in Rule 5.1.2(a) is also a Participant of an Approved Futures Clearing Facility, the Participant satisfies the NTA Requirements in Schedule 2 by satisfying the capital requirements of the Approved Futures Clearing Facility.

Introduced 11/03/04 Origin OCH 2A.1.1 Amended 19/08/09, 02/08/13

### 5.1.3 Capital regime for Participants carrying on dual purposes

A Participant which meets the description in Rule 5.1.2(a) but which also:

- (a) is authorised to trade; and/or
- (b) undertakes referral business in;

Cash Market Transactions and/or Options Market Transactions, where the underlying is not a Futures Market Contract, must comply with the Risk Based Capital Requirements set out in Schedule 1.

Introduced 19/08/09 Amended 02/08/13

### 5.1.4 Change of Capital Requirements

A Participant to which the NTA Requirements or the Risk Based Capital Requirements applies is not entitled to change to the other requirements without the prior written consent of ASX Clear.

Introduced 11/03/04 Origin OCH 2A.1.2 Amended 19/08/09

## 5.2 OTHER CAPITAL REGIMES

### 5.2.1 ASX Clear may recognise other prudential supervision regimes

ASX Clear may, if requested in writing, exempt a Participant from the requirement to comply with the Risk Based Capital Requirements or the NTA Requirements under Rule 5.1 if the Participant can satisfy ASX Clear that the Participant is subject to an appropriate level of prudential supervision (the "Other Capital Regime").

For the purposes of this Rule 5.2.1 the Participant must:

- (a) be an ADI; and
- (b) comply with such requirements as ASX Clear determines.

Introduced 11/03/04 Origin OCH 2A.3.1 Amended 19/08/09, 02/08/13, 15/06/15

### 5.2.2 ASX Clear may impose conditions

ASX Clear may impose conditions on the Participant in connection with any exemption under Rule 5.2.1 including, without limitation a condition to the effect that the exemption will only apply for as long as there is an arrangement in place between ASX Clear and the regulator responsible for the Other Capital Regime governing access to, and the exchange of, information relating to compliance and non-compliance with the Other Capital Regime.

Introduced 11/03/04 Origin OCH 2A.3.2

### **5.2.3 Provision of information**

A Participant which relies on an exemption under Rule 5.2.1 must provide to ASX Clear all documentation and information relating to compliance (or non-compliance) by the Participant with the Other Capital Regime which ASX Clear requests. The documentation and information must be provided by the time and in the manner and form specified by ASX Clear.

Introduced 11/03/04 Origin OCH 2A.3.3

### **5.2.4 Exchange of information between other regulator and ASX Clear**

If a Participant relies on an exemption under Rule 5.2.1, the Participant acknowledges that the regulator responsible for the Other Capital Regime and ASX Clear may provide any documents or other information, in relation to the Participant's capital position and the Participant's performance under the Rules or under the requirements of the Other Capital Regime, to the other and to any Related Body Corporate of ASX Clear or any relevant Approved Market Operator.

Introduced 11/03/04 Origin OCH 2A.3.4 Amended 27/06/11, 02/08/13

### **5.2.5 Costs of obtaining and translating information**

Where documentation or information is provided or made available by or on behalf of a Participant or regulator under Rules 5.2.3 or 5.2.4 in a language other than English or in a form which is not readily accessible by ASX Clear, the Participant indemnifies and will keep indemnified ASX Clear against any costs and expenses ASX Clear incurs in connection with translating that documentation or information into English and obtaining access to that documentation or information.

Introduced 11/03/04 Origin OCH 2A.3.5

### **5.2.6 Obligation to comply with Other Capital Regime**

A Participant which relies on an exemption under Rule 5.2.1 must at all times comply with the Other Capital Regime. If a Participant ceases to be subject to the Other Capital Regime, it must notify ASX Clear in writing immediately and subject to Rule 5.1, specify whether it elects to comply with the Risk Based Capital Requirements or the NTA Requirements and, from that time, the Participant must comply with those requirements.

Introduced 11/03/04 Origin OCH 2A.3.6

### **5.2.7 Obligation to report non-compliance with Other Capital Regime**

A Participant which relies on an exemption under Rule 5.2.1 must notify ASX Clear in writing immediately of any failure by the Participant to comply with the Other Capital Regime or any condition imposed by ASX Clear under Rule 5.2.2.

Introduced 11/03/04 Origin OCH 2A.3.7

### **5.2.8 ASX Clear not liable for bona fide exercise of power, right or discretion**

Without limiting Rule 1.10, none of ASX Clear, its officers, representatives, agents or contractors is liable to a Participant or to any other person for any loss, liability, damage,

cost or expense arising in any way (including, without limitation, by negligence) from the bona fide exercise of any power, right or discretion conferred upon ASX Clear by Rule 5.2.

Introduced 02/08/13

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