

**RULES**

**OF**

**THE CLEARING HOUSE**

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## CHAPTER 1:- DEFINITIONS AND INTERPRETATION

### 1.1. Definitions

**American option** has the meaning ascribed to the term “American Option” in the Exchange Rules.

**Appeals Committee** means a committee constituted in accordance with these Rules.

**Applicant Member** has the meaning ascribed to the term “Applicant Member” in the Exchange Rules.

**Authorised User** has the meaning ascribed to the term “Authorised User” in the Exchange Rules.

**Block Trade** has the meaning ascribed to the term “Block Trade” in the Exchange Rules.

**Board** means the Board of Directors of the Clearing House

**Business Day** means a day on which the ‘Clearing House’ is open for business.

**Buyer** means a buyer of any Security.

**Buy-in** means a mechanism which facilitates the delivery of Securities in unsettled transactions.

**Cash Products** refer to the Securities that are traded on an Exchange according to their current or spot price and includes the following:

- (a) Equity Securities including Rights offering and Depository Receipts;
- (b) Debt Securities;
- (c) Funds Securities including hedge funds, ETFs, REITs and other similar Securities;
- (d) Structured Securities including ETCs and ETNs;
- (e) Sharia compliant Securities including Sukuk;
- (f) Any other type of Security which FSC may approve from time to time.

**Cash Settled Contract** means a Contract which shall be fulfilled by cash settlement rather than by physical delivery of the Underlying.



**Circular** or **Notice** means informational notifications or a binding communication issued by the Clearing House from time to time to Member (s) and transmitted by fax, e-mail or any other method and manner which the Clearing House may deem appropriate, including publication through the website and titled “Circular” or “Notice” accordingly.

**Clearing Agreement** means an agreement entered into between Clearing Member and an Exchange Member for clearing and settlement of Securities on the Clearing House.

**Clearing and Settlement Account** means a bank account maintained by the Clearing Member with the Clearing Bank from which all fund obligations owed to the Clearing House by a Member or due to a Member by the Clearing House with respect to the Members trades on the Exchange will be made or received.

**Clearing Bank** is such bank(s) as the Clearing House may appoint to act as a funds settling agency, for the collection of margin money for all deals cleared through the Clearing House and any other funds movement between Clearing Members and the Clearing House and between Clearing Members as may be directed by the Clearing House from time to time.

**Clearing House** means the Bourse Africa Clear Ltd and its successors (if any).

**Clearing Member or Member** means a body corporate that has been admitted to the membership of the Clearing House pursuant to these Rules and includes all categories of Clearing Members and who has not resigned from such membership or whose membership has not been terminated by the Clearing House.

**Clearing Segments** means the different segments or divisions for clearing and settlement of securities transactions as may be classified by the Clearing House from time to time.

**Client** means any person on behalf of whom a Clearing Member accepts instructions to clear or settle a ‘Security’ but does not include the Clearing Member itself with regard to its own account. Where applicable ‘Client’ shall also mean and include the clients of the Exchange Members.

**Close-out or Closing out** means the cancellation of a position in one direction with an equal and opposite position.

**Closing price** has the meaning ascribed to the term “Closing Price” in the

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Exchange Rules.

**Collateral** means cash or financial instruments (including but not limited to Fixed Deposit Receipts, bank guarantees, government securities and units of the schemes of liquid mutual funds or government securities, warehouse receipts) as approved by the Exchange and/or the Clearing House from time to time through Circulars for the provision of Initial Margin or other deposits and Margins in accordance with these Rules.

**Committee** means a group or body of persons appointed by the Board to undertake tasks or responsibilities specified by the Board.

**Contract** means a Derivative traded on an Exchange.

**Contract For Difference** (CFD) has the meaning ascribed to the term “Contract For Difference” in the Exchange Rules.

**Contract Month or Delivery Month** means that month in which contractual obligations in respect of a Derivatives Contract is due for final fulfilment by the parties to the Contract.

**Contract Premium** means the price at which an Options Contract is traded.

**Contract Specification** means the standardised commercial and technical terms of a Security admitted for trading on an Exchange which may include the size of the Contract, Contract Month, trading hours, Underlying, minimum price fluctuations, Last Trading Day, settlement basis and such other details as may be set out by an Exchange.

**Controllers** shall have the same meaning ascribed to the term “Controllers” in the Relevant Acts.

**Corporate Actions** mean and include dividend, bonus, right shares, issue of shares as a result of stock split, stock consolidations, schemes of mergers/demergers, spin-offs, amalgamations, capital restructuring and such other privileges or events of a similar nature which may be specified by the Clearing House from time to time.

**Daily Settlement Price** has the meaning ascribed to the term “Daily Settlement Price” in the Exchange Rules.

**Default** has the same meaning as the term “Event of Default” in accordance with these Rules.

**Defaulter** means a Member who has been declared to be a Defaulter in accordance with these Rules.

**Delivery** means the settlement of a Security in the manner specified under these Rules.

**Delivery Day** means the day on which Delivery shall occur in satisfaction of a settlement obligation in respect of a Security.

**Delivery Margin** refers to a Margin (other than Initial Margin, Variation Margin, or Special Margin) specified from time to time by the Clearing House and/or the Exchange as being payable in relation to a Security during, or immediately prior to, the period in which a delivery notice may be issued for that Security.

**Delivery Period** means the period during which the Contract value is remitted or tendered as specified in the Contract Specifications in fulfilment of the transactions executed under these Rules and includes tender days as may be designated by Exchange for different Contract Months.

**Depository** means the securities depository of the Clearing House or any other depository entity or depository system recognised by the Clearing House.

**Derivative** has the meaning ascribed to the term “derivative” under the Relevant Acts.

**Disciplinary Committee** means a Committee constituted in accordance with these Rules.

**European option** has the meaning ascribed to the term “European Option” in the Exchange Rules.

**Event of Default** means a term defined in accordance with these Rules.

**Exchange** means Bourse Africa Limited or any other exchange which has entered into an agreement with the Clearing House to clear and settle trades executed on such Exchange subject to such terms and conditions as specified from time to time by the Clearing House.

**Exchange for Physicals or EFP** has the meaning ascribed to the terms “Exchange for Physicals” in the Exchange Rules.

**Exchange for Swaps or EFS** has the meaning ascribed to the terms

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“Exchange for Swaps” in the Exchange Rules.

**Exchange Member** means any person admitted to membership of the Exchange and who has not resigned from that Membership or whose membership of the Exchange has not been terminated.

**Exchange Rules** means the Business Rules of the Exchange in force and as amended from time to time.

**Expiry Date** or **Expiration Date** has the meaning ascribed to the term “Expiry Date or Expiration Date” in the Exchange Rules.

**Event of Default** means a term defined under these Rules.

**Final Settlement Price** means the Daily Settlement Price fixed by the Exchange and/or the Clearing House on the Last Trading Day or on the expiration date.

**Foreign Investment Dealer** shall have same meaning as defined in the Securities (Authorization of Foreign Investment Dealers) Rules 2010.

**FSA** means the Financial Services Act 2007 of the Republic of Mauritius.

**FSC** means the Financial Services Commission of Mauritius.

**Futures Contract** has the meaning ascribed to the term “futures contract” under the Relevant Acts.

**Give up** means a transaction or trade which is executed by an Executing Member for a Client which at the direction of that Client is transferred from the Clearing Member of the Executing Member to the Accepting Clearing Member designated by that client for Clearing and Settlement.

**Guidelines** have the meaning ascribed to the term “Guidelines” under the Relevant Acts.

**Last Trading Day** has the meaning ascribed to the terms “Last Trading Day” in the Exchange Rules.

**Long Position** has the meaning ascribed to the terms “Long Position” in the Exchange Rules.

**Margin** means a deposit or payment of Collateral(s) to establish or maintain a position in a Security and includes Initial Margin, Variation Margin, Special

Margin, Delivery Margin or any other type of Margin as may be applicable and determined by Exchange and /or the Clearing House from time to time.

**Membership committee** means a Committee constituted in accordance with these Rules.

**Novation** means a process undertaken by the Clearing House whereby it substitutes itself between the parties (buyer and the seller) of a securities transaction, to guarantee the obligations of each party.

**Open Interest** means the total number of Security that have not yet been offset and closed by an opposite transaction nor fulfilled by delivery of the cash or underlying security. For calculation of open interest only one side of the securities transaction is accounted.

**Open Position** means any Security which has not been liquidated by offsetting or Delivery or cash settlement or as specified in the Contract Specification.

**Options Contract** has the meaning ascribed to the term “options contract” under the Relevant Acts.

**Outstanding Obligation** means the obligation which has neither been closed out nor been settled.

**Position limit** means any limit on Open Positions held or controlled by a person (whether directly or indirectly, and whether individually by such person or by such person acting in concert with any person or persons) that the Exchange and/or Clearing House may from time to time impose in respect of any Security.

**Proprietary Account** means an account in the books of the Member to which the proprietary positions of a Member are designated.

**Proprietary Position** means Open Positions of Members held other than client positions.

**Relevant Acts** shall mean to include only those among them as defined in the Financial Services Act 2007, as may be applicable to such extent to the Clearing House from time to time and shall include any statutory amendment, modification, or re-enactment thereto from time to time.

**Rules or these Rules or Clearing Rules** mean the business rules of Clearing House in force from time to time.

**Securities** For the purposes of these rules, Securities has the meaning ascribed to the term “Securities” under the Relevant Acts and includes only those among them which are admitted to be cleared and settled by the Clearing House.

**Seller** means a seller of any Security.

**Settlement Day** means the day fixed by the Clearing House for Members to settle their Securities transactions as prescribed or instructed by the Clearing House.

**Settlement Guarantee Fund** means a fund established and maintained by the Clearing House in accordance with these Rules.

**Short Position** has the meaning ascribed to the term “Short Position” in the Exchange Rules.

**Strike Price** or **Exercise Price** has the meaning ascribed to the term “Strike Price” in the Exchange Rules.

“**Transactions**” or ‘**deal**’ or ‘**Trading**’ and ‘**to trade**’, and similar expressions shall refer to securities transactions that are to be cleared and settled through the Clearing House.

**Underlying** has the meaning as ascribed to the term “Underlying” in the Exchange Rules.

**Variation Margin** means a term as defined under Chapter 4.

## 1.2. Interpretation

1.2.1. Unless the contrary intention is provided for:

- (a) a reference to any gender includes the other.
- (b) words in these Rules in the singular include the plural and words in the plural include the singular.
- (c) a reference to a ‘time’ is reference to a time as in Mauritius.
- (d) where a reference is made in these Rules to a Rule, it is a reference to the Rule as amended from time to time.

- (e) where a reference is made in these Rules to a statutory provision, it refers to the laws of Mauritius.
  - (f) Where a reference to any legislation or law or to any provision thereof shall include references to any such law as it may, after the date hereof, from time to time , be amended, supplemented or re-enacted and any reference to any enactment shall include any subordinate legislation made thereunder from time to time.
- 1.2.2. Headings are for convenience only and shall not affect the interpretation of these Rules.
- 1.2.3. Subject to these Rules, the decision of the Clearing House shall be final in relation to the interpretation of these Rules against a Clearing Member, Clearing Bank, any of their clients or any third party.
- 1.2.4. In these Rules, reference to knowledge of a Clearing Member shall include reference to the knowledge of a director, Controller, shareholder, officer, employee or agent of that Clearing Member.
- 1.2.5. The words, terms defined above shall mean the same when used in lower case in these Rules, unless the context indicates otherwise.
- 1.2.6. Words and expressions used in these Rules but not defined herein shall have the same meaning assigned to them under the Relevant Acts or the Exchange Rules as the case may be.
- 1.2.7. These Rules shall be interpreted in a harmonious manner with a view to complying with the requirements of the Relevant Acts and to effectuate the purposes and businesses of the Clearing House and to ensure that all practices in connection with the business on the Clearing House are conducted in a fair, just, reasonable manner in order to maintain the integrity of the markets and protect the investors.

## CHAPTER – 2: - GENERAL RULES

### 2.1. Application of Rules

- 2.1.1. These Rules shall be known as “Business Rules of the Clearing House”. These Rules shall govern the clearing, settlement and delivery of the Securities traded on the Exchange. These Rules shall also apply to all types of Clearing Segments unless the context requires otherwise or unless otherwise specified by the Clearing House from time to time.
- 2.1.2. These Rules shall apply to all Clearing Members and operate as a binding agreement between :
- (a) each Clearing Member and the Clearing House, and
  - (b) between each Clearing Member and any other Clearing Member.
- 2.1.3. For avoidance of doubt, where the Clearing Member is a Bank, the requirement to be complied with by the Bank under the Rules shall be in relation to the Bank’s activities governed by these Rules and related activities of the Bank governed by the rules of other Exchanges and/or clearing houses. Nothing in these Rules shall affect the Bank's compliance with notices, guidelines, circulars and directions issued by the Bank’s regulatory authority.
- 2.1.4. Unless otherwise provided under these Rules, a third party has no rights under any applicable law to enforce any provisions of these Rules. The Clearing House shall have no liability to any third party affected or aggrieved by any alleged action or omission of the Clearing House or any of its directors, officers, employees of the Clearing House.

### 2.2. Additional powers

- 2.2.1. The powers of the Board under these Rules are in addition to the powers of the Board under the constitutive documents of the Clearing House and in law.
- 2.2.2. The Board may organise, maintain, regulate and control and facilitate the operations of the Clearing House and of all transactions on the Clearing House.



- 2.2.3. The Board is empowered to conduct the business of the Clearing House. Without limitation, the Board is entitled pursuant to various provisions in these Rules to;
- (a) enter into arrangement with Exchanges for clearing and settling trades done on those Exchanges;
  - (b) specify norms, procedures, terms and conditions for admission to Membership of the Clearing House;
  - (c) specify norms for conduct of Clearing Members with regard to the business of the Clearing House ;
  - (d) levy charges on Clearing Members for business transacted through the Clearing House;
  - (e) specify norms, procedures, terms and conditions for admission of transactions for Clearing and settlement by the Clearing House;
  - (f) specify norms, procedures, terms and conditions for Clearing and settlement of transactions for different Clearing segments and for different Securities and Contracts;
  - (g) specify forms and conditions of deals to be entered into, and the time, mode and manner for clearing and settlement of securities transactions between Clearing Members or between Clearing Members and their Clients;
  - (h) specify norms, procedures, terms and conditions for guaranteed settlement by the Clearing House;
  - (i) administer penalties, fines and other consequences, including suspension of Clearing Members from the Clearing House for defaults;
  - (j) specify norms, procedures, terms and conditions for imposition and administration of different types of margins and other charges and restrictions that may be imposed by the Clearing House from time to time;
  - (k) impose fees, system usage charges, deposits, margins and other monies payable to the Clearing House by Clearing
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Members;

- (l) specify norms for supervision of clearing operations and specify Rules and Codes of Conduct, determine norms for administration, maintenance and investment of funds of the Clearing House including corpus of Settlement Guarantee Fund and other funds;
- (m) specify norms, terms and conditions, functioning and procedures for clearing through depository or other arrangements including custodial services for Clearing and settlement;
- (n) specify terms for appointment and dissolution of Committee(s) of the Clearing House;
- (o) determine the manner of operations and interfacing with exchanges, warehouses, custodians, Depository and Clearing bank(s);
- (p) specify rules for maintenance of records and books of accounts by Clearing Members;
- (q) inspect and audit records and books of accounts of the Clearing Members;
- (r) investigate the financial condition, business conduct and dealings of the Clearing Members;
- (s) take disciplinary action against any Clearing Member or their relevant persons;
- (t) settle disputes, complaints, claims arising between Clearing Members inter-se as well as between Clearing Members and persons who are not Clearing Members relating to any securities transactions cleared and settled through the Clearing House including settlement by arbitration;
- (u) specify norms, procedures, terms and conditions for arbitration;
- (v) impose penalties for non compliance with or contravention of these Rules and Circulars of the Clearing House or of general discipline of the Clearing House, including expulsion

or suspension of the Clearing Members;

- (w) declare any Clearing Member as a defaulter or impose suspension or terminate from Clearing Membership of the Clearing House
- (x) exercise its powers in such other matters in relation to the Clearing House as may be specified under the provisions of the constitutive documents or these Rules or as may be necessary or expedient for the organisation, maintenance, control, management, regulation and facilitation of the operations of the Clearing House.
- (y) dissemination of information and announcements;
- (z) any other matter as may be decided by the Board.

### **2.3. Powers to amend and waive Rules**

- 2.3.1. Subject to the requirements set out under the Relevant Acts or as specified or approved by the FSC, the Clearing House may from time to time amend or waive all or any part of these Rules as may be deemed necessary or appropriate.
- 2.3.2. The amendments to these Rules shall be binding on all Clearing Members.

### **2.4. Power to issue Notices and Circulars**

- 2.4.1. The Clearing House may from time to time issue Notices and/or Circulars to supplement these Rules and clarify the interpretation and application of the Rules for its Members as it deems fit. Any non-compliance or violation of this Notices and/or Circulars shall be deemed to be contravention of these Rules.

### **2.5. Board's power to delegate and the management of the Clearing House**

- 2.5.1. The Board may delegate such of its powers, authorities and discretions as it may from time to time determine to such officers, employees, persons, and such committees as the Board may authorise from time to time.
- 2.5.2. Committees:

- (a) The Board may appoint such Committees as it deems fit to advise it on matters in relation to the operation of the Clearing House. Such Committees may include, without any limitation, a Risk Committee, Membership Committee, a Disciplinary Committee and an Appeals Committee.
- (b) Unless otherwise specified under these Rules or terms of reference of a Committee, persons appointed to a Committee may be Members of the Clearing House, directors and officers, employees of Members of the Clearing House and of the Clearing House or other persons whose experience and expertise is regarded by the Board as appropriate to the role of the Committee.
- (c) The Board may terminate a person's membership of a Committee at any time.
- (d) No member of a Committee shall use or disclose for any purpose other than for discharge of such person's duties with the Committee, confidential information received or obtained as a result of his participation or membership on such Committee.
- (e) Each Committee shall have such powers as may be delegated by the Board or delegated to it in these Rules.

## **2.6. Jurisdiction and governing law**

2.6.1. These Rules shall be governed by and construed in accordance with the laws of Mauritius. Save as provided under these rules, courts of Mauritius shall have the exclusive jurisdiction to determine any dispute in relation to or arising from these Rules.

2.6.2. Nothing in these Rules limits the right of the Clearing House to bring proceedings, including third party proceedings, against any Clearing Member or to apply for interim remedies, in connection with the Rules:

- (a) in any other court of competent jurisdiction; and
- (b) concurrently in more than one jurisdiction,

and the obtaining by the Clearing House of judgment in one jurisdiction shall not prevent the Clearing House from bringing or

continuing proceedings in any other jurisdiction, whether or not these shall be founded on the same cause of action.

2.6.3. In the event of any discrepancy between these Rules and the Exchange Rules, these Rules shall prevail with regard to:

- (a) any Clearing Member and the Clearing House and
- (b) between a Clearing Member and any other Clearing Member.

## **2.7. Records for evidence**

2.7.1. The records of the Clearing House regarding clearing and settlement of Securities cleared and settled by the Clearing House and reported to the Clearing Member shall constitute final, valid and binding evidence between all parties, provided that the Clearing House shall be entitled, at any time to amend or update any record for any errors or missing or incomplete or outdated information.

## **2.8. Governing language**

2.8.1. All Rules, Notices, Circulars, issued by the Clearing House in relation to the operation and functions of the Clearing House shall be in English language. For convenience of Members, the Clearing House may publish Notices and/or Circulars in any other language in addition to English. In case of any discrepancy between the different versions of any Notice and/or Circular, the English version shall prevail.

## **2.9. Limitation of liability**

2.9.1. The Clearing House shall have no liability, obligation or duty to any Clearing Member, Clearing Bank, any of their Clients or any third party, including but not limited to, as a result of:

- (a) any force majeure event which is beyond the reasonable control of the Clearing House,
- (b) any losses or damages, including consequential losses and damages which may be incurred by the Clearing House or which may arise directly or indirectly with respect to the activities and functions of the Clearing House,

- (c) any failure, omission or error on the part of the Clearing House including any losses or damages with respect to clearing and settlement on the Clearing House or suspension, interruption, cancellation or closure of the Clearing House or the Exchange or any market whose Securities are cleared by the Clearing House, or any inoperability or malfunction of any equipment, software, computer system or any other product operated, supplied or used by the Clearing House or the Exchange,
- (d) any decision of the Disciplinary Committee or Appeals Committee exercising their powers or the Clearing House accepting a Member's resignation or a decision to suspend or terminate the membership of any Member or declare any Member to be a Defaulter Member, or
- (e) the exercise or failure to exercise any discretion or rights under these Rules by the Clearing House or by the Exchange under the Exchange Rules.

2.9.2. Without any prejudice to the foregoing, the Clearing House does not make any representation or warranty, express or implied and shall not have any liability to any person in connection with or as result of:

- (a) the accuracy, originality, completeness or timeliness of any information, data or documents ,
- (b) the merchantability and fitness for a particular purpose of or use of, any documents , information or data or any computer, clearing and settlement systems used or operated by the Clearing House,
- (c) any direct or indirect, special, punitive, consequential damages or loss of profits even when notified of the possibility of such damages or
- (d) any failure by the Exchange or the Clearing House to provide any information to or communicate with each other.

2.9.3. The Clearing House, the Exchange and the developer of any trading, clearing and settlement system or of any computer system or software used or operated by the Clearing House in relation to the functions of the Clearing House shall not have any liability in

respect of the operation or use of any such systems or software to the fullest extent permitted by law, including but not limited to, any breach of any law, any act or omission, injury, death, damage to physical property, any direct or indirect losses, loss of operation time or loss of equipment or process, economic loss, loss of reputation or losses or damages incidental or consequential to the installation, use or operation of any such system or software. All warranties and conditions including express and implied as to the description, condition, performance, quality, fitness for purpose, durability or otherwise of such system or any component thereof or software are excluded except as required by law. Neither the Clearing House, nor the Exchange warrants or forecasts that such systems or any component thereof or software or any services performed in respect thereof will meet the requirements of any user, or that operation of such systems or software will be uninterrupted or error-free, or that any services performed in respect of such systems or software will be uninterrupted or error-free. Nothing in these Rules, including this Rule 2.9.3 shall, in any way, limit any liability of a developer of such systems or software to the Clearing House.

2.9.4. In the event that an obligation of the Clearing House must be performed by or prior to a particular time but if such obligation is not performed on or before that time due to unforeseen circumstances, the Clearing House shall not be in violation of these Rules as against the Member, Clearing Bank, any of their clients or any third party provided that it performs the relevant obligation within a reasonable timeframe thereafter.

2.9.5. No power conferred on Clearing House under these Rules, including but not limited to, any power to Close-out, transfer or call Margin or Daily Settlement Amounts shall impose any duty on Clearing House to exercise such power or to exercise such power in a particular way and no person shall have any claim against Clearing House in relation to any decision made in good faith to exercise or refrain from exercising such powers, or exercising them in any particular manner.

## **2.10. Immunity and Protection for acts done in good faith**

2.10.1. No claim, suit, prosecution or any other legal proceedings shall lie against the Clearing House or any of its directors, officers, employees or agents or any other duly authorised persons acting for and on behalf of the Clearing House, in respect of anything

which is done or intended to be done or omitted in good faith in exercise of any power under these Rules, Circulars and/or in pursuance of any order or any other kind of communication received by Clearing House in writing from any court, tribunal, Government, FSC or any other competent regulatory or revenue authority empowered under any law or delegated legislation for the time being in that behalf.

## **2.11. Indemnity**

- 2.11.1. Every Clearing Member shall indemnify and keep indemnified the Clearing House against all losses, costs, expenses, damages, injuries and liabilities whatsoever incurred by the Clearing House where such losses, costs, expenses, damages, injuries and liabilities arose out of or in connection with any violation by the Member (including its present and past directors, officers, employees, agents, clients) of its obligations under these Rules or violation of any applicable law or any unlawful, wilful, reckless or negligent act or omission of the Member (including its present and past directors, officers, employees, agents, clients).
- 2.11.2. Each Clearing Member shall indemnify and hold the Clearing House harmless for the full amount of any judgment, award or settlement paid by the Clearing House in respect of any legal or administrative proceeding brought against the Clearing House as a result of an alleged violation of any applicable law or these Rules by such Clearing Member or as a result of an alleged failure of the Clearing House to detect, prevent or otherwise act against such alleged violation.

## **2.12. Scope of liability**

- 2.12.1. Each exemption from liability, defence or immunity to the Clearing House or to which the Clearing House is entitled under these Rules including the clause of indemnity under these Rules shall also be available and shall extend to protect directors, officers, employees or agents of the Clearing House .

## **2.13. Confidentiality**

- 2.13.1. Confidential information that is received and obtained under these Rules shall not be disclosed by the Clearing House or by any of its directors, officers, employees or agents or by a person coming into possession of the information. The Clearing House shall take all



necessary steps to preserve and protect the confidential information.

2.13.2. The Clearing House shall however be entitled to disclose confidential information in all or any of the following circumstances:

- (a) for the purpose of compliance with any applicable law, rule or regulation,
- (b) for the purpose of the Clearing House to institute, carry on or defend any proceedings including any court proceedings, or
- (c) in relation to the enforcement of that Member's obligations under these Rules.

#### **2.14. Voice recording**

2.14.1. The Clearing House may record telephone conversations. The records will be the sole property of the Clearing House and may be adduced as evidence in any court, regulatory, disciplinary or other proceedings as evidence of the matters discussed.

#### **2.15. Data Protection**

2.15.1. Subject to Data Protection Act (Act 13 of 2004) of the Republic of Mauritius, the Clearing House may collect and retain personal information on Members' employees, officers and directors and other persons. The Clearing House may process personal data in connection with its activities and if necessary transmit or transfer such data to statutory bodies or regulators in countries or territories outside Mauritius.

#### **2.16. Severability**

2.16.1. If any provision of these Rules is rendered unlawful, void or unenforceable by reason of any statutory amendment, re-enactment, notification or any judicial decision or pronouncement by any competent court, tribunal, regulatory authority or FSC, such provision shall to the extent required, be severed and rendered ineffective without in any way affecting the validity or enforceability of the rest of the provisions of these Rules which shall continue to apply with full force and effect, provided further that the action already taken earlier under such provision shall remain unaffected.

## **2.17. Force Majeure**

- 2.17.1. The Clearing House shall not be liable for any harm, loss, damage or injury caused by it to any person if such harm, loss, damage or injury is caused by conditions beyond its control. Such events or causes include, but not limited to war, riots, acts of God, civil disturbances, terrorism, acts of a civil or military authority, embargoes, fires, labour disputes, floods, explosions, accidents, cyclones, tsunamis, any other natural calamities, mechanical breakdowns, computer or system failures or other failures of equipment, any failure or interruption of any network, telecommunication equipment or online system, any failure or interruption of power supply, any utility or service provider, any failure of or defect in computer or software systems, change of law, interruption or suspension or insolvency or bankruptcy of any bank, financial institution, depository or custodian, (including the failure whether partial or total, interruption or suspension of any depository or custodian or other service the Clearing House is using or the termination or suspension of the Clearing House's membership or use of any depository or custodian) market emergency, closure of any market, including any clearing segment(s) or sub segment (s) operated by Clearing House and in all cases which are beyond the reasonable control of Clearing House.
- 2.17.2. Notwithstanding anything contained in paragraph 2.17.1 above, any failure on the part of the Clearing House which is caused by conditions beyond its control shall not in any way reduce, alter, limit or affect the liability of a Member in respect of any transaction entered into or executed through the systems of Clearing House by such Member.
- 2.17.3. Notwithstanding the above, the Clearing House shall be entitled to require any Member to take such actions, including but not limited to close-out all or any of the transactions as the Clearing House may direct in respect of the transactions affected by the force majeure event.

## **2.18. No waiver**

- 2.18.1. No failure to exercise and no delay in exercising any right, power or remedy by the Clearing House under any Rule operates as a waiver. Nor does any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy by the Clearing House.

## **2.19. Clearing Segments**

2.19.1. The Clearing House shall have the power to establish more than one Clearing Segment(s) or Clearing Sub-Segment(s) as may be specified by the Clearing House from time to time.

2.19.2. The transactions relating to Securities which may be admitted to the different Clearing Segment(s) or Clearing Sub-Segment (s) for the purpose of clearing and settlement will be specified by the Clearing House from time to time.

## **2.20. Interest**

2.20.1. Subject to Relevant Acts or any other applicable laws, unless otherwise expressly specified in writing, no monies or asset deposited with, or which remain in the possession of the Clearing House (whether as Security Deposit, Margins, or otherwise) shall bear any interest or returns whatsoever in favour of any Clearing Member, Client or other person and the Clearing house shall have no liability to pay or procure any interest or returns.

## **CHAPTER - 3:- MEMBERSHIP RULES**

### **3.1. General**

- 3.1.1. A body corporate which wishes to become a Clearing Member of the Clearing House may apply for any category of membership under these Rules, subject to its fulfilment of the membership criteria, payment of all the required fees, contributions, charges, deposits or other monies.
- 3.1.2. Any Exchange Member may be admitted as a Clearing Member if it complies with these Rules.
- 3.1.3. Subject to these Rules, membership of the Clearing House shall entitle a Clearing Member to exercise such rights and privileges attached to such category of membership as it is admitted to.
- 3.1.4. Every Clearing Member shall comply with and be bound by these Rules and shall, subject to these Rules and applicable laws, accept as final any decision made by the Clearing House.
- 3.1.5. Clearing membership status and rights are not transferable without the prior written approval of the Clearing House.
- 3.1.6. All Members shall have to seek and obtain the relevant licence or authorisation or recognition from the FSC prior to commencing operations on the Clearing House.
- 3.1.7. All Members shall satisfy that it has in place policies, procedures, systems and controls (including those for the prevention of money laundering and the prevention of terrorist financing) to ensure that it will comply on a continuous basis and in respect of each category of Membership for which admission is sought, with all requirements imposed by or pursuant to these Rules, including without limitation those set out in the money laundering Notices or directions that may be issued by the Clearing House, FSC, any other recognised monitoring agency or international regulatory body from time to time.

### **3.2. Categories of membership**

- 3.2.1. Membership of the Clearing House maybe granted separately for each of the following segments of the market or for additional segments of the market created by the Exchange from time to time;

- (a) Derivatives segment
- (b) Cash market segment

3.2.2. Membership of the Clearing House shall comprise of such categories of membership as provided under these Rules and such other categories or sub-categories of membership created by the Clearing House pursuant to these Rules. The categories of membership are:

a) **Trading-cum-Clearing Member also known as Self Clearing Member:**

A Member of the Clearing House as well as that of the Exchange that can trade and clear & settle for itself and for its Clients.

b) **Integrated Trading-cum-Clearing Member also known as General Clearing Member:**

A Member of the Clearing House as well as that of the Exchange that can trade and clear & settle for itself and for its Clients and also clear & settle for other Exchange Members that are not Members of the Clearing House and for their Clients. Integrated Trading-cum-Clearing Members may choose to affiliate themselves with other Clearing Members (other than Trading-cum-Clearing Member) for clearing and settling their trades, if they so desire

c) **Professional Clearing Member also known as Special Clearing Member:**

A Member of the Clearing House but not an Exchange Member and who shall only be allowed to clear & settle trades on account of any Clients.

### 3.3. General and prudential requirements

3.3.1. An Applicant Member shall be eligible for membership if such Applicant Member:

- (a) is a body corporate which has good commercial standing,

- (b) be licensed / authorised / recognized by the FSC to carry out the activities which it intends to carry out on Clearing House and must furnish proof to Clearing House of such licence / authorisation / recognition,
- (c) and its directors, those concerned in its management and those who have control or substantial control of the Applicant are of good character and of high business integrity and financial probity,
- (d) has or will have managerial, operational, financial and appropriate business continuity arrangements in place to enable it to meet its obligations as a Clearing Member,
- (e) has a minimum Paid- up capital, financial and prudential requirements, net worth and other financial requirements as Clearing House and/or FSC may determine from time to time by Circulars,
- (f) and/or its directors have not been adjudged bankrupt or has not been subject to a receiving order in bankruptcy,
- (g) and/or its directors have not been convicted of an offence involving any crime or financial impropriety,
- (h) is not or has not been suspended by or expelled from any exchange, clearing house, self-regulatory organisation or other business or professional association for violating any rule of such organisation,
- (i) agrees to be bound by these Rules and amendments thereto, in a manner specified by Clearing House and ensures that its Controllers, directors, officers and employees comply with these Rules and amendments thereto,
- (j) ensures that its constitutive documents comply and are not inconsistent with the Relevant Acts, Guidelines, these Rules and all applicable laws and agrees to make all amendments to the same for compliance or consistency with the foregoing, as required

- (k) In the case of Clearing Members not incorporated in Mauritius, their constitutive documents, shall comply with the Laws of their country of incorporation.
- (l) is fit and proper to be a Clearing Member,
- (m) signs and submits a membership application form to Clearing House, and
- (n) is entitled to clear and settle transactions and is capable of meeting all clearing and settlement obligations and functions required of a Clearing Member.

### **3.4. Admission process**

- 3.4.1. Any body/corporate which intends to be a Clearing Member shall apply to Clearing House in the specified form as provided by the Clearing House, together with such documents and information as the Clearing House shall deem necessary or appropriate, or may require.
- 3.4.2. Each membership application shall be accompanied by a payment of an application processing fee and such other fees as specified by Clearing House. The application processing fee and the admission fee is non-refundable and the Applicant shall give an undertaking in the specified form to be bound by these Rules and any amendments thereto, once admitted.
- 3.4.3. A decision for admitting or rejecting any application for membership of the Clearing House shall be entirely at the discretion of the Clearing House and shall be final and conclusive. The decision of the Clearing House shall not be appealable.
- 3.4.4. The Clearing House may interview and/or test the Applicant before admitting it as a Clearing Member. Further, the Clearing House may examine and demand copies of the books, records or documents of the Applicant Member to ascertain those facts that may affect the application.
- 3.4.5. An Applicant Member may be refused admission if the Clearing House determines, it not to be in the public interest for the Applicant to be admitted.
- 3.4.6. In case of rejection of the application, the Clearing House will notify

the Applicant Member in writing of its decision. The Clearing House is not obliged to provide any reasons for its decision.

- 3.4.7. An Applicant Member who has been accepted as a Clearing Member shall not be entitled to exercise any of the rights or privileges of membership unless it:
- (a) has paid in full the non-refundable membership fees, annual fees and any other charges, deposits or fees as may be specified by the Clearing House ,
  - (b) meets the applicable minimum capital and financial requirements specified in these Rules and /or Circulars , and
  - (c) has obtained, or is exempted under the Relevant Acts from holding licence/authorisation/ recognition.
- 3.4.8. A Clearing Member shall also pay the annual fee for the year of admission for the specific category of membership to which it has sought the admission and all annual subsequent subscriptions shall be payable each year.
- 3.4.9. Where an Applicant Member fails to complete the membership process and/or fails to meet all the specifications as required by the Clearing House for admission as a Clearing Member or opts to withdraw from the membership admission process, the membership processing fee and admission fee already paid by the Applicant to the Clearing House shall stand forfeited.
- 3.4.10. An Applicant Member who has been granted admission on the Clearing House shall be eligible to clear and settle trades upon the FSC granting such Applicant Member such licence/ authorisation / recognition in terms of the Relevant Acts.

### **3.5. Initial Margin**

- 3.5.1. The Clearing House may from time to time specify the levels of initial Margin and / or security deposit if any for different categories of Members.
- 3.5.2. Initial Margin / Security deposit, shall be payable in cash or in any form of Collaterals and the percentage of the total initial Margin to be maintained in cash component shall be specified by the Clearing House from time to time.



- 3.5.3. The list of Collaterals shall be notified by the Clearing House from time to time and the method of valuation on a periodic basis of such Collaterals shall be computed by the Clearing House.
- 3.5.4. A part of such initial Margin so deposited by each Member may be made available by the Clearing House for meeting the respective Member's initial exposure requirements for clearing and settling of transactions. The balance deposit, if any would be earmarked to meet unfulfilled obligations of the Clearing Member and in the event of such Clearing Members non-compliance to the Relevant Acts, Guidelines, these Rules and Circulars.
- 3.5.5. The Clearing House may from time to time require the Clearing Member to deposit an additional amount in any form of Collaterals to ensure that the valuation of such Collaterals is at least equal to the minimum initial Margin as specified by the Clearing House.
- 3.5.6. Each Clearing Member shall be required to deposit additional amount or capital in any form of Collaterals as may be specified by the Clearing House from time to time so as to meet the additional margin requirements, daily margins and settlement obligations of such Clearing Member. The Clearing Member is entitled to collect similar sums in any form of Collaterals from the respective Members affiliated to them.
- 3.5.7. Any Collaterals held by the Clearing House in excess of the amount specified by the Clearing House as initial Margin of the Clearing Member is deemed to have been deposited for the purpose of satisfying Margin and/or daily settlement or other settlement obligations.
- 3.5.8. Such Collaterals held by the Clearing House which are in excess of a Clearing Member's settlement obligations and/or in excess of initial Margin requirements are refundable to the Clearing Member by the Clearing House upon demand, provided that the Clearing House is satisfied that such Collaterals will not be required for settlement obligation regarding a Clearing Member Open Position.

### **3.6. Admission under misrepresentation**

- 3.6.1. The Clearing House may suspend or terminate or take any other disciplinary action against a Clearing Member if in its opinion the Clearing Member has made any materially false statement or failed

to state a material fact in or in connection with any application filed with Clearing House and all fees as well as charges paid to Clearing House shall stand forfeited.

### **3.7. Compliance with the Relevant Acts and applicable laws**

3.7.1. All Clearing Members, their directors, officers, employees and agents shall at all times comply with all applicable provisions of the laws of Mauritius or the applicable laws of their country of incorporation, Relevant Acts, Guidelines, these Rules, Circulars and including but not limited to prudential conduct of business that affect the business of the Clearing Member with Clearing House, the Clearing Bank and Clients.

### **3.8. Fees, deposits and other payments**

3.8.1. The Clearing House may from time to time impose:

- (a) fees or charges, including but not limited to , application processing fee, admission fee, clearing fees, annual fees, charges or other fees.
- (b) deposits including but not limited to initial Margin, contributions or other levies.

3.8.2. The Clearing House may publish Circular(s) to determine, among other things, terms and conditions, mode of payment or procedures in relation to deposits, contributions or similar payments and fees.

3.8.3. If any Member fails or neglects to pay any deposit, fee or charge as required by the Clearing House by the specified date, the Clearing House may initiate measures against the Members, including but not limited to, bringing a disciplinary action against such Member, suspending or terminating such Member's membership with the Clearing House and/or declaring the Member as a Defaulter within the meaning of these Rules.

### **3.9. Clearing Members' ongoing obligations**

3.9.1. The ongoing obligations of Clearing Members are, including but without any limitation, as follows:

- (a) comply with these Rules and Circulars,
- (b) comply with prudential, conduct of business procedural,

technical and operational requirements of Clearing House,

- (c) pay such fees, Margins, initial Margin, contributions and charges in such amounts and on or before such dates as determined by Clearing House,
- (d) maintain acceptable systems and procedures for the execution, recording, reporting, clearing and settlements of transactions,
- (e) ensure that its Controllers, directors, officers, employees and agents comply with these Rules and meet the fit and proper criteria at all times,
- (f) maintain adequate staff with adequate knowledge, expertise, training to comply with these Rules,
- (g) comply at all times with all the minimum capital, financial, prudential and conduct of business requirements specified by Clearing House under the Relevant Acts , Guidelines, these Rules, and/or Circulars,
- (h) file periodic financial or non-financial returns, annual report and other required documents as specified by Clearing House,
- (i) comply with notification obligation under Rule 3.10,
- (j) comply with all applicable laws, including but not limited to, anti-money laundering, terrorist financing, market misconduct, market manipulation and market abuse,
- (k) observe and maintain high ethical standards, integrity, fairness and act honestly and with due care,
- (l) comply with all Clients money segregation and conduct of business provisions in the Relevant Acts, Guidelines these Rules, Circulars and in particular not accept any person as Client without carrying out the client due diligence and the Client duly signing a client agreement, with the Member,
- (m) not to provide Clearing House with any document or information which is false, misleading or inaccurate,

- (n) not to disseminate any false, misleading or inaccurate information about Clearing House or any transactions on Exchange,
- (o) comply with operational, procedural and technical requirements of the Clearing House systems and networks as specified by the Clearing House from time to time,
- (p) comply with such standards of infrastructure as may be specified by Clearing House from time to time,
- (q) refrain from any act or cause of conduct which is likely to harm the reputation of the Clearing House,
- (r) comply with every provision of its membership agreement and every other undertaking and agreement between the Clearing Member and the Clearing House.
- (s) carry out software and hardware upgrades as notified by the Clearing House and/or the Exchange from time to time
- (t) participate in mock trading and/or clearing sessions conducted by the Clearing House and/or the Exchange to test any software upgrades or any new product(s) to be listed and/or cleared on the Exchange and/or the Clearing House.
- (u) maintain bank accounts in the denominated currencies with the Clearing Banks for the purpose of clearing and settlement as specified by the Clearing House.

### **3.10. Notification of obligation to Clearing House**

3.10.1. A Clearing Member must immediately notify, or where practicable, pre-notify, the Clearing House in writing on occurrence of all or any of the following events:

- (a) any violation and/or potential violation of the Relevant Acts and Guidelines.
- (b) any violation and/or potential violation of these Rules and Circulars.
- (c) any Event of Default and/or potential Event of Default,

- (d) any change of information, document, facts or circumstances provided to Clearing House during the membership application process and which may materially affect the performance of its membership obligations under these Rules,
- (e) any investigation, enforcement action, sanction or injunction against the Clearing Member or any of its directors, officer, employee by any self-regulatory organisation, exchange, regulator or law enforcement agency,
- (f) any facts or circumstances which may affect the legal structure and organisation of the Member and its clearing and settlement activities including but not limited to merger, any change in control of the Member,
- (g) any change in the shareholding pattern,
- (h) any change of name, address or similar event,
- (i) any change in directors or Controllers or death, dissolution or bankruptcy of any of the foregoing persons or any change in the composition of its board of directors,
- (j) any change in its constitutive documents, articles or memorandum of association;
- (k) any similar event that would affect the business of the Member and its affairs with the Clearing House,
- (l) any failure to meet the minimum capital and financial requirements, under the membership criteria and
- (m) any appointment and/or changes of any Authorised User
- (n) any failure by any other Member to discharge its liabilities in full.

3.10.2. Upon such notification, Clearing House may request additional document or information and take such actions as it deems necessary-

### **3.11. Notification of obligation to the Exchange**

3.11.1. A Clearing Member must immediately notify, or where practicable, pre-notify, the Exchange in writing in the event of the Clearing Member terminating or suspending a clearing arrangement with any of its affiliated Exchange Member(s).

### **3.12. Records, annual accounts and audit**

3.12.1. Every Clearing Member shall

- (a) comply with the Relevant Acts, Guidelines and with the applicable laws of the country of incorporation and any other statutory body in relation to maintenance of accounts, records and audits.
- (b) comply with these Rules and Circulars issued regarding the record keeping, accounts and audit requirements,
- (c) maintain financial statements, data, forms, books, records, client complaints, reports and filings in relation to its business with Clearing House, audit trails of all transactions whether in respect of Proprietary Account or Client Account from the time of receipt of instructions to clear and settle until the clearing and settlement of the transactions for a period of 7 (seven) years.
- (d) make available at any time such records, books, accounts or audits to Clearing House for its inspection.

### **3.13. Conduct of Clearing Members**

3.13.1. No Clearing Member shall engage in any action or activity that causes or contributes to:

- (a) a violation of the Relevant Acts, any applicable law or any Rule, or Notice by any other person,
- (b) the occurrence of an Event of Default,
- (c) any misconduct in its dealing with or in relation to the Clearing House or any Clearing Member,
- (d) any disreputable or fraudulent transactions with any person (whether or not a Clearing Member) including but not limited

to, that relating to financial crime, terrorist financing, money laundering or market misconduct,

- (e) deal on behalf of a Client other than in accordance with instructions accepted by the Clearing Member from that Client,
- (f) cheat, defraud, or deceive or attempt to cheat, defraud, or deceive any person in any manner,
- (g) provide information to the Clearing House which the Clearing Member knows (or ought reasonably to know) to be false or misleading. Without prejudice to the rights of the Clearing House, where a Clearing Member finds that information that it has previously provided to the Clearing House is false or misleading, the Clearing Member shall promptly submit the corrected information to the Clearing House,
- (h) engage in any conduct which is likely to undermine the integrity and interests of the Clearing House or any Clearing Member.
- (i) engage in any action or conduct which would result in or contribute to market manipulation and enter into any other types of trading to distort the operation of a fair, orderly and transparent market,
- (j) make or cause to be made, a false or misleading entry, in hardcopy or electronic form, in any books, records, reports, slips, documents, or statements relating to its business, affairs, transactions, conditions, assets or accounts (the "Documents"), or omit from making, for whatever reason, a material entry in any of the Documents, or alter or destroy any of the Documents without a valid reason,
- (k) effect any trade or settlement of any trade or accept any client's monies or assets after the Clearing Member's insolvency or inability to pay debts,
- (l) knowingly take advantage of any situation arising from any breakdown or malfunction in any system maintained / operated by the Clearing House, or of any errors made by the Clearing House,

- (m) wilfully or intentionally breach any of its contractual obligations or frivolously repudiate any agreement made in connection with its dealings on the Clearing House,
  - (n) disclose any client's Open Position, trades or instructions to any other clients or Clearing Members, or
  - (o) mishandle any client's monies or assets.
- 3.13.2. No Clearing Member shall buy, sell or deal in Securities in a fraudulent manner or indulge in any unfair trade practices including but not limited to market manipulation, financial crime, money-laundering or terrorist financing.
- 3.13.3. No Clearing Member shall engage in conduct which is likely to impair the operation of Clearing House systems. Such conduct shall include, but are not limited to, submitting unwarranted or excessive electronic messages or requests to Clearing House systems provided that the use of an electronic trading engine shall not of itself be considered to give rise to excessive electronic messages.
- 3.13.4. Without prejudice to generality of the provisions contained in the above Rules, no person shall indulge in market manipulation, namely:
- (a) effect, take part in or enter into either directly or indirectly in Securities transactions which are likely to have the effect of artificially raising or depressing or stabilising the price of the Securities,
  - (b) engage in any act which is calculated to create a false or misleading appearance of trading on the Exchange markets or, results in reflection of prices of Securities based on transactions, which are not genuine trade or
  - (c) purchase or sell any Securities as a device to maintain, inflate, depress or cause fluctuations in the market price of Securities or
  - (d) pay, offer or agree to pay or offer, directly or indirectly, to any person to purchase or sell any Securities with the sole object to maintain, inflate, depress or cause fluctuations in the market price of Securities.



3.13.5. No Person shall:

- (a) by making any statement, promise or forecast that it knows or ought reasonably to have known to be false, misleading or deceptive, or by recklessly making such statement, promise or forecast that is false, misleading or deceptive, by any dishonest concealment of material facts, by recording or storing information that it knows to be false or misleading in a material particular, induce or attempt to induce another person to trade in any Security; or
- (b) directly or indirectly, in connection with any trading in any Security in any way defraud or engage in any act, practice or course of business which operates or is likely to operate as a fraud or deception upon any person, make any false statement or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, are not misleading.

3.13.6. This prohibition includes, but is not limited to circulation or aiding in the circulation, in any manner, of rumours which cast doubts on the integrity of any Securities. A Clearing Member shall ensure that its officers, employees, agents and contractors observe this prohibition.

3.13.7. A Clearing Member shall immediately inform the Clearing House if, in its reasonable belief, any act is committed or attempted to be committed, which act is prohibited under these Rules. The Clearing House may, upon receiving any such information, take any action (including, but not limited to, requiring a Clearing Member to stop processing any instructions received by a Clients ) as it deems fit.

### **3.14. Co-operate with the Clearing House**

3.14.1. In dealing with the Clearing House or other Clearing Members, Clearing Members shall act in a cooperative manner (including but not limited to procuring for the Clearing House or any person appointed by the Clearing House, access to any record, premises, or person in connection with any inspection, investigation or audit), be truthful and honest and not mislead or conceal any matter. A Clearing Member shall also procure such co-operation by each of its Clients, representatives, employees, officers, agents and contractors.

- 3.14.2. A Clearing Member shall comply with any directive, Notice or request by the Clearing House requiring the Clearing Member and/or any of its Clients, representatives, employees, Officers, agents or contractors to attend before any committee or to produce any books, documents, correspondence or other information in its possession or control, and shall procure such compliance by each of its Clients, representatives, employees, officers, agents and contractors.
- 3.14.3. No Clearing Member shall engage or attempt to engage in any conduct, act or omission that has been knowingly carried out to subvert the objects and purposes of the Clearing House or these Rules, or which defeats the agreements entered into by the Clearing House with other organisations, agencies or entities for promoting the interests and activities of the Clearing House.

### **3.15. Clearing and Settling on behalf of Clients**

- 3.15.1. A Clearing Member on behalf of Clients shall ensure compliance with the following:
- (a) Before commencing clearing and settlement on behalf of the Clients on the Clearing House, a Clearing Member shall:
    - (i) enter into an agreement with that Client, in a form that complies with the minimum requirements specified by the Clearing House,
    - (ii) provide to that Client a risk disclosure statement, in a form that complies with the minimum requirements specified by the Clearing House and the Relevant Acts, and also receive from the Client an acknowledgement, in writing, that the Client has read and understood the risk disclosure statement,
    - (iii) comply with all the clients due diligence principles (including but not limited to Client's identity and source of monies) in the Relevant Acts or as specified by the Clearing House, and
    - (iv) notify the Clients (by way of inclusion in the clients agreement in (a) above, or in such other manner

as approved by the Clearing House) of all limitations of liability and immunities available to the Clearing House in these Rules or otherwise.

- (b) A Clearing Member shall provide such further documents and information as the Clearing House may specify from time to time so as to ensure ongoing compliance by the Clearing Member with the Relevant Acts, these Rules, Circulars, and any applicable laws.
- (c) A Clearing Member shall keep records of the information or documents obtained under these Rules for a period of not less than 7 years.
- (d) A Clearing Member shall act on behalf of Clients only pursuant to the instructions of that Clients or a person duly authorised in writing by that Clients.
- (e) A Clearing Member shall not disclose another person's order or instructions except:
  - (i) to the extent necessary to enter the instructions into any system of the Clearing House,
  - (ii) to an employee of the Clearing House as being authorised to receive such information,
  - (iii) to an employee of the Exchange as being authorised to receive such information, or
  - (iv) to the FSC or any enforcement agencies or any other regulator in Mauritius which supervises the activities of that Clearing Member.

3.15.2. A Clearing Member shall provide each of its Clients with all such information, guidance and training and in such manner as may be specified by the Clearing House from time to time.

3.15.3. A Clearing Member shall produce, as and when demanded by the Clearing House, copies of any Clients statement of account or any other relevant documents for the Clearing House's inspection. The Clearing House shall be entitled to make copies of all the documents.

### **3.16. Clients Money**

- 3.16.1. Every Clearing Member shall segregate monies and assets of its clients from monies and assets of the Clearing Member and any of its clients.
- 3.16.2. Every Clearing Member shall deposit Clients' monies and assets in trust or custody accounts specially maintained for the purpose.
- 3.16.3. Every Clearing Member shall separately account for the monies and assets of every Client(s).
- 3.16.4. Every Clearing Member shall comply with all computation of monies and assets held in the trust and custody accounts and segregation requirements under the Relevant Acts and these Rules.
- 3.16.5. No Clearing Member shall use Client's Collaterals to meet any liabilities which relate to trading by that Clearing Member for its Proprietary Positions.
- 3.16.6. Client's Collaterals must be paid into a trust account or in any other account directed by the Clients, immediately upon receipt of such monies by the Clearing Member and in any event within such time as specified by the Clearing House .
- 3.16.7. Client's Collaterals shall be used by the Clearing Member only for instances relating to the dealings of that Clients on the Clearing House.

### **3.17. Omnibus Account**

- 3.17.1. A Clearing Member may open and operate an Omnibus Account on behalf of its Clients, subject to such requirements as the Clearing House may specify from time to time.
- 3.17.2. A Clearing Member carrying Omnibus Accounts must maintain with the Clearing House a complete list of all such accounts, and shall notify the Clearing House in writing immediately and in any event no later than the next Business Day from the time such an account is either opened or closed. Information for each Omnibus Account must include the account holder's name, account number and the account holder's address, and such other information as the Clearing House may require.

- 3.17.3. The Clearing House may place limitations on a Clearing Member carrying Omnibus Account depending on:
- (a) the number of Omnibus Accounts carried and volume of business of the Clearing Member; and
  - (b) the financial condition of the Clearing Member in light of requirements or standards determined by the Clearing House.
- 3.17.4. A Clearing Member that carries Omnibus Accounts shall ensure that the Omnibus Accounts are operated at all times in accordance with these Rules and shall, without prejudice to any other liability it may incur, indemnify the Clearing House in relation to any claim referable to such violation.
- 3.17.5. A Member carrying an Omnibus Account shall, upon request by the Exchange and/or Clearing House, provide the Exchange and/or Clearing House with such information on any or all Sub Account(s) of the Omnibus Account or any other relevant information as the Exchange and/or Clearing House may require.

### **3.18. Member's ongoing contact**

- 3.18.1. Every Member shall appoint two persons as the ongoing contacts to act at all times as the Member's principal channel of communication with the Clearing House. These persons may be directors or from senior management of the Member and at least one of them must always be available to be contacted by the Clearing House immediately, prior to and during the business and trading hours of the Exchange.

### **3.19. Compliance Officer**

- 3.19.1. Every Clearing Member shall appoint a Compliance Officer.
- 3.19.2. The Compliance Officer shall be a senior management staff of the Clearing Member and report to the board of directors of the Clearing Member.
- 3.19.3. The name and details of the Compliance Officer so appointed should be intimated to the Clearing House.
- 3.19.4. The Compliance Officer would ensure that the Relevant Acts

Guidelines and/or of the other regulatory bodies are complied with internally as may be applicable to the Member. Any discrepancies and/or deviations shall be reported independently by the Compliance Officer to the board of the Member and to the Clearing House immediately.

- 3.19.5. The Compliance Officer shall ensure that observations made and/or deficiencies pointed out by FSC and/or the Clearing House during any inspection or investigation shall be addressed immediately. Remedial and control process initiated should be informed to FSC and the Clearing House along with the statement on how such deviations shall not be repeated.
- 3.19.6. Where the Clearing House is of the opinion that the Compliance Officer is not carrying out his functions effectively as per the requirements under the Relevant Acts, Guidelines, these Rules, and Circulars as may be applicable to the Member, the Clearing House can compel the Clearing Member to replace such Compliance Officer.

### **3.20. Transfer of Membership**

- 3.20.1. Subject to these Rules, a Member (the "Transferor"), is entitled to transfer its membership, to a person who meets the criteria for and is acceptable to the Exchange and /or Clearing House for admission as a Member (the "Transferee"). The Member shall notify the Exchange and /or Clearing House of its intention to transfer its membership. The Exchange and /or the Clearing House may impose such conditions or restrictions as the Exchange and /or the Clearing House deems fit on the Transferor for the proposed transfer.
- 3.20.2. The Exchange and /or the Clearing House may restrict the transfer of membership for any such initial period as the Exchange and /or the Clearing House may in its sole and absolute discretion decide (such period hereafter referred to as "Non-transfer Period").
- 3.20.3. The Non-transfer Period shall be one year (or such other period that the Exchange and /or the Clearing House may designate by way of Notice) from:
  - (a) approval of the membership by the Exchange and /or the Clearing House
  - (b) the date of obtaining Licence / authorization, where

- applicable, or
- (c) when a Member starts its Clearing operations,  
whichever is later.

3.20.4. No transfer of membership shall be effective unless:

- (a) any Non-transfer Period shall have expired,
- (b) the Transferor shall first have paid the Exchange and /or the Clearing House all monies owned by it to the Exchange and /or the Clearing House,
- (c) where the Transferor shall first have closed out all Open Positions held on behalf of Clients in accordance with instructions from those Clients or transferred all such Open Positions to another suitable Member, such transfer not to occur without the consent of those Clients,
- (d) where all Clients' Collaterals are paid back to the Clients,
- (e) the Transferor has complied with such conditions or restrictions imposed by the Exchange,
- (f) the Transferee has paid to the Exchange and /or the Clearing House such application fee, and transfer fee and any other charges as may be specified by the Exchange and /or the Clearing House from time to time, and
- (g) the Transferee has submitted an undertaking that any potential liabilities arising on account of Transferor at a later date shall be met by Transferee.

3.20.5. The Exchange and /or the Clearing House may, in its sole and absolute discretion, refuse to give its approval of the proposed transfer under this Rule if it deems fit. The Exchange and /or the Clearing House are not obliged to give any reason(s) for such refusal. Any decision made by the Exchange/ Clearing House is final and binding on all parties.

### **3.21. Resignation, Suspension and Termination of Membership**

#### **3.21.1. Resignation**

- (a) A Clearing Member may seek to resign from membership of
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the Clearing House after an initial lock in period of one year from the date of approval of the membership by the Clearing House, or from the date of obtaining Licence/Authorization, or from the date when a Member starts its clearing operations, whichever is later, by providing a written notice of resignation to the Clearing House, the resignation notice shall be effective 3 (three) months after the receipt of such notice unless the Clearing House and the Member agree on a different date.

- (b) The resignation of a Clearing Member is subject to the prior written approval of the Clearing House.
- (c) Notwithstanding anything to the contrary under these Rules, the Clearing House may, vary the notice period of the intention of any Clearing Member to resign if it considers it necessary for any reasons whatsoever including but not limited to protecting the financial integrity, reputation or interests of the Clearing House or the Exchange, or the interest of the Clients, or to promote a fair, orderly and transparent market.
- (d) Further, the Clearing House may take any other measures against or impose such conditions or restrictions on the Clearing Member it deems fit and necessary whether before or after the resignation takes effect.
- (e) No resignation of membership shall be effective unless :
  - (i) the expiry of any notice period specified or agreed by the Clearing House,
  - (ii) the payment of all monies owed by the Clearing Member to the Clearing House or the Exchange, as the case may be,
  - (iii) the Closing out of all Open positions or transfer all such Open Positions to another suitable Clearing Member, in accordance with these Rules,
  - (iv) the payment of all Clients' Collaterals back to the Clients, and
  - (v) the Clearing Member has complied with such



measures, terms or conditions as imposed by the Clearing House.

### **3.21.2. Suspension**

- (a) Without prejudice to the rights of the Clearing House or the Disciplinary Committee or the Appeals Committee (as the case may be) under these Rules, a Clearing Member's privileges may be suspended either in whole or in part if any of the following circumstances occurs with respect to the Clearing Member;
  - (i) an Event of Breach, whether or not it is a Declared Default,
  - (ii) any violation or alleged violation of the Relevant Acts, Guidelines or these Rules, or any applicable law by the Clearing Member by any of its directors, employees, agents or Clients where such violation or alleged violation could have a material adverse effect on the Clearing House,
  - (iii) failure to meet any minimum paid-capital and financial requirements under the Relevant Acts, Guidelines, these Rules, or Circulars on an ongoing basis,
  - (iv) failure to maintain initial Margin, meet settlement obligations or make payments for charges, fees, deposits, dues, contributions or any other amount due to the Clearing House within the specified time,
  - (v) non-resolution of any Client's complaint by the date specified by the Clearing House,
  - (vi) cessation, suspension or termination of its membership (if any) with the Exchange or with any other exchange or other clearing facility or its licence,
  - (vii) non-satisfaction of any judgment or court order of any court in or outside Mauritius,
  - (viii) the Clearing Member or any of its directors or employees is convicted of any crime involving financial impropriety,

- (ix) any disciplinary proceedings under these Rules are pending with respect to the Clearing Member, or if, in the Clearing House's opinion, it is necessary or desirable, to protect the financial integrity, reputation or interest of the Clearing House or the Exchange, or to promote a fair, orderly and transparent market.
- (b) Suspension as described above may be imposed by the Clearing House or the Disciplinary Committee or the Appeals Committee (as the case may be), may be immediate, and for a fixed term, with or without notice, either in whole or in part, upon the occurrence of any of the events described above.
- (c) Subject to Rule 3.21.2 (a), the Clearing House or the Disciplinary Committee or the Appeals Committee (as the case may be) shall, at its absolute discretion, take any action or measure, or impose any terms or conditions, in relation to the suspension.
- (d) Suspension may be revoked at the end of the period of suspension, after the Clearing House or the Disciplinary Committee or the Appeals Committee (as the case may be) is satisfied that the violation which was the reason for the suspension has been remedied. Where the violation has not been remedied, the suspension may be further extended or the membership terminated, as may be decided by the Clearing House or the Disciplinary Committee or the Appeals Committee (as the case may be) in its discretion.

### **3.21.3. Termination**

- (a) Notwithstanding anything in Rule 3.21.2, and without prejudice to the rights of the Clearing House, the Disciplinary Committee or the Appeals Committee, the membership of a Clearing Member may be terminated with or without notice if any of the following circumstances occurs in relation to the Clearing Member:
  - (i) any of the events described in Rule 3.21.2 (a) (i) to (ix) above,
  - (ii) the Clearing Member is bankrupt or insolvent, or is unable to pay its debts as and when they fall due,

or any application or order has been made for its dissolution, winding-up, bankruptcy, insolvency, management or administration, or the occurrence of any similar event in any jurisdiction,

- (iii) any assignment or composition is made by the Clearing Member for the benefit of its creditors,
  - (iv) the revocation or cessation of the Licence held by the Member, or the issuance of prohibition order against the Member holding the Licence,
  - (v) the Clearing Member is suspended, and the Clearing House, the Disciplinary Committee or the Appeals Committee (as the case may be), in its discretion, determines that the Clearing Member has not remedied to the satisfaction of the Clearing House, the Disciplinary Committee or the Appeals Committee (as the case may be) the matters giving rise to the suspension, within such period as specified by the Clearing House, the Disciplinary Committee or the Appeals Committee (as the case may be), or that such matters are not capable of remedy,
  - (vi) the Clearing Member declines to replenish initial Margin referred to in these Rules, or
  - (vii) if, in the Clearing House's opinion, it is necessary or desirable, to protect the financial integrity, reputation or interest of the Clearing House or the Exchange, or to promote a fair, orderly and transparent market.
- (b) Termination as described above may be imposed by the Clearing House or the Disciplinary Committee or the Appeals Committee (as the case may be).
- (c) The Clearing House or the Disciplinary Committee or the Appeals Committee (as the case may be) may at its absolute discretion decide as to whether the termination is with immediate effect or from a future date and take any action or measure in relation to such termination.

#### **3.21.4. Consequences of resignation, suspension or termination**

- (a) A Clearing Member who has resigned, been suspended or whose membership has been terminated, shall be liable to Clearing House for all pending obligations and liabilities incurred by it under these Rules during the period of its membership and continue being subject to the disciplinary powers of Clearing House for any act or omission committed by it during its membership.
- (b) A resigning, suspended or terminated Clearing Member shall co-operate with and assist Clearing House in all matters arising out of such resignation, suspension or termination, including but not to, transferring its Open Positions to other Clearing Members or liquidating the same.
- (c) A resigning, suspended or terminated Member shall complete all pending transactions unless otherwise as may be decided by the Clearing House and would be liable to its own clients counterparties and the Clearing House in respect of all the transactions executed or committed by it during its membership.
- (d) The Clearing House may publish the resignation, suspension and termination of a Member and shall notify the Exchange, FSC, other Members and third parties.
- (e) The Member who resigned or has been suspended or terminated is not entitled to a refund of its membership, annual or such other fees that are already paid.
- (f) All the monies including Margin and payout would be held out at the discretion of the Clearing House. A decision to release such money would be made by the Clearing House after computing the Member's liabilities and obligations towards its clients, the Clearing House, counter parties and any other persons. The order of the disposal or appropriation of the money withheld would be in the following priority:
  - (i) the Clearing House and/or the Exchange,
  - (ii) FSC,
  - (iii) Clients of the Clearing Member and

(iv) any other person.

## CHAPTER – 4:- CLEARING AND SETTLEMENT RULES

### 4.1. Securities accepted by Clearing House for Clearing and settlement

#### 4.1.1. General

- (a) The Clearing House shall clear and settle Securities that are admitted for trading on the Exchange, provided the same are accepted for clearing and settlement by the Clearing House.
- (b) Notwithstanding the foregoing in the above Rule 4.1.1 (a) the Clearing House may, at any time decline to accept an Security (including EFP/EFS) for clearing and settlement, or may impose conditions (including Special Margins) on the acceptance of the Security, without being required to give any reason, and shall notify any such decision to the Clearing Member.
- (c) Unless otherwise provided in these Rules, a Clearing Member shall accept and clear all Securities of each of its Clients.
- (d) The Clearing House may suspend at any time the admission of any Securities for clearing and settlement for such period as it may determine and reinstate such Securities subject to such conditions as it may deem fit.
- (e) The Clearing House may where it deems necessary withdraw the admission of Securities of the Exchange for Clearing and settlement either for breach or non-compliance with any of the conditions or requirements of the Clearing House.
- (f) The Clearing House may readmit Securities of the Exchange for Clearing and settlement subject to such conditions as it may specify.
- (g) The Clearing House may permit in appropriate cases from time to time specific transactions to be cleared and settled through the Clearing House in case of Securities which are not admitted or are for the time being prohibited or suspended as it deems fit.

## **4.2. Clearing Days, Clearing Hours and Scheduled Times**

### **4.2.1. Clearing Days and Scheduled Times:**

The Clearing House shall from time to time fix the various Clearing days including the pay-in and pay-out days and the time schedule to be observed in connection with the Clearing and settlement operations. The Clearing House may specify different time schedules for different Securities or Clearing Segments from time to time.

### **4.2.2. Changes to Clearing Days and Time Schedules:**

- (a) The Clearing House may at any time pre-pone, extend, alter or postpone from time to time the clearing days and time schedules for different Securities or Clearing Members.
- (b) Notwithstanding anything to the contrary contained in these Rules the Clearing House may for reasons to be recorded;
  - (i) extend or postpone the time for performance of Securities in any deals wherever in its opinion such action is called for in public interest or by just and equitable principles of trade or when circumstances beyond the control of either or both of the contracting parties make such action desirable;
  - (ii) extend or postpone in any particular case the time for the performance of a Security from any one Clearing to the ensuing Clearing.
- (c) In the event of multiple settlements on a single day because of intervening holidays or otherwise, the transactions shall be cleared and settled on a sequential basis as may be specified by the Clearing House.
- (d) The Clearing House may declare a list of holidays in a calendar year. The Clearing House may from time to time alter or cancel any of the holidays fixed in accordance with these provisions. It may, for reasons to be recorded, suspend Clearing and settlement operations in any Clearing Segment on days other than or in addition to holidays.

### **4.2.3. Operational Parameters for Clearing**

- (a) The Clearing House may specify and announce from time to time operational parameters relating to Clearing and settlement of Securities through the Clearing House which the Clearing Members shall adhere to. The operational parameters may, inter- alia, include:
  - (i) Clearing limits allowed, which may include Clearing limits with reference to Net-worth and capital adequacy norms;
  - (ii) Clearing volumes and limits at which it will be incumbent for Clearing Members to intimate the Clearing House;
  - (iii) fixation of delivery lots for different settlement types;
  - (iv) other matters which may affect smooth operation of Clearing and settlement of Securities keeping in view larger interest of the investors;
  - (v) types of transactions permitted for a Clearing Member;
  - (vi) determining functional details of the clearing and settlement system including the system design, user infrastructure and system operation;
  - (vii) Collection of margins from Clients and reporting collection of the same.

### **4.3. Novation**

- 4.3.1. Subject to acceptance for Clearing and settlement of a Security, a Security shall be novated to the Clearing House, and the Clearing House shall become the central counterparty at the moment that:
  - (a) the relevant orders are matched on the Automated Trading System;
  - (b) in the case of a Futures Contract that arises as a result of an Options Contract being exercised; or



- (c) in the case of EFP or EFS transactions, the relevant transactions are reported to the Exchange and duly accepted by the Clearing House.
- 4.3.2. Novation shall result in two contracts, one between the Selling Clearing Member and the Clearing House, and the other between the Clearing House and the Buying Clearing Member. Each separate resulting from such Novation shall be identical to the original contract except that the Clearing House shall be substituted as and shall assume the position, and accordingly the rights and liabilities, of Selling Clearing Member to the Buying Clearing Member and conversely, the position, and accordingly the rights and liabilities, of Buying Clearing Member to the Selling Clearing Member, hence becoming the central counterparty.
- 4.3.3. The Clearing House shall be entitled to rely conclusively on the accuracy and authenticity of any and/or all information and data regarding any transaction submitted to the Clearing House by or on behalf of the Exchange or any Clearing Member, whether or not a Clearing Member in fact authorised the submission of such information or data so submitted.
- 4.3.4. Each Open Position (whether designated to a Proprietary Position or a Client Position of a Clearing Member) when accepted by the Clearing House for Clearing and settlement shall be between the Clearing House and a Clearing Member as principal to principal.
- 4.3.5. No other person or any third party, including any Exchange Member who is a Client of the Clearing Member, or otherwise, shall have any rights under any Open Position between the Clearing Member and the Clearing House.
- 4.3.6. Nothing in these Rules shall be regarded, treated or otherwise interpreted as limiting, diminishing, modifying or otherwise affecting the relationship between the Clearing House and a Clearing Member.
- 4.3.7. Nothing in these Rules shall be regarded, treated or otherwise interpreted as obliging or requiring the Clearing House to recognize any right or entitlement of any third party.

#### **4.4. Limitation of Liability**

4.4.1. Without prejudice to any other limitation or exclusion of liability:

- (a) in the event of a Declared Default, the liability of the Clearing House shall be limited to net losses suffered by any Clearing Member not in default resulting from the substitution of the Clearing House by way of novation in respect of the transactions between Clearing Members; and
- (b) Except as expressly provided in Rule above 4.3, the Clearing House shall not have any liability or obligation to any Client of a Clearing Member or any person that such Client may be liable or has any obligation to, nor shall the Clearing House be liable for any obligations or liabilities of a Clearing Member to any person (including any non-Members of the Clearing House), or any obligations of a Clearing Member to any other Clearing Member other than liabilities of the Clearing House as a central counterparty described in Rule 4.3 above.

#### **4.5. Transfer of Positions**

4.5.1. The Clearing House may:

- (a) upon the request of a Clearing Member,
- (b) where provided in Exchange Rules, at the direction of the Exchange, or
- (c) pursuant to the disciplinary provisions contained in these Rules,

transfer an Open Position held in the name of a Clearing Member (the "Transferor Clearing Member") to another Clearing Member (the "Transferee Clearing Member").

4.5.2. Notwithstanding Rule 4.5.1, the Clearing House may decline to effect the transfer of a Position without providing any reason. A transfer may be made subject to the Transferor Clearing Member and Transferee Clearing Member complying with any conditions imposed by the Clearing House, including the deposit of Margin, or Collateral by either or both of the Transferor Clearing Member and the Transferee Clearing Member, or any other party.

- 4.5.3. The transfer shall be effected in such manner and at such time as the Clearing House determines, subject to the acceptance by the Transferee Clearing Member. Upon the Transferee Clearing Member accepting the transfer in the manner specified by the Clearing House, the Open Position between the Transferor Clearing Member and the Clearing House shall be cancelled and a new Open Position will come into existence between the Clearing House and the Transferee Clearing Member on the same terms as the cancelled Open Position.

#### **4.6. Open Positions**

- 4.6.1. All Positions shall remain open and in force and shall continue to be binding upon the Clearing Members until liquidated by offsetting positions in accordance with these Rules, or upon delivery or cash settlement, provided however that all Open Positions of Options Contracts shall cease to exist after the Expiration Date for such Contracts and all Open Positions of all other Contracts shall cease to exist on the dates such Contracts are stated to expire.
- 4.6.2. The Clearing House may from time to time specify the provisions, relating to Corporate Action adjustments, including non-adjustment, in Open Positions, discontinuing any or all Securities and/or settlement methods and procedures for the relevant Securities, arising out of or incidental to Corporate Actions in the Underlying.

#### **4.7. Payment by Clearing Member**

- 4.7.1. The Clearing House shall treat all monies paid by Clearing Members as monies paid to it by a principal and such monies in the hands of Clearing House shall not be impressed with a trust or other equitable interest. Any payment by Clearing House to any Clearing Member shall constitute good and sufficient discharge.

#### **4.8. Clearing Rules form part of Securities**

- 4.8.1. All Securities shall be made subject to these Rules, Circulars, the Relevant Acts, Guidelines and all applicable laws and all Clearing Members shall ensure compliance with the same in their agreement/(s) with any Client to provide Clearing and settlement services.

#### **4.9. Give-Up**

- 4.9.1. An Exchange Member may execute trades on behalf of a Client for the purpose of giving up such trades to another Clearing Member.
- 4.9.2. Prior to conducting Give-Up trade, a Client of the Exchange Member must:
  - (a) enter into an arrangement with Clearing Member, known as Accepting Clearing Member
  - (b) enter into an arrangement with the Exchange Member, known as Executing Member
- 4.9.3. The Accepting Clearing Member and the Executing Member shall ensure that the agreements entered with the Client shall contain clause(s) relating to the placement/acceptance/rejection of Give-Up trades.
- 4.9.4. Accepting Clearing Member shall ensure that trades given up by the Executing Member are cleared pursuant to the Rules of the Clearing House.
- 4.9.5. If a Give-Up is unsuccessful and/or not accepted by the Accepting Clearing Member, such trade shall be cleared and settled by the Clearing Member of the Executing Member.
- 4.9.6. Any Give-Up shall be subject to such other requirements as the Clearing House and/or Exchange may require or specify from time to time.

#### **4.10. Accounts and segregation Rules**

- 4.10.1. Under no circumstances shall any Collateral payable to or pertaining to any Client be paid or used on the account of or in relation to Proprietary Positions. A Clearing Member will notify the Clearing House, in such manner as determined from time to time, on acceptance of any Collateral deposited with them, in respect of or in relation to the Proprietary Position.
- 4.10.2. The classification by a Clearing Member of an Open Position as a Client Position or a Proprietary Position shall not in any way derogate from the fact that the Clearing House deals with Clearing

Members as principals. Accordingly, the Clearing House shall not recognize any Client of the Clearing Member, and shall not be responsible for the performance of any obligations or liabilities under Open Positions to such Client.

4.10.3. A Clearing Member shall ensure that it shall at all times inform and keep the Clearing House informed of such information as would be required for the Clearing House to enable it to discharge its segregation obligations under the Relevant Acts and Guidelines to enable the Clearing House to issue to FSC any verification statements required under the Relevant Acts and Guidelines.

4.10.4. Every Clearing Member shall, except as permitted by these Rules:

(a) segregate Collaterals of each of its Client from Collaterals of the Member and any of its other Clients.

(b) deposit Client's Collaterals in trust in a separate bank and depository accounts specially maintained for the purpose and not intermingle Clients' accounts.

(c) pay or transfer Client Collaterals into such Client account immediately on receipt of Collaterals.

(i) separately account for the Collaterals of every Client.

(ii) comply with all segregation requirements under the Relevant Acts, Guidelines and these Rules.

(iii) not use Client Collaterals to meet any liabilities for its own account or for that of any other Client.

4.10.5. Every Clearing Member shall comply with the Client account segregation provisions and guidelines issued by the Clearing House from time to time.

#### **4.11. Margins**

4.11.1. Clearing Members are responsible to the Clearing House for all Margin requirements and shall comply with Margin requirements as specified by the Clearing House from time to time.

4.11.2. The Clearing House shall value any Collaterals provided for Margin purposes as it deems appropriate. The Clearing House shall, specify what Collaterals will be acceptable as Margin and may

decide at any time that any Collaterals will cease to be acceptable as Margin and on the valuation to be attributed thereto.

4.11.3. All Collaterals provided to the Clearing House as Margin shall be free of, and shall remain free of, any encumbrances whatsoever. Subject to the provisions of these Rules, the Clearing House will accept, without limitation, the following Collaterals as Margins:

- (a) cash,
- (b) irrevocable letter of credits to the order of the Clearing House from a Bank, in a form acceptable to the Clearing House
- (c) bank guarantees / letter of guarantees in the favour of the Clearing House,
- (d) bank fixed deposits / term Deposits in favour of the Clearing House
- (e) such other types of Collaterals that the Clearing House may specify from time to time. If any Collaterals deposited by any Clearing Member is found in any way to be unacceptable by the Clearing House, such Collaterals will not be given any value for the purposes of computing the Clearing Member's Margin obligations under these Rules and the Clearing Member shall be required to recoup and replenish its Margins.

4.11.4. The Clearing House may decide and impose conditions on the proportion(s) of or composition of the various Collaterals accepted as Margin. Such conditions may be imposed on any Clearing Member or any group or class of Clearing Members, as the Clearing House deems fit.

4.11.5. The Margin requirement of a Clearing Member will be the total of the following Margins as may be specified by the Clearing House from time to time:

- (a) Initial Margin,
- (b) Variation Margin,
- (c) Tender Margin,

- (d) Delivery Margin,
- (e) Special Margin, and
- (f) Any other Margin as the Clearing House deems fit in its absolute discretion from time to time.

4.11.6. The methods and formulae for calculating above Margins and their payment, among other things, will be determined by the Clearing House and/or the Exchange and communicated to the Members by way of Circular as the Clearing House deems appropriate. The method of calculation of the Margin may include gross position basis, net position basis, and Client level basis or any other method as may be decided by the Clearing House and/or the Exchange. Such Margin payable shall be paid by a Clearing Member within such times as may be directed and/or notified and/or specified by the Clearing House and/or the Exchange.

4.11.7. The following Margin provisions, among other things, shall apply in respect of Securities cleared and settled by the Clearing House.

- (a) Every Clearing Member shall pay the required Margin to the Clearing House against the aggregate Open Positions cleared by the Clearing Member:
  - (i) for the Clearing Member's Proprietary Account where applicable,
  - (ii) for other Exchange Members with whom the Clearing Member has a Clearing agreement, and
  - (iii) for Clients other than Exchange Members, where applicable.
- (b) In relation to every transaction for which Collaterals are deposited with the Clearing House under these Rules, each Clearing Member is required to specify to the Clearing House:
  - (i) whether the transactions pertain to a Client, and
  - (ii) whether the Collaterals being deposited with or paid to the Clearing House is or are deposited or paid in respect of, or in relation to a transaction of a Client.

- 4.11.8. The Clearing House may take such measures including disciplinary action, suspension or termination of Membership against a Clearing Member who fails to pay any Margin, including Variation Margin or Special Margin, or any other payment.
- 4.11.9. No Clearing Member shall (directly or indirectly) enter into any arrangement or adopt any procedure for the purpose of evading or assisting in the evasion of the Margin requirements specified under these Rules.
- 4.11.10. The Collaterals pledged or hypothecated by a Clearing Member in lieu of Margin, under the provisions of these Rules shall be subject to a first and paramount lien for all sums due to the Clearing House. Margin shall be available in preference to all other claims against the Clearing Member for the due fulfilment of its obligations and liabilities arising out of or incidental to any deals made subject to these Rules or anything done in pursuance thereof.
- 4.11.11. The Clearing House may at any time combine any account of the Clearing Member with its liabilities to the Clearing House and set off and/or transfer and/or apply any funds in such account towards satisfaction of any liabilities of the Clearing Members to the Clearing House whether or not such accounts are denominated in the same currency.
- 4.11.12. In the event a Clearing Member fails to meet obligations to the Clearing House arising out of Clearing and settlement operations of such deals as provided in these Rules, the Clearing House shall be entitled to utilise any amount paid by the said Clearing Member in the form of Margin or any other payment retained by the Clearing House for the purpose of Clearing and settlement.
- 4.11.13. The Margins deposited with the Clearing House in any form of Collaterals may be held with a custodian or such other entity specified by the Clearing House. All Margin deposits shall be held by the Clearing House and/or by the approved persons and/or by the approved custodian solely for and on account of the Clearing House without any right whatsoever on the part of the depositing Clearing Member or those in its right to call in question the exercise of such discretion. The Clearing House shall retain control over these Collaterals as part of the Margin of such Clearing Member.
- 4.11.14. The Clearing House shall not have any obligations or responsibility
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to preserve, protect, collect or realise and under no circumstances shall the Clearing House be liable for any loss or diminution in value or depreciation in or in connection with the Collaterals maintained as above.

- 4.11.15. A Clearing Member who maintains Collaterals with the Clearing House pursuant to this Rule shall indemnify and hold the Clearing House harmless from any loss, damage, costs, charges and /or expenses of whatsoever nature and however arising ('loss') suffered or incurred by the Clearing House to any approved custodian which may result from or arise with respect to;
- (a) any act, delay or omission in connection with the Collaterals deposited with such approved custodian (by such Clearing Member or the Clearing House) or;
  - (b) any agreement between the Clearing Member and any approved custodian or any representation, warranty or undertaking given by the Clearing House to any designated custodian, in relation to or otherwise in connection with Collaterals deposited with such approved custodian; provided that this indemnity shall not cover any loss and/or liability of the Clearing House attributable to or referable to the gross negligence or wilful misconduct of the Clearing House or any of its directors, officers employees or agents.
- 4.11.16. Each Clearing Member shall pay the Clearing House for all fees expenses, charges and costs incurred by the Clearing House in relation to its acceptance of Collaterals specified under this Rule as the Clearing House may determine from time and time and shall make such deposits of Margins (in such form as may be acceptable to the Clearing House) as may be required by the Clearing House by reason of any depreciation in the market value of such Collaterals.
- 4.11.17. If a Clearing Member defaults in fulfilling its obligations to the Clearing House in accordance with the provisions of these Rules, the Collaterals maintained in the account of the Clearing House may be disposed of, without notice, in any manner deemed appropriate by the Clearing House and the proceeds from the liquidation of the Collaterals deposited shall be applied against the Margin requirements or any other obligations of the Clearing Member to the Clearing House as specified by the Clearing House.

- 4.11.18. Every Clearing Member shall account and maintain separately in segregated accounts all monies, Margins, deposits, or other payments received by Clearing Members from their Clients in any form of Collaterals and shall be used solely for the benefit of Client Positions.
- 4.11.19. Every Clearing Member shall ensure that:
- (a) Margin, Daily Settlement Amounts and Final Settlement Amounts shall be calculated separately for its Proprietary Account and its Client Account; and
  - (b) Any Margin deposited with the Clearing House, Daily Settlement Amount or Final Settlement Amount paid to the Clearing House by a Clearing Member with respect to an Open Position shall be designated to the relevant account of that Clearing Member to which the Open Position is designated.
- 4.11.20. For avoidance of doubt, a Clearing Member, including one who has Proprietary Positions and Client Positions, shall be responsible, among other things, for the provision of Margin, maintaining Margin and all other obligations assumed by that Clearing Member to the Clearing House, notwithstanding the fact that its business is segregated as Proprietary and Client.
- 4.11.21. The Clearing House may specify or vary the type and/or quantum of Margin and the applicability of the same from time to time in respect of any existing or new Open Positions of any Clearing Member. The quantum of such Margin may vary for different Securities and for different Contract Months.
- 4.11.22. The Clearing House may specify Special Margins as may be considered necessary, at times as deemed necessary by the Clearing House.
- 4.11.23. All amounts deposited towards Margins with the Clearing House by Clearing Members shall be retained by the Clearing House in whole or in part, as the Clearing House may deem necessary but subject to these Rules, may, upon the request made by the Clearing Member, be returned to the Clearing Member when the positions for which such Margins have been deposited have been a) settled or closed out or completed by delivery, or b) transferred; in accordance with these Rules.

- 4.11.24. A Clearing Member shall not request a release of, be refunded or be repaid any amount deposited with the Clearing House, except pursuant to these Rules and until any Open Position is closed out or completed by delivery and all liabilities to the Clearing House are settled in full. The decision to refund, repay or release any amount so deposited shall be at the discretion of the Clearing House.
- 4.11.25. The Clearing House shall have the right to use any Collaterals deposited or paid for or in relation to Securities of Clients of a Clearing Member to meet the obligations arising from Securities of Clients (the "obligations") of the Clearing Member to the Clearing House if:
- (a) the Clearing House is of the opinion, formed in good faith, that the failure of the Clearing Member to meet the obligations is directly attributable to the failure of any of the Clients of the Clearing Member to meet that Client's obligations under any Securities; and
  - (b) either –
    - (i) both of the following have been wholly utilized towards meeting the obligations:
      - (a) any Collaterals deposited or paid for or in relation to Securities of that Clearing Member itself and held by the Clearing House;
      - (b) any Collaterals deposited by the Clearing Member with the Clearing House as guarantee for the purpose of satisfying all obligations of the Clearing Member to the Clearing House (excluding any Clients' Collaterals); or
    - (ii) the Clearing House has reasonable grounds for forming an opinion that the failure to use the Clients' Collaterals to meet the obligations may jeopardize the financial integrity of the Clearing House.
- 4.11.26. The Clearing House shall have the right to make a call to replace with cash any of the existing Collaterals deposited with Clearing House, at any time as it deems fit.

#### **4.12. Difference in Margin between Clearing Members**

4.12.1. The Clearing House may determine a higher rate of Margin for a particular Clearing Member or for all or some Clearing Members for a particular Security or Contract Month or in such other manner as it considers appropriate. Any rate of Margin set shall not in any way bind the Clearing House in respect of any rate of Margin to be determined in the future in respect of any Security or any Contract Month or any Clearing Member.

#### **4.13. Initial Margins**

4.13.1. A Clearing Member's deposits with the Clearing House shall be utilised against initial Margin towards Open Position of an amount determined by the Clearing House.

#### **4.14. Variation Margin**

4.14.1. The Clearing Member shall pay Variation Margins (Mark to Market) at such intervals as may be directed from time to time by the Clearing House. Variation Margin is payable as per the settlement schedule. However, Clearing House shall have the right to call on any Clearing Member to deposit the Variation Margin at any time before the next Business Day.

4.14.2. The amount of Variation Margin on any Business Day with respect to each Security in a Proprietary Account or a Client Account shall be the net loss represented by the difference between:

- (a) the Daily Settlement Price of each security declared at the end of such Business Day and
- (b) the price at which each such security was bought or sold on such Business Day, or
- (c) the Daily Settlement Price for each such security on the previous Business Day, as the case may be.

#### **4.15. Tender Margin**

4.15.1. Tender Margin is the amount of Margin (other than Initial Margin, Variation Margin, Special Margin or Delivery Margin), which shall be levied and blocked from the Member's available Collaterals, as the Security enters Tender Period. The amount of Tender Margin due shall be adjusted against the Collaterals lying with the Clearing

House from time to time.

#### **4.16. Delivery Margin**

- 4.16.1. Delivery Margin is the amount of Margin (other than Initial Margin, Variation Margin, Special Margin or Tender Margin) as specified in the Contract Specifications which is due in relation to a Security upon the Security entering Delivery Period.
- 4.16.2. The amount of Delivery Margin due shall be adjusted against the Security Deposits lying with the Clearing House from time to time.
- 4.16.3. Delivery Margin shall be released by the Clearing House upon settlement of all delivery obligations by the relevant parties, as may be specified by the Clearing House from time to time.

#### **4.17. Special Margin**

- 4.17.1. Where the Clearing House deems that market conditions or price fluctuations are such that the Clearing House believes that any Clearing Member(s) may be affected by such conditions or fluctuations, the Clearing House may adjust the Security Deposit of any Clearing Member(s) against the Special Margin as the Clearing House deems necessary.
- 4.17.2. Without prejudice to the generality of the above Rule 4.17.1, when the Clearing House believes that any Clearing Member is carrying positions that are larger than is justified by the financial condition of that Clearing Member or the Clearing Member is found to have a record of frequent Rule violations or inadequate or unsound management or serious operational defects which, in the Clearing House's opinion, places or may place the Clearing House or any Clearing Member at risk, the Clearing House may require such Clearing Member to bring additional deposits for Special Margin with the Clearing House at such time as may be specified by the Clearing House in its discretion or may require transfer of one or more Open Positions on the books of such Clearing Member to the books of another Clearing Member.

#### **4.18. Margin from Clients.**

- 4.18.1. Each Clearing Member shall procure initial Margins from its Clients which the Clearing Member has to provide under these Rules in respect of transactions cleared and settled by the Clearing

Members for such Clients.

- 4.18.2. Each Clearing Member shall collect from its Clients, other applicable Margins, within such time, as specified by the Clearing House. The Clearing Member may collect Margin from its Clients, which is higher than that specified by the Clearing House.
- 4.18.3. A Clearing Member may accept Collaterals for meeting the Margin requirements from respective Clients. The nature of such Collaterals, valuation methodology of such Collaterals and related terms and procedures shall be as specified by the Clearing House from time to time.
- 4.18.4. A Clearing Member shall collect Variation Margin from the relevant Client by the Business Day immediately following the Business Day on which the Clearing House notifies the Clearing Member the requirement for the same.
- 4.18.5. No Clearing Member shall allow the utilization of Margin paid by one Client to meet any call for Margin for its own account or for other Clients.
- 4.18.6. In the event of a Client's failure to provide Margins to the Clearing Member as required above, a Clearing Member may take such action to rectify the deficiency as it deems fit including Closing out the Open Positions of such Client. The Clearing House may also direct such Member to immediately Close-out all or such part of the positions of such Clients so as to rectify the deficiency. A Member shall not be liable to the Client for any loss sustained by the Client as a result of that Member Closing out Open Positions under this Rule.

#### **4.19. Adjustment of Deposits towards Margins**

- 4.19.1. The Clearing House shall have the power to adjust the Security Deposit as deposited by Clearing Members against the different types of Margins which are required to be provided by the Clearing member.

#### **4.20. Under margined Accounts**

- 4.20.1. Each Clearing Member shall immediately notify the Clearing House when any account that such Clearing Member is carrying for any Client is under-margined by an amount which exceeds the

resources of such Clearing Member.

- 4.20.2. In the event of a Clearing Member's failure to obtain Margins from the relevant third parties including Clients as required in these Rules, the Clearing House may order such Clearing Member to immediately Close-out all or such part of the positions of such third parties and Clients on its books as to correct the deficiency notwithstanding that the Clearing Member itself has sufficient Margins placed with the Clearing House for the support of such positions in Securities. Nothing herein prohibits a Clearing Member from taking such necessary actions to rectify the deficiency as it sees fit.
- 4.20.3. No Clearing Member shall provide any Margin financing to any Client without complying with the relevant laws.

#### **4.21. Client in Default**

- 4.21.1. A Clearing Member shall not transact business directly or indirectly for a Client who to its knowledge is in default to another Clearing Member unless such Client shall have made a satisfactory arrangement with the Clearing Member who is its creditor.
- 4.21.2. On the application of a creditor Clearing Member who refers or has referred to arbitration its claim against the defaulting Client as provided in the Rules, the Clearing House shall issue orders against any Clearing Members restraining them from paying or delivering to the defaulting Client any monies or assets up to an amount or value not exceeding the creditor Member's claim payable or deliverable by him to the defaulting Client in respect of deals subject to these Rules which monies and assets shall be deposited with the Clearing House. The monies and assets deposited shall be disposed of in terms of the award in arbitration and pending a decree shall be deposited with the concerned Court when filing the award unless the creditor Clearing Member and the defaulting Client mutually agree otherwise.
- 4.21.3. Closing out of Client's Account

Unless otherwise specified by the Clearing House from time, to time, when Closing out the account of a Client, a Clearing Member may assume or take over such deals to its own account as a principal at prices which are fair and justified by the condition of the market or it may Close-out in the open market and any expense

incurred or any loss arising there from shall be borne by the Client.

4.21.4. Closing out by Client on Failure to Perform A Deal

If a Clearing Member fails to complete the performance of a deal by delivery or payment in accordance with provisions of the Rules, the Client shall, after giving notice in writing to the Clearing Member, Close-out such deal through any other Clearing Member as soon as possible and any loss or damages sustained as a result of such Closing out shall be immediately payable by the defaulting Clearing Member to the Client. If the Closing out be not effected as provided herein, the damages between the parties shall be determined on such basis as may be specified by the Clearing House from time to time and the Client and the Clearing Member shall forfeit all further rights of recourse against each other.

**4.22. Powers of the Clearing House**

4.22.1. Where the Clearing House deems that market conditions or price fluctuations are such that the Clearing House believes that any Clearing Members may be affected by such conditions or fluctuations, the Clearing House may call upon any Clearing Member to deposit additional security deposits or to transfer one or more Open Positions from the books of such Clearing Member to the books of another Clearing Member by such time and in such manner as the Clearing House deems necessary.

4.22.2. Without prejudice to the generality to Rule 4.22.1, when the Clearing House is of the opinion that the positions carried by, or the track record of, any Clearing Member places or may place the Clearing House or any Clearing Member at risk, the Clearing House may require such Clearing Member to deposit additional margin, security deposits or to transfer one or more Open Positions from the books of such Clearing Member to the books of another Clearing Member within such time as may be specified by the Clearing House.

4.22.3. In the event of the failure of a Clearing Member to deposit any margin or to comply with the order of transfer to Open Positions or to effect the required reduction in Open Positions within such time as may be directed by the Clearing House or to deposit additional funds as required, the Clearing House may direct (and the Clearing Member shall in such event forthwith comply with any such direction) that the Clearing Member forthwith liquidate all or part of



the Open Positions on its books. If there is a failure to effect the required reduction in positions within such time specified by the Clearing House, the Clearing House may thereupon liquidate all or the required part of the position of the Clearing Member with due consideration to the positions of Clients.

4.22.4. Any Clearing Member whose trades are thus liquidated shall be liable to pay for the losses arising from the liquidation.

#### **4.23. Position Limits**

4.23.1. The Clearing House may and at any time specify:

- (a) maximum Long and/or Short Open Positions held by each of
  - (i) the Clearing Members for themselves, and/or
  - (ii) each of their Clients including quantity or value for any or all Securities;
- (b) the maximum number of Open Positions that may be held by a Clearing Member in any Securities,
- (c) the number of Open Positions that may be held by a Clearing Member in any Securities as a percentage of the total Open Positions in that Securities,
- (d) any other criteria relating to the Clearing Member's Open Positions as the Clearing House deems fit.

4.23.2. If a Clearing Member or any of its Clients exceeds any imposed Position Limits, the Clearing House is entitled to require the Exchange to restrict the trading of such Member on the Exchange, advise the Clearing Member to Close-out Open Positions or may itself Close-out such Open Positions on the Clearing Member's behalf or take such other measures including withdrawal of Clearing facility as deemed fit by the Clearing House.

4.23.3. The Clearing House may, upon proper application by the Clearing Member, grant a Position Limit exemption to a Clearing Member or any of its Clients who is able to demonstrate that its securities positions are part of its trading strategy employed and/or for its hedging requirements

- 4.23.4. The Clearing House shall not be responsible for any loss or liability arising out of or in connection with the Close-out of the Open Positions and the Clearing Member shall be liable for settlement of any such loss or liability incurred, if any, in respect of such actions taken by the Clearing House on behalf of the Clearing Member.

#### **4.24. Exposure Limits**

- 4.24.1. The Clearing House may, at any time, restrict any Clearing Member from taking positions beyond a percentage (as may be specified by the Clearing House from time to time) of the total deposits of that Clearing Member with the Clearing House, such percentage to be known as the "Exposure Limit" and the Clearing Member shall at all times abide by the Exposure Limit.
- 4.24.2. The Clearing House may fix the Exposure Limit of the Clearing Member by reference to the total deposits referred in the above Rule 4.24.1, any liability in respect of Initial Margin or any other Margin as it deems fit.
- 4.24.3. The Clearing House may at any time impose, increase or reduce any Exposure Limit pursuant to the above Rules by notifying the Clearing Member. Any imposition or change in Clearing or Exposure Limits so notified shall take effect as specified in such notification.
- 4.24.4. If a Clearing Member exceeds any imposed Exposure Limits, the Clearing House is entitled to require the Exchange to restrict the trading of such Member on the Exchange, advise the Clearing Member to Close-out Open Positions or may itself Close-out such Open Positions on the Clearing Member's behalf.
- 4.24.5. The Clearing House shall not be responsible for any loss or liability arising out of or in connection with the Close-out of the Open Positions and the Clearing Member shall be liable for settlement of any such loss or liability incurred, if any, in respect of such actions taken by the Clearing House on behalf of the Clearing Member.

#### **4.25. Variation Margin Limits**

- 4.25.1. The Clearing House may, at its absolute discretion and at any time, restrict any Clearing Member from taking any new position if its losses exceed a percentage (as may be specified by the Clearing House from time to time) of the total deposits of that Clearing

Member with the Clearing House (including without limitation, the Security Deposit, the margins deposited by that Clearing Member and the margins deposited by that Clearing Member's Clients), such percentage to be known as the "Variation Margin Limit". The Clearing Member shall at all times abide by the Variation Margin Limit.

- 4.25.2. The Clearing House may fix the Variation Margin Limit of the Clearing Member by reference to the total deposits referred to in Rule 4.25.1.
- 4.25.3. The Clearing House may, at any time, impose, increase or reduce the Variation Margin Limits pursuant to the above Rules by notifying the Clearing Member. Any imposition or change in Variation Margin Limits so notified shall take effect as specified in such notification.
- 4.25.4. If a Clearing Member exceeds any imposed Variation Margin Limits, the Clearing House is entitled to require the Exchange to restrict the trading of such Member on the Exchange, advise the Clearing Member to Close-out Open Positions or may itself Close-out such Open Positions on the Clearing Member's behalf.
- 4.25.5. The Clearing House shall not be responsible for any loss or liability arising out of or in connection with the Close-out of the Open Positions and the Clearing Member shall be liable for settlement of any such loss or liability incurred, if any, in respect of such actions taken by the Clearing House on behalf of the Clearing Member.

## **4.26. Clearing Bank**

### **4.26.1. Appointment of Clearing Bank(s)**

- (a) The Clearing House shall appoint Clearing Bank(s) from time to time for the purpose of daily and final settlement, for the collection of deposits, Margins, and other amounts for all transactions entered into through the Clearing House and any other funds movement between Clearing Members and the Clearing House.
- (b) The Clearing House shall specify from time to time the processes, account types, denominated currencies, procedures and operations that every Clearing Member shall be required to follow for the purpose of funds settlement through their accounts maintained with the Clearing Bank(s).

- (c) The Clearing House shall have the power to enter into necessary arrangement with financial institutions or entities such as banks situated outside Mauritius for conducting clearing and settlement operations.

#### **4.26.2. Clearing Members to maintain accounts with the Clearing Bank**

- (a) In order to facilitate smooth Clearing and settlement, each Clearing Member shall:
  - (i) open a Clearing and Settlement Account, a Client Account and a Proprietary Account with the designated Clearing Banks as may be advised by the Clearing House,
  - (ii) strictly follow instructions of the Clearing House in respect of operation of such bank accounts, including but not limited to the minimum balance and segregation of Clients' funds and their own funds,
  - (iii) to submit an irrevocable authorization in writing empowering the Clearing House and/or its nominees to operate such bank accounts, including the Clearing and Settlement Account, for effecting the payment of daily and / or final settlement, transfer of funds among different exchange market or clearing segments, margins, deposits and any other amounts due and payable to the Clearing House, and debit and credit all accounts electronically, as it deems fit,
  - (iv) keep the Clearing and Settlement Account adequately funded, so as to enable the Clearing House to recover its dues or other payments.

#### **4.26.3. Purpose and Operation of the Accounts to be maintained with the Clearing Bank**

- (a) **Clearing and Settlement Account:**
  - (i) Each Clearing Member shall open and maintain such Settlement Accounts, in respective settlement

currency, as may be instructed by the Clearing House.

- (ii) Each Clearing Member shall deposit all monies due or owing to the Clearing House in relation to its Positions into the Settlement Account within the time specified by the Clearing House.
- (iii) All monies, deposits and release of Margin monies due from the Clearing House to a Clearing Member in relation to Positions shall be deposited by the Clearing House into the Settlement Account.

(b) **Proprietary Account:**

- (i) Each Clearing Member shall open and maintain a bank account in one of the designated Clearing Banks to be called as the Proprietary Accounts, which shall be utilised for monies settlement pertaining to the Proprietary Positions of the Clearing Member.

(c) **Client Accounts:**

- (i) Each Clearing Member shall open and maintain such Client Accounts as may be instructed by the Clearing House.
- (ii) No monies or deposits in the Client Account shall be utilized by the Clearing Member for any purpose except for payment of Margins or meeting the obligations of any Client in respect of transactions executed for the Client on the Exchange.

**4.26.4. Accounts to be maintained by Clearing House.**

- (a) The Clearing House will open and maintain the accounts with each of the designated Clearing Banks for the purpose of collecting margin payments and funds settlement and payments and receipts to and from the Clearing Members as may be decided by the Clearing House from time to time:

**4.26.5. No Liability**

- (a) The Clearing House shall not in any way be liable for the defaults, negligence, actions or omissions of any designated

Clearing Banks or any appointed custodians, or for any loss of or diminution in value or depreciation in or in connection with any form of Collaterals in any accounts maintained with such designated Clearing Banks or custodians.

**4.26.6. Accounts in the Clearing Bank**

Unless otherwise specified in respect of any security (as may be specified by the Clearing House) but subject always to the requirements of the Relevant Acts, in particular as to Clients' monies being held on trust, no Clearing Member, or any person claiming through it, or any other person, shall have or be deemed to have any right, title or interest in any monies in the Client Accounts of the Clearing Member, or on monies, deposits or any other amounts of the Clearing Member deposited with the Clearing House.

**4.27. Setoff**

4.27.1. Subject to the provisions in these Rules regarding Client monies, the Clearing House shall have a lien on all monies and assets that are deposited with, or may become available to, the Clearing House.

4.27.2. Subject to the provisions in these Rules regarding Client monies, the Clearing House shall be entitled to use and deal with any money or assets received by it from a Clearing Member in such manner as the Clearing House as it deems fit.

4.27.3. The Clearing House may:

(a) consolidate or combine, at any time, the balances, whether arising from settlements, Margin payments or otherwise, in respect of all or any of Open Positions designated to a Clearing Member's Proprietary Account, or Client Accounts, in any of the Exchange segments and / or Clearing segments

(b) set-off, at any time, any amount available from time to time that is due and owing by the Clearing House to that Clearing Member, and/or any credit balance in the Clearing and Settlement Account of that Clearing Member, in or towards payment or satisfaction of any or all of that Clearing Member's obligations to the Clearing House with respect to or in relation to:

- (i) Open Positions designated to that Clearing Member's Proprietary Account or Client Account
- (ii) Open Positions designated to any of that Clearing Member's Proprietary Account or Client Account, to the extent of any deficiency where proceeds of a Client Account are inadequate to satisfy its obligations to the Clearing House with respect to any Open Positions designated to such Client Account, or
- (iii) all other obligations of the Clearing Member to the Clearing House.

#### **4.28. Failure to meet Obligations**

- 4.28.1. In the event a Clearing Member fails to meet the obligations to the Clearing House arising out of Clearing and settlement operations the Clearing House may charge such interest, impose such penalties and fines and take such disciplinary action against the Clearing Member as it may determine from time to time. Any disciplinary action taken pursuant to the above shall not affect the obligations of the Clearing Member to the Clearing House or any remedy to which the Clearing House may be entitled under applicable law.

#### **4.29. Arrangement for Clearing and Settlement**

- 4.29.1. Clearing and settlement of deals shall be effected by Clearing Members by adopting and using such arrangements, systems, agencies or procedures as may be specified by the Clearing House from time to time.
- 4.29.2. Without prejudice to the generality of the above, the Clearing House may specify or specify from time to time such custodial, depository and other services for adoption and to be used by Clearing Members and their Clients to facilitate smooth operation of the Clearing and settlement arrangement or system, for delivery either in physical or electronic form. The Clearing and settlement function may be performed by the Clearing House or it may take assistance of any agency identified by the Board for this purpose.
- 4.29.3. Save as otherwise expressly provided in these Rules when funds and underlying assets are cleared and/or settled under a specified

arrangement, the settlement responsibility shall rest wholly and solely upon the counter parties to the transactions and/or the concerned Clearing Members as the case may be and the Clearing House shall act as the common agent of the Clearing Members for receiving or giving delivery of underlying assets and for receiving and paying funds, without incurring any liability or obligation as a principal.

#### **4.30. Reports**

- 4.30.1. The Clearing House shall generate and provide to each Clearing Member daily reports pertaining to transactions in different Securities/ Contracts including account information, settlement obligations for which deliveries are to be given and/or taken and the funds payable or receivable by the Clearing Member. The receipt of the reports and obligations statement shall be deemed to be confirmation by the Clearing Member of the deals which are to be cleared and settled by the Clearing Member and shall be construed as the instructions to the Clearing Member to meet its obligations.
- 4.30.2. If a Clearing Member believes that there is an error in any report(s), the Clearing Member shall immediately notify the Clearing House in writing and in any event, by no later than before the opening of the next Business Day.
- 4.30.3. All Clearing Members shall on the designated payin day and time have clear and available balance of funds in their Settlement account to the extent of their funds obligation; provided however the Clearing House may specify a different mode of payment of funds for all or any of the Clearing Members.
- 4.30.4. The Clearing Bank shall credit the Settlement account of the Clearing Members who are due to receive funds as per the instructions of the Clearing House , unless;
  - (a) the Clearing Member does not perform its obligations to the Clearing House or
  - (b) it is otherwise ordered by the Clearing House; or
  - (c) the Clearing House may specify a different mode of funds credit for all or any of the Clearing Members.
- 4.30.5. The Clearing House shall generate and provide to each Clearing



member settlement obligation statements showing different kinds of trades made by the Clearing Member or the Exchange Member affiliated to such Clearing Members for which deliveries is to be given and/or taken and the funds payable or receivable by the Clearing Members.

- 4.30.6. The settlement obligations statement shall be deemed to be confirmation given by the Clearing Member in respect of payment and delivery obligations for each Exchange Member affiliated to the said Clearing Member.
- 4.30.7. The Clearing House shall, based on the settlement obligations statements, in respect of funds and Securities, generate delivery statement and receipt statement for each Clearing Member. The delivery and receipt statement shall contain details of Securities to be delivered to and funds to be received from the Clearing House. The delivery and receipt statements shall be deemed to be confirmed instructions by a Clearing Member to deliver and receive to its account the funds and securities as specified in the delivery and receipt statements.
- 4.30.8. On the designated pay-in day, Clearing Members shall effect delivery in the Depository/settlement account as per the Delivery Statement. Delivery shall be in such delivery units as may be notified from time to time.
- 4.30.9. Unless otherwise specified by the Clearing House, every Clearing Members shall have clear balance of funds in their clearing account to the extent of their payment obligations with respect to the funds to be debited to its account and on pay-in day the Clearing Bank(s) shall debit a Clearing Member's Clearing and Settlement account to the extent of its funds obligation as per the instructions of the Clearing House.
- 4.30.10. Securities which are to be received by a Clearing Member shall be delivered to it in the Depository on the respective pay-out day as per instructions of the Clearing House.
- 4.30.11. On the designated pay-out day, unless otherwise specified for a Clearing Member regarding the mode of payment, the Clearing Bank shall credit the clearing accounts of the clearing members who are due to receive funds or make payments to Clearing Members as per the instructions of the Clearing House.

- 4.30.12. All funds and Securities due to a Clearing Member shall normally be credited to the respective Clearing Member's account unless:
- (a) the Clearing Member has not delivered Securities on pay-in day as per settlement obligations; or
  - (b) the full extent of funds obligation of the Clearing Member was not available with the settlement account(s) for funds pay-in; or
  - (c) it is otherwise ordered by the Clearing House.

## CHAPTER –5: - DELIVERY RULES

### 5.1. General

- 5.1.1. Clearing, settlement and delivery of any Securities that is traded on the Exchange shall be made through the Clearing House. Any Underlying bought or sold under any Security that is traded on the Exchange shall be delivered or settled, in accordance with the Exchange Rules and the provisions of these Rules.
- 5.1.2. The transactions may be categorized by the kinds of trades, basis, mode and manner of settlement into different settlement types and cycles by the Clearing House and notified through Circulars from time to time.
- 5.1.3. Clearing and Settlement of trades may be on a netted basis or gross basis or any other basis as may be specified by the Clearing House from time to time.
- 5.1.4. The obligations of Members arising therefrom for effecting delivery of Securities and payment of funds shall constitute the settlement obligations of the Member.
- 5.1.5. Where applicable, Delivery of Securities in respect of settlement obligation of trades shall be through the Depository.
- 5.1.6. The payment of funds in respect of settlement obligations of trades for the Clearing Member shall be through the Clearing Bank(s).

### 5.2. Settlement of a Cash Product is considered to be final when:

#### 5.2.1. In respect of funds Pay-in obligation of a Clearing Member:

- (a) the funds are debited by the Clearing Bank from the Clearing and Settlement account of the Clearing Member concerned in fulfilment of the complete pay-in obligations of the Clearing Member, and
- (b) the Securities that are to be received by the same Clearing Member are placed into the credit of its Depository Account.

**5.2.2. In respect of Securities Pay-in obligations of a Clearing Member**

- (a) Pursuant to the instructions of the Clearing House the Securities are debited in the depository account of the Clearing Member in complete fulfilment of its Securities Pay-in obligations, and
- (b) the funds that are to be received by the same Clearing Member are credited to its Clearing and Settlement Account at the Clearing Bank concerned.

**5.3. Cash Settled Futures Contract**

- 5.3.1. Cash settled Futures Contracts shall be settled by payment of cash based on the Final Settlement Price decided by the Clearing House.

**5.4. Settlement of Deliverable Futures Contract is considered to be final when**

- 5.4.1. The Clearing House shall direct, and the buying Clearing Member and selling Clearing Member shall respectively take and make delivery of the Underlying, in relation to Open Contracts which are Deliverable Contracts pursuant to the Exchange Rules, the Contract Specifications that are applicable to such Underlying or Contract.
- 5.4.2. Subject to the relevant Contract Specifications, delivery under these Rules may include the tender and receipt of any Underlying or warehouse receipts or any other documents as set out in the Contract Specifications.
- 5.4.3. Notwithstanding anything in these Rules, failure to make or take delivery in accordance with the contract is a breach of the Rules and may subject the Clearing Member in default to disciplinary proceedings.

**5.5. Daily Settlement Price**

- 5.5.1. The Clearing House or the Exchange shall, at the close of trading hours, determine the Daily Settlement Price for each Security.
- 5.5.2. The Daily Settlement Price determined by the Clearing House or the Exchange shall be binding on all Clearing Members.
- 5.5.3. Notwithstanding anything in these Rules, the Clearing House or the

Exchange reserves the right to amend daily, the settlement prices of any Security where it deems fit.

## **5.6. Inability to declare Daily Settlement Price**

5.6.1. If in the opinion of the Clearing House or the Exchange a situation or practice may prevent or has prevented the Daily Settlement Price for a Security or a group of Security from being declared in accordance with the relevant Contract Specifications for the Security or group of Security, the Clearing House may take any steps it deems necessary in the circumstances to correct such situation so as to enable the Daily Settlement Price to be declared and may give directions to Clearing Members accordingly.

5.6.2. Any decision of the Clearing House or the Exchange shall be binding upon all the Clearing Members and their Clients.

## **5.7. Daily Settlement**

5.7.1. The Clearing House or the Exchange shall on each Business Day after the determination of the Daily Settlement Price, and at any other time that it may determine, effect daily settlement of all Open Positions at such Daily Settlement Price.

5.7.2. All Open Positions whether long or short of a Member in all Security shall be deemed to have been closed out at the daily settlement price

5.7.3. Daily Settlement Amount: Each Clearing Member shall be liable to pay to, or entitled to collect from the Clearing House an amount called the 'Daily Settlement Amount' in cash and in the respective currencies of the Security. The Daily Settlement Amount on any Business Day shall be the aggregate of;

(a) any Variation Margin payable by the Clearing Member for each Security as per the Rules, on that Business Day; or

(b) any profit payable to the Clearing Member for each Security to be calculated as the difference between;

(i) the Daily Settlement Price of each Security declared at the close of trading hours at the end of that Business day and

- (ii) (aa) the price at which each such Security was bought or sold on that Business Day, or
    - (ii) (bb) the Daily Settlement Price for each Security on the previous Business Day, as the case may be.
  - (c) any amount receivable/payable by the Clearing Member from/to the Clearing House, and
  - (d) any Margin amount receivable/payable by the Clearing Member from/to the Clearing House.
- 5.7.4. After calculating the Daily Settlement Amount, the Clearing Member shall be long or short such Contract, as the case may be, at the Daily Settlement Price.
- 5.7.5. On the Business Day following the determination of the relevant Daily Settlement Price in relation to an Open position;
  - (a) each Clearing Member shall pay to the Clearing House all Daily Settlement Amounts payable by it on demand or by the specified time.
  - (b) the Clearing House shall pay any Daily Settlement Amounts owed to a Clearing Member.
- 5.7.6. Notwithstanding the foregoing, the Clearing House shall not be required to pay any amount to a Clearing Member in the event that such Clearing Member fails to meet any required settlement or margin call for that day with the Clearing House.

## **5.8. Final Settlement Price**

- 5.8.1. The Final Settlement Price shall be the Daily Settlement Price on the Last Trading Day of the Security or such other price as may be specified by the Clearing House or the Exchange. The Final Settlement Price shall be binding on all Clearing Members.

## **5.9. Final settlement**

- 5.9.1. All Open Positions of Clearing Members in Securities at the close of trading hours on the Last Trading Day shall be settled in cash or by delivery or as per the conditions prescribed in the respective Contract Specifications. On the completion of final settlement, Open

Positions in such Security shall ipso facto cease to exist.

5.9.2. Final Settlement Amount: Each Clearing Member shall be liable to pay to or entitled to collect from the Clearing House an amount called the "Final Settlement Amount", in cash. The Final Settlement Amount shall be the aggregate of:

(a) any Variation Margin payable by the Clearing Member for each Contract. For the purpose of Final Settlement Amount, Variation Margin shall be the net loss represented by the difference between;

(i) the Final Settlement Price of each Security declared at the end of such Business Day and

(ii) (aa) the price at which each such Security was bought or sold on such Business Day, or

(ii) (bb) the Daily Settlement Price for each such Security on the previous Business Day, as the case may be,

(b) any profit payable to the Clearing Member for each Security to be calculated as the difference between

(i) the Final Settlement Price of each Security declared at the close of trading hours at the end of the Business Day, and

(ii) (aa) the price at which each such Security was bought or sold on the Business Day, or

(ii) (bb) the Daily Settlement Price for each Security on the previous Business Day, as the case may be,

(c) any settlement receivable/payable by the Clearing Member from/to the Clearing House, and

(d) any Margin amount receivable/payable by the Clearing Member from/to the Clearing House,

5.9.3. On the Business Day following the determination of the relevant Final Settlement Amount;

- (i) Each Clearing Member shall pay to the Clearing House all Final Settlement Amounts payable by it on demand or by the specified time.
- (ii) The Clearing House shall pay any Final Settlement amounts owed to a Clearing Member.

## **5.10. Delivery process**

5.10.1. Subject to the Exchange Rules and the relevant Contract Specifications, delivery under Deliverable Contracts shall, at the absolute discretion of the Clearing House, be effected by the Clearing House directing a Clearing Member holding Open Positions under which that Member is obliged to make or take delivery from a Clearing Member holding an opposite obligation nominated by the Clearing House, and to receive or make payments of the settlement amount accordingly. Clearing Members shall comply with any direction so given and any failure to do so shall be deemed to be a breach.

### 5.10.2. Alternate Delivery Process

- (a) Subject to the relevant Contract Specifications, the Clearing Members may opt to effect delivery using an alternate delivery process, which may be effected only upon notifying the Clearing House in advance and only if such alternate delivery process is not objected by the Clearing House.
- (b) Upon the receipt of the notice by the Clearing House and such notice is not objected by the Clearing House by the next Business Day after receipt of such notice, the Clearing Members designated to make or take delivery as may be specified in notice shall be solely responsible for completing delivery.
- (c) The Clearing House shall be released from its obligations as a central counterparty and from any liabilities in relation thereto, upon the election of an alternate delivery process and only if such election is not objected to by the Clearing House by the next Business Day after receipt of such notice by the Clearing House.
- (d) In executing such alternate delivery process, the Clearing Members designated to respectively make and take delivery



as may be specified in the Notice shall jointly and severally indemnify the Clearing House and the Exchange against any liability, costs or expense it may incur for any reason as a result of the execution, delivery or performance of any agreement reached between such Clearing Members, or any breach thereof or default there under.

- 5.10.3. Delivery effected under this Rule shall be full and complete satisfaction and discharge of liabilities and obligations under the relevant Open Positions.

### **5.11. Physical delivery of Deliverable Contract**

- 5.11.1. A Deliverable Contract subject to physical or any other form of delivery shall be matched by the Clearing House at its discretion. The Clearing House may take into account various factors including but not limited to the quantity, lot size, delivery location and any mutual preference(s) stated by the Buyer who is taking delivery and the Seller who is making the delivery as conveyed by their respective Clearing Members to the Clearing House.

### **5.12. Liability of the Clearing House**

- 5.12.1. Without any prejudice of the rights of the Clearing House under these Rules,
- (a) the Clearing House shall have no liability with respect to any forgery or irregularity in any Underlying or document delivered by a Clearing Member to the other Clearing Member pursuant to these Rules and the sole recourse of the other Clearing Member receiving such forged or irregular Underlying or document shall be to the first mentioned Clearing Member which delivered or caused to be delivered that forged or irregular Underlying or document to the other Clearing Member or the Clearing House,
  - (b) the Clearing House shall have no liability with respect to any transactions in the case of failure, insolvency or bankruptcy of any bank, financial institution, Depository or custodian.
  - (c) unless otherwise provided under these Rules, the Clearing House accepts no liability either to effect, or ensure or guarantee the discharge or satisfactory discharge of an obligation to deliver or accept delivery under any Deliverable

Contract and shall effect cash settlement in discharge of its obligations,

- (d) the Clearing House does not, and shall not be deemed to, guarantee the delivery, title, genuineness, quality, fitness for purpose, compliance with specifications or validity of any Underlying or any documents transmitted by one Clearing Member to another Clearing Member through the Clearing House,
- (e) the Clearing House shall not be liable under any circumstances to make deliveries from a Client of Clearing Members or in any way become obligated to a Client by reason of any Contract or otherwise,
- (f) The Clearing House retains the discretion to accept delivery of any title documents in either physical or electronic format and subject to such safeguards as it deems fit.
- (g) The Clearing House shall have no responsibility or liability to any person:
  - (i) to investigate, verify or guarantee the authenticity, validity, accuracy, or completeness of
    - (a) any form or document required by it for the matching of any Seller and Buyer;
    - (b) any title documents received by the Clearing House under the relevant Contract Specifications, to effect delivery as between such matched parties as are consistent with these Rules and/or Circulars. Nonetheless, the Clearing House reserves the right (at its discretion) to reject any form or accompanying documents submitted by a Clearing Member for such matching, delivery or any other purposes if in its good faith view, the form or accompanying documents (or, where relevant, payment) as submitted are not in compliance with its stated requirements or otherwise indicate that the delivery to be effected or accepted are not in compliance with these Rules and/or Circulars; and

- (ii) to check any Underlying received from or delivered through a Clearing Member in relation to the quantity or quality or suitability of fitness of the Underlying under a Deliverable Contract.

5.12.2. The Clearing House shall have no responsibility or liability to any person:

- (a) to check the availability, quantity, quality or suitability of any designated delivery facility, producer, factory, port, grader, surveyor, sampler, analyst or any other organization that may be involved with delivery of any Underlying as identified in the relevant Contract Specifications; and
- (b) for the acts, omissions, default or insolvency of any designated delivery facility, producer, factory, port, grader, surveyor, sampler, analyst or any other organization that may be involved with delivery of any Underlying as identified in the relevant Contract Specifications.

5.12.3. The Clearing House disclaims any liability arising from or in connection with the delivery or non-delivery of any title documents by any Clearing Member and any irregularities in the transfer of title and/or possession in the Underlying from the Seller to the Buyer.

5.12.4. In no event shall the Clearing House be liable for releasing any payment in exchange for documents that appear bona fide on their faces.

### **5.13. Clearing Members' delivery obligations**

5.13.1. A Clearing Member shall comply with these Rules, the Exchange Rules and Contract Specifications for each Underlying relating to the delivery of information, documents or Underlying to the Clearing House or to Clearing Members and shall comply with all time limits therein imposed.

5.13.2. A Clearing Member shall be obliged to accept delivery of any Underlying made pursuant to these Rules, the Exchange Rules and Contract Specifications for each Underlying.

5.13.3. The Clearing House's act of transmitting of any Underlying or document or giving a direction to deliver to a Clearing Member shall

not be taken to be acceptance of such Underlying or document by the Clearing House and rejection of such Underlying or document by such Clearing Member pursuant to these Rules shall be deemed to be a rejection by the Clearing House.

#### **5.14. Settlement Failure**

5.14.1. Where a Clearing Member fails to complete the performance of its obligation in respect of a transaction by delivery of Securities or payment of funds in accordance with these Rules, the Clearing House shall be, without further notice or intimation to the member, entitled to undertake all or any of the following actions:

- (a) Liquidate and apply margin;
- (b) withhold payment of Securities or funds due to the member;
- (c) debit the account of the member by an amount equivalent to the securities not delivered, valued at such valuation price as the Exchange or the Clearing House may specify from time to time in this regard;
- (d) cause the Close-out of the securities due to the member or sell-out any/all of such securities in accordance with these Rules relating to Closing out;
- (e) impose interest, penalties , fines, charges and costs;
- (f) initiate disciplinary action;
- (g) conduct a Buy-in, Close-out, or carry forward in accordance with these Rules and /or Circulars.
- (h) any other action as the Clearing House deems fit.

5.14.2. Any disciplinary action which the Clearing House takes pursuant to the above shall not affect the obligations of the Clearing Member to the Clearing House or any remedy to which the Clearing House may be entitled under these Rules.

5.14.3. The Clearing House shall issue Circulars regarding the procedures to be followed with regard to Clearing Member's failure to meet the obligations resulting either in non-delivery and/or non-payment.

## **5.15. Failure of a Clearing Member to make or accept delivery**

- 5.15.1. Where a selling Clearing Member does not make delivery pursuant to these Rules, the Clearing House shall not be required to make delivery of the Underlying but may instead direct cash settlement to be made by the Seller to the Buyer at a price determined by the Clearing House which may include any compensation fixed by the Clearing House as provided in the Contract Specifications. Accordingly the Clearing House shall be, without further notice or intimation to the Clearing Member, entitled to withhold all funds due to the Member and/or to debit the account of the Member by an amount equivalent to the Underlying not delivered valued at such valuation price as the Clearing House may specify from time to time in this regard.
- 5.15.2. Where a buying Clearing Member does not take delivery under a Deliverable Contract pursuant to these Rules, the Clearing House shall not be required to take delivery of the Underlying but may instead direct cash settlement to be made by the Buyer to the Seller at a price determined by the Clearing House which may include any compensation fixed by the Clearing House as provided in the Contract Specifications.
- 5.15.3. Where the Clearing House is satisfied that any failure of a Clearing Member directed to make delivery to, or take delivery from, the other Clearing Member is due to delivery or acceptance of delivery being rendered impossible, the Clearing House may, at its absolute discretion, instead decide or direct that the first mentioned Clearing Member may make cash settlement to the other Clearing Member in such an amount as determined by the Clearing House, at its absolute discretion and at any time.
- 5.15.4. Failure of a Clearing Member to make or take delivery under the circumstances mentioned above shall be regarded as an Event of Breach. The Clearing House may impose, on a Clearing Member failing to give or take delivery of all or any of the Underlying according to its obligation, such penalty and other charges as it may prescribe from time to time. Such penalty and other charges shall be in addition to any loss such Member may suffer on account of Closing out and shall be in addition to the commission chargeable in that behalf.

## **5.16. Passing of Property and Risk**

5.16.1. Property and risk in relation to an Underlying in any Deliverable Contract shall pass in accordance with the provisions in the relevant Contract Specifications and these Rules. For the avoidance of doubt, at no time will property and risk in any Underlying in any Deliverable Contract pass to the Clearing House.

## **5.17. Conflict between Contract Specification and the Rules**

5.17.1. In the event of any conflict between these Rules and the relevant Contract Specifications, the Contract Specifications shall prevail to the extent of such conflict.

## **5.18. Closing Out**

5.18.1. Transfer of Open Positions and Closing out when effected Upon the failure of a Clearing Member to comply with any of the provisions relating to Margins, clearing/exposure limits, daily mark to market settlement and final settlement, failure to fulfil the terms and conditions subject to which the transactions have been made or for such other reasons as the Clearing House may specify from time to time, the Clearing House may:

- (a) transfer all or any of the Open Positions of Clients or such other Open Positions of the defaulting Clearing Member as may be decided from time to time to any other Clearing Member who agrees to accept such transfer subject to such terms and conditions as may be specified by the Clearing House from time to time and / or
- (b) Close-out all or any of the Open Positions by Buying-in or Closing out against the defaulting Clearing Member.

## **5.19. Closing out in specific cases**

5.19.1. Without prejudice to the generality of the provision contained as above Closing out may be effected in cases specified in these Rules or in such other cases as the Clearing House may from time to time specify in addition thereto or in modification thereof.

## **5.20. Clearing House Entitled To Close-Out without Notice**

5.20.1. In respect of Securities settled through the Clearing House, the Clearing House shall be entitled to Closing out against the party in default. In such cases no notice of Closing out shall be given to the

Clearing Member against whom the Closing out is to be effected.

- 5.20.2. Without prejudice to the generality of the above provision, Closing out without notice may be effected in cases specified in the relative Rules or in such other cases as the Clearing House may from time to time specify in addition thereto or in modification or substitution thereof.

### **5.21. Closing out Contracts with Defaulter Clearing Member**

- 5.21.1. If a Clearing Member is declared a defaulter the Clearing House shall determine all outstanding obligations by Closing out all Open Positions against it in accordance with these Rules relating to default.

### **5.22. Closing out How Effected**

- 5.22.1. Closing out shall be effected against a Clearing Member in default by the Clearing House in any of manner as specified from time to time:
- (a) by declaring a Closing out at such prices as may be decided by the Clearing House;
  - (b) by Buying-in or Closing out against the Clearing Member by placing order in the Exchange;
  - (c) in any other manner as the Clearing House may decide from time to time.

### **5.23. Bids and Offers**

- 5.23.1. Unless permitted otherwise by the Clearing House, Clearing Members other than those against whom the Closing out is effected may make a bid or offer during such Closing out. The Clearing House shall at its discretion refuse any bid or offer given.

### **5.24. Closing out Clearing Member's Responsibility**

- 5.24.1. Save as otherwise provided the Clearing Member at whose instance or on whose behalf the Buying-in or Closing out is effected by the Clearing House for the purpose of Closing out shall be responsible for the deal made and no liability or responsibility shall attach to the Clearing House or its employees for any deal made in pursuance of such Closing out.

## **5.25. Postponement by the Clearing House**

5.25.1. The Clearing House may defer Closing out in any particular case if in its opinion a fair market to Close-out is not available or in such other circumstances as it may specify from time to time but no such deferment shall relieve the party in default of any resulting damages or absolve the intermediate parties of their liabilities.

## **5.26. Suspension or Postponement of Closing out**

5.26.1. The Clearing House may suspend or postpone Buying-in or Closing out in respect of any Security and from time to time extend or postpone the period of such extension or postponement when circumstances appear in its view to make such suspension or postponement desirable in the general interest.

## **5.27. Closing out against Defaulter**

5.27.1. When Closing out is effected as provided above and the Clearing Member concerned is declared a defaulter the difference arising from Closing out shall be recovered from the said Member or distributed in accordance with these Rules relating to default.

## **5.28. Charges for Closing out**

5.28.1. When Closing out is effected on the advice of the Clearing House the Clearing Member against whom the Closing out takes place shall pay to the Clearing House such charges as the Clearing House may from time to time specify.

## **5.29. Loss arising from Closing out**

5.29.1. When Closing out is effected on the advice of the Clearing House on account of a Clearing Member failing to fulfill any of its obligations (including the Margin obligations) the resulting loss shall accrue to such Member and shall be paid by him forthwith to the Clearing House.

## **5.30. Profit arising from Closing out**

5.30.1. When Closing out is effected on the advice of the Clearing House on account of a Clearing Member failing to fulfill any of its obligations (including the margin obligations) any profit arising there from shall be credited to the account of the Settlement Guarantee Fund or such other funds as may be set up by the Clearing House



from time to time for such purposes as may be specified by the Clearing House.

**5.31. Default if Closing out Loss and Damages not Paid**

- 5.31.1. If any Clearing Member against whom a deal is Closed-out under the provisions of these Rules fails to make payment of the loss arising out of the Closing-out and of the damages if any within such time as may be stipulated by the Clearing House from time to time, it shall be declared a defaulter.

## CHAPTER - 6:- ENFORCEMENT POWERS

### 6.1. General

6.1.1. The Clearing House shall have the surveillance capability to oversee and investigate activities on its facilities and ensure compliance with the Relevant Acts, these Rules and/or Circulars and all applicable laws and further shall have the power to enforce these Rules and/or Circulars.

6.1.2. The Clearing House shall have the power to receive and consider complaints against a Clearing Member. The Clearing House may *suo moto* or where directed by the FSC shall investigate the complaint and initiate further action, if deemed fit against a Clearing Member, its directors, officers, employees or agents.

### 6.2. Cause for Investigation

6.2.1. The Clearing House shall have the power to receive and consider:

- (a) any allegation or complaint against a Clearing Member, its employees, or agents or Clients of any violation of these Rules, and/or Circulars or any acts of omissions,
- (b) any dispute between Clearing Members in connection with clearing on the Clearing House,
- (c) any reports of possible irregularity or trading abuse detected by its audit and surveillance system or any reports of possible rules violation from any ongoing supervision and/or onsite inspection, or
- (d) any matter which may affect a fair, orderly and transparent market in the Clearing House's view.

6.2.2. The Clearing House may investigate any of the above matters and initiate further action, if deemed fit, against the Clearing Member.

### 6.3. Liability and Jurisdiction

6.3.1. Liability of Member: any breach of the Relevant Acts, these Rules and/or Circulars or any applicable laws brought about by the acts or omissions of any Client, officer, employee, or agent of a Clearing Member, whether or not acting within authority granted by the Clearing Member, shall be deemed to have been committed by that

Clearing Member.

- 6.3.2. Jurisdiction of the Clearing House over former Clearing Members: Investigations and proceedings may be commenced under the provisions of this Chapter and these Rules against a former Clearing Member and such former Clearing Member shall be bound by any decision or finding or penalty imposed.

#### **6.4. Investigations**

- 6.4.1. The Clearing House may, among other things, for the purpose of investigating, monitoring and obtaining information about any matter which it considers may relate to these Rules and its functions:
- (a) require the prompt production by a Clearing Member of relevant documents which shall include anything in which information of any description is recorded, in the Member's possession or control and if any such documents cannot be produced, require the Clearing Member to state to the best of its knowledge and belief where and in whose possession or control they are and require the Clearing Member to take all steps to produce them or procure their production,
  - (b) require the prompt production by a Clearing Member of any relevant information, data or document in respect of its transactions in any format, as specified by the Clearing House,
  - (c) upon notification, require the attendance of any employee, officer, director, or agent of a Clearing Member at a specified date, time and place, to answer questions, provide explanations and/or present evidence and require the Clearing Member to secure such attendance,
  - (d) upon notification, interview any employee, director, officer or agent of a Clearing Member and require such person to answer questions and provide explanations and/or give evidence and record such answers, explanations and evidence electronically or otherwise,
  - (e) require the submission of information or document related to any person who is to be, is or has been a director, an officer, an employee, an agent of the Clearing Member and

- (f) send any representative of the Clearing House to a Clearing Member's offices to conduct inspections or investigations to ensure compliance with the Relevant Acts, Guidelines, these Rules and or Circulars.

6.4.2. A Clearing Member shall not do anything to frustrate the employee, director, officer or agent from co-operating with the Clearing House investigation and shall use its best efforts to make sure that its directors, officers, employees or agents co-operate with the Clearing House. A Member shall be responsible to the Clearing House for the conduct of its employees, directors, officers or agents.

## **6.5. Co-operation with others**

6.5.1. In exercising its enforcement powers and performing its functions, the Clearing House shall co-operate with FSC, any governmental or statutory body, self-regulatory organisation or enforcement agency in Mauritius or elsewhere in such manner as may be necessary and disclose to any of the foregoing persons any information or document regarding a Clearing Member and its affairs for the purpose of compliance with any applicable laws, and no such act or disclosure by the Clearing House shall constitute a breach of any confidentiality provisions in these Rules.

## **CHAPTER – 7:- DISCIPLINARY AND APPEALS RULES**

### **7.1. Application of Disciplinary Rules**

7.1.1. These Disciplinary Rules shall apply to all Clearing Members, their directors, officers, employees and agents. The Clearing House shall retain its jurisdiction over former Members, their directors, officers and employees with respect to any action or matter which occurred prior to the termination of or resignation from membership.

### **7.2. Disciplinary actions**

7.2.1. The Clearing House may after investigating the matter initiate a disciplinary action against a Member, any persons employed by or contracted to a Member or its directors, employees, officers, agents or Clients and refer the matter to the Disciplinary Committee if in the opinion of the Clearing House, the Member has or may have contravened any of the Relevant Acts, Guidelines and these Rules and/or Circulars.

7.2.2. The Clearing House may, after investigating the matter, take the following actions in lieu of initiation of disciplinary proceeding under these Rules:

- (a) issue a letter of warning or a reprimand to the Clearing Member concerned, and/or
- (b) impose a fine on the Clearing Member concerned.

7.2.3. Nothing in the above shall prevent the Clearing House from remitting the matter to the Disciplinary Committee for its review save that such matter shall not be so remitted where actions in the above Rule 7.2.2 have been taken.

### **7.3. Disciplinary Committee**

7.3.1. The Clearing House shall constitute a Disciplinary Committee which shall comprise of at least five persons appointed by the Board, provided always that no such person shall be an officer, employee, contractor or agent of the Clearing House.

7.3.2. In addition to the persons appointed by the Board, an Officer or employee of the Clearing House shall be nominated by the Board as an ex-officio member of the Disciplinary Committee.

- 7.3.3. Any officer, employee, representative, contractor or agent of a Clearing Member or the Exchange Member may be appointed to the Disciplinary Committee so constituted save that such persons so appointed shall not form a majority of the Disciplinary Committee.
- 7.3.4. The Board shall appoint the chairperson of the Disciplinary Committee.
- 7.3.5. The quorum for a meeting of the Disciplinary Committee shall consist of three members. The Disciplinary Committee shall reach decisions on a majority basis. In the event of an equality of votes, the chairperson shall have a deciding (casting) vote.
- 7.3.6. Except where it is explicitly provided under these Rules, the Disciplinary Committee may establish its own terms of reference and procedures.

#### **7.4. Conflict of interest**

- 7.4.1. No person who has, or may potentially have any financial, personal or other interest in the matter to be considered by the Disciplinary Committee may serve on the Disciplinary Committee. Any member of the Disciplinary Committee who has, or may potentially be having, such conflict of interest must notify the chairperson promptly and the chairperson shall determine whether such person should hear the matter. If the chairperson has or may have a conflict of interest, the chairperson shall notify the Board promptly and abstain from serving on the Disciplinary Committee for such conflicted matter. The Board shall in such a case determine which of the other members of the Disciplinary Committee shall have a deciding (casting) vote in the event of equality of votes.

#### **7.5. Powers of the Disciplinary Committee**

- 7.5.1. The powers of the Disciplinary Committee include, without any limitation
- (a) enquiring into an alleged breach of these Rules and/or Circulars by the Members,
  - (b) imposing a fine or a penalty which is proportionate to the seriousness of the violation,

- (c) issuing a public or a private warning to the Member in violation,
- (d) ordering a restitution to any aggrieved person,
- (e) suspension of membership
- (f) termination of membership,
- (g) dismiss the charges, or
- (h) award costs.

## **7.6. Disciplinary Procedure**

- 7.6.1. The Disciplinary Committee shall give 15 (fifteen) calendar days written notice to the Member against whom disciplinary action has been brought, specifying details of the matter and the date, place and time of the meeting of the Disciplinary Committee.
- 7.6.2. The Disciplinary Committee may require evidence to be given either orally or in writing and may require any evidence to be verified by an affidavit. It shall be a violation of these Rules if a Member rejects or fails to attend and provide evidence when required to do so by the Disciplinary Committee or answer falsely any question put to it by the Disciplinary Committee or fails to produce to the Disciplinary Committee any books, written materials, records, recording, papers or information, whether electronic or, otherwise required of it.
- 7.6.3. The Disciplinary Committee may require any officer, director, employee, agent, consultant or contractor of a Member to attend and provide evidence before it at the hearing and produce any books, written material, records and any information, whether electronic or otherwise, that are in possession, control or custody of the person relating to any matter of any disciplinary action.
- 7.6.4. The Disciplinary Committee may require that oral evidence be received only after the witness has taken an appropriate oath or similar affirmation.
- 7.6.5. At any hearing of the Disciplinary Committee, the Member shall be given a reasonable opportunity of being heard and shall be entitled to call witnesses or submit evidence. The Disciplinary Committee

may adjourn the meetings.

- 7.6.6. The Clearing House shall present its case at the hearing.
- 7.6.7. The Disciplinary Committee shall send the Clearing House and the Member its written decision including its findings and recommendations.
- 7.6.8. Unless otherwise provided in this Rule, the proceedings shall be conducted in such manner as the Disciplinary Committee may determine.
- 7.6.9. The Disciplinary Committee may adjourn or reconvene its proceedings as it deems fit. If the parties to the proceeding are not attending the hearing, the Disciplinary Committee may hear the proceedings by accepting evidence in writing.

#### **7.7. Right to counsel**

- 7.7.1. Any party may be represented by a legal representative and/ or any other representative of their choice at a hearing before the Disciplinary Committee.

#### **7.8. Payment of expenses and costs**

- 7.8.1. Where the Disciplinary Committee finds that there was reasonable cause for the hearing, investigation or inspection and determines that the Member concerned ought, for that reason, to pay all or any specified part of the expenses of or incidental to the hearing, inspection or investigation, the Member shall be liable to make payment accordingly, and those expenses, or the specified part thereof, may be recovered by the Clearing House.

#### **7.9. Payment of fines**

- 7.9.1. Any fine and penalties imposed or modified by the Disciplinary Committee shall be due and payable on the effective date of the Disciplinary Committee's decision unless otherwise decided by the Disciplinary Committee.

#### **7.10. Right to appeal**

- 7.10.1. The Clearing House or the Clearing Member aggrieved by a decision of the Disciplinary Committee shall exhaust the appeals process provided by these Rules and/or Circulars before exercising any right of review or appeal under the Relevant Acts.



## **7.11. Appeals Rules**

- 7.11.1. Appeals against decisions of the Clearing House or the Disciplinary Committee shall be made by service of a notice in writing to the Appeals Committee within 15 (fifteen) days of the service of the decision of the Clearing House or the Disciplinary Committee, as the case may be.
- 7.11.2. The notice must set out the name of the appellant, the decision appealed against, the grounds of appeal and attaching copies of any documents relied upon.

## **7.12. Appeals Committee**

- 7.12.1. The Appeals Committee shall hear and determine appeals against the decisions of the Disciplinary Committee, as the case may be.
- 7.12.2. The Appeals Committee comprises of persons appointed by the Board as members of the Appeal Committee and each Appeals Committee shall have at least three members.
- 7.12.3. In case of an appeal against the decisions of a Disciplinary Committee, the members constituting the Appeals Committee shall not be those members who were a part of the Disciplinary Committee against whose decision the appeal is preferred.
- 7.12.4. The members of the Appeals Committee shall appoint the chairperson of the Committee.
- 7.12.5. The quorum for a meeting of the Appeals Committee shall consist of 3 (three) members. The Appeals Committee shall reach decisions on a majority basis. In the event of an equality of votes, the chairperson shall have a deciding (casting) vote.
- 7.12.6. The Appeals Committee may, among other things, uphold, dismiss or vary any decision of the Disciplinary Committee.
- 7.12.7. Except where it is explicitly provided under these Rules, the Appeals Committee may establish its own terms of reference and procedures.

### **7.13. Conflict of interest**

7.13.1. No person who has, or may potentially have any financial, personal or other interest in the matter to be considered by the Appeals Committee may serve on the Appeals Committee. Any member of the Appeals Committee who has, or may potentially be having, such conflict of interest must notify the chairperson promptly and the chairperson shall determine whether such person should hear the matter. If the chairperson has or may have a conflict of interest, the chairperson shall notify the Board promptly and abstain from serving on the Appeals Committee for such conflicted matter. The Board shall in such a case determine which of the other members of the Appeals Committee shall have a deciding (casting) vote in the event of equality of votes.

### **7.14. Powers of the Appeals Committee**

7.14.1. The powers of the Appeals Committee include:

- (a) all the powers of the Disciplinary Committee,
- (b) hearing appeals in accordance with these Rules,
- (c) overturning, varying or upholding any decision of the Disciplinary Committee, including but not limited to removing, increasing, reducing or otherwise varying any penalties or sanctions decided on by the Disciplinary Committee, and
- (d) dealing with such other matters as the Board gives it power to so decide (either generally or in a particular case).

### **7.15. Appeals procedure**

7.15.1. The Appeals Committee shall give 15 (fifteen) days notice to the appellant and other party of the date, place and time of the appeal hearing.

7.15.2. If any party fails to attend at the hearing, the Appeals Committee may proceed in its absence.

7.15.3. The Appeals Committee may call, allow or disallow any witness. The Appeals Committee may receive evidence that was not available to the Disciplinary Committee. In such circumstance, the

Appeals Committee may consider whether the evidence was available to the Disciplinary Committee and why it was not presented at that time.

7.15.4. The Appeals Committee shall prepare and send to the parties the decision of the Appeals Committee.

7.15.5. Unless otherwise provided in this Rule, the proceedings shall be conducted in such manner as the Appeals Committee may determine.

#### **7.16. Right to representation**

7.16.1. Any party may be represented by a legal representative and/ or any other representative of their choice at a hearing before the Appeals Committee.

#### **7.17. Payment of expenses and costs**

7.17.1. Where the Appeals Committee finds that there was reasonable cause for the hearing, investigation or inspection and determines that the Member concerned ought, for that reason, to pay all or any specified part of the expenses of or incidental to the hearing, inspection or investigation, the Member shall be liable to make payment accordingly, and those expenses, or the specified part thereof, may be recovered by the Clearing House.

#### **7.18. Payment of fines/ penalties**

7.18.1. Any fine and penalties imposed by or modified by the Appeals Committee shall be due and payable on the effective date of the Appeals Committee's decision unless otherwise decided by the Appeals Committee.

#### **7.19. Utilization of the fines/ penalties**

7.19.1. Any fine and penalties paid by Members following a decision of the Disciplinary Committee and/or an Appeals Committee shall be placed in a fund constituted by the Exchange and / or the Clearing House solely for the purpose of investor protection and / or education.

#### **7.20. Finality of decisions**

7.20.1. The decisions of the Appeals Committee are final and binding on

the parties and there shall be no further appeal under these Rules.

**7.21. Power to prescribe**

- 7.21.1. Notwithstanding anything to the contrary contained in these Rules, the Clearing House may specify further requirements and/or timelines in respect of any disciplinary or appeals procedures by way of Notice (or in such other manner), as the Clearing House deems appropriate.

## CHAPTER – 8 - DEFAULT RULES

### 8.1. Event of Default

8.1.1. The occurrence of any of the following events with respect to a Clearing Member shall constitute an Event of Default and will be dealt in accordance with these Rules:

- (a) the Clearing Member (or any of the Clearing Member's officers, employees, Clients, contractors, agents,) is in violation or deemed violation of any of these Rules,
- (b) the Clearing Member fails to make any payment required to be made under or pursuant to these Rules, or Circulars. Payments may include without limitation any payment towards fees, transaction charges, fines or its clearing and settlement obligations, security deposit, Margins, Daily Settlement Amount, Final Settlement Amount, contribution to the Settlement Guarantee Fund, or any other dues,
- (c) the Clearing Member fails to make or take delivery as performance of a Deliverable Contract, or for the purpose of satisfying its clearing and settlement obligations,
- (d) the Clearing Member defaults on any other obligation under these Rules which, if capable of being remedied, is not remedied to the satisfaction of the Clearing House within the time specified by the Clearing House for such rectification,
- (e) the Clearing Member is in violation of its membership agreement with the Clearing House,
- (f) an application, in Mauritius or any jurisdiction, is filed or an order made for the winding up, dissolution, bankruptcy, management or administration of the Member or similar event; or an assignment or composition is made by the Member for the benefit of creditor(s),
- (g) any representation, warranty or document made or submitted by a Clearing Member in its membership application was or has become false in any material respect, the Clearing Member who is the Exchange Member is declared a "Defaulter" under the Exchange Rules,
- (h) the Clearing Member or any of its officers, employees,

contractors, agents, representatives or Clients, is in violation of an applicable law or regulation governing its business and affairs,

- (i) the Clearing Member has been or will be brought before the Disciplinary Committee or Appeals Committee for disciplinary proceedings or is the subject of any investigation under these Rules,
- (j) the Clearing Member or any of its employees or agents is charged in any court of law in connection with an offence involving fraud or dishonesty, whether in or outside Mauritius,
- (k) the Clearing Member or any of its employees or agents are insolvent or any steps towards bankruptcy or winding up are initiated by or against them,
- (l) any similar event that would affect the business and the financial condition (including its ability to pay its debts as and when they fall due) of the Clearing Member and its affairs with the Clearing House, or
- (m) any other event which in the Clearing House's opinion materially impacts or may materially impact the Clearing Member in meeting its obligations under these Rules.

## **8.2. Declared Default**

8.2.1. The Clearing House shall at its discretion determine whether it shall treat an Event of Default as a declared Default and shall determine the date and time of such declared Default.

8.2.2. The Clearing House shall notify, in writing, the Defaulter Member as well as other Members of the declared Default and its date and timing.

## **8.3. Rights of Clearing House**

8.3.1. The occurrence of an Event of Default shall not preclude the rights of the Clearing House to exercise, against any Clearing Member, any or all of its powers (as it deems fit) in relation to any other event whether or not also constituting an Event of Default (whether such other event is concurrent, subsequent or prior to the Event of

Default). The Clearing House shall notify FSC or any other relevant regulatory body before it exercises any of its powers in relation to an Event of Default.

8.3.2. Upon the occurrence of a Declared Default, the Clearing House may, take such steps as it deems fit, including but not limited to, cancelling all or any Orders or transactions of the Defaulter, freezing the Defaulter's accounts and selling any or all Collateral standing to the credit of the Defaulter's accounts. Without prejudice to the generality of the foregoing, the Clearing House may take any action as it deems appropriate, including without limitation, the following:

- (a) to Close-out all or any Open Positions of the Defaulter including, Open Positions of the Client(s) and to appropriate any excess,
- (b) to sell, realise, apply and set off any Collateral deposited with the Clearing House by the Defaulter by way of Margin, security deposit or otherwise and to apply the proceeds without being required to give notice to or obtain the consent of the Defaulter or any court order, with full power to execute any documents in its own name or as attorney for the Defaulter for that purpose, provided always that any Collateral deposited with the Clearing House with respect to Open Positions designated to any Client Account may be used to meet obligations in a Client Account and shall not be used to meet any obligations in a Proprietary Account,
- (c) to apply any surplus in any Clearing and Settlement Account of the Defaulter Clearing Member to any deficiency on any Client Account of the Defaulter Clearing Member, only defaulter
- (d) to transfer all or any Open Positions of a Client of the Defaulter to another Clearing Member together with any Margins which in the opinion of the Clearing House are held with respect to such Open Positions,
- (e) to exercise or abandon any Option Contract of the Defaulter or any such exercise or abandonment shall be deemed to have been effected by the Clearing Member which is the party to the Options Contract,

- (f) to make payment or delivery from the account of the Defaulter in performance of its settlement obligations,
- (g) to Close-out the Open Positions of the Defaulter by trading on the Exchange or any available futures, forward, cash or spot market or by compulsorily Closing out such Open Positions by way of cash settlement at a price to be decided by the Clearing House,
- (h) to do all such other necessary acts and things as are in the opinion of the Clearing House necessary to reduce or determine its exposure under Open Positions of the Defaulter or otherwise, arising from or as a result of the Declared Default, or
- (i) to take such measures, including but not limited to, Closing out of positions, effect alternative delivery process, in the event of default to ensure financial safety and integrity of the clearing system. Non defaulting Clearing Members shall accept the decision of the Clearing House and abide by the directives issued in this regard.

#### **8.4. Loss of the Clearing House**

- 8.4.1. Any deficiency in the accounts of a Defaulter Member after the application of Rule 8.3 shall be termed the “Loss of the Clearing House”.

#### **8.5. Settlement of the Clearing House’s Obligations in the event of Declaration of Default**

- 8.5.1. Without prejudice to the rights of the Clearing House as otherwise provided in these Rules, upon the declaration of a Clearing Member as a Defaulter as the case may be, the Clearing House shall be entitled, in satisfying its obligations, to apply the following assets in the order stipulated, in whole or in part:
  - (a) any Collateral held by the Clearing House on any account of the Defaulter,
  - (b) the proceeds of the initial Margin of the Defaulter ,
  - (c) any Margin held by the Clearing House on any account of the Defaulter in any other Clearing Segment where the



Defaulter has no outstanding obligations in that Clearing Segment,

- (d) the fines, penalties, penal charges, interest on delayed payments levied by the Clearing House in relation to the clearing and settlement functions or other income, if any, earned by investment or disinvestments of the Settlement Guarantee Fund or interest earned on margin moneys that form part of the Settlement Guarantee Fund to the extent, as may be decided by the Clearing House,
- (e) the proceeds of the initial Margin of Members other than the Defaulter , other than that part of any such initial Margin which have not been applied by the Clearing House to the Margin obligations of the Member,
- (f) balance of the assets of the Settlement Guarantee Fund, if any,
- (g) if the above is not sufficient, the balance obligation remaining after application of the above funds shall be assessed against the Clearing Members, in the same proportion as their total contribution and deposit and Clearing Members shall be required to contribute or deposit in the Settlement Guarantee Fund, within such time as the Clearing House shall require, the deficient amount.

## **8.6. Call for replenishment of initial margin**

8.6.1. If the Clearing House applies the proceeds of the Settlement Guarantee fund comprising of the initial Margin of a Clearing Member under these Rules, in full or in part, the Clearing House may request the Clearing Member to replenish the initial Margin by way of Collaterals in such amount and at such times as the Clearing House deems necessary to provide continuing financial support for the obligations of the Clearing House.

8.6.2. A Clearing Member that declines to provide the further initial Margin referred to in the above Rule 8.6.1 shall be deemed to have resigned as a Clearing Member in accordance with these Rules and the Clearing Member shall be under no further obligation to provide such further initial Margin.

8.6.3. A Clearing Member who has declined to replenish the initial Margin

as referred to in this Rule and continues to decline the same; its membership shall be terminated.

**8.7. Subsequent recovery from the Defaulter Member**

8.7.1. Any amount later recovered from the Defaulter Member shall to the extent of such recovery reduce the Loss of the Clearing House.

**8.8. Finality of settlements**

8.8.1. For the purposes of insolvency laws and property laws, this Chapter is intended to relate to the finality of acquisitions and dispositions pursuant to this Rule.

## **CHAPTER - 9:- SETTLEMENT GUARANTEE FUND**

### **9.1. Settlement Guarantee Fund**

- 9.1.1. The Clearing House shall establish and maintain a Settlement Guarantee Fund. The Settlement Guarantee Fund shall be used by the Clearing House upon the occurrence of a declared default and to ensure daily or final settlement as a result of the failure of one or more Clearing Members to discharge the Clearing members' obligations and liabilities in accordance with these Rules.
- 9.1.2. The corpus of the Settlement Guarantee Fund may be made out of any of the following;
- (a) initial Margin that every Member is required to deposit under these Rules and Circulars
  - (b) The security deposit provided by each Clearing Member to the Clearing House pursuant to these Rules; and
  - (c) additional margins that the Members may deposit.
  - (d) The insurance cover, if any, taken by the Clearing House to meet any eventualities arising out of failure of one or more Clearing Members to discharge the Clearing Members' obligations and liabilities in accordance with these Rules; and
  - (e) The contributions made by the Clearing House, if any
  - (f) any other amounts as decided by the Clearing House at its discretion.
- 9.1.3. The Clearing House may specify from time to time the norms, procedures, terms and conditions governing Settlement Guarantee Fund for each segment of the market, the amount of security deposit to be made by each Clearing Member to the Settlement Guarantee Fund, the terms, manner and mode of making the security deposit, conditions of repayment of the security deposit or withdrawal of the security deposit from the fund, charges for utilization, penalties and disciplinary actions for non-performance thereof.

### **9.2. Security deposit**

- 9.2.1. The security deposits made by each Clearing Member shall

comprise the security deposit specified by the Clearing House and the additional security deposits made by the Clearing Members from time to time.

- 9.2.2. The Clearing House shall have the right to increase the security deposit requirement.
- 9.2.3. The security deposit shall be payable to the Clearing House in any form of Collateral as the Clearing House may permit. The Clearing House may specify from time to time the amount of cash that should form part of the security deposit.
- 9.2.4. The list of qualifying Collaterals shall be notified by the Clearing House from time to time and the valuation of such Collateral shall be in accordance to applicable scheme of valuation for the relevant type of collateral as specified by the Clearing House.
- 9.2.5. The Clearing House may from time to time require the Clearing Member to deposit additional amounts in any form of Collaterals to ensure that the current valuation of all amounts deposited is at least equal to the security deposit specified by the Clearing House.
- 9.2.6. The security deposit may be applied by the Clearing House in such manner as the Clearing House deems fit in the event of a default being declared against a Clearing Member.
- 9.2.7. The security deposit and any amount including the value of Collateral held by the Clearing House in excess of the security deposit shall be deemed to have been deposited for the purpose of satisfying payment obligations of the Clearing House including without limitation, margin and/or daily settlement amount or other settlement obligations.
- 9.2.8. The amounts held by the Clearing House which are in excess of a Clearing Member's payment obligations and /or excess of security deposit requirements are refundable to the Clearing Member by the Clearing House upon demand provided that the Clearing House is satisfied, at its discretion, that such amounts will not be required to satisfy any settlement obligation or Margin call in relation to any Open Position.
- 9.2.9. Upon the termination or cessation of a Clearing Member under these Rules for any reason, the security deposit will be refundable to that Member only after the Clearing House at its discretion is

satisfied that all obligations of that Member including without limitation any fines payable by the Member to the Clearing House or the Exchange are fully discharged.

### **9.3. Allocation of the security deposit**

9.3.1. Each Clearing Member's contribution to the security deposit towards Settlement Guarantee Fund shall be allocated by the Clearing House among the various segments which are designated as such by the Clearing House and in which the Clearing Member participates, in such proportion as it may decide from time to time.

9.3.2. The Clearing House shall retain the right to utilize the funds allocated to a particular segment to the satisfaction of losses or liabilities of the Clearing House incident to the operation of that Segment or for any other Segment as may be decided by the Clearing House at its discretion.

### **9.4. Replacement of security deposit**

9.4.1. By giving a suitable notice to the Clearing House and subject to such conditions as may be specified by the Clearing House from time to time, a Clearing Member may withdraw Collaterals which secured the Clearing Member's contribution or deposit towards the Settlement Guarantee Fund, provided that the Clearing Member has, simultaneously with such withdrawal or revocation, deposited cash with, or pledged qualifying Collaterals to the Clearing House or through such other mode as may be approved by the Clearing House from time to time to meet the security deposit it is required to maintain.

### **9.5. Administration and Utilization of the Settlement Guarantee Fund**

9.5.1. The Settlement Guarantee Fund shall be utilized for such purposes as may be provided in the Rules and subject to such conditions as the Clearing House may decide from time to time including but not limited to;

- (a) defray the expenses of creation, maintenance and repayment of the Settlement Guarantee Fund;
- (b) make investments in such approved securities and other avenues subject to such terms and conditions as may be decided by the Clearing House from time to time;

- (c) meet premium on insurance cover(s) which the Clearing House may take from time to time;
- (d) meet shortfalls and deficiencies arising out of the Clearing and Settlement of securities transactions as provided in the Rules;
- (e) satisfy any loss or liability of the Clearing House arising out of Clearing and Settlement operations of securities transactions as provided in the Rules;
- (f) repay the balance after meeting all obligations under the Rules to the Clearing Member when it ceases to be a Member pursuant to the provisions regarding the repayment of Security Deposits;
- (g) meet other obligations as may be specified by the Clearing House from time to time.

9.5.2. Save as otherwise expressly provided in the Rules, the Settlement Guarantee Fund shall not be utilized for any other purpose.

9.5.3. The Clearing House shall have full power and authority to pledge, re-pledge, hypothecate, transfer, create a security interest in, or assign any or all of the;

- (a) cash component of Settlement Guarantee Fund,
- (b) securities, assets or other instruments in which the cash component of the settlement fund is invested and
- (c) qualifying Collaterals pledged or issued by a Clearing Member in favour of the Clearing House towards deposit to the Settlement Guarantee Fund.

## **9.6. Utilization in case of Default**

9.6.1. In the event of a Clearing Member failing to meet the Clearing and settlement obligations to the Clearing House as provided in the Rules or in the event of an Event of Default being declared against the Clearing Member, the Clearing House shall utilize the Collaterals in the following order to the extent necessary to fulfill and satisfy the obligations;

- (a) any Collaterals that is held in any account of the defaulting Clearing Member as its security deposit to the Settlement Guarantee Fund;
- (b) any Collaterals that is held in any account of the defaulting Clearing Member;
- (c) the proceeds, if any, recovered from transferring the Membership of the defaulting Member in the Clearing House, subject to deduction of the expenses relating or incidental to the transfer;
- (d) proceeds of any insurance<sup>1</sup> designated for the purposes of these Rules provided that in the case of any relevant policy the maximum total liability and maximum per default liability as defined in the insurance policy;
- (e) the fines, penalties, penal charges, interest on delayed payments, interest or other income, if any, earned by investment or disinvestment of Settlement Guarantee Fund or interest earned on Margin monies that form part of the Settlement Guarantee Fund to the extent as may be decided by the Clearing House;
- (f) balance of the assets of the Settlement Guarantee Fund, if any,

9.6.2. If the above is not sufficient, the balance obligation remaining after application of the above funds shall be assessed against the other non-defaulting Clearing Members, in the same proportion as their total contribution and deposit and Clearing Members shall be required to contribute or deposit in the Settlement Guarantee Fund, within such time as the Clearing House shall require, the deficient amount.

9.6.3. The Defaulter shall be liable to the Clearing House to make good the above amounts together with all costs and expenses incurred by the Clearing House in connection therewith and all such amounts shall be a debt due from the Defaulter to the Clearing House. The Clearing House shall be entitled to recover these amounts from the Collaterals of such Defaulter available to it or by

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<sup>1</sup> Applicability of Clause 9.6.1 (d) is subject to the Clearing House securing an insurance cover.

process of law.

### **9.7. Obligation to restore Security Deposit**

9.7.1. If a pro-rata charge made against the security deposit of the Clearing Members results in a shortfall in the security deposit, the Clearing Members would be required to replenish the shortfall and restore the security deposit within such time directed by the Clearing House.

9.7.2. If the Clearing Member shall fail to do so, the Clearing House may charge such interest, impose penalties and fines and take such disciplinary action against the Clearing Member as it may determine from time to time. Any disciplinary action which the Clearing House takes pursuant to these Rules or involuntary cessation of Membership by the Clearing Member shall not affect the obligations of the Clearing Member to the Clearing House or any remedy to which the Clearing House may be entitled under applicable law.

### **9.8. Recovery of Loss and Re-Distribution**

9.8.1. If any amount paid out of the Settlement Guarantee Fund is subsequently recovered by the Clearing House in whole or in part, the Clearing House shall credit the amount so received to the Settlement Guarantee Fund in the reverse of the order in which it was paid out.

### **9.9. Cessation of Clearing Membership**

9.9.1. The Clearing House may specify conditions for the repayment of Security Deposit including the manner, amount and period within which it will be paid but at no point of time will the repayment exceed the actual deposit available to the credit of the Clearing Member after deducting the necessary charges from the same.

9.9.2. A Clearing Member shall be entitled to the repayment of the Security Deposit made by him to the Settlement Guarantee Fund after –

- (a) it ceases to be Member; and
- (b) a minimum of one year have lapsed from its being admitted as Clearing Member; and



- (c) all pending transactions, at the time the Clearing Member ceases to be a Clearing Member which could result in a charge to the Settlement Guarantee Fund, have been closed and settled, and
- (d) all obligations to the Clearing House for which the Clearing Member was responsible while he was a Member have been satisfied or, at the discretion of the Clearing House, have been deducted by the Clearing House from the Clearing Member's actual deposit; provided, however, that the Clearing Member has presented to the Clearing House such indemnities or guarantees as the Clearing House deems satisfactory or another Clearing Member has been substituted on all transactions and obligations of the Clearing Member, and
- (e) a suitable amount as may be determined by the Clearing House at its discretion has been set aside for taking care of any loss arising from any defects that may be reported in the future, and
- (f) a suitable amount as may be determined by the Clearing House at its discretion towards such other obligations as may be perceived by the Clearing House to exist or may be perceived to arise in future has been set aside.

9.9.3. Any obligation of a Clearing Member to the Clearing House unsatisfied at the time it ceases to be a Clearing Member shall not be affected by such cessation of Membership.

## **9.10. Limitation of Liability**

- 9.10.1. Without prejudice to any other limitation or exclusion of liability, the Clearing House shall not be liable for obligations of a non- Clearing Member or of a Clearing Member to any third party or obligations to a Client by a Clearing Member, or towards transactions to which the Clearing House is not a counter party and shall also not become liable to make deliveries whether from any third party or any Clearing Member.
- 9.10.2. The liability of the Clearing House in any case shall be limited to the extent of contributions available to the Settlement Guarantee Fund.

## CHAPTER - 10:- EMERGENCY AND OTHER POWERS

### 10.1. Emergency Powers

10.1.1. Whenever the Clearing House considers that there is an emergency (being without limitation any threatened or actual market manipulation or cornering including any act of any government, any major market disturbance which affects the market, or any undesirable situation or practice that the Clearing House deems to be an emergency), or crisis in the nature of manipulation, squeezes, bear raid, or wherever it appears to the Clearing House that the securities transactions are executed for the purpose of inducing a false or artificial appearance of activity, or upsetting the price equilibrium, or that the business is being conducted in a manner prejudicial to the interests of the trade or the interests of the Clearing House or in the case of any unusual or unforeseeable events or adverse circumstances or it is expedient in the general interests of the Clearing House to do so, notwithstanding anything to the contrary contained in these Rules, Circulars, Contract Specifications, or the Relevant Acts and/or any applicable laws, the Clearing House may;

- (a) effect alternative settlement or delivery of outstanding Securities;
- (b) Close-out a Security at a price determined by the Clearing House and with effect from such date as may be determined by the Clearing House;
- (c) impose Special Margin;
- (d) amend or delete or add to these Rules and Circulars made there under;
- (e) take such other measures that the Clearing House may decide.

10.1.2. The Clearing House shall have power at any time to call upon all or any Clearing Member to submit detailed statement providing information relating to Securities transactions entered into by such Clearing Member in such form and in such manner as may be specified.

- 10.1.3. In particular and without prejudice to the generality of the foregoing and other powers under these Rules, such information may relate to the following matters
- (a) Securities entered into by a Clearing Member with another Clearing Member on its Proprietary Account;
  - (b) Securities cleared by a Clearing Member for its Clients;
  - (c) Open Positions of a Clearing Member and its Clients and;
  - (d) Collaterals held by a Clearing Member for its Proprietary Account or Client Account.
- 10.1.4. The Clearing House shall have the power for the purposes of verifying or checking any statement submitted by a Clearing Member under these Rules to call for production of the books of any Clearing Member and/or call for explanation from any Clearing Member.
- 10.1.5. A Clearing Member failing or neglecting to submit any such statement or to produce any such books or to give any such explanations, shall be subject to disciplinary action under these Rules
- 10.1.6. The FSC shall be notified of such actions as soon as practicable. Nothing in these Rules shall in any way limit the powers of the Board or any other duly authorised committee to act in an emergency situation in accordance with these Rules.

## CHAPTER – 11 - ARBITRATION

- 11.1. This Chapter applies to disputes between Clearing Members. Where any dispute arises from or in connection with Securities traded on the Exchange, the disputing parties shall try to settle the dispute through the specified procedure.
- 11.2. The disputing parties shall attempt to settle the dispute through mutual negotiations in good faith, failing which the disputing parties shall settle the dispute through arbitration. The process and procedure of Arbitration mechanism shall be notified through Circulars from time to time.
- 11.3. The Rule 11.1 shall not apply to any disciplinary action taken or proposed to be taken under these Rules.
- 11.4. The submission of any dispute to arbitration under these Rules shall not limit in any way or preclude the taking of any other action or exercise of any power by the Clearing House to such dispute under these Rules.
- 11.5. The award of the arbitrator(s) shall be binding on all relevant parties to the dispute.