

# CONTENTS

SECTION 1	INTRODUCTION AND GENERAL RULES
SECTION 2	DEFINITIONS AND INTERPRETATION
SECTION 3	PARTICIPATION IN THE CLEARING FACILITY
SECTION 8	CLEARING FUND CONTRIBUTIONS, <del>EMERGENCY ASSESSMENTS</del> AND PRIORITY OF APPLICATION OF CLEARING ASSETS
SECTION 12	REGISTRATION, NOVATION, NETTING AND SETTLEMENT
SECTION 13	DERIVATIVES CCP CONTRACTS – TRANSFERS CLOSE OUTS AND ADJUSTMENTS
SECTION 14	RISK MANAGEMENT
SECTION 15	DEFAULT
SECTION 17	ASX CLEAR TERMINATION OF DERIVATIVES CCP CONTRACTS

## SECTION 1 INTRODUCTION AND GENERAL RULES

<u>1.1</u>	<u>THE CLEARING FACILITY</u> .....	4
1.1.1	<u>Purpose of the Clearing Facility</u> .....	4
1.1.2	<u>Services Provided by ASX Clear</u> .....	5
1.1.3	<u>No Limit on Services or Facilities to be Provided</u> .....	5
<u>1.2</u>	<u>APPLICATION AND EFFECT OF THESE RULES</u> .....	5
1.2.1	<u>Operating Rules of ASX Clear</u> .....	5
1.2.2	<u>Binding effect of the Rules</u> .....	6
1.2.3	<u>Covenants to observe Rules</u> .....	6
1.2.4	<u>ASX Enforcement and Appeals Rulebook</u> .....	6
<u>1.3</u>	<u>PROCEDURES</u> .....	6
1.3.1	<u>ASX Clear may approve Procedures</u> .....	6
1.3.2	<u>Procedures are not part of the Rules</u> .....	6
1.3.3	<u>Changes to Procedures</u> .....	7
<u>1.4</u>	<u>PAYMENT SYSTEMS &amp; NETTING ACT</u> .....	7
1.4.1	<u>Approval of ASX Clear as a netting market</u> .....	7
<u>1.5</u>	<u>DEFECTS, IRREGULARITIES AND DEFICIENCIES</u> .....	7
1.5.1	<u>Notices of Time</u> .....	7
1.5.2	<u>Partial invalidity of Rules</u> .....	7
1.5.3	<u>Validity of actions</u> .....	8
<u>1.6</u>	<u>WAIVER</u> .....	8
1.6.1	<u>Waiver of rules and procedures</u> .....	8
1.6.2	<u>Compliance with conditions</u> .....	8
1.6.3	<u>No relief from certain provisions</u> .....	8
1.6.4	<u>Period during which relief applies</u> .....	8
1.6.5	<u>Register of relief</u> .....	9
1.6.6	<u>Inspection of the register</u> .....	9
1.6.7	<u>Waiver generally</u> .....	9
<u>1.7</u>	<u>NOTICE, NOTIFICATION AND SERVICE OF DOCUMENTS</u> .....	9
1.7.1	<u>Notice must be in writing</u> .....	9
1.7.2	<u>Methods of giving notice in writing</u> .....	9
1.7.3	<u>Delivery of notice</u> .....	10
1.7.4	<u>Participant to have e-mail</u> .....	10
1.7.5	<u>Failure to notify</u> .....	10
<u>1.8</u>	<u>DISCLOSURE OF INFORMATION</u> .....	10
1.8.1	<u>Disclosure of information regarding Participants</u> .....	10
1.8.2	<u>ASX Clear may disclose information</u> .....	11
1.8.3	<u>OTC Options Market Transaction Information</u> .....	12

<u>1.9</u>	<u>INFORMATION EXCHANGE WITH OPERATORS OF DISPUTE RESOLUTION SCHEMES</u> .....	12
<u>1.9.1</u>	<u>Information provided by scheme operator</u> .....	12
<u>1.9.2</u>	<u>Disclosure of information to scheme operator</u> .....	12
<u>1.9.3</u>	<u>Use of information by scheme operator</u> .....	12
<u>1.10</u>	<u>DISCLAIMERS</u> .....	13
<u>1.10.1</u>	<u>Exclusion of liability of ASX Clear</u> .....	13
<u>1.10.2</u>	<u>Certain liability not excluded</u> .....	13
<u>1.10.3</u>	<u>Limitation of liability</u> .....	14
<u>1.11</u>	<u>EXTENSION OF INDEMNITIES AND DISCLAIMERS</u> .....	14
<u>1.11.1</u>	<u>Benefits extend to others</u> .....	14
<u>1.11.2</u>	<u>Benefit held by ASX Clear on behalf of those persons</u> .....	14
<u>1.12</u>	<u>DELEGATION OF POWERS</u> .....	14
<u>1.12.1</u>	<u>Exercise of powers</u> .....	14
<u>1.12.2</u>	<u>Delegation to officers and other representatives</u> .....	15
<u>1.12.3</u>	<u>Sub-delegation permitted</u> .....	15
<u>1.12.4</u>	<u>Other Rules concerning delegation</u> .....	15
<u>1.13</u>	<u>GOVERNING LAW</u> .....	15
<u>1.13.1</u>	<u>Governing law of contracts and agreements</u> .....	15
<u>1.14</u>	<u>SUBMISSION TO JURISDICTION</u> .....	16
<u>1.14.1</u>	<u>Submission to jurisdiction by parties</u> .....	16
<u>1.15</u>	<u>REFERENCES TO ASX CLEAR EXERCISING DISCRETION WHERE IT CONSIDERS IT "APPROPRIATE"</u> .....	16
<u>1.15.1</u>	<u>ASX Clear to have regard to certain matters</u> .....	16
<u>1.16</u>	<u>MULTIPLE ACTION</u> .....	17
<u>1.16.1</u>	<u>Action taken by ASX Clear</u> .....	17
<u>1.17</u>	<u>INTELLECTUAL PROPERTY</u> .....	17
<u>1.17.1</u>	<u>Grant of CHESSE licence</u> .....	17
<u>1.17.2</u>	<u>Reservation of rights by ASX Clear</u> .....	17
<u>1.17.3</u>	<u>No unauthorised use of CHESSE</u> .....	17
<u>1.18</u>	<u>FEES AND OTHER CHARGES</u> .....	18
<u>1.18.1</u>	<u>ASX Clear to determine fees</u> .....	18
<u>1.18.2</u>	<u>Late fees</u> .....	18
<u>1.18.3</u>	<u>Payment of fees</u> .....	18
<u>1.19</u>	<u>DUTIES AND TAXES</u> .....	18
<u>1.19.1</u>	<u>Liability for duty and taxes</u> .....	18
<u>1.19.2</u>	<u>Recipient Created Tax Invoices</u> .....	19

<u>1.20</u>	<u>TIME FOR PERFORMANCE OF OBLIGATIONS</u> .....	20
<u>1.20.1</u>	<u>When ASX Clear taken to have performed its obligations</u> .....	20
<u>1.21</u>	<u>SETTLEMENT OF CASH CCP TRANSACTIONS AND DERIVATIVES CCP TRANSACTIONS</u> .....	20
<u>1.21.1</u>	<u>General</u> .....	20
<u>1.22</u>	<u>ANNUAL REVIEW OF THE CLEARING SYSTEM</u> .....	20
<u>1.22.1</u>	<u>ASX Clear to conduct annual review</u> .....	20
<u>1.22.2</u>	<u>Copy of audit certificate to be provided to Regulated Person</u> .....	20
<u>1.22.3</u>	<u>Regulated Person may request other review of the Clearing System</u> .....	21
<u>1.22.4</u>	<u>No other right to inspect ASX Clear records</u> .....	21
<u>1.22.5</u>	<u>Regulated Person to accept review by auditor</u> .....	21

## SECTION 1 INTRODUCTION AND GENERAL RULES

This section deals with:

- (a) the purpose of the Clearing Facility and services provided by ASX Clear;
- (b) the application and binding effect of these Rules on Participants and Responsible Executives;
- (c) the limitation of ASX Clear's liability;
- (d) the circumstances in which ASX Clear may grant waivers or exercise its discretionary powers;
- (e) the delegation of powers by ASX Clear;
- (f) the disclosure of information to others; and
- (g) a number of miscellaneous matters including the grant of intellectual property licences to Participants, the governing law of agreements, agreement to submit to jurisdiction, how defects and irregularities are to be dealt with, the notification and service of documents and the power of ASX Clear to levy fees and charges payable by Participants for the provision of services and facilities.

### 1.1 THE CLEARING FACILITY

#### 1.1.1 Purpose of the Clearing Facility

ASX Clear is the holder of an Australian CS facility licence granted under the Corporations Act and provides a facility (the "Clearing Facility") for the following purposes:

- (a) to enable Participants to provide clearing services in relation to Cash CCP Transactions and Derivatives CCP Contracts;
- (b) to remove direct transaction counterparty risk for Cash CCP Transactions and Derivatives CCP Contracts by the assumption, through novation and registration, of those counterparty obligations by ASX Clear;
- (c) to manage counterparty risk exposure including by use of its own financial resources, contributions from Participants, rules governing prudential and participation requirements as well as imposing appropriate risk management techniques including the requirements for Cash Cover and Collateral;
- (d) to facilitate settlement of Cash CCP Transactions and Derivatives CCP Contracts; and

(e) to provide other services in accordance with these Rules.

Introduced 11/03/04 Amended 01/08/10

### **1.1.2 Services Provided by ASX Clear**

ASX Clear provides or makes available to Participants services and facilities, including, without limitation:

- (a) establishing and administering the Clearing System including any technological platform for effecting and registering Market Transactions and margining Derivatives CCP Contracts and facilitating settlement by electronic and other means;
- (b) providing other services connected with clearing and settlement of Cash CCP Transactions and Derivatives CCP Contracts;
- (c) providing information in relation to clearing and settlement of Cash CCP Transactions and Derivatives CCP Contracts in accordance with the Corporations Act, the Rules and Procedures; and
- (d) other services and facilities as specified from time to time in accordance with these Rules.

Introduced 11/03/04

### **1.1.3 No Limit on Services or Facilities to be Provided**

The description of purpose in Rule 1.1.1 and the description of services in Rule 1.1.2 is not to be taken to limit in any way the services or facilities that are or may be provided or made available by ASX Clear or the powers of ASX Clear.

Introduced 11/03/04

## **1.2 APPLICATION AND EFFECT OF THESE RULES**

### **1.2.1 Operating Rules of ASX Clear**

These Rules are the operating rules of ASX Clear for the purposes of the Corporations Act. These Rules should be read in conjunction with:

- (a) the Procedures;
- (b) the ASX Enforcement and Appeals Rulebook; and
- (c) the Corporations Act.

To the extent of any inconsistency between these Rules and the Procedures, these Rules will prevail.

Introduced 11/03/04 Amended 31/03/08, 01/08/10 Origin OCH 1.1

### **1.2.2 Binding effect of the Rules**

These Rules are binding on ASX Clear, Participants and suitably qualified affiliates in the manner set out in:

- (a) section 822B of the Corporations Act; and
- (b) Rule 1.2.3.

Introduced 11/03/04 Origin OCH 1.2

### **1.2.3 Covenants to observe Rules**

These Rules have effect as a contract under seal between ASX Clear, Participants and suitably qualified affiliates under which:

- (a) each Participant and each suitably qualified affiliate covenants with ASX Clear and each other Participant and suitably qualified affiliate to observe the Rules and to perform the obligations which the Rules purport to impose on the Participant or the suitably qualified affiliate, in the manner provided by the Rules; and
- (b) ASX Clear covenants with each Participant and suitably qualified affiliate to observe the Rules and to perform the obligations which the Rules purport to impose on ASX Clear, in the manner provided by the Rules.

Introduced 11/03/04

### **1.2.4 ASX Enforcement and Appeals Rulebook**

The ASX Enforcement and Appeals Rulebook form part of these Rules where relevant for the purposes of the Corporations Act.

Introduces 31/03/08 Amended 01/08/10

## **1.3 PROCEDURES**

### **1.3.1 ASX Clear may approve Procedures**

ASX Clear may from time to time approve written Procedures relating to the operations of ASX Clear, the conduct of Regulated Persons and the structure and operation of electronic communications between ASX Clear and Regulated Persons.

Introduced 11/03/04 Origin SCH 1.8.1

### **1.3.2 Procedures are not part of the Rules**

The Procedures do not form part of these Rules. However, if a Rule requires a person to comply with any part of the Procedures, failure by the person to comply with that part of the Procedures is a contravention of the Rule.

Introduced 11/03/04 Origin SCH 1.8.2

### **1.3.3 Changes to Procedures**

ASX Clear may approve changes to the Procedures from time to time and must give such notice as is reasonable in the circumstances to Regulated Persons of any changes to the Procedures before those changes take effect.

Introduced 11/03/04 Origin SCH 1.7.4 and 1.8.4, OCH 18.7

## **1.4 PAYMENT SYSTEMS & NETTING ACT**

### **1.4.1 Approval of ASX Clear as a netting market**

Each Participant acknowledges that for the purposes of netting under these Rules, ASX Clear is an approved netting market under the Payment Systems and Netting Act 1998 and further acknowledges the application and effect of that Act as a result.

Introduced 11/03/04 Origin SCH 1.17 Corresponding ASX Settlement 1.5

## **1.5 DEFECTS, IRREGULARITIES AND DEFICIENCIES**

### **1.5.1 Notices of Time**

A decision, resolution, proceeding or act of ASX Clear under these Rules is not invalidated by any:

- (a) defect;
- (b) irregularity; or
- (c) deficiency,

of notice or time unless:

- (d) a Participant concerned by the defect, irregularity or deficiency requests ASX Clear to resolve that the decision, resolution, proceeding or act is invalid;
- (e) ASX Clear reasonably believes that the defect, irregularity or deficiency has caused or may cause substantial injustice which cannot reasonably be avoided; and
- (f) ASX Clear accordingly resolves that the decision, resolution, proceeding or act is invalid.

Introduced 11/03/04 Origin SCH 21.8.1

### **1.5.2 Partial invalidity of Rules**

If any provision of the Rules or the Procedures becomes at any time illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or enforceability of the remaining provisions of the Rules and the Procedures, and the legality, validity or enforceability of the



provision under the law of any other jurisdiction is not affected or impaired in any way.

Introduced 11/03/04 Origin OCH 18.8.1

### **1.5.3 Validity of actions**

An action or inaction by ASX Clear under the Rules or the Procedures may not be challenged on the ground that a Rule, Procedure, direction, decision or requirement of ASX Clear or an agreement made by ASX Clear, is ultra vires or otherwise invalid.

Introduced 11/03/04 Origin OCH 18.8.2

## **1.6 WAIVER**

### **1.6.1 Waiver of rules and procedures**

Subject to Rules 1.6.3 and 1.6.4, ASX Clear may relieve any person or class of persons from the obligation to comply with a provision of these Rules, either generally or in a particular case or category, and either unconditionally or subject to such conditions as ASX Clear thinks fit.

If any conditions on a waiver are imposed, all of the conditions must be complied with for the waiver to be effective. ASX Clear may withdraw a waiver at any time. Any request by a Participant for a waiver under this Rule 1.6 must be in writing.

Introduced 11/03/04 Origin OCH 18.5.1

### **1.6.2 Compliance with conditions**

Failure to comply with a condition imposed under Rule 1.6.1 is a contravention of that Rule.

Introduced 11/03/04 Origin SCH 1.3.6

### **1.6.3 No relief from certain provisions**

ASX Clear must not relieve any person or class of persons under Rule 1.6.1 from an obligation to comply with an indemnity or disclaimer provision of these Rules.

Introduced 11/03/04 Origin SCH 1.3.7

### **1.6.4 Period during which relief applies**

ASX Clear may specify the period or specific event during which any relief from an obligation to comply with a provision of these Rules will apply.

Introduced 11/03/04 Origin SCH 1.3.8

### **1.6.5 Register of relief**

ASX Clear must establish and maintain a register for recording details of relief granted under Rule 1.6.1 and must enter the following details in the register maintained under this Rule 1.6.5:

- (a) the date that the relief takes effect;
- (b) the persons or class of persons relieved from the obligation;
- (c) the provision to which the relief applies;
- (d) brief reasons for the relief; and
- (e) any conditions that applies to the relief.

Introduced 11/03/04 Origin SCH 1.3.10 and 1.3.11

### **1.6.6 Inspection of the register**

A copy of the register maintained under Rule 1.6.5 must be kept at the principal place of business of ASX Clear and must be open for inspection by any person during business hours.

Introduced 11/03/04 Origin SCH 1.3.12

### **1.6.7 Waiver generally**

A failure by ASX Clear to exercise, or any delay in exercising, any of its rights, powers or remedies (in whole or in part) under the Rules does not operate as a waiver of those rights, powers or remedies upon that or any subsequent occasion, nor does any single or partial exercise of any right, power or remedy prevent any further exercise of that or any other right, power or remedy.

Introduced 11/03/04 Origin OCH 18.5.2

## **1.7 NOTICE, NOTIFICATION AND SERVICE OF DOCUMENTS**

### **1.7.1 Notice must be in writing**

If any Rule requires or permits the giving of notice of any matters to a person, the Rule requires or permits the giving to that person of a written document containing those matters.

Introduced 11/03/04 Origin OCH 18.6.1

### **1.7.2 Methods of giving notice in writing**

Without limiting any other provision of this Rule 1.7, any notice to be given by a Participant to ASX Clear must be given to the person holding the position notified by ASX Clear to Participants and may be given in the manner set out in the Procedures. Any notice to be given by ASX Clear to

a person, firm or corporation may be given in the manner set out in the Procedures.

Introduced 11/03/04 Origin OCH 18.6.2 Amended 09/07/08

### **1.7.3 Delivery of notice**

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 1.7.3 or the Procedures prevents documents being sent or given to, or served on, a person in any other manner required or permitted by law.

Introduced 11/03/04 Origin SCH 21.7.4, 21.7.6 and OCH 18.6.3

### **1.7.4 Participant to have e-mail**

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

Introduced 11/03/04 Origin OCH 18.6.5

### **1.7.5 Failure to notify**

If under these Rules ASX Clear is to give notice to some or all Participants, accidental omission by ASX Clear to give notice to one or more Participants does not affect the validity or enforceability of any resolution, decision, proceeding or act in connection with which the notice was to have been given.

Introduced 11/03/04 Origin OCH 18.6.6

## **1.8 DISCLOSURE OF INFORMATION**

### **1.8.1 Disclosure of information regarding Participants**

ASX Clear may, where it considers it appropriate in accordance with Rule 1.15, disclose information regarding its Participants and their activities that are relevant to ASX Clear to:

- (a) the Commission;
- (b) the Reserve Bank of Australia;
- (c) the Australian Prudential Regulation Authority;
- (d) an Approved Market Operator;
- (e) an Approved Settlement Facility; and

- (f) any governmental agency or regulatory authority.

Introduced 11/03/04 Amended 30/12/09

### 1.8.2 ASX Clear may disclose information

ASX Clear will take all reasonable measures to protect from unauthorised use or disclosure information provided to ASX Clear in confidence by or on behalf of a 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 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, 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 19.20) or the Appeal Tribunal);
- (e) to a Related Body Corporate of ASX Clear, 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 Participant (or a Market Participant or Settlement Participant for whom the Participant clears Cash CCP Transactions or Derivatives CCP Contracts) is complying with, will comply with or has complied with the Approved Market Operator's or Approved 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 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 derivatives or securities (in Australia or elsewhere); and

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

Introduced 11/03/04 Origin OCH 18.9.1 Amended 04/06/10, 01/08/10

### **1.8.3 OTC Options Market Transaction Information**

Information relating to OTC Options Market Transactions may only be dealt with as set out in the Procedures.

Introduced 28/05/12

## **1.9 INFORMATION EXCHANGE WITH OPERATORS OF DISPUTE RESOLUTION SCHEMES**

### **1.9.1 Information provided by scheme operator**

ASX Clear will take all reasonable measures to protect from unauthorised use or disclosure information provided to ASX Clear in confidence by or on behalf of an operator of a disputes or complaints resolution scheme or similar scheme to which a Participant is a party. For the purposes of this Rule the disclosure of information by ASX Clear, or a Related Party of ASX Clear, to any of the entities or in any of the circumstances set out in Rule 1.8, will not be an unauthorised use or disclosure.

Introduced 11/03/04 Origin OCH 18.9A.1

### **1.9.2 Disclosure of information to scheme operator**

ASX Clear may disclose to the operator of a disputes or complaints resolution scheme, or similar scheme to which a Participant is a party, such information relating to the Participant as ASX Clear has and which it considers relevant to a request for information from the operator or to some other aspect of a complaint involving the Participant.

Introduced 11/03/04 Origin OCH 18.9A.2

### **1.9.3 Use of information by scheme operator**

ASX Clear may only disclose information under Rule 1.9.2 on condition that the operator of the disputes or complaints resolution scheme agrees to maintain the confidentiality of the information except that the operator may disclose the information:

- (a) if required by law or in court proceedings;
- (b) if required for the purpose for which ASX Clear has given it the information;
- (c) if a government authority or agency has requested the information; or

- (d) if the information is already generally known at the time the operator discloses the information.

Introduced 11/03/04 Origin OCH 18.9A.3

## 1.10 DISCLAIMERS

### 1.10.1 Exclusion of liability of ASX Clear

Subject to Rule 1.10.2, and without limiting Rules 15.7 or 16.1.10, ASX Clear is not liable to any Participant or any Participant's Clients for any direct, indirect or consequential loss, damage or expense (including legal costs) arising in any way out of:

- (a) the supply of (or the failure to supply or any delay in supplying) clearing services in respect of Cash CCP Transactions or Derivatives CCP Contracts including, without limitation, registration, generation of information and production of documentation relating to a Participant or its Clients ("Clearing Services");
- (b) the supply of any other services relating to clearing ("Other Services");
- (c) any negligent conduct or omission of ASX Clear including, without limitation, any systems malfunctions, systems failure, error in programming or error in input data in relation to any computer used or otherwise in connection with the supply of Clearing Services or Other Services;
- (d) any implied warranties in relation to the supply of Clearing Services or Other Services by ASX Clear; or
- (e) the exercise by ASX Clear of a decision making power under the Rules or by an Approved Market Operator or Approved Settlement Facility of a decision making power under the rules of that Approved Market Operator or Approved Settlement Facility.

Introduced 11/03/04 Origin OCH 18.10.1

### 1.10.2 Certain liability not excluded

ASX Clear excludes under this Rule 1.10 conditions and warranties implied by statute, general law or custom except any implied condition or warranty the exclusion or limitation of which would contravene any statute (including the ~~Trade Practices Act 1974~~ Competition and Consumer Act 2010 (Cth)) or cause any part of this Rule 1.10 to be void ("Non-Excludable Condition").

Introduced 11/03/04 Origin OCH 18.10.2 Amended 18/12/06, ~~XX/XX/XX~~

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

### **1.10.3 Limitation of liability**

The liability of ASX Clear under any Non-Excludable Condition may be limited in the discretion of ASX Clear respectively to:

- (a) in the case of services, the supply of the relevant services again or payment of the costs of having the relevant services supplied again; and
- (b) in the case of goods, the repair or replacement of those goods or the payment of the cost of having the goods repaired or replaced.

Introduced 11/03/04 Origin OCH 18.10.3

## **1.11 EXTENSION OF INDEMNITIES AND DISCLAIMERS**

### **1.11.1 Benefits extend to others**

Where a Rule excludes or limits the liability of ASX Clear, releases ASX Clear from liability, or provides for an indemnity in favour of ASX Clear, then to the extent permitted by law, that exclusion, limitation, release or indemnity (as applicable) extends to:

- (a) every officer, agent, delegate, person acting for or on behalf of ASX Clear or contractor of ASX Clear; and
- (b) every Related Body Corporate of ASX Clear and every officer, person acting for or on behalf of that Related Body Corporate, agent, delegate or contractor of that Related Body Corporate,

as if a reference in that Rule to ASX Clear included a reference to each of them.

Introduced 11/03/04 Origin OCH 18.10A.1

### **1.11.2 Benefit held by ASX Clear on behalf of those persons**

The benefit of any limitation, exclusion, release or indemnity in favour of any person other than ASX Clear under Rule 1.11.1 is held by ASX Clear for the benefit of those other persons and ASX Clear may enforce that benefit on their behalf.

Introduced 11/03/04 Origin OCH 18.10A.2

## **1.12 DELEGATION OF POWERS**

### **1.12.1 Exercise of powers**

Unless the contrary intention appears, powers conferred on ASX Clear by or under these Rules may be exercised by resolution of the board of ASX Clear or by any authorised delegate of ASX Clear.

Introduced 11/03/04 Corresponds to ASX Settlement 3.4.1

### **1.12.2 Delegation to officers and other representatives**

Unless the contrary intention appears, ASX Clear may delegate, either generally or as otherwise provided by the terms of delegation, any of the powers and functions of ASX Clear to any officer or employee of a person carrying out functions in the Clearing Facility for or on behalf of ASX Clear.

Introduced 11/03/04 Corresponds to ASX Settlement 3.4.2

### **1.12.3 Sub-delegation permitted**

Where ASX Clear delegates any of its powers or functions to one or more officers or employees in accordance with Rule 1.12.2, those delegates may sub-delegate such of the delegated powers as ASX Clear approves from time to time.

Introduced 11/03/04 Origin SCH 1.4.2

### **1.12.4 Other Rules concerning delegation**

If any power or function is delegated:

- (a) performance or exercise by the delegate of the power or function is taken to be performance or exercise by ASX Clear, as the case requires;
- (b) the delegation does not prevent the performance or exercise of the power or function by ASX Clear, as the case requires; and
- (c) where the performance or exercise depends upon the opinion, belief or state of mind of ASX Clear, as the case requires, the power or function may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate.

Introduced 11/03/04 Corresponds ASX Settlement 3.4.4

## **1.13 GOVERNING LAW**

### **1.13.1 Governing law of contracts and agreements**

All contracts or agreements between ASX Clear or a Related Body Corporate of ASX Clear and a Regulated Person which are constituted by the Rules or entered into under the Rules or as contemplated by the Rules are governed by the laws of New South Wales.

Introduced 11/03/04 Origin OCH 18.14.1



## 1.14 SUBMISSION TO JURISDICTION

### 1.14.1 Submission to jurisdiction by parties

ASX Clear, each Related Body Corporate of ASX Clear and each party to a contract or agreement referred to in Rule 1.13 irrevocably and unconditionally:

- (a) submit to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them;
- (b) waive any immunity from any action in the courts exercising jurisdiction in New South Wales; and
- (c) waive any right they have to object to any action brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

Introduced 11/03/04 Origin OCH 18.14.2

## 1.15 REFERENCES TO ASX CLEAR EXERCISING DISCRETION WHERE IT CONSIDERS IT "APPROPRIATE"

### 1.15.1 ASX Clear to have regard to certain matters

Where a Rule provides that ASX Clear may act in a manner which it considers "appropriate", when deciding whether or not to act, and how to act, ASX Clear will have regard to:

- (a) the obligations, duties, powers and discretions which ASX Clear 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;
- (b) the obligations, duties, powers and discretions which any Approved Settlement Facility has as the holder of, or in connection with the holding of, a CS facility licence under Part 7.3 of the Corporations Act;
- (c) the obligations, duties, powers and discretions which any Approved Market Operator has as the holder of, or in connection with the holding of an Australian market licence under Part 7.2 of the Corporations Act; and
- (d) any obligations, duties, powers and discretions which an operator of any Underlying Market may have as the holder of, or in connection with the holding of, an Australian market licence under Part 7.2 of the Corporations Act.

Introduced 11/03/04 Origin OCH 18.16

## **1.16 MULTIPLE ACTION**

### **1.16.1 Action taken by ASX Clear**

Any action taken by ASX Clear under any Rule does not restrict ASX Clear or prohibit ASX Clear from taking any other action under, or enforcing:

- (a) any other Rule; or
- (b) the same Rule in respect of more than one person,

even if that action or enforcement relates to the same or substantially the same facts or conduct.

Introduced 11/03/04 Origin OCH 18.17

## **1.17 INTELLECTUAL PROPERTY**

### **1.17.1 Grant of CHESSE licence**

Subject to payment of fees and charges in accordance with the Rules, ASX Clear grants (and is authorised to grant), either on its own behalf or on behalf of a Related Body Corporate who owns the intellectual property rights, to each Participant a non-exclusive, non-transferable licence to use and communicate with CHESSE to the extent and in the manner required or permitted by these Rules and the Procedures.

Introduced 11/03/04 Origin SCH 1.14.1

### **1.17.2 Reservation of rights by ASX Clear**

Subject to the licence granted in Rule 1.17.1, ASX Clear reserves (and it is authorised to reserve) either on its own behalf or on behalf of a Related Body Corporate who owns the intellectual property rights, all intellectual property rights it has or may have in relation to CHESSE, the CHESSE Software and the information passing into or out of, or held within CHESSE (including any rights ASX Clear may have in relation to the confidentiality of that information).

Introduced 11/03/04 Origin SCH 1.14.2

### **1.17.3 No unauthorised use of CHESSE**

To the fullest extent permitted under the law for the protection of the intellectual property rights referred to in Rule 1.17.2, ASX Clear prohibits (and it is authorised to prohibit) either on its own behalf or on behalf of a Related Body Corporate who owns the intellectual property rights, each Participant from:

- (a) attempting to copy, alter or modify all or part of the CHESSE Software;

- (b) attempting to recreate, reverse engineer or in any other way derive the source code or object code for all or part of the CHES Software;
- (c) using or communicating with CHES otherwise than as required or permitted by these Rules and the Procedures; or
- (d) allowing a person that is not an Authorised Person access to CHES.

Introduced 11/03/04 Origin SCH 1.14.3

## **1.18 FEES AND OTHER CHARGES**

### **1.18.1 ASX Clear to determine fees**

ASX Clear may determine fees to be paid by Participants in connection with the admission of Participants, including the recognition of its Responsible Executives, access to and use of the Clearing Facility, ASX Clear's regulatory functions, its facilities and any other services operated or provided by ASX Clear or a Related Body Corporate of ASX Clear in connection with these Rules. ASX Clear may also determine fees to be paid by the Responsible Executive in connection with exams and accreditation. The fees, and any change to those fees, will take effect from the time notified by ASX Clear to Participants.

Introduced 11/03/04 Origin OCH 18.2.1

### **1.18.2 Late fees**

ASX Clear may impose additional fees where a Participant or Responsible Executive has failed to pay a fee determined under Rule 1.18.1 by the time specified or to perform an obligation under these Rules by the time required under these Rules.

Introduced 11/03/04 Origin OCH 18.2.1A

### **1.18.3 Payment of fees**

A Participant or Responsible Executive must pay the fees determined under Rule 1.18.1 (and any late fees imposed under Rule 1.18.2) by the times and in the manner determined by ASX Clear and notified by ASX Clear to Participants or Responsible Executives (as applicable).

Introduced 11/03/04 Origin OCH 18.2.2

## **1.19 DUTIES AND TAXES**

### **1.19.1 Liability for duty and taxes**

A Participant is liable for all stamp duty, transaction taxes, goods and services taxes and all other duties or taxes which may be payable in respect of any:

- (a) Market Transaction, Cash CCP Transaction, Derivatives CCP Contract or Cover;
- (b) transaction between the Participant and ASX Clear or any Related Body Corporate of ASX Clear;
- (c) services provided by ASX Clear or any Related Body Corporate of ASX Clear to the Participant; or
- (d) documents lodged by it with, or issued to it by, ASX Clear or any Related Body Corporate of ASX Clear in connection with the conduct of the Participant's business with ASX Clear or any Approved Market Operator.

Each Participant indemnifies ASX Clear against all liability for payment of those duties or taxes. ASX Clear and any Related Body Corporate of ASX Clear may debit the Account of a Participant with the amount of any such duties or taxes payable by that Participant or a Market Participant for which the Participant clears.

Introduced 11/03/04 Origin OCH 18.3.1

#### **1.19.2 Recipient Created Tax Invoices**

This Rule constitutes a written agreement for the purposes of *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No 1) 2000*, or any other legislation, regulations or Tax Office rulings in relation to Goods and Services Tax ("GST"), and applies to the issue of recipient created tax invoices ("RCTIs") by ASX Clear (as recipient) to Participants (as suppliers) in relation to Deliverable Derivatives.

Each Participant and ASX Clear acknowledges and agrees that:

- (a) ASX Clear may issue RCTIs to Participants in respect of a taxable supply of a commodity pursuant to Deliverable Derivatives;
- (b) A Participant will not issue a tax invoice in respect of a taxable supply of a commodity pursuant to Deliverable Derivatives where ASX Clear issues an RCTI on behalf of that Participant;
- (c) ASX Clear is registered for GST purposes and will notify each Participant if it ceases to be so registered;
- (d) Each Participant on whose behalf an RCTI is issued is registered for GST purposes and will notify ASX Clear if it ceases to be so registered;
- (e) The Participant indemnifies ASX Clear for any liability for GST or for any penalty arising from any denial of input tax credits arising from ASX Clear not being entitled to an input tax credit as a result of the Participant not being or ceasing to be registered for GST; and

- (f) ASX Clear will not be liable to indemnify the Participant for any costs, expenses or other amounts incurred by the Participant in obtaining any reimbursement from the Australian Tax Office for any overstatement of GST payable on any supply for which ASX Clear issues an RCTI.

Introduced 11/03/04 Origin OCH 18.3.2

## 1.20 TIME FOR PERFORMANCE OF OBLIGATIONS

### 1.20.1 When ASX Clear taken to have performed its obligations

Where a Rule or a Procedure specifies a time by which a party to a Cash CCP Transaction or Derivatives CCP Contract must perform its obligations or exercise its rights under the terms of that Cash CCP Transaction or Derivatives CCP Contract, ASX Clear will be taken to have complied with that Rule or that Procedure if it performs its obligations or exercises its rights under the Cash CCP Transaction or Derivatives CCP Contract as soon as practicable after the time specified, unless the Rule or the Procedure expressly provides that ASX Clear must perform or exercise at or before the time specified.

Introduced 11/03/04 Origin OCH 6.4

## 1.21 SETTLEMENT OF CASH CCP TRANSACTIONS AND DERIVATIVES CCP TRANSACTIONS

### 1.21.1 General

ASX Clear will, as principal to each Cash CCP Transaction or Derivatives CCP Contract, perform or cause to be performed, the settlement obligations which it has as Seller or Buyer of the Cash CCP Transaction or Derivatives CCP Contract, as the case may be, in accordance with these Rules and the Procedures and the rules and procedures of the relevant Approved Settlement Facility.

Introduced 11/03/04 Origin OCH 10.1

## 1.22 ANNUAL REVIEW OF THE CLEARING SYSTEM

### 1.22.1 ASX Clear to conduct annual review

ASX Clear must require an independent auditor to conduct an annual review of the Clearing System and that review must comprise the matters specified in the Procedures.

Introduced 11/03/04 Origin SCH 17.8.1

### 1.22.2 Copy of audit certificate to be provided to Regulated Person

If a Regulated Person requests that ASX Clear provide a copy of any audit certificate arising from an annual review under Rule 1.22.1, ASX Clear must,

without charge, provide a copy of the audit certificate to that Regulated Person within 1 calendar month of:

- (a) ASX Clear receiving the audit certificate; or
- (b) the request,

whichever is the later.

Introduced 11/03/04 Origin SCH 17.8.2

### **1.22.3 Regulated Person may request other review of the Clearing System**

If a Regulated Person gives notice to ASX Clear requesting an audit certificate in relation to any review of the Clearing System other than an annual review under Rule 1.22.1:

- (a) the Regulated Person must in the notice undertake to pay any fee for that service which ASX Clear may notify to Participants from time to time; and
- (b) ASX Clear must request an independent auditor to conduct the requested review and supply an audit certificate in relation to the review to that Regulated Person as soon as reasonably practicable.

Introduced 11/03/04 Origin SCH 17.8.3, 17.8.4

### **1.22.4 No other right to inspect ASX Clear records**

Except as expressly provided in these Rules, no Regulated Person has any right of access to, or right to inspect, ASX Clear's Records.

Introduced 11/03/04 Origin SCH 17.8.5

### **1.22.5 Regulated Person to accept review by auditor**

Each Regulated Person must accept and treat a review conducted by ASX Clear's auditor under this Section as if that review were conducted by that Regulated Person's own auditor.

Introduced 11/03/04 Origin SCH 17.8.6

### **1.22.6 Recovery Rules**

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 Document

## SECTION 2 DEFINITIONS AND INTERPRETATION

<u>2.1</u>	<u>GENERAL PRINCIPLES OF INTERPRETATION</u> .....	24
<u>2.2</u>	<u>WORDS AND EXPRESSIONS DEFINED IN THE CORPORATIONS ACT</u> .....	25
<u>2.2.1</u>	<u>Words and expressions defined have the same meaning in these Rules</u> .....	25
<u>2.2.2</u>	<u>Definition of “Transaction” for the purposes of the Corporations Regulations</u> .....	25
<u>2.3</u>	<u>HEADINGS AND INTRODUCTORY OVERVIEW</u> .....	25
<u>2.3.1</u>	<u>Headings and introductory overview for convenience of reference only</u> .....	25
<u>2.4</u>	<u>CONDUCT, ACTS AND OMISSIONS</u> .....	25
<u>2.4.1</u>	<u>References to conduct or doing any act or thing</u> .....	25
<u>2.4.2</u>	<u>Conduct by officers, Employees and agents</u> .....	26
<u>2.4.3</u>	<u>State of mind of a person</u> .....	26
<u>2.5</u>	<u>REGARD TO BE HAD TO PURPOSE OR OBJECT OF RULE</u> .....	26
<u>2.5.1</u>	<u>Construction to promote purpose of Rules</u> .....	26
<u>2.6</u>	<u>EXAMPLES AND NOTES</u> .....	27
<u>2.6.1</u>	<u>Use of examples and notes</u> .....	27
<u>2.7</u>	<u>CHANGE OF NAME</u> .....	27
<u>2.7.1</u>	<u>Reference to a body or office under a former name</u> .....	27
<u>2.7.2</u>	<u>References to Australian Stock Exchange Limited</u> .....	27
<u>2.7.3</u>	<u>Change of name of Rules</u> .....	27
<u>2.8</u>	<u>EFFECT OF AMENDMENT TO RULES AND PROCEDURES</u> .....	28
<u>2.8.1</u>	<u>Where amendments to Rules and Procedures are made</u> .....	28
<u>2.9</u>	<u>RULES IN FORCE AT TIME OF CONTRAVENTION</u> .....	28
<u>2.9.1</u>	<u>Determining a contravention of the Rules</u> .....	28
<u>2.10</u>	<u>DEFINITIONS AND INTERPRETATION</u> .....	29
<u>2.10.1</u>	<u>Definitions used in the Rules</u> .....	29



## SECTION 2 DEFINITIONS AND INTERPRETATION

This section contains the definitions and sets out a number of general principles by which these Rules are to be interpreted.

### 2.1 GENERAL PRINCIPLES OF INTERPRETATION

In these Rules unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or any legislative provision substituted for, and any regulatory or statutory instrument issued under, that legislation or legislative provision;
- (b) a reference to the operating rules of an Approved Settlement Facility, the operating rules of an Approved Market Operator, the ASX Enforcement and Appeals Rulebook, these Rules or the Procedures is a reference to those operating rules, that rulebook, the Rules or the Procedures as modified or amended from time to time;
- (c) the singular includes the plural and vice-versa;
- (d) a reference to a person, body, corporation, trust, partnership, unincorporated body, firm, association, authority or government includes any of them;
- (e) a word denoting any gender includes all genders;
- (f) if a word or expression is given a particular meaning, another part of speech or grammatical form of that word or expression has a corresponding meaning;
- (g) a reference to power includes a reference to authority and discretion;
- (h) a reference to a Rule (eg Rule 2.4) includes a reference to all sub-Rules included under that Rule (eg Rule 2.4.3);
- (i) a reference to a Section (eg Section 2) includes a reference to all Rules and sub-Rules within that Section;
- (j) a reference to any Rule or Procedure is a reference to that Rule or Procedure as amended from time to time;
- (k) a reference to time is to the time in Sydney, Australia;
- (l) a reference to currency is a reference to Australian currency;
- (m) a reference to writing includes typing, printing, lithography, photography, telex, facsimile or any other mode of representing or reproducing words in a visible form;

- (n) where there is a reference to the power of ASX Clear to make, demand or impose a requirement there is a corresponding obligation of the relevant Participant to comply with that demand or requirement in all respects;
- (o) a reference to ASX Clear notifying or giving notice to a Participant or vice-versa is a reference to notifying or giving notice in accordance with Rule 1.7; and
- (p) a reference to records includes any documents and any electronic records which ASX Clear considers are relevant for the purposes of performing its functions under the Rules.

Introduced 11/03/04 Origin OCH 19.2.1 Amended 01/08/10, 27/06/11, 01/01/12

## 2.2 WORDS AND EXPRESSIONS DEFINED IN THE CORPORATIONS ACT

### 2.2.1 Words and expressions defined have the same meaning in these Rules

Words and expressions defined in the Corporations Act will unless otherwise defined or specified in these Rules, or the contrary intention appears, have the same meaning in these Rules.

Introduced 11/03/04 Origin SCH 21.1.2 Amended 12/04/05

### 2.2.2 Definition of “Transaction” for the purposes of the Corporations Regulations

For the purposes of regulations 7.5.40 and 7.5.41 of the Corporations Regulations, “transactions of a kind or kinds specified in the operating rules” or “transactions (as defined in the operating rules)” are those transactions that are novated to ASX Clear and netted in accordance with Section 12 of these Rules.

Introduced 11/03/04

## 2.3 HEADINGS AND INTRODUCTORY OVERVIEW

### 2.3.1 Headings and introductory overview for convenience of reference only

Headings and the introductory overview at the beginning of each Section are for convenience of reference only and do not affect the interpretation of the Rules or the Procedures.

Introduced 11/03/04 Origin OCH 19.2.2

## 2.4 CONDUCT, ACTS AND OMISSIONS

### 2.4.1 References to conduct or doing any act or thing

In these Rules:

- (a) a reference to conduct or engaging in conduct includes a reference to doing, refusing to do or omitting to do, any act, including the making of, or the giving effect to a provision of, an agreement; and

- (b) unless the contrary intention appears, a reference to doing, refusing or omitting to do any act or thing includes a reference to causing, permitting or authorising:
- (i) the act or thing to be done; or
  - (ii) the refusal or omission to occur.

Introduced 11/03/04 Origin SCH 21.3.1, 21.6.5

#### **2.4.2 Conduct by officers, Employees and agents**

In these Rules, conduct engaged in on behalf of a person:

- (a) by an officer, Employee, or other agent of the person and whether or not within the scope of the actual or apparent authority of the officer, Employee, or other agent; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of an officer, Employee, or other agent of the person, and whether or not the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the officer, Employee, or other agent,

is deemed to have been engaged in also by the person.

Introduced 11/03/04 Amended 31/03/08 Origin SCH 21.3.2

#### **2.4.3 State of mind of a person**

If for the purposes of these Rules in respect of conduct engaged in by a person, it is necessary to establish the state of mind of the person, it is sufficient to show that an officer, Employee, or other agent of the person, being an officer, Employee, or other agent by whom the conduct was engaged in and whether or not the conduct was within the scope of the actual or apparent authority of that officer, Employee, or other agent, had that state of mind.

In this Rule 2.4.3, a reference to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the person's intention, opinion, belief or purpose.

Introduced 11/03/04 Amended 31/03/08 Origin SCH 21.3.1, 21.3.4

## **2.5 REGARD TO BE HAD TO PURPOSE OR OBJECT OF RULE**

### **2.5.1 Construction to promote purpose of Rules**

In the interpretation of a Rule, a construction that would promote the purpose or object underlying the Rules (whether that purpose or object is expressly stated in the Rules or not) is to be preferred to a construction which would not promote that purpose or object.

Introduced 11/03/04 Origin OCH 19.2.4

## 2.6 EXAMPLES AND NOTES

### 2.6.1 Use of examples and notes

If these Rules include an example of, or a note about, the operation of a Rule:

- (a) the example or note is not to be taken to be exhaustive; and
- (b) if the example or note is inconsistent with the Rule, the Rule prevails.

Introduced 11/03/04 Origin SCH 21.5.1

## 2.7 CHANGE OF NAME

### 2.7.1 Reference to a body or office under a former name

If:

- (a) the name of a body is changed in accordance with the law (whether or not the body is incorporated); or
- (b) the name of an office is changed by law,

then a reference in these Rules to the body or office under any former name, except in relation to matters that occurred before the change took effect, is taken as a reference to the body or office under the new name.

Introduced 11/03/04 Origin SCH 21.6

### 2.7.2 References to Australian Stock Exchange Limited

All references to 'Australian Stock Exchange Limited' in the Rules, Procedures, appendices, schedules, guidance notes, circulars, notices, bulletins, explanatory memoranda and other communications issued or made by ASX Clear under the Rules are as and from 5 December 2006 taken to be references to 'ASX Limited'.

Introduced 20/07/07

### 2.7.3 Change of name of Rules

As from the Effective Time (as defined in Rule 19.20), these Rules (formerly known as the ACH Clearing Rules) have been renamed the ASX Clear Operating Rules.

Introduced 01/08/10

## 2.8 EFFECT OF AMENDMENT TO RULES AND PROCEDURES

### 2.8.1 Where amendments to Rules and Procedures are made

Unless expressly stated otherwise, where a Rule or Procedure is:

- (a) amended;
- (b) deleted; or
- (c) lapses or otherwise ceases to have effect,

that circumstance does not:

- (d) revive anything not in force or existing at the time at which that circumstance takes effect;
- (e) affect the previous operations of that Rule or Procedure or anything done under that Rule or Procedure;
- (f) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Rule or Procedure;
- (g) affect any penalty, forfeiture, suspension, expulsion or other enforcement action taken or incurred in respect of any contravention of that Rule or Procedure; or
- (h) affect any investigation, proceeding, enforcement process, appeal process or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, suspension, expulsion or other enforcement action,

and any such investigation, proceeding, enforcement process, appeal process or remedy may be instituted, continued or enforced, and any such penalty, forfeiture, suspension, expulsion or other enforcement action may be imposed as if the circumstance had not taken effect.

Introduced 11/03/04 Origin OCH 19.2.5 Amended 01/08/10

## 2.9 RULES IN FORCE AT TIME OF CONTRAVENTION

### 2.9.1 Determining a contravention of the Rules

Unless expressly stated otherwise, in determining whether the act or omission of a party constitutes a contravention of the Rules or constitutes Unprofessional Conduct, the matter shall be determined with regard to the Rules in force at the time of the relevant act or omission.

Introduced 11/03/04 Origin OCH 19.2.6

## 2.10 DEFINITIONS AND INTERPRETATION

### 2.10.1 Definitions used in the Rules

In these Rules and in the Procedures, unless the context otherwise requires:

“**Account**” means a Client Account, a House Account or Cash Market Account.

Amended 07/06/13

“**Accountant**” means a member of the Australian Society of Certified Practising Accountants, the Institute of Chartered Accountants in Australia or other body approved by ASX Clear.

“**ASX Clear**” means ASX Clear Pty Limited ABN 48 001 314 503.

Amended 05/05/05, 01/08/10

~~“**Additional Emergency Assessment**” means, for a Participant and an Unpaid Amount applicable to a Clearing Loss, the amount being the proportion of the Unpaid Amount that the Participant’s Primary Emergency Assessment applicable to the Clearing Loss bears to the total of all Participants’ (other than the Excluded Participants) Primary Emergency Assessments applicable to the Clearing Loss.~~

*[Explanatory Note: this term relates to Emergency Assessments which have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]*

“**Admission Documents**” means the documentation required to be lodged in relation to Deliverable Futures CCP Contracts under Rule 21.7.1.

“**Admission Requirements**” means the requirements set out in Rule 3.2.

“**Alternative Settlement Facility**” means a CS Facility which, in the opinion of ASX Clear in conjunction with the Market Operator, has:

- (a) adequate rules or procedures relating to the operation of the facility, including effective risk management procedures;
- (b) adequate arrangements for supervision and regulation of the facility; and
- (c) sufficient resources to conduct the facility and perform its supervisory and regulatory functions.

“**Appeal Tribunal**” means the tribunal covered in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.

Amended 31/03/08, 01/08/10

“**Approved Financial Product**” means a financial product approved for settlement by ASX Settlement in accordance with the ASX Settlement Operating Rules.

Amended 01/08/10

**“Approved Futures Clearing Facility”** means a CS Facility approved by ASX Clear as an Approved Futures Clearing Facility and specified in the Procedures.

Introduced 02/08/13

**“Approved Listing Market Operator”** means, in respect of a Derivatives Market Contract, Derivatives CCP Contract, Derivatives Market Transaction or Series, the Approved Market Operator on whose market the contract is opened for trading or transaction is effected, as applicable.

Introduced 27/06/11

**“Approved Market Operator”** means a Market Operator approved by ASX Clear as an Approved Market Operator and specified in the Procedures.

**“Approved Representative”** means a person recognised as an Approved Representative of a Participant under Sections 22 and 23.

**“Approved Settlement Facility”** means a CS facility approved by ASX Clear as an Approved Settlement Facility and specified in the Procedures.

**“ASIC Market Integrity Rules”** means the ASIC Market Integrity Rules applying to trading on the financial market operated by ASX.

Introduced 01/08/10

**“ASX Settlement”** means ASX Settlement Pty Limited ABN 49 008 504 532.

Amended 01/08/10

**“ASX”** means ASX Limited ABN 98 008 624 691.

Amended 20/07/07

**“Authorised Person”** means any person who has actual authority of the Participant to cause messages to be transmitted through the Clearing System by that Participant.

**“Bulk Handler”** means any company which operates Delivery Depots with whom ASX Clear has entered into an arrangement for the storage and handling of the Underlying Commodity (details of which are set out in the Procedures).

**“Bulk Handler Agreement”** in respect of a Commodity means a bulk handling agreement with the relevant Bulk Handler governing the storage and handling of an Underlying Commodity.

**“Business Day”** means a day other than:

- (a) a Saturday, Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day; and
- (b) any other day which ASX Clear notifies Participants is not a Business Day.

**“Buyer”** means:

- (a) in relation to a Cash Market Transaction, the party who has an obligation to pay money under the terms of the transaction;
- (b) in relation to:
  - (i) a Cash CCP Transaction;
  - (ii) a CCP Net Batch Instruction;
  - (iii) a CCP Gross Batch Instruction;
  - (iv) a CCP RTGS Instruction,
 the Participant responsible to ASX Clear for performing the obligations of the buyer under the terms of the relevant Cash Market Transaction or Offsetting Transaction Arrangement;
- (c) in relation to a Direct Settlement Instruction, the Participant who has an obligation to pay money under the terms of the relevant Cash Market Transaction;
- (d) in relation to a Derivatives Market Contract which is an Options Market Contract, the party with the exercisable rights under the terms of the contract;
- (e) in relation to a Derivatives Market Contract which is a Futures Market Contract, the party specified as buyer under the terms of the contract;
- (f) in relation to a Derivatives CCP Contract, being a Futures CCP Contract or an Options CCP Contract, the Participant responsible to ASX Clear for performance of the obligations of the buyer under the terms of the relevant Derivatives Market Contract; and
- (g) ASX Clear where a specific Rule refers to ASX Clear as buyer.

Amended 28/04/14

**“Call Option”** means:

- (a) in relation to an Options Market Transaction, an Options Market Contract which the Approved Listing Market Operator specifies as being a call option; and
- (b) in relation to an OTC Options Market Transaction, an Options Market Contract which is notified to ASX Clear as a call option by the relevant Participant.

Amended 27/06/11, 28/05/12

~~**“Capped Out Participant”** means, for an Unpaid Amount applicable to a Clearing Loss, a Participant who is not obliged, because of the operation of Rule 8.2.3, to pay an Emergency Assessment in connection with the Unpaid Amount.~~

*[Explanatory Note: this term relates to Emergency Assessments which have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]*



**“Cash Cover”** means the cash balance or balances credited by ASX Clear to a Participant to satisfy the amounts determined by ASX Clear under Rule 14.6.1.

Amended 07/06/13

**“Cash CCP Transaction”** means one of the two matching transactions that arise between ASX Clear and a Participant when a Cash Market Transaction is registered and novated to ASX Clear under Section 12, or in the case of an Offsetting Transaction Arrangement means one of the two transactions that arise between ASX Clear and a Participant under that Offsetting Transaction Arrangement.

Amended 28/04/14

**“Cash Market Account”** means an account established under paragraph (d) of Rule 10.1.1 for the purpose of registering Cash Market Transactions or transactions under an Offsetting Transaction Arrangement.

Introduced 07/06/13 Amended 28/04/14

**“Cash Market Transaction”** means a transaction entered into on or reported to the market of an Approved Market Operator under which:

- (a) one party has an obligation to deliver a particular number and class of transferable Financial Products; and
- (b) the other party has an obligation to pay an amount of money for the delivery.

**“Cash Settled”**, in relation to a Derivatives Market Transaction or a Derivatives CCP Contract, means a transaction on terms which provide for the settlement of all rights and obligations by the payment of money only.

Amended 28/05/12

**“CCP Batch Instruction”** means either a CCP Gross Batch Instruction or a CCP Net Batch Instruction.

Introduced 28/04/14

**“CCP Gross Batch Instruction”** means an instruction generated by ASX Clear for notification to the Approved Settlement Facility and which contains details of payment and delivery obligations in relation to a Cash CCP Transaction that has been excluded from netting in accordance with Rule 12.7.3 and includes an instruction which contains payment and delivery obligations under an Offsetting Transaction Arrangement entered into in respect of a Failed CCP Gross Batch Instruction.

Amended 28/04/14

**“CCP Net Batch Instruction”** means an instruction generated by ASX Clear for notification to the Approved Settlement Facility and which contains details of payment and delivery obligations in relation to a Cash CCP Transaction that has been netted in accordance with Rule 12.6.1 and includes an instruction which contains payment and delivery obligations under an Offsetting Transaction Arrangement entered into in respect of a Failed CCP Net Batch Instruction.

Amended 28/04/14

“**CCP RTGS Instruction**” means an instruction generated by ASX Clear for notification to the Approved Settlement Facility and which contains details of payment and delivery obligations in relation to a Cash CCP Transaction that is to be settled in Real Time Gross Settlement.

~~“**Chain**” means a sequence of Emergency Assessments:~~

~~(a) beginning with an Emergency Assessment that a Participant fails to pay in full (other than because of the operation of Rule 8.2.3); and~~

~~(b) including each subsequent Emergency Assessment that would not have been imposed but for the Participant’s failure to pay referred to in paragraph (a).~~

~~[Explanatory Note: this term relates to Emergency Assessments which have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]~~

“**CHESS**” stands for the Clearing House Electronic Subregister System as operated by:

(a) ASX Clear for the purpose of clearing Cash Market Transactions and Cash CCP Transactions; and

(b) ASX Settlement for the purpose of settling transactions in Approved Financial Products, transferring Financial Products and registering transfers.

“**CHESS Software**” means all systems and applications programs relevant to the operation of CHESS including (without limitation) all of the computer software maintained and used by ASX Clear for the purposes of CHESS (other than software used by a Participant to communicate with CHESS).

“**Class**”, in relation to a Derivatives Market Contract or a Derivatives CCP Contract, means all transactions with the same Underlying Financial Product, Underlying Commodity, Underlying Derivative or Underlying Index.

“**Clearing Agreement**” means a Client Agreement entered into between a Market Participant and a General Participant for the clearing of Market Transactions which complies with Rule 9.1 and Schedule 3.

“**Clearing Facility**” means the facility provided by ASX Clear as described in Rule 1.1.

“**Clearing Loss**” means the amount ASX Clear ~~certifies~~ determines to be its loss (in connection with its Clearing Obligations) arising in connection with a Participant’s event of default referred to in Rule 15.1 after ASX Clear takes action under Rule 15.2 following the Participant’s event of default referred to in Rule 15.1. It includes costs and expenses (including interest) incurred ~~under Rule 8.3.4~~ in connection with the event of default. ASX Clear may in its absolute discretion determine the value of any Collateral or other securities, assets or property (other than cash or an irrevocable commitment to provide cash) provided to, or received by, ASX Clear for the purpose of determining its Clearing Loss if ASX Clear reasonably expects that that Collateral or other security, asset or property cannot be sold, realised, converted into cash or otherwise dealt with in a manner suitable to ASX Clear in accordance with Rule 15.2.

~~[Explanatory Note: this amendment clarifies that ASX Clear may determine the value of any Collateral or other assets provided to ASX Clear for the purposes of determining the Clearing Loss]~~

of a Participant if ASX Clear determines that such assets cannot be sold or converted into cash or some other manner for the purposes of Rule 15.2]

**“Clearing Loss Participant”** means, for a Clearing Loss, the Participant whose event of default gives rise to the Clearing Loss.

**“Clearing Message”** means an electronic message communicated through a Gateway.

**“Clearing Obligation”** means an obligation (including an obligation to pay money or deliver an asset) arising directly or indirectly from a Cash CCP Transaction or Derivatives CCP Contract and imposed on a Participant or ASX Clear, or both, under these Rules.

**“Clearing System”** means the computer systems and associated networks including CHES and the Derivatives Clearing System used by ASX Clear for the clearing of Market Transactions or transactions under an Offsetting Transaction Arrangement.

Amended 28/04/14

**“Client”** in relation to a Participant means, as the context requires:

- (a) a Retail Client or a Wholesale Client with whom the Participant has a Client Agreement, including an agreement deemed to arise under these Rules or the rules of an Approved Market Operator; or
- (b) in the case of a General Participant, a Market Participant or another Participant with whom the General Participant has a Clearing Agreement or a Client Agreement.

**“Client Account”**, means an account established by the Participant under paragraphs (a) or (b) of Rule 10.1.1 for the purpose of registering Derivatives Market Contracts.

**“Client Agreement”** means the agreement between a Participant and its Client referred to in Rules 7.1.2, 7.1.3, 7.1.4 and includes a Clearing Agreement under Rule 9.1.

Amended 01/08/14

**“Close Out”** means set off the rights and obligations arising under Derivatives CCP Contracts under Section 15.

**“Collateral”** means property, acceptable to ASX Clear from time to time, which is pledged, mortgaged, charged or otherwise secured by any person (including, without limitation, a Client) in favour of ASX Clear in respect of some or all of the obligations of a Participant to ASX Clear, and may include without limitation bank guarantees, money market securities or shares.

**“Commission”** means the Australian Securities and Investments Commission.

**“Contract Size”** means:

- (a) in relation to a Derivatives CCP Contract resulting from the registration of an Options Market Transaction over Underlying Financial Products or Underlying Commodities, the number of Underlying Financial Products or Underlying

Commodities the subject of the Derivatives CCP Contract determined by the Approved Listing Market Operator under its rules; and

- (b) in relation to a Derivatives CCP ~~contract~~ **Contract** resulting from the registration of an OTC Options Market Transaction over Underlying Financial Products, the number of Underlying Financial Products the subject of the Derivatives CCP Contract notified to ASX Clear by the relevant Participant.

Amended 27/06/11, 28/05/12

**“Contribution”** means a Contribution provided by or in respect of a Participant under Rule 8.1.1.

Amended 19/08/09

**“Contribution Provider”** means a person who meets the Contribution Provider criteria in the Procedures, and provides a guarantee or other undertaking under Rule 8.2.2 in satisfaction of a Participant’s requirement to make a Contribution.

~~**“Contribution Review Date”** means the first Business Day of each of January, April, July and October (or another date on which ASX Clear reviews Contributions under Rule 8.3.1).~~

*[Explanatory Note: provisions relating to providing additional Contribution are now contained in the Recovery Rules]*

**“Controller”** means:

- (a) a person holding 20% of the total votes attached to voting shares of an applicant or a Participant or a person who, together with Related Parties, holds 20% of such votes; or
- (b) a person who has the power to control the Participant or applicant Participant, whether that power is direct or indirect or is, or can be, exercised as a result of, by means of, in breach of, or by revocation of, trusts, relevant agreements and practices, or any of them, and whether or not they are enforceable;

but for the purposes of Rules 4.1.1, 4.7, 4.9, 4.16, 4.17.1 and 4.22 does not include an entity if:

- (c) the entity, a holding company of the entity, or a subsidiary of the entity through which the entity has an interest in the applicant or Participant is an entity listed on ASX, or any other Australian market licensee or a Recognised Overseas Stock Exchange; or
- (d) ASX Clear is satisfied that it has received undertakings under Rule 4.22 or 4.16.1 from another entity or entities which are Controllers in the corporate group to which the first entity belongs, such that ASX Clear does not require the first entity to also be a Controller for the purposes of the Rules.

Amended 27/06/11

**“Controlling Participant”** in relation to a CHESS Holding, means the Participant that has the capacity in CHESS to either:

- (a) Transfer or Convert Financial Products from the Holding; or
- (b) Transfer in terms of Rule 13.19.2 of the ASX Settlement Operating Rules; or
- (c) Transmute FDIs from the Holding

Amended 23/10/09

**“Corporations Act”** means the Corporations Act 2001 (Cth).

**“Cover”** means Cash Cover and Collateral.

**“CS Facility”** means a CS facility licensed as such under the Corporations Act.

**“Daily Settlement Price”** is defined in Rule 12.15.2.

**“Deliverable”** in relation to a Derivatives CCP Contract over an Underlying Commodity, means a Derivative under which the Seller has an obligation to make delivery, and the Buyer has an obligation to take delivery, of an Underlying Commodity.

**“Delivery Depot”** means a facility for the storage and handling of the Underlying Commodity in a location approved by the Approved Listing Market Operator in consultation with ASX Clear.

Amended 27/06/11

**“Delivery Month”** means the calendar month in which the Maturity Date falls.

**“Delivery Period”** means:

- (a) in relation to a Futures CCP Contract over an Underlying Commodity which is grain, the period commencing on the second Business Day of the Delivery Month and ending on the Maturity Date; or
- (b) in relation to a Futures CCP Contract over an Underlying Commodity which is wool, the period commencing on the second Thursday of the Delivery Month, or if that day is not a Business Day, the immediately preceding Business Day, and ending on the Maturity Date.

**“Derivative”** means a “derivative” within the meaning of the Corporations Act.

**“Derivatives CCP Contract”** means one of the two matching contracts between ASX Clear and a Participant which arise when a Derivatives Market Contract is registered by and novated to ASX Clear under Section 12.

**“Derivatives Clearing System”** means the computer system and associated network used by ASX Clear for the clearing of Derivatives Market Transactions.

**“Derivatives Market Contract”** means a Futures Market Contract or an Options Market Contract.

**“Derivatives Market Transaction”** means a Futures Market Transaction, an Options Market Transaction or an OTC Options Market Transaction.

Amended 28/05/12

**“Direct Batch Instruction”** means an instruction generated by ASX Clear for the notification to the Approved Settlement Facility which contains the details of payment and delivery obligations to be effected by the counterparties directly.

**“Direct Participant”** means a Participant which is admitted by ASX Clear to clear a category of Market Transaction for itself, its own Clients and Market Participants that are Wholly-Owned Group Entities and their clients.

Amended 02/08/13, 01/08/14

**“Disciplinary Register”** means the register maintained by ASX Clear under Rule 19.8.1.

**“Effective Date”** means the date referred to in a Participant Change Notice on which the novation of a Client Agreement is deemed to have occurred.

~~**“Emergency Assessment”** means either a Primary Emergency Assessment or an Additional Emergency Assessment.~~

*[Explanatory Note: this term relates to Emergency Assessments which have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]*

**“Employee”**, in relation to a Participant, means a director, employee, officer, agent, representative, consultant or adviser of that Participant or any Related Body Corporate who is involved in its activities as a Participant.

Amended 02/08/13

**“End of Day”** means on any Trading Day, 7:00 pm Sydney time or such other time as ASX Settlement may from time to time determine.

**“Entitlement”** means:

1. property (other than Financial Products) or money transferred or paid to a person because the person is or was the holder of a Financial Product; or
2. a right that a person has because the person is or was the holder of a Financial Product, including, for example:
  - (a) a right to be paid an amount or to be issued with additional Financial Products; or
  - (b) a right that arises out of a reduction in share capital, a scheme of arrangement or compromise or a takeover bid;

and includes a reference to a right, whether existing or future, and whether contingent or not. It includes (without limitation):

- (a) rights;
- (b) bonus issues;
- (c) dividend, interest and trust distribution payments;

- (d) priority issues;
- (e) offers under an equal access scheme; and
- (f) in relation to foreign securities, any equivalent or similar benefit (however described) provided or offered by the issuer of the foreign securities.

Amended 01/01/12

**“Excess Cash”** means a cash balance credited by ASX Clear to a Participant which is not Cash Cover.

~~“Excluded Participant” means, for an Unpaid Amount applicable to a Clearing Loss, the Clearing Loss Participant, each Capped Out Participant and the Participant who did not pay the Unpaid Amount. When used in the context of an Emergency Assessment that constitutes part of a Chain, “Excluded Participant” also includes each Participant whose failure to pay an Emergency Assessment higher up in the Chain gives rise to another Emergency Assessment in the Chain.~~

*[Explanatory Note: this term relates to Emergency Assessments which have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]*

**“Exercise”** means the process by which a party to an Options CCP Contract exercises the right to buy or sell the Underlying Financial Product, Underlying Commodity or Underlying Derivative.

**“Exercise Level”** means:

- (a) in relation to an Options CCP Contract resulting from the registration of an OTC Options Market Transaction over an Underlying Index, the level of the Underlying Index specified by the Approved Listing Market Operator under its rules as the Exercise Level of that Options CCP Contract; and
- (b) in relation to an Options CCP Contract resulting from the registration of an OTC Options Market Transaction over an Underlying Index, the level of the Underlying Index notified to ASX Clear by the relevant Participant.

Amended 27/06/11, 28/05/12

**“Exercise Limit”** means a limit on the exercise of Options CCP Contracts prescribed by ASX Clear under Rule 14.3.1 or by the Approved Listing Market Operator.

Amended 27/06/11

**“Exercise Notice”** means a Clearing Message sent by the Buyer of an Options CCP Contract to exercise the Options CCP Contract.

**“Exercise Price”**, in relation to an Options CCP Contract, means:

- (a) in the case of an Options CCP Contract over an Underlying Derivative, the price at which that Underlying Derivative will be registered upon the exercise of that Options CCP Contract;

- (b) in the case of any other Options CCP Contract resulting from the registration of an Options Market Transaction, the price specified as the Exercise Price by the Approved Listing Market Operator for that Options CCP Contract (as adjusted in accordance with the rules of the Approved Listing Market Operator); and
- (c) in the case of an Options CCP Contract resulting from the registration of an OTC Options Market Transaction, the price notified to ASX Clear as the Exercise Price by the relevant Participant.

Amended 27/06/11, 28/05/12

**“Exercise Value”**, in relation to an Options CCP Contract over Underlying Financial Products, means the Exercise Price of the Options CCP Contract multiplied by the Contract Size.

**“Expiry Date”** means:

- (a) in relation to an Options CCP Contract resulting from the registration of an Options Market Transaction, the date determined by the Approved Listing Market Operator under its rules as the date on which the contract expires; and
- (b) in relation to an Options CCP Contract resulting from the registration of an OTC Options Market Transaction, the date notified to ASX Clear as the Expiry Date by the relevant Participant.

Amended 27/06/11, 28/05/12

**“Expiry Month”**, in relation to an Options CCP Contract, means the month in which the Expiry Date of the contract falls.

**“Fail”** means the removal by the Approved Settlement Facility of the whole or part of:

- (a) a CCP Net Batch Instruction;
- (b) a CCP Gross Batch Instruction; or
- (c) a CCP RTGS Instruction,

from settlement in accordance with the operating rules of the Approved Settlement Facility.

*Note: A Failed CCP Batch Instruction removed from Batch Settlement (as defined in the operating rules of the Approved Settlement Facility) may be notified by the Approved Settlement Facility to ASX Clear for settlement on that day through an Offsetting Transaction Arrangement entered into between ASX Clear and the respective non-defaulting Participant in accordance with Rule 12.8A.*

Amended 28/04/14

**“Family Company”** means a corporation:

- (a) controlled by the person or the Immediate Family of the person; or



- (b) in respect of which the person is beneficially entitled to more than 50% of the issued capital.

**“Family Trust”** means a trust in which:

- (a) the person or the Immediate Family of the person is the sole or majority beneficiary; or
- (b) the person has the ability to remove the trustee of the trust and replace that trustee with his or her own nominee.

**“Financial Product”** means a security within the meaning of section 761A, a derivative within the meaning of section 761D or a financial product within the meaning of section 764A(1)(b) or (ba) of the Corporations Act.

**“Funds Manager”** means an entity whose primary business is to invest money and manage assets and other investments allocated to it by clients for that purpose.

**“Futures CCP Contract”** means one of the two matching contracts between ASX Clear and a Participant which arise when a Futures Market Contract is registered by and novated to ASX Clear under Section 12.

**“Futures Market Contract”** means a derivatives contract under which:

- (a) one party has an obligation to make delivery of a specified quantity and quality of an Underlying Financial Product, an Underlying Derivative or an Underlying Commodity at a particular time in the future and at a price agreed when the transaction was entered into; or
- (b) one party has an obligation to pay or an entitlement to receive an amount of money to be determined by reference to the difference between a price specified by the Approved Listing Market Operator and the price of an Underlying Financial Product, an Underlying Commodity, an Underlying Derivative or an Underlying Index.

Amended 27/06/11

**“Futures Market Transaction”** means a transaction on the market of an Approved Listing Market Operator under which the parties enter into a number of Futures Market Contracts.

Amended 27/06/11

**“Gateway”** means a hardware and software component which provides the communications interface between the Clearing System and the Participant's system.

**“General Participant”** means a Participant which is admitted by ASX Clear to clear a category of Market Transaction for itself, its own Clients, other Participants and their Clients and Market Participants and their Clients.

**“Holder”** means a person who is entitled to possession of the relevant Warehouse Receipt.

|

“**House Account**”, means an account established under paragraph (c) of Rule 10.1.1 by the Participant for the purposes of registering Derivatives Market Contracts.

“**Immediate Family**” in relation to a person, means that person's spouse and any non-adult children.

“**Implementation Date**” in relation to these Rules means the date on which ASX Clear declares these Rules to come into effect.

“**Index Multiplier**”, in relation to an Options CCP Contract over an Underlying Index, means:

- (a) in relation to an Options CCP Contract resulting from the registration of an Options Market Transaction, the dollar amount specified by the Approved Listing Market Operator under its rules as the Index Multiplier for that Options CCP Contract; and
- (b) in relation to an Options CCP Contract resulting from the registration of an OTC Options Market Transaction, the dollar amount notified to ASX Clear as the Index Multiplier, for that Options CCP Contract, by the relevant Participant.

Amended 27/06/11, 28/05/12

“**Initial Margin**” means an amount of money determined by ASX Clear as the initial margin for a Futures CCP Contract.

“**Instruction**” means:

- (a) a CCP Net Batch Instruction;
- (b) a CCP Gross Batch Instruction; or
- (c) a CCP RTGS Instruction.

“**Interest**”, in relation to an Underlying Commodity, means the interest which ASX Clear has in the Underlying Commodity under the terms of the Bulk Handler Agreement.

“**Local Participant**” means a participant of an Approved Listing Market Operator who is entitled to enter into Derivatives Market Transactions for the participant's own account only.

Amended 27/06/11

“**Market Maker**” means a participant of an Approved Market Operator who is entitled to make markets in accordance with the operating rules of that Approved Market Operator.

“**Market Operator**” means a person licensed to operate a financial market under the Corporations Act.

“**Market Participant**” means a participant of an Approved Market Operator.

“**Market Transaction**” means a Cash Market Transaction or a Derivatives Market Transaction.

**“Maturity Date”** means:

- (a) in relation to a Futures CCP Contract over an Underlying Commodity which is grain, the third Thursday of the month in which the Futures CCP Contract is expressed to mature;
- (b) in relation to a Futures CCP Contract over an Underlying Commodity which is wool, the fourth Thursday of the month in which the Futures CCP Contract is expressed to mature; or
- (c) if the day referred to in paragraphs (a) or (b) is not a Business Day, the immediately preceding Business Day.

**“Misdirected Market Transaction”** means, in respect of a Market Participant which clears through more than one Participant, a Market Transaction of a kind which the Market Participant and a Participant have not agreed in their Clearing Agreement should be directed to the Participant but which is incorrectly directed by the Market Participant to that Participant.

**“NGF Amount”** means the sum of all amounts paid to ASX Clear out of the National Guarantee Fund under section 891A of the Corporations Act 2001 (Cwlth).

**“Non CS Approved Product”** means a Financial Product traded on market operated by ASX which is not settled through a CS Facility.

**“Non-Excludable Condition”** is defined in Rule 1.10.2.

**“NTA Requirements”** means the requirements set out in **Schedule 2**.

**“Offsetting Transaction Arrangement”** means an arrangement entered into between ASX Clear and a Participant under these Rules in respect of a Failed CCP Batch Instruction notified to ASX Clear by the Approved Settlement Facility under the operating rules of the Approved Settlement Facility.

Introduced 28/04/14

**“OPIC”** (Opening Price Index Calculation) in relation to an Options CCP Contract over an Underlying Index:

- (a) will be determined by reference to the Opening Traded Price for each component Financial Product of the Underlying Index on the day on which the Exercise Notice is submitted by the Buyer;
- (b) where a component Financial Product of an Underlying Index does not have an Opening Traded Price on the Expiry Date, will be determined by reference to the last traded price;
- (c) in relation to an Options CCP Contract resulting from the registration of an Options Market Transaction, will be determined by the Approved Listing Market Operator, or reported to the Approved Listing Market Operator by the Reporting Authority and rounded to the nearest one decimal place; and

- (d) in relation to an Options CCP Contract resulting from the registration of an OTC Options Market Transaction, will be determined as specified in the Procedures.

Amended 27/06/11, 28/05/12

**“Opening Traded Price”** means the price of the first recorded trade on a given day for a component Financial Product in an Underlying Index that occurs on the Underlying Market.

**“Options CCP Contract”** means one of the two matching contracts between ASX Clear and a Participant which arise when an Options Market Contract is registered by and novated to ASX Clear under Section 12.

**“Options Market Contract”** means a derivatives contract the terms of which give one party to the contract a right, exercisable at or before a specified time, to:

- (a) acquire or dispose of a specified quantity of an Underlying Financial Product, an Underlying Derivative or an Underlying Commodity at a price to be determined in accordance with the terms of the contract;
- (b) be paid an amount of money to be determined by reference to the difference between a specified level of an Underlying Index and the level at the time the right is exercised; or
- (c) enter into an Underlying Derivative at a price to be determined in accordance with the terms of the contract.

**“Options Market Transaction”** means a transaction on the market of an Approved Listing Market Operator under which the parties enter into a number of Options Market Contracts.

Amended 27/06/11

**“OTC Options Market Transaction”** means a transaction which occurs other than on a licensed market under which the parties enter into a number of Options Market Contracts and which meets any requirements specified in the Procedures.

Introduced 28/05/12

**“Other Capital Regime”** is defined in Rule 5.2.1.

**“Overseas Activity”** is defined in Rule 4.19.1.

**“Participant”** means a person admitted by ASX Clear as a Participant under Rule 3.1.

**“Participant Change Notice”** means the notice sent to a Client which complies with the requirements of Rule 7.1.5(a) and (b).

**“Payment Obligation”**, in relation to a Participant, means an obligation of the Participant under these Rules to pay an amount to ASX Clear, including without limitation:

- (a) an amount owed by the Buyer for the purchase of a Derivatives CCP Contract;

- (b) a fee charged by ASX Clear;
- (c) an amount of Initial Margin or other margin;
- (d) an amount arising from the daily settlement or mark to market of a Derivatives CCP Contract;
- (e) a Settlement Amount which the Participant is required to pay; and
- (f) a Termination Amount which the Participant is required to pay.

**“Payment Right”**, in relation to a Participant, means a right of the Participant under these Rules to receive payment of an amount from ASX Clear, including without limitation:

- (a) an amount due to the Seller for the sale of a Derivatives CCP Contract;
- (b) an amount arising from the daily settlement or mark to market of a Derivatives CCP Contract;
- (c) an amount of Cash Cover;
- (d) a Settlement Amount due to the Participant; and
- (e) a Termination Amount due to the Participant.

**“Payment Shortfall”** has the meaning given to it under the operating rules of the Approved Settlement Facility.

Introduced 28/04/14

**“Payments Provider”** has the meaning given to it under the operating rules of the Approved Settlement Facility.

Introduced 28/04/14

**“PID”** stands for participant identifier and means a unique identification code allocated by ASX Clear to a Participant that is used as the identification code, or one of the identification codes, of the Participant for the purposes of instructions notified to the Approved Settlement Facility for settlement. ASX Clear may allocate up to a maximum number of PIDs per Participant as specified in the Procedures.

Amended 08/08/13

**“Position Limit”** means a limit on positions prescribed by ASX Clear under Rule 14.1.1 or by the Approved Listing Market Operator.

Amended 27/06/11

**“Premium”**, in relation to a Derivatives Market Contract, means the amount payable by the Buyer to the Seller as consideration for entering into the Derivatives Market Contract.

**“Prescribed Person”** means, in relation to a Participant:

- (a) an Employee, a director, a partner, an Affiliate or Responsible Executive of the Participant;
- (b) a Controller of the Participant or a Related Body Corporate of that Controller;
- (c) the Immediate Family of a person referred to in paragraphs (a) or (b);
- (d) a Family Company and a Family Trust of a person referred to in paragraphs (a) to (c); and
- (e) where a Participant or a person referred to in paragraphs (a) to (d) is a body corporate, any body corporate or other entity controlled by that body corporate.

~~“Primary Emergency Assessment” means, for a Participant and a Clearing Loss, the amount determined by applying the Participant’s Primary Emergency Assessment Percentage to the Total Primary Emergency Assessment.~~

~~“Primary Emergency Assessment Percentage” means, for a Participant and a Clearing Loss, the proportion (expressed as a percentage) that the Unsettled Obligations of the Participant applicable to the Clearing Loss bears to the Total Unsettled Obligations applicable to the Clearing Loss.~~

*[Explanatory Note: these terms relate to Emergency Assessments which have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]*

“**Procedures**” means any document, electronic file or other information (recorded by any mode of representing words or reproducing words) approved by ASX Clear and given where applicable to Regulated Persons and third party providers in accordance with Rule 1.3 and, without limitation, includes the ASX Clear Operating Rule Procedures and the ASX Recovery Handbook as amended from time to time.

Amended 18/12/06, 01/08/10

“**Put Option**” means:

- (a) in relation to an Options Market Transaction, a Derivatives Market Contract which the Approved Listing Market Operator specifies as being a put option; and
- (b) in relation to an OTC Options Market Transaction, an Options Market Contract which is notified to ASX Clear by the relevant Participant as a put option.

Amended 27/06/11, 28/05/12

“**Real Time Gross Settlement**” means the processing and settling of payment and delivery obligations in real time and on a gross, not net, basis, the fundamental characteristic of which is that the payment and delivery components of a transaction become irrevocable at the time of settlement.

“**Reciprocal Arrangement**” means any agreement or arrangement between ASX Clear and any governmental agency or regulatory authority (including, without limitation, 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 and the other party in relation to dealings in, or clearing and settlement of, Financial Products (in Australia or elsewhere).

**“Recognised Overseas Stock Exchange”** has the meaning it has in the operating rules or procedures of ASX.

Amended 01/08/10

**“Recovery Rules”** means the Recovery Rules applicable to ASX Clear, as amended from time to time.

Introduced xx/xx/xx

**“Regulated Person”** means a Participant or a Responsible Executive.

**“Related Body Corporate”** has the same meaning set out in Section 50 of the Corporations Act.

**“Related Party”** means:

- (a) in relation to a body corporate:
  - (i) the meaning in section 228 of the Corporations Act; or
  - (ii) a Substantial Holder of the body corporate;
- (b) in relation to a trust, which is not a registered management investment scheme the management company, trustee and their related parties within the meaning of section 228 of the Corporations Act;
- (c) in relation to a trust which is a registered managed investment scheme, the responsible entity and a related party of the responsible entity under section 228 of the Corporations Act, as modified by section 601LA of the Corporations Act,
- (d) in relation to a person:
  - (i) his or her spouse, de facto spouse, parent, son, or daughter, or a spouse or de facto spouse of that person;
  - (ii) an entity over which one or more of the persons referred to in paragraph (i) has control;
  - (iii) an entity that he or she controls, or its holding company or which is controlled by the holding company;
  - (iv) a person who acts, or proposes to act, in concert with anyone referred to above;
  - (v) a person who was a related party in the previous 6 months, or who would be a related party in the future, under the tests in section 228 of the Corporations Act (applied with any necessary adaptation).

“**Related Entity**” has the same meaning set out in Section 9 of the Corporations Act.

“**Reporting Authority**”, in relation to an Underlying Index, means the person specified by the Approved Listing Market Operator as the official source for calculating and reporting the level of that Underlying Index.

Amended 27/06/11

“**Responsible Executive**” means at any time, in relation to a Participant, an individual who is shown as having executive responsibility for the supervision and control of all or part of the business of that Participant in the copy of the Participant’s management structure provided to ASX Clear or who is otherwise notified to ASX Clear from time to time as having that responsibility.

“**Retail Client**” means a “retail client” as defined in the Corporations Act.

“**Revised Settlement Amount**” means the Settlement Amount revised in accordance with Rule 12.8.5.

“**Risk Based Capital Requirements**” means the requirements set out in Schedule 1.

~~“**Risk Resource Requirement**” means the amount so described determined by ASX Clear and published by it from time to time.~~

~~*[Explanatory Note: this term is no longer required in the Rules following the removal of the Emergency Assessment provisions and application of the Recovery Rules]*~~

“**RTGS**” means Real Time Gross Settlement.

“**Rules**” means the operating rules of ASX Clear in accordance with Rule 1.2 including the schedules, the Recovery Rules and any State of Emergency Rules.

“**Section**” means a section of these Rules.

“**Seller**” means:

- (a) in relation to a Cash Market Transaction, the party who has an obligation to deliver a particular number and class of transferable Financial Products under the terms of the transaction;
- (b) in relation to:
  - (i) a Cash CCP Transaction;
  - (ii) a CCP Net Batch Instruction;
  - (iii) a CCP Gross Batch Instruction; and
  - (iv) a CCP RTGS Instruction,

the Participant responsible to ASX Clear for performing the obligations of the seller under the relevant Cash Market Transaction or Offsetting Transaction Arrangement;



- (c) in relation to a Direct Settlement Instruction, the Participant who has an obligation to deliver a particular number and class of transferable Financial Products under the terms of the relevant Cash Market Transaction;
- (d) in relation to a Derivatives Market Contract which is an Options Market Contract, the party with the obligation to acquire or dispose of a specified quantity of an Underlying Financial Product, an Underlying Derivative or an Underlying Commodity, to pay an amount of money, or to enter into an Underlying Derivative under the terms of the contract;
- (e) in relation to a Derivatives Market Contract which is a Futures Market Contract, the party specified as seller under the terms of the contract;
- (f) in relation to a Derivatives CCP Contract, being a Futures CCP Contract or an Options CCP Contract, the Participant responsible to ASX Clear for performance of the obligations of the seller under the terms of the relevant Derivatives Market Contract; and
- (g) ASX Clear where a specific Rule refers to ASX Clear as seller.

Amended 19/08/09, 28/04/14

**“Series”** means:

- (a) in relation to a Derivatives Market Transaction or a Derivatives CCP Contract which is not covered by paragraph (b) below, all transactions in the same Class with the same terms (other than as to price) as set out in the rules of the Approved Listing Market Operator and these Rules;
- (b) in relation to an OTC Options Market Transaction, or a Derivatives CCP Contract resulting from the registration of an OTC Options Market Transaction, all transactions in the same Class with the same terms (other than as to price) as set out in the Procedures.

Amended 27/06/11, 28/05/12

**“Settlement Agreement”** means an agreement entered into between a Participant and a Settlement Participant which complies with Rule 9.2 and Schedule 4.

**“Settlement Amount”** means the amount of money to be paid by one party to a transaction to another party to that transaction on settlement of that transaction, as determined in accordance with these Rules and any applicable terms set out in the operating rules of the relevant Approved Market Operator.

Amended 27/06/11

**“Settlement Date”** means the Business Day on which a Cash CCP Transaction is scheduled to settle in the Approved Settlement Facility.

**“Settlement Participant”** means a participant of an Approved Settlement Facility who has approval to settle transactions in the facility.

**“Settlement Time”** means the time specified in the Procedures or, where settlement is deferred under the Rules, a later time determined by ASX Clear.

**“Specified Quantity”** in respect of a Deliverable Derivatives Market Contract means the quantity of the Underlying Commodity which must be delivered on settlement of the contract, as determined by the Approved Listing Market Operator.

Amended 27/06/11

**“Standard Settlement Price”** means a price determined by reference to bids/offers and the last sale price of a class of Financial Products on one or more Approved Market Operators (as selected by ASX Clear in its absolute discretion) on the Business Day before the Settlement Date on which an Instruction Fails in accordance with the operating rules of the Approved Settlement Facility.

Amended 27/06/11

**“State of Emergency”** means any of the following:

- (a) fire, power failure or restriction, communication breakdown, accident, flood, embargo, boycott, labour dispute, unavailability of data processing or any other computer system or facility, act of God;
- (b) act of war (whether declared or undeclared) or an outbreak or escalation of hostilities in any region of the world which in the opinion of ASX Clear prevents or significantly hinders the operation of the Clearing Facility;
- (c) an act of terrorism; or
- (d) other events which, in the opinion of ASX Clear prevents or significantly hinders the operation of the Clearing Facility.

**“State of Emergency Rules”** means any Rules made by ASX Clear under Rule 16.1.

**“Stock Confirmation Form”** means the document in the form set out in the Procedures providing details of the Admission Documents in relation to the specific Underlying Commodity and issued by ASX Clear in accordance with Rule 21.7.3.

**“Substantial Holder”:**

- (a) for the purposes of Schedule 1, when used to refer to a Substantial Holder in a body corporate, means a person who has or would have a substantial holding if Part 6C of the Corporations Act applied to that body corporate; and
- (b) for the purposes of any other Rule also includes a reference to:
  - (i) a person who has a relevant interest in not less than 5% of a class of non voting shares of the relevant body corporate or its holding company; and
  - (ii) each person who has a relevant interest in voting shares and non voting shares of the relevant body corporate or its holding company and whose aggregate holdings exceed 5% in number of the voting shares on issue of the relevant body corporate or its holding company.

**“Tender Documentation”** means the documentation in the form set out in the Procedures for the purposes of Rule 21.2.1 or 21.8.1.

~~“Termination Amount” is defined in Rule 17.4.1.~~

~~“Termination Price” is defined in Rule 17.1.3 and Rule 17.1.7A (as applicable).~~

Amended 28/05/12

~~[Explanatory Note: these terms relate to Rule 17 which has been removed from the Rules. Instead provisions relating to the termination of Derivatives CCP Contracts are contained in the Recovery Rules.]~~

**“Terms of Trade Acceptance Service”** means the contractual terms on which ASX Clear and an Approved Settlement Facility provide a Trade Acceptance Service to an Approved Market Operator. It includes any operational, technical or other standards promulgated under those contractual terms.

Introduced 27/06/11

~~“Total Primary Emergency Assessment” means, for a Clearing Loss, the lower of either:~~

~~(a) — the Clearing Loss, or~~

~~(b) — twice the Risk Resource Requirement at the time the Clearing Loss arises.~~

~~“Total Unsettled Obligations” means, for a Clearing Loss, the total of the Unsettled Obligations of all Participants (excluding the Clearing Loss Participant) applicable to the Clearing Loss.~~

~~[Explanatory Note: these terms relate to Emergency Assessments which have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]~~

**“Trade Acceptance Service”** means a service provided by ASX Clear and an Approved Settlement Facility to an Approved Market Operator under which certain categories of Market Transactions entered into on or reported to the market of the Approved Market Operator are accepted by ASX Clear and the Approved Settlement Facility, subject to and in accordance with the Terms of Trade Acceptance Service, for clearing and settlement in the CS Facilities operated by ASX Clear and the Approved Settlement Facility.

Introduced 27/06/11

**“Tribunal”** means the Appeal Tribunal.

Amended 01/08/10

**“Underlying Commodity”** means, in relation to a Derivatives Market Contract or a Derivatives CCP Contract, the commodity which underlies that contract, as determined by the Approved Listing Market Operator.

Amended 27/06/11

**“Underlying Derivative”** means, in relation to a Derivatives Market Contract or a Derivatives CCP Contract, the Derivative which underlies that transaction, as determined by the Approved Listing Market Operator.

Amended 27/06/11

**“Underlying Financial Product”** means, in relation to a Derivatives Market Contract or a Derivatives CCP Contract, the financial product (other than a Derivative) underlying the contract.

**“Underlying Index”** means:

- (a) in relation to a Derivatives Market Contract or a Derivatives CCP Contract which is not covered by paragraph (b) below, the index which underlies that contract, as determined by the Approved Listing Market Operator; and
- (b) in relation to a Derivatives Market Contract in relation to an OTC Options Market Transaction or a Derivatives CCP Contract resulting from the registration of an OTC Options Market Transaction, the index which is notified to ASX Clear by the relevant Participant.

Amended 27/06/11, 28/05/12

**“Underlying Market”** means:

- (a) in relation to a Derivatives Market Contract or a Derivatives CCP Contract in respect of an Underlying Commodity or Underlying Financial Product, a market in the Underlying Commodity or the Underlying Financial Product;
- (b) in relation to a Derivatives Market Contract or a Derivatives CCP Contract in respect of an Underlying Index, a market in the securities, commodities or other things which comprise that Underlying Index; and
- (c) in relation to a Derivatives Market Contract or a Derivatives CCP Contract in respect of an Underlying Derivative, a market in the Underlying Derivative or in the market in relation to that Derivatives Market Contract (as defined in paragraph (a) or paragraph (b)).

~~**“Unpaid Amount”** means any part of a Primary Emergency Assessment or an Additional Emergency Assessment that a Participant:~~

~~(a) fails to pay; or~~

~~(b) is not obliged to pay because of the operation of Rule 8.2.3, and any interest payable in connection with amounts referred to in paragraph (a).~~

Amended 19/08/09

~~**“Unpaid Amount Participant”** means a Participant that does not pay any part of an Additional Emergency Assessment (other than because of the operation of Rule 8.2.3).~~

~~[Explanatory Note: Emergency Assessments have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]~~

**“Unprofessional Conduct”** includes:

- (a) conduct which amounts to impropriety affecting professional character and which is indicative of a failure either to understand or to practise the precepts of honesty or fair dealing in relation to other Participants, Clients or the public;

- (b) unsatisfactory professional conduct, where the conduct involves a substantial or consistent failure to reach reasonable standards of competence and diligence; and
- (c) conduct which is, or could reasonably be considered as likely to be, prejudicial to the interests of ASX Clear or its Participants,

by a Participant, or an Employee, whether in the conduct of the Participant's business as a Participant or in the conduct of any other business (and need not involve a contravention of these Rules, the Procedures or any law).

~~“Unsettled Obligations” means, for a Participant and a Clearing Loss, the daily average, over the period of three months up to the day before the Clearing Loss calculation starts, of the total value of all open derivatives positions and net unsettled novated CHESSE settlements of the Participant.~~

*[Explanatory Note: this term relates to Emergency Assessments which have been removed from the Rules. Instead ASX Clear has the Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]*

**“Warehouse Receipt”** means a document issued by an approved Wool Warehouse which permits the Holder to take delivery of the quantity of the Underlying Commodity.

**“Wholesale Client”** has the meaning given to it in the Corporations Act.

**“Wholly-Owned Group Entity”** in relation to a Participant means:

- (a) a body corporate of which the Participant is a wholly-owned subsidiary; or
- (b) a wholly-owned subsidiary of a body corporate referred to in (a).

Introduced 02/08/13

**“Wool Warehouse”** means a facility for the storage and handling of the Underlying Commodity in a location approved by ASX in consultation with ASX Clear.

Introduced 11/03/04 Origin OCH 19.1

End of Document

## SECTION 3 PARTICIPATION IN THE CLEARING FACILITY

<b>3.1</b>	<b><u>APPLICATION FOR PARTICIPATION</u></b> .....	4
3.1.1	<u>Application process</u> .....	4
3.1.2	<u>ASX Clear may request further information</u> .....	4
3.1.3	<u>ASX Clear to determine application within reasonable time</u> .....	4
3.1.4	<u>Conditions on admission</u> .....	4
3.1.5	<u>Right to appeal a condition to Appeal Tribunal</u> .....	5
3.1.6	<u>Breach of condition does not automatically terminate admission</u> .....	5
3.1.7	<u>Application for authorisation to clear a further category of Market Transaction</u> .....	5
3.1.8	<u>Application for authorisation to clear Market Transactions effected through additional Approved Market Operator</u> .....	5
<b>3.2</b>	<b><u>ADMISSION REQUIREMENTS</u></b> .....	5
3.2.1	<u>General requirements for admission</u> .....	5
3.2.2	<u>Additional requirements for admission</u> .....	6
3.2.3	<u>Additional requirements for Participants clearing Market Transactions effected through multiple Approved Market Operators</u> .....	7
<b>3.3</b>	<b><u>WAIVER</u></b> .....	7
3.3.1	<u>Waiver of Admission Requirements</u> .....	7
<b>3.4</b>	<b><u>BUSINESS INTEGRITY REQUIREMENTS</u></b> .....	7
3.4.1	<u>Applicant to have high business integrity</u> .....	7
<b>3.5</b>	<b><u>MANAGEMENT REQUIREMENTS</u></b> .....	7
3.5.1	<u>Applicant to meet management requirements</u> .....	7
<b>3.6</b>	<b><u>TECHNICAL AND PERFORMANCE REQUIREMENTS</u></b> .....	8
3.6.1	<u>Applicant to have necessary organisational and technical resources</u> .....	8
<b>3.7</b>	<b><u>BUSINESS CONNECTION REQUIREMENTS – [DELETED]</u></b> .....	9
3.7.1	<u>Connections requiring ACH consent – [Deleted]</u> .....	9
3.7.2	<u>Access to records – [Deleted]</u> .....	9
3.7.3	<u>Undertakings – [Deleted]</u> .....	9
<b>3.8</b>	<b><u>FOREIGN APPLICANTS</u></b> .....	9
3.8.1	<u>Where an applicant is incorporated or resident outside Australia</u> .....	9
<b>3.9</b>	<b><u>REJECTION OF APPLICATION FOR ADMISSION AS PARTICIPANT</u></b> .....	10
3.9.1	<u>Proposed rejection</u> .....	10
3.9.2	<u>Notice of rejection</u> .....	10
3.9.3	<u>Right to appeal to Appeal Tribunal</u> .....	10

<u>3.10</u>	<u>RESIGNATION OF PARTICIPATION</u> .....	11
<u>3.10.1</u>	<u>Participant to notify ASX Clear of intention to cease clearing a category of Market Transaction or Approved Market Operator</u> .....	11
<u>3.10.2</u>	<u>Participant to notify ASX Clear of intended resignation as a Participant</u> .....	11
<u>3.10.3</u>	<u>ASX Clear to accept notice</u> .....	12
<u>3.10.4</u>	<u>Notice to Participants</u> .....	12
<u>3.11</u>	<u>INACTIVE PARTICIPANT</u> .....	13
<u>3.11.1</u>	<u>ASX Clear may give notice</u> .....	13
<u>3.11.2</u>	<u>Participant may make submissions</u> .....	13
<u>3.11.3</u>	<u>Termination of authority to clear if no submission received</u> .....	13
<u>3.11.4</u>	<u>Termination of authority to clear if submission received</u> .....	13
<u>3.12</u>	<u>SUSPENSION AND TERMINATION OF PARTICIPATION</u> .....	13
<u>3.12.1</u>	<u>When ASX Clear may suspend or terminate a Participant's participation</u> .....	13
<u>3.13</u>	<u>EFFECT OF RESIGNATION OR TERMINATION ON OBLIGATIONS</u> .....	14
<u>3.13.1</u>	<u>Obligations of Participant prior to resignation and termination</u> .....	14
<u>3.13.2</u>	<u>Certain obligations to continue following resignation or termination of Participant</u> .....	14
<u>3.13.3</u>	<u>Certain obligations to continue following resignation or termination of Regulated Person who is not a Participant</u> .....	14

## SECTION 3 PARTICIPATION IN THE CLEARING FACILITY

This Section 3 covers Participation in ASX Clear's Clearing Facility. A Participant may be either a Direct Participant or a General Participant. An applicant will only be admitted as a Direct Participant or a General Participant if they satisfy the admission requirements of this Section. In addition, an applicant for admission as a Participant must meet any additional admission requirements specified by ASX Clear and set out in the Procedures. Once admitted to participate, a Participant will be authorised to clear a specific category or categories of Market Transactions effected through one or more specified Approved Market Operators. The Rules also provide for a Participant to apply for authorisation to clear additional categories of Market Transactions or to clear Market Transactions effected through additional Approved Market Operators.

A Direct Participant is a Participant that clears Cash CCP Transactions or Derivatives CCP Contracts for itself, its own Clients and Wholly-Owned Group Entities and their clients but not anyone else. A General Participant is a Participant that is a third party clearer that clears Cash CCP Transactions or Derivatives CCP Contracts for itself, its own Clients, Market Participants and their clients and other Participants and their clients. Admission as a General Participant only entitles a Participant to clear transactions for someone else provided the Participant has entered into a Clearing Agreement or Client Agreement as required by these Rules.

This section also covers:

- (a) the process by which an applicant may apply to ASX Clear to become a Participant;
- (b) the criteria that must be met before an applicant will be admitted as a Participant;
- (c) the power of ASX Clear to impose conditions on participation;
- (d) what ASX Clear must do if it proposes to reject an application;
- (e) the right of an applicant to appeal against a decision to reject its application or the imposition of conditions;
- (f) the circumstances in which a Participant may resign as a Participant or cease clearing a category of Market Transactions;
- (g) the circumstances in which a Participant's participation may be terminated or suspended; and
- (h) the consequences of a Participant's resignation or termination.



## 3.1 APPLICATION FOR PARTICIPATION

### 3.1.1 Application process

ASX Clear will admit an applicant as a Direct Participant or a General Participant, subject to any conditions imposed under Rule 3.1.4, if the applicant:

- (a) applies to ASX Clear by completing the application form set out in the Procedures;
- (b) satisfies the Admission Requirements; and
- (c) pays to ASX Clear the relevant application fee determined by ASX Clear.

*Note: A Participant will be admitted with authority to clear categories of Market Transaction. See Rule 3.1.4 for the ability of ASX Clear to impose standard conditions specifying the categories of Market Transaction for which Participants are authorised to clear through ASX Clear.*

Introduced 11/03/04 Origin OCH 2.1.1

### 3.1.2 ASX Clear may request further information

ASX Clear may request an applicant to provide further information which ASX Clear considers necessary to establish whether the applicant satisfies the Admission Requirements.

Introduced 11/03/04 Origin OCH 2.1.2

### 3.1.3 ASX Clear to determine application within reasonable time

ASX Clear will use all reasonable endeavours to make its decision whether to accept or reject an application for admission as a Participant within a reasonable time following the receipt of the application.

Introduced 11/03/04 Origin OCH 2.1.5

### 3.1.4 Conditions on admission

Where ASX Clear admits an applicant as a Participant, it may at that time, or at any later time impose any conditions on the Participant which it considers appropriate having regard to Rule 1.15. ASX Clear must notify the applicant or the Participant (as applicable) of any condition imposed under this Rule 3.1.4 in writing.

ASX Clear will always impose a standard condition as set out in the Procedures specifying:

- (a) the categories of Market Transactions which the Participant is authorised to clear through ASX Clear; and
- (b) one or more Approved Market Operators in respect of which the Participant is authorised to clear Market Transactions through ASX Clear.

*Note: ASX Clear may impose additional conditions on General Participants or applicants for admission as General Participants under Rule 3.2.2.*

Introduced 11/03/04 Origin OCH 2.1.3 Amended 27/06/11

### **3.1.5 Right to appeal a condition to Appeal Tribunal**

An applicant or Participant (as applicable) may appeal to the Appeal Tribunal against a decision of ASX Clear to impose a condition under Rule 3.1.4 in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.

Introduced 11/03/04 Amended 31/03/08, 01/08/10 Origin OCH 2.1.4

### **3.1.6 Breach of condition does not automatically terminate admission**

Where ASX Clear imposes a condition on the admission of a Participant under Rule 3.1.4 or Rule 3.2.2, a breach of that condition by the Participant does not automatically result in the termination of the admission of the Participant. Any breach of a condition is dealt with in accordance with Section 19.

Introduced 11/03/04

### **3.1.7 Application for authorisation to clear a further category of Market Transaction**

A Participant may at any time make an application to ASX Clear to have conditions relating to the categories of Market Transactions, that a Participant is authorised to clear, amended in order to clear further categories of Market Transactions.

Introduced 11/03/04

### **3.1.8 Application for authorisation to clear Market Transactions effected through additional Approved Market Operator**

A Participant may at any time make an application to ASX Clear to have conditions relating to the Approved Market Operators in respect of which the Participant is authorised to clear Market Transactions, amended in order to clear Market Transactions effected through additional Approved Market Operators. The application must be made in the form prescribed by ASX Clear in the Procedures. If a Participant makes an application in that form and complies with Rule 3.2.3 (if applicable), ASX Clear will approve the application and the amendment to the conditions will take effect from the time notified to the Participant by ASX Clear.

Introduced 27/06/11

## **3.2 ADMISSION REQUIREMENTS**

### **3.2.1 General requirements for admission**

For an applicant to be eligible to be admitted as a Participant the applicant must:

- (a) be a body corporate incorporated under the Corporations Act or registered as a foreign company under the Corporations Act, and not be applying in its capacity as a trustee of any trust;
- (b) if the applicant is incorporated or resident outside Australia, comply with Rule 4.19.2;
- (c) hold an Australian financial services licence which authorises the applicant to carry on its business as a Participant;
- (d) satisfy ASX Clear that it meets the business integrity requirements of this Section;
- (e) satisfy ASX Clear that it meets the management requirements of this Section;
- (f) satisfy ASX Clear that it has facilities, procedures, personnel and financial resources which are adequate for the performance by the applicant of its obligations as a Participant under these Rules, including without limitation, meeting the technical and performance requirements of this Section;
- (g) comply with the business connection requirements of this Section;
- (h) satisfy ASX Clear that it complies with the capital regime requirements in Section 5;
- (i) have insurance in place which complies with the requirements of Rule 4.3;
- (j) if the applicant seeks to be authorised to clear Options Market Transactions and/or OTC Options Market Transactions but is not or does not seek to be authorised to clear Cash Market Transactions associated with those Options Market Transactions, appoint a Participant which is authorised to clear the Cash Market Transactions and enter into, and maintain, a Clearing Agreement with that other Participant;
- (k) if the applicant is not itself able to settle Cash Market Transactions in an Approved Settlement Facility, appoint a Settlement Participant and maintain a Settlement Agreement with that Settlement Participant; and
- (l) comply with any condition imposed under Rules 3.1.4, 22.7.3 or 23.7.3.

Introduced 11/03/04 Origin OCH 2.3.1, 2.3.2 Amended 01/01/09, 28/05/12

### **3.2.2 Additional requirements for admission**

If an applicant wishes to be admitted as a Participant it must, in addition to complying with Rule 3.2.1, comply with any requirements specified by ASX Clear in the Procedures.

Introduced 11/03/04 Amended 02/08/13

### **3.2.3 Additional requirements for Participants clearing Market Transactions effected through multiple Approved Market Operators**

If an applicant for admission, or an existing Participant, wishes to clear Market Transactions effected through two or more Approved Market Operators, the applicant or Participant must, in addition to complying with Rule 3.2.1, comply with any requirements specified by ASX Clear in the Procedures.

Introduced 27/06/11

## **3.3 WAIVER**

### **3.3.1 Waiver of Admission Requirements**

ASX Clear may, by notice in writing to an applicant waive any Admission Requirement on any conditions it considers appropriate having regard to Rule 1.15. If any conditions on a waiver are imposed, all of the conditions must be complied with for the waiver to be effective. ASX Clear may withdraw a waiver at any time. If a waiver lapses in accordance with its terms or is withdrawn by ASX Clear, the waiver ceases to be effective from that time and the relevant Admission Requirement the subject of the waiver applies from that time. Any request by a Participant for a waiver under this Rule must be in writing.

Introduced 11/03/04 Origin OCH 2.3.8

## **3.4 BUSINESS INTEGRITY REQUIREMENTS**

### **3.4.1 Applicant to have high business integrity**

For an applicant to be eligible for admission as a Participant, the applicant must satisfy ASX Clear that it is of high business integrity. Without limiting the discretion of ASX Clear, in assessing whether the applicant is of high business integrity, ASX Clear may have regard to the matters set out in the Procedures.

Introduced 11/03/04 Origin OCH 2.3.6 Amended 02/08/13

## **3.5 MANAGEMENT REQUIREMENTS**

### **3.5.1 Applicant to meet management requirements**

The management requirements of this Section are that:

- (a) the applicant must have appropriate supervisory policies and procedures, and meet any standards prescribed by ASX Clear in the Procedures, to ensure compliance by the applicant with these Rules and the provisions of the Corporations Act that apply in relation to its activities as a Participant;
- (b) each Responsible Executive of the applicant must satisfy the requirements in Rule 4.22;

- (c) ASX Clear must have no reason to believe that any Employee or other person who is or will be involved in the activities of the applicant as a Participant or (in the case of a body corporate) any director or Controller is not of good fame and character and high business integrity, having regard to Rule 4.22.3 or, if ASX Clear considers they are not, the applicant must address that to the satisfaction of ASX Clear;
- (d) unless ASX Clear accepts alternative arrangements or undertakings, each Responsible Executive must have undertaken to ASX Clear to cause the Participant to comply with and be bound by the Rules, directions, decisions and requirements of ASX Clear. An undertaking to be given by a Responsible Executive under this clause relates only to that part of the Participant's business which is identified in accordance with the Rules as being under the Responsible Executive's supervision; and
- (e) each Responsible Executive must have also undertaken to ASX Clear to comply with and be bound by the Rules, directions, decisions and requirements of ASX Clear, to the extent necessary in connection with that part of the Participant's business which is identified in accordance with the Rules as being under the Responsible Executive's supervision.

Introduced 11/03/04 Origin OCH 2.3.3C, 2.3.4 Amended 18/12/06, 27/06/11, 02/08/13

## 3.6 TECHNICAL AND PERFORMANCE REQUIREMENTS

### 3.6.1 Applicant to have necessary organisational and technical resources

The technical and performance requirements of this Section are that the applicant must:

- (a) have the necessary organisational and technical resources to ensure that:
  - (i) Clearing Messages submitted by the Participant do not interfere with:
    - (A) the efficiency and integrity of the Clearing System; or
    - (B) the proper functioning of the Clearing System; and
  - (ii) the Participant has the capacity to:
    - (A) communicate reliably with the Clearing System; and
    - (B) correctly process Clearing Messages, including, without limitation, the timely reconciliation of Clearing Messages transmitted to the Participant in respect of Market Transactions with communications received by the Participant from each relevant Approved Market Operator, and, where applicable, Market Participant, in respect of those Market Transactions; and
- (b) comply with any additional requirements specified by ASX Clear in the Procedures.

Introduced 11/03/04 Origin OCH 2.3.3 Amended 27/06/11

## **3.7 BUSINESS CONNECTION REQUIREMENTS – [DELETED]**

### **3.7.1 Connections requiring ACH consent – [Deleted]**

Introduced 11/03/04 Origin OCH 2.3A.1 Deleted 01/08/10

### **3.7.2 Access to records – [Deleted]**

Introduced 11/03/04 Origin OCH 2.3A.3 Deleted 01/08/10

### **3.7.3 Undertakings – [Deleted]**

Introduced 11/03/04 Origin OCH 2.3A.4 Deleted 01/08/10

## **3.8 FOREIGN APPLICANTS**

### **3.8.1 Where an applicant is incorporated or resident outside Australia**

If an applicant is incorporated or resident outside Australia:

- (a) ASX Clear must be satisfied that the applicant (or a Related Body Corporate) currently conducts clearing operations which are regulated by a foreign clearing and settlement facility, a foreign financial market or a foreign regulatory authority acceptable to ASX Clear; or
- (b) ASX Clear must be satisfied that the applicant is:
  - (i) a clearing and settlement facility which holds an Australian CS Facility licence; or
  - (ii) operates overseas as a clearing and settlement facility in accordance with the legal requirements of that jurisdiction and ASX Clear considers the applicant to be adequately regulated in that jurisdiction; and
- (c) ASX Clear may require the applicant (or persons connected with the applicant) to give an additional undertaking or undertakings governed by Australian law in respect of any matter which ASX Clear considers reasonable or in the interest of the public or ASX Clear including, without limitation, undertakings as to:
  - (i) the amount of resources and number of personnel to be located in Australia;
  - (ii) access by ASX Clear to records required to be kept by the Participant under these Rules or the Corporations Act;
  - (iii) foreign taxes that might be payable;
  - (iv) whether the law of the applicant's incorporation would recognise protections which are substantially equivalent to those afforded by

Australian law to clients' money and property in a winding-up of the applicant; and

- (v) the ranking of creditors on a winding-up of the applicant; and
- (d) ASX Clear may require the applicant to provide a legal opinion, from independent lawyers acceptable to ASX Clear, and paid for by the applicant, which deals with matters required by ASX Clear and which is acceptable to ASX Clear.

Introduced 11/03/04 Origin OCH 2.3.7

## **3.9 REJECTION OF APPLICATION FOR ADMISSION AS PARTICIPANT**

### **3.9.1 Proposed rejection**

ASX Clear must not reject an application made under Rule 3.1 unless, before doing so, it:

- (a) gives notice to the applicant of the reasons why it proposes to reject the application;
- (b) affords the applicant a period of 10 Business Days after giving the notice (or a longer period as ASX Clear considers the applicant reasonably requires not exceeding 30 Business Days) in which to provide further information or otherwise take steps to address the reasons stated in the notice; and
- (c) after the end of the period referred to in paragraph (b), considers whether any further information provided or steps taken by the applicant address the reasons in the notice.

Introduced 11/03/04 Origin OCH 2.4.1

### **3.9.2 Notice of rejection**

If, after following the procedure in Rule 3.9.1, ASX Clear is not satisfied that the applicant has complied with this Rule 3 or that the applicant meets the Admission Requirements, ASX Clear will give notice to the applicant rejecting the application and giving reasons why the application is rejected.

Introduced 11/03/04 Origin OCH 2.4.2

### **3.9.3 Right to appeal to Appeal Tribunal**

An applicant may appeal to the Appeal Tribunal against a decision to reject its application in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.

Introduced 11/03/04 Amended 31/03/08, 01/08/10 Origin OCH 2.4.3

## 3.10 RESIGNATION OF PARTICIPATION

### 3.10.1 Participant to notify ASX Clear of intention to cease clearing a category of Market Transaction or Approved Market Operator

If a Participant wishes to cease clearing:

- (a) a category of Market Transaction; or
- (b) Market Transactions effected through a particular Approved Market Operator, in respect of which it has authority to clear, it must:
  - (c) give at least 20 Business Days written notice to ASX Clear of its intention and proposed date of cessation and deliver a copy of that notice to:
    - (i) (in the case of ceasing to clear a category of Market Transaction) each Approved Market Operator in respect of which the Participant is authorised to clear Market Transactions through ASX Clear; and
    - (ii) (in the case of ceasing to clear Market Transactions effected through a particular Approved Market Operator) the Approved Market Operator in respect of which the Participant intends to cease clearing Market Transactions;
  - (d) satisfy ASX Clear that it has taken or will have taken before the proposed date of cessation, proper steps for the orderly winding down of its business in respect of the relevant category of Market Transaction, or Market Transactions effected through the relevant Approved Market Operator, as applicable, with ASX Clear;
  - (e) not enter into, or have the Clearing Obligations for any Market Transaction in relation to the relevant category or effected through the relevant Approved Market Operator, as applicable, nor accept allocation of any Market Transaction in relation to the relevant category or effected through the relevant Approved Market Operator, as applicable, except with the consent of ASX Clear; and
  - (f) comply with any reasonable direction of ASX Clear in relation to the orderly winding down of its business in respect of the relevant category of Market Transaction, or Market Transactions effected through the relevant Approved Market Operator, as applicable, with ASX Clear.

Introduced 11/03/04 Origin OCH 2.5.1 Amended 27/06/11

### 3.10.2 Participant to notify ASX Clear of intended resignation as a Participant

If a Participant wishes to resign as a Participant, the Participant must:

- (a) give at least 20 Business Days' written notice to ASX Clear of its intention to resign and the proposed date of resignation and deliver a copy of that notice to each Approved Market Operator in respect of which the Participant is authorised to clear Market Transactions;



- (b) satisfy ASX Clear that it has taken or will have taken before the proposed date of resignation, proper steps for the orderly winding down of its business in respect of ASX Clear;
- (c) not enter into, or have the Clearing Obligations for any Market Transaction, nor accept allocation of any Market Transaction; and
- (d) comply with any reasonable direction of ASX Clear in relation to the orderly winding down of its business in respect of ASX Clear.

Introduced 11/03/04 Amended 27/06/11. XX/XX/XX

### **3.10.3 ASX Clear to accept notice**

A notice given by a Participant under Rule 3.10.1(c) or 3.10.2(a) is not effective until the notice is accepted by ASX Clear. ASX Clear may accept a Participant's notice when the Participant has:

- (a) complied with Rule 3.10.1 or Rule 3.10.2, as the case requires;
- (b) no Cash CCP Transactions or Derivatives CCP Contracts, as the case requires;
- (c) no Clearing Obligations in relation to relevant Market Transactions; and
- (d) satisfied all its obligations to ASX Clear including, without limitation, paid all outstanding fees and amounts owing by the Participant under these Rules.

ASX Clear will not unreasonably refuse to accept a notice given by a Participant under Rule 3.10.1(c) or 3.10.2(a).

Introduced 11/03/04 OCH 2.5.2 Amended 27/06/11. XX/XX/XX

### **3.10.4 Notice to Participants**

ASX Clear will notify Participants when it has accepted a Participant's notice under Rule 3.10.1(c) or 3.10.2(a).

Introduced 11/03/04 Origin OCH 2.5.3 Amended 27/06/11

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

Nothing in this Rule 3 (including without limitation Rules 3.10 and Rules 3.13) limits the Recovery Rules.

Note: The Recovery Rules will govern the resignation of a Participant in the circumstances set out in the Recovery Rules.

[Explanatory Note: this amendment clarifies that no power in the Recovery Rules is intended to be limited by this Rule 3]

## **3.11 INACTIVE PARTICIPANT**

### **3.11.1 ASX Clear may give notice**

Where ASX Clear considers a Participant has not cleared a category of Market Transaction for which it is authorised to clear under these Rules for a continuous period of 6 months, ASX Clear may notify the Participant that it intends to terminate the Participant's authority to clear that, all or any categories of Market Transaction.

Introduced 11/03/04 Origin OCH 2.5A.1

### **3.11.2 Participant may make submissions**

On receipt of a notice given under Rule 3.11.1, the Participant may make written submissions to ASX Clear explaining why, in its view, the Participant's authority to clear all or any category of Market Transaction should not be terminated. Any written submission must be received by ASX Clear within 10 Business Days following receipt of the notice from ASX Clear, unless ASX Clear grants an extension in writing.

Introduced 11/03/04 Origin OCH 2.5A.2

### **3.11.3 Termination of authority to clear if no submission received**

Where no submission is received by ASX Clear under Rule 3.11.2, ASX Clear may terminate the Participant's authority to clear all or any category of Market Transaction following the end of the 10 Business Day period, or any extension, referred to in that Rule.

Introduced 11/03/04 Origin OCH 2.5A.3

### **3.11.4 Termination of authority to clear if submission received**

Where a submission is received by ASX Clear under Rule 3.11.2, ASX Clear may terminate the Participant's authority to clear all or any category of Market Transaction if ASX Clear is not satisfied that the Participant will enter into, or clear, all or any category of Market Transaction under these Rules, within a further 20 Business Days following the receipt of the submission. If the Participant fails to enter into or clear a Market Transaction in that period, ASX Clear may terminate the Participant's authority to clear all or any category of Market Transaction following the end of that further period.

Introduced 11/03/04 Origin OCH 2.5A.4

## **3.12 SUSPENSION AND TERMINATION OF PARTICIPATION**

### **3.12.1 When ASX Clear may suspend or terminate a Participant's participation**

ASX Clear may also suspend or terminate a Participant's participation under Rules 15 and 19.

Introduced 11/03/04 Origin OCH 2.6

### 3.13 EFFECT OF RESIGNATION OR TERMINATION ON OBLIGATIONS

#### 3.13.1 Obligations of Participant prior to resignation and termination

A Participant is bound by the Rules until ASX Clear has accepted a notice by the Participant under Rule 3.10 or until the Participant's authority to clear all or any category of Market Transaction is terminated under Rules [3.11, 15 or 19 \(as the case may be\)](#).

The acceptance by ASX Clear of the Participant's notice or the termination by ASX Clear of the Participant's authority to clear does not affect any accrued rights which ASX Clear, a Related Body Corporate of ASX Clear, or other Participants have against the Participant or any accrued obligations which the Participant has to ASX Clear, a Related Body Corporate of ASX Clear or to other Participants.

Introduced 11/03/04 Origin OCH 2.7.1, [amended XX/XX/XX](#)

#### 3.13.2 Certain obligations to continue following resignation or termination of Participant

Without limiting Rule 3.13.1, following ASX Clear's acceptance of the Participant's notice or termination by ASX Clear of the Participant's authority to clear all or any category of Market Transaction under these Rules:

- (a) the Rules continue to apply and ASX Clear will continue to have jurisdiction in respect of the 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 Participant or by any other person for whose conduct the Participant was responsible;
- (b) the Participant continues to be bound by any indemnity given by the Participant under these Rules; and
- (c) other Rules continue to apply in respect of the Participant to the extent required to give effect to paragraphs (a) and (b).

Introduced 11/03/04 Origin OCH 2.7.2; [amended XX/XX/XX](#)

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

#### 3.13.3 Certain obligations to continue following resignation or termination of Regulated Person who is not a Participant

After a Regulated Person, other than a Participant, ceases to be a Regulated Person under these Rules:

- (a) the Rules continue to apply and ASX Clear will continue to have jurisdiction in respect of the Regulated Person concerning any conduct or any failure to comply with the Rules which occurred before the Regulated Person ceased to be a Regulated Person, whether that conduct or failure was by the Regulated Person or by any other person for whose conduct the Regulated Person was responsible;

- (b) the Regulated Person continues to be bound by any indemnity given by the Regulated Person under these Rules; and
- (c) other Rules continue to apply in respect of the Regulated Person to the extent required to give effect to paragraphs (a) and (b).

Introduced 11/03/04

End of Document

## SECTION 8 CLEARING FUND CONTRIBUTIONS, ~~EMERGENCY~~ ASSESSMENTS AND PRIORITY OF APPLICATION OF CLEARING ASSETS

<u>8.1</u>	<u>CONTRIBUTIONS</u> .....	17
8.1.1	<u>ASX Clear may seek Contribution</u> .....	17
8.1.2	<u>Calculation of Contribution Amount</u> .....	18
8.1.3	<u>Increase following Review</u> .....	18
8.1.4	<u>Form of Contribution</u> .....	18
8.1.5	<u>ASX Clear may direct a change in Contribution</u> .....	19
8.1.6	<u>Contributions – ASX Clear’s absolute legal and beneficial property</u> .....	19
8.1.7	<u>Interest</u> .....	19
8.1.8	<u>Consequences of not providing Contribution</u> .....	19
8.1.9	<u>Transitional arrangements for the introduction of margining of Cash CCP Transactions</u> .....	20
<u>8.2</u>	<u><del>EMERGENCY ASSESSMENTS</del>NOT USED</u> .....	20
<u>8.3</u>	<u>APPLICATION OF CLEARING ASSETS</u> .....	24
8.3.1	<u>Priority of Application and Assets</u> .....	24
8.3.2	<u>Application of Contributions</u> .....	25
8.3.3	<u>ASX Clear may borrow or make other financial arrangements</u> .....	25
8.3.4	<u>Application of assets in different order</u> .....	26
8.3.5	<u>Liability of defaulting Participant</u> .....	26
8.3.6	<u>Recovery by ASX Clear against Clearing Loss Participant or Unpaid Amount Participant</u> .....	26
8.3.7	<u>Recovery by non-defaulting Participant against defaulting Participant</u> .....	27
8.3.8	<u>Top up of Contributions</u> .....	27
<u>8.4</u>	<u>RETURN OF CONTRIBUTIONS AND EMERGENCY ASSESSMENTS</u> .....	27
8.4.1	<u>Proceeds of recovery action against Clearing Loss Participant</u> .....	27
8.4.2	<u>Proceeds of recovery action against Unpaid Amount Participant</u> .....	28
8.4.3	<u>No obligation to account in certain circumstances</u> .....	29
8.4.4	<u>Retention of amounts recovered in some cases</u> .....	29
8.4.5	<u>Release of Contribution</u> .....	29
8.4.6	<u>Effect of Event of Default by Participant</u> .....	30
8.4.7	<u>Contributions remaining following a default</u> .....	30
8.4.8	<u>Effect of Event of Default by Participant</u> .....	30
8.4.9	<u>Emergency Assessment remaining following a Clearing Loss</u> .....	31
<u>8.5</u>	<u>ADDITIONAL FUND</u> .....	31
8.5.1	<u>ASX Clear may establish separate fund</u> .....	31

## SECTION 8 CLEARING FUND CONTRIBUTIONS, ~~EMERGENCY ASSESSMENTS~~ AND PRIORITY OF APPLICATION OF CLEARING ASSETS

This Section enables ASX Clear to seek Contributions from Participants ~~and impose Emergency Assessments on Participants~~.

Any Contribution ~~or Emergency Assessment~~ received by ASX Clear is to be held by ASX Clear as its absolute legal and beneficial property. ASX Clear is obliged to pay interest to Participants in accordance with the Procedures in respect of Contributions ~~but is not obliged to pay interest in respect of Emergency Assessments~~.

This Sections also sets out:

- (a) the form in which a Contribution ~~or Emergency Assessment~~ is to be made;
- (b) how the amount of the Contribution ~~or Emergency Assessment~~ is to be calculated and reviewed;
- (c) the consequences if a Participant does not provide a Contribution ~~or Emergency Assessment~~;
- ~~(d) the circumstances in which ASX Clear may return a Contribution or Emergency Assessment to a Participant;~~
- ~~(e)~~ the circumstances in which a Participant's Contribution ~~or Emergency Assessment~~ may be used; and
- ~~(f)~~ the priority in which various assets may be used if the Participant defaults.

*Note: the previous Section 8 introduced on 11 March 2004 entitled "Clearing Fund Contributions and Priority of Application of Clearing Assets" has been deleted and replaced with this Section 8. Origin references to former ACH Rules are references to the Section 8 Rules in force prior to 31 March 2005.*

### 8.1 CONTRIBUTIONS

#### 8.1.1 ASX Clear may seek Contribution

In relation to all or any category of Market Transaction ASX Clear may determine that all Participants with authority to clear that category or all categories must make a Contribution to the financial support of ASX Clear in accordance with this Section 8. The Contribution will be able to be readily, unequivocally and irrevocably applied to support and discharge the financial obligations of ASX Clear under Derivatives CCP Contracts or Cash CCP Transactions, in the case of an event of default, in accordance with Rule 8.3.

*[Explanatory Note: The Contribution of a Participant must be in such form as to be able to discharge the financial obligations of ASC Clear in the case of an event of default.]*

ASX Clear must give such prior notice to Participants affected by any Contribution determination as is reasonable in the circumstances, and the notice must specify the time within which each affected Participant must provide the Contribution.

Introduced 31/03/05 Origin OCH S3.2.1 and former ACH 8.1.1, amended XX/XX/XX

### 8.1.2 Calculation of Contribution ~~Amount~~ **Amount**

ASX Clear may specify in the Procedures the amount of Contribution required from Participants clearing a category of Market Transaction by reference to:

- (a) a fixed amount per Participant or per Market Transaction; or
- (b) an amount calculated using a specified formula, such that the amount is referable to the volume, value, margin requirements or risk measurement of Market Transactions cleared by each Participant in a specified preceding period; or
- (c) any combination of these matters referred to in paragraphs (a) and (b).

ASX Clear may specify in the Procedures arrangements for the regular review and recalculation of Contributions.

Introduced 31/03/05 Origin OCH S3.3.1, S3.3.2 and former ACH 8.3.1

### 8.1.3 Increase following Review

Following a review and recalculation ~~under Rule 8.1.2 by ASX Clear of Contributions required from Participants in accordance with the Procedures~~, ASX Clear may give notice of an increase in Contribution and the time within which the Participant must make a further Contribution.

Introduced 31/03/05 Origin OCH S3.3.7 and former ACH 8.3.2; amended XX/XX/XX

*[Explanatory Note: the procedures for determining an increase in the Contribution of a Participant will be set out in the Procedures]*

### 8.1.4 Form ~~and value~~ **and value** of Contribution

A Contribution must be in a form acceptable to ASX Clear ~~in its absolute discretion. ASX Clear may prescribe limits on the securities or collateral which may be provided.~~

*ASX Clear may in its absolute discretion determine the value of any Contribution provided otherwise than in cash or irrevocable commitment to provide cash for the purpose of determining whether a Participant has provided a Contribution of an amount which satisfies the provisions of the Rules.*

Introduced 31/03/05 Origin OCH S3.2.2, S3.2.3 and former ACH 8.2.1 and 8.2.2; amended XX/XX/XX

*[Explanatory Note: these amendments clarify that the value and form of Contribution will be determined by ASX Clear]*

### 8.1.5 ASX Clear may direct a change in Contribution

ASX Clear may direct a Participant who has provided a non-cash Contribution to change the form of the Contribution and the Participant must effect the alteration by such time as ASX Clear requires. If the Participant does not comply with the direction, then ASX Clear may convert into cash some or all of any non-cash Contribution and hold the cash as the Participant's Contribution. If, for any reason, ASX Clear is unable or unwilling to do so, the Participant is to be deemed not to have provided a Contribution as required.

Introduced 31/03/05 Origin OCH S3.2.4 and former ACH 8.2.3; amended XX/XX/XX

[Explanatory Note: ASX Clear may require that the Participant provide substitute or alternate non-cash collateral in order to satisfy the Participant's obligations to provide sufficient Contribution in a form meeting ASX Clear's requirements]

### 8.1.6 Contributions – ASX Clear's absolute legal and beneficial property

Any Contribution received by ASX Clear is ASX Clear's absolute legal and beneficial property.

Introduced 31/03/05 Origin OCH S3.2.5 and former ACH 8.2.4

### 8.1.7 Interest and accommodation fee

~~Subject to ASX Clear's right to charge an administration fee in accordance with the Procedures, ASX Clear must pay interest to a Participant in accordance with the Procedures in respect of any Contribution provided in the form of cash. ASX Clear may in its absolute discretion pay each Participant an accommodation fee in respect of its Contribution in recognition of and to compensate for the assumption of risk by the Participant. Such fee shall be as determined from time to time by the board of ASX Clear with due regard for the risk, exposure and amount of the Contribution of a Participant and may be, set on different bases for different categories of Participants.~~

ASX Clear will pay a Participant interest on a Contribution provided in cash at the rate determined by ASX Clear from time to time, provided that ASX Clear may withhold any interest where in the opinion of the board withholding such interest is necessary to ensure that the Participant is in compliance with Rule 8.1.1 and in such case such interest may be used by the board as part of the Participant's Contribution.

Introduced 31/03/05 Origin OCH S3.2.6 and former ACH 8.2.5; amended XX/XX/XX

[Explanatory Note: Provisions have been aligned with those in ASX Clear (Futures)]

### 8.1.8 Consequences of not providing Contribution

~~If a participant does not provide a Contribution, or increase in Contribution, in the time and manner required under this Section 8, ASX Clear may immediately or with such notice to a Participant as ASX Clear in its absolute discretion decides, suspend the Participant's authority to clear the category of Market Transaction to which the Contribution relates or impose such other conditions or restrictions on the Participant's participation as ASX Clear sees fit until the Contribution is provided.~~



Failure to provide a Contribution is ~~not~~ a contravention of the Rules and ~~does not of itself~~ constitutes an event of default under the Rules.

~~Note: — The effect of Rule 8.1.8 is that ASX Clear may terminate a Participant's authority to clear all or any category of Market Transaction until the Participant makes a Contribution. ASX Clear could, depending on the circumstances, terminate this authority immediately. In appropriate circumstances, ASX Clear will give reasonable notice before doing so but this will depend on the circumstances prevailing at the time. ASX Clear has absolute discretion on the exercise of these powers including in an exceptional case not giving any notice to a Participant prior to terminating its authority to clear one or more categories of Market Transaction.~~

~~Amended XX/XX/XX~~

~~Introduced 31/03/05 - Origin former ACH 8.1.2~~

~~[Explanatory Note: this amendment provides that a failure to provide a Contribution is an event of default under the Rules.]~~

### **8.1.9 Transitional arrangements for the introduction of margining of Cash CCP Transactions**

Any Contribution held by ASX Clear under the Contributions Determination dated 8 March 2007 on the Implementation Date will be taken for all purposes under these Rules, on and from that date, to have been provided by the Participant instead as additional Cover called by ASX Clear under Rule 14.6.1.

For the purpose of this Rule 8.1.9, the Implementation Date means the date for commencement of margining of Cash CCP Transactions as determined by ASX Clear and notified to Participants as the Implementation Date.

Introduced 07/06/13

### **8.1.10 Nature of Contribution**

A Contribution is a debt due and payable to ASX Clear.

A Participant that fails to pay ASX Clear a Contribution when due for payment must pay interest to ASX Clear on the unpaid amount. Interest is to be calculated according to the formula set out in the Procedures.

~~Introduced XX/XX/XX~~

~~[Explanatory Note: this amendment sets out the nature of the Contribution payable to ASX Clear and provides that interest will accrue on any amount of Contribution owing but unpaid to ASX Clear by a Participant.]~~

## **8.2 NOT USED EMERGENCY ASSESSMENTS**

~~Removed XX/XX/XX~~

[Explanatory Note: the Emergency Assessment provisions have been deleted. Instead the ASX has Recovery Powers set out in the Recovery Rules which may be exercised in certain circumstances]

#### **8.2.1 — ASX Clear may impose Primary Emergency Assessment**

~~If there is a Clearing Loss, ASX Clear may determine that each Participant (other than the Clearing Loss Participant) must pay the Primary Emergency Assessment applicable to the Clearing Loss.~~

~~Introduced 31/03/05~~

#### **8.2.2 — ASX Clear may impose Additional Emergency Assessment**

~~If there is an Unpaid Amount applicable to a Clearing Loss, ASX Clear may determine that each Participant (other than the Excluded Participants) must pay an Additional Emergency Assessment applicable to the Unpaid Amount.~~

~~Introduced 31/03/05~~

#### **8.2.3 — Cap on individual Participant's liability**

~~Despite anything in Rules 8.2.1 or 8.2.2, no Participant is obliged to pay a total of Emergency Assessments in connection with a Clearing Loss exceeding 10% of twice the Risk Resource Requirement at the time the Clearing Loss arises.~~

~~Introduced 31/03/05~~

#### **8.2.4 — Notice and time for payment**

~~ASX Clear must give such prior notice to Participants affected by any determination requiring the payment of any Emergency Assessment as is reasonable in the circumstances. The notice must specify the time within which each affected Participant must pay the Emergency Assessment. Subject to Rule 8.3, ASX Clear may demand the payment of an Emergency Assessment irrespective of the other assets that are or may be available to enable ASX Clear to meet a Clearing Loss.~~

~~Introduced 31/03/05~~

#### **8.2.5 — Nature of Emergency Assessment obligation**

~~An Emergency Assessment is a debt due and payable to ASX Clear.~~

~~A Participant that fails to pay ASX Clear an Emergency Assessment when due for payment must pay interest to ASX Clear on the unpaid amount. Interest is to be calculated according to the formula set out in the Procedures.~~

~~Introduced 31/03/05~~

## **8.2.6 — Nature of Additional Emergency Assessment obligation**

~~To the extent that an Additional Emergency Assessment is paid by a Participant it constitutes a debt due and payable to that Participant by:~~

- ~~(a) — the Participant whose Unpaid Amount gives rise to the Additional Emergency Assessment (unless the Unpaid Amount arises because of the operation of Rule 8.2.3); and~~
- ~~(b) — if the Additional Emergency Assessment is part of a Chain, each Participant whose failure to pay any part of an Emergency Assessment higher up in the Chain (other than because of the operation of Rule 8.2.3) gives rise to another Emergency Assessment in the Chain.~~

~~Interest is payable to a Participant owed a debt under this Rule 8.2.6 by the Participant or Participants obliged to pay the debt. Interest is to be calculated according to the formula set out in the Procedures.~~

~~If two or more Participants are liable to another Participant in connection with the same Additional Emergency Assessment, they are liable jointly and severally. Any amount paid by one Participant in a Chain to satisfy the debt owing under this Rule constitutes a debt due and payable to that Participant higher up in the Chain. Any amount paid by one Participant in a Chain to satisfy the debt owing under this Rule does not give rise to any rights of that Participant against any Participant lower in the Chain. Participants are ranked in a Chain by reference to where the Emergency Assessment they fail to pay in full ranks in the sequence of Emergency Assessments in the Chain (with the highest ranking being the Participant whose failure to pay creates the first Emergency Assessment in the Chain).~~

~~The payment of an Additional Emergency Assessment does not extinguish any debt owing to ASX Clear by any Participant higher up in the Chain.~~

~~Introduced 31/03/05~~

## **8.2.7 — Form of Emergency Assessment**

~~An Emergency Assessment must be paid in Cash, in immediately available funds.~~

~~Introduced 31/03/05~~

## **8.2.8 — Emergency Assessment — ASX Clear's absolute legal and beneficial property**

~~Any Emergency Assessment received by ASX Clear is ASX Clear's absolute legal and beneficial property.~~

~~Introduced 31/03/05~~

## **8.2.9 — Interest**

~~ASX Clear is not required to pay interest to a Participant in respect of any Emergency Assessment.~~

~~Introduced 31/03/05~~

### **8.2.10 — Consequences of not paying Emergency Assessment**

If a Participant does not pay an Emergency Assessment in the time and manner required under this Section 8, ASX Clear may immediately, or with such notice to a Participant as ASX Clear in its absolute discretion decides, suspend the Participant's authority to clear all or any category of Market Transaction and enforce its rights in connection with the Emergency Assessment or impose such other conditions or restrictions on the Participant's participation as ASX Clear sees fit until the Emergency Assessment is paid.

Failure to pay an Emergency Assessment is a contravention of the Rules and constitutes an event of default under the Rules.

*Note — The effect of Rule 8.2.10 is that ASX Clear may terminate a Participant's authority to clear all or any category of Market Transaction until such time as a Participant pays an Emergency Assessment. ASX Clear could, depending on the circumstances, terminate this authority immediately. In appropriate circumstances, ASX Clear will give reasonable notice before doing so but this will depend on the circumstances prevailing at the time. In particular, the urgency with which an Emergency Assessment is likely to be required means that ASX Clear is unlikely to be able to give as much notice before terminating a Participant's authority in that situation as in the case where a Participant fails to make a Contribution. ASX Clear has absolute discretion on the exercise of these powers including in an exceptional case not giving any notice to a Participant prior to terminating its authority to clear one or more categories of Market Transaction.*

Introduced 31/03/05

### **8.2.11 — Interim Emergency Assessments**

Pending the final certification by ASX Clear of a Clearing Loss, ASX Clear may make one or more interim determinations under this Rule 8.2 in connection with a Participant's event of default referred to in Rule 15 based on estimates of what it expects will be the Clearing Loss. All the provisions of this Section 8 apply to such an interim determination as if the interim determination is based on the Clearing Loss. However, once the final Clearing Loss is certified, ASX Clear must make the adjustments necessary (including issuing final Emergency Assessment notices) to ensure that the amount of the final Emergency Assessments (including Additional Emergency Assessments) imposed on each Participant is equal to the amount that would have been imposed had the amount finally certified to be the Clearing Loss been known at the time the interim determinations were made. (The issuance of final Emergency Assessment notices does not affect any obligation to pay interest under Rule 8.2.5 or 8.2.6 up to that time or any debt obligation that arises under Rule 8.2.6 because a Participant pays an interim Additional Emergency Assessment.)

Introduced 31/03/05

## 8.3 APPLICATION OF CLEARING ASSETS

### 8.3.1 Priority of Application and Assets

If there is a Clearing Loss, ASX Clear must apply the following assets in the following order (starting from the assets in paragraph (a)) to enable ASX Clear to meet the Clearing Loss:

- (a) any Cover, and any cash or bank guarantee provided by the Clearing Loss Participant under Rule S1.2.11, available to ASX Clear to discharge the obligations of the Clearing Loss Participant;
- (b) any asset of the Clearing Loss Participant which ASX Clear has a right under the Rules to apply to discharge the Clearing Loss Participant's obligations, which includes without limitation any amounts of variation margin or other amounts which would otherwise be payable to the Clearing Loss Participant;
- (c) any Contributions of the Clearing Loss Participant;
- (d) any NGF Amount remaining;
- (e) ASX Clear's assets held in liquid form existing immediately before the Clearing Loss calculation starts, up to the amount ~~being the lesser of:~~
  - ~~(i) the amount~~ prescribed in the Procedures; ~~and~~
  - ~~(ii) the difference between the NGF Amount remaining and the Risk Resource Requirement (each as at that time);~~
- (f) the proceeds of any insurance policies held by ASX Clear or other financial backing available to ASX Clear (as designated for the purposes of this paragraph and set out in the Procedures) for the purpose of meeting its Clearing Obligations;
- (g) any Contributions of other Participants;
- (h) Emergency Recovery Assessments received from one or more Participants; and
- (i) ASX Clear's other assets which have been expressly prescribed in the Procedures for the purposes of this paragraph as being available for application up to the amount specified in the Procedures (but excluding any other assets of ASX Clear which have not been so prescribed).

*[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.]*

A Contribution cannot be applied by ASX Clear to discharge, or to compensate ASX Clear for discharging, a Clearing Obligation incurred before ASX Clear makes its determination under Rule 8.1.1 to require the Contribution.

An Emergency Assessment paid in connection with a Clearing Loss cannot be applied by ASX Clear to discharge, or to compensate ASX Clear for discharging, Clearing Obligations other than those referable to the Clearing Loss. ASX Clear may apply the assets referred to in this Rule in or towards the satisfaction of the Clearing Loss irrespective of whether it has finally determined the amount of a Clearing Loss in respect of a Clearing Loss Participant or Clearing Loss Participants.

The application of any of the assets referred to in this Rule with respect to a Clearing Loss or Clearing Losses does not preclude the use of any remaining assets in any subsequent Clearing Loss or Clearing Losses.

Introduced 31/03/05 Origin OCH S3.5.2 and former ACH 8.5.4 Amended 28/11/08, 01/01/10, XX/XX/XX

[Explanatory Note: this amendment clarifies that ASX Clear may apply the assets set out in Rule 8.1.1 to meet obligations prior to its final determination of the Clearing Loss of the Clearing Loss Participant(s)]

### **8.3.1A Application of clearing assets for multiple Clearing Loss Participants**

ASX Clear may choose to treat the Clearing Losses which arise in respect of multiple Clearing Loss Participants during a Default Period as one combined Clearing Loss and apply the assets referred to in Rule 8.3.1 to that Clearing Loss if ASX Clear considers it would be appropriate to do so. If ASX Clear does not choose to treat the Clearing Losses which arise in respect of multiple Clearing Loss Participants during a Default Period as one combined Clearing Loss, ASX Clear will apply the assets referred to in Rule 8.3.1 separately and consecutively in respect of each Clearing Loss Participant.

Introduced XX/XX/XX

[Explanatory Note: If more than one default occurs during a Default Period, ASX Clear 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 Clearing Loss in aggregate.]

### **8.3.2 Application of Contributions**

Where some but not all of the aggregate amount available to ASX Clear under Rule 8.3.1(g) is required to enable ASX Clear to meet a Clearing Loss, ASX Clear must apply the Contributions of the Participants referred to in that paragraph pro rata to the total of their Contributions existing at the time the Default Period commences the Clearing Loss calculation starts.

Introduced 31/03/05 Origin OCH S3.5.5 and former ACH 8.5.6

[Explanatory Note: amendment is to take into account a change in terminology introduced through the Recovery Rules.]

### **8.3.3 ASX Clear may borrow or make other financial arrangements**

To enable ASX Clear to discharge its obligations in a timely manner, ASX Clear may borrow or make other financial arrangements which it considers appropriate and apply the proceeds of any Contribution, insurance policies referred to in Rule 8.3.1(f) and

~~Emergency Recovery~~ Assessments to repay those borrowings or to otherwise discharge its obligations under those financial arrangements (including interest obligations).

Introduced 31/03/05 Origin OCH S3.5.5 and former ACH 8.5.6: ~~amended XX/XX/XX~~

~~[Explanatory Note: amendment is to take into account a change in terminology introduced through the Recovery Rules.]~~

### 8.3.4 Application of assets in different order

Despite Rule 8.3.1, ASX Clear may apply the assets referred to in Rule 8.3.1 in any order it considers appropriate to enable ASX Clear to meet its Clearing Obligations in a timely manner. If ASX Clear acts in this way, ASX Clear subsequently must make the adjustments it considers necessary to restore ASX Clear and the Participants to the position they would have been in had the assets been applied in the order set out in Rule 8.3.1.

Introduced 31/03/05 Origin OCH S3.5.6 and former ACH 8.5.7

### 8.3.5 Liability of defaulting Participant

Action by ASX Clear under this Rule 8.3 does not release a Clearing Loss Participant ~~, or an Unpaid Amount Participant,~~ from any liability which they have to ASX Clear or another Participant.

Introduced 31/03/05: ~~amended XX/XX/XX~~

~~[Explanatory Note: amendment is to take into account a change in terminology introduced through the Recovery Rules.]~~

### 8.3.6 Recovery by ASX Clear against Clearing Loss Participant ~~or Unpaid Amount Participant~~

ASX Clear may seek to recover from a Clearing Loss Participant ~~or an Unpaid Amount Participant~~ all amounts owing by them to ASX Clear. However, ASX Clear must seek recovery if one or more of the other Participants, ~~whose Contributions or Emergency Assessments have been applied under Rule 8.3 or entities which have resigned from being Participants, who are Contributors under the Recovery Rules (excluding any Clearing Loss Participants):~~

- (a) indemnifies ASX Clear (on terms acceptable to ASX Clear) against all costs, expenses, liabilities and obligations which ASX Clear may incur by seeking recovery; and
- (b) provides security for the costs of ASX Clear in the form and amount required by ASX Clear, unless ASX Clear believes that to seek recovery would be contrary to the best interests of ASX Clear or the Participants (other than the Participant against which recovery action is proposed), or otherwise not appropriate having regard to Rule 1.15.

Introduced 31/03/05 Origin OCH S3.5.8 and former 8.5.9: ~~amended XX/XX/XX~~

[Explanatory Note: this amendment clarifies that ASX Clear must seek recovery against a Clearing Loss Participant where a Participant who is also a Contributor under the Recovery Rules provides ASX Clear with an indemnity or security for costs]

### 8.3.7 ~~Not used~~ Recovery by non-defaulting Participant against defaulting Participant

~~A Participant owed money by an Unpaid Amount Participant under Rule 8.2.6 in connection with a Clearing Loss may not take any action to recover that debt (other than proving in the winding up of the Unpaid Amount Participant) until ASX Clear certifies to them that ASX Clear has been paid Emergency Assessments which total the maximum amount that ASX Clear is entitled to receive in connection with the Clearing Loss.~~

~~Introduced 31/03/05~~

[Explanatory Note: this provision is no longer relevant as Emergency Assessments have been removed from the Rules.]

### 8.3.8 ~~Top up of Contributions~~ Not used

~~If any Contribution of a Participant is applied in whole or in part under this Rule 8.3, ASX Clear may give notice requiring a further Contribution and specifying the time within which the Participant must make the further Contribution.~~

~~Introduced 31/03/05 – Origin OCH S3.5.11 and former ACH 8.5.12~~

[Explanatory Note: the ability for ASX Clear to call for further Contribution from Participants is now contained in the Recovery Rules]

## 8.4 ~~RETURN OF CONTRIBUTIONS AND EMERGENCY ASSESSMENTS~~

~~Removed XX/XX/XX~~

### 8.4.1 ~~Not used~~ Proceeds of recovery action against Clearing Loss Participant

~~Unless Rules 8.4.4 applies, and subject to Rule 8.4.3:~~

~~(a) — if ASX Clear applies Contributions under Rule 8.3.1(g) and ASX Clear then recovers an amount of money from the Clearing Loss Participant, ASX Clear must account to those Participants whose Contributions were applied for the lesser of the amount recovered and the total amount of those Contributions, less any costs and expenses incurred by ASX Clear in connection with the recovery. ASX Clear must account to Participants under this paragraph in the same proportions that ASX Clear applied the Contributions of those Participants; and~~

~~(b) — if ASX Clear applies Emergency Assessments under Rule 8.3.1(h) and ASX Clear then recovers an amount of money from the Clearing Loss Participant, ASX Clear must account to those Participants whose Emergency Assessments were applied for the lesser of the amount recovered and the total amount of those Emergency Assessments, less any costs and expenses incurred by ASX Clear in connection with the recovery. ASX Clear must account to a Participant under~~



~~this paragraph in the same proportions that its Emergency Assessments applied by ASX Clear under Rule 8.3.1(h) bear to the total Emergency Assessments applied by ASX Clear under Rule 8.3.1(h).~~

~~Introduced 31/03/05 - Origin OCH S3.5.9 and former ACH 8.5.10 Removed XX/XX/XX~~

~~[Explanatory Note: this provision is no longer relevant as Emergency Assessments have been removed from the Rules.]~~

#### ~~8.4.2 **Not used Proceeds of recovery action against Unpaid Amount Participant**~~

~~Unless Rule 8.4.4 applies, and subject to Rule 8.4.3:~~

- ~~(a) — if a Participant pays one or more Additional Emergency Assessments in connection with a Clearing Loss (“Paying Participant”); and~~
- ~~(b) — ASX Clear later recovers money from an Unpaid Amount Participant who owes money to the Paying Participant in connection with the Clearing Loss under Rule 8.2.6,~~

~~then ASX Clear must account to the Paying Participant for the lesser of the amount recovered and the amount owing to the Paying Participant by that Unpaid Amount Participant, less any costs and expenses incurred by ASX Clear in connection with the recovery.~~

~~The Paying Participant may apply money paid to it by ASX Clear under this Rule towards satisfying any part of the debts owed to it by the Unpaid Amount Participant as it sees fit.~~

~~The Paying Participant may place in a suspense account any payment it receives from ASX Clear under this Rule for as long as it thinks prudent and need not apply it towards satisfying the debts owed to it by the Unpaid Amount Participant.~~

~~If the Paying Participant recovers money owed to it by the Unpaid Amount Participant under Rule 8.2.6 in connection with the Clearing Loss which, when added to the amount received from ASX Clear under this Rule, exceeds the amount owed to it by the Unpaid Amount Participant in connection with the Clearing Loss, the Paying Participant must pay to the Unpaid Amount Participant an amount equal to the excess.~~

~~If ASX Clear is required to account to more than one Paying Participant under this Rule in connection with the same Unpaid Amount Participant, it must account to each Paying Participant in the same proportion that the amount owed to it by the Unpaid Amount Participant under Rule 8.2.6 in connection with the Clearing Loss bears to the total of those amounts for all those Paying Participants.~~

~~Introduced 31/03/05~~

~~[Explanatory Note: this provision is no longer relevant as Emergency Assessments have been removed from the Rules.]~~

#### 8.4.3 ~~Not used~~No obligation to account in certain circumstances

~~ASX Clear is not required to account to Participants under Rules 8.4.1 or 8.4.2 if the amount is liable to be set aside under any law relating to insolvency or bankruptcy.~~

~~Introduced 31/03/05 Removed XX/XX/XX~~

~~[Explanatory Note: this provision is no longer relevant as Emergency Assessments have been removed from the Rules.]~~

#### 8.4.4 ~~Retention of amounts recovered in some cases~~Not used

~~ASX Clear is not required to account to a Participant for any amount recovered under Rule 8.4.1 to the extent that the amount recovered is necessary to:~~

~~(a) meet any Emergency Assessment required of the Participant; or~~

~~(b) discharge any other overdue debt obligation of the Participant to ASX Clear at that time.~~

~~Removed XX/XX/XX~~

~~[Explanatory Note: this provision is no longer relevant as Emergency Assessments have been removed from the Rules.]~~

~~Introduced 31/03/05 - Origin OCH S3.5.10 and former ACH 8.5.11~~

#### 8.4.5 **Release of Contribution**

Subject to Rule 8.4.6, and to the extent that it has not been applied to meet any Clearing Loss under Rule 8.3.1 or retained in accordance with the Recovery Rules, ASX Clear must return a Contribution made by a Participant in relation to a category of Market Transaction if:

- (a) the Participant's authority to clear the category of Market Transaction is terminated and the Participant has no Cash CCP Transactions or Derivatives CCP Contracts in relation to that category; or
- (b) as a result of a review and recalculation under Rule 8.1.2, ASX Clear determines that a Participant's Contribution for a category of Market Transaction has reduced and ASX Clear is satisfied that, immediately following the release, ASX Clear would continue to hold the total amount of Contribution required from that Participant under these Rules.

Unless otherwise retained in accordance with the Recovery Rules, t~~The~~ Contribution is to be returned to the Participant after the review and recalculation of Contributions which next follows the resignation of the Participant or the termination of the Participant's authority to clear the category of Market Transaction in relation to which the Contribution was made becoming effective.

If the Participant has any overdue debt obligations to ASX Clear at that time, ASX Clear may set off against the overdue debt obligations the amount that would otherwise be returned.

A Participant's Contribution shall remain available for application by ASX Clear in accordance with Rule 8.3 in respect of an event of default by any Participant that occurs prior to the Participant's resignation or termination becoming effective in accordance with the Rules. ASX Clear must not apply the Participant's Contribution in accordance with Rule 8.3 in respect of an event of default by another Participant that occurs after the Participant's resignation or termination becomes effective.

Introduced 31/03/05 Origin OCH S3.3.8, S3.4.4 and former ACH 8.3.3 and 8.4.1; amended XX/XX/XX

Note: The Recovery Rules affect the circumstances in which ASX Clear will be required to release any Contribution made by a Participant.

[Explanatory Note: A Participant's Contribution may be retained in certain circumstances as set out in the Recovery Rules. Additionally, a Participant's Contribution will remain available for application by ASX Clear in respect of any event of default by any Participant which occurs prior to the termination or resignation of the Participant providing the Contribution.]

#### **8.4.6 Effect of ~~Event event~~ of ~~Default default~~ by Participant**

Where ASX Clear is entitled to take any action against a Participant under Rule 15 or where any such action is under way (irrespective of whether the action is being taken in respect of the Participant who has requested a reduction or return of Contribution), ASX Clear may determine that any reduction or return of Contribution to ~~the any~~ Participant is not to take place until [the later of:

(a) \_\_\_\_\_ any action taken under Rule 15 is resolved; or

(b) \_\_\_\_\_ any Clearing Loss being fully satisfied.]

Introduced 31/03/05 Origin OCH S3.3.9 and former ACH 8.4.2; amended XX/XX/XX

Note: The Recovery Rules may affect the operation of this Rule 8.4.6.

[Explanatory Note: a reduction or return of Contribution will not take place until any Clearing Loss has been fully satisfied.]

#### **8.4.7 Contributions remaining following a default**

The application of any Contributions under Rule 8.3 in relation to one Clearing Loss does not preclude ASX Clear from applying any remaining amount of a Contribution in relation to another Clearing Loss.

Introduced 31/03/05 Origin OCH S3.5.7 and former ACH 8.5.8

#### **8.4.8 ~~Effect of Event of Default by Participant~~ Lodgment of replacement Contribution**

ASX Clear must return a Participant's Contribution if the Participant lodges a replacement Contribution with ASX Clear of a type and in a manner acceptable to ASX Clear.

#### **8.4.9 ~~Not used~~Emergency Assessment remaining following a Clearing Loss**

~~If not all of the Emergency Assessments paid to ASX Clear in respect of a particular Clearing Loss are required (following any adjustments required under Rule 8.2.11 and after the application of assets in accordance with Rule 8.3.1) to enable ASX Clear to meet the Clearing Loss, ASX Clear must pay to each Participant an amount equal to the unused part of the Emergency Assessments paid to ASX Clear by that Participant in connection with that Clearing Loss.~~

~~If the Participant has any overdue debt obligations to ASX Clear at that time, ASX Clear may set off against the overdue debt obligations the amount that would otherwise be returned. An amount that would otherwise be returned can include, without limitation, a recovered amount referred to in Rule 8.4.2.~~

~~Removed XX/XX/XX~~

~~Introduced 31/03/05~~

~~[Explanatory Note: this provision is no longer relevant as Emergency Assessments have been removed from the Rules.]~~

## **8.5 ADDITIONAL FUND**

### **8.5.1 ASX Clear may establish separate fund**

ASX Clear may, where it considers it appropriate, also establish a separate fund for a particular category or categories of Market Transactions to which all of Section 8 will apply

Introduced 31/03/05 Origin former ACH 8.6.1

## **8.6 RECOVERY RULES**

### **8.6.1 No effect on Recovery Rules**

Nothing in this Rule 8 limits the Recovery Rules.

Note: The Recovery Rules may affect the operation of this Rule 8.

[Explanatory Note: this amendment clarifies that no power in the Recovery Rules is intended to be limited by this Rule 8]

End of Document

## SECTION 12 REGISTRATION, NOVATION, NETTING AND SETTLEMENT

<u>12.1</u>	<u>REGISTRATION AND NOTIFICATION OF MARKET TRANSACTIONS</u> .....	37
<u>12.1.1</u>	<u>Market Transactions to be registered</u> .....	37
<u>12.1.1A</u>	<u>Registration of OTC Options Market Transactions</u> .....	38
<u>12.1.2</u>	<u>Market Transactions notified but not registered</u> .....	38
<u>12.1.3</u>	<u>Participants liable to settle Cash Market Transactions notified but not registered</u> .....	38
<u>12.1.4</u>	<u>Reliance on particulars of Market Transactions</u> .....	38
<u>12.1.4A</u>	<u>Reliance on particulars of OTC Options Market Transactions</u> .....	39
<u>12.1.5</u>	<u>Timing of registration</u> .....	39
<u>12.2</u>	<u>NOVATION</u> .....	40
<u>12.2.1</u>	<u>ASX Clear to novate Cash Market Transactions and Derivatives Market Contracts</u> .....	40
<u>12.2.2</u>	<u>Effect of novation</u> .....	40
<u>12.2.2A</u>	<u>Cash CCP Transactions that are transactions under Offsetting Transaction Arrangement</u> .....	41
<u>12.2.3</u>	<u>Obligations and rights</u> .....	42
<u>12.2.4</u>	<u>ASX Clear need not take account of other interests</u> .....	42
<u>12.2.5</u>	<u>Transactions affected by fraud etc.</u> .....	42
<u>12.2.6</u>	<u>No dealing with rights</u> .....	43
<u>12.3</u>	<u>NETTING AND SETTLEMENT OF CASH MARKET TRANSACTIONS</u> .....	43
<u>12.3.1</u>	<u>Application of Rules</u> .....	43
<u>12.4</u>	<u>DISCHARGE OF CASH MARKET TRANSACTIONS</u> .....	43
<u>12.4.1</u>	<u>When obligations discharged</u> .....	43
<u>12.5</u>	<u>NON-NOVATED TERMS</u> .....	44
<u>12.5.1</u>	<u>Other terms and conditions not novated</u> .....	44
<u>12.6</u>	<u>CALCULATION OF NET CLEARING OBLIGATIONS</u> .....	44
<u>12.6.1</u>	<u>Calculation, set-off and notification of net payment obligation</u> .....	44
<u>12.6.2</u>	<u>Notification of Cash CCP Transactions to Approved Settlement Facility</u> .....	44
<u>12.6.2A</u>	<u>Obligations under Offsetting Transaction Arrangement relating to Failed CCP Net Batch Instruction</u> .....	45
<u>12.6.3</u>	<u>Failure to discharge net obligation – [Deleted]</u> .....	45
<u>12.7</u>	<u>CANCELLATION AND REMOVAL OF CASH CCP TRANSACTIONS FROM NOVATION, NETTING AND SETTLEMENT</u> .....	46
<u>12.7.1</u>	<u>Removal by ASX Clear of a Cash CCP Transaction from settlement notification</u> .....	46
<u>12.7.2</u>	<u>Buyer and Seller may request Cash CCP Transactions be removed from novation and set off</u> .....	46
<u>12.7.3</u>	<u>Buyer and Seller may request Cash CCP Transactions be excluded from set off</u> .....	47

12.7.4	<u>Action by ASX Clear where Buyer and Seller request Cash CCP Transaction be excluded from set off</u> .....	47
12.7.5	<u>Buyer and Seller may cancel request</u> .....	47
12.7.6	<u>Effect of removal of Cash CCP Transaction</u> .....	47
12.7.7	<u>Request by Buyer or Seller where counterparty not known</u> .....	48
12.7.8	<u>ASX Clear action where asked to facilitate a request</u> .....	48
12.7.9	<u>Obligations under second leg of Offsetting Transaction Arrangement relating to Failed CCP Gross Batch Instruction</u> .....	48
<b>12.8</b>	<b><u>PAYMENT OR DELIVERY FAILURE OF CASH CCP TRANSACTIONS</u></b> .....	<b>48</b>
12.8.1	<u>Failure causing an increase in ASX Clear’s payment obligations</u> .....	48
12.8.2	<u>ASX Clear to acquire title</u> .....	49
12.8.3	<u>Interest paid by ASX Clear</u> .....	49
12.8.4	<u>Failure an event of default</u> .....	49
12.8.5	<u>Application of Standard Settlement Price by ASX Clear</u> .....	49
12.8.6	<u>Part settlement designated by Participant</u> .....	50
<b>12.8A</b>	<b><u>ASX CLEAR TO ENTER INTO OFFSETTING TRANSACTIONS</u></b> .....	<b>50</b>
12.8A.1	<u>Offsetting Transaction Arrangement</u> .....	50
<b>12.9</b>	<b><u>ISOLATE COUNTERPARTY – CASH CCP TRANSACTIONS</u></b> .....	<b>52</b>
12.9.1	<u>Where CCP Net Batch Instruction has Failed</u> .....	52
12.9.2	<u>ASX Clear may take action to isolate counterparties</u> .....	52
12.9.3	<u>Application of the Rules</u> .....	53
<b>12.10</b>	<b><u>DISCHARGE OF SETTLEMENT OBLIGATIONS RELATING TO CASH CCP TRANSACTIONS</u></b> .....	<b>53</b>
12.10.1	<u>Time at which discharge of settlement obligations occur</u> .....	53
<b>12.11</b>	<b><u>NETTING AND SETTLEMENT OF DERIVATIVES MARKET TRANSACTIONS AND CASH MARKET MARGIN OBLIGATIONS</u></b> .....	<b>53</b>
12.11.1	<u>Application of Rules</u> .....	53
<b>12.12</b>	<b><u>ACCUMULATION AND PRICE AVERAGING</u></b> .....	<b>54</b>
12.12.1	<u>Derivatives Market Contracts nominated for accumulation and price averaging</u> .....	54
<b>12.13</b>	<b><u>CONDITIONS ON REGISTRATION</u></b> .....	<b>54</b>
12.13.1	<u>ASX Clear may decline to register or impose conditions on registration</u> .....	54
<b>12.14</b>	<b><u>COVER</u></b> .....	<b>54</b>
12.14.1	<u>ASX Clear may require Cover as condition of registration</u> .....	54
<b>12.15</b>	<b><u>DAILY SETTLEMENT TO MARKET – DERIVATIVES CCP CONTRACTS</u></b> .....	<b>54</b>
12.15.1	<u>Application</u> .....	54
12.15.2	<u>Setting the Daily Settlement Price</u> .....	54
12.15.3	<u>Daily Settlement Price final and binding</u> .....	55
12.15.4	<u>Process of Daily Settlement</u> .....	55

<u>12.16</u>	<u>CALCULATION OF NET CLEARING OBLIGATIONS - DERIVATIVES CCP CONTRACT</u> .....	55
<u>12.16.1</u>	<u>Calculation, set-off and notification of net payment amount – House Accounts</u> .....	55
<u>12.16.2</u>	<u>Calculation, set off and notification of net payment amount – Client Accounts</u> .....	56
<u>12.17</u>	<u>DISCHARGE OF NET CLEARING OBLIGATIONS – DERIVATIVES CCP CONTRACTS AND CASH MARKET MARGIN OBLIGATIONS</u> .....	56
<u>12.17.1</u>	<u>Payment of net amount by Participant</u> .....	56
<u>12.17.2</u>	<u>Payment of net amount by ASX Clear</u> .....	56
<u>12.17.2A</u>	<u>Net Payment – House Accounts and Cash Market margin obligations</u> .....	57
<u>12.17.3</u>	<u>Single net payment</u> .....	57
<u>12.17.4</u>	<u>Effect of net payment</u> .....	57
<u>12.17.5</u>	<u>Time for payment of amounts due to ASX Clear</u> .....	57
<u>12.18</u>	<u>NET PAYMENT FAILURE – DERIVATIVES CCP CONTRACT AND CASH MARKET MARGIN OBLIGATIONS</u>	58
<u>12.18.1</u>	<u>Failure to pay net amount an event of default</u> .....	58
<u>12.19</u>	<u>INTEREST ON UNPAID AMOUNTS</u> .....	58
<u>12.19.1</u>	<u>ASX Clear may charge Participant interest</u> .....	58
<u>12.20</u>	<u>TRADING AND CLEARING INFORMATION – DERIVATIVES MARKET CONTRACTS</u> .....	58
<u>12.20.1</u>	<u>ASX Clear to give details of Derivatives Market Contracts and Derivatives CCP Contracts</u> .....	58
<u>12.20.2</u>	<u>Reporting Positions to ASX Clear</u> .....	58
<u>12.20.3</u>	<u>Participant to check information</u> .....	59
<u>12.20.4</u>	<u>Time of receipt</u> .....	59
<u>12.21</u>	<u>ERRORS IN REPORTING OF DERIVATIVES MARKET CONTRACTS</u> .....	59
<u>12.21.1</u>	<u>Error reported by Participant</u> .....	59
<u>12.21.2</u>	<u>Error reported by Approved Listing Market Operator</u> .....	60
<u>12.21.3</u>	<u>Reliance on information</u> .....	61
<u>12.22</u>	<u>CANCELLATION AND AMENDMENT OF DERIVATIVES MARKET CONTRACTS</u> .....	61
<u>12.22.1</u>	<u>Cancellation or amendment binding on Participants</u> .....	61
<u>12.22.2</u>	<u>Cancellation of Derivatives Market Contracts relating to OTC Options Market Transactions</u> .....	61
<u>12.23</u>	<u>ERROR IN ACCOUNT DESIGNATION OF DERIVATIVES MARKET CONTRACT</u> .....	62
<u>12.23.1</u>	<u>Action by ASX Clear where notified of an error in designation</u> .....	62
<u>12.24</u>	<u>ERRORS BY ASX CLEAR</u> .....	62
<u>12.24.1</u>	<u>ASX Clear may take action to correct error</u> .....	62
<u>12.25</u>	<u>DECISION FINAL AND BINDING</u> .....	62
<u>12.25.1</u>	<u>Decisions by ASX Clear</u> .....	62
<u>12.26</u>	<u>NO LIABILITY OF ASX CLEAR</u> .....	63
<u>12.26.1</u>	<u>Actions or determinations of ASX Clear</u> .....	63





## SECTION 12 REGISTRATION, NOVATION, NETTING AND SETTLEMENT

This Section deals with the novation, netting and settlement of transactions.

Market Transactions are either Cash Market Transactions or Derivatives Market Transactions. A Derivatives Market Transaction may be a Futures Market Transaction or an Option Market Transaction. A Derivatives Market Transaction comprises the number of Derivatives Market Contracts entered into on the market of an Approved Market Operator, or over the counter in the case of OTC Options Market Transactions. Market Transactions are notified to ASX Clear by an Approved Market Operator, or by the relevant Participant in the case of OTC Options Market Transactions, and will either be accepted by ASX Clear for registration or accepted for reporting but not registration. In the case of Derivatives Market Transactions, ASX Clear will register each of the Derivatives Market Contracts (Futures Market Contracts, Options Market Contracts or OTC Options Market Transactions) comprising the Derivatives Market Transaction.

If a Market Transaction is accepted by ASX Clear for registration and meets the requirements for novation set out in Rule 12.2.1, it will be novated to ASX Clear. Once novated, a Cash Market Transaction is discharged and replaced with two Cash CCP Transactions, a Derivatives Market Contract is discharged and replaced with two Derivatives CCP Contracts, a Futures Market Contract is discharged and replaced with two Futures CCP Contracts and an Options Market Contract is discharged and replaced with two Options CCP Contracts.

Cash CCP Transactions and Derivatives CCP Contracts may then be subject to set off and the netting of delivery obligations and payment obligations. In general terms, in relation to a Cash CCP Transaction both Participants together may, prior to netting and set off, choose to take a transaction out of the Clearing Facility and settle it directly or in an Alternative Settlement Facility. ASX Clear also has power, in certain circumstances to remove a transaction.

Once ASX Clear has calculated net delivery and net payment obligations of Participants for Cash CCP Transactions it will then notify the Approved Settlement Facility of:

- (a) those net delivery and net payment obligations which have been set off and netted by way of a CCP Net Batch Instruction; and
- (b) those delivery and payment obligations which have been novated but not netted by way of a CCP Gross Batch Instruction or CCP RTGS Instruction.

If a Market Transaction is accepted by ASX Clear for reporting but not registration, ASX Clear will notify the reported transaction to the Approved Settlement Facility and ASX Clear has no other obligation or responsibility for the Market Transaction.

In addition to dealing with the above matters, this section deals with:

- (c) when Market Transactions are novated to ASX Clear;
- (d) the effect of novation;

- (e) the circumstances in which a Cash Market Transaction may be excluded from novation and the consequences of so excluding it;
- (f) the circumstances in which a Cash CCP Transaction may be removed from novation and excluded from netting and the consequences of so doing;
- (g) the circumstances in which a Participant may remove and settle transactions by Real Time Gross Settlement;
- (h) what is to happen if there is a payment or delivery failure in the case of Cash CCP Transactions or a payment failure in respect of Derivatives CCP Contracts;
- (i) the circumstances in which a Participant may choose to isolate counterparty in respect of Cash CCP Transactions;
- (j) the discharge of payment and delivery obligations;
- (k) a Participant's obligation to report positions in relation to Derivatives CCP Contracts to ASX Clear;
- (l) the giving of trading and clearing information in relation to Derivatives Market Contracts and Derivatives CCP Contracts by ASX Clear to Participants, the Participant's obligation to check that information and report any errors to ASX Clear;
- (m) the correction of errors by ASX Clear; and
- (n) the cancellation and amendment of Derivatives Market Contracts.

This section also deals with the Offsetting Transaction Arrangements which will apply between ASX Clear and Participants for failed CCP Batch Instructions notified by the Approved Settlement Facility in order to facilitate the settlement (rather than rescheduling) of those instructions for the purposes of Sub-standard 7.9 of the Financial Stability Standards for Central Counterparties. Delivery and payment obligations under such Offsetting Transaction Arrangements are to be dealt with on the same basis as delivery and payment obligations under other Cash CCP Transactions and be subject to set-off against those obligations.

## 12.1 REGISTRATION AND NOTIFICATION OF MARKET TRANSACTIONS

### 12.1.1 Market Transactions to be registered

Subject to Rules 12.2.5 and 17.2, ASX Clear will register a Market Transaction (other than an OTC Options Market Transaction) if, and only if:

- (a) there is a current agreement between ASX Clear, an Approved Settlement Facility and the Approved Market Operator through which the Market Transaction was effected, for the provision of a Trade Acceptance Service;
- (b) the Approved Market Operator has submitted the Market Transaction to ASX Clear in accordance with the Terms of Trade Acceptance Service; and

- (c) the Market Transaction is in a category of Market Transactions which ASX Clear will accept for registration, as specified by ASX Clear in the Procedures.

Introduced 11/03/04 Origin OCH 5.4.1, 5.4.2, SCH 7.4 Amended 27/06/11, 28/05/12

#### **12.1.1A Registration of OTC Options Market Transactions**

Subject to Rules 12.2.5 ~~and 17.2~~, ASX Clear will register an OTC Options Market Transaction if, and only if, the relevant Participant or Participants notify ASX Clear of the OTC Options Market Transaction in the manner set out in the Procedures.

Introduced 28/05/12

#### **12.1.2 Market Transactions notified but not registered**

ASX Clear will notify an Approved Settlement Facility of a Cash Market Transaction which is not registrable under Rule 12.1.1 if:

- (a) there is a current agreement between ASX Clear, the Approved Settlement Facility and the Approved Market Operator through which the Cash Market Transaction was effected, under which ASX Clear agrees to notify that category of Cash Market Transaction to the Approved Settlement Facility for settlement by that facility;
- (b) the Approved Market Operator notifies ASX Clear of that Cash Market Transaction in accordance with the terms of that agreement; and
- (c) the Cash Market Transaction is in a category of Cash Market Transactions which ASX Clear will notify to an Approved Settlement Facility, as specified by ASX Clear in the Procedures.

Introduced 11/03/04 Origin SCH 7.4.3 Amended 27/06/11

#### **12.1.3 Participants liable to settle Cash Market Transactions notified but not registered**

Participants must settle Cash Market Transactions notified to an Approved Settlement Facility under Rule 12.1.2 in accordance with the operating rules of that Approved Settlement Facility.

Introduced 11/03/04

#### **12.1.4 Reliance on particulars of Market Transactions**

ASX Clear is entitled to rely on the particulars of any Market Transaction notified to it by an Approved Market Operator as being correct and, subject to Rule 12.21 in relation to Derivatives Market Contracts, is not bound to recognise any error in relation to those particulars. Without limiting the generality of the foregoing, but subject to Rule 12.21 in relation to Derivatives Market Contracts:

- (a) where:
- (i) an Approved Market Operator submits a Market Transaction to ASX Clear for registration in the name of a Participant (that is, the particulars of the Market Transaction notified to ASX Clear by the

Approved Market Operator identify the Participant, by its PID or otherwise, as a clearing counterparty to the Market Transaction); and

- (ii) the Participant is authorised under these Rules to clear one or more categories of Market Transactions effected through the Approved Market Operator, or

- (b) where a Participant is directed a Misdirected Market Transaction;

the Participant is taken for all purposes under these Rules to have agreed to clear the Market Transaction and has the corresponding obligations in respect of the Market Transaction, notwithstanding any actual or alleged error concerning the identification of the Participant as a clearing counterparty to the Market Transaction.

*Note: In relation to Cash Market Transactions which are notified to ASX Clear by an Approved Market Operator with incorrect particulars of Buyer or Seller, refer Rule 12.7.1 under which ASX Clear may remove Cash CCP Transactions from transactions to be notified for settlement under Rule 12.6.1 if it is notified by an Approved Market Operator that the original Cash Market Transaction has been cancelled.*

Introduced 11/03/04 Origin OCH 5.4.9 Amended 27/06/11

#### **12.1.4A Reliance on particulars of OTC Options Market Transactions**

ASX Clear is entitled to rely upon the particulars of any OTC Options Market Transaction notified to it by a Participant under Rule 12.1.1A as being correct and, subject to Rule 12.21 in relation to Derivatives Market Contracts, is not bound to recognise any error in relation to those particulars.

Introduced 28/05/12

#### **12.1.5 Timing of registration**

ASX Clear will register:

- (a) Cash Market Transactions or transactions under an Offsetting Transaction Arrangement; and
- (b) Derivatives Market Contracts,

at a time determined by ASX Clear and specified in the Procedures or otherwise notified to Participants.

ASX Clear will register Cash Market Transactions or transactions under an Offsetting Transaction Arrangement into the Cash Market Account established for each Participant under Rule 10.1.1(d). All unsettled Cash Market Transactions entered into at or prior to the commencement of the margining of Cash Market Transactions will be treated for the purpose of these Rules as being registered in the relevant Participant's Cash Market Account.

Subject to Rules 12.13 and 12.14, ASX Clear will register Derivatives Market Contracts into the Account that has been established by and for each Participant under Rule 11.3.

## 12.2 NOVATION

### 12.2.1 ASX Clear to novate Cash Market Transactions and Derivatives Market Contracts

ASX Clear will novate a Cash Market Transaction which is registered in accordance with Rule 12.1.1 if and only if the delivering PID and the receiving PID specified in the particulars of the Cash Market Transaction submitted to ASX Clear by the Approved Market Operator relate to two different legal entities.

If the delivering PID and the receiving PID relate to the same legal entity, ASX Clear will, unless instructed otherwise in accordance with the Procedures, register the Cash Market Transaction and notify the relevant Participant that the Cash Market Transaction has been registered for information only.

ASX Clear will novate a Cash Market Transaction subject to and in accordance with this Rule 12.2.1 with effect from:

- (a) if the Cash Market Transaction is the result of the matching of bids and offers on the market of the Approved Market Operator, immediately after the matching of those bids and offers; or
- (b) if the Cash Market Transaction is the result of a transaction being recorded by the Approved Market Operator, immediately after the transaction is recorded.

ASX Clear will novate a Derivatives Market Contract, if the Derivatives Market Transaction to which it relates has been registered under Rule 12.1.1, at the time of registration.

*Note: A Cash Market Transaction which is submitted by an Approved Market Operator to ASX Clear for registration must be validated by ASX Clear in accordance with the Terms of Trade Acceptance Service in order to confirm that the Cash Market Transaction is registrable under Rule 12.1.1. If the Cash Market Transaction is determined by ASX Clear to be registrable and if it meets the requirements for novation in this Rule 12.2.1, then it is novated with effect from the point in time specified by Rule 12.2.1.*

*For the avoidance of doubt, Derivatives Market Contract includes an Options Market Contract executed on the over the counter market and a Derivatives Market Transaction includes an OTC Options Market Transaction.*

Introduced 11/03/04 Origin OCH 5.4.4, SCH 7.7 Amended 27/06/11, 28/05/12, 07/06/13

### 12.2.2 Effect of novation

Upon novation of a Cash Market Transaction or a Derivatives Market Contract under Rule 12.2.1:

- (a) the Cash Market Transaction is discharged and replaced with two Cash CCP Transactions; and

- (b) the Derivatives Market Contract is discharged and replaced with two Derivatives CCP Contracts,

with the following effect, subject to these Rules:

- (c) the obligations owed by a Seller to a Buyer are replaced by obligations in the same terms owed by the Seller to ASX Clear, and by obligations owed by ASX Clear to the Buyer;
- (d) the obligations owed by a Buyer to a Seller are replaced by obligations in the same terms owed by the Buyer to ASX Clear, and by obligations owed by ASX Clear to the Seller.

ASX Clear and each Participant acknowledge that:

- (e) Cash CCP Transactions (excluding Cash CCP Transactions which are removed from novation pursuant to Rule 12.7.1 or 12.7.2 and not reinstated pursuant to Rule 12.7.5); and
- (f) Derivatives CCP Contracts,

are market netting contracts (as defined in the Payment Systems and Netting Act 1998) the terms of which incorporate any and all Rules which provide for or relate to the exercise of default rights, the netting, set-off or termination of obligations, the calculation or payment of termination values or net amounts and obligations to pay deposits or margin calls, or which otherwise affect the rights and obligations of the parties to the contracts, including, without limitation the Recovery Rules and:

- (g) in respect of Cash CCP Transactions, Rules 12.4.1, 12.6.1, and 15; and
- (h) in respect of Derivatives CCP Contracts, Rules 12.16, 12.17, 13.2, 14 ~~and~~, 15 ~~and 17~~.

Introduced 11/03/04 Origin OCH 5.4.4, SCH 7.8.1 Amended 18/12/06, 13/07/09, 19/08/09

#### **12.2.2A Cash CCP Transactions that are transactions under Offsetting Transaction Arrangement**

ASX Clear and each Participant acknowledge that notwithstanding that a Cash CCP Transaction that arises under an Offsetting Transaction Arrangement does not arise from a novation of a Cash Market Transaction under Rule 12.2.1 but rather from the entry into of an Offsetting Transaction Arrangement directly between ASX Clear and the Participant, such Cash CCP Transaction will be treated in the same way as other Cash CCP Transactions (as appropriate), including:

- (a) being market netting contracts (as defined in the Payment Systems and Netting Act 1998) the terms of which incorporate any and all Rules which provide for or relate to the exercise of default rights, the netting, set-off or termination of obligations, the calculation or payment of termination values or net amounts and obligations to pay deposits or margin calls, or which otherwise affect the rights and obligations of the parties to the contracts, including, without limitation Rules 12.4.1, 12.6.1 and 15; and

- (b) being subject to the provisions in this Section 12 of these Rules that relate to Cash CCP Transactions (as appropriate), including, without limitation, Rules 12.2.3, 12.2.4, 12.2.5, 12.2.6, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 12.9, 12.10, 12.17, 12.18 and 12.19.

Introduced 28/04/14

### **12.2.3 Obligations and rights**

The obligations and rights under Cash CCP Transactions and Derivatives CCP Contracts between the Seller and ASX Clear and between the Buyer and the ASX Clear are owed by and to the parties as principals to each other notwithstanding that the Seller and Buyer may be acting as agent for another person or that ASX Clear's obligations are discharged in the Approved Settlement Facility by another person acting on behalf of ASX Clear.

The obligations of ASX Clear are for the benefit of the Participant as principal and for the benefit of no other person.

Introduced 11/03/04 Origin OCH 6.1, 6.2, 6.3, SCH 7.8.2

### **12.2.4 ASX Clear need not take account of other interests**

Subject to the Corporations Act, in performing its obligations and in exercising its rights and powers under the Rules or the Procedures, ASX Clear need not take account of any interest (whether legal or equitable, present or future, actual or contingent) which any person other than the Participant may have, or claim to have, in a Cash CCP Transaction, a Derivatives CCP Contract or in any Cover.

Introduced 11/03/04 Origin OCH 6.5

### **12.2.5 Transactions affected by fraud etc.**

ASX Clear is not obliged to meet its obligations under a Cash CCP Transaction or Derivatives CCP Contract registered in a Participant's name as Buyer or Seller if the person who entered into the Market Transaction as Buyer or Seller (as applicable) which gave rise to the Cash CCP Transaction or Derivatives CCP Contract, entered into that Market Transaction:

- (a) fraudulently or in other circumstances which render the Market Transaction void; or
- (b) intending not to perform the Market Transaction, the Cash CCP Transactions or the Derivatives CCP Contracts arising from the Market Transaction.

This Rule 12.2.5 does not discharge the Participant concerned from any of its obligations under the transaction or contract, nor does the exercise by ASX Clear of its rights under this Rule discharge ASX Clear from its obligations under any other Cash CCP Transaction or Derivatives CCP Contract, even if that transaction or contract arose from the same Market Transaction (unless ASX Clear is also entitled to exercise its rights under this Rule in respect of that Cash CCP Transaction or Derivatives CCP Contract).

Introduced 11/03/04 Origin OCH 5.4.10

## 12.2.6 No dealing with rights

Subject to these Rules, a Participant must not:

- (a) dispose (whether absolutely or by way of security) of any of its Payment Rights or any of its other rights under, or in respect of, a Cash CCP Transaction or a Derivatives CCP Contract; or
- (b) create or permit to subsist any interest (whether legal, equitable or statutory) by way of security over any of its Payment Rights or any of its other rights under, or in respect of, a Cash CCP Transaction or a Derivatives CCP Contract.

Introduced 11/03/04 Origin OCH 6.6

## 12.3 NETTING AND SETTLEMENT OF CASH MARKET TRANSACTIONS

### 12.3.1 Application of Rules

Rules 12.4 to 12.10 only apply to Cash Market Transactions and Cash CCP Transactions.

*Note: The calculation, notification and settlement of margin obligations for Cash CCP Transactions are dealt with under Rules 14.5 to 14.6 and Rules 12.17 to 12.19.*

Introduced 11/03/04 Amended 07/06/13

## 12.4 DISCHARGE OF CASH MARKET TRANSACTIONS

### 12.4.1 When obligations discharged

The terms of Cash CCP Transactions are affected by these Rules and the operating rules of the Approved Market Operator through which the transaction was effected and in particular:

- (a) each of the obligations to deliver Financial Products and to make payment is discharged by; and
- (b) each of the entitlements to receive Financial Products and to receive payment is satisfied by,

net delivery and net payment in accordance with the operating rules of the Approved Settlement Facility.

*Note: In the case of a Participant default, obligations and entitlements between ASX Clear and a non-defaulting Participant under a Failed CCP Batch Instruction (reflecting obligations and entitlements under Cash CCP Transactions which underlie such CCP Batch Instruction) may be subject to set-off against and discharged by entitlements and obligations under the first leg of an Offsetting Transaction Arrangement between ASX Clear and the non-defaulting Participant in the manner set out in Rule 12.8A. A Cash CCP Transaction that arises under the second leg of that Offsetting Transaction Arrangement will continue to be able to be settled by net delivery or net payment in accordance with the operating rules of the Approved Settlement Facility.*



## 12.5 NON-NOVATED TERMS

### 12.5.1 Other terms and conditions not novated

If a Cash Market Transaction involves terms or conditions other than:

- (a) the Buyer having to pay the consideration for the number and class of Financial Products; or
- (b) the Seller having to deliver the number and class of the Financial Products or Entitlements relating to those Financial Products,

those terms and conditions are not novated under Rule 12.2.1.

*Note: Refer to Rule 12.9 for one method by which obligations in relation to Entitlements are discharged.*

Introduced 11/03/04 Origin SCH 7.8.4 Amended 07/06/13

## 12.6 CALCULATION OF NET CLEARING OBLIGATIONS

### 12.6.1 Calculation, set-off and notification of net payment obligation

Subject to Rule 12.6.2A and Rule 12.7 upon novation of a Cash Market Transaction due for settlement on a particular Business Day, the payment and delivery obligations under the Cash CCP Transaction are immediately set off against all other payment and delivery obligations due for settlement on that Business Day in accordance with the rules of law as follows:

- (a) the total of all the amounts that a Participant is obliged to pay ASX Clear on that Business Day for a PID will be set off against the total of all the amounts that the Participant is entitled to receive from ASX Clear on that Business Day for the same PID; and
- (b) the total number of Financial Products of a particular class to be delivered to a Participant by ASX Clear on that Business Day for a PID will be set off against the total number of Financial Products of that class to be delivered to ASX Clear on that Business Day for the same PID.

Introduced 11/03/04 Origin SCH 7.9.1 Amended 08/08/13, 28/04/14

### 12.6.2 Notification of Cash CCP Transactions to Approved Settlement Facility

Subject to Rule 12.6.2A, within the time prescribed in the Procedures, ASX Clear will for each Business Day send to the Approved Settlement Facility a CCP Net Batch Instruction containing the details specified in the Procedures in respect of:

- (a) the net delivery obligation or entitlement of a Participant for each PID for all CCP Cash Transactions in a class of Financial Products due for settlement on that Business Day; and

- (b) the associated net payment obligation or entitlement of the Participant for each PID for all Cash CCP Transactions in the class of Financial Products due for settlement on that Business Day which will be calculated by setting off the total of the amounts that the Participant is obliged to pay ASX Clear on that Business Day in respect of transactions in that class of Financial Products for a PID against the total of the amount that the Participant is entitled to receive from ASX Clear in respect of transactions in that class of Financial Products for the same PID,

and will notify the Participant of the CCP Net Batch Instruction.

Introduced 11/03/04 Amended 08/08/13, 28/04/14

#### **12.6.2A Obligations under Offsetting Transaction Arrangement relating to Failed CCP Net Batch Instruction**

Where the Approved Settlement Facility notifies ASX Clear of Failed CCP Net Batch Instructions under Rule 12.8A and pursuant to that Rule ASX Clear enters into an Offsetting Transaction Arrangement with the Participant that has obligations or entitlements under the Failed CCP Net Batch Instruction, then:

- (a) obligations and entitlements under the first leg of an Offsetting Transaction Arrangement entered into in respect of each such Failed CCP Net Batch Instruction will be set-off against and discharged by equal but opposite obligations and entitlements under the Failed CCP Net Batch Instruction in the manner set out in Rule 12.8A;
- (b) obligations and entitlements under the second leg of an Offsetting Transaction Arrangement entered into in respect of each such Failed CCP Net Batch Instruction will also be included as delivery and payment obligations or entitlements (as applicable) of the Participant for the PID to which those Failed CCP Net Batch Instructions related in the class of Financial Products due for settlement on the next Business Day;
- (c) CCP Net Batch Instructions due for settlement on a Business Day in respect of that Participant will, in addition to the CCP Net Batch Instructions notified under Rule 12.6.2, also include separate CCP Net Batch Instructions containing details of delivery and payment obligations and entitlements (as applicable) of the Participant under the second leg of each Offsetting Transaction Arrangement entered into in respect of a CCP Net Batch Instruction (and representing equivalent delivery and payment obligations and entitlements of the Participant (as applicable) as under the CCP Net Batch Instruction) Failed on the previous Business Day relating to that PID and class of Financial Products; and
- (d) an instruction will be deemed to have been generated by ASX Clear and sent to the Approved Settlement Facility which contains the details referred to in (c) above.

Introduced 28/04/14

#### **12.6.3 Failure to discharge net obligation – [Deleted]**

Introduced 11/03/04 Origin SCH 7.9.3 Deleted 31/03/05

## 12.7 CANCELLATION AND REMOVAL OF CASH CCP TRANSACTIONS FROM NOVATION, NETTING AND SETTLEMENT

### 12.7.1 Removal by ASX Clear of a Cash CCP Transaction from settlement notification

ASX Clear may, before the time specified in the Procedures, remove Cash CCP Transactions from transactions to be notified for settlement under Rule 12.6.1 if:

- (a) ASX Clear reasonably considers it appropriate having regard to Rule 1.15 in order to maintain the orderly operation and integrity of ASX Clear;
- (b) it is requested to do so by an Approved Market Operator in accordance with the Terms of Trade Acceptance Service, or by an Approved Settlement Facility, in order to ensure the efficiency, orderly operation, integrity or proper functioning of the market or facility; or
- (c) it is notified by an Approved Market Operator in accordance with the Terms of Trade Acceptance Service, or by an Approved Settlement Facility, that the original Cash Market Transaction has been cancelled,

and if it removes the Cash CCP Transactions, ASX Clear will immediately notify:

- (d) the affected Participants that the Cash CCP Transactions have been removed; and
- (e) where relevant, the Approved Market Operator or the Approved Settlement Facility that the Cash CCP Transactions have been removed,

and Rule 12.7.6 will have effect.

Introduced 11/03/04 Origin SCH 7.5A1, 7.5A.2 Amended 27/06/11

### 12.7.2 Buyer and Seller may request Cash CCP Transactions be removed from novation and set off

If before the time specified in the Procedures, the Buyer and Seller to a Cash Market Transaction request ASX Clear to remove the transaction from novation under Rule 12.2.1 and set off under Rule 12.6.1, in order, for example, to remove the transaction to an Alternative Settlement Facility, ASX Clear will:

- (a) remove the corresponding Cash CCP Transactions from set off; and
- (b) notify the Buyer and Seller accordingly,

and Rule 12.7.6 will have effect.

If the Buyer and Seller request it, ASX Clear will send to an Approved Settlement Facility a corresponding Direct Batch Instruction.

Introduced 11/03/04 Origin SCH 7.13.1

### **12.7.3 Buyer and Seller may request Cash CCP Transactions be excluded from set off**

If before the time specified in the Procedures a Buyer and Seller to a Cash Market Transaction:

- (a) request ASX Clear to remove the corresponding Cash CCP Transactions from set off under Rule 12.6.1; or
- (b) request ASX Clear to remove the corresponding Cash CCP Transactions from set off under Rule 12.6.1 for the purpose of settlement in Real Time Gross Settlement,

ASX Clear will remove the Cash CCP Transactions from set off.

Introduced 11/03/04 Origin SCH 7.12

### **12.7.4 Action by ASX Clear where Buyer and Seller request Cash CCP Transaction be excluded from set off**

Subject to Rule 12.7.9, where ASX Clear accepts a request under Rule 12.7.3 to exclude a transaction from set off, ASX Clear will, within the time specified in the Procedures, send to the Approved Settlement Facility corresponding:

- (a) CCP Gross Batch Instructions; or
- (b) CCP RTGS Instructions,

as the case requires and notify the Buyer and Seller accordingly.

Introduced 11/03/04 Origin SCH 7.12, 28/04/14

### **12.7.5 Buyer and Seller may cancel request**

If before the time specified in the Procedures, the Buyer and Seller to a transaction cancel a request made to ASX Clear to:

- (a) remove the transaction from novation and set off under Rule 12.7.2; or
- (b) remove the transaction from set off under Rule 12.7.3,

and ASX Clear accepts the request for cancellation, ASX Clear will reinstate the transaction to novation and set off or set off as the case requires.

Introduced 11/03/04 Origin SCH 7.1.4A, 7.12, 7.12A, 7.13

### **12.7.6 Effect of removal of Cash CCP Transaction**

If ASX Clear removes Cash CCP Transactions under Rules 12.7.1 or 12.7.2:

- (a) the Seller and the Buyer are, and are taken from the time the original Cash Market Transaction was entered into, to be in direct contractual relationship with each other on the terms of that transaction; and
- (b) ASX Clear has no obligation in relation to those transactions.

Introduced 11/03/04 Origin SCH 7.5A.2, 7.13.3

### **12.7.7 Request by Buyer or Seller where counterparty not known**

Where a Buyer or Seller (as the case may be) is not aware of the identity of its counterparty for the purpose of making a request to ASX Clear for the removal of a transaction under either Rule 12.7.2 or Rule 12.7.3, the Buyer or Seller may ask ASX Clear, by the time and in the manner set out in the Procedures, to facilitate such a request.

Introduced 28/11/05

### **12.7.8 ASX Clear action where asked to facilitate a request**

Upon being asked under Rule 12.7.7 to facilitate a request, ASX Clear will use reasonable endeavours to contact the counterparty to ascertain whether the counterparty is agreeable or otherwise to a request to remove the transaction. ASX Clear will notify the Buyer or Seller as soon as reasonably practicable whether the counterparty is agreeable to the request.

Introduced 28/11/05

### **12.7.9 Obligations under second leg of Offsetting Transaction Arrangement relating to Failed CCP Gross Batch Instruction**

Where the Approved Settlement Facility notifies ASX Clear of Failed CCP Gross Batch Instructions under Rule 12.8A and pursuant to that Rule ASX Clear enters into an Offsetting Transaction Arrangement with the Participant that has obligations or entitlements under the Failed CCP Gross Batch Instruction, then:

- (a) obligations and entitlements under the first leg of an Offsetting Transaction Arrangement entered into in respect of each such Failed CCP Gross Batch Instruction will be set-off against and discharged by equal but opposite obligations and entitlements under the Failed CCP Gross Batch Instruction in the manner set out in Rule 12.8A;
- (b) CCP Gross Batch Instructions due for settlement on a Business Day in respect of that Participant will, in addition to the CCP Gross Batch Instructions notified under Rule 12.7.4, also include separate CCP Gross Batch Instructions containing details of delivery and payment obligations and entitlements (as applicable) of the Participant under the second leg of each Offsetting Transaction Arrangement entered into in respect of a CCP Gross Batch Instruction (and representing equivalent delivery and payment obligations and entitlements of the Participant (as applicable) as under the CCP Gross Batch Instruction) Failed on the previous Business Day relating to that PID; and
- (c) an instruction will be deemed to have been generated by ASX Clear and sent to the Approved Settlement Facility which contains the details referred to in (b) above.

Introduced 28/04/14

## **12.8 PAYMENT OR DELIVERY FAILURE OF CASH CCP TRANSACTIONS**

### **12.8.1 Failure causing an increase in ASX Clear's payment obligations**

If an Approved Settlement Facility Fails:

- (a) a CCP Net Batch Instruction generated by ASX Clear under Rule 12.6.2 or 12.6.2A;
- (b) a CCP Gross Batch Instruction generated by ASX Clear under Rule 12.7.4 or 12.7.9; or
- (c) a CCP RTGS Instruction generated by ASX Clear under Rule 12.7.4,

and as a result of the Failure there is an increase in ASX Clear's obligation to make payment, ASX Clear may make arrangements to meet its increased obligation. Where ASX Clear considers that a Participant's default would trigger a Failure in respect of an Instruction referred to in this Rule 12.8.1, ASX Clear may also make arrangements to make payments to avoid such Instructions being Failed.

Introduced 11/03/04 Origin SCH 7.26.1 Amended 28/04/14

### **12.8.2 ASX Clear to acquire title**

Where ASX Clear makes a payment in respect of a Failure, or to avoid such Failure, under Rule 12.8.1, ASX Clear acquires title to the Financial Products the subject of the Instruction which otherwise would have been delivered to the defaulting paying Participant.

Introduced 11/03/04 Origin SCH 7.26.2 Amended 28/04/14

### **12.8.3 Interest paid by ASX Clear**

If ASX Clear makes a payment in respect of a Failure, or to avoid such Failure, under Rule 12.8.1, any amount of interest paid by ASX Clear or interest foregone in respect of the payment is a debt owed by the Participant to ASX Clear.

Introduced 11/03/04 Origin SCH 7.26.3 Amended 28/04/14

### **12.8.4 Failure an event of default**

If ASX Clear makes a payment in respect of a Failure, or to avoid such Failure, under Rule 12.8.1, the Failure by the Participant to settle the Instruction or the making of such payment by ASX to avoid such Instructions being Failed (where it has reasonable grounds for suspecting such Instructions would otherwise be Failed) will constitute an event of default under Rule 15.1(b).

Introduced 11/03/04 Origin SCH 7.33.1 Amended 28/04/14

### **12.8.5 Application of Standard Settlement Price by ASX Clear**

If an Approved Settlement Facility Fails in full or in part:

- (a) a CCP Net Batch Instruction generated by ASX Clear under Rule 12.6.2 or 12.6.2A;
- (b) a CCP Gross Batch Instruction generated by ASX Clear under Rule 12.7.4 or 12.7.9; or
- (c) a CCP RTGS Instruction generated by ASX Clear under Rule 12.7.4,

and ASX Clear requests the Approved Settlement Facility to reschedule the Instruction to the next Business Day, ASX Clear will apply a Standard Settlement Price to determine a Revised Settlement Amount for each Instruction or part of Instruction that ASX Clear requests the Approved Settlement Facility to reschedule for settlement and:

- (d) if ASX Clear has an entitlement to receive under a rescheduled Instruction and:
  - (i) if the Revised Settlement Amount is greater than the Settlement Amount of the Instruction that has Failed, the delivering Participant must pay ASX Clear the difference between the two amounts; or
  - (ii) if the Revised Settlement Amount is less than the Settlement Amount of the Instruction that has Failed, ASX Clear must pay to the delivering Participant the difference between the two amounts;
- (e) if ASX Clear has an obligation to deliver under a rescheduled Instruction and:
  - (i) if the Revised Settlement Amount is less than the Settlement Amount of the Settlement Instruction that has Failed, the receiving Participant must pay ASX Clear the difference between the two amounts; and
  - (ii) if the Revised Settlement Amount is greater than the Settlement Amount of the Instruction that has Failed, ASX Clear must pay the receiving Participant the difference between the two amounts; and
- (f) ASX Clear will apply the Revised Settlement Amount to each rescheduled Instruction.

Introduced 11/03/04 Origin SCH 7.28.2 Amended 28/04/14

### **12.8.6 Part settlement designated by Participant**

In the event of a payment Failure by a Participant, ASX Clear may, in its absolute discretion, request the Approved Settlement Facility to override any designation made by the Participant in accordance with the operating rules of the Approved Settlement Facility that a Batch instruction is available or not available for settlement in part.

Introduced 11/03/04 Origin SCH 7.19.1

## **12.8A ASX CLEAR TO ENTER INTO OFFSETTING TRANSACTIONS**

### **12.8A.1 Offsetting Transaction Arrangement**

Where the Approved Settlement Facility Fails CCP Batch Instructions for a Payment Shortfall (or to limit a Settlement Participant's net obligation to make payment in respect of that Payment Facility to the amount notified under Rule 10.10.4(a) of the operating rules of the Approved Settlement Facility) or for a suspension or termination of a Payments Provider that would affect payment under a CCP Batch Instruction, and notifies ASX Clear of those CCP Batch Instructions:

- (a) ASX Clear ~~will immediately~~may, in its absolute discretion, enter into an Offsetting Transaction Arrangement with each non-defaulting Participant (or in the case of a CCP Batch Instruction Failed for a suspension or termination of a

Payments Provider, with the affected Participant other than for where the affected Participant's authority to clear the category of Market Transaction that underlies the Failed CCP Batch Instruction has been suspended or terminated) that has obligations or entitlements under the Failed CCP Batch Instruction (reflecting obligations and entitlements under Cash CCP Transactions to which the Participant is a counterparty which underlie such CCP Batch Instruction);

- (b) The Offsetting Transaction Arrangement is to provide for:
- (i) under the first leg of the Offsetting Transaction Arrangement, obligations and entitlements which are equal but opposite to the outstanding obligations and entitlements of ASX Clear and the Participant under the Failed CCP Batch Instruction;
  - (ii) under the second leg of the Offsetting Transaction Arrangement, obligations and entitlements which are equal but opposite to the obligations and entitlements of ASX Clear and the Participant under the first leg of the Offsetting Transaction Arrangement (ie equal to the outstanding obligations and entitlements of ASX Clear and the Participant under the Failed CCP Batch Instruction),
- on the terms set out in the Procedures.
- (c) Nothing further is required to be done by either ASX Clear or the Participant in order to enter into and bring into effect such Offsetting Transaction Arrangement;
- (d) At the time of entry into an Offsetting Transaction Arrangement, the delivery and payment obligations and entitlements of the Participant and ASX Clear under the Failed CCP Batch Instruction are to be set-off against the equal but opposite payment and delivery obligations and entitlements of the Participant and ASX Clear under the first leg of the Offsetting Transaction Arrangement relating to the Failed CCP Batch Instruction, with the result that:
- (i) each of the obligations of a Participant to deliver Financial Products (or Entitlements relating to those Financial Products) to ASX Clear under the Failed CCP Batch Instruction are discharged by the equal but opposite obligations of ASX Clear to deliver Financial Products (or Entitlements relating to those Financial Products) to the Participant under the first leg of the Offsetting Transaction Arrangement;
  - (ii) each of the obligations of ASX Clear to make payment to the Participant under the Failed CCP Batch Instruction are discharged by the equal but opposite obligations of the Participant to make payment to ASX Clear under the first leg of the Offsetting Transaction Arrangement;
  - (iii) each of the obligations of ASX Clear to deliver Financial Products (or Entitlements relating to those Financial Products) to a Participant under the first leg of the Offsetting Transaction Arrangement are discharged by the equal but opposite obligations of the Participant to



deliver Financial Products (or Entitlements relating to those Financial Products) to ASX Clear under the Failed CCP Batch Instruction; and

- (iv) each of the obligations of a Participant to make payment to ASX Clear under the first leg of the Offsetting Transaction Arrangement are discharged by the equal but opposite obligations of ASX Clear to make payment to the Participant under the Failed CCP Batch Instruction;
- (e) payment and delivery obligations and entitlements of a Participant under the second leg of the Offsetting Transaction Arrangement will be due for settlement on the following Business Day and are subject to set-off against all other payment and delivery obligations and entitlements for the PID to which the Failed CCP Batch Instruction related and inclusion for settlement in accordance with Rules 12.6 and 12.7 (as applicable) and discharge by net delivery and net payment in accordance with Rule 12.4.

Introduced 28/04/14

## 12.9 ISOLATE COUNTERPARTY – CASH CCP TRANSACTIONS

### 12.9.1 Where CCP Net Batch Instruction has Failed

In relation to a CCP Net Batch Instruction which has Failed in full or in part, a Buyer may request ASX Clear to isolate a counterparty in relation to the Instruction and ASX Clear may, in its absolute discretion will:

- (a) select one or more Sellers in respect of the CCP Net Batch Instruction relating to that particular class of Financial Products so that the Financial Products to be delivered by the Seller or Sellers matches the total number of Financial Products to be received by the Buyer in relation to that particular class of Financial Products;
- (b) create a CCP Gross Batch Instruction between the Seller or Sellers and the Buyer relating to that number of Financial Products and send the instruction to the Approved Settlement Facility for settlement on the next Business Day;
- (c) reduce the Seller's or Sellers' CCP Net Batch instructions by the number of units included in the instruction; and
- (d) reduce the Buyer's CCP Net Batch instructions by the number of units included in the Instruction.

Introduced 11/03/04 Origin SCH 7.45.1

### 12.9.2 ASX Clear may take action to isolate counterparties

Even though a Buyer has not requested ASX Clear to act in accordance with Rule 12.9.1, ASX Clear:

- (a) may take such action under Rule 12.9.1 as if the identified Buyer had made such request under Rule 12.9.1; and

- (b) where such action is taken, will notify all Sellers and Buyers of the resulting settlement obligation.

Introduced 11/03/04 Origin SCH 7.45.4

### **12.9.3 Application of the Rules**

Rule 12.9.1 applies to action taken by ASX Clear under Rule 12.9.2 as if the Buyer had made the request under Rule 12.9.1.

Introduced 11/03/04 Origin SCH 7.45.5

## **12.10 DISCHARGE OF SETTLEMENT OBLIGATIONS RELATING TO CASH CCP TRANSACTIONS**

### **12.10.1 Time at which discharge of settlement obligations occur**

Subject to Rule 12.8A in respect of Cash CCP Transactions underlying a Failed CCP Batch Instruction settled through a Cash CCP Transaction that is a transaction under the first leg of an Offsetting Transaction Arrangement, ASX Clear and Participants will be taken under these Rules to have discharged their settlement obligations in relation to Cash CCP Transactions under Rule 4.20 only upon receipt by ASX Clear and the Participant or the Participant's Settlement Participant of a declaration by an Approved Settlement Facility that in accordance with the operating rules of that Approved Settlement Facility:

- (a) each obligation to deliver Financial Products is discharged irrevocably in full;
- (b) each entitlement to receive Financial Products or Entitlements is satisfied irrevocably in full;
- (c) each obligation to make payment has been discharged irrevocably in full; and
- (d) each entitlement to receive a payment has been satisfied irrevocably in full.

Introduced 11/03/04 Origin SCH 7.30.2 Amended 28/04/14

## **12.11 NETTING AND SETTLEMENT OF DERIVATIVES MARKET TRANSACTIONS AND CASH MARKET MARGIN OBLIGATIONS**

### **12.11.1 Application of Rules**

Rules 12.12 to 12.26 apply to Derivatives Market Transactions, Derivatives Market Contracts and Derivatives CCP Contracts.

Rules 12.17 to 12.19 also apply to margin obligations in respect of Cash CCP Transactions in the circumstances set out in the Procedures.

Introduced 11/03/04 Amended 07/06/13

## 12.12 ACCUMULATION AND PRICE AVERAGING

### 12.12.1 Derivatives Market Contracts nominated for accumulation and price averaging

On registration of Derivatives Market Contracts which have been nominated for accumulation and price averaging, Rule 12.1.5 applies, except that the Derivatives CCP Contract arising on registration under that Rule will be registered in the relevant Participant's Account at the average price.

Introduced 11/03/04 Origin OCH 5.4.5

## 12.13 CONDITIONS ON REGISTRATION

### 12.13.1 ASX Clear may decline to register or impose conditions on registration

Before ASX Clear registers a Derivatives Market Contract and even though a Participant has complied with Rule 12.1.5, ASX Clear may:

- (a) decline to register that Derivatives Market Contract and declare it void; or
- (b) impose any condition on the registration of that Derivatives Market Contract,

if ASX Clear considers that either of those actions is appropriate having regard to Rule 1.15. ASX Clear must notify the Approved Listing Market Operator and the Participants affected by the action as soon as practicable after the action has been taken.

Introduced 11/03/04 Origin OCH 5.4.6 Amended 27/06/11

## 12.14 COVER

### 12.14.1 ASX Clear may require Cover as condition of registration

ASX Clear may require either or both Participants in whose name a Derivatives Market Contract is sought to be registered to provide Cover under Rule 14.6.1, as a condition of registration of that Derivatives Market Contract.

Introduced 11/03/04 Origin OCH 5.4.7

## 12.15 DAILY SETTLEMENT TO MARKET – DERIVATIVES CCP CONTRACTS

### 12.15.1 Application

ASX Clear will effect the settlement to market of all Derivatives CCP Contracts which the Procedures specify will be "settled to market" in accordance with this Rule 12.15 each Business Day at the time set out in the Procedures. ASX Clear may also effect settlement to market at any other time.

Introduced 11/03/04 Origin OCH 5.5.1

### 12.15.2 Setting the Daily Settlement Price

In order to effect the settlement of Derivatives CCP Contracts under this Rule 12.15, ASX Clear will determine the price (the "Daily Settlement Price") at which daily settlement of

each Series or Delivery Month will occur, having regard to prevailing market prices reported by the Approved Listing Market Operator and other factors it considers relevant.

Introduced 11/03/04 Origin OCH 5.5.2 Amended 27/06/11

### **12.15.3 Daily Settlement Price final and binding**

The Daily Settlement Price determined by ASX Clear under Rule 12.15.2 is final and binding on Participants.

Introduced 11/03/04 Origin OCH 5.5.3

### **12.15.4 Process of Daily Settlement**

ASX Clear will effect settlement to market of a Derivatives CCP Contract (the "Settled Contract") registered in an Account by:

- (a) creating and registering in that Account a Derivatives CCP Contract in the same Series or Delivery Month but in the opposite position at the Daily Settlement Price;
- (b) closing out the Derivatives CCP Contract created under paragraph (a) and the Settled Contract in accordance with Rule 13, as if the Participant had requested those two Derivatives CCP Contracts to be closed out; and
- (c) creating and registering a new Derivatives CCP Contract in the same Series or Delivery Month as the Settled Contract at the Daily Settlement Price but otherwise on the same terms as the Settled Contract.

Introduced 11/03/04 Origin OCH 5.5.4

## **12.16 CALCULATION OF NET CLEARING OBLIGATIONS - DERIVATIVES CCP CONTRACT**

### **12.16.1 Calculation, set-off and notification of net payment amount – House Accounts**

ASX Clear will, in respect of all Derivatives CCP Contracts referable to the categories of Derivatives Market Transaction as determined by ASX Clear and specified in the Procedures and having regard to the amount of Cover and Excess Cash recorded in respect of House Accounts for those categories of Market Transaction under Rules 10.2.2 10.2.3 and 10.2.4 in the manner and time set out in the Procedures or at any other time determined by ASX Clear:

- (a) calculate:
  - (i) the total Payment Obligations of the Participant at that time on the Participant's House Accounts for each PID;
  - (ii) the total Payment Rights of the Participant at that time on those House Accounts for each PID;
- (b) set off those Payment Obligations against those Payment Rights to obtain a net amount payable by or to the Participant for each PID; and

- (c) notify the Participant of that net amount for each PID.

Introduced 11/03/04 Origin OCH 4.3.2 Amended 01/11/12, 08/08/13

#### **12.16.2 Calculation, set off and notification of net payment amount – Client Accounts**

ASX Clear will, in respect of all Derivatives CCP Contracts referable to the categories of Derivatives Market Transaction as determined by ASX Clear and set out in the Procedures and having regard to the amount of Cover and Excess Cash recorded in respect of Client Accounts for those categories of Market Transaction under Rules 10.2.2, 10.2.3, 10.2.4 in the manner and time set out in the Procedures or at any other time determined by ASX Clear:

- (a) calculate:
- (i) the total Payment Obligations of the Participant at that time on each of the Participant's Client Accounts for each PID;
  - (ii) calculate the total Payment Rights of the Participant at that time on each of those Client Accounts for each PID;
- (b) set off those Payment Obligations against those Payment Rights to obtain a net amount payable by or to the Participant for each PID; and
- (c) notify the Participant of that net amount for each PID.

Introduced 11/03/04 Origin OCH 4.3.3 Amended 01/11/12, 08/08/13

### **12.17 DISCHARGE OF NET CLEARING OBLIGATIONS – DERIVATIVES CCP CONTRACTS AND CASH MARKET MARGIN OBLIGATIONS**

#### **12.17.1 Payment of net amount by Participant**

Where ASX Clear notifies the Participant under Rule 12.16 of a net amount payable by the Participant, the Participant must pay that net amount to ASX Clear or at its direction by the time and in the manner specified in the Procedures or as otherwise notified by ASX Clear to that Participant.

Introduced 11/03/04 Origin OCH 4.3.4

#### **12.17.2 Payment of net amount by ASX Clear**

Where ASX Clear notifies the Participant under Rule 12.16 of a net amount payable by ASX Clear, ASX Clear must pay that net amount to the Participant or at its direction by the time and in the manner specified in the Procedures or as otherwise notified by ASX Clear to that Participant. The Participant may request ASX Clear to retain an amount payable by ASX Clear under this Rule, and, if agreed to, the amount will represent Excess Cash.

Introduced 11/03/04 Origin OCH 4.3.5 Amended 23/10/09

#### **12.17.2A Net Payment – House Accounts and Cash Market margin obligations**

ASX Clear may determine, and set out in the Procedures, that margin obligations for Cash CCP Transactions notified under Rule 14.5.2 and any net payment right or net payment obligation notified under Rule 12.16.1(c) may be settled through a single net payment of those amounts.

Introduced 07/06/13

#### **12.17.3 Single net payment**

In addition to Rule 12.17.2A, ASX Clear may determine, and set out in the Procedures, that any net payment rights and net payment obligations arising under Rule 12.16 (including, where the Participant has been allocated more than one PID, any net payment rights or net payment obligations notified under Rule 12.16.1(c) or any net payment rights or net payment obligations notified under Rule 12.16.2(c)) may be settled through a single net payment of those amounts.

Introduced 11/03/04 Origin OCH 4.3.5A Amended 08/08/13

#### **12.17.4 Effect of net payment**

Payment of a net amount in accordance with Rule 12.17.1, 12.17.2 or 12.17.2A, or the payment of a single net payment in accordance with Rule 12.17.3:

- (a) discharges the Payment Obligations included in the set off;
- (b) satisfies the Payment Rights included in the set off;
- (c) satisfies the margin obligations for Cash CCP Transactions included in any net payment in accordance with Rule 12.17.2A; and
- (d) satisfies and discharges the corresponding rights and obligations of ASX Clear against or to the Participant.

For a payment of a single net payment in accordance with Rule 12.17.3, paragraphs (a), (b) and (d) above relate only to the Payment Obligations or Payment Rights included in the single net payment.

Introduced 11/03/04 Origin OCH 4.3.6 Amended 07/06/13, 08/08/13

#### **12.17.5 Time for payment of amounts due to ASX Clear**

A Participant must pay to ASX Clear all amounts due and payable in respect of an Account by the time specified in the Procedures and, if no time is specified, on demand.

Introduced 11/03/04 Origin OCH 4.3.7

## **12.18 NET PAYMENT FAILURE – DERIVATIVES CCP CONTRACT AND CASH MARKET MARGIN OBLIGATIONS**

### **12.18.1 Failure to pay net amount an event of default**

A failure to pay a net amount calculated under Rule 12.17 is an event of default under Rule 15.1.1(b).

Introduced 11/03/04 Amended 07/06/13

## **12.19 INTEREST ON UNPAID AMOUNTS**

### **12.19.1 ASX Clear may charge Participant interest**

ASX Clear may charge a Participant interest on amounts due to be paid by the Participant under these Rules or the Procedures but unpaid, for the period from the date the amount fell due for payment to the date on which the amount is paid in full. ASX Clear will determine from time to time and specify in the Procedures whether interest will be charged and the basis upon which interest rates will be calculated. ASX Clear will notify Participants of any alteration to that basis. ASX Clear will notify a Participant in the manner specified in the Procedures of any interest charged to that Participant under this Rule 12.19.1.

Introduced 11/03/04 Origin OCH 4.3.8

## **12.20 TRADING AND CLEARING INFORMATION – DERIVATIVES MARKET CONTRACTS**

### **12.20.1 ASX Clear to give details of Derivatives Market Contracts and Derivatives CCP Contracts**

ASX Clear will give each Participant in the manner and by the time specified in the Procedures, details each Business Day of:

- (a) Derivatives Market Contracts reported for registration in the Participant's name;
- (b) Derivatives Market Contracts allocated to the Participant under Rule 11.1;
- (c) Derivatives Market Contracts allocated by the Participant under Rule 11.1;
- (d) the Accounts designated for registration of Derivatives Market Contracts;
- (e) Derivatives CCP Contracts registered in the Participant's name; and
- (f) Cover and Excess Cash credited to, or held in respect of, the Participant.

Introduced 11/03/04 Origin OCH 7.1

### **12.20.2 Reporting Positions to ASX Clear**

By the time and in the manner set out in the Procedures, a Participant must report to ASX Clear:

- (a) the number of Derivatives CCP Contracts registered with ASX Clear at that time in respect of each Client of the Participant;
- (b) the number of Derivatives CCP Contracts registered with ASX Clear at that time in respect of each person whose positions are registered in the Participant's House Account; and
- (c) any other information of the type set out in the Procedures or otherwise required by ASX Clear.

Introduced 11/03/04 Origin OCH 4.5

### **12.20.3 Participant to check information**

When a Participant receives the information provided under Rule 12.20.1, it must check those details and must immediately notify ASX Clear of any errors in accordance with the Procedures. If the Participant does not notify ASX Clear, by the time specified in the Procedures, of receipt of the details that there is an error in those details:

- (a) ASX Clear is entitled to rely on the accuracy of those details;
- (b) the Participant will be taken to have waived any right to have the error corrected and will have rights and obligations in accordance with those details unless ASX Clear agrees otherwise;
- (c) ASX Clear may refuse to correct any error which is notified subsequently by the Participant; and
- (d) ASX Clear may take any action, or no action, in respect of any error which is notified subsequently, which it considers to be appropriate having regard to Rule 1.15.

Introduced 11/03/04 Origin OCH 7.2 Amended 18/12/06

### **12.20.4 Time of receipt**

For the purpose of Rule 12.20.3, a Participant is taken to receive the details referred to in Rule 12.20.1:

- (a) at the time ASX Clear transmits a Clearing Message containing the details to the Participant; or
- (b) at the time a written document containing the details is available for collection from ASX Clear by or on behalf of the Participant.

Introduced 11/03/04 Origin OCH 7.3

## **12.21 ERRORS IN REPORTING OF DERIVATIVES MARKET CONTRACTS**

### **12.21.1 Error reported by Participant**

If:



- (a) a Participant notifies ASX Clear by the time and in the manner specified in the Procedures, that an error has been made in the particulars of a Derivatives Market Contract reported to ASX Clear under the Rules;
- (b) the Participant which entered into the Derivatives Market Contract as Buyer and the Participant which entered into the Derivatives Market Contract as Seller have each provided to ASX Clear the same particulars as the correct particulars of the Derivatives Market Contract;
- (c) where applicable, the last Participant to which the Derivatives Market Contract has been allocated under Rule 11.1 has consented to correction of the error;
- (d) the Derivatives Market Transaction was not an OTC Options Market Transaction, the Approved Listing Market Operator has notified ASX Clear that it is satisfied that there was an error and that the error was inadvertent;
- (e) the Derivatives Market Transaction was not an OTC Options Market Transaction, the Participants referred to in paragraphs (b) and (c), or the Market Participant for whom the Participant clears (as relevant) has complied with any requirements under the rules of the Approved Listing Market Operator relating to any correction of the error; and
- (f) those Participants have each satisfied any conditions stipulated by ASX Clear or the Approved Listing Market Operator (if applicable) in connection with the error,

then:

- (g) if the Derivatives Market Contract has not been registered, ASX Clear must correct the error in the particulars of the Derivatives Market Contract before it is registered; or
- (h) if the Derivatives Market Contract has been registered, ASX Clear must cancel the registration of each Derivatives CCP Contract arising under Rule 12.2.2 and, if ASX Clear considers it appropriate having regard to Rule 1.15, register in its place a corrected Derivatives CCP Contract.

Introduced 11/03/04 Origin OCH 7.4.1 Amended 18/12/06, 27/06/11, 28/05/12

#### **12.21.2 Error reported by Approved Listing Market Operator**

If the Approved Listing Market Operator notifies ASX Clear that an error has been made in the particulars of a Derivatives Market Contract reported to ASX Clear under the rules of the Approved Listing Market Operator and subject to any conditions which may be stipulated by ASX Clear in connection with the error:

- (a) if the Derivatives Market Contract has not been registered, ASX Clear must correct the error in the particulars of the Derivatives Market Contract before it is registered; or
- (b) if the Derivatives Market Contract has been registered, ASX Clear must cancel the registration of each Derivatives CCP Contract arising under Rule 12.2.2 and,

if ASX Clear considers it appropriate having regard to Rule 1.15, register in its place a corrected Derivatives CCP Contract.

Introduced 11/03/04 Origin OCH 7.4.2 Amended 27/06/11

### **12.21.3 Reliance on information**

ASX Clear is entitled to rely on the accuracy of all information concerning an actual or alleged error in a Derivatives Market Contract or Derivatives CCP Contract which is given to ASX Clear by the Approved Listing Market Operator.

Introduced 11/03/04 Origin OCH 7.4.3 Amended 27/06/11

## **12.22 CANCELLATION AND AMENDMENT OF DERIVATIVES MARKET CONTRACTS**

### **12.22.1 Cancellation or amendment binding on Participants**

The cancellation or amendment of a Derivatives Market Contract under the rules of the Approved Listing Market Operator, and any action taken by the relevant Market Participants and the Approved Listing Market Operator to give effect to the cancellation or amendment under those rules, is binding on any Participant which has Clearing Obligations for the relevant Derivatives Market Contract and:

- (a) if the Derivatives Market Contract has not been registered, ASX Clear will correct the error in the particulars of the Derivatives Market Contract before it is registered; or
- (b) if the Derivatives Market Contract has been registered, ASX Clear will cancel the registration of each Derivatives CCP Contract arising under Rule 12.2.2 and, if ASX Clear considers it appropriate having regard to Rule 1.15, register in its place a corrected Derivatives CCP Contract.

Introduced 11/03/04 Origin OCH 7.4A Amended 27/06/11

### **12.22.2 Cancellation of Derivatives Market Contracts relating to OTC Options Market Transactions**

If the Buyer and Seller in relation to a Derivatives Market Contract relating to an OTC Options Market Transaction agree that the Derivatives Market Contract should be amended or cancelled they may, in the manner and time specified in the Procedures, request that ASX Clear make that amendment or cancellation and:

- (a) if the Derivatives Market Contract has not been registered, ASX Clear will correct the error in the particulars of the Derivatives Market Contract before it is registered; or
- (b) if the Derivatives Market Contract has been registered, ASX Clear will cancel the registration of each Derivatives CCP Contract arising under Rule 12.2.2 and, if ASX Clear considers it appropriate having regard to Rule 1.15, register in its place a corrected Derivatives CCP Contract.

Introduced 28/05/12

## 12.23 ERROR IN ACCOUNT DESIGNATION OF DERIVATIVES MARKET CONTRACT

### 12.23.1 Action by ASX Clear where notified of an error in designation

If:

- (a) ASX Clear is notified by a Participant by the time specified in the Procedures that an error has been made in the designation of a Derivatives Market Contract to a Participant's Account;
- (b) ASX Clear is satisfied that the error was inadvertent; and
- (c) the Participant has satisfied any conditions stipulated by ASX Clear in connection with correcting the error,

then:

- (d) if the Derivatives Market Contract has not been registered, ASX Clear will correct the designation of the Derivatives Market Contract before it is registered; or
- (e) if the Derivatives Market Contract has been registered, ASX Clear will transfer the registration of the relevant Derivatives CCP Contract arising under Rule 12.2.2 to the correct Account in the manner specified in the Procedures.

Introduced 11/03/04 Origin OCH 7.5

## 12.24 ERRORS BY ASX CLEAR

### 12.24.1 ASX Clear may take action to correct error

If ASX Clear becomes aware at any time that it has made an error in entering or recording any of the details referred to in Rule 12.20.1, ASX Clear may decide to take any action to correct the error or the consequences of the error which it considers appropriate having regard to Rule 1.15. ASX Clear will notify in the manner specified in the Procedures each Participant affected by the error.

Introduced 11/03/04 Origin OCH 7.6

## 12.25 DECISION FINAL AND BINDING

### 12.25.1 Decisions by ASX Clear

The correction of an error, and any decision or action by ASX Clear under this Section 12, is final and binding on the Participants affected by the decision.

Introduced 11/03/04 Origin OCH 7.7

## 12.26 NO LIABILITY OF ASX CLEAR

### 12.26.1 Actions or determinations of ASX Clear

Without limiting Rule 1.15, none of ASX Clear, its officers, agents, persons acting for or on behalf of ASX Clear or contractors are liable to a Participant or to any other person for any loss, liability, damage, cost or expense arising in any way (including, without limitation, by negligence) from any actions or determinations of ASX Clear under this Section 12.

Introduced 11/03/04 Origin OCH 7.8

End of Document

## SECTION 13 DERIVATIVES CCP CONTRACTS – TRANSFERS, CLOSE OUTS AND ADJUSTMENTS

<u>13.1</u>	<u>TRANSFERRING DERIVATIVES CCP CONTRACTS</u> .....	2
<u>13.1.1</u>	<u>Transfer between Participants</u> .....	2
<u>13.1.2</u>	<u>Effect of transfer</u> .....	3
<u>13.1.3</u>	<u>Process of transfer</u> .....	3
<u>13.1.4</u>	<u>Transfer between Accounts within a single Participant</u> .....	3
<u>13.2</u>	<u>CLOSING OUT DERIVATIVES CCP CONTRACTS</u> .....	3
<u>13.2.1</u>	<u>Participant may instruct ASX Clear to close out Derivatives CCP Contracts</u> .....	3
<u>13.2.2</u>	<u>Effect of Close out</u> .....	4
<u>13.2.3</u>	<u>Close out is irrevocable</u> .....	4
<u>13.2.4</u>	<u>Reinstatement following close out</u> .....	4
<u>13.3</u>	<u>SUSPENSION OF RIGHT TO REQUEST CLOSE OUT</u> .....	5
<u>13.3.1</u>	<u>Conditional Markets</u> .....	5
<u>13.3.2</u>	<u>Cancellation of Derivatives CCP Contracts</u> .....	5
<u>13.4</u>	<u>ADJUSTMENTS</u> .....	5
<u>13.4.1</u>	<u>ASX Clear to make corresponding adjustment</u> .....	5
<u>13.4.2</u>	<u>Termination in some cases</u> .....	6
<u>13.4.3</u>	<u>Time adjustment becomes effective</u> .....	6
<u>13.4.4</u>	<u>Adjustments – OTC Options Market Transactions</u> .....	6
<u>13.4.5</u>	<u>Termination in some cases – OTC Options Market Transactions</u> .....	6

## SECTION 13 DERIVATIVES CCP CONTRACTS – TRANSFERS, CLOSE OUTS AND ADJUSTMENTS

This Section only deals with Derivatives CCP Contracts and relates to:

- (a) the circumstances in which ASX Clear will transfer a Derivatives CCP Contract from one Participant to another and between the Accounts of a Participant;
- (b) the effect of any such transfer;
- (c) the circumstances in which a Derivatives CCP Contract may be closed out, reinstated or cancelled and when a Participant's right to close out may be suspended;
- (d) the consequences of closing out a Derivatives CCP Contract;
- (e) the circumstances in which ASX Clear will make an adjustment to the terms of a Derivatives CCP Contract or terminate those contracts; and
- (f) the settlement by ASX Clear of the settlement obligations which it has as Seller or Buyer of a Derivatives CCP Contract.

### 13.1 TRANSFERRING DERIVATIVES CCP CONTRACTS

#### 13.1.1 Transfer between Participants

If a Participant (the “**transferring Participant**”) requests ASX Clear to transfer a Derivatives CCP Contract to another Participant (the “**receiving Participant**”), ASX Clear will transfer the Derivatives CCP Contract only if:

- (a) the receiving Participant has agreed to the transfer and that agreement has been communicated to ASX Clear in accordance with the Procedures;
- (b) the receiving Participant is entitled under the Rules to have that Derivatives CCP Contract registered in its name;
- (c) if the Derivatives CCP Contract is to be registered in a Client Account, the receiving Participant has entered into a Client Agreement with the relevant Client which complies with Rule 7.1 or the New Participant is the successor of the Client Agreement of the relevant Client in accordance with Rule 7.1.5;
- (d) any conditions stipulated by ASX Clear in connection with the transfer have been met; and
- (e) ASX Clear consents to the transfer in accordance with the Procedures.

Introduced 11/03/04 Origin OCH 8.2.1 Amended 12/04/05

### **13.1.2 Effect of transfer**

Upon the transfer of a Derivatives CCP Contract under this Rule 13.1, the Derivatives CCP Contract between the transferring Participant and ASX Clear is discharged and replaced by novation with a Derivatives CCP Contract on the same terms between the receiving Participant and ASX Clear.

Introduced 11/03/04 Origin OCH 8.2.2

### **13.1.3 Process of transfer**

ASX Clear will transfer a Derivatives CCP Contract under this Rule 13.1 by simultaneously cancelling the registration of the Derivatives CCP Contract in the name of the transferring Participant and registering a new Derivatives CCP Contract on the same terms in the name of the receiving Participant and in an Account designated by the receiving Participant.

Introduced 11/03/04 Origin OCH 8.2.3

### **13.1.4 Transfer between Accounts within a single Participant**

If a Participant requests ASX Clear to transfer a Derivatives CCP Contract from one of its Accounts to another of its Accounts, ASX Clear will transfer the Derivatives CCP Contract if:

- (a) an error has been made in the designation of the Derivatives Market Contract which gave rise to the Derivatives CCP Contract and Rule 12.23 is satisfied; or
- (b) any conditions stipulated by ASX Clear in connection with the transfer have been met and ASX Clear consents to the transfer in accordance with the Procedures.

Introduced 11/03/04 Origin OCH 8.3

## **13.2 CLOSING OUT DERIVATIVES CCP CONTRACTS**

### **13.2.1 Participant may instruct ASX Clear to close out Derivatives CCP Contracts**

If:

- (a) a Derivatives CCP Contract is registered in an Account of a Participant as Buyer; and
- (b) a Derivatives CCP Contract in the same Series or Delivery Month is registered in the same Account of the Participant as Seller,

the Participant may instruct ASX Clear to close out those Derivatives CCP Contracts in accordance with the Procedures by setting off the rights and obligations of the Participant and ASX Clear under those Derivatives CCP Contracts at that time, and cancelling their registration in accordance with the Procedures.

Introduced 11/03/04 Origin OCH 9.1, S2.6

### **13.2.2 Effect of Close out**

When two Derivatives CCP Contracts registered in the name of the Participant as both the Buyer and the Seller are closed out under Rule 13.2.1:

- (a) where the two Derivatives CCP Contracts are in a category of Derivatives CCP Contract which is settled to market in accordance with Rule 12.15, on close out (whether as part of daily settlement to market under Rule 12.15 or under another Rule):
  - (i) if the price of the Derivatives CCP Contract registered in the name of the Participant as Seller is greater than the price of the Derivatives CCP Contract registered in the name of the Participant as Buyer, the Participant will have a Payment Right equal to the difference between those two prices; and
  - (ii) if the price of the Derivatives CCP Contract registered in the name of the Participant as Buyer is greater than the price of the Derivatives CCP Contract registered in the name of the Participant as Seller, the Participant will have a Payment Obligation equal to the difference between those two prices; and
- (b) in any other case, the rights and obligations of the Participant and ASX Clear under those Derivatives CCP Contracts are set off, and give rise to a net Payment Right or net Payment Obligation on close out depending on the price of the two Derivatives CCP Contracts.

Payment Rights and Payment Obligations arising under this Rule 13.2.2 must be settled with ASX Clear in accordance with Rules 12.16 and 12.17. In the case of an Option CCP Contract, a reference in this Rule 13.2.2 to price is to Premium.

Introduced 11/03/04 Origin OCH 9.2.1 Amended 18/12/06

### **13.2.3 Close out is irrevocable**

Subject to Rule 13.2.4, the closing out of two Derivatives CCP Contracts under this Rule 13 is irrevocable. Close out does not release the Participant or ASX Clear from the rights and obligations under those Derivatives CCP Contracts existing at the time of close out.

Introduced 11/03/04 Origin OCH 9.2.2

### **13.2.4 Reinstatement following close out**

If a Participant notifies ASX Clear in writing by the time specified in the Procedures that the Participant or ASX Clear has made an error in closing out two Derivatives CCP Contracts, ASX Clear may take any action it considers appropriate having regard to Rule 1.15 to reinstate the Derivatives CCP Contracts.

Introduced 11/03/04 Origin OCH 9.2.3



## 13.3 SUSPENSION OF RIGHT TO REQUEST CLOSE OUT

### 13.3.1 Conditional Markets

If transactions in Underlying Financial Products are made on a conditional market under the rules governing the Underlying Market, the right of Participants to close out Derivatives CCP Contracts over those Underlying Financial Products under this Rule 13 is suspended until the conditional market in the Underlying Financial Products becomes unconditional under the rules governing the Underlying Market. ASX Clear and the Participants which are parties to the relevant Derivatives CCP Contracts are entitled to rely on an announcement by the Approved Market Operator of the Underlying Market that the market has become unconditional under the rules governing the Underlying Market.

Introduced 11/03/04 Origin OCH S2.6.1

### 13.3.2 Cancellation of Derivatives CCP Contracts

If all transactions in the Underlying Financial Products the subject of a Derivatives CCP Contract are cancelled under the rules governing the Underlying Market and ASX Clear receives notification of that from the Approved Market Operator of the Underlying Market, ASX Clear will:

- (a) credit to the relevant Account all amounts which had been debited to that Account in respect of that Derivatives CCP Contract;
- (b) debit to the relevant Account all amounts which had been credited to that Account in respect of that Derivatives CCP Contract; and
- (c) cancel the registration of that Derivatives CCP Contract,

and the amounts credited and debited under paragraphs (a) and (b) are Payment Rights and Payment Obligations respectively of the relevant Participants.

Introduced 11/03/04 Origin OCH S2.6.2

## 13.4 ADJUSTMENTS

### 13.4.1 ASX Clear to make corresponding adjustment

Rules 13.4.1 to 13.4.3 (inclusive) apply to Derivatives CCP Contracts other than those resulting from the registration of OTC Options Market Transactions.

If the Approved Listing Market Operator makes an adjustment to the terms of a Series or Delivery Month pursuant to the rules of the Approved Listing Market Operator, ASX Clear will make a corresponding adjustment to the terms of Derivatives CCP Contracts in that Series or Delivery Month.

Introduced 11/03/04 Origin OCH 5.6.1 Amended 27/06/11, 28/05/12

#### **13.4.2 Termination in some cases**

If an event occurs and, instead of making an adjustment to the terms of a Series or Delivery Month open for trading on the market conducted by an Approved Listing Market Operator, the Approved Listing Market Operator directs pursuant to its rules that Derivatives CCP Contracts in that Series or Delivery Month be terminated, ASX Clear will terminate those Derivatives CCP Contracts in accordance with Rule 17.

Introduced 11/03/04 Origin OCH 5.6.2 Amended 27/06/11

#### **13.4.3 Time adjustment becomes effective**

The time an adjustment under Rule 13.4.1 becomes effective will be determined by ASX Clear having regard to the time the adjustment to the Series or Delivery Month by the Approved Listing Market Operator becomes effective.

Introduced 11/03/04 Origin OCH 5.6.3 Amended 27/06/11

#### **13.4.4 Adjustments – OTC Options Market Transactions**

Rules 13.4.4 and 13.4.5 apply to Derivatives CCP Contracts which result from the registration of OTC Options Market Transactions.

ASX Clear may make an adjustment to the terms of Derivatives CCP Contracts. The circumstances in which adjustments will generally apply are set out in the Procedures. The time an adjustment becomes effective will be determined by ASX Clear.

Introduced 28/05/12

#### **13.4.5 Termination in some cases – OTC Options Market Transactions**

If an event specified in the Procedures occurs, instead of making an adjustment to the terms of the Derivatives CCP Contracts, ASX Clear will terminate those Derivatives CCP Contracts in accordance with Rule 17.

Introduced 28/05/12

End of Document

## SECTION 15 DEFAULT

<u>15.1</u>	<u>EVENTS OF DEFAULT</u> .....	2
15.1.1	<u>Events of default by Participant</u> .....	2
<u>15.2</u>	<u>POWERS OF ASX CLEAR ON DEFAULT</u> .....	4
15.2.1	<u>ASX Clear may take action</u> .....	4
15.2.2	<u>Legal requirement for notice</u> .....	7
<u>15.3</u>	<u>OTHER EVENTS</u> .....	7
15.3.1	<u>ASX Clear may take action</u> .....	7
<u>15.4</u>	<u>TRANSFER OF CLIENT DERIVATIVES CCP CONTRACTS</u> .....	8
15.4.1	<u>ASX Clear may attempt to transfer Derivatives CCP Contracts</u> .....	8
<u>15.5</u>	<u>NOTIFICATION OF EXERCISE OF POWER</u> .....	8
15.5.1	<u>Notification to Participant</u> .....	8
15.5.2	<u>Notification to Approved Market Operator or Approved Settlement Facility</u> .....	9
<u>15.6</u>	<u>APPOINTMENT OF ASX CLEAR AS AGENT</u> .....	9
15.6.1	<u>Participant irrevocably appoints ASX Clear as agent</u> .....	9
<u>15.7</u>	<u>NO LIABILITY OF ASX CLEAR</u> .....	9
15.7.1	<u>ASX Clear not liable for bona fide exercise of power, right or discretion</u> .....	9
<u>15.8</u>	<u>INDEMNITY</u> .....	9
15.8.1	<u>Participants to indemnify ASX Clear</u> .....	9
<u>15.9</u>	<u>PROTECTION OF THIRD PARTIES</u> .....	10
15.9.1	<u>No requirement to enquire</u> .....	10
<u>15.10</u>	<u>SURVIVAL OF POWERS</u> .....	10
15.10.1	<u>Rights, powers and remedies survive Participant's termination</u> .....	10
<u>15.11</u>	<u>TERMINATION WITH RESPECT TO ASX CLEAR</u> .....	10
15.11.1	<u>Termination</u> .....	10
15.11.2	<u>Netting for Client Accounts</u> .....	11

## SECTION 15      DEFAULT

This Section sets out:

- (a) what constitutes an event of default by a Participant;
- (b) the powers of ASX Clear, if an event of default occurs, to take various action in respect of a Participant in its name and at its expense;
- (c) the powers of ASX Clear, on written notice to a Participant, to act in relation to events which, although not events of default, are events that ASX Clear considers may have a material adverse effect on, amongst other things, the capacity of a Participant to meet its obligations to ASX Clear, the financial position of the Participant or the financial position of ASX Clear;
- (d) the liability of ASX Clear where it bona fide exercises its powers and rights, the indemnities given by Participants to ASX Clear and the appointment of ASX Clear to act as agent for Participants;
- (e) the notice requirements that must be met by ASX Clear; and
- (f) the right of ASX Clear or any Participant to terminate its Derivatives CCP Contracts and Cash CCP Transactions in the event of a payment default or insolvency event of ASX Clear.

### 15.1      EVENTS OF DEFAULT

#### 15.1.1      Events of default by Participant

Each of the following events is an event of default by a Participant:

- (a) ASX Clear restricts the Participant from accessing the Clearing System;
- (b) the Participant fails to pay any amount due and payable to ASX Clear (under these Rules or otherwise);
- (c) the Participant fails to perform any of its obligations to ASX Clear (under these Rules or otherwise);
- (d) the Participant fails to comply with any reasonable direction, decision or requirement of ASX Clear (under these Rules or otherwise);
- (da) the Participant has failed to comply with a determination made by an Old Tribunal (as defined in Rule 19.20) pursuant to the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook (as defined in Rule 19.20);

- (db) the Participant fails to comply with any action taken by ASX Clear in accordance with Rule 19.3.1 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;
- (e) without limiting Rules 15.1(b),(c), (d), (da) or (db), any failure by a Participant which is a Seller in respect of a Deliverable Derivatives CCP Contract to perform its settlement obligations on settlement of that contract or to take all steps required to put itself in the position to comply with its settlement obligations;
- (f) the Participant indicates that it will or may suspend payment to ASX Clear or to creditors;
- (g) the Participant is or states that it is, or reasonably suspects that it may be, insolvent, or ceases or indicates that it will or may cease to carry on business;
- (h) the Participant becomes, the Participant or any other person takes any step which might result in the Participant becoming, or the Participant reasonably suspects that it may become an externally-administered body corporate as defined in section 9 of the Corporations Act;
- (i) someone takes control of the Participant's property for the benefit of the Participant's creditors because the Participant is, or is likely to become, insolvent;
- (j) where the Participant is a partnership, any partner becomes an insolvent under administration, or any other person takes any step which might result in any partner becoming an insolvent under administration;
- (k) any distress, execution or other process is levied or enforced or served upon or against any property of the Participant;
- (l) an investigator, inspector or other officer is appointed, or an investigation directed or commenced under the Corporations Act or other legislation to investigate all or part of the affairs of the Participant or a related entity, in circumstances which are, in the opinion of ASX Clear, material to the capacity of the Participant to meet its obligations to ASX Clear;
- (m) a Participant does not have the level of capital required under Section 5;
- (n) a Participant no longer satisfies the Admission Requirements or fails to comply with any condition of admission;
- (o) a Participant made a wilful omission or misstatement in respect of a material matter prior to, or in connection with, its application for admission;
- (p) a Participant or any of its Employees is the subject of any regulatory or disciplinary action by any body;
- (q) a Participant has failed to comply with Rule 19.1;

- (r) the Participant is suspended, expelled or terminated as a member or participant of, or subject to any sanction imposed by, ASX Clear, an Approved Market Operator, an Approved Settlement Facility, any Australian or overseas derivatives, securities, commodity or stock exchange or market or any other clearing and settlement facility or is subject to any sanction imposed by an Australian or overseas regulatory authority or the Participant ceases to be entitled to carry on business.

Introduced 11/03/04 Origin OCH 12.1 Amended 01/08/10

## 15.2 POWERS OF ASX CLEAR ON DEFAULT

### 15.2.1 ASX Clear may take action

If an event of default under Rule 15.1 occurs, or if Rule 15.3 applies, ASX Clear may take any or all of the following actions in respect of the Participant, in the name of (if appropriate) and at the expense of the Participant, in any order but subject to Rule 15.4, immediately or at any other time ASX Clear determines, and without the need for any prior notice to or consent of the Participant or any other person:

- (a) calculate one or more net amounts under and in accordance with Rule 10.3 and demand immediate payment of any net amount payable by the Participant;
- (b) refuse to register Derivatives Market Contracts reported for registration in the Participant's name or allocated to the Participant under Rule 11.1;
- (c) enter into transactions on a market conducted by an Approved Market Operator, on an Underlying Market (including an over the counter market) or on another market in order to close out, or eliminate or minimise the risk from, Clearing Obligations associated with Derivatives CCP Contracts or Cash CCP Transactions registered in an Account of the Participant. Without in any way limiting its powers, ASX Clear may borrow Financial Products for the purpose of meeting settlement obligations;
- (d) transfer any or all:
  - (i) Cash CCP Transactions registered in the Cash Market Account of the Participant to another Participant selected by ASX Clear in its discretion, with the agreement of the selected Participant; or
  - (ii) Derivatives CCP Contracts registered in an Account of the Participant, to another Participant selected by ASX Clear in its discretion, with the agreement of the selected Participant, as if the Participant had made a request for transfer under Rule 13.1, and simultaneously transfer to the credit of the receiving Participant Cover recorded in respect of the transferred Derivatives CCP Contracts under Rules 10.2.2 and 10.2.3;
- (e) close out Derivatives CCP Contracts which the Participant is entitled under Rule 13.2.1 to close out;
- (f) exercise, or allow to expire, any Options CCP Contracts registered in an Account of the Participant;

- (g) terminate ~~under Section 17~~ Cash CCP Transactions and Derivatives CCP Contracts registered in an Account of the Participant at a price determined by ASX Clear subject to these Rules;
- (h) in relation to Collateral secured in favour of ASX Clear in respect of that Participant:
  - (i) receive any dividends, interest or other income payable in respect of that Collateral and do anything else in relation to that Collateral that an owner of the Collateral could do;
  - (ii) register all or part of the Collateral in the name of ASX Clear;
  - (iii) deal with all or part of the Collateral in the same way as the holder or owner of the Collateral could if the Collateral were not secured in favour of ASX Clear;
  - (iv) sell all or part of the Collateral whether by public auction and/or private arrangement and whether on-market or off-market;
  - (v) allow the purchaser of any Collateral time for payment of all or part of the purchase money;
  - (vi) appoint a receiver or receiver and manager to the Collateral to do any of the things referred to in sub-paragraphs (i) to (v) inclusive; and
  - (vii) do anything which ASX Clear considers necessary for any of these purposes;
- (i) exercise its rights to apply or set off Cash Cover or Excess Cash under these Rules;
- (j) subject to Sections 10 and 14, apply in or towards satisfaction of any amount due and payable to ASX Clear and in any order:
  - (i) any Cash Cover held in respect of the Participant; and
  - (ii) the proceeds of demanding, calling in, selling, realising and converting into cash any Collateral provided by or on behalf of the Participant after deducting all costs, commissions, duties and taxes payable in connection with any of those actions;
- (k) release or return directly to a Client or to any external administrator of the Participant any Excess Cash or excess Collateral;
- (l) subject to Rule 19.5, suspend or terminate the Participant's authority to clear all or any category of Market Transaction, or impose restrictions as new conditions on its authority to clear a category of Market Transaction. Such suspension or termination, or imposition of restrictions, takes effect at the time determined by ASX Clear in its absolute discretion;
- (m) appoint any person as its agent for the purpose of exercising a power under this Rule 15.2;

- (n) where the event of default is a failure by the Buyer to pay the Settlement Amount in respect of a Deliverable Derivatives CCP Contract by the time for settlement (and without limiting any other powers ASX Clear may exercise under this Rule 15.2.1):
- (i) defer the settlement of the relevant Derivatives CCP Contract until it determines that settlement can occur at a later time in accordance with that Rule; or
  - (ii) terminate that contract and pursue any legal remedy available to ASX Clear in connection with that failure (including for example suing the Buyer to recover damages for breach of that Derivatives CCP Contract and these Rules) and resell or otherwise deal with any interest in the Underlying Commodity which the Buyer would have acquired under the rules governing the settlement of the contract, had settlement occurred;
- (o) where the event of default is a failure by the Seller of the type referred to in Rule 15.1.1(e) (and without limiting any other powers ASX Clear may exercise under this Rule 15.2.1):
- (i) defer the settlement of the relevant Derivatives CCP Contract until it determines that settlement can occur at a later time in accordance with that Rule; or
  - (ii) terminate that contract and pursue any legal remedy available to ASX Clear in connection with that default (including, for example, suing the Seller to recover damages for breach of that Derivatives CCP Contract and these Rules);
- (p) without prejudice to any other rights which ASX Clear may have under the Rules, under statute, at law or in equity, take any other action, or take no action, or direct the Participant to take any action or no action, in order to eliminate or minimise risk with respect to Cash CCP Transactions or Derivatives CCP Contracts of the Participant which ASX Clear considers appropriate having regard to Rule 1.15;
- (q) set off or apply in or towards any amount due and payable by the defaulting Participant to ASX Clear (including in relation to any Account or Market Transaction) any amount due and payable by ASX Clear to the defaulting Participant (including in relation to any Account or Market Transaction);
- (r) calculate a net amount or amounts due and payable by the defaulting Participant to ASX Clear or ASX Clear to the defaulting Participant following the exercise by ASX Clear of any or all of its rights under this Rule 15, and demand immediate payment of any net amount payable by the defaulting Participant to ASX Clear. Without limiting any of its rights or powers, ASX Clear agrees that it will exercise its rights under this Rule 15.2.1(r) to calculate a net amount with respect to the defaulting Participant. ASX Clear may exercise any of its rights and powers and take any other actions in connection with the defaulting Participant before, or after, it does so: and



[(s) exercise its rights under the Recovery Rules.]

Introduced 11/03/04 Origin OCH 12.2.1 Amended 13/07/09, 28/05/12, 07/06/13, 23/06/14, XX/XX/XX

[Explanatory Note: these amendments clarify that ASX Clear may also exercise its rights under the Recovery Rules following the default of a Participant]

## 15.2.2 Legal requirement for notice

Despite Rule 15.2.1, ASX Clear may be required by law to give notice before taking action under Rule 15.2.1 or may have obligations imposed by law about what it must do when taking that action. However, to the extent that these requirements and obligations can be excluded or limited by agreement, they are so excluded and limited and ASX Clear does not have to notify the Participant, any Client or the legal owner of any Collateral before taking any of the actions referred to in Rule 15.2.1.

Introduced 11/03/04 Origin OCH 12.2.2

## 15.3 OTHER EVENTS

### 15.3.1 ASX Clear may take action

If an event, or series of events whether related or not, occurs in relation to a Participant or a Related Entity of a Participant, which is not an event of default under Rule 15.1, including without limitation:

- (a) the Participant fails to comply, or indicates that it will or may fail to comply with any of the Rules or the Procedures or the terms of any agreement with ASX Clear;
- (b) ASX Clear has reasonable grounds for suspecting that a Participant will or may fail to comply with any of the Rules or the Procedures or the terms of any agreement with ASX Clear;
- (c) ASX Clear is satisfied that the acts, omissions or proposed conduct of a Participant may adversely affect the operation or integrity of the Clearing Facility;
- (d) the Participant or a Related Entity fails to comply, or indicates that it will or may fail to comply with any rule or the procedure of, or any term of any agreement with, an Approved Market Operator or any other market operator or clearing and settlement facility;
- (e) ASX Clear is informed by an Approved Market Operator or any other market operator or clearing and settlement facility that the Participant or a Related entity is not, or may not be, complying with its obligations under the rules or the procedures of, or any terms of any agreement with, an Approved Market Operator or any other market operator or clearing and settlement facility;
- (f) the Participant or a Related Entity fails to comply, or indicates that it will or may fail to comply with any legislative or regulatory requirement;

- (g) the Participant fails to deliver Financial Products to discharge its Clearing Obligation; or
- (h) ASX Clear is informed by any other regulatory body that the Participant or a Related Entity is not, or may not be, complying with any legislative or regulatory requirement,

and ASX Clear considers the event or series of events has or may have a material adverse effect on:

- (i) the capacity of the Participant to meet all its obligations to ASX Clear, an Approved Market Operator, an Approved Settlement Facility or other Participants;
- (j) the financial position of ASX Clear or the Participant; or
- (k) the market conducted by an Approved Market Operator or an Underlying Market,

ASX Clear may, immediately after giving written notice to the Participant of its intention to rely on this Rule, take any or all of the actions set out in Rule 15.2 in relation to the Participant.

Introduced 11/03/04 Origin OCH 12.3

## 15.4 TRANSFER OF CLIENT DERIVATIVES CCP CONTRACTS

### 15.4.1 ASX Clear may attempt to transfer Derivatives CCP Contracts

If:

- (a) Rule 15.2 applies;
- (b) the Participant has a Derivative CCP Contract registered in a Client Account; and
- (c) the Participant has no outstanding obligations or liabilities to ASX Clear in respect of that Client Account,

then before taking any other action under Rule 15.2 ASX Clear may attempt to transfer that Derivatives CCP Contract to another Participant under Rule 15.2.1(d). Any transfer will be effected in accordance with Rule 13.1 (except that Rule 13.1.1 need not be complied with).

Introduced 11/03/04 Origin OCH 12.4

## 15.5 NOTIFICATION OF EXERCISE OF POWER

### 15.5.1 Notification to Participant

ASX Clear will keep the Participant reasonably informed of actions ASX Clear has taken under Rule 15.2.

Introduced 11/03/04 Origin OCH 12.5.1

## **15.5.2 Notification to Approved Market Operator or Approved Settlement Facility**

ASX Clear will notify each relevant Approved Market Operator and Approved Settlement Facility for which the Participant clears of action ASX Clear has taken under Rule 15.2 as soon as practicable after taking that action.

Introduced 11/03/04 Origin OCH 12.5.2

## **15.6 APPOINTMENT OF ASX CLEAR AS AGENT**

### **15.6.1 Participant irrevocably appoints ASX Clear as agent**

Each Participant irrevocably appoints severally ASX Clear, and every officer, agent, person acting for or on behalf of ASX Clear and each other representative for the time being of ASX Clear, at the option of ASX Clear, to be the agent of the Participant and irrevocably authorises ASX Clear and every officer, agent, person and other representative for the time being of ASX Clear, at the option of ASX Clear, to do all acts and execute all documents on its behalf for the purpose of exercising the powers conferred on ASX Clear by this Section 15.

Introduced 11/03/04 Origin OCH 12.6

## **15.7 NO LIABILITY OF ASX CLEAR**

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

Without limiting Rule 1.10, none of ASX Clear, its officers, representatives, agents or contractors is liable to a Participant or to any other person for any loss, liability, damage, cost or expense arising in any way (including, without limitation, by negligence) from the bona fide exercise of any power, right or discretion conferred upon ASX Clear by this Section 15.

Introduced 11/03/04 Origin OCH 12.7

## **15.8 INDEMNITY**

### **15.8.1 Participants to indemnify ASX Clear**

Each Participant indemnifies and will keep indemnified ASX Clear 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 on a payment made under this indemnity) against or incurred by any of ASX Clear, its officers, representatives, agents or contractors arising out of or in connection with any event of default under Rule 15.1, any circumstances under Rule 15.3 or any action taken by, or any inaction by, any of ASX Clear or its officers, representatives, agents or contractors under this ASX Clear Section 15.

Introduced 11/03/04 Origin OCH 12.8

## 15.9 PROTECTION OF THIRD PARTIES

### 15.9.1 No requirement to enquire

No person need enquire whether any action taken under this ASX Clear Section 15 is properly or validly taken nor will a person be affected by any notice or claim that any action taken under this Section 15 is improper or unnecessary.

Introduced 11/03/04 Origin OCH 12.9

## 15.10 SURVIVAL OF POWERS

### 15.10.1 Rights, powers and remedies survive Participant's termination

The rights, powers and remedies of ASX Clear under this Section 15 in relation to a Participant survive the termination of the Participant's admission as a Participant.

Introduced 11/03/04 Origin OCH 12.10

## 15.11 TERMINATION WITH RESPECT TO ASX CLEAR

### 15.11.1 Termination

If:

- (a) **(ASX Clear Payment Default)** all of the following occur:
- (i) ASX Clear fails to make, when due, any payment in respect of a payment claim of a Participant against ASX Clear arising from a Derivatives CCP Contract or Cash CCP Transaction;
  - (ii) such Participant has notified ASX Clear of such failure;
  - (iii) such Participant notifies ASX Clear again of such failure after the expiry of a period of not less than five Business Days after the notification in (ii); and
  - (iv) ASX Clear's failure to make such payment to such Participant continues for a period of more than five Business Days after notification in (iii),

and for this purpose and without limitation, a payment will be considered to have been made by ASX Clear if a corresponding amount has been credited to the relevant account of the relevant Participant. Delays in effecting such credit for technical reasons will not lead to an ASX Clear Payment Default provided that funds were available to enable ASX Clear to make the credit; or

- (b) **(ASX Clear Insolvency Event)** ASX Clear is wound-up in insolvency under the Corporations Act or is subject to statutory management either instituted by it or against it by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in Australia,

then, at the election of either ASX Clear or any Participant (if a Participant makes this election then only its Derivatives CCP Contracts and its Cash CCP Transactions are affected):

- (I) the present and future obligations of ASX Clear and each Participant to make payments and deliveries under the terms of the Derivatives CCP Contracts and Cash CCP Transactions are terminated and are no longer required to be made;
- (II) ASX Clear is to calculate the termination value of those terminated obligations. The termination values ~~for Derivatives CCP Contracts will be calculated in accordance with Rule 17. The termination values for Cash CCP Transactions~~ are to take into account the amounts which would otherwise be debited or credited in respect of the daily revaluation of the Cash CCP Transactions and Derivatives CCP Contracts for margining purposes;
- (III) ASX Clear will net the termination values so calculated separately in respect of each Participant's (A) House Account(s) and Cash Market Account and (B) Client Account, so that only a net cash amount is payable in respect of each of (A) and (B) and between ASX Clear and each respective Participant. Each such net cash amount is to be payable by the party who is determined to owe it on the Business Day on which it is determined and notified to the Participant.

If ASX Clear is, for operational reasons, unable to make one or more calculations or determinations required to be made under this Rule then those particular calculations are to be made by the relevant Participant.

Introduced 23/06/14

#### **15.11.2 Netting for Client Accounts**

If a Participant has more than one Client Account then the netting referred to in Rule 15.11.1(III) above is to be conducted separately in respect of each Client Account of that Clearing Participant. A net cash amount is to be payable in accordance with Rule 15.11.1(III) in respect of each separate netting which takes place.

Introduced 23/06/14

**End of Document**

## SECTION 17 ASX CLEAR TERMINATION OF DERIVATIVES CCP CONTRACTS

[Toc376958191](#)~~ERROR! HYPERLINK REFERENCE NOT VALID.~~

17.1.1	<u>Application of Rule</u> .....	13
17.1.2	<u>Termination</u> .....	13
17.1.3	<u>Role of Approved Listing Market Operator in setting termination price</u> .....	13
17.1.4	<u>Meaning of 'available market'</u> .....	14
17.1.5	<u>Available market determination</u> .....	14
17.1.6	<u>No available market determination</u> .....	14
17.1.7	<u>Failure to obtain Termination Price</u> .....	14
17.1.7A	<u>Termination of Derivatives CCP Contracts - OTC Options Market Transactions</u> .....	15
17.1.8	<u>Determination final and binding</u> .....	15
17.1.9	<u>Termination Price may be zero</u> .....	15
<b>17.2</b>	<b><u>TERMINATION PROCESS</u></b> .....	<b>15</b>
17.2.1	<u>Where Termination Price is obtained through a Derivatives Market Contract under Rule 17.1.5(b)</u> .....	15
17.2.2	<u>Where Termination Price is determined in another way</u> .....	15
17.2.3	<u>Selection final and binding</u> .....	16
<b>17.3</b>	<b><u>NO LIABILITY OF ASX CLEAR</u></b> .....	<b>16</b>
17.3.1	<u>ASX Clear not liable to Participants</u> .....	16
<b>17.4</b>	<b><u>TERMINATION AMOUNT AND ACCOUNTING FOR TERMINATION</u></b> .....	<b>16</b>
17.4.1	<u>Payment of Termination Amount</u> .....	16
17.4.2	<u>Genuine pre-estimate</u> .....	17
17.4.3	<u>Accounting</u> .....	17

## SECTION 17 ASX CLEAR TERMINATION OF DERIVATIVES CCP CONTRACTS

This Section only deals with the termination of a Derivatives CCP Contract in accordance with Rules 13.4.2, 13.4.5 and Rule 16 and sets out:

- (a) the circumstances in which ASX Clear may terminate a Derivatives CCP Contract;
- (b) the time the termination becomes effective; and
- (c) the process by which the termination is to occur including the determination of a Termination Price and the payment of a Termination Amount.

### 17.1 GENERAL

#### 17.1.1 Application of Rule

This Rule applies to the ~~Where these Rules provide for the~~ termination of Derivatives CCP Contracts, ~~termination will occur in accordance with this Rule 17 in accordance with Rules 13.4.2, 13.4.5 and Rule 16 only.~~

Introduced 11/03/04 Origin OCH 14.1.1

#### 17.1.2 Termination

The termination of a Derivatives CCP Contract under this Rule 17 will be effective from the time registration of the Derivatives CCP Contract is cancelled, or from the time notified by ASX Clear to the relevant Participant.

Introduced 11/03/04 Origin OCH 14.1.2

#### 17.1.3 Role of Approved Listing Market Operator in setting termination price

Rules 17.1.3 to 17.1.7 (inclusive) apply to Derivatives CCP Contracts other than those resulting from the registration of OTC Options Market Transactions.

Before terminating a Derivatives CCP Contract under this Rule 17, ASX Clear will request the Approved Listing Market Operator:

- (a) to determine whether a market is available in the relevant Series or Delivery Month; or
- (b) if the Approved Listing Market Operator determines that a market is not available, to determine a price at which the Derivatives CCP Contract will be terminated ("Termination Price"),

and to notify ASX Clear of its determination.

Introduced 11/03/04 Origin OCH 14.2.1 Amended 27/06/11, 28/05/12

#### **17.1.4 Meaning of 'available market'**

ASX Clear and Participants acknowledge that the Approved Listing Market Operator will, in determining whether a market is available for the purpose of this Rule 17 consider whether it is possible, practicable or desirable to enter into a transaction on the Approved Listing Market Operator, having regard to all relevant circumstances, including without limitation, the size of the transaction, the liquidity of the relevant market conducted by the Approved Listing Market Operator for the relevant transaction, the potential delay in effecting the transaction, and the potential effects of the transaction on the relevant market conducted by the Approved Listing Market Operator or any Underlying Market.

Introduced 11/03/04 Origin OCH 14.2.2 Amended 27/06/11

#### **17.1.5 Available market determination**

If, pursuant to a request under Rule 17.1.3, the Approved Listing Market Operator determines and notifies ASX Clear that there is an available market:

- (a) ASX Clear will instruct a Participant to enter into a Derivatives Market Contract with another Market Participant, in the relevant Series or Delivery Month but in the opposite position to the position which had been held under the terminated Derivatives CCP Contract; and
- (b) if a Derivatives Market Contract is entered into, the price of that Derivatives Market Contract will be the Termination Price for the terminated Derivatives CCP Contract.

Introduced 11/03/04 Origin OCH 14.2.3 Amended 27/06/11

#### **17.1.6 No available market determination**

If the Approved Listing Market Operator determines and notifies ASX Clear that there is no available market for the purposes of this Rule 17.1 and notifies ASX Clear of a Termination Price for the Derivatives CCP Contract, that price will be the Termination Price for the terminated Derivatives CCP Contract.

Introduced 11/03/04 Origin OCH 14.2.4 Amended 27/06/11

#### **17.1.7 Failure to obtain Termination Price**

If, within a reasonable time following a request under Rule 17.1.3:

- (a) the Approved Listing Market Operator has not notified ASX Clear that there is an available market for the purposes of this Rule 17.1;
- (b) the Approved Listing Market Operator has notified ASX Clear that there is an available market for the purposes of this Rule 17.1, but the Participant instructed by ASX Clear under Rule 17.1.5 to enter into a Derivatives Market Contract in the relevant Series or Delivery Month has failed to enter into a Derivatives Market Contract in that Series or Delivery Month; or
- (c) the Approved Listing Market Operator has not notified ASX Clear of a Termination Price as requested under Rule 17.1.3(b),



ASX Clear may determine a Termination Price, which it considers fair and reasonable in the circumstances. The determination as to whether a reasonable time in the circumstances has elapsed following a request to the Approved Listing Market Operator is at the absolute discretion of ASX Clear.

Introduced 11/03/04 Origin OCH 14.2.5 Amended 27/06/11

#### **17.1.7A Termination of Derivatives CCP Contracts – OTC Options Market Transactions**

For a Derivatives CCP Contract resulting from the registration of an OTC Options Market Transaction, ASX Clear will determine a price at which the Derivatives CCP Contract will be terminated (“Termination Price”) in accordance with the Procedures.

Introduced 28/05/12

#### **17.1.8 Determination final and binding**

Any determination by the Approved Listing Market Operator or, if applicable, by ASX Clear under this Rule 17.1 as to:

- (a) whether there is an available market; or
- (b) the Termination Price,

is final and binding on ASX Clear, Participants and any other person affected by the determination.

Introduced 11/03/04 Origin OCH 14.2.6 Amended 27/06/11

#### **17.1.9 Termination Price may be zero**

For the purpose of this Rule 17.1, the Participant and ASX Clear acknowledge that the Termination Price may be zero (except in the case of Rule 17.1.5(b)).

Introduced 11/03/04 Origin OCH 14.2.7

### **17.2 TERMINATION PROCESS**

#### **17.2.1 Where Termination Price is obtained through a Derivatives Market Contract under Rule 17.1.5(b)**

Despite Rules 12.2.1 and 12.2.2, immediately upon registration of a Derivatives Market Contract entered into under Rule 17.1.5(b), the Derivatives Market Contract is discharged and replaced by novation with only one Derivatives CCP Contract on the same terms, subject to the Rules, as the Derivatives Market Contract. In particular, no Derivatives CCP Contract arises between ASX Clear and the Participant which ASX Clear instructed to enter into the Derivatives Market Contract under Rule 17.1.5(b).

Introduced 11/03/04 Origin OCH 14.3.1 Amended 04/06/10

#### **17.2.2 Where Termination Price is determined in another way**

Unless the Termination Price of a Derivatives CCP Contract is determined under Rule 17.1.5(b), ASX Clear must terminate and cancel the registration of another Derivatives

CCP Contract in the same Series or Delivery Month as the first Derivatives CCP Contract but in the opposite position to the position held under the first Derivatives CCP Contract. That Derivatives CCP Contract must be a Derivatives CCP Contract registered in the Account of another Participant selected by ASX Clear in its discretion. That Derivatives CCP Contract will be terminated at the Termination Price determined in respect of the first Derivatives CCP Contract under Rule 17.1.

Introduced 11/03/04 Origin OCH 14.3.2

### **17.2.3 Selection final and binding**

In exercising its discretion to select a Participant under Rule 17.2.2, ASX Clear will have regard, as far as practicable, to the total number of Derivatives CCP Contracts in the opposite position then held by all other Participants. That selection is final and binding on the Participant selected and any other person affected by that selection.

Introduced 11/03/04 Origin OCH 14.3.3

## **17.3 NO LIABILITY OF ASX CLEAR**

### **17.3.1 ASX Clear not liable to Participants**

Without limiting Rule 1.10, none of ASX Clear its officers, agents, contractors or persons acting for or on behalf of ASX Clear are liable to a Participant or to any other person for any loss, liability, damage, cost or expense arising in any way from the actions or determinations of ASX Clear under this Rule 17.

Introduced 11/03/04 Origin OCH 14.4

## **17.4 TERMINATION AMOUNT AND ACCOUNTING FOR TERMINATION**

### **17.4.1 Payment of Termination Amount**

If ASX Clear terminates a Derivatives CCP Contract under this Rule 17:

- (a) the Participant whose Derivatives CCP Contract has been terminated must pay ASX Clear an amount by way of liquidated damages equal to the amount which would have been payable by the Participant to ASX Clear; and
- (b) ASX Clear must pay to the Participant whose Derivatives CCP Contract has been terminated an amount by way of liquidated damages equal to the amount which would have been payable by ASX Clear to the Participant,

if the terminated Derivatives CCP Contract had been closed out by an opposite Derivatives CCP Contract at the Termination Price under Rules 13.2.1 to 13.2.4. In these Rules, the amount payable under paragraph (a) or (b) of this Rule is referred to as the "**Termination Amount**".

Introduced 11/03/04 Origin OCH 14.5.1

#### **17.4.2 Genuine pre-estimate**

ASX Clear and any Participant whose Derivatives CCP Contract is terminated under this Rule 17 acknowledge that the Termination Amount determined under Rule 17.4.1 fairly represents and is a genuine pre-estimate of the loss or damages which the Participant or ASX Clear will suffer from the termination of a Derivatives CCP Contract under this Rule 17.

Introduced 11/03/04 Origin OCH 14.5.2

#### **17.4.3 Accounting**

ASX Clear will account for the termination of a Derivatives CCP Contract under this Rule 17 by debiting or crediting the Participant's relevant Account with the Termination Amount in accordance with the Procedures.

Introduced 11/03/04 Origin OCH 14.5.3

**End of Document**