



# **ASX CLEAR (FUTURES) OPERATING RULES**

## **CONTENTS**

|               |                                 |
|---------------|---------------------------------|
| <b>PART 1</b> | <b>DEFINITIONS</b>              |
| <b>PART 2</b> | <b>GENERAL</b>                  |
| <b>PART 7</b> | <b>PROCEDURES ON A DEFAULT</b>  |
| <b>PART 9</b> | <b>MISCELLANEOUS PROVISIONS</b> |

**SCHEDULES TO THE RULES OF ASX CLEAR (FUTURES)**

**OTC RULEBOOK**



## ASX CLEAR (FUTURES) OPERATING RULES

|                      |   |            |
|----------------------|---|------------|
| <b><u>PART 1</u></b> | <b><u>DEFINITIONS</u></b> .....         | <b>102</b> |
|                      | <u>Definitions</u> .....                | 102        |
|                      | <u>Good Standing</u> .....              | 118        |
|                      | <u>OTC Clearing and OTC Rules</u> ..... | 121        |

DRAFT

# 1. PART 1 DEFINITIONS

## Definitions

1.1 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.

| <b><u>Words</u></b>                          | <b><u>Meanings</u></b>  |
|--|---|
| 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.            |
| Allocation                                   | An allocation of an Open Contract (other than an OTC Open Contract) or Market Contract (other than an OTC Transaction) as provided by the Exchange Operating Rules.<br>Amended 01/07/13                           |
| 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.<br>Introduced 04/12/02 |
| API  | Applications Programming Interface.<br>Introduced 10/12/01  |
| Appeal Tribunal                              | The tribunal convened in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.<br>Introduced 01/08/10   |
| Approved Clearing and Settlement Facility    | A Clearing and Settlement Facility approved by ASX Clear (Futures) as an Approved Clearing and Settlement Facility and specified in the Procedures Determinations & Practice Notes.<br>Introduced 02/08/13        |
| Approved Market Operator                     | A Market Operator approved by ASX Clear (Futures) as an Approved Market Operator and specified in the Procedures Determinations & Practice Notes.<br>Introduced 02/08/13  |

Approved Subordinated Debt

An amount owing by a Clearing Participant which is payable at a time or by instalments approved by ASX Clear (Futures) and is to the satisfaction of ASX Clear (Futures) effectively subordinated so that any right of the creditor in question to receive payment in the case of bankruptcy of or any composition or compromise with creditors by or appointment of a trustee in bankruptcy or in the case of liquidation, liquidator in respect of the Clearing Participant or the partners or any of them is extinguished to such an extent as will ensure payment or provision for payment in full of all claims of all other present and future creditors of the Clearing Participant in priority to the claim of the subordinated creditors and in respect of which a Subordinated Loan Deed has been executed by the Clearing Participant, the lender and ASX Clear (Futures).

The Subordinated Loan Deed shall specifically provide:

- (a) that its terms are not to be varied without the agreement in writing of all parties;
- (b) that the lender's rights to receive interest and principal payments pursuant to the loan are subordinated at all times to other creditors;
- (c) that repayment of the loan in whole or in part is subject to the approval of ASX Clear (Futures), which shall not be given unless it is satisfied that the Clearing Participant will, after repayment, be able to maintain the minimum level of Net Tangible Assets required by the Rules;
- (d) that the obligation to repay the loan and to pay interest will be suspended for the duration of any period in which the level of the Clearing Participant's Net Tangible Assets falls below the minimum required by the Rules;

and shall also contain such other provisions as may be required by ASX Clear (Futures).

Introduced 02/08/13

Approved Warehouse

That term as defined in the Exchange Operating Rules.

Introduced 26/03/96

Articles or Articles of Association

The Articles of Association contained in the Constitution of ASX Clear (Futures) Pty Ltd.

ASX Clear (Futures)

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.

Amended 01/08/10

|   |  |
|---|--|
| 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.   |
| Bond and Repurchase Clearing                  | The clearing of Bond Transactions and/or Repurchase Agreements.  |
| Bond Position                                 | The net result of Bond purchases and sales.  |
| Bond Transaction                              | Purchase or sale of a Bond.  |
| BOS   | Introduced 10/12/01 Deleted 11/02/14   |
| BRC   | Bond and Repurchase Clearing.  |
| BRC Business Day                              | Day on which ASX Clear (Futures) is open for the conduct of BRC transactions.  |
| BRC House Account                             | An account established under Rule 41A.1.<br>Amended 11/02/14   |
| 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.<br>Introduced 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.<br>Introduced 24/10/11  |
| Bulk Handler Agreement                        | An agreement with a Bulk Handler governing the storage and handling of an Underlying Commodity.<br>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                                 | <p>(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.</p> <p>(b) In relation to an Open Contract the Clearing Participant in the buying position with respect to such Open Contract.</p> <p>(c) In relation to a Bond the Clearing Participant in the buying position.</p> <p>(d) In relation to a Repurchase Agreement the Clearing Participant in the buying position.</p> <p>Amended 01/09/08</p> |
| 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.   |
| 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.  |
|                                       | Introduced 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 04/12/02  |

|   |  |
|---|--|
| Clearing Software                         | <p>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.</p> <p>Introduced Jan 05</p>   |
| Client                                    | <p>In relation to a Clearing Participant any person, firm or corporation on behalf of whom the Clearing Participant enters into, acquires, holds or disposes of a Market Contract or Open Contract, or on whose behalf the Clearing Participant proposes to enter into, acquire, hold or dispose of a Market Contract or Open Contract or from whom the Clearing Participant accepts instructions to enter into, acquire, hold or dispose of a Market Contract or Open Contract.</p> <p>Amended 11/02/14</p> |
| Client Clearing Account                   | <p>An Account established under Rule 41.2.</p>   |
| Client Positions                          | <p>Open Positions designated as Client Positions under Rule 41 or under the Client Protection Model Provisions.</p> <p>Amended 11/02/14</p>  |
| Client Protection Model Client Fact Sheet | <p>The fact sheet published by ASX Clear (Futures) from time to time and made available to CPM Clients in accordance with the Client Protection Model Provisions.</p> <p>Introduced 11/02/14</p>   |
| Client Protection Model Provisions        | <p>Part 10 of these Rules.</p> <p>Introduced 11/02/14</p>  |
| Client Sub-Account                        | <p>Each Omnibus Sub-Account and Individual Sub-Account.</p> <p>Introduced 11/02/14</p>   |
| Clients' Segregated Account               | <p>In relation to a Clearing Participant that is a Trading Participant, an account maintained in accordance with the Market Integrity Rules or where applicable a client bank account as defined in Regulation 2 of the Futures Industry (Client Funds) Regulations 1990 (New Zealand).</p> <p>Amended 11/02/14</p>  |
| Close Out                                 | <p>To extinguish an Open Contract (other than an OTC Open Contract) by matching it with an offsetting Open Contract (other than an OTC Open Contract) and effecting the settlement of each such Open Contract against the other.</p> <p>Amended 01/07/13</p>   |
| Commission                                | <p>Australian Securities and Investments Commission.</p> <p>Introduced 02/08/13</p>  |
| Commitment                                | <p>The commitment of a Clearing Participant to provide Financial Support to the obligations of ASX Clear (Futures) as provided by these Rules.</p> <p>Amended 01/07/13</p>   |

|                            |   |
|----------------------------|---|
| Commodity                  | Any thing, entitlement 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.<br>Amended 02/01/02   |
| CPM Client                 | A Client to which the Client Protection Model Provisions apply.<br>Introduced 11/02/14  |
| Daily Closing Value        | The closing value of a Bond Transaction or Repurchase Agreement determined by ASX Clear (Futures) under Rule 44A.   |
| Daily Settlement           | Daily Settlement pursuant to Rule 44.<br>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 (other than an OTC Open Contract) 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.<br><br>In addition, the Daily Settlement Amount for a CFD Contract will include such cashflow amounts as determined by the Exchange.<br>Amended 01/07/13 |
| 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.   |
| Default Management Process | The default management process set out in Schedule 3 (Default Management Process) of the OTC Rules.<br>Introduced 11/02/14  |
| 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   | <p>A facility for the storage and handling of the Underlying Commodity in a location approved by the Exchange in consultation with ASX Clear (Futures).</p> <p>Introduced 24/10/11</p>   |
| Delivery Month   | <p>The calendar month in which the Maturity Date falls.</p> <p>Introduced 24/10/11</p>   |
| Delivery Period  | <p>In relation to a Grain Contract, the period commencing on the second Business Day of the Delivery Month and ending on the Maturity Date.</p> <p>Introduced 24/10/11</p>   |
| Deny Automatic Exercise Request  | <p>The notice which may be lodged in the Exchange System by Participants holding a bought option position in the Exchange System pursuant to which the automatic exercise on the Declaration Date of an Option Contract in the money is denied.</p> <p>Introduced 10/12/01 Amended 11/02/14</p>  |
| Derivative   | <p>“Derivative” as that term is defined in the Corporations Act.</p>   |
| ‘Employee’, ‘member of staff’, ‘officer’, ‘official’, ‘ASX Clear (Futures) staff’, ‘staff of ASX Clear (Futures)’ and like words | <p>‘employee’, ‘member of staff’, ‘officer’, ‘official’ and like words of ASX Clear (Futures) Pty Limited or any of its related bodies corporate.</p> <p>Introduced 21/01/02</p>   |
| Exchange   | <p>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".</p> <p>Amended 02/01/02, 01/08/10</p>  |
| Exchange Allocation & Clearing System  | <p>Introduced 10/12/01 Amended 01/08/10 Deleted 11/02/14</p>   |
| Exchange Contract  | <p>A class of Futures Contract and Options Contract listed on a Market of the Exchange.</p>  |
| Exchange Dealing Participant   | <p>A Participant of the Exchange which:</p> <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> <p>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.</p> |

|                          |   |
|--------------------------|---|
| Exchange Equipment       | <p>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.</p> <p>Introduced Jan 05</p>  |
| Exchange Markets         | <p>The markets of the Australian Securities Exchange Limited and any Related Exchange.</p>  |
| Exchange Operating Rules | <p>The operating rules of the Exchange.</p>   |
| Exchange System          | <p>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.</p> <p>Introduced Jan 05 Amended 01/08/10</p> |
| Excluded Assets          | <p>The value attributed to Intangible Assets, deferred tax assets, doubtful debts, goodwill, a financial commitment provided to any exchange or clearing house or any asset used to secure that commitment, unlisted securities, preliminary expenses and any other item which in the opinion of ASX Clear (Futures) should be excluded.</p> <p>Introduced 02/08/13</p>                     |
| Exercise Price           | <p>The price at which an Option Contract may be exercised.</p>  |
| Exercise Request         | <p>The notice to be lodged by Participants holding a bought option position in the Exchange System pursuant to which options (whether or not in the money) are exercised prior to their expiry on the Declaration Date.</p> <p>Introduced 10/12/01 Amended 11/02/14</p>   |
| Extra Margin             | <p>A deposit with ASX Clear (Futures) pursuant to Rule 45.2 or 45A.2.</p>   |
| Facility Participant     | <p>Any person approved by the Exchange who has an Australian CS Facility Licence and is a Clearing Participant.</p> <p>Introduced 04/12/02</p>  |
| Financial Requirements   | <p>Net Tangible Assets, Net Liquid Assets and such other requirements as may be determined pursuant to Clearing Rule 8.</p> <p>Amended 02/08/13</p>   |
| Financial Support        | <p>In relation to a Clearing Participant the financial support provided by that Clearing Participant pursuant to Rule 5 or Rule 7.6.</p>  |
| Fixed Commitment         | <p>The Commitment provided pursuant to Rule 5.6(i).</p> <p>Amended 01/07/13</p>   |

|                                |   |
|--------------------------------|---|
| Fixed OTC Commitment           | <p>Has the meaning given to it in the OTC Rules.</p> <p>Introduced 01/07/13</p>   |
| Force Allocate                 | <p>The forced settlement of an Open Contract of a Non-Defaulting Clearing Participant matching that of a defaulting Clearing Participant at a price determined by ASX Clear (Futures).</p> <p>Introduced 01/07/13</p>   |
| Futures Commitment             | <p>The commitment of a Futures Participant to provide financial support to the obligations of ASX Clear (Futures) as set out in Rule 5.</p> <p>Introduced 01/07/13</p>  |
| Futures Contract               | <p>A Derivative other than an OTC Transaction.</p> <p>Amended 01/07/13</p>  |
| Futures Option Contract        | <p>An option over a Futures Contract.</p>   |
| Futures Participant            | <p>Each:</p> <ul style="list-style-type: none"> <li>(a) Clearing Participant who has been authorised to participate in the clearing of Futures Contracts through ASX Clear (Futures); and</li> <li>(b) BRC Participant.</li> </ul> <p>Introduced 01/07/13</p>   |
| Grain Contract                 | <p>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.</p> <p>Introduced 24/10/11</p>   |
| Group of Contracts             | <p>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).</p>   |
| Guarantor Clearing Participant | <p>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.</p> <p>Amended 04/12/02</p> |
| Holding Company                | <p>Holding Company within the meaning of the Corporations Act as if that Act applies to all Clearing Participants.</p>  |
| House Clearing Account         | <p>An Account established under Rule 41.1 or a BRC House Account established under Rule 41A.1.</p> <p>Amended 11/02/14</p>  |

|                                    |  |
|------------------------------------|--|
| 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.  |
| Individual Sub-Account             | The sub-account so described in the Client Protection Model Provisions.<br>Introduced 11/02/14   |
| Initial Margin                     | A deposit with ASX Clear (Futures) in accordance with Rule 43 or 43A.  |
| Intangible Assets                  | Intangible assets as defined in accordance with Australian Accounting Standards (AASB 138), as varied from time to time, or any other accounting standard approved by ASX Clear (Futures).<br>Introduced 02/08/13  |
| 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;<br><br>(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<br><br>(c) any rights throughout the world in respect of an invention, discovery, trade secret, know-how, concept, idea, information, data, algorithm or formula.<br>Introduced Jan 05 |
| Intra-Day Margin                   | A deposit with ASX Clear (Futures) pursuant to Rule 45.1 or 45A.1.   |
| Invoice Back                       | The forced settlement of an Open Contract of a Non-Defaulting Clearing Participant matching that of a defaulting Clearing Participant at a price determined by ASX Clear (Futures).<br>Introduced 01/07/13   |
| Licence                            | In clearing Rule 16.1 means a licence or a sub-licence.<br>Introduced Jan 05   |
| Licensed Software                  | The Clearing Software which is the subject of a licence granted by Clearing rule 16.1.<br>Introduced Jan 05  |

|                           |  |
|---------------------------|--|
| Licensor                  | <p>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.</p> <p>Introduced Jan 05</p>   |
| Liquid Assets             | <p>Assets that are realisable or otherwise convertible to cash within 24 hours.</p> <p>Introduced 02/08/13</p>   |
| Liquid Liabilities        | <p>Liabilities that may become due and payable within 24 hours.</p> <p>Introduced 02/08/13</p>   |
| Local Participant         | <p>(Deleted 01/09/08)</p>  |
| Managing Director         | <p>The Managing Director of ASX Clear (Futures) or where there is no Managing Director, the principal executive officer of ASX Clear (Futures).</p> <p>The principal executive officer of ASX Clear (Futures) shall be:</p> <ul style="list-style-type: none"> <li>(a) the Managing Director and CEO of SFE Corporation Limited; or</li> <li>(b) any other person or persons he delegates to perform or share the role of principal executive officer; or</li> <li>(c) in the absence of: <ul style="list-style-type: none"> <li>(i) the Managing Director; or</li> <li>(ii) where there is no Managing Director, the principal executive officer.</li> </ul> </li> </ul> <p>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.</p> <p>Amended 19/07/96, 05/08/02</p> |
| Mandatory Cash Settlement | <p>Cash settlement pursuant to the Exchange Operating Rules and Part 6 of the Rules.</p>   |
| Margin                    | <p>Initial Margin, Variation Margin, Intra Day Margin or Extra Margin.</p> <p>Amended 28/10/02</p>   |

|                                     |  |
|-------------------------------------|--|
| Market Contract                     | <p>(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</p> <p>(b) A Bond Transaction;</p> <p>(c) A Repurchase Agreement; or</p> <p>(d) An OTC Transaction.</p> <p><i>Amended 04/12/02, 01/07/13</i></p> |
| Market Integrity Rules              | <p>ASIC Market Integrity Rules (ASX 24 Market) 2010, as amended from time to time.</p> <p><i>Introduced 11/02/14</i></p>   |
| Maturity Date                       | <p>In relation to a Grain Contract, the third Thursday of the month in which the Grain Contract is expressed to mature.</p> <p><i>Introduced 24/10/11</i></p>  |
| Net Liquid Assets                   | <p>Liquid Assets less Liquid Liabilities.</p> <p><i>Amended 02/08/13</i></p>   |
| Net Tangible Assets                 | <p>The value of total assets and Approved Subordinated Debt, less any Excluded Assets, owned by the Participant, less the value of any liabilities.</p> <p><i>Amended 02/08/13</i></p>   |
| Nominated Person                    | <p>The person notified as such to ASX Clear (Futures) in accordance with Rule 115.4.</p> <p><i>Introduced 11/02/14</i></p>   |
| Non-Clearing Trading Participant    | <p>A Trading Participant of the Exchange which is not a Clearing Participant.</p>  |
| Non-Defaulting Clearing Participant | <p>A Clearing Participant not in Default.</p>  |
| NZFOE                               | <p>New Zealand Futures &amp; Options Exchange Limited (ARBN 061 299 269).</p>  |
| NZFOE Commencement Time             | <p>The date and time on which ASX Clear (Futures) commences to operate as the Clearing and Settlement Facility for NZFOE.</p>  |
| Officer                             | <p>Includes director, partner or employee.</p>   |

|                                 |   |
|---------------------------------|---|
| OM SECUR Back Office Software   | Introduced 10/12/01 Deleted 11/02/14  |
| OM SECUR BOC                    | Introduced 10/12/01 Deleted 11/02/14  |
| OM SECUR BOPC                   | Introduced 10/12/01 Deleted 11/02/14  |
| OMnet API                       | Introduced 10/12/01 Deleted 11/02/14  |
| Omnet Gateway                   | Introduced 10/12/01 Amended 01/07/13 Deleted 11/02/14   |
| Omnibus Sub-Account             | The sub-account so described in the Client Protection Model Provisions.<br>Introduced 11/02/14  |
| Open Contract                   | <p>(a) Except where paragraph (b) applies, a contract of a Clearing Participant with ASX Clear (Futures) deemed to arise from:</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>(b) In the case of a Facility Participant, unless the context otherwise requires, a contract between ASX Clear (Futures) and the Facility Participant referred to in Rules 31A.7 and 31A.8.</p> <p>Amended 28/10/02, 04/12/02, 01/07/13, 11/02/14</p> |
| Open Position                   | <p>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.</p> <p>In the case of BRC transactions, the entitlement of a BRC Participant under an Open Contract which has not been completed or closed out.</p>   |
| Option Contract                 | Includes both a Futures Options Contract and a Physical Options Contract.   |
| OTC Allocated Futures Contracts | <p>Futures Contracts allocated to the calculation of OTC Initial Margin in accordance with these Rules (including the OTC Rules).</p> <p>Introduced 01/07/13</p>  |
| OTC Clearing                    | <p>The clearing of an OTC Transaction in accordance with the OTC Rules.</p> <p>Introduced 01/07/13</p>  |

|   |   |
|---|---|
| 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.<br>Introduced 01/07/13   |
| OTC Initial Margin  | Has the meaning given to it in the OTC Rules.<br>Introduced 01/07/13  |
| OTC Open Contract   | Has the meaning given to it in the OTC Rules.<br>Introduced 01/07/13  |
| OTC Open Position   | Has the meaning given to it in the OTC Rules.<br>Introduced 01/07/13  |
| OTC Participant   | A Clearing Participant who has been authorised to participate in the clearing of OTC Transactions through ASX Clear (Futures).<br>Introduced 01/07/13   |
| OTC Rules   | The OTC Rules of ASX Clear (Futures), as amended from time to time.<br>Introduced 01/07/13  |
| OTC Transaction   | An over-the-counter Derivative.<br>Introduced 01/07/13  |
| 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.   |
| Procedures  | 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) <a href="#">and the ASX Recovery Handbook</a> , as published by ASX Clear (Futures) and as amended from time to time.<br>Introduced 01/07/13  |



|                          |   |
|--------------------------|---|
| Publish or Published     | Make information available to the public and/or to Participants by any means including electronic means.  |
| Reciprocal Arrangement   | Any agreement or arrangement between ASX Clear (Futures) and any governmental agency or regulatory authority (including, without limitation, any market, clearing house or clearing and settlement facility), in Australia or elsewhere, whose functions include the regulation of trading in, or clearing and settlement of, Financial Products (in Australia or elsewhere) which provides for the disclosure of information between ASX Clear (Futures) and the other party in relation to dealings in, or clearing and settlement of, Financial Products (in Australia or elsewhere).<br>Introduced 02/08/13 |
| 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.   |
| <u>Recovery Rules</u>    | <u><a href="#">The Recovery Rules applicable to ASX Clear (Futures), as amended from time to time.</a></u><br><br><u><a href="#">Introduced xx/xx/xx</a></u>  |
| Registered Contract      | A Market Contract which has been registered under Rule 31.  |
| Related Body Corporate   | Has the same meaning as in the Corporations Act.<br>Introduced 21/01/02 Amended 11/02/14  |
| 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.   |
| 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 and, where relevant, the OTC Rules <u><a href="#">and the Recovery Rules</a></u> , as amended from time to time.<br><br>Amended 01/08/10, 01/07/13  |
| Schedules                | Schedules to the Rules.   |
| Security Interest        | Any mortgage pledge guarantee charge or security of any kind.   |

- Seller
- (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.
  - (b) In relation to an Open Contract the Clearing Participant in the selling position with respect to such Open Contract.
  - (c) In relation to a Bond the Clearing Participant in the selling position.
  - (d) In relation to a Repurchase Agreement the Clearing Participant in the selling position.

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

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.<br>Introduced Jan 05 |
| SYCOM®                  | Deleted 11/02/14   |
| Tender Documentation    | The documentation in the form set out in the Procedures for the purposes of Schedule 14.<br>Introduced 24/10/11  |
| Trading Participant     | A Trading Participant of the Exchange pursuant to the Exchange Operating Rules.<br>Introduced 13/12/99 Amended 01/08/10                                      |
| Trading Platform        | Has the meaning given to it in the Exchange Operating Rules.<br>Introduced 11/02/14  |
| Warehouse Receipt       | That term as defined in the Exchange Operating Rules.<br>Introduced 26/03/96   |
| Variable Commitment     | The Commitment provided pursuant to Rule 5.6(ii).<br>Amended 01/07/13  |
| Variable OTC Commitment | Has the meaning given to it in the OTC Rules.<br>Introduced 01/07/13   |
| Variation Margin        | An amount determined by ASX Clear (Futures) in its mark to market procedures, being BRC Variation Margin or Daily Settlement Amount.<br>Introduced 28/10/02  |
| Underlying Commodity    | In relation to a Grain Contract, the type of grain which underlies the contract, as determined by the Exchange.<br>Introduced 24/10/11                       |

## Good Standing

- 1.2 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

## OTC Clearing and OTC Rules

- 1.10 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 01/07/13

- 1.11 Unless the contrary intention appears, capitalised terms not defined in these Rules have the meaning given to them in the OTC Rules.

Introduced 11/02/14

- [1.12 The Recovery Rules supplement and form part of these Rules. Unless expressed to the contrary, the Recovery Rules prevail over these Rules to the extent of any inconsistency between them.](#)

[Introduced xx/xx/xx](#)

[\[Explanatory comment: clarifies the hierarchy of documentation between the Recovery Rules and these Rules\]](#)

**End of Section. Next page is no. 201.**



# ASX CLEAR (FUTURES) OPERATING RULES

|                      |  |            |
|----------------------|--|------------|
| <b><u>PART 2</u></b> | <b><u>GENERAL</u></b> .....  | <b>124</b> |
| <b><u>2</u></b>      | <b><u>[Deleted]</u></b> .....  | <b>124</b> |
| <b><u>3</u></b>      | <b><u>ESTABLISHMENT OF ASX CLEAR (FUTURES)</u></b> .....                     | <b>124</b> |
|                      | <u>Fees</u> .....  | 124        |
|                      | <u>Client Agreement Forms</u> .....  | 125        |
|                      | <u>Disclosure of Information</u> .....                                       | 125        |
| <b><u>4</u></b>      | <b><u>BECOMING A CLEARING PARTICIPANT</u></b> .....                          | <b>127</b> |
|                      | <u>Undertaking to Abide by the Rules</u> .....                               | 129        |
|                      | <u>General Conduct of Clearing Participants</u> .....                        | 130        |
| <b><u>5</u></b>      | <b><u>COMMITMENT TO SUPPORT OBLIGATIONS OF ASX CLEAR (FUTURES)</u></b> ..... | <b>136</b> |
|                      | <u>Adjustment of Clearing Participant Commitments</u> .....                  | 138        |
| <b><u>6</u></b>      | <b><u>WITHDRAWAL OF CLEARING PARTICIPANT COMMITMENT</u></b> .....            | <b>139</b> |
| <b><u>7</u></b>      | <b><u>SATISFACTION OF OBLIGATIONS OF ASX CLEAR (FUTURES)</u></b> .....       | <b>140</b> |
| <b><u>8</u></b>      | <b><u>FINANCIAL REQUIREMENTS</u></b> .....                                   | <b>146</b> |
| <b><u>9</u></b>      | <b><u>POSITION LIMITS</u></b> .....  | <b>147</b> |
| <b><u>9A</u></b>     | <b><u>REGULATION</u></b> .....   | <b>148</b> |
|                      | <u>Introduction and Oversight of Regulatory Affairs</u> .....                | 148        |
|                      | <u>ASX Clear (Futures) Investigation and Enforcement Function</u> .....      | 149        |
|                      | <u>Exemptions</u> .....  | 150        |
| <b><u>10</u></b>     | <b><u>APPOINTMENT OF BOARD AS AGENT</u></b> .....                            | <b>150</b> |
|                      | <u>Automatic Suspension</u> .....  | 151        |
|                      | <u>Interim Suspensions</u> .....   | 151        |

|                   |   |            |
|-------------------|---|------------|
|                   | <u>Conduct of Associated Parties</u> .....  | 152        |
| <b><u>11</u></b>  | <b><u>RESIGNATION AND CHANGE IN CONTROL</u></b> .....                                     | <b>152</b> |
|                   | <u>Resignation</u> .....  | 152        |
|                   | <u>Change in Control</u> .....  | 154        |
| <b><u>12</u></b>  | <b><u>APPEALS</u></b> .....   | <b>154</b> |
| <b><u>12A</u></b> | <b><u>TRANSITIONAL PROVISIONS – [DELETED]</u></b> .....                                   | <b>155</b> |
| <b><u>12B</u></b> | <b><u>TRANSITIONAL PROVISIONS</u></b> .....   | <b>155</b> |
|                   | <u>Transitional Provision Definitions</u> .....   | 155        |
|                   | <u>Sanctions</u> .....  | 156        |
| <b><u>13</u></b>  | <b><u>ACCESS TO RECORDS</u></b> .....   | <b>158</b> |
| <b><u>14</u></b>  | <b><u>AMENDMENT TO RULES</u></b> .....  | <b>159</b> |
| <b><u>15</u></b>  | <b><u>BOND AND REPURCHASE TRANSACTIONS</u></b> .....                                      | <b>161</b> |
| <b><u>16</u></b>  | <b><u>USE OF EXCHANGE SYSTEM</u></b> .....  | <b>162</b> |
|                   | <u>Licence over Clearing Software</u> .....   | 162        |
|                   | <u>Conditions of Licence</u> .....  | 162        |
|                   | <u>Title to Licensed Software and Ownership of any Intellectual Property rights</u> ..... | 163        |
|                   | <u>Warranty as to Title</u> .....   | 164        |
|                   | <u>Intellectual Property Rights Indemnity</u> .....                                       | 164        |
| <b><u>17</u></b>  | <b><u>TERMS RELATING TO EXCHANGE EQUIPMENT</u></b> .....                                  | <b>165</b> |
|                   | <u>Supply of Exchange Equipment</u> .....   | 165        |
|                   | <u>Conditions of use of Exchange Equipment</u> .....                                      | 166        |
|                   | <u>Title to the Exchange Equipment and Insurance Requirements</u> .....                   | 166        |
| <b><u>18</u></b>  | <b><u>TERMS RELATING TO BOTH LICENSED SOFTWARE AND EXCHANGE EQUIPMENT</u></b> .....       | <b>166</b> |
|                   | <u>Responsibility of ASX Clear (Futures)</u> .....  | 166        |
|                   | <u>Responsibility for Security</u> .....  | 167        |
|                   | <u>Termination of Licence</u> .....   | 167        |
|                   | <u>Suspension of Licence</u> .....  | 168        |
|                   | <u>Suspension to be Lifted</u> .....  | 168        |
|                   | <u>Clearing Participant's Obligations on Termination of Licence</u> .....                 | 168        |
| <b><u>19</u></b>  | <b><u>MISCELLANEOUS</u></b> .....   | <b>169</b> |
|                   | <u>Notice, Notification and Service of Documents</u> .....                                | 169        |
| <b><u>20</u></b>  | <b><u>RISK COMMITTEE</u></b> .....  | <b>169</b> |
| <b><u>21</u></b>  | <b><u>PRODUCT COMMITTEE</u></b> .....   | <b>170</b> |



## 2. PART 2 GENERAL

### 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.

#### 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 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, 01/07/13

#### 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. No such suspension shall release the Clearing Participant from its liability in respect of its Commitment and no Commitment shall be liable to be returned except in accordance with Rule 6.

Amended 01/07/13

### 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.

## **Client Agreement Forms**

- 3.3 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).

## **Disclosure of Information**

- 3.4.1 Disclosure of information regarding Clearing Participants

ASX Clear (Futures) may, where it considers it appropriate disclose information regarding its Clearing Participants and their activities that are relevant to ASX Clear (Futures) to:

- (a) the Commission;

- (b) the Reserve Bank of Australia;
- (c) the Australian Prudential Regulation Authority;
- (d) the Exchange;
- (e) a Clearing & Settlement Facility; and
- (e) any governmental agency or regulatory authority.

Introduced 02/08/13

### 3.4.2 ASX Clear (Futures) may disclose information

ASX Clear (Futures) will take all reasonable measures to protect from unauthorised use or disclosure information provided to ASX Clear (Futures) in confidence by or on behalf of a Clearing Participant pursuant to the Rules. For the purposes of this Rule the disclosure of information in the following circumstances does not constitute unauthorised use or disclosure:

- (a) pursuant to a Reciprocal Arrangement;
- (b) required to be disclosed by ASX Clear (Futures) under any law or any order of any court or tribunal, authority or regulatory body;
- (c) which at the time of disclosure to or by ASX Clear (Futures), was generally available to and known by the public;
- (d) for the purposes of monitoring compliance with, or the enforcement of, the Rules or the adjudication of those matters (including, without limitation, to the Old Tribunal (as defined in Rule 12B) or the Appeal Tribunal);
- (e) to a Related Body Corporate of ASX Clear (Futures), for the purpose of enabling that Related Body Corporate to assess whether the Participant is complying with, will comply with or has complied with the operating rules of, or any contractual arrangement with, that Related Body Corporate;
- (f) to an Approved Market Operator or Approved Settlement Facility, for the purpose of enabling the Approved Market Operator or Approved Settlement Facility to assess whether the Clearing Participant (or a Participant of the Exchange for whom the Clearing Participant clears Futures Contracts) is complying with, will comply with or has complied with the Approved Market Operator's or Approved Clearing and Settlement Facility's rules or procedures;
- (g) to any governmental agency or regulatory authority including, without limitation, an exchange (including, without limitation, an Approved Market Operator), market, clearing house or clearing and settlement facility (in Australia or elsewhere) which requests ASX Clear (Futures) to provide the information to it, in the proper exercise of its powers relating to:
  - (i) the order and good government of Participants; or
  - (ii) the efficient, honest, fair, competitive and informed trading, clearing and settlement of Futures Contracts (in Australia or elsewhere); and

- (h) any entity which provides financial backing or insurance to ASX Clear (Futures) for the purpose of enabling that entity to assess the risk to ASX Clear (Futures) or that entity from clearing activities generally or to assess any claim made in connection with a Clearing Participant's activities.

Introduced 02/08/13 Amended 11/02/14

## 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

Refer to [Procedure 4.2A Becoming a Clearing Participant](#).

- 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 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.

Amended 01/07/13

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 01/07/13

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 01/07/13

- 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, 01/07/13

#### **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). No such suspension shall release the Clearing Participant from its liability in respect of its Commitment and no Commitment shall be liable to be returned except in accordance with Rule 6.
- (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, 01/07/13

### **General Conduct of Clearing Participants**

- 4.12
- (a) Clearing Participants shall at all times:
    - (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 Act 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, 11/02/14

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:

- (aa) To provide to ASX Clear (Futures) a copy of a prescribed audit report within three (3) months of its financial year end.
- (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.
- (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 Trading 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.

To the extent that the Client Protection Model Provisions apply to a Client, the terms addressing the requirements in Rule 4.14(j)(iii) and (iv) do not apply.

- (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, 01/07/13, 11/02/14

**Explanatory Note**

Refer to Procedure 4.14 Becoming a Clearing Participant.

- 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 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 securities or collateral which may be provided.

Amended 28/04/14

- 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 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 Rule 5.1. A Clearing Participant shall comply with such requirement.

Amended 11/02/14, 28/04/14

- 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.

Introduced 01/07/13

5.6 Subject to Rule 7.6 the Futures Commitment of a Futures Participant shall be:

- (i) A "Fixed Commitment" comprising:
  - (A) A minimum Commitment of two million dollars (\$2,000,000) by each Futures Participant; or
  - (B) Where the 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 Futures Participant is a BRC Participant and engages only in Bond and Repurchase Clearing, paragraph (B) shall not apply and the minimum Commitment shall be two million dollars (\$2,000,000) in accordance with paragraph (A).

- (ii) An additional Commitment (the "Variable Commitment") by each Futures Participant sufficient to bring the total aggregate amount committed by Futures Participants under the Futures Commitment (FC) to an amount in dollars calculated in accordance with the following formula:

$$FC = d + (n \times \$2,000,000)$$

where:

- n = number of 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 million dollars (\$100,000,000) or such lesser amount determined by the Board calculated by reference to 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 FC, 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.

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.

- 5.7 Each Clearing Participant shall provide by such time as Prescribed ~~Additional~~additional Commitment to ensure that its obligations under Rule 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. 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 the requirement of a Clearing Participant to provide a Commitment shall be adjusted accordingly.

**Explanatory Note**

The circumstances in which ASX Clear (Futures) may release a Clearing Participant's Commitment may be affected by the Recovery Rules.

[Explanatory Note: the Recovery Rules contain mechanisms for determining additional Commitment payable by a Clearing Participant following the end of a Default Period]

Amended 01/07/13, 11/02/14, XX/XX/XX

**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.~~

Introduced 19/07/96

[Explanatory Note: the Recovery Rules now contain the mechanisms for determining additional Commitment payable by a Clearing Participant following the end of a Default Period]

- 5.8 ASX Clear (Futures) may in its absolute discretion pay each Clearing Participant an ~~Accommodation~~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.

Amended 01/07/13

[Explanatory Note: this amendment corrects a previous typographical error]

- 5.9 ASX Clear (Futures) 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 is necessary to ensure that the Clearing Participant is in compliance with Rule 5.1 and in such case such interest may be used by the Board as part of the Clearing Participant's Commitment.

Amended 01/07/13

[Explanatory Note: this amendment corrects a previous typographical error]

- 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.

[5.12 Nothing in this Rule 5 limits the Recovery Rules.](#)

**[Explanatory Note:](#)**

[The Recovery Rules may affect the operation of this Rule 5.](#)

[Introduced XX/XX/XX](#)

[\[Explanatory Note: this amendment clarifies that no power in the Recovery Rules is intended to be limited by this Rule 5\]](#)

## **6 WITHDRAWAL OF CLEARING PARTICIPANT COMMITMENT**

- 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) [becoming effective](#).

Introduced 01/07/13

- 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 [or the Recovery Rules](#) (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.

Introduced 01/07/13; [amended XX/XX/XX](#)

[\[Explanatory Note: the Recovery Rules contain provisions which affect when a Clearing Participant's resignation or termination becomes effective\]](#)

- 6.3 The Clearing Participant's Futures Commitment or OTC Commitment will be returned to it on the first Business Day of the New Quarter (as defined in Schedule 10) immediately following the date on which its resignation in respect of the relevant authorisation or termination is effective.

Introduced 01/07/13

[6.4 Nothing in this Rule 6 limits the Recovery Rules.](#)

**[Explanatory Note:](#)**



[The Recovery Rules may affect the operation of this Rule 6.](#)

[Introduced XX/XX/XX](#)

[\[Explanatory Note: this amendment clarifies that no power in the Recovery Rules is intended to be limited by this Rule 6\]](#)

## 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 (including [without limitation any amounts of variation margin or other amounts which would otherwise be payable to the Clearing Participant in Default and](#), 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 in Default);
- (b) *second*, the proceeds of the Commitment (including all Futures Commitment and all OTC Commitment) of the Clearing Participant in Default;
- (c) *third*, any assets of ASX Clear (Futures) designated under the Procedures for the purposes of this paragraph up to the amount specified in the Procedures (such amount to be \$120,000,000 or such greater amount as the Board in its discretion may from time to time determine);
- (d) *fourth*:
  - (i) if the Clearing Participant in Default is a Futures Participant and is not an OTC Participant, the proceeds of the Futures Commitments of all Futures Participants (other than the Clearing Participant in Default) as provided by Rule 7.5, up to the total aggregate amount committed by all Futures Participants under the Futures Commitment (“**FC**”) calculated in accordance with the formula set out in Rule 5.6 (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:

- (c) 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:

- (d) 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 assets available to ASX Clear (Futures) as designated for the purposes of this paragraph up to the amount specified in the Procedures -(such amount to be \$150,000,000 or such greater amount as the Board in its discretion may from time to time determine) provided that in the case of any relevant policy of insurance the relevant excess has been exceeded;
- (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);

- (g) *seventh*, the proceeds of any additional financial backing of Clearing Participants as referred to in Rule 5.10; and
- (h) *eighth*, any other monies or other assets available to ASX Clear (Futures) including which have been those designated under the Procedures for the purposes of this paragraph up to the amount specified in the Procedures (but excluding any other assets of ASX Clear (Futures) which have not been so prescribed); and
- (i) *ninth*, Recovery Assessments received from one or more Clearing Participants.

However, if the Recovery Rules apply then a Loss may be allocated in accordance with them.

A Commitment cannot be applied by ASX Clear (Futures) to discharge, or to compensate ASX Clear (Futures) for discharging, an obligation incurred before ASX Clear (Futures) makes its determination under Rule 5.1 to require the Commitment.

Amended 15/07/11, 01/07/13, 11/02/14, XX/XX/XX

[Explanatory Note: the amendments to the waterfall of application of assets are to take into account the new mechanisms in the Recovery Rules, including to determine Recovery Assessments payable by Clearing Participants.]

7.1A ASX Clear (Futures) may choose to aggregate the obligations it has incurred in respect of the Defaults of multiple Clearing Participants in Default during a Default Period and apply the assets referred to in Rule 7.1 to satisfy those aggregated obligations if ASX Clear (Futures) determines that it would be appropriate to do so.

If ASX Clear (Futures) does not choose to aggregate the obligations it has incurred in respect of the Defaults of those Clearing Participants in Default during a Default Period, ASX Clear (Futures) will, in satisfying its obligations, apply the assets referred to in Rule 7.1 separately and consecutively in respect of each Clearing Participant in Default.

Introduced XX/XX/XX

[Explanatory Note: If more than one Default occurs during a Default Period, ASX Clear (Futures) may choose to aggregate the obligations it incurs in respect of such Defaults and apply the assets at each limb in the waterfall to the Defaults in aggregate.]

7.1B ASX Clear (Futures) may apply the assets referred to in Rule 7.1 to satisfy its obligations irrespective of whether it has finally determined its obligations in respect of a Clearing Participant in Default or Clearing Participants in Default.

Introduced XX/XX/XX

[Explanatory Note: this amendment clarifies that ASX Clear (Futures) may apply the assets set out in Rule 7.1 to meet obligations prior to its final determination of the total obligations of the Defaulting Clearing Participant(s)]

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:
  - (i) paragraphs (d) or (f) of Rule 7.1 until the assets referred to in paragraph (c) have been exhausted; and
  - (ii) paragraph (f) of Rule 7.1 until the assets referred to in paragraph (e) 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, 01/07/13, 11/02/14

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 [of the Non-Defaulting Clearing Participants, or entities which have resigned from being a Clearing Participant \(excluding any Clearing Participant in Default\), who are Contributors under the Recovery Rules](#) 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 7.23, 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.

[\[Explanatory Note: this amendment clarifies that in respect of resigning Clearing Participants who are also Contributors under the Recovery Rules who provide ASX Clear \(Futures\) with an indemnity or security for costs, the Board must seek recovery in accordance with Rule 7.3\]](#)

7.5 For the purposes of Rule 7.1(d) and (f), 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:

## Futures Commitment of Futures Participants

- (a) Until the Fixed Commitment of the Futures Commitment of each Futures Participant is exhausted a call or calls on Futures Commitments of Futures Participants shall be met equally by Futures Participants.
- (b) Once the Fixed Commitments of the Futures Commitment of Futures Participants have been exhausted then any further call or calls or part of a call or calls against the Futures Commitment shall be met by 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 Futures Participants. If the Futures Commitment of any Futures Participant is exhausted then any remaining liability shall be shared on the same basis between the remaining Non-defaulting Futures Participants.

## 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.
- (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 on the OTC Commitment shall be met by OTC Participants in the same proportion as their Variable OTC Commitment as at the date of the Default bears to the Variable OTC Commitments of all Non-defaulting OTC Participants. If the OTC Commitment of any OTC Participant is exhausted then any remaining liability shall be shared on the same basis between the remaining Non-defaulting OTC Participants.
- (e) However if the OTC Rules provide for a different order of application, or manner of sharing, between OTC Participants of their Fixed OTC Commitment and Variable OTC Commitment then the OTC Rules are to be complied with.

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 03/06/97, 15/07/11, 01/07/13, 11/02/14

- 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 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 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~~  
~~[Not in use]~~

~~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 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 Removed 04XX/07XX/43XX~~

~~[Explanatory Note: the ability for ASX Clear (Futures) to call for further Commitment from Clearing Participants is now contained in the Recovery Rules]~~

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 in its absolute discretion designate particular assets of ASX Clear (Futures) for the purposes of Rule 7.1(c), (e) and (h) 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) or (g) of Rule 7.1.

Amended 01/07/13

7.10 The Board will review the size, structure and composition of ASX Clear (Futures)' financial resources and certain matters expressly designated to be reviewed in the Recovery Rules, 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.

Introduced 01/07/13

[Explanatory Note: in addition to the powers of the Board set out in Rule 7.10, the Recovery Rules also contain matters which the Board will review.]

7.11 Nothing in this Rule 7 limits the Recovery Rules.

Explanatory Note:

The Recovery Rules may affect the operation of this Rule 7.

Introduced XX/XX/XX

[Explanatory Note: this amendment clarifies that no power in the Recovery Rules is intended to be limited by this Rule 7]

## 8 FINANCIAL REQUIREMENTS

8.1 A Clearing Participant shall at all times comply with the Financial Requirements from time to time determined by ASX Clear (Futures) and set out in the Schedules.

Amended 02/08/13

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 Rule 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 01/07/13

8.7 A Clearing Participant must prepare its accounts and returns in accordance with accounting standards issued by the Australian Accounting Standards Board unless ASX Clear (Futures) approves or prescribes otherwise.

Introduced 02/08/13

## 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.

Amended 01/07/13

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.
- (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.

Amended 19/07/96

- 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**

### **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 committees 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.

#### **ASX Clear (Futures) Investigation and Enforcement Function**

- 9A.2 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;
  - (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; and
  - (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, 01/07/13

## Exemptions

9A.3.1-7 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 CPM Client or person or class of Clearing Participant or CPM Client 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 Participant or CPM Client (but not an exemption granted to a specified Clearing Participant or CPM Client) shall, for the purposes of the Corporations Act, be deemed to be an amendment to the Rules.

Amended 31/03/08, 11/02/14

9A.3.9 Deleted – 31/03/08

## 10 APPOINTMENT OF BOARD AS AGENT

10.1-8 Deleted – 31/03/08

10.9 Each Clearing Participant and CPM Client 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 and in the case of a CPM Client, subject to the Client Protection Model Provisions.

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.

Amended 11/02/14

## 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 or the CPM Clients under the Rules or any subsisting obligations of the Clearing Participant or the CPM Clients 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 or the CPM Clients under the Rules.

Amended 11/02/14

- 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 Deleted – 01/07/13

### **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**

### **Resignation**

- 11.1 (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) Subject to Rules 11.1(d) and (e), Resignation is not effective unless:
- (1) the Clearing Participant has given notice of resignation in writing to ASX Clear (Futures); and
  - (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); and
    - (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 or within such later time period notified by ASX Clear (Futures) to that Clearing Participant if ASX Clear (Futures) reasonably expects that the Clearing Participant's Open Contracts cannot be Closed Out or otherwise dealt with to ASX Clear (Futures)'s satisfaction in accordance with the Rules within 5 Business Days of receipt of the written notice of resignation.]

[Explanatory Note: the amendments provide that the time period for resignation may be increased if ASX Clear (Futures) reasonably expects that the Open Contracts of the resigning Clearing Participant cannot be adequately Closed Out or dealt with within 5 Business Days]

- (c) Subject to Rules 11.1(d) and (e):
- (1) ~~Resignation~~ resignation will be effective at the end of the last day of the 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; and
  - (2) ~~—If~~ —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. For these purposes, quarters are as defined in Schedule 10.
- (d) The confirmation by ASX Clear (Futures) that the Clearing Participant has satisfied the conditions in Rule 11.1(b)(2) or the effectiveness of the Clearing Participant's resignation does not affect any accrued rights which ASX Clear (Futures), a Related Body Corporate of ASX Clear (Futures), or other Clearing Participants have against the Clearing Participant or any accrued obligations which the Clearing Participant has to ASX Clear (Futures), a Related Body Corporate of ASX Clear (Futures) or to other Clearing Participants.
- (e) Without limiting Rule 11.1(d) above, following the Clearing Participant's resignation becoming effective:

- (1) the Rules continue to apply and ASX Clear (Futures) will continue to have jurisdiction in respect of the Clearing Participant concerning any conduct or any failure to comply with the Rules which occurred before the acceptance of the notice or termination of authority, whether that conduct or failure was by the Clearing Participant or by any other person for whose conduct the Clearing Participant was responsible;
- (2) the Clearing Participant continues to be bound by any indemnity given by the Clearing Participant under these Rules; and
- (3) other Rules continue to apply in respect of the Clearing Participant to the extent required to give effect to Rules 11.1(e)(1) and (2).

**Explanatory Note:**

The Recovery Rules may impact on the operation of this Rule.

Amended 01/07/13 and XX/XX/XX

[Explanatory Note: these amendments clarify that following the resignation of a Clearing Participant, the Clearing Participant continues to be bound by any indemnity given under the Rules and the Rules will apply to the Clearing Participant to the extent of any conduct or failure occurring prior to the resignation of the Clearing Participant.]

## **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.

### **No effect on the Recovery Rules**

- 11.3 Nothing in this Rule 11 limits the Recovery Rules.

**Explanatory Note:**

The Recovery Rules may affect the operation of this Rule 11.

[Explanatory Note: this amendment clarifies that no power in the Recovery Rules is intended to be limited by this Rule 11]

## **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

12.2-5 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

12.7-13 Deleted – 31/03/08

## 12A TRANSITIONAL PROVISIONS – [DELETED]

Introduced 31/03/08 Deleted 01/08/10

## 12B TRANSITIONAL PROVISIONS

### Transitional Provision Definitions

12B.1 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.

Amended 30/12/09

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.

Amended 30/12/09

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.

Amended 30/12/09

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 ASX Clear (Futures) may provide information about the Clearing Participant and its Clients (including information about the Clearing Participant's and its Clients' trading and financial position) to a trade repository (whether located in Australia or in a foreign country). Clearing Participants must obtain any necessary consents (including from their Clients) to permit ASX Clear (Futures) to make such disclosures to trade repositories. The reference to "trade repository" includes a derivative trade repository as defined under the Corporations Act.

Introduced 11/02/14

13.6 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, 11/02/14

## 14 AMENDMENT TO RULES

14.1 ~~Subject to Rule 14.2A and 14.2B, ASX Clear (Futures) may amend these Rules from time to time. Any amendment to 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 it is approved by the applicable Voting Clearing Participants:~~

| <b>Subject matter</b>   | <b>Voting Clearing Participants</b>                   |
|---|---|
| <del>The aggregate amount of Commitment.</del>  | <del>All Clearing Participants.</del>                 |
| <del>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").</del> | <del>All of the Affected Clearing Participants.</del> |

~~———— Note: Voting does not apply to any amendment of the amount specified from time to time in paragraph (c) or (e) of Futures Rule 7.1.~~

~~———— 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 the votes) at which a resolution is passed by Voting Clearing Participants present in person or by proxy and entitled to vote at the meeting with a majority of votes; or~~

~~(b) ——— Voting Clearing Participants entitled to a majority of votes sign a document approving an amendment of which notice has been given to all Clearing Participants.~~

~~———— Amended/Removed 01/07/13XX/XX/XX~~

[Explanatory Note: provisions relating to amendment of the order of application of assets and amendment of Commitment are now contained in the Recovery Rules]

14.2 ~~[Not in use] 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.~~

~~Removed XX/XX/XX~~

[Explanatory Note: provisions relating to amendment of the order of application of assets and amendment of Commitment are now contained in the Recovery Rules]

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.

Introduced 01/07/13

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, prior to submission of the amendments to the Commission in accordance with the Corporations Act, 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.

| <b>Rules and Procedures being amended</b>  | <b>Consulting Clearing Participants</b>    |
|--|--|
| Rules (other than OTC Rules), where the amendment affects a Clearing Participant ("Affected Clearing Participant") | All of the Affected Clearing Participants. |
| OTC Rules  | All OTC Participants.                      |

|  |   |
|--|---|
| OTC Handbook, where ASX Clear (Futures) is of the view that the amendment is likely to have a material impact on Clearing Participants   | All OTC Participants.                                 |
| 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") | All of the Materially Affected Clearing Participants. |

Introduced 01/07/13

[\[Explanatory Note: under the Corporations Act, ASX Clear \(Futures\) must notify the Commission as soon as practicable after it changes its Rules. Within 28 days after the Commission receives notice of the change, the Minister may disallow all or a specified part of the change.\]](#)

14.3 ~~[Subject to Rule 14.1, 14.2 and 14.2A, the Rules may be amended from time to time in the manner provided in the Articles. Not used]~~

Amended 01/07/13; ~~XX/XX/XX~~

14.4 Only ASX Clear (Futures) can change the Rules or OTC Rules.

~~Amended XX/XX/XX~~ Introduced 01/07/13

## 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 Rule 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

Introduced January 05

### Licence over Clearing Software

- 16.1 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).

### Conditions of Licence

- 16.2 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.

#### **Title to Licensed Software and Ownership of any Intellectual Property rights**

- 16.3
- (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.

### **Warranty as to Title**

- 16.4 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.

### **Intellectual Property Rights Indemnity**

- 16.5 (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 Licensor'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 Licensor'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 01/07/13

#### **Explanatory Note**

Refer to Procedure 16 Use of Exchange Systems.

## **17 TERMS RELATING TO EXCHANGE EQUIPMENT**

Introduced January 05

### **Supply of Exchange Equipment**

- 17.1
- (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).

## Conditions of use of Exchange Equipment

- 17.2 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.

## Title to the Exchange Equipment and Insurance Requirements

- 17.3
- (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

Introduced January 05

### Responsibility of ASX Clear (Futures)

- 18.1 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.

### **Responsibility for Security**

- 18.2 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.

### **Termination of Licence**

- 18.3 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, 01/07/13

## **Suspension of Licence**

- 18.4 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.

## **Suspension to be Lifted**

- 18.5 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.

## **Clearing Participant's Obligations on Termination of Licence**

- 18.6 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

### Notice, Notification and Service of Documents

- 19.1 (a) 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.
- (b) Without limiting Rule 19.1 any notice to be given by a Clearing Participant to ASX Clear (Futures) must be given to the person holding the position notified by ASX Clear (Futures) to Clearing Participants and may be given in the manner set out in the Procedures. Any notice to be given by ASX Clear (Futures) to a person, firm or corporation may be given in the manner set out in the Procedures.
- (c) 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 ASX Clear (Futures) is to give notice to some or all Clearing Participants, accidental omission by ASX Clear (Futures) 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 Amended 11/02/14

## 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) policies of ASX Clear (Futures) which relate to membership approvals, positions or liquidity limits of Clearing Participants, and any proposed changes to those policies;
- (h) the process for the discontinuation of OTC Clearing (if applicable); and
- (i) all other matters which may have an impact on the risk management of ASX Clear (Futures) and its Clearing Participants.

ASX Clear (Futures) will invite Clients to participate in the Risk Committee in accordance with the Procedures.

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.

Introduced 01/07/13 Amended 11/02/14

#### **Explanatory Note**

Refer to Procedure 20 – Procedures for the Risk Committee.

## **21 PRODUCT COMMITTEE**

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

The 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 and the other types of Market Contract which may be cleared through ASX Clear (Futures);
- (b) material amendments to the Rules; and
- (c) such other matters as ASX Clear (Futures) determines.

The procedures for the Product Committee are set out in the Procedures.

ASX Clear (Futures) will invite Clients to participate in the Product Committee in accordance with the Procedures.

Proposals and recommendations of the 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 Product Committee. However, ASX Clear (Futures) will provide reasons to the Product Committee if it

chooses not to follow any proposal or recommendation of the Product Committee prior to taking, or not taking, any action.

Introduced 11/02/14

**Explanatory Note**

Refer to Procedure 21 – Procedures for the Product Committee.

**22 to 29      Not in use.**

**End of Section. Next page is no. 301.**

DRAFT





## **ASX CLEAR (FUTURES) OPERATING RULES**

|                      |  |            |
|----------------------|--|------------|
| <b><u>PART 7</u></b> | <b><u>PROCEDURES ON A DEFAULT</u></b> .....  | <b>702</b> |
| <b><u>70</u></b>     | <b><u>Introduction</u></b> .....   | <b>702</b> |
| <b><u>71</u></b>     | <b><u>Existence of Default</u></b> .....   | <b>702</b> |
| <b><u>72</u></b>     | <b><u>Powers of ASX Clear (Futures) Upon A Default and Determination of A Loss</u></b> ..... | <b>704</b> |
| <b><u>73</u></b>     | <b><u>Loss</u></b> .....   | <b>708</b> |
| <b><u>74</u></b>     | <b><u>Clients Not in Default to Clearing Participant in Default</u></b> .....                | <b>709</b> |
| <b><u>75</u></b>     | <b><u>Indemnity from Clearing Participants in Default</u></b> .....                          | <b>709</b> |

### **3. PART 7 PROCEDURES ON A DEFAULT**

#### **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 01/07/13

#### **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 Rule 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.

Amended 11/02/14

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

## **72 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 Clearing Account by Closing Out any opposite positions in any House Clearing Account or Client Clearing 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. Without limitation, a Close Out may occur by the matching of opposite positions which are held in different Accounts or Client Sub-Accounts of the Clearing Participant in Default. The prices attributable to the Close Out of any Open Contracts is to be determined by ASX Clear (Futures) in its discretion provided that the price is the same for identical Closed Out Open Contracts (regardless of the Account in which they were held);
- (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;

- (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), terminate Open Contracts of the Clearing Participant in Default at a price determined by ASX Clear (Futures) subject to these Rules; 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;~~

*[Explanatory Note: powers such as those contained previously in this part (h) are now contained in the Recovery Rules. In determining the price at which ASX Clear (Futures) will terminate the Open Contracts of a Defaulting Clearing Participant, ASX Clear (Futures) expects to use the same calculations as used for the termination of the Open Contracts of any non-Defaulting Clearing Participant in accordance with the Recovery Rules.]*

- (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 ancillary or incidental to the execution of ASX Clear (Futures)' powers enumerated under these Rules in connection with the Default, provided that, for the avoidance of

doubt, in exercising power under paragraphs (a) to (k), ASX Clear (Futures) may not:

- (i) affect the order in which assets are applied under Rule 7.1; or
- (ii) Invoice Back or Force Allocate Open Contracts to another Clearing Participant ~~other than pursuant to a Compulsory Settlement under Rule 102.~~

Amended 03/06/97, 19/05/98, 01/07/13, 11/02/14, ~~XX/XX/XX~~

*[Explanatory Note: Compulsory Settlement has been removed from the Rules and similar powers are now contained in the Recovery Rules]*

- 72.1A (a) Subject to Rules 72.1A(d) and (e), 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 Rule 72.1A~~(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) Subject to Rules 72.1A(d) and (e):
- (1) ~~Termination~~ termination will be effective at the end of the last day of the quarter in which the Clearing Participant meets the conditions in Rule 72.1A(a) above, provided those conditions are met at least 30 days prior to the last day of the quarter; and
  - (2) ~~—~~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.
- For these purposes, quarters are as defined in Schedule 10.
- (d) The confirmation by ASX Clear (Futures) that the Clearing Participant has satisfied the conditions in Rule 72.1A(a)(2) or the effectiveness of the

termination of the rights and status of the Clearing Participant in Default does not affect any accrued rights which ASX Clear (Futures), a Related Body Corporate of ASX Clear (Futures), or other Clearing Participants have against the Clearing Participant in Default or any accrued obligations which the Clearing Participant in Default has to ASX Clear (Futures), a Related Body Corporate of ASX Clear (Futures) or to other Clearing Participants;

(e) Without limiting Rule 72.1A(d) above, following the termination of the rights and status of the Clearing Participant in Default becoming effective:

- (1) the Rules continue to apply and ASX Clear (Futures) will continue to have jurisdiction in respect of the Clearing Participant in Default concerning any conduct or any failure to comply with the Rules which occurred before the acceptance of the notice or termination of authority, whether that conduct or failure was by the Clearing Participant in Default or by any other person for whose conduct the Clearing Participant in Default was responsible;
- (2) the Clearing Participant continues to be bound by any indemnity given by the Clearing Participant in Default under these Rules; and
- (3) other Rules continue to apply in respect of the Clearing Participant in Default to the extent required to give effect to Rules 72.1A(e)(1) and (2).

Introduced 01/07/13 and amended XX/XX/XX

[Explanatory Note: these amendments clarify that following the Default of a Clearing Participant, the Clearing Participant continues to be bound by any indemnity given under the Rules and the Rules will apply to the Clearing Participant to the extent of any conduct or failure occurring prior to the Default of the Clearing Participant.]

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 At any time, 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 separately in respect of the House Account and the Client Account, 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 [or the Recovery Rules](#).

Without limiting any of its rights or powers, ASX Clear (Futures) agrees that it will exercise its rights under this Rule 72.3 to calculate a net amount with respect to the Clearing Participant in Default. ASX Clear (Futures) may exercise any of its rights and powers and take any other actions in connection with the Clearing Participant in Default before, or after, it does so.

Introduced 13/07/09 Amended 01/07/13, 11/02/14

- 72.4 If a Clearing Participant has CPM Clients then the netting referred to in Rule 72.3 above is to be conducted separately in respect of each Client Sub-Account within the Client Account of that Clearing Participant and in respect of any remaining part of that Client Account. A net cash amount is to be payable in accordance with Rule 72.3 in respect of each separate netting which takes place.

Introduced 11/02/14

### **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.

73.1A ASX Clear (Futures) may attribute to the relevant Account(s) of the Clearing Participant in Default or Clearing Participants in Default any costs, losses, penalties, fines, taxes, damages and expenses which ASX Clear (Futures) may incur, including reasonable legal fees incurred, in connection with the Default of that Clearing Participant in Default or Clearing Participants in Default. If the costs, losses, penalties, fines, taxes, damages and expenses are attributable to more than one Clearing Participant in Default, the amount of those costs, losses, penalties, fines, taxes, damages and expenses will be attributed to each Clearing Participant in the proportion that ASX, acting reasonably, determines to be appropriate.

[Explanatory Note: these amendments clarify that ASX Clear (Futures) may allocate any costs, losses, penalties, fines, taxes, damages and expenses it incurs in connection with a Clearing Participant's Default to the relevant Account(s) of that Clearing Participant. However, if there is more than one Defaulting Clearing Participant, ASX Clear (Futures) may attribute such amounts in the proportion it deems appropriate.]

- 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.
- Amended 01/07/13
- 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 01/07/13

- 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.

Introduced 01/07/13

**End of Section. Next page is no. 751.**

DRAFT

|                      |   |            |
|----------------------|---|------------|
| <b><u>PART 9</u></b> | <b><u>MISCELLANEOUS PROVISIONS</u></b> .....  | <b>712</b> |
| <b><u>90</u></b>     | <b><u>Introduction</u></b> .....  | <b>712</b> |
| <b><u>91</u></b>     | <b><u>[Deleted]</u></b> .....   | <b>712</b> |
| <b><u>92</u></b>     | <b><u>Governing Law and Submission to Jurisdiction</u></b> .....                    | <b>712</b> |
|                      | Submission to Jurisdiction .....  | 712        |
| <b><u>93</u></b>     | <b><u>Rights, Obligations and Powers of ASX Clear (Futures)</u></b> .....           | <b>712</b> |
| <b><u>94</u></b>     | <b><u>Limit on Obligations of ASX Clear (Futures)</u></b> .....                     | <b>713</b> |
| <b><u>95</u></b>     | <b><u>Prescriptions and Schedules</u></b> .....                                     | <b>715</b> |
| <b><u>96</u></b>     | <b><u>Notification to the Exchange</u></b> .....                                    | <b>715</b> |
| <b><u>97</u></b>     | <b><u>ASX Clear (Futures) Reports</u></b> .....                                     | <b>715</b> |
| <b><u>98</u></b>     | <b><u>Minor Fines – [Deleted]</u></b> .....   | <b>716</b> |
| <b><u>99</u></b>     | <b><u>Conversion of Currency</u></b> .....  | <b>716</b> |
| <b><u>100</u></b>    | <b><u>[Not in use]</u></b> .....  | <b>716</b> |
| <b><u>101</u></b>    | <b><u>Taxes and Charges</u></b> .....   | <b>716</b> |
| <b><u>102</u></b>    | <b><u><a href="#">Compulsory Settlement</a></u><b>[Not in use]</b> .....</b>        | <b>717</b> |
| <b><u>103</u></b>    | <b><u>Manner and Form of Settlement</u></b> .....                                   | <b>718</b> |
| <b><u>104</u></b>    | <b><u>Directions and Requirements of ASX Clear (Futures) and Exchange</u></b> ..... | <b>718</b> |
| <b><u>105</u></b>    | <b><u>Appointment of Agents</u></b> .....   | <b>718</b> |
| <b><u>106</u></b>    | <b><u>Goods and Services Tax</u></b> .....  | <b>719</b> |
| <b><u>107</u></b>    | <b><u>Recording of Information by ASX Clear (Futures)</u></b> .....                 | <b>719</b> |

## **4. PART 9 MISCELLANEOUS PROVISIONS**

### **90 Introduction**

90.1 This Part of the Rules contains provisions of a miscellaneous nature not dealt with in the preceding parts.

### **91 [Deleted]**

### **92 Governing Law and Submission to Jurisdiction**

92.1 These Rules are governed by, and will be interpreted in accordance with, the laws in force in NSW.

Amended 11/02/14

#### **Submission to Jurisdiction**

92.2 ASX Clear (Futures), each Clearing Participant and each CPM Client:

- (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.

Amended 11/02/14

92.3 Notwithstanding Rules 92.1 and 92.2 the law of an Open Contract arising from a Market Contract traded on the Exchange shall be the law of New South Wales 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.

Amended 11/02/14

### **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 [Competition and Consumer Act 2010 \(Cth\)](#) ~~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.

[Amended XX/XX/XX](#)

[\[Explanatory Note: amendment is to update for a change in the relevant statute.\]](#)

## **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.

97.2 To the extent that the Client Protection Model Provisions apply to a Client, ASX Clear (Futures) shall provide the relevant Clearing Participant and:

- (a) each CPM Client for whom ASX Clear (Futures) maintains an Individual Sub Account within a Clearing Participant's Client Clearing Account; or
- (b) if a Nominated Person has been notified to ASX Clear (Futures) in relation to that Individual Sub-Account, such Nominated Person,

with such statements as to Open Positions of the CPM Client or other reports as is prescribed in the Schedules.

Introduced 11/02/14

## **98 Minor Fines – [Deleted]**

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 in 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).

- 101.2 If a law requires ASX Clear (Futures) to withhold or deduct an amount in respect of taxes, levies, imposts, charges or duties (including stamp and transaction duties) imposed by any authority from a payment to a Clearing Participant, CPM Client or a Nominated Person, ASX Clear (Futures) will withhold or deduct the amount. ASX Clear (Futures) is not liable to pay any additional amount to the Clearing Participant, CPM Client or Nominated Person in respect of any such withholding or deduction.

Introduced 11/02/14

## **102 [Not in use] 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.~~

~~Introduced 01/07/13~~

- ~~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: the Compulsory Settlement provisions have been deleted. Instead the ASX has Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]

Introduced 01/07/13

### **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).

103.2 All payments or deliveries of monies, securities, property, collateral or Commodity to or by ASX Clear (Futures) on a Business Day are final and irrevocable when made in accordance with the Rules and Procedures.

Introduced 11/02/14

### **104 Directions and Requirements of ASX Clear (Futures) and Exchange**

104.1 Each Clearing Participant and CPM Client 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.

Amended 11/02/14

### **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).

## 106 Goods and Services Tax

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.

**End of Section. Next page is no. 1001.**



# ASX OTC RULEBOOK

|          |  |           |
|----------|--|-----------|
| <b>1</b> | <b><u>SCOPE AND INTERPRETATION</u></b> .....                     | <b>4</b>  |
| 1.1      | <u>ASX Clear (Futures), OTC Rules and OTC Clearing</u> .....     | 4         |
| 1.2      | <u>Futures Rules and their application</u> .....                 | 4         |
| 1.3      | <u>Meanings of terms</u> .....                                   | 5         |
| 1.4      | <u>OTC Handbook</u> .....  | 5         |
| 1.5      | <u>OTC Participants</u> .....                                    | 5         |
| 1.6      | <u>OTC Transactions and OTC Transaction Type</u> .....           | 5         |
| 1.7      | <u>OTC Open Contract</u> .....                                   | 5         |
| 1.8      | <u>OTC Open Position</u> .....                                   | 6         |
| 1.9      | <u>Re-bilateralisation – [Deleted]</u> .....                     | 6         |
| 1.10     | <u>OTC Terms</u> .....   | 7         |
| 1.11     | <u>Interpretation</u> .....                                      | 7         |
| 1.12     | <u>Number</u> .....  | 8         |
| 1.13     | <u>Headings</u> .....  | 8         |
| 1.14     | <u>Signpost: Good standing</u> .....                             | 8         |
| <b>2</b> | <b><u>PARTICIPATION AND GENERAL</u></b> .....                    | <b>8</b>  |
| 2.1      | <u>Signpost to related Futures Rules</u> .....                   | 8         |
| 2.2      | <u>Becoming an OTC Participant</u> .....                         | 9         |
| 2.3      | <u>Conditions to become an OTC Participant</u> .....             | 9         |
| 2.4      | <u>Application to be an OTC Participant</u> .....                | 10        |
| 2.5      | <u>Approval of application</u> .....                             | 10        |
| 2.6      | <u>Fees and OTC Commitment</u> .....                             | 11        |
| 2.7      | <u>Conditions on authorisation</u> .....                         | 11        |
| 2.8      | <u>Limitations on authorisation</u> .....                        | 11        |
| 2.9      | <u>Fees</u> .....  | 11        |
| 2.10     | <u>Relationship with ASX Clear (Futures)</u> .....               | 12        |
| 2.11     | <u>Variations to OTC Handbook</u> .....                          | 12        |
| 2.12     | <u>Termination of OTC Clearing service</u> .....                 | 12        |
| 2.13     | <u>Obligations of OTC Participant prior to termination</u> ..... | 13        |
| 2.14     | <u>Access arrangements and trade authorisation</u> .....         | 13        |
| 2.15     | <u>Client Sub-Accounts</u> .....                                 | 14        |
| 2.16     | <u>CFTC Reporting</u> .....                                      | 14        |
| <b>3</b> | <b><u>COMMITMENTS AND FINANCIAL REQUIREMENTS</u></b> .....       | <b>15</b> |
| 3.1      | <u>Signpost to related Futures Rules</u> .....                   | 15        |
| 3.2      | <u>OTC Commitment</u> .....                                      | 15        |
| 3.3      | <u>Financial Requirements of OTC Participants</u> .....          | 16        |

|          |   |           |
|----------|---|-----------|
| <b>4</b> | <b><u>REGISTRATION</u></b> .....                                      | <b>17</b> |
| 4.1      | <u>Signpost to related Futures Rules</u> .....                        | 17        |
| 4.2      | <u>OTC Participants and OTC Participant Related Entities</u> .....    | 17        |
| 4.3      | <u>Submission of OTC Transactions</u> .....                           | 18        |
| 4.4      | <u>Reliance on correctness</u> .....                                  | 19        |
| 4.5      | <u>Acceptance for registration</u> .....                              | 19        |
| 4.6      | <u>Creation of OTC Open Contracts</u> .....                           | 19        |
| 4.7      | <u>Incorrectly registered OTC Transactions</u> .....                  | 20        |
| 4.8      | <u>Authoritative Record</u> .....                                     | 21        |
| 4.9      | <u>Performance of OTC Open Contracts</u> .....                        | 21        |
| 4.10     | <u>Trade amendment and cancellation</u> .....                         | 21        |
| 4.11     | <u>Backloading</u> .....  | 21        |
| 4.12     | <u>Re-bilateralisation – [Deleted]</u> .....                          | 21        |
| 4.13     | <u>Transfer of OTC Open Contracts</u> .....                           | 22        |
| 4.14     | <u>OTC Portfolio Compression</u> .....                                | 23        |
| 4.15     | <u>Netting of OTC Open Contracts</u> .....                            | 23        |
| <b>5</b> | <b><u>ACCOUNTS AND MARGIN</u></b> .....                               | <b>24</b> |
| 5.1      | <u>Signpost to related Futures Rules</u> .....                        | 24        |
| 5.2      | <u>Transfer of OTC Initial Margin</u> .....                           | 24        |
| 5.3      | <u>Securities as OTC Initial Margin</u> .....                         | 24        |
| 5.4      | <u>Change of OTC Initial Margin obligations</u> .....                 | 25        |
| 5.5      | <u>Portfolio Margining</u> .....                                      | 25        |
| 5.6      | <u>OTC Intra-day Margin and OTC Extra Margin</u> .....                | 26        |
| 5.7      | <u>OTC Daily Closing Value</u> .....                                  | 26        |
| 5.8      | <u>OTC Daily Variation Margin</u> .....                               | 26        |
| 5.9      | <u>Price Alignment Interest</u> .....                                 | 27        |
| 5.10     | <u>Excess Margin</u> .....  | 27        |
| 5.11     | <u>Errors, corrections and related disputes</u> .....                 | 27        |
| <b>6</b> | <b><u>DEFAULT</u></b> .....   | <b>28</b> |
| 6.1      | <u>Signpost to related Futures Rules</u> .....                        | 28        |
| 6.2      | <u>Default management process</u> .....                               | 28        |
| 6.3      | <u>Default and Defaulted OTC Participants</u> .....                   | 29        |
| 6.4      | <u>Events of Default</u> .....  | 30        |
| 6.5      | <u>Terminable Open Contracts</u> .....                                | 31        |
| 6.6      | <u>Termination and Terminated Open Contracts</u> .....                | 31        |
| 6.7      | <u>Termination Value</u> .....  | 32        |
| 6.8      | <u>Combination and Allocation in default management process</u> ..... | 33        |
| 6.9      | <u>Application of OTC Initial Margin and all other amounts</u> .....  | 34        |
| 6.10     | <u>Information Sharing</u> .....                                      | 34        |
| 6.11     | <u>Advice and Assistance</u> .....                                    | 34        |
| 6.12     | <u>Default Management Process</u> .....                               | 34        |
| <b>7</b> | <b><u>EMERGENCIES AND FORCE MAJEURE</u></b> .....                     | <b>35</b> |
| 7.1      | <u>Signpost to related Futures Rules</u> .....                        | 35        |
| <b>8</b> | <b><u>MISCELLANEOUS</u></b> .....                                     | <b>35</b> |
| 8.1      | <u>Signpost to related Futures Rules</u> .....                        | 35        |
| 8.2      | <u>Payments by OTC Participants</u> .....                             | 35        |
| 8.3      | <u>Payments by ASX Clear (Futures)</u> .....                          | 36        |
| 8.4      | <u>Interest on overdue amounts</u> .....                              | 36        |
| 8.5      | <u>Discretion in exercising rights</u> .....                          | 37        |
| 8.6      | <u>Consents</u> .....   | 37        |

|           |   |           |
|-----------|---|-----------|
| 8.7       | <u>Partial exercising of rights</u> .....                                     | 37        |
| 8.8       | <u>No liability for loss</u> .....  | 37        |
| 8.9       | <u>Remedies cumulative</u> .....  | 37        |
| 8.10      | <u>When ASX Clear (Futures) taken to have performed its obligations</u> ..... | 37        |
| 8.11      | <u>OTC Participant to have e-mail</u> .....                                   | 38        |
| 8.12      | <u>Governing law</u> .....  | 38        |
| <b>9</b>  | <b><u>CLIENT PROTECTION MODEL PROVISIONS</u></b> .....                        | <b>38</b> |
| <b>10</b> | <b><u>SECURITY INTEREST PROVISIONS</u></b> .....                              | <b>38</b> |
|           | <b><u>Schedule 1 – Relationship with Futures Rules</u></b> .....              | <b>39</b> |
|           | <b><u>Schedule 2 – OTC Commitment</u></b> .....                               | <b>46</b> |
| 1         | <u>OTC Commitment</u> .....   | 46        |
| 2         | <u>Fixed OTC Commitment</u> .....   | 46        |
| 3         | <u>Variable OTC Commitment</u> .....  | 46        |
| 4         | <u>Transitional Arrangements</u> .....  | 48        |
| 5         | <u>New OTC Participants</u> .....   | 49        |
|           | <b><u>Schedule 3 – Default Management Process</u></b> .....                   | <b>50</b> |
| 1         | <u>Default Management Groups</u> .....  | 50        |
| 2         | <u>DM Hedging Transactions and DM Hedging Transaction Costs</u> .....         | 52        |
| 3         | <u>Independent DM Transactions</u> .....                                      | 53        |
| 4         | <u>DM Auctions</u> .....  | 53        |
| 5         | <u>Juniorisation</u> .....  | 55        |
| 6         | <u>OTC Default Simulations</u> .....  | 58        |
| 7         | <u>Information Regarding Default Management Process</u> .....                 | 58        |

# ASX OTC Rulebook

## 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:

| <b>Futures Term</b>   | <b>OTC Term</b>            |
|-----------------------|----------------------------|
| 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 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 do not apply to OTC Clearing and OTC Open Contracts. [These OTC Rules do not prevail over the Recovery Rules.](#)

Amended 11/02/14

### 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 (on behalf of itself and, if applicable, its CPM Clients) 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.

Amended 11/02/14

### 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**.

Each OTC Transaction must be an interest rate derivative denominated in Australian dollars or New Zealand dollars.

### 1.7 OTC Open Contract

The contract with ASX Clear (Futures) which is taken to arise from the registration of an OTC Transaction is referred to as an **OTC Open Contract**. An OTC Open Contract may arise in other circumstances in accordance with these OTC Rules.

Amended 11/02/14, 07/04/14



## 1.8 OTC Open Position

The entitlements and obligations held by an OTC Participant (on behalf of itself and, if applicable, its CPM Client) under an OTC Open Contract which have not been completed, Terminated (as described in OTC Rule 6 (Default)) or otherwise terminated in accordance with these OTC Rules are referred to as an **OTC Open Position**.

Amended 11/02/14, 07/04/14

## 1.9 Re-bilateralisation – [Deleted]

Deleted 07/04/14

DRAFT

## 1.10 OTC Terms

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

## 1.11 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.

## **1.12 Number**

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

## **1.13 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.

## **1.14 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, 4.14(j)(v) and 4.14(ja) and (l)
- 9 (Position Limits)
- 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)
- 19 (Miscellaneous)

- 20 (Risk Committee)

Amended 11/02/14

## 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:
  - (i) either:
    - (A) an Australian Bank; or
    - (B) 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; or
  - (ii) the holder of an appropriate (as determined by ASX Clear (Futures) in its sole discretion) Australian Financial Services Licence, or a similar licence issued in a jurisdiction other than Australia, on the basis of which it is exempt from the requirement to hold an 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) if a Clearing Participant who applies to be an OTC Participant is not a Futures Participant, 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); and
- (e) such other conditions as may be set out in the OTC Handbook.

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

Amended 11/02/14

## **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.

However, this OTC Rule 2.8 is subject to the Client Protection Model Provisions, to the extent to which they apply.

Amended 11/02/14

## **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.

However, this OTC Rule 2.10 is subject to the Client Protection Model Provisions, to the extent to which they apply.

Amended 11/02/14

## **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 in writing, and to all CPM Clients by notice on the ASX website, of the date on which the service will cease. However, this is not invalidated by any OTC Participant or CPM Client 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.

**Explanatory Note:**

The Recovery Rules may affect circumstances in which the OTC Clearing service may cease to be provided.

Amended 11/02/14; [XX/XX/XX](#)

## **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 (including those held on behalf of any CPM Client) 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 transferred to another OTC Participant in accordance with OTC Rule 4.13 (Transfer of OTC Open Contracts), netted in accordance with OTC Rule 4.15 (Netting of OTC Open Contracts) or a combination of both.

Amended 11/02/14, 07/04/14

## **2.14 Access arrangements and trade authorisation**

An OTC Participant must:

- (a) establish and maintain access arrangements for submission of messages to ASX Clear (Futures) via the Approved Trade Source System that meet the minimum standards set out in the OTC Handbook;
- (b) establish and maintain appropriate arrangements for internal authorisation of the submission of OTC Transactions for registration and requests to cancel, amend or transfer OTC Open Contracts; and



- (c) sign an Attestation in the form set out in the OTC Handbook and lodge the signed Attestation with ASX Clear (Futures) within 3 months of the end of each calendar year.

Amended 11/02/14, 07/04/14

## 2.15 Client Sub-Accounts

A Clearing Participant may hold Open Positions in respect of OTC Open Contracts in a Client Sub-Account only on behalf of CPM Clients which have been approved by ASX Clear (Futures) in accordance with the OTC Handbook.

In respect of each CPM Client, the Clearing Participant and CPM Client each provide the representations which are set out in the OTC Handbook for the purposes of this OTC Rule.

Nothing in this OTC Rule limits Futures Rule 113.5.

Introduced 11/02/14 Amended 07/07/14

## 2.16 CFTC Reporting

From 1 August 2014, each OTC Participant which was, or was taken to be, a party to a Reportable OTC Transaction:

- (a) will not report under the Part 45 Regulations; and
- (b) where the Reportable OTC Transaction was:
- (i) entered into by an OTC Participant Related Entity of the OTC Participant (as defined in OTC Rule 4.2); or
  - (ii) submitted for registration on behalf of a CPM Client of the OTC Participant,
- will take reasonable steps to ensure that the OTC Participant Related Entity or CPM Client (as applicable) does not report under the Part 45 Regulations,

any OTC Open Contract resulting from the registration of the Reportable OTC Transaction by ASX Clear (Futures) in accordance with these OTC Rules to a CFTC-registered SDR.

In this OTC Rule 2.16:

**CFTC** means the US Commodity Futures Trading Commission;

**Part 45 Regulations** means the CFTC's Swap Data Recordkeeping and Reporting Requirements, 77 Fed. Reg. 2136 (Jan. 13, 2012);

**Reportable OTC Transaction** means an OTC Transaction:

- (i) that is submitted to ASX Clear (Futures) for registration; and

- (ii) that has been, or is required to be, reported to a CFTC-registered SDR under the Part 45 Regulations; and

**SDR** means a swap data repository.

Introduced 07/04/14 Amended 01/08/14

**Explanatory Note:**

ASX Clear (Futures) has regulatory relief from the CFTC that permits it to clear Australian and New Zealand dollar-denominated interest rate swaps for US clearing participants (including transactions of a parent or affiliate of a US clearing participant). It is a condition of the relief that ASX Clear (Futures) reports creation data and continuation data (including valuation data) for OTC Open Contracts to a SDR under the Part 45 Regulations as if it were a 'derivatives clearing organisation' registered by the CFTC. OTC Rule 2.16 ensures that ASX Clear (Futures)' Part 45 reporting of OTC Open Contracts is not duplicated by the original parties to the OTC Transaction. OTC Participants should consider separately their reporting obligations in relation to OTC Transactions under the Part 45 Regulations, which are not affected by this OTC Rule 2.16. OTC Rule 2.16 is not intended to affect or prevent trade reporting by any person as required by a regulator other than the CFTC, or by a law other than the Part 45 Regulations, regardless of whether the entity to whom the trades are reported is also a CFTC-registered SDR.

## 2.17 Recovery Rules

Nothing in these OTC Rules limits the Recovery Rules.

**Explanatory Note:**

The Recovery Rules may affect the operation of the OTC Rules.

Introduced XX/XX/XX

[Explanatory Note: this amendment clarifies that no power in the Recovery Rules is intended to be limited by the OTC Rules]

## **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 Schedule 2 (OTC Commitment). 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. Accordingly, Part 3 of the Futures Rules (except Futures Rules 31.8 and 34) does not apply to OTC Clearing.

Amended 11/02/14

### 4.2 OTC Participants and OTC Participant Related Entities

Only OTC Participants are entitled to have OTC Transactions registered in their name, in either their House Clearing Account or their Client Clearing Account (as determined in accordance with these OTC Rules and the Futures Rules).

Except to the extent that the Client Protection Model Provisions apply, 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 and in its House Clearing Account.

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:

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

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

Amended 11/02/14

#### **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.

OTC Transactions must be submitted for registration using an Approved Trade Source System (as described in the OTC Handbook).

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.

ASX Clear (Futures) will satisfy itself that a trade source system is suitable as an Approved Trade Source System for ASX Clear (Futures) before approving it as an Approved Trade Source System.

A CPM Client may submit an OTC Transaction to ASX Clear (Futures) for approval by the CPM Client's relevant OTC Participant in accordance with the above paragraphs of this OTC Rule 4.3. However, an OTC Participant may notify ASX Clear (Futures) of limitations on the types of OTC Transactions which may be submitted for registration on behalf of a CPM Client.

Once consent has been obtained, or is taken to have been obtained (in accordance with the OTC Handbook), from the OTC Participants in whose Clearing Account the OTC Open Contracts would be created by the registration of that OTC Transaction, then the OTC Transaction is taken to have been submitted by the OTC Participant to ASX Clear (Futures) for registration and, for the purposes of these OTC Rules, the OTC Handbook and the Futures Rules, the OTC Participant is taken to be a party to the OTC Transaction.

Amended 11/02/14

#### **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; and
  - (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.

In addition, ASX Clear (Futures) may, in its absolute discretion, accept the submission of an OTC Transaction for registration if it does not satisfy all of the conditions set out in (a) to (f) above.

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).

Amended 11/02/14

#### **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 or persons 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:

- (a) if the Client Protection Model Provisions do not apply in respect of an OTC Open Contract, ASX Clear (Futures) and an OTC Participant as principal and not as agent and no other person has any rights or obligations under any OTC Open Contract between the OTC Participant and ASX Clear (Futures); or
- (b) if the Client Protection Model Provisions apply in respect of an OTC Open Contract, ASX Clear (Futures), an OTC Participant and its CPM Client (in accordance with the Client Protection Model Provisions) and no other person has any rights or obligations under the OTC Open Contract.

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.

Amended 11/02/14

#### **4.7 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 OTC Participants party 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 4.7(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.

Amended 11/02/14

#### **4.8 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.

Amended 11/02/14

#### **4.9 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.

Amended 11/02/14

#### **4.10 Trade amendment and cancellation**

An OTC Open Contract may only be varied by OTC Participants by netting the OTC Open Contract in accordance with OTC Rule 4.15 (Netting of OTC Open Contracts) and, where applicable, submission of a new OTC Transaction for registration in accordance with OTC Rule 4.3 (Submission of OTC Transactions).

An OTC Open Contract may only be cancelled by OTC Participants by netting the OTC Open Contract in full in accordance with OTC Rule 4.15 (Netting of OTC Open Contracts).

Amended 11/02/14, 07/04/14

#### **4.11 Backloading**

An OTC Transaction with a trade date that is more than the number of Business Days prescribed in the OTC Handbook prior to the date of initial submission for registration of the OTC Transaction in a form that satisfies the OTC Eligibility Criteria set out in the OTC Handbook, must be submitted for registration in accordance with the OTC Handbook.

The submission for registration of such 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.

Amended 11/02/14

#### **4.12 Re-bilateralisation – [Deleted]**

Amended 11/02/14 Deleted 07/04/14



#### 4.13 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 4.13 and the procedures set out in the OTC Handbook. Any purported transfer not in accordance with this OTC Rule will not be effective. However, this OTR Rule 4.13 is subject to the Client Protection Model Provisions.

ASX Clear (Futures) may, on the request of an OTC Participant, transfer an OTC Open Contract to a Clearing Account of that OTC Participant (from another OTC Participant) if the following conditions are satisfied:

- (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;
- (c) the transferee of the OTC Open Contract must be an OTC Participant;
- (d) that OTC Participant is authorised in respect of the OTC Transaction Type to which that OTC Open Contract relates; and
- (e) neither OTC Participant is in Default at the time at which the request is received by ASX Clear (Futures).

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 from 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 or persons 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.

Amended 11/02/14, 07/04/14

#### **4.14 OTC Portfolio Compression**

If the requirements for portfolio compression set out in the OTC Handbook are met, then ASX Clear (Futures) may facilitate a portfolio compression cycle with respect to an OTC Transaction Type in accordance with the procedures set out in the OTC Handbook.

Amended 11/02/14, 07/04/14

#### **4.15 Netting of OTC Open Contracts**

OTC Open Contracts held in a Client Sub-Account or in the House Clearing Account may be netted with other OTC Open Contracts held in the same Client Sub-Account, or the House Clearing Account (as applicable) in accordance with the procedures set out in the OTC Handbook.

An OTC Participant may make a request for two or more OTC Open Contracts (which satisfy the conditions set out in the OTC Handbook) to be netted by submitting the trade references of each OTC Open Contract to ASX Clear (Futures). By making a request to net OTC Open Contracts held in the same Client Sub-Account, an OTC Participant represents and warrants to ASX Clear (Futures) that such a request is made in accordance with the client agreement between the OTC Participant and the relevant Client. If ASX Clear (Futures) accepts these OTC Open Contracts for netting, then:

- (a) the rights and obligations under each OTC Open Contract are, as far as possible, to be set-off against each other;
- (b) any remaining rights and obligations following such set-off are to comprise a single OTC Open Contract reflecting the net economic terms of such netted OTC Open Contracts. Following the completion of set-off the netted OTC Open Contracts are terminated so that there will be no remaining obligations between the OTC Participant and ASX Clear (Futures) in respect of them; and
- (c) ASX Clear (Futures) shall determine the resulting Notional Amount (as defined in Schedule 2 (OTC Terms) of the OTC Handbook) of the OTC Open Contract (if any) that replaces the netted OTC Open Contracts, and such determination shall be binding on the OTC Participant, absent manifest error.

Introduced 11/02/14, 07/04/14

#### **Explanatory Note:**

OTC Open Contracts netted under this rule may be for the same or different Notional Amounts.

## **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. Part 4 of the Futures Rules (except Futures Rules 41, 44.5 to 44.7 and 47.2 to 47.4) does not apply to OTC Clearing except to the extent set out in this OTC Rule 5.

Amended 11/02/14

### **5.2 Transfer of OTC Initial Margin**

In respect of each of its OTC Open Positions, whether recorded in the House Clearing Account or the Client Clearing Account, 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.

Amended 11/02/14

### **5.3 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) except to the extent that Part 11 (Security Interest provisions) of the Future Rules applies.

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 5.3 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.

Amended 11/02/14

#### **5.4 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, CPM Client or class of OTC Participants or CPM Clients.

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.

Amended 11/02/14

#### **5.5 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 a Clearing Account of an OTC Participant 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 in respect of OTC Open Contracts held in the same Clearing Account. However, if the relevant Clearing Accounts are Client Clearing Accounts then the request may only be made if the Open Contracts and OTC Open Contracts are both held in Individual Sub-Accounts of the same CPM Client and, if a Nominated Person has previously been notified to ASX Clear (Futures) for either Individual Sub-Account, in respect of the same Nominated Person.

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.

Amended 11/02/14

## 5.6 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.

Amended 11/02/14

## 5.7 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.

Amended 11/02/14

## 5.8 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 Variation Margin for the purposes of the Futures Rules.

Amended 11/02/14

## **5.9 Price Alignment Interest**

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

Amended 11/02/14

## **5.10 Excess Margin**

All amounts held by ASX Clear (Futures) in an OTC Participant's House Clearing Account and Client 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).

Amended 11/02/14

## **5.11 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 Clearing Participants 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 5.11 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.

Amended 11/02/14

## **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 Schedule 4 (Default Management Auction Procedures) to the OTC Handbook.

[Separate to the Default Management Provisions, the Recovery Rules also contain provisions relating to default management.](#)

Each OTC Participant must:

- (a) comply with, and ensure each employee of the OTC Participant and of each Related Body Corporate of such OTC Participant, who is directly involved in the default management process on behalf of the OTC Participant, complies with, its obligations in connection with the Default Management Provisions, including maintaining internal systems and processes (as determined by the OTC Participant) required for participation in a DM Auction and acceptance of (where required by the Rules) DM Hedging Transactions, Independent DM Transactions and DM Auction Transactions (each as defined in Schedule 3 (Default Management Process) to these OTC Rules);
- (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 and deal with ASX Clear (Futures) as counterparty in a manner consistent with, and in any event on no less favourable terms, than the manner in which it deals with any bank counterparty of the OTC Participant with the same or similar creditworthiness or risk profile;
- (c) co-operate with, act in good faith toward, and not cause any hindrance to, ASX Clear (Futures) in respect of any DM Hedging Transactions, Independent DM Transactions or DM Auction Transactions including providing competitive quotes in a timely manner upon request, such quotes to be two way prices in accordance with usual bid/offer conventions;
- (d) co-operate with, act in good faith toward, and not cause any hindrance to, ASX Clear (Futures) in the course of the management of any Default or Termination;
- (e) 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
- (f) appoint one of the employees of such OTC Participant or of any Related Body Corporate of such OTC Participant as:
  - (i) Designated DMG Member; and
  - (ii) 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.

Amended 11/02/14: [XX/XX/XX](#)

*[Explanatory Note: the Recovery Rules also include provisions relating to Default Management]*

### 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, then 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 if applicable, the relevant CPM Client) 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 may relate to either House Positions or Client Positions (or both) and are referred to as **Terminated Open Contracts**. ASX Clear (Futures) may, but is not obliged to, consult with the relevant DMG(s) in accordance with the Default Management Provisions in determining which Open Contracts are to be Terminated Open Contracts and the relevant Termination Time.

If ASX Clear (Futures) makes such a declaration then the present and future obligations of ASX Clear (Futures) and the OTC Participant (and if applicable, the relevant CPM Client) 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.

Amended 11/02/14

#### **Explanatory Note**

Following termination of Open Contracts relating to Client Positions, such positions cease to be Client Positions and may be combined with terminated Open Contracts relating to House Positions.

### **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 Open Contract(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 Open Contracts after the Termination Time if the Terminated Open Contract(s) had not been Terminated (including payment of OTC Initial Margin, Initial Margin, 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 Open Contract(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 8.4 (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.

Amended 11/02/14

## 6.8 Combination and Allocation in default management process

If Terminated Open Contracts involved in a default management process conducted in accordance with the Default Management Provisions relate to:

- (a) both House Positions and Client Positions of a Defaulted OTC Participant;  
or
- (b) the OTC Positions of more than one Defaulted OTC Participant,

then ASX Clear (Futures):

- (i) may combine any such Terminated Open Contracts so that they are treated as part of one or more portfolios at any time after the commencement of the default management process for the purposes of hedging, sale or auction in accordance with the Default Management Provisions;
- (ii) is to allocate any losses, costs, charges and expenses in connection with that default management process between the relevant Defaulted OTC Participants and between the House Accounts, Client Accounts and Client Sub-Accounts of the relevant Defaulted OTC Participants which relate to those Terminated Open Contracts (referred to in this OTC Rule as a **Relevant Account**). The losses, costs, charges and expenses are to be calculated as of the time of combination of such Terminated Open Contracts and will be conducted by allocating any losses, costs, charges and expenses to each Relevant Account proportionately to its relative risk as determined by ASX Clear (Futures) using the value of Initial Margin calculated with respect to each Relevant Account at the time of combination of the Terminated Open Contracts; and
- (iii) in the case of a Relevant Account which is a Client Sub-Account, is to deduct any losses, costs, charges and expenses so attributed to that Client Sub-Account in accordance with (ii) above from the Guaranteed Initial Margin Value of that Client Sub-Account in accordance with the Client Protection Model Provisions.

Schedule 6 (Allocation of Loss Worked Example) of the OTC Handbook provides an example of the allocation of Losses of ASX Clear (Futures) in accordance with this OTC Rule 6.8.

Introduced 11/02/14

### Explanatory Note

The principle of allocation underlying sub-paragraph (ii) is to allocate to the House Account or any non-ported Client Account the mark to market moves with respect to terminated contracts referable to the account up to the point where the account is combined with other accounts. Any post-combination mark to market moves are allocated to the constituent accounts of the combined portfolio on the basis of the risk of the constituent accounts at the time the accounts are combined, the risk measure used being initial margin as calculated by ASX at the point of combination.

## **6.9 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 or deliverable by the Defaulted OTC Participant PROVIDED ALWAYS that any monies, securities, collateral or other property deposited with ASX Clear (Futures) with respect to OTC Open Positions designated to a Client Clearing Account, may be used to meet obligations in a Client Clearing Account only and must not be used to meet any obligations in a House Clearing Account.

However, this is subject to the Client Protection Model Provisions, to the extent to which they apply.

Amended 11/02/14

## **6.10 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.

Amended 11/02/14

## **6.11 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.

Amended 11/02/14

## **6.12 Default Management Process**

Each OTC Participant and ASX Clear (Futures) agrees to pay any Early Termination Amount determined to be due and payable by it under an ISDA Master Agreement entered into between the OTC Participant and ASX Clear (Futures) in connection with the Default Management Process. The agreement in this OTC Rule 6.12 is incorporated into the terms of the OTC Open Contracts as market netting contracts in accordance with Futures Rule 31.8. In this regard:

- (a) if the OTC Participant is in Default for the purpose of the Operating Rules then ASX Clear (Futures) may choose to include any Early Termination Amount payable between the parties in the netting which it conducts in accordance with Part 7 of the Futures Rules; and
- (b) if netting under Futures Rule 76.1 is to occur, then the Early Termination Amount is to be included in that netting.

The inclusion of the Early Termination Amount in such netting terminates the parties' obligation to pay that Early Termination Amount under these Rules, without affecting the netting in any way.

Introduced 07/07/14

## **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.

## **8 MISCELLANEOUS**

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

These OTC Rules relate to matters addressed in Part 9 (Miscellaneous Provisions) of the Futures Rules. Futures Rules 96 (Notification to the Exchange) ~~and 102 (Compulsory Settlement)~~ does 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.

Amended 11/02/14

[\[Explanatory Note: the Compulsory Settlement rules have been deleted in lieu of the Recovery Powers set out in the Recovery Rules\]](#)

### **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 relevant Clearing Account held of that OTC Participant or such other account nominated by ASX Clear (Futures).

However, on each Business Day, ASX Clear (Futures) will:

- (i) aggregate or net any or all payments due between it and an OTC Participant on that day with respect to House Positions (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; and
- (ii) aggregate or net any or all payments due between it and an OTC Participant on that day with respect to Client Positions (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 amounts with respect to each of the House Clearing Account or the Client Clearing Account are discharged by their payment.

Payments with respect to House Positions are not to be aggregated or netted with any payments with respect to Client Positions. Nothing in this paragraph limits or restricts the operation of the Default Management Process.

Amended 11/02/14

### **8.3 Payments by ASX Clear (Futures)**

If a law requires ASX Clear (Futures) to withhold or deduct an amount in respect of taxes, levies, imposts, charges or duties (including stamp and transaction duties) imposed by any authority from a payment to an OTC Participant, a CPM Client or a Nominated Person, ASX Clear (Futures) will withhold or deduct the amount. ASX Clear (Futures) is not liable to pay any additional amount to the OTC Participant, CPM Client or Nominated Person in respect of any such withholding or deduction.

Introduced 11/02/14

### **8.4 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).

Amended 11/02/14

## **8.5 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.

Amended 11/02/14

## **8.6 Consents**

Each OTC Participant and, if applicable, CPM Client, agrees to comply with all conditions in any consent ASX Clear (Futures) gives in connection with these OTC Rules.

Amended 11/02/14

## **8.7 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.

Amended 11/02/14

## **8.8 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.

Amended 11/02/14

## **8.9 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.

Amended 11/02/14

## **8.10 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.

Amended 11/02/14

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

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

Amended 11/02/14

#### **8.12 Governing law**

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

Amended 11/02/14

### **9 CLIENT PROTECTION MODEL PROVISIONS**

Part 10 (Client Protection Model Provisions) of the Futures Rules applies, in accordance with its terms, to OTC Clearing.

Introduced 11/02/14

### **10 SECURITY INTEREST PROVISIONS**

Part 11 (Security Interest Provisions) of the Futures Rules applies, in accordance with its terms, to OTC Clearing.

Introduced 11/02/14

## 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<br>Futures Rule | B<br>Replaced by OTC Rule (and Futures Rule does not apply) | C<br>Supplementary OTC Rule (and Futures Rule applies as varied or supplemented) | If not referred to in column B or C: |   |
|-------------------|---|--|--------------------------------------|---|
|                   |   |  | D<br>Futures Rule applies            | E<br>Futures Rule not relevant (and does not apply) |
| 1.1               |   | 1.3  |                                      |   |
| 1.2               |   | 1.14   |                                      |   |
| 1.3               |   | 1.2  |                                      |   |
| 1.4               | 1.11(k)   |  |                                      |   |
| 1.5               | 1.13  |  |                                      |   |
| 1.6               |   | 1.11(d)  |                                      |   |
| 1.7               |   | 1.11(e)  |                                      |   |
| 1.8               |   |  |                                      | Not relevant  |
| 1.9               |   |  |                                      | Not relevant  |
| 1.10              |   |  | Applicable                           |   |
| 1.11              |   |  | 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  |
| 3.4.1             |   |  | Applicable                           |   |
| 3.4.2             |   |  | Applicable                           |   |
| 4.1               |   | 2.2, 2.3   |                                      |   |
| 4.2               |   | 2.4  |                                      |   |
| 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  |                                      |   |

| A<br>Futures Rule                                | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |   |
|--|--|---|--------------------------------------|---|
|  |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule not<br>relevant (and<br>does not apply) |
| 4.8  |  |   | Applicable                           |   |
| 4.9  |  | 2.8   |                                      |   |
| 4.10   |  | 2.5, 2.7  |                                      |   |
| 4.11   |  |   | Applicable                           |   |
| 4.12   |  |   | Applicable                           |   |
| 4.13   |  |   | Applicable                           |   |
| 4.14 (except<br>4.14(j)(v), 4.14(ja)<br>and (l)) |  |   | Applicable                           |   |
| 4.14(j)(v), 4.14(ja)<br>and (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                           |   |
| 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                           |   |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |   |
|-------------------|--|---|--------------------------------------|---|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule not<br>relevant (and<br>does not apply) |
| 7.8               |  |   | Applicable                           |   |
| 7.9               |  |   | Applicable                           |   |
| 7.10              |  |   | Applicable                           |   |
| 8.1               | 3.2, 3.3   |   |                                      |   |
| 8.2               |  |   | Applicable                           |   |
| 8.3               | 3.3  |   |                                      |   |
| 8.4               | 3.3  |   |                                      |   |
| 8.5               |  | 3.3   |                                      |   |
| 8.6               |  |   | Applicable                           |   |
| 8.7               |  |   | Applicable                           |   |
| 9.1               |  | 4.5(d)  |                                      |   |
| 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                           |   |
| 12B               |  |   |                                      | Not relevant  |
| 13                |  |   | Applicable                           |   |
| 14                |  |   | Applicable                           |   |
| 15                |  |   |                                      | Not relevant  |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |   |
|-------------------|--|---|--------------------------------------|---|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule not<br>relevant (and<br>does not apply) |
| 16                |  |   | Applicable                           |   |
| 17                |  |   | Applicable                           |   |
| 18                |  |   | Applicable                           |   |
| 19                |  |   | Applicable                           |   |
| 20                |  |   | Applicable                           |   |
| 21                |  |   | Applicable                           |   |
| 30                | 4.1, 4.5   |   |                                      |   |
| 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              |  |   |                                      | Not relevant  |
| 31.8              |  |   | Applicable                           |   |
| 31A               |  |   |                                      | Not relevant  |
| 32                |  |   |                                      | Not relevant  |
| 33                | 4.13   |   |                                      |   |
| 34                |  | 2.9   |                                      |   |
| 35                |  |   |                                      | Not relevant  |
| 36                |  |   |                                      | Not relevant  |
| 37                |  |   |                                      | Not relevant  |
| 40                | 5.1  |   |                                      |   |
| 41.1              |  |   | Applicable                           |   |
| 41.2              |  |   | Applicable                           |   |
| 41.3              |  |   | Applicable                           |   |
| 41.4              |  |   | Applicable                           |   |
| 41.5              |  |   | Applicable                           |   |
| 41.6              |  |   | Applicable                           |   |
| 41.7              |  |   | Applicable                           |   |
| 41.8              |  |   |                                      | Not relevant  |
| 41A               |  |   |                                      | Not relevant  |
| 42                |  |   | Applicable                           |   |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |   |
|-------------------|--|---|--------------------------------------|---|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule not<br>relevant (and<br>does not apply) |
| 43.1              | 5.2, 5.3   |   |                                      |   |
| 43.2              | 5.4  |   |                                      |   |
| 43.3              | 5.4  |   |                                      |   |
| 43.4              | 5.4  |   |                                      |   |
| 43.5              | 5.5  |   |                                      |   |
| 43A               |  |   |                                      | Not relevant  |
| 44.1              | 5.7  |   |                                      |   |
| 44.2              | 5.7  |   |                                      |   |
| 44.3              |  |   |                                      | Not relevant  |
| 44.4              | 5.8  |   |                                      |   |
| 44.5              |  |   | Applicable                           |   |
| 44.6              |  |   | Applicable                           |   |
| 44.7              |  |   | Applicable                           |   |
| 44.8              |  |   | Applicable                           |   |
| 44A               |  |   |                                      | Not relevant  |
| 45                | 5.6  |   |                                      |   |
| 45A               |  |   |                                      | Not relevant  |
| 46                |  |   |                                      | Not relevant  |
| 47.1              |  |   |                                      | Not relevant  |
| 47.2              |  |   | Applicable                           |   |
| 47.3              |  |   | Applicable                           |   |
| 47.4              |  |   | Applicable                           |   |
| 48                |  |   |                                      | Not relevant  |
| 49                | 5.10   |   |                                      |   |
| 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  |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |   |
|-------------------|--|---|--------------------------------------|---|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule not<br>relevant (and<br>does not apply) |
| 64                |  |   |                                      | Not relevant  |
| 70                |  |   | Applicable                           |   |
| 71.1              |  | 6.3   |                                      |   |
| 71.3              |  | 6.4   |                                      |   |
| 72.1              |  | 6.6   |                                      |   |
| 72.1A             |  |   | Applicable                           |   |
| 72.2              |  | 6.6   |                                      |   |
| 72.3              |  | 6.7   |                                      |   |
| 72.4              |  |   | Applicable                           |   |
| 73                |  | 6.7   |                                      |   |
| 74                |  |   | Applicable                           |   |
| 75                |  |   | Applicable                           |   |
| 75A               |  |   | Applicable                           |   |
| 76                |  |   | Applicable                           |   |
| 80                |  |   | Applicable                           |   |
| 81                |  |   | Applicable                           |   |
| 82                |  |   | Applicable                           |   |
| 90                |  | 8.1   |                                      |   |
| 92.1              |  | 8.12  |                                      |   |
| 92.2              |  |   | Applicable                           |   |
| 92.3              |  |   |                                      | Not relevant  |
| 93.1              |  |   | Applicable                           |   |
| 93.2              |  |   | Applicable                           |   |
| 93.3              |  | 8.5   |                                      |   |
| 93.4              |  | 8.10  |                                      |   |
| 93.5              |  |   | Applicable                           |   |
| 93.6              |  |   | Applicable                           |   |
| 93.7              |  | 8.7   |                                      |   |
| 93.8              |  | 8.9   |                                      |   |
| 94                |  |   | Applicable                           |   |
| 95                |  |   | Applicable                           |   |
| 96                |  |   |                                      | Not relevant  |
| 97                |  |   | Applicable                           |   |
| 99                |  |   | Applicable                           |   |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |   |
|-------------------|--|---|--------------------------------------|---|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule not<br>relevant (and<br>does not apply) |
| 101               |  |   | Applicable                           |   |
| 102               |  |   |                                      | Not relevant  |
| 103               |  |   | Applicable                           |   |
| 104               |  |   | Applicable                           |   |
| 105               |  |   | Applicable                           |   |
| 106               |  |   | Applicable                           |   |
| 107               |  |   | Applicable                           |   |
| 110               |  | 1.2   |                                      |   |
| 111               |  |   | Applicable                           |   |
| 112               |  |   | Applicable                           |   |
| 113               |  |   | Applicable                           |   |
| 114               | 4.3  |   |                                      |   |
| 115               |  | 2.15  |                                      |   |
| 116               |  |   | Applicable                           |   |
| 117               |  |   | Applicable                           |   |
| 118               |  |   | Applicable                           |   |
| 119               |  |   | Applicable                           |   |
| 120               |  |   | Applicable                           |   |
| 121               |  |   | Applicable                           |   |
| 122               |  |   | Applicable                           |   |
| 123               |  |   | Applicable                           |   |
| 124               |  |   | Applicable                           |   |
| 125               |  |   | Applicable                           |   |

Amended 11/02/14



# Schedule 2 – OTC Commitment

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

## 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.

## 2 Fixed OTC Commitment

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

## 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:

(a) the Aggregate OTC Commitment

*minus*

(b) the Aggregate Fixed OTC Commitment.

Calculation Period: In respect of a Quarter, the period:

(a) from, and including, the 11<sup>th</sup> day of the final month of the Quarter which immediately preceded the immediately preceding Quarter;

(b) to, and including, the 10<sup>th</sup> day of the final month of the immediately preceding Quarter.

Daily Average Initial Margin: For an OTC Participant in respect of a Calculation Period is equal to:

(a) the sum of that OTC Participant's OTC Initial Margin (calculated as the aggregate OTC Initial Margin with respect to both the House Clearing Account and the Client Clearing Account) on each Business Day in that Calculation Period

*divided by*

(b) the number of Business Days in that Calculation Period.

Amended 11/02/14

Quarter: Each three month period:

(a) starting on 1 March, 1 June, 1 September and 1 December of each year; and

(b) ending on 30 May, 31 August, 30 November and 28 February (or 29 February in a leap year), respectively.

Rounding: 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 provided that the rounding must ensure that ASX Clear (Futures) has exactly the Aggregate Variable OTC Commitment required.

Variable OTC Commitment: For an OTC Participant in respect of a Quarter is equal to:

(a) the Aggregate Variable OTC Commitment

*multiplied by*

(b) that OTC Participant's Variable OTC Commitment Proportion,

each in respect of the relevant Calculation Period.

|                                    |  |
|------------------------------------|--|
| Variable OTC Commitment Proportion | For an OTC Participant in respect of a Calculation Period is equal to (expressed as a percentage): |
|                                    | (a) the Daily Average Initial Margin of that OTC Participant                                       |
|                                    | <i>divided by</i>  |
|                                    | (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.

## 4 Transitional Arrangements

The calculations in this Schedule 2 are subject to the following 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:

- (a) (where there are eight or fewer OTC Participants) \$7,500,000; or
- (b) (where there are more than eight OTC Participants) the amount calculated as follows (where N is the number of OTC Participants including any new OTC Participant):

$$[\$100,000,000 - (N \times \$5,000,000)] / N$$

If there are more than eight OTC Participants ASX Clear (Futures) will recalculate Variable OTC Commitments prior to the commencement of each Quarter and at the time at which a new OTC Participant is admitted.

*Note: The Fixed OTC Commitment of each OTC Participant will be \$5,000,000 in accordance with this Schedule 2.*

**Initial Period** means the period from the effective date of the OTC Rule amendments as notified to Clearing Participants 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) all of the following conditions are satisfied:
  - (i) there are eight or more OTC Participants;
  - (ii) the aggregate OTC Initial Margin is more than \$500,000,000; and
  - (iii) at least four OTC Participants have each contributed at least 15 per cent of the aggregate OTC Initial Margin;
- (b) all OTC Participants have agreed that the transitional arrangements should end; or
- (c) a competent regulatory authority has written to ASX Clear (Futures) requesting that the transitional arrangements end.

## 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.

# Schedule 3 – Default Management Process

## 1 Default Management Groups

### 1.1 Establishment of DMGs

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

Amended 11/02/14

### 1.2 DMG Procedures

Each DMG is governed by the terms set out in the default management group procedures as contained in Schedule 3 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.

Amended 11/02/14

### 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 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.

Amended 11/02/14

### 1.4 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 6 (OTC Default Simulations) below);
- (d) to obtain advice on any of the following matters (referred to as **DMG Matters**) as thought appropriate by ASX Clear (Futures):
  - (i) the Open Contracts which are to be Terminated Open Contracts and their respective Termination Times in accordance with OTC Rule 6.6 (Termination and Terminated Open Contracts);
  - (ii) the establishment of DM Hedging Transactions in accordance with Paragraph 2 (DM Hedging Transactions and DM Hedging

Transaction Costs), including the selection of the relevant counterparties and the relevant hedging terms and strategy, and the assistance in the execution of DM Hedging Transactions;

- (iii) the entry into of Independent DM Transactions pursuant to (and as defined under) Paragraph 3 (Independent DM Transactions);
  - (iv) the holding of one or more DM Auctions pursuant to (and as defined under) Paragraph 4 (DM Auctions), including the timing, the procedures and the terms and conditions of a DM Auction;
  - (v) determining the Auction Pool Risk Weighting for each Auction Pool and the price at which a Bid (as defined in the DM Auction Procedures) in a particular DM Auction will be taken to be an Uneconomic Price in accordance with (and as defined under) Paragraph 4 (DM Auctions); and
  - (vi) any further matters relating to the consequences and risks of a Default or Termination; and
- (e) to obtain advice related to default management in any other circumstances as considered appropriate by ASX Clear (Futures), including for the purposes described in DMG Paragraph 9.2 (Regular meetings) as set out in Schedule 3 of the OTC Handbook.

Amended 11/02/14

## 1.5 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.

Amended 11/02/14

## 1.6 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 Participating DMG Member Institution (or of such Related Body Corporate of the Participating DMG Member Institution, as applicable) 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 and agrees (on behalf of itself, its Related Bodies Corporate and its CPM clients) 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 and to waive any claim that may arise against those representatives or their employers in connection with such disinterested advice or actions. However, nothing in this Paragraph 1.6 (DMG Members) will exclude or waive 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, OTC Participants, the Defaulting OTC Participant(s) or its clients 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.

Amended 11/02/14, 07/07/14

## 1.7 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 Process, 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.

Amended 11/02/14

## 2 DM Hedging Transactions and DM Hedging Transaction Costs

At any time after one or more 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 an 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.

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

Amended 11/02/14

### **3 Independent DM Transactions**

At any time after one or more OTC Participant Defaults, ASX Clear (Futures) may in its discretion, enter into independent trades to establish new OTC Open Contracts or other Open Contracts which, taken as a whole, are equivalent to all or some of the Terminated Open Contracts and DM Hedging Transactions, as deemed appropriate by ASX Clear (Futures) in consultation with the relevant DMG(s) (each an **Independent DM 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 relevant 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.

Amended 11/02/14

## **4 DM Auctions**

### **4.1 DM Auctions and DM Auction Transactions**

If ASX Clear (Futures) (in consultation with the relevant DMG) determines that it is appropriate, then one or more auctions (each referred to as a **DM Auction**) is to be conducted to establish new OTC Open Contracts or other Open Contracts specified by ASX Clear (Futures) which, taken as a whole, are equivalent to all or some of the Terminated Open Contracts and/or DM Hedging Transactions (each is referred to as a **DM Auction Transaction**).

Introduced 11/02/14

### **4.2 DM Auction Procedures**

DM Auctions and all Bids made in respect of them are governed by the procedures set out in Schedule 4 (Default Management Auction Procedures) of the OTC Handbook (referred to as the **DM Auction Procedures**) from time to time.

Amended 11/02/14



### 4.3 Auction Pools and Auction Pool Weighting

For the purpose of conducting DM Auctions, ASX Clear (Futures) (after consultation with the relevant DMGs) is to determine the groups of DM Auction Transactions which are to be the subject of separate DM Auctions (each referred to as an **Auction Pool**). ASX Clear (Futures) may include a single OTC Transaction Type in more than one Auction Pool and a single DM Auction Transaction may be split into multiple transactions by ASX Clear (Futures) with each transaction being included in a different Auction Pool as a separate DM Auction Transaction. DM Auction Transactions which related to Client Positions and House Positions, and which related to different Defaulted Clearing Participants, may be included in the same Auction Pool. Also, DM Auction Transactions denominated in different currencies may be included in the same Auction Pool.

If there is more than one Auction Pool then ASX Clear (Futures), in consultation with the relevant DMGs, is to calculate a risk weighting multiplier attributable to each Auction Pool (each an **Auction Pool Risk Weighting**). If there is only a single Auction Pool then the Auction Pool Risk Weighting of that Auction Pool is one. The Auction Pool Risk Weighting applicable to an Auction Pool is to be notified to each Mandatory OTC Participant in the DM Auction for such Auction Pool before the relevant DM Auction commences.

Introduced 11/02/14

### 4.4 Auction Units

For the purpose of conducting DM Auctions ASX Clear (Futures) (after consultation with the relevant DMGs) is to determine if each Auction Pool is to be separated into homogenous units (each referred to as an **Auction Unit**). If no separation is to take place then the Auction Pool is taken to comprise a single Auction Unit. If there is more than one Auction Unit in an Auction Pool then each Auction Unit must be composed of identical components of DM Auction Transactions.

Introduced 11/02/14

### 4.5 Mandatory OTC Participants

OTC Participants:

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

(each referred to as a **Mandatory OTC Participant**), must participate in each DM Auction corresponding to the relevant Auction Pool 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, and in such circumstances the OTC Participant will not be a Mandatory OTC Participant in respect of such DM Auction.

Amended 11/02/14

#### **Explanatory Note**

The OTC Transaction Types are set out in Schedule 2 (OTC Terms) of the OTC Handbook and are not defined with reference to tenor or currency.

### **4.6 Uneconomic Price**

For each Auction Pool, ASX Clear (Futures), in consultation with the relevant DMG, will determine a price (referred to as the **Uneconomic Price**) at or beneath which a Bid in a particular DM Auction will be taken to be uneconomic. The Uneconomic Price for a DM Auction will not be disclosed prior to the Expiration Time of the DM Auction.

Introduced 11/02/14

## **5 Juniorisation**

### **5.1 Application**

This Paragraph 5 (Juniorisation) applies if ASX Clear (Futures) determines that, following the completion of all relevant DM Auctions:

- (a) in accordance with Futures Rule 73 (Loss), it has suffered a Loss, and
- (b) the OTC Commitment of OTC Participants would be applied to meet that Loss in accordance with Futures Rule 7.1; and
- (c) the Loss is not sufficient to require the application of the entire amount of OTC Commitment which is able to be applied in accordance with Futures Rule 7.1.

Otherwise, this Paragraph 5 (Juniorisation) does not apply.

Introduced 11/02/14

#### **Explanatory Note**

Juniorisation under this Paragraph 5 of the Default Management Process operates across the two tranches of OTC Commitments in Futures Rule 7.1(d) and (f) and not within each of those tranches.

### **5.2 Weighted OTC Commitment Amount**

For each Auction Pool, ASX Clear (Futures) is to determine each Mandatory OTC Participant's **Weighted OTC Commitment Amount**. This is equal to:

- (a) the OTC Participant's OTC Commitment

*multiplied by*

- (b) the Auction Pool Weighting for that Auction Pool.

For this purpose:

**Auction Pool Weighting** for an Auction Pool is:

(a) the Risk Weighted IM Value for that Auction Pool

*divided by*

(b) the sum of the Risk Weighted IM Values for each Auction Pool.

**Risk Weighted IM Value** for an Auction Pool is the Auction Pool IM Value for that Auction Pool *multiplied by* the Auction Pool Risk Weighting for that Auction Pool.

**Auction Pool IM Value** is the value of Initial Margin allocated by ASX Clear (Futures) to that Auction Pool on the basis of the Terminated Open Contracts and DM Hedging Transactions comprised in such Auction Pool.

However, ASX Clear (Futures) is to adjust the Weighted OTC Commitment Amounts to take into account the re-weighting which it determines is required if any OTC Participant is a Mandatory OTC Participant for less than all of the Auction Pools.

Introduced 11/02/14

### 5.3 Priority Groups and Commitment Application Amounts

In respect of each Auction Pool, ASX Clear (Futures) is to:

- (a) determine which Mandatory OTC Participants (referred to as the **Non-Contributing Participants**) have failed to submit a Bid for the DM Auction corresponding to such Auction Pool which is greater than its Uneconomic Price, including those which have failed to submit any Bid;
- (b) rank all Mandatory OTC Participants (other than any Non-Contributing Participants) by the Bids which they submitted in the DM Auction corresponding to such Auction Pool in order of price from the highest price Bid to the lowest price Bid. In doing this:
  - (i) if a Mandatory OTC Participant submits multiple Bids in respect of a DM Auction, the lowest such Bid submitted by the Mandatory OTC Participant will be used by ASX Clear (Futures) in determining the OTC Participant's ranking for that DM Auction; and
  - (ii) if two or more identical Bids are received from separate Mandatory OTC Participants for the same DM Auction, for the purposes of ranking the Bids of such Mandatory OTC Participants in accordance with this paragraph 5 only, each of the OTC Participants will rank equally in respect of that DM Auction; and
- (c) rank OTC Participants which were not Mandatory OTC Participants in any DM Auction equally with the OTC Participants who submitted the highest Bids for each DM Auction.

ASX Clear (Futures) is to group the OTC Participants into **Priority Groups** using these rankings, from those who provided the highest Bids in DM Auctions to those who provided the lowest Bids in DM Auctions. Each Priority Group is comprised of the OTC Participants who have been allocated the same ranking by ASX Clear (Futures) with respect to an Auction Pool, provided that those OTC Participants that have been ranked equally in accordance with paragraph 5.3(b)(ii) above, will be

grouped equally into multiple Priority Groups according to the number of Mandatory OTC Participants who submitted identical Bids for that DM Auction. As a result of this process, an OTC Participant may be included in multiple Priority Groups if it was required to have submitted Bids in multiple DM Auctions.

The order of the Priority Groups will start with the Priority Group comprised of those OTC Participants (other than the Non-Contributing Participants) who made the highest bids in each DM Auction and forming Priority Groups of the OTC Participants who made second ranking, third ranking and progressively lower ranking Bids in each DM Auction (so that there is a Priority Group comprised of the highest bidders in each DM Auction, a Priority Group comprised of the second highest bidders in each DM Auction and so on). Under the lowest such Priority Group is to rank a Priority Group consisting of the Non-Contributing Participants in the DM Auctions which is to rank lowest behind all other Priority Groups.

However, if there is no OTC Participant participating in a particular DM Auction represented in a particular Priority Group (because, for example, there were less Bids made with respect to that DM Auction) then ASX Clear (Futures) may (in its sole discretion) change the Priority Group which does not contain a representative of that DM Auction. In doing so, ASX Clear (Futures):

- (A) must not change the overall order of the different Bids (from highest to lowest) made in respect of that DM Auction;
- (B) must not alter the ranking of an OTC Participant with respect to an Auction Pool so that the OTC Participant is ranked equally with the Non-Contributing Participants where it would otherwise be included in a higher ranking Priority Group; but
- (C) subject to (B) above, may determine that any Priority Group is not to contain that DM Auction, provided that ASX Clear (Futures) may not exclude that DM Auction from the Priority Group consisting of the Non-Contributing Participants.

Using the rankings of Mandatory OTC Participants in Priority Groups, and the Weighted OTC Commitments of Mandatory OTC Participant's applicable to each Auction Pool, ASX Clear (Futures) is to determine the aggregate amount of the Weighted OTC Commitment Amounts of each Mandatory OTC Participant applicable to each Priority Group. OTC Participants which were not Mandatory Participants in any DM Auction are to have an aggregate Weighted OTC Commitment Amount in the highest ranking Priority Group which is equal to their OTC Commitment.

Introduced 11/02/14

#### **5.4 Application of Losses to OTC Commitment**

The OTC Commitments of OTC Participants are to be applied to meet a Loss in accordance with Futures Rule 7.1 in the order of the OTC Participants included in the lowest ranking Priority Group first, OTC Participants included in the second lowest ranking Priority Group second, then progressively upward to the OTC Participants in each higher ranking Priority Group, until the Loss has been met in full. The application of the OTC Commitments of the OTC Participants included in a Priority Group in accordance with Futures Rule 7.1 is to be made in proportion to, and up to the limit of, their respective aggregate Weighted OTC Commitments for that Priority Group. Once OTC Participants' aggregate Weighted OTC Commitments have been reached for a Priority Group then the OTC Commitments

of the next highest ranking Priority Group is to be applied to the remaining Loss in the same way.

Schedule 5 (Juniorisation Worked Examples) of the OTC Handbook provides examples of how Losses of ASX Clear (Futures) are applied to the OTC Commitment of the OTC Participants in accordance with this paragraph 5.

Introduced 11/02/14

## **6 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 Auction Pools that such OTC Participant is active in.

Amended 11/02/14

## **7 Information Regarding Default Management Process**

Whenever the default management process is 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 7 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.

Amended 11/02/14

**End of Section.**