



# ASX OTC RULEBOOK

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# ASX OTC Rulebook

## 1 SCOPE AND INTERPRETATION

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

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

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

### 1.2 Futures Rules and their application

These OTC Rules form part of:

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

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

| <b>Futures Term</b>   | <b>OTC Term</b>            |
|-----------------------|----------------------------|
| Clearing Participants | OTC Participants           |
| Market Contracts      | OTC Transactions           |
| Open Contracts        | OTC Open Contracts         |
| Open Position         | OTC Open Position          |
| Commitment            | OTC Commitment             |
| Initial Margin        | OTC Initial Margin         |
| Variation Margin      | OTC Daily Variation Margin |

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

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

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

out a matrix showing which Futures Rules do not apply to OTC Clearing and OTC Open Contracts. These OTC Rules do not prevail over the Recovery Rules.

Amended 11/02/14, 01/10/15

### 1.3 Meanings of terms

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

### 1.4 OTC Handbook

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

Amended 11/02/14, 15/08/16

### 1.5 OTC Participants

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

### 1.6 OTC Transactions and OTC Transaction Type

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

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

### 1.7 OTC Open Contract

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

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

### 1.8 OTC Open Position

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

Amended 11/02/14, 07/04/14, 15/08/16

### 1.9 Re-bilateralisation – [Deleted]

Deleted 07/04/14

## 1.10 OTC Terms

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

## 1.11 Interpretation

Unless the contrary intention appears, in these OTC Rules:

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

## 1.12 Number

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

## 1.13 Headings

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

### **1.14 Signpost: Good standing**

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

## **2 PARTICIPATION AND GENERAL**

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

The OTC Rules in this OTC Rule 2 (Participation and General) relate to matters addressed in Part 2 (General) of the Futures Rules, other than Futures Rules 5 (Commitment to Support Obligations of ASX Clear (Futures)) to 8 (Financial Requirement) (to which OTC Rules 3 and 6 are related). Of these related Futures Rules the following Futures Rules apply to OTC Clearing, where relevant as supplemented and varied by these OTC Rules:

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

Amended 11/02/14, 03/07/17

### **2.2 Becoming an OTC Participant**

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

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

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



## 2.3 Conditions to become an OTC Participant

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

- (a) it is:
  - (i) either:
    - (A) an Australian Bank; or
    - (B) an Australian subsidiary of an Australian Bank,  
in each case, which is regulated by the Australian Prudential Regulation Authority in accordance with the *Banking Act 1959 (Cwlth)* or is the holder of an appropriate (as determined by ASX Clear (Futures) in its sole discretion) Australian Financial Services Licence; or
  - (ii) a bank which is regulated by the Reserve Bank of New Zealand in accordance with the *Reserve Bank of New Zealand Act 1989* (New Zealand); or
  - (iii) the holder of an appropriate (as determined by ASX Clear (Futures) in its sole discretion) Australian Financial Services Licence, or a similar licence issued in a jurisdiction other than Australia, on the basis of which it is exempt from the requirement to hold an Australian Financial Services Licence; and
- (b) it meets the applicable Financial Requirements under OTC Rule 3.3 (Financial Requirements of OTC Participants); and
- (c) it can demonstrate to the satisfaction of ASX Clear (Futures) its ability to participate in the default management process maintained by ASX Clear (Futures) and referred to in OTC Rule 6.2 (Default management process), including participating in a DM Auction which includes both OTC Open Contracts and, if applicable, other Open Contracts of the Defaulted OTC Participant; and
- (d) if a Clearing Participant who applies to be an OTC Participant is not a Futures Participant, it must have in place arrangements (which may not be withdrawn without ASX Clear (Futures)' consent) for a Futures Participant to clear Market Contracts which the applicant acquires in any DM Auction. The applicant must provide evidence of these arrangements to ASX Clear (Futures) in form and substance satisfactory to ASX Clear (Futures); and
- (e) such other conditions as may be set out in the OTC Handbook.

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

Amended 11/02/14, 27/11/17

## 2.4 Application to be an OTC Participant

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

- (a) an application in the form required by ASX Clear (Futures) duly executed by the applicant;
- (b) such information and evidence concerning the applicant as ASX Clear (Futures) may require;

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

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

## **2.5 Approval of application**

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

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

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

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

## **2.6 Fees and OTC Commitment**

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

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

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

## **2.7 Conditions on authorisation**

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

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

## **2.8 Limitations on authorisation**

Authorisation as an OTC Participant is a privilege granted by ASX Clear (Futures) and may be withdrawn by ASX Clear (Futures) at any time. ASX Clear (Futures) will act reasonably and in good faith in deciding to withdraw the authorisation of an OTC

Participant and will provide notice in writing to the OTC Participant outlining the reasons for the withdrawal of its authorisation under this OTC Rule.

Amended 11/02/14, 15/08/16

## **2.9 Fees**

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

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

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

An OTC Participant may not assign, charge, declare a trust in respect of, or otherwise deal with its rights or privileges under these OTC Rules. ASX Clear (Futures) need not recognise the interests of any person who claims to have an interest in the rights which an OTC Participant has under these OTC Rules or against ASX Clear (Futures) and ASX Clear (Futures) is not responsible for the performance or liabilities of any OTC Participant to any person.

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

Amended 11/02/14, 15/08/16

## **2.11 Variations to OTC Handbook**

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

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

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

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

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

- (a) terminate any or all of such OTC Open Contracts and require them to be cash settled at a price determined by ASX Clear (Futures) by reference to the last determined OTC Daily Closing Value for such OTC Open Contracts; or

- (b) postpone the date of the cessation of the service until such time as ASX Clear (Futures) determines.

Amended 11/02/14

**Explanatory Note:**

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

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

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

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

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

Without limiting the above, ASX Clear (Futures) is entitled to require any outstanding OTC Open Contract of the OTC Participant to be transferred to another OTC Participant in accordance with OTC Rule 4.13 (Transfer of OTC Open Contracts), netted in accordance with OTC Rule 4.15 (Netting of OTC Open Contracts) or a combination of both.

Amended 11/02/14, 07/04/14, 15/08/16

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

An OTC Participant must:

- (a) establish and maintain access arrangements for submission of messages to ASX Clear (Futures) via the Approved Trade Source System that meet the minimum standards set out in the OTC Handbook;
- (b) establish and maintain appropriate arrangements for internal authorisation of the submission of OTC Transactions for registration and requests to cancel, amend or transfer OTC Open Contracts; and
- (c) sign an Attestation in the form set out in the OTC Handbook and lodge the signed Attestation with ASX Clear (Futures) within 3 months of the end of each calendar year.

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

## 2.15 Client Sub-Accounts

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

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

Nothing in this OTC Rule limits Futures Rule 113.5.

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

## 2.16 CFTC Reporting

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

- (a) will not report under the Part 45 Regulations; and
- (b) where the Reportable OTC Transaction was:
  - (i) entered into by an OTC Affiliate of the OTC Participant (as defined in OTC Rule 4.2A); or
  - (ii) submitted for registration on behalf of a CPM Client of the OTC Participant,

will take reasonable steps to ensure that the OTC Affiliates or CPM Client (as applicable) does not report under the Part 45 Regulations,

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

In this OTC Rule 2.16:

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

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

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

- (i) that is submitted to ASX Clear (Futures) for registration; and
- (ii) that has been, or is required to be, reported to a CFTC-registered SDR under the Part 45 Regulations; and

**SDR** means a swap data repository.

Introduced 07/04/14 Amended 01/08/14, 15/08/16

### **Explanatory Note:**

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

trade reporting by any person as required by a regulator other than the CFTC, or by a law other than the Part 45 Regulations, regardless of whether the entity to whom the trades are reported is also a CFTC-registered SDR.

## **2.17 Recovery Rules**

Nothing in these OTC Rules limits the Recovery Rules.

Introduced 01/10/15

### **Explanatory Note:**

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

## **3 COMMITMENTS AND FINANCIAL REQUIREMENTS**

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

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

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

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

### **3.2 OTC Commitment**

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

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

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

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

An OTC Participant must:

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

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

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

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

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

Amended 23/07/18

## **4 REGISTRATION**

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

These OTC Rules relate to matters which are addressed in Part 3 (Registration of Market Contracts and Obligations of ASX Clear (Futures)) of the Futures Rules. Accordingly, Part 3 of the Futures Rules (except Futures Rules 31.8 and 34) does not apply to OTC Clearing.

Amended 11/02/14

### **4.2 OTC Participants act as principals**

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

Except to the extent that OTC Rule 4.2A or the Client Protection Model Provisions apply:

- (a) each OTC Participant deals with ASX Clear (Futures) under these OTC Rules and the Futures Rules as principal, not on behalf of any other person and not as trustee; and
- (b) each OTC Participant must be acting as principal in respect of each OTC Transaction and each OTC Participant represents and warrants that it is acting as principal in respect of an OTC Transaction.

Amended 11/02/14, 15/08/16

#### **4.2A OTC Participants may clear on behalf of OTC Affiliates**

ASX Clear (Futures) may approve a Related Body Corporate of an OTC Participant to be an **OTC Affiliate**. OTC Transactions which have been entered into by an OTC

Affiliate may also be submitted for registration as an OTC Transaction of the related OTC Participant in accordance with OTC Rule 4.3 (Submission of OTC Transactions). If such an OTC Transaction is accepted for registration in accordance with OTC Rule 4.6 (Creation of OTC Open Contracts) then the OTC Transaction will be registered by ASX Clear (Futures) in the name of the OTC Participant and in its House Clearing Account.

With respect to OTC Open Contracts entered into, or OTC Open Positions held, by an OTC Participant as a result of the registration of OTC Transactions which have been entered into by an OTC Affiliate as described above:

- (a) the OTC Participant acts on behalf of the OTC Affiliate as its agent; and
- (b) the OTC Participant remains fully liable for all obligations to ASX Clear (Futures) in connection with those OTC Open Contracts and those OTC Open Positions including, without limitation, all obligations with respect to Margin and all other payments and deliveries; and
- (c) each of the OTC Participant, the OTC Affiliate and ASX Clear (Futures) is a party to, and is bound by, those OTC Open Contracts and OTC Open Positions in accordance with these Rules and is taken to have entered into the legal relationship which constitutes those OTC Open Contracts and OTC Open Positions; and
- (d) the liability of the OTC Participant to ASX Clear (Futures) is as principal obligor and it cannot be, and is not, discharged or otherwise affected by any act or omission of, or any matter in connection with, the OTC Affiliate (including, without limitation, any release or concession given to the OTC Affiliate, any lack or termination of authorisation of the OTC Participant by the OTC Affiliate, or the OTC Open Contract being void or voidable against the OTC Affiliate). If, despite this, the OTC Participant's liability is discharged, then the OTC Participant agrees that ASX Clear (Futures) is immediately entitled to the rights against the OTC Participant to which ASX Clear (Futures) was entitled immediately before its liability was discharged; and
- (e) any obligation of the OTC Affiliate or ASX Clear (Futures) with respect to an OTC Open Contract entered into, or OTC Open Position held, by the OTC Participant on behalf of the OTC Affiliate is discharged when it is performed by or for the benefit of, or discharged with respect to, the OTC Participant in accordance with these Rules; and
- (f) although each of the OTC Participant and the OTC Affiliate are bound jointly and individually to those OTC Open Contracts and OTC Open Positions, without affecting any of its rights against the OTC Participant, ASX Clear (Futures) agrees not to take action against the OTC Affiliate personally for the performance of any obligation which is owing by the OTC Participant; and
- (g) the OTC Participant exclusively will be entitled to deal with ASX Clear (Futures) in connection with those OTC Open Contracts and OTC Open Positions and take action against ASX Clear (Futures) for the performance of any obligation which is owing by ASX Clear (Futures). Without limiting the generality of this:
  - (i) ASX Clear (Futures) is entitled to communicate and deal solely with the OTC Participant in respect of all matters in connection with those OTC Open Contracts and OTC Open Positions. The OTC Affiliate is not entitled to communicate or deal directly with ASX Clear (Futures) under any circumstances (including, without limitation, where the OTC Participant is in Default); and



- (ii) all payments and deliveries in respect of those OTC Open Contracts and OTC Open Positions are to be made between ASX Clear (Futures) and the OTC Clearing Participant. ASX Clear (Futures) has no obligation to make any payments or deliveries to, or at the direction of, the OTC Affiliate under any circumstances (including, without limitation, where the OTC Participant is in Default); and
- (h) the OTC Affiliate (by its entry into the OTC Open Contract or its holding of an OTC Open Position through the OTC Participant) and the OTC Participant are each taken to represent and acknowledge to, and to agree with, ASX Clear (Futures) that:
  - (i) it is bound by these Rules; and
  - (ii) ASX Clear (Futures) is not responsible or liable for the performance of the OTC Affiliate or the OTC Participant; and
  - (iii) ASX Clear (Futures) will not in any way have any obligation in connection with, or be on notice in relation to, any matter arising between the OTC Participant and the OTC Affiliate or otherwise affecting the OTC Affiliate; and
  - (iv) the OTC Participant is authorised to act and to take actions on the OTC Affiliate's behalf as contemplated by these Rules; and
  - (v) if the OTC Participant Defaults then ASX Clear (Futures) may terminate or otherwise deal with those OTC Open Contracts and OTC Open Positions in accordance with these Rules (regardless of whether the OTC Affiliate has defaulted); and
  - (vi) Part 10 (Client Protection Model Provisions) of the Futures Rules does not apply to OTC Clearing by an OTC Participant on behalf of an OTC Affiliate, including those OTC Open Contracts and OTC Open Positions; and
  - (vii) to the extent of any inconsistency with any agreement between the OTC Affiliate and the OTC Participant, these Rules will prevail; and
  - (viii) the representations, acknowledgements and agreements set out above are included in the terms of each of those OTC Open Contracts.

Without limiting the binding effect of this paragraph (h), the OTC Participant must ensure that the OTC Affiliate has agreed to be bound by the Rules.

When an OTC Participant is acting on behalf of an OTC Affiliate, each reference in the Rules (other than this OTC Rule 4.2A) to a Clearing Participant as a party to a Market Contract, an Open Contract or an Open Position, or to the rights and obligations of a Clearing Participant under a Market Contract, an Open Contract or an Open Position, is taken to be a reference to the OTC Affiliate and to the related OTC Participant acting in this capacity.

If an OTC Transaction which has been entered into by an OTC Affiliate is submitted and accepted for registration as an OTC Transaction of the related OTC Participant, then the OTC Participant:

- (a) will be taken to be, and will be taken to have been, party to that OTC Transaction for the purposes of these OTC Rules, the OTC Handbook and the Futures Rules, regardless of the identity of the original contracting party to the OTC Transaction; and

- (b) will procure that the OTC Transaction is terminated in accordance with OTC Rule 4.6(b) as if it were an original contracting party to that OTC Transaction; and
- (c) indemnifies and will keep indemnified ASX Clear (Futures) and its officers, representatives, agents and contractors against all actions, proceedings, claims, demands, damages, costs, expenses and any other amounts including any transaction taxes, goods and services taxes or any other duties or taxes (extending to include any taxes payable by ASX Clear (Futures) on a payment made under this indemnity) against or incurred by any of ASX Clear (Futures), its officers, representatives, agents or contractors arising out of or in connection with the registration of the OTC Transaction, or any action taken by, or any inaction by, any of ASX Clear (Futures) or its officers, representatives, agents or contractors in connection with the registration of the OTC Transaction, to the extent that it was not caused by the negligence, fraud or wilful default of ASX Clear (Futures).

Nothing in this OTC Rule 4.2A means that any OTC Affiliate is an OTC Participant for the purpose of these OTC Rules, the OTC Handbook and the Futures Rules.

Introduced 15/08/16

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

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

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

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

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

The OTC Participants nominated as Fixed Rate Payer and Floating Rate Payer in details submitted by an Approved Trade Source System in connection with delivery under a Deliverable Swap Futures Contract are taken for the purposes of these OTC Rules and the OTC Handbook to have entered into an OTC Transaction having terms corresponding to the terms of the contract to be delivered.

An OTC Affiliate or CPM Client may submit an OTC Transaction to ASX Clear (Futures) for registration in accordance with the above paragraphs of this OTC Rule 4.3. However, an OTC Transaction submitted to ASX Clear (Futures) by an OTC Affiliate or CPM Client may only be registered by ASX Clear (Futures) if the OTC Participant of the OTC Affiliate or CPM Client has consented to the registration of the OTC Transaction in accordance with the OTC Handbook.

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

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

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

Amended 11/02/14, 30/11/15, 15/08/16, 29/05/17

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

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

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

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

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

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

ASX Clear (Futures) may act as a party to an OTC Transaction submitted for registration under this OTC Rule 4.5.

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

Amended 11/02/14, 30/11/15

#### **Explanatory Note:**

ASX Clear (Futures) may act as a party to a DM Hedging Transaction entered into with an OTC Participant that will be an OTC Transaction submitted for registration under OTC Rule 4.5.

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

The effect of registration of an OTC Transaction is that ASX Clear (Futures) will be interposed, by novation, as the counterparty under an OTC Open Contract to each

OTC Participant which was, or was taken to be, a party to the OTC Transaction.  
The result of this is that:

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

The terms of these OTC Open Contracts incorporate all applicable terms of the OTC Rules and the OTC Handbook (including the OTC Terms set out in the OTC Handbook which are applicable to the relevant OTC Open Contract).

Each OTC Open Contract is between:

- (a) if the Client Protection Model Provisions apply in respect of an OTC Open Contract, ASX Clear (Futures), an OTC Participant and its CPM Client (in accordance with the Client Protection Model Provisions) and no other person has any rights or obligations under the OTC Open Contract;
- (b) if OTC Rule 4.2A applies in respect of an OTC Open Contract, ASX Clear (Futures), an OTC Participant and its OTC Affiliate (in accordance with OTC Rule 4.2A) and no other person has any rights or obligations under the OTC Open Contract; or
- (c) in any other case, ASX Clear (Futures) and an OTC Participant as principal and not as agent and no other person has any rights or obligations under any OTC Open Contract between the OTC Participant and ASX Clear (Futures).

The OTC Open Contracts are not dependent on the valid existence of the associated OTC Transaction. If the OTC Transaction is rendered invalid after it has been registered, the corresponding OTC Open Contracts are not affected.

Amended 11/02/14, 30/11/15, 15/08/16

#### **4.7 Incorrectly registered OTC Transactions**

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

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

Any such correction in accordance with OTC Rule 4.7(a) may be made subject to any conditions imposed by ASX Clear (Futures) including provision of Margin. ASX Clear (Futures) is not liable to any person in connection with any correction so made.

Amended 11/02/14

#### **4.8 Authoritative Record**

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

Amended 11/02/14

#### **4.9 Performance of OTC Open Contracts**

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

Amended 11/02/14

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

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

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

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

#### **4.11 Backloading**

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

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

Amended 11/02/14

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

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

#### **4.13 Transfer of OTC Open Contracts**

Any transfer of an OTC Open Contract by an OTC Participant may only be effected in accordance with this OTC Rule 4.13 and the procedures set out in the OTC Handbook. Any purported transfer not in accordance with this OTC Rule will not be effective. However, this OTR Rule 4.13 is subject to the Client Protection Model Provisions.

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

- (a) the OTC Open Contract must not have matured;
- (b) there must be no cash flows under the OTC Open Contract due on the day of transfer;
- (c) the transferee of the OTC Open Contract must be an OTC Participant;
- (d) that OTC Participant is authorised in respect of the OTC Transaction Type to which that OTC Open Contract relates; and
- (e) neither OTC Participant is in Default at the time at which the request is received by ASX Clear (Futures).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Explanatory Note:**

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

## **5 ACCOUNTS AND MARGIN**

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

These OTC Rules relate to matters which are addressed in Part 4 (Accounts and Daily Settlement) of the Futures Rules. Part 4 of the Futures Rules (except Futures Rules 41, 44.5 to 44.7 and 47.2 to 47.4) does not apply to OTC Clearing except to the extent set out in this OTC Rule 5.

Amended 11/02/14

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

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

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

Amended 11/02/14

### **5.3 Securities as OTC Initial Margin**

ASX Clear (Futures) may in its absolute discretion:

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

All such transfers are absolute transfers of all right, title and interest in the securities or other property to ASX Clear (Futures) except to the extent that Part 11 (Security Interest provisions) of the Future Rules applies.

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

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

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

The obligation upon an OTC Participant to make a transfer under this OTC Rule 5.3 is in addition to any other obligation of the OTC Participant to make transfers of cash amounts, securities, collateral or property as otherwise provided in accordance with the OTC Rules.

Amended 11/02/14

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

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

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

Amended 11/02/14

#### **5.5 Portfolio Margining**

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

An OTC Participant may, in accordance with the OTC Handbook, request that Open Contracts with that OTC Participant registered in a Clearing Account of an OTC Participant of a class so notified by ASX Clear (Futures) be taken into account in determining the amount of OTC Initial Margin required from that OTC Participant in respect of OTC Open Contracts held in the same Clearing Account. However, if the relevant Clearing Accounts are Client Clearing Accounts then the request may only be made if the Open Contracts and OTC Open Contracts are both held in Individual Sub-Accounts of the same CPM Client and, if a Nominated Person has previously



been notified to ASX Clear (Futures) for either Individual Sub-Account, in respect of the same Nominated Person.

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

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

in each case, in accordance with the OTC Handbook.

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

Amended 11/02/14

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

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

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

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

Amended 11/02/14, 18/12/17

## 5.7 OTC Daily Closing Value

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

Amended 11/02/14

## 5.8 OTC Daily Variation Margin

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

If ASX Clear (Futures) determines that an OTC Participant needs to pay OTC Daily Variation Margin to ASX Clear (Futures), then ASX Clear (Futures) must notify the OTC Participant and the OTC Participant must pay to ASX Clear (Futures) the amount of any OTC Daily Variation Margin which ASX Clear (Futures) has determined is owing by the OTC Participant.

If ASX Clear (Futures) determines that it needs to pay OTC Daily Variation Margin to an OTC Participant, then ASX Clear (Futures) must notify the OTC Participant and ASX Clear (Futures) must pay to the OTC Participant the amount of any OTC Daily Variation Margin which ASX Clear (Futures) has determined is owing to the OTC Participant.

The obligation to pay OTC Daily Variation Margin arises when ASX Clear (Futures) determines that either the OTC Participant or ASX Clear (Futures) needs to pay OTC Daily Variation Margin. The OTC Daily Variation Margin is payable in accordance with the OTC Handbook.

The payment of OTC Daily Variation Margin is made absolutely, as a settlement and not as security or collateral for any obligations of the payer under the OTC Open Contracts.

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

**Explanatory Note:**

OTC Daily Variation Margin is paid to settle, not to collateralise, mark to market exposures under OTC Open Contracts. Accordingly, (i) the fair value of OTC Open Contracts is reset to zero when ASX Clear (Futures) determines that either the OTC Participant or ASX Clear (Futures) needs to pay OTC Daily Variation Margin in respect of the OTC Open Contracts; and (ii) subject to correction of errors under OTC Rule 5.11, neither an OTC Participant nor ASX Clear (Futures) is entitled to repayment of any amounts of OTC Daily Variation Margin it has paid pursuant to the Rules.

Amended 11/02/14, 28/10/19

## **5.9 Price Alignment Amount**

A Price Alignment Amount is payable in connection with payments of OTC Daily Variation Margin in the manner set out in the OTC Handbook.

Amended 11/02/14, 28/10/19

## **5.10 Excess Margin**

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

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

Amended 11/02/14

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

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

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

(whether actual or potential) in relation to making such adjustments or corrections.

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

ASX Clear (Futures) may determine any disputes in relation to errors, purported errors or any other related matters contemplated by this OTC Rule 5.11 including, but not limited to, matters relating to the calculation, payment or valuation of OTC Initial Margin, OTC Daily Variation Margin, OTC Intra-day Margin, OTC Extra Margin, coupons and Price Alignment Amount. Where ASX Clear (Futures) makes such a determination in relation to a dispute, that determination will be final and binding on all the parties.

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

Amended 11/02/14, 28/10/19

## **6 DEFAULT**

### **6.1 Signpost to related Futures Rules**

These OTC Rules relate to matters which are addressed in:

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

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

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

### **6.2 Default management process**

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

- Futures Rule 7 and Part 7 of the Futures Rules;
- this OTC Rule 6 (Default);
- default management process set out in Schedule 3 (Default Management Process) to these OTC Rules;
- the procedures for the default management group set out in the OTC Handbook; and
- the procedures for default management auctions set out in Schedule 4 (Default Management Auction Procedures) to the OTC Handbook.

Separate to the Default Management Provisions, the Recovery Rules also contain provisions relating to default management.

Each OTC Participant must:

- (a) comply with, and ensure each employee of the OTC Participant and of each Related Body Corporate of such OTC Participant, who is directly involved in the default management process on behalf of the OTC Participant, complies with, its obligations in connection with the Default Management Provisions, including maintaining internal systems and processes (as determined by the OTC Participant) required for participation in a DM Auction and acceptance of (where required by the Rules) DM Hedging Transactions, Independent DM Transactions and DM Auction Transactions (each as defined in Schedule 3 (Default Management Process) to these OTC Rules);
- (b) approve ASX Clear (Futures) as a counterparty with which it can enter into DM Hedging Transactions, Independent DM Transactions or DM Auction Transactions in accordance with the Default Management Provisions and deal with ASX Clear (Futures) as counterparty in a manner consistent with, and in any event on no less favourable terms, than the manner in which it deals with any bank counterparty of the OTC Participant with the same or similar creditworthiness or risk profile;
- (c) co-operate with, act in good faith toward, and not cause any hindrance to, ASX Clear (Futures) in respect of any DM Hedging Transactions, Independent DM Transactions or DM Auction Transactions including providing competitive quotes in a timely manner upon request, such quotes to be two way prices in accordance with usual bid/offer conventions;
- (d) co-operate with, act in good faith toward, and not cause any hindrance to, ASX Clear (Futures) in the course of the management of any Default or Termination;
- (e) if requested by ASX Clear (Futures), take part in tests designed and implemented by ASX Clear (Futures) from time to time that evaluate the OTC Participant's ability to fulfil its default management obligations; and
- (f) appoint one of the employees of such OTC Participant or of any Related Body Corporate of such OTC Participant as:
  - (i) Designated DMG Member; and
  - (ii) Designated DMG Deputy,
 as primary contacts for ASX Clear (Futures) for all general matters relating to default management. Each OTC Participant must notify ASX Clear (Futures) of the appointment in the manner prescribed by ASX Clear (Futures) in the OTC Handbook from time to time.

Amended 11/02/14, 01/10/15

### 6.3 Default and Defaulted OTC Participants

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

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

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

to Termination having a Termination Time immediately upon the occurrence of such event.

#### **6.4 Events of Default**

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

- (a) the OTC Participant is in breach of the rules of any recognised, designated or overseas investment exchange or clearinghouse;
- (b) the OTC Participant fails to pay any sum due and payable, or threatens to suspend payment under the terms of any agreement;
- (c) the OTC Participant breaches any of the Financial Requirements prescribed by ASX Clear (Futures);
- (d) the OTC Participant breaches any conditions prescribed by ASX Clear (Futures) on its admission as a Clearing Participant or on its authorisation as an OTC Participant;
- (e) upon request by ASX Clear (Futures), which may be made at any time, the OTC Participant fails to confirm on or before the cut-off time reasonably specified by ASX Clear (Futures) in its request that it is able to pay its debts as they become due;
- (f) the OTC Participant:
  - (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
  - (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
  - (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
  - (iv) (A) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official; or  
(B) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in clause (A) above and either (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (2) is not dismissed, discharged, stayed or restrained in each case within 15 days of the institution or presentation thereof;

- (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (vii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 15 days thereafter;
- (viii) causes or is subject to any of the events specified in clauses (i) to (vii) above (inclusive); or
- (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

## 6.5 Terminable Open Contracts

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

## 6.6 Termination and Terminated Open Contracts

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

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

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

to be the subject of a **Termination** and the time at which such Termination is to be effective (referred to as the **Termination Time**). The Open Contracts (whether OTC Open Contracts or Terminable Open Contracts) which are the subject of such a declaration may relate to either House Positions or Client Positions (or both) and are referred to as **Terminated Open Contracts**. ASX Clear (Futures) may, but is not obliged to, consult with the relevant DMG(s) in accordance with the Default Management Provisions in determining which Open Contracts are to be Terminated Open Contracts and the relevant Termination Time.

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

Amended 11/02/14, 15/08/16

### Explanatory Note

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

## 6.7 Termination Value

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

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

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

ASX Clear (Futures) may include the amount of interest in any or all of (a), (b) and (c), calculated in a manner consistent with OTC Rule 8.4 (Interest on overdue amounts).

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

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

Amended 11/02/14

## 6.8 Combination and Allocation in default management process

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

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

then ASX Clear (Futures):

- (i) may combine any such Terminated Open Contracts so that they are treated as part of one or more portfolios at any time after the commencement of the default management process for the purposes of hedging, sale or auction in accordance with the Default Management Provisions;
- (ii) is to allocate any losses, costs, charges and expenses in connection with that default management process between the relevant Defaulted OTC Participants and between the House Accounts, Client Accounts and Client Sub-Accounts of the relevant Defaulted OTC Participants which relate to those Terminated Open Contracts (referred to in this OTC Rule as a **Relevant Account**). The losses, costs, charges and expenses are to be calculated as of the time of combination of such Terminated Open Contracts and will be conducted by allocating any losses, costs, charges

and expenses to each Relevant Account proportionately to its relative risk as determined by ASX Clear (Futures) using the value of Initial Margin calculated with respect to each Relevant Account at the time of combination of the Terminated Open Contracts; and

- (iii) in the case of a Relevant Account which is a Client Sub-Account, is to deduct any losses, costs, charges and expenses so attributed to that Client Sub-Account in accordance with (ii) above from the Guaranteed Initial Margin Value of that Client Sub-Account in accordance with the Client Protection Model Provisions.

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

Introduced 11/02/14

### **Explanatory Note**

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

## **6.9 Application of OTC Initial Margin and all other amounts**

In addition to any other rights which ASX Clear (Futures) has in connection with the Default of an OTC Participant, ASX Clear (Futures) may apply or appropriate any amount of OTC Initial Margin, OTC Intra-day Margin or OTC Extra Margin or any other amount standing to the credit of the OTC Participant, and any other amount held by ASX Clear (Futures) in respect of the OTC Participant towards the payment or discharge of the amounts payable or deliverable by the Defaulted OTC Participant PROVIDED ALWAYS that any monies, securities, collateral or other property deposited with ASX Clear (Futures) with respect to OTC Open Positions designated to a Client Clearing Account, may be used to meet obligations in a Client Clearing Account only and must not be used to meet any obligations in a House Clearing Account.

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

Amended 11/02/14

## **6.10 Information Sharing**

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

Amended 11/02/14

## **6.11 Advice and Assistance**

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



Defaulted OTC Participant for any matter arising out of or in connection with the Default of that OTC Participant.

Amended 11/02/14

## **6.12 Default Management Process**

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

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

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

Introduced 07/07/14

## **7 EMERGENCIES AND FORCE MAJEURE**

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

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

## **8 MISCELLANEOUS**

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

These OTC Rules relate to matters addressed in Part 9 (Miscellaneous Provisions) of the Futures Rules. Futures Rule 96 (Notification to the Exchange) does not apply to OTC Clearing. However, all of the other Futures Rules in Part 9 apply to OTC Clearing, where relevant.

In addition the following OTC Rules apply.

Amended 11/02/14, 01/10/15

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

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

- (a) transfer all right, title and interest in the amount of money paid to ASX Clear (Futures);
- (b) be in the currency in which it is due and in immediately available and freely transferable funds;
- (c) be made on the due date for value on that date in Sydney;

- (d) be in full without set-off, cross-demand or counterclaim and without any deduction for taxes, levies, imposts, charges or duties (including stamp and transaction duties) imposed by any authority unless prohibited by law. Payments in respect of which such deduction or withholding is required to be made by law, by the OTC Participant, will be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, ASX Clear (Futures) receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made; and
- (e) be made into the relevant Clearing Account held of that OTC Participant or such other account nominated by ASX Clear (Futures).

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

- (i) aggregate or net any or all payments due between it and an OTC Participant on that day with respect to House Positions (whether related to OTC Open Contracts, Futures Contracts or otherwise) in the same currency to produce a single net amount which is payable between them in that currency; and
- (ii) aggregate or net any or all payments due between it and an OTC Participant on that day with respect to Client Positions (whether related to OTC Open Contracts, Futures Contracts or otherwise) in the same currency to produce a single net amount which is payable between them in that currency.

The obligations which were netted or aggregated to produce the single net amounts with respect to each of the House Clearing Account or the Client Clearing Account are discharged by their payment.

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

Amended 11/02/14

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

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

Introduced 11/02/14

### **8.4 Interest on overdue amounts**

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

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

Amended 11/02/14

## **8.5 Discretion in exercising rights**

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

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

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

Amended 11/02/14

## **8.6 Consents**

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

Amended 11/02/14, 15/08/16

## **8.7 Partial exercising of rights**

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

Amended 11/02/14

## **8.8 No liability for loss**

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

Amended 11/02/14

## **8.9 Remedies cumulative**

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

Amended 11/02/14

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

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

Amended 11/02/14

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

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

Amended 11/02/14

### **8.12 Governing law**

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

Amended 11/02/14

## **9 CLIENT PROTECTION MODEL PROVISIONS**

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

Introduced 11/02/14

## **10 SECURITY INTEREST PROVISIONS**

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

Introduced 11/02/14

## Schedule 1 – Relationship with Futures Rules

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

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |  |
|-------------------|--|---|--------------------------------------|--|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule<br>not relevant<br>(and does not<br>apply) |
| 1.1               |  | 1.3   |                                      |  |
| 1.2               |  | 1.14  |                                      |  |
| 1.3               |  | 1.2   |                                      |  |
| 1.4               | 1.11(k)  |   |                                      |  |
| 1.5               | 1.13   |   |                                      |  |
| 1.6               |  | 1.11(d)   |                                      |  |
| 1.7               |  | 1.11(e)   |                                      |  |
| 1.8               |  |   |                                      | Not relevant   |
| 1.9               |  |   |                                      | Not relevant   |
| 1.10              |  |   | Applicable                           |  |
| 1.11              |  |   | Applicable                           |  |
| 1.12              |  |   | Applicable                           |  |
| 3.1.1             |  |   | Applicable                           |  |
| 3.1.2             |  |   | Applicable                           |  |
| 3.2.1             |  | 2.9   |                                      |  |
| 3.2.2             |  |   | Applicable                           |  |
| 3.2.3             |  |   | Applicable                           |  |
| 3.3               |  |   |                                      | Not relevant   |
| 3.4.1             |  |   | Applicable                           |  |
| 3.4.2             |  |   | Applicable                           |  |
| 4.1               |  | 2.2, 2.3  |                                      |  |
| 4.2               |  | 2.3   |                                      |  |
| 4.3               |  |   | Applicable                           |  |
| 4.3A              |  |   | Applicable                           |  |
| 4.4               |  |   | Applicable                           |  |
| 4.4A              |  |   | Applicable                           |  |
| 4.5               |  |   | Applicable                           |  |
| 4.6               |  | 2.6   |                                      |  |
| 4.7               |  | 2.6   |                                      |  |

| A<br>Futures Rule                                | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |  |
|--|--|---|--------------------------------------|--|
|  |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule<br>not relevant<br>(and does not<br>apply) |
| 4.7A   |  | 2.7   |                                      |  |
| 4.7B   |  | 2.6   |                                      |  |
| 4.8  |  |   | Applicable                           |  |
| 4.9  |  | 2.8   |                                      |  |
| 4.10   |  | 2.5, 2.7  |                                      |  |
| 4.11   |  |   | Applicable                           |  |
| 4.11A  |  |   | Applicable                           |  |
| 4.11B  |  |   | Applicable                           |  |
| 4.11C  |  |   | Applicable                           |  |
| 4.12   |  |   | Applicable                           |  |
| 4.13   |  |   | Applicable                           |  |
| 4.14 (except<br>4.14(j)(v),<br>4.14(ja) and (l)) |  |   | Applicable                           |  |
| 4.14(j)(v),<br>4.14(ja) and (l)                  |  |   |                                      | Not relevant   |
| 4.15   |  |   | Applicable                           |  |
| 4.15A  |  |   | Applicable                           |  |
| 5.1  |  | 3.2   |                                      |  |
| 5.2  |  |   | Applicable                           |  |
| 5.3  |  |   | Applicable                           |  |
| 5.4  |  |   | Applicable                           |  |
| 5.5  |  |   | Applicable                           |  |
| 5.5A   |  |   | Applicable                           |  |
| 5.6  | 3.2  |   |                                      |  |
| 5.7  |  |   | Applicable                           |  |
| 5.8  |  |   | Applicable                           |  |
| 5.9  |  |   | Applicable                           |  |
| 5.10   |  |   | Applicable                           |  |
| 5.11   |  |   |                                      | Not relevant   |
| 5.12   |  |   | Applicable                           |  |
| 6.1  |  |   | Applicable                           |  |
| 6.2  |  |   | Applicable                           |  |
| 6.3  |  |   | Applicable                           |  |
| 6.4  |  |   | Applicable                           |  |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |  |
|-------------------|--|---|--------------------------------------|--|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule<br>not relevant<br>(and does not<br>apply) |
| 7.1               |  |   | Applicable                           |  |
| 7.1A              |  |   | Applicable                           |  |
| 7.1B              |  |   | Applicable                           |  |
| 7.2               |  |   | Applicable                           |  |
| 7.3               |  |   | Applicable                           |  |
| 7.4               |  |   | Applicable                           |  |
| 7.5               |  |   | Applicable                           |  |
| 7.7               |  |   | Applicable                           |  |
| 7.8               |  |   | Applicable                           |  |
| 7.9               |  |   | Applicable                           |  |
| 7.10              |  |   | Applicable                           |  |
| 7.11              |  |   | Applicable                           |  |
| 8.1               | 3.2, 3.3   |   |                                      |  |
| 8.2               |  |   | Applicable                           |  |
| 8.3               | 3.3  |   |                                      |  |
| 8.4               | 3.3  |   |                                      |  |
| 8.5               |  | 3.3   |                                      |  |
| 8.6               |  |   | Applicable                           |  |
| 8.7               |  |   | Applicable                           |  |
| 9.1               |  | 4.5(d)  |                                      |  |
| 9.2               |  |   | Applicable                           |  |
| 9.3               |  |   | Applicable                           |  |
| 9.4               |  |   | Applicable                           |  |
| 9.5               |  |   |                                      | Not relevant   |
| 9.6               |  |   | Applicable                           |  |
| 9.7               |  |   | Applicable                           |  |
| 9A.1              |  |   | Applicable                           |  |
| 9A.2              |  |   | Applicable                           |  |
| 9A.3.8            |  |   | Applicable                           |  |
| 10.9              |  |   | Applicable                           |  |
| 10.11             |  |   | Applicable                           |  |
| 10.12             |  | 2.13  |                                      |  |
| 10.13             |  |   | Applicable                           |  |
| 10.14             |  |   | Applicable                           |  |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |  |
|-------------------|--|---|--------------------------------------|--|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule<br>not relevant<br>(and does not<br>apply) |
| 10.18             |  |   | Applicable                           |  |
| 11.1              |  |   | Applicable                           |  |
| 11.3              |  |   | Applicable                           |  |
| 12.1              |  |   | Applicable                           |  |
| 12.6              |  |   | Applicable                           |  |
| 12B               |  |   |                                      | Not relevant   |
| 13                |  |   | Applicable                           |  |
| 14                |  |   | Applicable                           |  |
| 15                |  |   |                                      | Not relevant   |
| 16                |  |   | Applicable                           |  |
| 17                |  |   | Applicable                           |  |
| 18                |  |   | Applicable                           |  |
| 19                |  |   | Applicable                           |  |
| 20                |  |   | Applicable                           |  |
| 21                |  |   | Applicable                           |  |
| 30                | 4.1, 4.5   |   |                                      |  |
| 31.1              | 4.3  |   |                                      |  |
| 31.2              | 4.5  |   |                                      |  |
| 31.3              | 4.6  |   |                                      |  |
| 31.4              | 4.2  |   |                                      |  |
| 31.5(a)           | 4.4  |   |                                      |  |
| 31.5(b)           |  |   |                                      | Not relevant   |
| 31.6              | 4.2, 4.5   |   |                                      |  |
| 31.7              |  |   |                                      | Not relevant   |
| 31.8              |  |   | Applicable                           |  |
| 31A               |  |   |                                      | Not relevant   |
| 32                |  |   |                                      | Not relevant   |
| 33                | 4.13   |   |                                      |  |
| 34                |  | 2.9   |                                      |  |
| 35                |  |   |                                      | Not relevant   |
| 36                |  |   |                                      | Not relevant   |
| 37                |  |   |                                      | Not relevant   |
| 40                | 5.1  |   |                                      |  |
| 41.1              |  |   | Applicable                           |  |



| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |  |
|-------------------|--|---|--------------------------------------|--|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule<br>not relevant<br>(and does not<br>apply) |
| 41.2              |  |   | Applicable                           |  |
| 41.3              |  |   | Applicable                           |  |
| 41.4              |  |   | Applicable                           |  |
| 41.5              |  |   | Applicable                           |  |
| 41.6              |  |   | Applicable                           |  |
| 41.7              |  |   | Applicable                           |  |
| 41.8              |  |   |                                      | Not relevant   |
| 41A               |  |   |                                      | Not relevant   |
| 42                |  |   | Applicable                           |  |
| 43.1              | 5.2, 5.3   |   |                                      |  |
| 43.2              | 5.4  |   |                                      |  |
| 43.3              | 5.4  |   |                                      |  |
| 43.4              | 5.4  |   |                                      |  |
| 43.5              | 5.5  |   |                                      |  |
| 43A               |  |   |                                      | Not relevant   |
| 44.1              | 5.7  |   |                                      |  |
| 44.2              | 5.7  |   |                                      |  |
| 44.3              |  |   |                                      | Not relevant   |
| 44.4              | 5.8  |   |                                      |  |
| 44.5              |  |   | Applicable                           |  |
| 44.6              |  |   | Applicable                           |  |
| 44.7              |  |   | Applicable                           |  |
| 44.8              |  |   | Applicable                           |  |
| 44A               |  |   |                                      | Not relevant   |
| 45                | 5.6  |   |                                      |  |
| 45A               |  |   |                                      | Not relevant   |
| 46                |  |   |                                      | Not relevant   |
| 47.1              |  |   |                                      | Not relevant   |
| 47.2              |  |   | Applicable                           |  |
| 47.3              |  |   | Applicable                           |  |
| 47.4              |  |   | Applicable                           |  |
| 48                |  |   |                                      | Not relevant   |
| 49                | 5.10   |   |                                      |  |
| 50                |  |   |                                      | Not relevant   |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |  |
|-------------------|--|---|--------------------------------------|--|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule<br>not relevant<br>(and does not<br>apply) |
| 51                |  |   |                                      | Not relevant   |
| 52                |  |   |                                      | Not relevant   |
| 53                |  |   |                                      | Not relevant   |
| 54                |  |   |                                      | Not relevant   |
| 60                |  |   |                                      | Not relevant   |
| 61                |  |   |                                      | Not relevant   |
| 62                |  |   |                                      | Not relevant   |
| 63                |  |   |                                      | Not relevant   |
| 63A               |  |   |                                      | Not relevant   |
| 64                |  |   |                                      | Not relevant   |
| 65.1              |  |   | Applicable                           |  |
| 65.2              |  |   |                                      | Not relevant   |
| 70                |  |   | Applicable                           |  |
| 71.1              |  | 6.3   |                                      |  |
| 71.3              |  | 6.4   |                                      |  |
| 72.1              |  | 6.6   |                                      |  |
| 72.1A             |  |   | Applicable                           |  |
| 72.2              |  | 6.6   |                                      |  |
| 72.3              |  | 6.7   |                                      |  |
| 72.4              |  |   | Applicable                           |  |
| 73                |  | 6.7   |                                      |  |
| 74                |  |   | Applicable                           |  |
| 75                |  |   | Applicable                           |  |
| 75A               |  |   | Applicable                           |  |
| 76                |  |   | Applicable                           |  |
| 80                |  |   | Applicable                           |  |
| 81                |  |   | Applicable                           |  |
| 82                |  |   | Applicable                           |  |
| 90                |  | 8.1   |                                      |  |
| 92.1              |  | 8.12  |                                      |  |
| 92.2              |  |   | Applicable                           |  |
| 92.3              |  |   |                                      | Not relevant   |
| 93.1              |  |   | Applicable                           |  |
| 93.2              |  |   | Applicable                           |  |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |  |
|-------------------|--|---|--------------------------------------|--|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule<br>not relevant<br>(and does not<br>apply) |
| 93.3              |  | 8.5   |                                      |  |
| 93.4              |  | 8.10  |                                      |  |
| 93.5              |  |   | Applicable                           |  |
| 93.6              |  |   | Applicable                           |  |
| 93.7              |  | 8.7   |                                      |  |
| 93.8              |  | 8.9   |                                      |  |
| 94                |  |   | Applicable                           |  |
| 95                |  |   | Applicable                           |  |
| 96                |  |   |                                      | Not relevant   |
| 97                |  |   | Applicable                           |  |
| 99                |  |   | Applicable                           |  |
| 101               |  |   | Applicable                           |  |
| 103               |  |   | Applicable                           |  |
| 104               |  |   | Applicable                           |  |
| 105               |  |   | Applicable                           |  |
| 106               |  |   | Applicable                           |  |
| 107               |  |   | Applicable                           |  |
| 110               |  | 1.2   |                                      |  |
| 111               |  |   | Applicable                           |  |
| 112               |  |   | Applicable                           |  |
| 113               |  |   | Applicable                           |  |
| 114               | 4.3  |   |                                      |  |
| 115               |  | 2.15  |                                      |  |
| 116               |  |   | Applicable                           |  |
| 116A              |  |   | Applicable                           |  |
| 117               |  |   | Applicable                           |  |
| 118               |  |   | Applicable                           |  |
| 119               |  |   | Applicable                           |  |
| 120               |  |   | Applicable                           |  |
| 121               |  |   | Applicable                           |  |
| 122               |  |   | Applicable                           |  |
| 123               |  |   | Applicable                           |  |

| A<br>Futures Rule | B<br>Replaced by<br>OTC Rule (and<br>Futures Rule<br>does not apply) | C<br>Supplementary<br>OTC Rule (and<br>Futures Rule<br>applies as<br>varied or<br>supplemented) | If not referred to in column B or C: |  |
|-------------------|--|---|--------------------------------------|--|
|                   |  |   | D<br>Futures Rule<br>applies         | E<br>Futures Rule<br>not relevant<br>(and does not<br>apply) |
| 124               |  |   | Applicable                           |  |
| 125               |  |   | Applicable                           |  |

Amended 11/02/14, 31/08/15, 30/11/15, 03/07/17

# Schedule 2 – OTC Commitment

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

## 1 OTC Commitment

The OTC Commitment for each OTC Participant is comprised of:

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

## 2 Fixed OTC Commitment

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

## 3 Variable OTC Commitment

### 3.1 Variable OTC Commitment Calculations

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

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

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

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

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

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

- (a) the Aggregate OTC Commitment  
*minus*
- (b) the Aggregate Fixed OTC Commitment.

|                               |  |
|-------------------------------|--|
| Calculation Period:           | <p>In respect of a Quarter, the period:</p> <p>(a) from, and including, the 11<sup>th</sup> day of the final month of the Quarter which immediately preceded the immediately preceding Quarter;</p> <p>(b) to, and including, the 10<sup>th</sup> day of the final month of the immediately preceding Quarter.</p>   |
| Daily Average Initial Margin: | <p>For an OTC Participant in respect of a Calculation Period is equal to:</p> <p>(a) the sum of that OTC Participant's OTC Initial Margin (calculated as the aggregate OTC Initial Margin with respect to both the House Clearing Account and the Client Clearing Account) on each Business Day in that Calculation Period</p> <p><i>divided by</i></p> <p>(b) the number of Business Days in that Calculation Period.</p> <p>Amended 11/02/14</p> |
| Quarter:                      | <p>Each three month period:</p> <p>(a) starting on 1 March, 1 June, 1 September and 1 December of each year; and</p> <p>(b) ending on 30 May, 31 August, 30 November and 28 February (or 29 February in a leap year), respectively.</p>  |
| Rounding:                     | <p>Each OTC Variable Commitment will be rounded to the nearest multiple of ten thousand dollars on the basis that an amount of \$5,000 and above is rounded up and an amount of \$4,999.99 down provided that the rounding must ensure that ASX Clear (Futures) has exactly the Aggregate Variable OTC Commitment required.</p>  |
| Variable OTC Commitment:      | <p>For an OTC Participant in respect of a Quarter is equal to:</p> <p>(a) the Aggregate Variable OTC Commitment</p> <p><i>multiplied by</i></p> <p>(b) that OTC Participant's Variable OTC Commitment Proportion,</p> <p>each in respect of the relevant Calculation Period.</p>   |

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

### 3.2 Timing of Variable OTC Commitment Calculations

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

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

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

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

## 4 Transitional Arrangements

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

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

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

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

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

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

**Initial Period** means the period from the effective date of the OTC Rule amendments as notified to Clearing Participants to (but excluding) 1 September 2013.

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

**Trigger Event** means:

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

**5 New OTC Participants**

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



# Schedule 3 – Default Management Process

## 1 Default Management Groups

### 1.1 Establishment of DMGs

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

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

Amended 11/02/14, 03/07/17

### 1.2 DMG Procedures

Each DMG is governed by the terms set out in the default management group procedures as contained in Schedule 3 to the OTC Handbook (referred to as the **DMG Procedures**) from time to time. The DMG Procedures as at a particular time form part of the OTC Handbook at that time.

Amended 11/02/14

### 1.3 Participating DMG Member Institutions

An OTC Participant accepted by ASX Clear (Futures) to participate in a DMG in accordance with the DMG Procedures will be a **Participating DMG Member Institution**. Participating DMG Member Institutions must comply with the duties and responsibilities set out in the OTC Rules and the DMG Procedures.

Amended 11/02/14, 03/07/17

### 1.4 DMG Matters

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

- (a) upon the occurrence of a Default;
- (b) upon the occurrence of a Termination;
- (c) for OTC Default Simulations (as defined in Paragraph 6 (OTC Default Simulations) below);
- (d) to obtain advice on or other assistance in connection with any of the following matters (referred to as **DMG Matters**) as thought appropriate by ASX Clear (Futures):
  - (i) the Open Contracts which are to be Terminated Open Contracts and their respective Termination Times in accordance with OTC Rule 6.6 (Termination and Terminated Open Contracts);
  - (ii) the establishment of DM Hedging Transactions in accordance with Paragraph 2 (DM Hedging Transactions and DM Hedging Transaction Costs), including the selection of the relevant counterparties and the relevant hedging terms and strategy, and the assistance in the execution of DM Hedging Transactions;
  - (iii) the entry into of Independent DM Transactions pursuant to (and as defined under) Paragraph 3 (Independent DM Transactions);

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

Amended 11/02/14, 03/07/17

## 1.5 Role of DMG

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

Amended 11/02/14

## 1.6 DMG Members

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

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

Each OTC Participant accepts and agrees (on behalf of itself, its Related Bodies Corporate and its CPM clients) that:

- (a) representatives of Participating DMG Member Institutions serving on the DMG are doing so in order to assist ASX Clear (Futures) in ensuring the on-going integrity of the clearing facility;
- (b) representatives of Participating DMG Member Institutions serving on the DMG and their employers will have no liability for disinterested advice or actions, mandated or otherwise, that are undertaken as part of the Default Management Process and to waive any claim that may arise against those representatives or their employers in connection with such disinterested advice or actions. However, nothing in this Paragraph 1.6 (DMG Members) will exclude or waive the liability of such representatives and employers for any personal injury or death caused by their negligence or for any fraud or wilful default on the part of such representatives and employers;
- (c) representatives of Participating DMG Member Institutions serving on the DMG (each referred to as a **Protected Person**) will, to the extent legally possible, not have any fiduciary duties or other duties to protect third parties in relation to ASX Clear (Futures), any directors, managers or

officers of it, OTC Participants, the Defaulting OTC Participant(s) or its clients or any other person (each a **Non-protected Person**) by reason of such service as a DMG Member; and

- (d) to the extent that, for any reason, a Protected Person has any such duties and liabilities relating to its status as a DMG Member to a Non-protected Person, such Protected Person acting under the DMG Procedures will not be liable to such Non-protected Person for breach of any such duty if they relied in good faith on the DMG Procedures, the OTC Rules or the OTC Handbook.

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

## 1.7 ASX Clear (Futures) dealings with DMG

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

Amended 11/02/14

## 2 DM Hedging Transactions and DM Hedging Transaction Costs

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

DM Hedging Transactions may be of any OTC Transaction Type or class of exchange traded derivative cleared from time to time by ASX Clear (Futures). The costs and expenses incurred in connection with the entry into DM Hedging Transactions are referred to as **DM Hedging Transaction Costs**.

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

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

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

Nothing in this Paragraph 2 (DM Hedging Transactions and DM Hedging Transaction Costs) limits the discretion of ASX Clear (Futures) to enter into DM Hedging Transactions without first seeking or obtaining the advice of the DMG. However, ASX Clear (Futures) will not enter into DM Hedging Transactions comprising OTC Transactions without first obtaining the advice of the DMG, unless ASX Clear (Futures) reasonably determines it is necessary to manage its risk or

otherwise meet its continuing regulatory obligations including those applicable to it as a CS facility licensee.

Amended 11/02/14, 03/07/17, 27/11/17

### 3 Independent DM Transactions

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

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

ASX Clear (Futures) will not be entitled to Invoice Back or Force Allocate any Terminated Open Contracts.

Amended 11/02/14

### 4 DM Auctions

#### 4.1 DM Auctions and DM Auction Transactions

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

Introduced 11/02/14

#### 4.2 DM Auction Procedures

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

Amended 11/02/14

#### 4.3 Auction Pools and Auction Pool Weighting

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

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

Introduced 11/02/14

#### 4.4 Auction Units

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

Introduced 11/02/14

#### 4.5 Mandatory OTC Participants

OTC Participants:

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

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

However, ASX Clear (Futures) may, in its sole discretion, waive the requirement that a Mandatory OTC Participant participate in a DM Auction related to such Mandatory OTC Participant, and in such circumstances the OTC Participant will not be a Mandatory OTC Participant in respect of such DM Auction.

Amended 11/02/14

#### Explanatory Note

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

#### 4.6 Uneconomic Price

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

Introduced 11/02/14

## 5 Juniorisation

### 5.1 Application

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

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

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

Introduced 11/02/14

#### Explanatory Note

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

### 5.2 Weighted OTC Commitment Amount

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

- (a) the OTC Participant's OTC Commitment  
*multiplied by*
- (b) the Auction Pool Weighting for that Auction Pool.

For this purpose:

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

- (a) the Risk Weighted IM Value for that Auction Pool  
*divided by*
- (b) the sum of the Risk Weighted IM Values for each Auction Pool.

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

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

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

Introduced 11/02/14

### 5.3 Priority Groups and Commitment Application Amounts

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

- (a) determine which Mandatory OTC Participants (referred to as the **Non-Contributing Participants**) have failed to submit a Bid for the DM Auction corresponding to such Auction Pool which is greater than its Uneconomic Price, including those which have failed to submit any Bid;

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

ASX Clear (Futures) is to group the OTC Participants into **Priority Groups** using these rankings, from those who provided the highest Bids in DM Auctions to those who provided the lowest Bids in DM Auctions. Each Priority Group is comprised of the OTC Participants who have been allocated the same ranking by ASX Clear (Futures) with respect to an Auction Pool, provided that those OTC Participants that have been ranked equally in accordance with paragraph 5.3(b)(ii) above, will be grouped equally into multiple Priority Groups according to the number of Mandatory OTC Participants who submitted identical Bids for that DM Auction. As a result of this process, an OTC Participant may be included in multiple Priority Groups if it was required to have submitted Bids in multiple DM Auctions.

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

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

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

Using the rankings of Mandatory OTC Participants in Priority Groups, and the Weighted OTC Commitments of Mandatory OTC Participant's applicable to each

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

Introduced 11/02/14

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

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

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

Introduced 11/02/14

### **6 OTC Default Simulations**

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

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

Amended 11/02/14

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

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

Nothing in this Paragraph 7 will require ASX Clear (Futures) to disclose information in respect of the default management process which, in the reasonable opinion of ASX Clear (Futures), may be subject to obligations of confidentiality, may constitute market sensitive data or is, in the opinion of ASX Clear (Futures), inappropriate for disclosure to OTC Participants.

Amended 11/02/14

**End of Section.**