

# OTC Clear Rates and FX Derivatives Clearing Rules

## Table of Contents

### RULES

#### **PART I        GENERAL PROVISIONS**

##### **Chapter 1     Definitions and Interpretation**

101            Definitions

102-110       Interpretation

##### **Chapter 2     General Provisions**

201            Amendment

202-205       Liability

206-211       Force Majeure Events and Illegality

212-214       Disclosure of Information

215-218       Governing Law

219-223       Notice

224            Process Agent

225            Time Reference

226-227       Calculations and Currency

228            Third Party Rights

#### **PART II       MEMBERSHIP**

##### **Chapter 3     General Provisions**

301            OTC Clear Membership

302            Clearing Members

303            Qualification

304-309       Applications and Approval

##### **Chapter 4     Legal Obligations**

401-402       Continuing Obligations

403-404       Capital Requirement

405-408       Transfer of Membership

409-412       Reporting Obligation

**Chapter 5 Information Obligations**

- 501 Notifications by Clearing Members
- 502 Right to Demand Documents
- 503 Organization Structure
- 504 Financial Information
- 505 Record Keeping

**Chapter 6 Suspension and Termination of Membership**

- 601-603 Suspension
- 604-606 Resignation
- 607 Termination
- 608-612 Resignation and Termination
- 613 Former Clearing Members

**Chapter 7 Designated Person**

- 701-707 General
- 708 Continuing Authority of a Designated Person
- 709 Acknowledgment by a Designated Person

**PART III CLEARING OPERATIONS**

**Chapter 8 Clearing by OTC Clear**

- 801-805 Acceptance for Registration of Original Transactions
- 806-811 Creation of Contracts through Submission of Original Transactions by Clearing Members or Clients
- 812 Clearing Members' Representations as at Registration Time
- 813 Creation of Contracts other than through Submission of Original Transaction by Clearing Members or Clients
- 814-814B Termination of Contracts relating to Ineligible Original Transactions after Registration
- 815 Transfers of Contracts
- 816-818 Client Clearing
- 819-822 Types of Client Clearing Categories
- 823-824 Segregation of Client Accounts
- 825-829 Porting of Contracts relating to Clients
- 830 Full Portfolio Porting
- 831 Partial Portfolio Porting

832	Porting of Client Collateral
833	Conditions Precedent to Porting of Contracts relating to Clients
834-835	Completion of Porting
<b>Chapter 9</b>	<b>Accounts</b>
901	Accounts
902	Position Accounts
903-904	Collateral Accounts
905-906	GF Accounts
907	Multiple Client Accounts
908-909	Accounts for Holding of Non-Cash Collateral
<b>Chapter 10</b>	<b>Payments</b>
1001	Contract Payments
1002	Margin and Rates and FX Contribution
1002A	Reimbursement of Costs and Expenses
1003	Default Interest
1004	Interest Rates
1005	Income on Cash Collateral
1006-1008C	Income and Redemption Proceeds on Non-Cash Collateral
1009-1011	Fees, Levies and Charges
1012-1015	Payments Calculation
<b>Chapter 11</b>	<b>Tax</b>
1101-1105	Tax
<b>PART IV</b>	<b>RISK MANAGEMENT AND DEFAULT PROCEDURES</b>
<b>Chapter 12</b>	<b>Margin</b>
1201-1203	Margin and Collateral
1204-1208	Initial Margin, Additional Margin, Variation Margin, and Intra-day Variation Margin
1209-1213	Margin Settlement
1214-1218	Acceptable Collateral for Margin and Rates and FX Contribution
1219-1221	Rights relating to Collateral in respect of Margin and Rates and FX Contribution and Representations of Clearing Members
1222-1224	Position Limits and Notional Exchange Risk Limits

**Chapter 13 Default Procedures**

- 1301-1302 Clearing Member Event of Default
- 1303-1305 Termination following a Clearing Member Event of Default
- 1306-1310 Calculations of Net Payment following a Clearing Member Event of Default
- 1311 Termination of the Membership of a Defaulting Clearing Member
- 1312-1315 General Provisions relating to Clearing Member Event of Default
- 1316 Indemnity
- 1317-1321 OTC Clear Failure to Pay Event
- 1322-1323 OTC Clear Insolvency Event
- 1324-1325 Calculations of Net Payment following OTC Clear Default

**Chapter 14 Disciplinary Actions and Proceedings**

- 1401-1402 Situations Calling for Disciplinary Action
- 1403 Co-operation
- 1404 Notification
- 1405 Disciplinary Actions
- 1406-1408 Procedures relating to Disciplinary Committee
- 1409-1410 Appeals to the Disciplinary Appeals Committee
- 1411-1414 Grounds for Appeal
- 1415-1417 Order as to Costs

**Chapter 15 Rates and FX Guarantee Resources**

- 1501-1502 Rates and FX Guarantee Resources Purpose
- 1503 Calculations relating to the Rates and FX Guarantee Fund, Rates and FX Assessments and Rates and FX Contribution Balance
- 1504 Initial Rates and FX Contribution
- 1505 Further Rates and FX Contribution
- 1506-1507 Rates and FX Assessments Demand
- 1508-1511 Rates and FX Contribution due to Recalculations or Replenishments
- 1512-1513 Changes to Calculations relating to the Rates and FX Guarantee Fund and Rates and FX Assessments
- 1514 OTC Clear Use of the Rates and FX Guarantee Resources
- 1515-1518 Reduction of Losses on a DMP Event and Application of the Rates and FX Guarantee Resources
- 1519-1521 Accounts of Rates and FX Guarantee Resources
- 1522 Recoveries

1523-1528	Loss Distribution Process
1529	Rates and FX Clearing Service Limited Recourse
1530-1540	Winding Down of the Rates and FX Clearing Services
1541-1543A	Voluntary Recapitalisation
1544-1545	Multiple DMP Events
1546-1549	Terms of Redelivery or Repayment of Rates and FX Contribution

## **PART V        DEFAULT MANAGEMENT PROCESS**

### **Chapter 16    Default Management Process**

1601-1604	Default Management Process
1605-1608	Default Management Group
1609	Undertaking by Clearing Members
1610-1612	Amendments to Default Management Process

### **Chapter 17    Porting**

1701-1709	Porting
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### **Chapter 18    Hedging**

1801-1804	Hedging
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### **Chapter 19    Auction**

1901-1904	Auction Portfolios
1905	Auction for Multiple Auction Portfolios
1906-1909	Conduct of Auction
1910-1912	Bidding
1913-1913C	Initial Allocation of Resources
1914-1917	Loss Allocation
1918-1919	Successive Auction
1920	OTC Clear Financial Resources
1921-1922	Registration of Auction Contracts
1923-1924	Failed Registration

### **Chapter 20    Confidentiality Obligations relating to Receipt of DMP Information**

2001-2004	Confidentiality
2005	Term
2006	Rights to DMP Information
2007	Liability of OTC Clear

2008-2009	Relief
<b>Chapter 21</b>	<b>Obligations, Undertaking and Liability of Clearing Members relating to Participation in the Default Management Group</b>
2101-2103	Confidentiality Obligations
2104	Conflict of Interest
2105	Representations and Warranties
2106	No Liability
<b>PART VI</b>	<b>PRODUCT SPECIFIC TERMS</b>
<b>Chapter 22</b>	<b>Product Specific Terms for Standard Rates Derivatives Contracts</b>
2201-2202	Product Specific Terms for Standard Rates Derivatives Contracts
2203-2210	Interpretation
2211-2215	Economic Terms
2216	General Terms
2217	Clearing Rules
2218-2221	Economic and Monetary Union (EMU) Provisions
2222	Negative Interest Rates
2223	[DELETED]
2224	Rounding
2225	Tax Provisions
2226	Calculation Agent
2227	Governing Law
<b>Chapter 23</b>	<b>Product Specific Terms for Non Deliverable Rates Derivatives Contracts</b>
2301-2302	Product Specific Terms for Non Deliverable Rates Derivatives Contracts
2303-2310	Interpretation
2311-2315	Economic Terms
2316	General Terms
2317	Clearing Rules
2318	Calculation Agent
2319	Negative Interest Rates
2320	Rounding
2321	Tax Provisions
2322	Governing Law

**Chapter 24 Product Specific Terms for Non Deliverable FX Derivatives Contracts**

2401-2402 Product Specific Terms for Non Deliverable FX Derivatives Contracts

2403-2411 Interpretation

2412-2416 Economic Terms

2417 General Terms

2418 Clearing Rules

2419 Calculation Agent

2420 Rounding

2421 Tax Provisions

2422 Governing Law

**Chapter 25 Product Specific Terms for Standard Cross-currency Rates Derivatives Contracts**

2501-2502 Product Specific Terms for Standard Cross-currency Rates Derivatives Contracts

2503-2510 Interpretation

2511-2515 Economic Terms

2516 General Terms

2517 Clearing Rules

2518 Negative Interest Rates

2519 Rounding

2520 Tax Provisions

2521 Calculation Agent

2522 Governing Law

**Chapter 26 Product Specific Terms for Deliverable FX Derivatives Contracts**

2601-2602 Product Specific Terms for Deliverable FX Derivatives Contracts

2603-2610 Interpretation

2611-2615 Economic Terms

2616 General Terms

2617 Clearing Rules

2618 Calculation Agent

2619 Rounding

2620 Tax Provisions

2621 Governing Law

## **Preface**

### General

This preface is intended to give a general explanation of the purpose of the Clearing Rules of OTC Clearing Hong Kong Limited (“**OTC Clear**”) in respect of the clearing and settling of certain interest rate derivatives and FX derivatives in the over-the-counter derivatives market. This preface does not form part of the Clearing Rules and does not affect the construction of the Clearing Rules.

OTC Clear has been established to operate a clearing house for the purpose of clearing and settling over-the-counter derivatives transactions that OTC Clear has been approved by the SFC to clear (such transactions, the “**OTC Derivatives Contracts**”). OTC Clear has been recognized by the SFC as a recognized clearing house pursuant to the SFO.

OTC Clear may from time to time clear and settle OTC Derivatives Contracts other than interest rate derivatives or FX derivatives. In such case, OTC Clear may decide to amend or expand the Clearing Rules such that they may operate to govern the terms and conditions of clearing such other types of OTC Derivatives Contracts, or to introduce separate rules and documentation to govern the terms and conditions of clearing such other types of OTC Derivatives Contracts.

In its provision of the clearing services and implementation of the Clearing Rules, OTC Clear will comply with its statutory duties under the SFO and will seek to ensure general compliance with the relevant principles set out in the “Principles for financial market infrastructures” issued by the Committee on Payment and Settlement Systems and Technical Committee of the International Organization of Securities Commissions dated April 2012.

### Membership

Clearing Members of OTC Clear may be admitted to clear interest rate derivatives and/or FX derivatives. In addition, with the prior written approval of OTC Clear, designated branches of a Clearing Member and/or designated affiliates of such Clearing Member may submit interest rate derivatives and/or FX derivatives for registration in the name of such Clearing Member. OTC Clear may introduce new membership categories if it decides to clear other types of OTC Derivatives Contracts.

### Relationship to the Hong Kong Exchanges and Clearing Limited

OTC Clear is a 76% directly-owned subsidiary of the Hong Kong Exchanges and Clearing Limited.

### OTC Clear as Counterparty

In accordance with the Clearing Documentation, OTC Clear clears certain interest rate derivatives and FX derivatives in the over-the-counter derivatives market, calculates the risk associated with such cleared contracts, calls margin to cover this risk, ensures the proper settlement of the cleared contracts as a central counterparty, and performs all other functions specified in the Clearing Documentation.

### Guarantee Resources

OTC Clear holds various resources to support the obligations of OTC Clear as counterparty under Contracts in respect of the Rates and FX Clearing Service. The management of OTC Clear monitors the level of the guarantee resources continuously, with particular reference to the risk level in OTC Clear’s system. The guarantee resources will be made up as follows:

- (1) Clearing Members’ contributions funded upfront as a precondition to becoming a Clearing Member and recalculated by OTC Clear from time to time;

- (2) Clearing Members' contributions funded as and when required by OTC Clear, subject to a maximum amount calculated by OTC Clear from time to time. Each Clearing Member has an unconditional obligation to pay its proportionate share of such contribution calculated by OTC Clear at the relevant time; and
- (3) contribution from OTC Clear itself.

### Risk Management

OTC Clear has a number of powers which it uses for its risk management process. These include, but are not limited to:

- (1) the power to demand margin from Clearing Members;
- (2) the power to require payment of additional margin from time to time, including intra-day, from Clearing Members;
- (3) the power to impose position limits;
- (4) the power to terminate one or more cleared contracts in limited circumstances such as the occurrence of a force majeure event with respect to either OTC Clear itself or one or more Clearing Members for purposes of reducing the risks associated with OTC Clear in such circumstances;
- (5) the management of the guarantee resources; and
- (6) the management of the default management process in case of a default by one or more Clearing Members.

### Governance

OTC Clear has implemented a corporate governance structure to enhance its accountability with, and ensure that it deals fairly with, its shareholders, Clearing Members and other stakeholders, as well as to maintain high standards of business ethics and integrity. OTC Clear's corporate governance structure comprises the following:

- (1) the board of OTC Clear – responsible for establishing corporate policies, setting strategic direction, ensuring that an effective internal control environment is in place, and overseeing the functions of OTC Clear's committees;
- (2) various committees or groups are established by OTC Clear to assist OTC Clear and/or the board of OTC Clear in managing and operating the clearing services and these include:
  - (a) the risk management committee – primarily responsible for monitoring and minimising the risks associated with OTC Clear in its provision of clearing services;
  - (b) the default management group – primarily responsible for assisting OTC Clear in the default management process upon the occurrence of a default by one or more Clearing Members or in other limited circumstances; and
  - (c) the user committee – primarily responsible for reviewing and assessing operational matters relating to existing products and new products eligible for registration with OTC Clear, including the terms, operational policies, practices, and in relation to new products, development plans, surrounding the provision of the clearing services to such products.

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**PART I**  
**GENERAL PROVISIONS**

## Chapter 1 Definitions and Interpretation

### Definitions

101. In these Clearing Rules, unless the context otherwise requires:

<b>“Ad Hoc Intra-day VM Call”</b>	has the meaning given to it in section 4.4.3 of the Clearing Procedures;
<b>“Ad Hoc Intra-day Variation Margin”</b>	means, with respect to a Clearing Member, any Collateral provided by such Clearing Member to OTC Clear for purposes of satisfying its Ad Hoc Intra-day VM Call;
<b>“Additional Amount”</b>	has the meaning given to it in Clearing Rule 1101;
<b>“Additional Margin”</b>	has the meaning given to it in section 4.1(iii)(b) of the Clearing Procedures. Any Additional Margin delivered by a Clearing Member for any of its Position Accounts will be recorded to the Collateral Account relating to the relevant Position Account;
<b>“Affected AET Contract”</b>	means any Contract automatically terminated in accordance with Clearing Rule 1303 that was registered in the name of the relevant Defaulting Clearing Member in relation to its Client Clearing Services immediately prior to the occurrence of the relevant Automatic Early Termination Event;
<b>“Affected Clearing Member”</b>	has the meaning given to it in section 3.19 of the Clearing Procedures;
<b>“Affected Contract”</b>	means: <ol style="list-style-type: none"> <li>(1) if the relevant DMP Event with respect to the Defaulting Clearing Member is not an Automatic Early Termination Event, any Contract registered in the name of the Defaulting Clearing Member in relation to its Client Clearing Services; or</li> <li>(2) if the relevant DMP Event with respect to the Defaulting Clearing Member is an Automatic Early Termination Event, any Affected AET Contract;</li> </ol>
<b>“Affiliates”</b>	means, with respect to any specified Person, any other Person that Controls, is Controlled by, or is under common Control with, such specified Person;
<b>“Appeal Period”</b>	has the meaning given to it in Clearing Rule 1409;
<b>“Applicable Laws”</b>	means any applicable national, federal, supranational, state, regional, provincial, local or other statute, law, ordinance, regulation, rule, code, guidance, order, published practice or concession, judgment or decision of a Governmental Authority and, for the avoidance of doubt, includes all the provisions of the SFO;
<b>“Applicant”</b>	means a legal person that wishes to be admitted as a Clearing

	Member;
<b>“Application Form”</b>	has the meaning given to it in section 2.1.1 of the Clearing Procedures;
<b>“Approved Trade Registration System”</b>	has the meaning given to it in section 3.2 of the Clearing Procedures;
<b>“Articles of Association”</b>	means the Articles of Association of OTC Clear in force from time to time;
<b>“ATRS Guide”</b>	means the Approved Trade Registration System User Guide in force from time to time, which sets out each data field on an Approved Trade Registration System accepted by OTC Clear, and the application of values in respect of certain data fields, in each case, for the purpose of submission of an Original Transaction for registration as Contracts via such Approved Trade Registration System;
<b>“Auction”</b>	means the auction process operated in accordance with Chapter 19 of these Clearing Rules;
<b>“Auction Book”</b>	means, in respect of a Defaulting Clearing Member at any given time, all the Auction Positions relating to such Defaulting Clearing Member at such time, excluding any Auction Positions relating to Auction Contracts that have been registered to a Successful Bidder following the completion of Auction in accordance with Chapter 19 of these Clearing Rules;
<b>“Auction Contract”</b>	means each Contract entered into by OTC Clear with a Successful Bidder, on the same economic terms as the Auction Positions that such Successful Bidder has bid for, following the completion of an Auction;
<b>“Auction Failed Position”</b>	means each Auction Position in an Auction Portfolio which is not the subject of a Successful Bid, and OTC Clear reasonably believes that further round(s) of Auction will not be successful in dealing with the Auction Positions in such Auction Portfolio within a reasonable timeframe as determined by OTC Clear in accordance with Clearing Rule 1918A;
<b>“Auction Losses”</b>	means, with respect to an Auction Portfolio constructed as a result of the DMP Event with respect to a Defaulting Clearing Member, the losses (including without limitation and without double-counting (i) any Auction Receivable payable by OTC Clear to the Successful Bidder, (ii) the Unsettled VM Amounts in respect of the Auction Contracts comprised in such Auction Portfolio (to the extent that such Unsettled VM Amount is payable by the Defaulting Clearing Member to OTC Clear) and/or (iii) any hedging costs relating to such Auction Portfolio) suffered by OTC Clear as a result of such DMP Event attributable to such Auction Portfolio;
<b>“Auction</b>	means the amount a Successful Bidder must pay to OTC Clear for the registration of the relevant Auction Contract to such Successful Bidder,

<b>Payment</b>	which shall be an amount equal to the absolute value of the difference between (i) the value attributed to such Auction Contract by the Bid of the Successful Bidder and (ii) the net present value in respect of such Auction Contract as determined by OTC Clear pursuant to Chapter 5 of the Clearing Procedures as of the date of the relevant Auction;
<b>“Auction Payment Date”</b>	means, with respect to an Auction Portfolio and its Auction Payment, if any, the Currency Day relating to such Auction Payment immediately following the conclusion of the Auction for such Auction Portfolio;
<b>“Auction Portfolio”</b>	means a portfolio of Auction Positions from the Auction Book;
<b>“Auction Position”</b>	means, in respect of a Defaulting Clearing Member, (1) each of the notional trades comprising the notional portfolio created on the Special Default Account relating to such Defaulting Clearing Member; and (2) any Hedging transactions executed as a result of the occurrence of the DMP Event with respect to such Defaulting Clearing Member;
<b>“Auction Receivable”</b>	means the amount a Successful Bidder must receive from OTC Clear in order to complete the registration of the relevant Auction Contract to such Successful Bidder, which shall be an amount equal to the absolute value of the difference between (i) the value attributed to such Auction Contract by the Bid of the Successful Bidder and (ii) the net present value in respect of such Auction Contract as determined by OTC Clear pursuant to Chapter 5 of the Clearing Procedures as of the date of the relevant Auction;
<b>“Auction Receivable Payment Date”</b>	means, with respect to an Auction Portfolio and its Auction Receivable, if any, the Currency Day relating to such Auction Receivable immediately following the conclusion of the Auction for such Auction Portfolio;
<b>“Auction Transfer Costs(t)”</b>	means, with respect to an OTC Clear Clearing Day t, the costs (converted, where applicable, into the Base Currency at the Latest Exchange Rate determined on such OTC Clear Clearing Day t) representing the total costs incurred by OTC Clear on such OTC Clear Clearing Day t for the purpose of transferring one or more Auction Portfolios constructed during such Loss Distribution Period to the relevant Successful Bidders of each such Auction Portfolio. For the avoidance of doubt, Auction Transfer Costs shall include, without limitation, any administrative costs incurred by OTC Clear for the purpose of liquidating Collateral in satisfaction of the Auction Receivables payable in respect of any such Auction Portfolio;
<b>“Authorized Institution”</b>	has the same meaning as in the Banking Ordinance;
<b>“Automatic Early Termination Event”</b>	has the meaning given to it in Clearing Rule 1303;
<b>“Banking</b>	means the Banking Ordinance (Laws of Hong Kong Cap. 155);

<b>Ordinance</b>	
<b>“Base Currency”</b>	means Hong Kong dollars, or such other Eligible Currency as designated by OTC Clear and notified to the Clearing Members from time to time;
<b>“Better Bidder”</b>	means, with respect to an Auction Portfolio, a Bidder who has submitted a Bid to OTC Clear that has a higher value than the Bid of the Successful Bidder for such Auction Portfolio;
<b>“Bid”</b>	means a bid submitted to OTC Clear by a Bidder in an Auction, which for the purpose of determining whether the relevant Bidder is a Better Bidder, Equal Bidder, Lower Bidder or Poor Bidder, shall have (1) a negative value if it requires OTC Clear to pay such value to the Bidder to dispose of the relevant Auction Portfolio, or (2) a positive value if it requires the Bidder to pay such value to OTC Clear for registration of the relevant Auction Portfolio in its name;
<b>“Bidder”</b>	means each Non-Defaulting Clearing Member who is required to bid for an Auction Portfolio pursuant to these Clearing Rules;
<b>“Business Day”</b>	means, with respect to a Contract, a day (other than Saturday and Sunday) on which commercial banks in the relevant financial centers specified in such Contract are open for general business;
<b>“Capital”</b>	means, (1) in respect of an entity that is an Authorized Institution incorporated in Hong Kong, “Tier 1 capital” as defined in the Banking (Capital) Rules (Cap. 155L); (2) in respect of an entity that is a Licensed Corporation, “liquid capital” as defined in the Financial Resources Rules; (3) in respect of an entity that is a futures commission merchant registered with the U.S. Commodities Futures Trading Commission, “adjusted net capital” as defined in CFTC Regulation 1.17; (4) in respect of an entity that is a broker-dealer registered with the U.S. Securities and Exchange Commission, “net capital” as defined in SEC Rule 15c3-1; (5) in respect of an entity that is a firm registered with the U.K. Financial Services Authority, “tier one capital” as calculated under the General Prudential sourcebook; (6) in respect of an entity that is an institution licensed by the German Federal Financial Supervisory Authority, “tier one capital” as defined in section 10(2a) of the German Banking Act and as calculated under section 10 of the German Banking Act and the rules stipulated under the Solvency Regulation ( <i>Solvabilitätsverordnung</i> ); (7) in respect of an entity that is a commercial bank incorporated in the People’s Republic of China, the aggregate of “Core Tier 1 Capital” and “Other Tier 1 Capital” as defined in the Administrative Measures for Capital of Commercial Banks ( <i>Tentative Implementation</i> ) and (8) in respect of an entity that is not subject to any of the aforementioned rules, such other classes, categories or description of capital as set out in the Clearing Procedures or as otherwise may be determined by OTC Clear in its discretion. In the event that an entity falls within more than one category referred to in the immediately foregoing, then OTC Clear shall have the sole right and discretion to select one of the above

	categories as applicable to such entity for the purposes of the Clearing Documentation and will notify the relevant Clearing Member of such selection;
<b>“Capped Liability Period”</b>	means the period from the date of occurrence of any DMP Event that does not fall within 20 OTC Clear Business Days after the occurrence of a preceding DMP Event, and ending on the 20 <sup>th</sup> OTC Clear Business Day after such DMP Event, provided that such period shall be extended by 20 OTC Clear Business Days each time there is a subsequent DMP Event occurring prior to the expiry of such period (as may be extended from time to time) starting from the date of such subsequent DMP Event and (unless further extended in the manner set out above) ending on the 20 <sup>th</sup> OTC Clear Business Day following such subsequent DMP Event;
<b>“CFTC”</b>	means the U.S. Commodity Futures Trading Commission;
<b>“Clearing Documentation”</b>	means the Membership Agreement, these Clearing Rules (including the Clearing Procedures and all exhibits, attachments, annexes, schedules and appendices thereto, and any document incorporated by reference therein, if any), the Clearing Notices and any Deed of Charge, as each such document is amended from time to time;
<b>“Clearing Member”</b>	means any legal entity admitted as a member for the clearing of FX Derivatives and/or Rates Derivatives in accordance with Clearing Rule 302 and in respect of which a Membership Termination Date has not occurred, and <b>“Membership”</b> shall be construed accordingly;
<b>“Clearing Notice”</b>	means any notice, announcement, circular, guidance or practice note issued by OTC Clear under these Clearing Rules and stated to be a clearing notice which relates to the interpretation, application or implementation of these Clearing Rules or the operation or facilities of OTC Clear;
<b>“Clearing Organization”</b>	means any clearing house duly authorized, regulated, recognized or licensed under Applicable Laws in any jurisdiction, including any recognized clearing house, recognized overseas clearing house, derivatives clearing organization or similar entity;
<b>“Clearing Procedures”</b>	means the practices, procedures and administrative requirements prescribed by OTC Clear from time to time in effect, which shall form part of, and supplement, these Clearing Rules;
<b>“Clearing Rules”</b>	means these rules of OTC Clear in respect of the Rates and FX Clearing Services, as from time to time in effect and shall include the Clearing Procedures;
<b>“Client”</b>	means a Person to whom a Clearing Member provides its Client Clearing Services;
<b>“Client Account”</b>	means a Client Position Account or Client Collateral Account;
<b>“Client Auction Portfolio”</b>	has the meaning given to it in Clearing Rule 1913A;
<b>“Client Clearing”</b>	means the client clearing agreement between a Clearing Member and

<b>Agreement</b>	a Client which governs the terms on which Client Clearing Services are provided and which contains the terms set out in Clearing Rule 817(3);
<b>“Client Clearing Category”</b>	has the meaning given to it in Clearing Rule 819;
<b>“Client Clearing Category 1 Account Balance”</b>	means, in respect of a Client Clearing Category 1 Client, the Margin Balance of the relevant Client Clearing Category 1 Collateral Account held by the relevant Clearing Member on behalf of such Client (together with any receivables, rights, intangibles and any other collateral or assets deposited or held with OTC Clear in connection with such an account) as adjusted by any payments made or received under the relevant Affected Contracts by OTC Clear during the period between the occurrence of the relevant DMP Event and the time immediately prior to porting of such Affected Contracts to the Replacement Clearing Member;
<b>“Client Clearing Category 1 Account Basis”</b>	means Client Clearing Services which are provided by a Clearing Member to the relevant Client through a Client Clearing Category 1 Position Account;
<b>“Client Clearing Category 1 Accounts”</b>	means, in respect of each Client Clearing Category 1 Client, the Client Clearing Category 1 Position Account and Client Clearing Category 1 Collateral Account relating to such Client;
<b>“Client Clearing Category 1 Client”</b>	means a Client in respect of whom a Clearing Member offers Client Clearing Services on Client Clearing Category 1 Account Basis;
<b>“Client Clearing Category 1 Collateral Account”</b>	means, in respect of a Client Clearing Category 1 Position Account opened in the name of a Clearing Member for the purpose of providing Client Clearing Services to a single Client, an account opened in the books of OTC Clear for the purpose of recording the type(s) and amount of Collateral attributed by OTC Clear to such Client Clearing Category 1 Position Account in accordance with these Clearing Rules;
<b>“Client Clearing Category 1 Position Account”</b>	has the meaning given to it in Clearing Rule 902(2);
<b>“Client Clearing Category 2 Account Balance”</b>	means, in respect of an individual Client Clearing Category 2 Client, such part of the Margin Balance of the Client Clearing Category 2 Collateral Account held by the relevant Clearing Member on behalf of such Client which is attributed by the OTC Clear to such Client (together with any receivables, rights, intangibles and any other collateral or assets deposited or held with OTC Clear in connection with such an account) as adjusted by any payments made or received under the relevant Affected Contracts by OTC Clear during the period between the occurrence of the relevant DMP Event and the time immediately prior to porting of such Affected Contracts to the Replacement Clearing Member;

<b>“Client Clearing Category 2 Account Basis”</b>	means Client Clearing Services which are provided by a Clearing Member to the relevant Client through a Client Clearing Category 2 Position Account;
<b>“Client Clearing Category 2 Accounts”</b>	means, in respect of each Client Clearing Category 2 Client, the Client Clearing Category 2 Position Account and Client Clearing Category 2 Collateral Account relating to such Client;
<b>“Client Clearing Category 2 Client”</b>	means a Client in respect of whom a Clearing Member offers Client Clearing Services on Client Clearing Category 2 Account Basis;
<b>“Client Clearing Category 2 Collateral Account”</b>	means, in respect of a Client Clearing Category 2 Position Account opened in the name of a Clearing Member for the purpose of providing Client Clearing Services to one or more Clients, an account shared by one or more Clients on an omnibus net basis opened in the books of OTC Clear for the purpose of recording the type(s) and amount of Collateral attributed by OTC Clear to such Client Clearing Category 2 Position Account in accordance with these Clearing Rules;
<b>“Client Clearing Category 2 Position Account”</b>	has the meaning given to it in Clearing Rule 902(3);
<b>“Client Clearing Services”</b>	means the clearing services provided by a Clearing Member to its Clients so as to enable the Clearing Member’s Clients to access the Rates and FX Clearing Services provided by OTC Clear;
<b>“Client Clearing Services Notice”</b>	means the notice which a Clearing Member shall deliver to its Client(s) prior to the provision of Client Clearing Services to such Client(s) in the form prescribed by OTC Clear;
<b>“Client Collateral Account”</b>	means a Client Clearing Category 1 Collateral Account or Client Clearing Category 2 Collateral Account;
<b>“Client Entitlement”</b>	means: <ul style="list-style-type: none"> <li>(1) in respect of a Non-Porting Client of a Defaulting Clearing Member, the entitlement to Collateral and to any net sums payable by OTC Clear to that Defaulting Clearing Member in respect of the Affected Contracts relating to that Non-Porting Client, as determined by OTC Clear in accordance with Clearing Rule 1309; and</li> <li>(2) in respect of a Porting Client of a Defaulting Clearing Member, the entitlement to any net sums payable by OTC Clear to that Defaulting Clearing Member in respect of Contracts relating to that Porting Client, determined by OTC Clear in accordance with Clearing Rule 1309A;</li> </ul>
<b>“Client Position Account”</b>	means a Client Clearing Category 1 Position Account or Client Clearing Category 2 Position Account;
<b>“Close-out”</b>	has the meaning given to it in section 10.1 of the Clearing Procedures;

<b>Variation Margin</b>	
<b>“CM Branch”</b>	means a branch of a Clearing Member;
<b>“CM Funded Contribution Amount”</b>	means, with respect to each Clearing Member, the amount determined for such Clearing Member in accordance with section 6.1.1 of the Clearing Procedures;
<b>“CM Payable Balance”</b>	has the meaning given to it in Clearing Rule 1324(4)(a);
<b>“CM Unfunded Contribution Amount”</b>	means, with respect to each Clearing Member, its proportionate share of the Rates and FX Assessments;
<b>“CNY”</b>	means the lawful currency of the People’s Republic of China excluding, for the purpose of this definition only, Hong Kong, Macau and Taiwan;
<b>“CNY (offshore)”</b>	means the currency denomination in respect of an amount payable in Renminbi under a transaction that will be settled solely by transfer to a Renminbi bank account maintained in an Offshore CNY Center;
<b>“CNY (offshore) Disruption Provisions”</b>	means the “Additional Disruption Event Provisions for an Offshore Deliverable CNY Transaction dated as of September 8, 2016” as published by ISDA;
<b>“Collateral”</b>	means money, securities and other property as may, from time to time, be so designated by OTC Clear as permissible for Margin or Rates and FX Contribution in respect of the Rates and FX Clearing Services, in each case in such form as may be required by OTC Clear;
<b>“Collateral Account”</b>	has the meaning given to it in Clearing Rule 903;
<b>“Conditional Approval Breach Period”</b>	has the meaning given to it in Clearing Rule 308(1);
<b>“Contract”</b>	means a contract between OTC Clear and a Clearing Member arising in accordance with these Clearing Rules, the terms and conditions of which are the relevant Contract Terms;
<b>“Contract Termination Event”</b>	has the meaning given to it in Clearing Rule 1918A;
<b>“Contract Termination Losses”</b>	means, with respect to an Auction Portfolio constructed as a result of the DMP Event with respect to a Defaulting Clearing Member, the sum of (without double-counting): (i) the aggregate Contract Termination Net Payments payable by OTC Clear to Non-Defaulting Clearing Members as a result of a Contract Termination Event, (ii) the Unsettled VM Amounts in respect of the Auction Failed Positions comprised in such Auction Portfolio (to the extent that such Unsettled VM Amount is payable by the Defaulting Clearing Member to OTC Clear) and (iii) any

	hedging losses attributable to such Auction Failed Positions;
<b>“Contract Termination Net Payment”</b>	has the meaning given to it in Clearing Rule 1918B;
<b>“Contract Terms”</b>	means any of the Standard Rates Derivatives Contract Terms, Standard Cross-currency Rates Derivatives Contract Terms, Non Deliverable Rates Derivatives Contract Terms, Non Deliverable FX Derivatives Contract Terms, Deliverable FX Forward Contract Terms and Deliverable FX Swap Contract Terms, as applicable;
<b>“Contractual Currency”</b>	<p>means:</p> <ol style="list-style-type: none"> <li>(1) in respect of a Standard Rates Derivatives Contract or an Original Standard Rates Derivatives Transaction, the Currency in which the notional amount of such Standard Rates Derivatives Contract or Original Standard Rates Derivatives Transaction, as the case may be, is denominated;</li> <li>(2) in respect of a Standard Cross-currency Rates Derivatives Contract or an Original Standard Cross-currency Rates Derivatives Transaction, the Currencies in which the notional amounts of such Standard Cross-currency Rates Derivatives Contract or Original Standard Cross-currency Rates Derivatives Transaction, as the case may be, are denominated;</li> <li>(3) in respect of a Non Deliverable Rates Derivatives Contract or an Original Non Deliverable Rates Derivatives Transaction, the “Settlement Currency” of such Non Deliverable Rates Derivatives Contract or Original Non Deliverable Rates Derivatives Transaction, as the case may be;</li> <li>(4) in respect of a Non Deliverable FX Derivatives Contract or an Original Non Deliverable FX Derivatives Transaction, the “Settlement Currency” of such Non Deliverable FX Derivatives Contract or Original Non Deliverable FX Derivatives Transaction, as the case may be;</li> <li>(5) in respect of a Deliverable FX Forward Contract or an Original Deliverable FX Forward Transaction, the Currencies in which the notional amounts of such Deliverable FX Forward Contract or Original Deliverable FX Forward Transaction, as the case may be, are denominated; and</li> <li>(6) in respect of a Deliverable FX Swap Contract or an Original Deliverable FX Swap Transaction, the Currencies in which the notional amounts of such Deliverable FX Swap Contract or Original Deliverable FX Swap Transaction, as the case may be, are denominated,</li> </ol> <p>where “Settlement Currency” as used in paragraphs (3) and (4) above has the meaning given to it in the FX Definitions;</p>
<b>“Control”</b>	means any Person or entity who is entitled to exercise or control the

	exercise of 35% or more of the voting power at general meetings of the other entity or Person, or who is in a position to control the composition of a majority of the board of directors of the other entity or Person;
<b>“Corresponding Client Transaction”</b>	means any transaction between a Clearing Member and its Client with commercial terms that correspond to the commercial terms of a Contract cleared by the Clearing Member on behalf of such Client;
<b>“Currency Cum MTM(t)”</b>	means, with respect to each OTC Clear Clearing Day t during the Loss Distribution Period and a currency, the sum of Currency MTM Chg relating to the Currency Payment in such currency for each OTC Clear Clearing Day from (and including) the DMP Day to (and including) such OTC Clear Clearing Day t;
<b>“Currency Cum VM Flow(t)”</b>	means, with respect to each OTC Clear Clearing Day t during the Loss Distribution Period and a currency, the total sum, if any, actually paid by OTC Clear to such Non-Defaulting Clearing Member (expressed as a positive number) or by such Non-Defaulting Clearing Member to OTC Clear (expressed as a negative number) in respect of the Currency VM Flow in such currency from (and including) the DMP Day to (and including) such OTC Clear Clearing Day t. Currency Cum VM Flow(t-1) shall be the value for Currency Cum VM Flow(t) calculated on the OTC Clear Clearing Day immediately preceding OTC Clear Clearing Day t during the Loss Distribution Period, provided that where OTC Clear Clearing Day t is the DMP Day, Currency Cum VM Flow(t-1) shall be zero;
<b>“Currency Day”</b>	means, in respect of a currency (including any Contractual Currency), a day on which commercial banks and foreign exchange markets in places where payment or settlement of such currency is normally settled are open for general business (including dealings in foreign exchange and foreign currency deposits);
<b>“Currency MTM Chg(t)”</b>	means, with respect to each OTC Clear Clearing Day t during the Loss Distribution Period and a currency, the Currency Payment in such currency (converted, where applicable, into the Base Currency at the Latest Exchange Rate determined on such OTC Clear Clearing Day t) which would be paid by OTC Clear to such Non-Defaulting Clearing Member (expressed as a positive number) or by such Non-Defaulting Clearing Member to OTC Clear (expressed as a negative number) on such OTC Clear Clearing Day;
<b>“Currency Pair”</b>	means a currency pair the quotation of which provides the relative value of a currency unit against the unit of another currency;
<b>“Currency Pair (swap and FX)”</b>	means, in respect of an Original Standard Cross-currency Rates Derivatives Transaction, an Original Deliverable FX Forward Transaction, an Original Deliverable FX Swap Transaction, a Standard Cross-currency Rates Derivatives Contract, a Deliverable FX Forward Contract or a Deliverable FX Swap Contract, the currency pair in which the notional amounts are denominated;

<b>“Currency Payment”</b>	means, in respect of any OTC Clear Clearing Day and a currency, the aggregated amount which would be paid by OTC Clear to a Non-Defaulting Clearing Member (expressed as a positive number) or by such Non-Defaulting Clearing Member to OTC Clear (expressed as a negative number) (including all Variation Margin, coupons and fees but excluding payments of any notional amount in respect of a Deliverable FX Derivatives Contract, Initial Exchange Amount, Final Exchange Amount and VM Reversal due on that OTC Clear Clearing Day) in such currency on such OTC Clear Clearing Day without application of the VM Haircut;
<b>“Currency VM Flow(t)”</b>	means, with respect to each OTC Clear Clearing Day t during the Loss Distribution Period and a currency, an amount equal to the net Currency Payment in such currency for that OTC Clear Clearing Day after taking into account the additional amount payable to OTC Clear or the amount received from OTC Clear pursuant to Clearing Rule 1524(2) or 1524(3);
<b>“Custodian”</b>	means any custodian appointed by OTC Clear from time to time;
<b>“Daily GF Value”</b>	has the meaning given to it in section 6.1.1(6) of the Clearing Procedures;
<b>“Damage”</b>	means any damage, loss, cost or expense of whatsoever nature;
<b>“DCM GF Shortfall”</b>	means, with respect to an Auction Portfolio constructed as a result of the occurrence of a DMP Event with respect to a Defaulting Clearing Member, the amount by which (1) the remaining Auction Losses or Contract Termination Losses relating to such Auction Portfolio after all applications pursuant to Clearing Rule 1914(1) exceeds (2) the product of RAP relating to such Auction Portfolio and the Rates and FX Contribution of such Defaulting Clearing Member;
<b>“DCM GF Surplus”</b>	means, with respect to an Auction Portfolio constructed as a result of the occurrence of a DMP Event with respect to a Defaulting Clearing Member, the amount by which (1) the product of RAP relating to such Auction Portfolio and the Rates and FX Contribution of such Defaulting Clearing Member exceeds (2) the remaining Auction Losses or Contract Termination Losses relating to such Auction Portfolio after utilization of the Initial House Resources in full;
<b>“DCM Margin”</b>	has the meaning given to it in Clearing Rule 1913(A)(1);
<b>“Deed of Charge”</b>	means a deed of charge between a Clearing Member and OTC Clear in respect of non-cash Collateral;
<b>“Default Interest Rate”</b>	means, with respect to an Eligible Currency, the higher of (i) best lending rate obtained by OTC Clear from its banker plus 2% per annum and (ii) the relevant interbank offered rate for such Eligible Currency plus 2% per annum as set out in the Fees Schedule;
<b>“Default Management Group”</b>	means the default management group established by OTC Clear in accordance with Clearing Rule 1605;

<b>“Default Management Process”</b>	has the meaning given to it in Clearing Rule 1601;
<b>“Defaulting Clearing Member”</b>	means any Clearing Member in respect of which a DMP Event has occurred;
<b>“Deliverable FX Derivatives”</b>	means both Deliverable FX Forwards and Deliverable FX Swaps;
<b>“Deliverable FX Derivatives -Contract”</b>	means a Contract relating to Deliverable FX Derivatives;
<b>“Deliverable FX Forward”</b>	means the types of derivatives transactions satisfying the Product Eligibility Requirements for Deliverable FX Forwards set out in section 3.4 of the Clearing Procedures;
<b>“Deliverable FX Forward Contract”</b>	means a Contract relating to a Deliverable FX Forward;
<b>“Deliverable FX Forward Contract Terms”</b>	has the meaning given to it in Clearing Rule 2601;
<b>“Deliverable FX Swap”</b>	means the types of derivatives transactions satisfying the Product Eligibility Requirements for Deliverable FX Swaps set out in section 3.4 of the Clearing Procedures;
<b>“Deliverable FX Swap Contract”</b>	means a Contract relating to a Deliverable FX Swap;
<b>“Deliverable FX Swap Contract Terms”</b>	has the meaning given to it in Clearing Rule 2601;
<b>“DTC”</b>	means a “deposit-taking company” which has the same meaning as in the Banking Ordinance;
<b>“Derivative Transaction”</b>	means: (1) any transaction (including an agreement with respect to any such transaction) now existing or hereafter to which a Clearing Member is party to (a) which is a rate swap transaction, swap option, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, weather index transaction or forward purchase or sale of a security, commodity or other financial instrument or interest

	<p>(including any option with respect to any of these transactions) or (b) which is a type of transaction that is similar to any transaction referred to in (a) above that is currently, or in the future becomes, recurrently entered into in the financial markets (including terms and conditions incorporated by reference in such agreement) and which is a forward, swap, future, option, or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries are to be made; and</p> <p>(2) any combination of these transactions;</p>
<b>“Designated Person”</b>	means, with respect to a Clearing Member, an Affiliate or a CM Branch of such Clearing Member who has been approved by OTC Clear to submit Original Transaction to OTC Clear on behalf, and in the name, of such Clearing Member in accordance with Chapter 7 of these Clearing Rules;
<b>“Disciplinary Appeals Committee”</b>	means the disciplinary appeals committee of OTC Clear or such other committee which the OTC Clear Board has from time to time delegated its power to consider disciplinary appeals;
<b>“Disciplinary Committee”</b>	means the disciplinary committee of OTC Clear or such other committee to which the OTC Clear Board has from time to time delegated its power to adjudicate disciplinary matters;
<b>“DMG Delegate”</b>	has the meaning given to it in Clearing Rule 1609(1);
<b>“DMG Information”</b>	means: <ul style="list-style-type: none"> <li>(1) information (including but not limited to portfolio data and documents) disclosed to a DMG Member, or to which a DMG Member obtains or otherwise has access as a result of participation in the Default Management Process as a member of the Default Management Group, and which is not available to the public;</li> <li>(2) the knowledge that a Person has received any information which is DMG Information; and</li> <li>(3) details of the Permitted Purpose and any of the proposals, terms, conditions, facts or other matters relating to any of the foregoing;</li> </ul>
<b>“DMG Member”</b>	means, at any time, a DMG Delegate selected by OTC Clear to participate in the Default Management Group at such time;
<b>“DMP Day”</b>	means the date on which the relevant DMP Event occurs;
<b>“DMP Event”</b>	means each of the events described in Clearing Rule 1601;
<b>“DMP Information”</b>	means, with respect to a Default Management Process, any information provided by OTC Clear to a Receiving Clearing Member relating to such Default Management Process;

<p><b>“Early Termination Date”</b></p>	<p>means, in respect of a Contract registered in the name of a Clearing Member, the date determined as an Early Termination Date for such Contract in accordance with Clearing Rule 210(1), 1303, 1305, 1320(1), 1321 or 1322, as the case may be. A Contract shall be terminated or novated with effect from the Early Termination Date relating to it;</p>
<p><b>“Economic Terms”</b></p>	<p>means the terms of a Contract derived from the Transaction Data relating to the corresponding Original Transaction;</p>
<p><b>“Eligibility Requirements”</b></p>	<p>means, with respect to an Original Transaction submitted for registration with OTC Clear, the eligibility requirements applicable to such Original Transaction as set out in sections 3.4 and 4.6 of the Clearing Procedures;</p>
<p><b>“Eligible Currency”</b></p>	<p>means any of Hong Kong dollars, U.S. dollars (“<b>USD</b>”), Euros (“<b>EUR</b>”) and CNY (offshore). The list of Eligible Currencies may be amended or updated by OTC Clear from time to time;</p>
<p><b>“Emergency Close-Out”</b></p>	<p>means the process by which:</p> <ol style="list-style-type: none"> <li>(1) a Contract with the same terms as an existing Contract is created by OTC Clear pursuant to Clearing Rule 210, provided that (a) in respect of a Rates Derivatives Contract, if the Clearing Member is a floating rate payer under such Rates Derivatives Contract, such Clearing Member shall become the fixed rate payer under the new Rates Derivatives Contract and vice versa; (b) in respect of a Rates Derivatives Contract, if the Clearing Member is floating rate payer I under such Rates Derivatives Contract, such Clearing Member shall become the floating rate payer II under the new Rates Derivatives Contract and vice versa; (c) in respect of a Non Deliverable FX Derivatives Contract, if the Clearing Member is a Reference Currency Buyer under such Non Deliverable FX Derivatives Contract, such Clearing Member shall become the Reference Currency Seller under the new Non Deliverable FX Derivatives Contract and vice versa; and (d) in respect of a Deliverable FX Derivatives Contract, if the Clearing Member is a payer of a notional amount under such Deliverable FX Derivatives Contract, such Clearing Member shall become the receiver of such notional amount under the new Deliverable FX Derivatives Contract and vice versa, and in each case, at a price and on the terms as determined by OTC Clear in a commercially reasonable manner;</li> <li>(2) a Contract is novated from the relevant Clearing Member to another Clearing Member by agreement between OTC Clear and such other Clearing Member in a commercially reasonable manner on the designated Early Termination Date; or</li> <li>(3) a Contract is terminated at a price and on the terms determined by OTC Clear in a commercially reasonable manner on the designated Early Termination Date;</li> </ol>

<b>“EMTA”</b>	means the Emerging Markets Trade Association;
<b>“EMTA Template”</b>	has the meaning given to it in Clearing Rule 2404;
<b>“Encumbrance”</b>	means any claim, charge, mortgage, security, lien, equity, beneficial interest, power of sale, option or other right to purchase, usufruct, hypothecation, retention of title, right of pre-emption or other third party right or security interest of any kind or an agreement to create any of the foregoing;
<b>“Equal Bidder”</b>	means, with respect to an Auction Portfolio, a Bidder, other than the Successful Bidder, who has submitted a Bid the value of which is exactly the same as the Successful Bid for such Auction Portfolio;
<b>“Error Contract”</b>	has the meaning given to it in Clearing Rule 814;
<b>“EUR”</b>	means the lawful currency of the member states of the European Union that adopt the single currency in accordance with the EC Treaty (as such term is defined in the ISDA Definitions);
<b>“Event of Default”</b>	has the meaning given to it in Clearing Rule 1301;
<b>“Excess Margin”</b>	means, in relation to a Clearing Member and any of its Position Account(s), the amount by which its Margin Balance exceeds the aggregate value of its Initial Margin requirements, Additional Margin requirements and Variation Margin requirements in respect of any Routine Intra-day VM Call and any Ad Hoc Intra-day VM Call (but excluding any requirements in respect of end-of-day Variation Margin), in each case, applicable to the relevant Position Account;
<b>“Failure to Pay Notice”</b>	has the meaning given to it in Clearing Rule 1317;
<b>“Final Exchange Amount”</b>	has the meaning given to it in the ISDA Definitions;
<b>“Final Exchange Date”</b>	has the meaning given to it in the ISDA Definitions;
<b>“Final Order Notice”</b>	has the meaning given to it in Clearing Rule 1414;
<b>“Financial Emergency”</b>	means, with respect to any Clearing Member, any situation in which the financial or operational condition of such Clearing Member is not or is likely not to be adequate for such Clearing Member to meet its obligations (including, without limitation, its obligations to comply with these Clearing Rules) or to engage in business, or is such that it would not be in the best interests of OTC Clear or the marketplace for such Clearing Member to continue to be a Clearing Member;
<b>“Financial Resources Rules”</b>	means Securities and Futures (Financial Resources) Rules (Laws of Hong Kong Cap. 571N);

<b>“Force Majeure Event”</b>	means any event beyond the control of any of OTC Clear, its Affiliates, a recognized exchange controller which is the controller of OTC Clear or any of their respective Representatives, or the relevant Clearing Member which may hinder, prevent or render it impossible or impracticable for OTC Clear or the relevant Clearing Member to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Contract or to comply with other material provision of the Clearing Documentation and/or Contract Terms under such Contract, and may include, but shall not be limited to, acts of God or the public enemy, acts of a civil or military authority, embargoes, fires, floods, explosions, accidents, labor disputes, mechanical breakdowns, failures in the payment systems or settlement systems, computer or system failures or other failures of equipment, failures of or defects in computer or system software, unavailability of or restrictions on any communication media for whatever reason (whether or not such media is used by Clearing Members), interruptions (whether in whole or in part) of power supplies or other utility or service, any law, decree, regulation or order of any government, competent authority or any court or tribunal;
<b>“Former Clearing Member”</b>	means, at any time, a Person who was a Clearing Member but a Membership Termination Date has occurred in respect of it prior to such time;
<b>“FXC”</b>	means The Foreign Exchange Committee;
<b>“FX Derivatives”</b>	means both Deliverable FX Derivatives and Non Deliverable FX Derivatives;
<b>“FX Derivatives Clearing Services”</b>	means the service provided by OTC Clear in respect of clearing FX Derivatives transactions in the over-the-counter derivatives market in accordance with the Clearing Documentation;
<b>“FX Derivatives Contract”</b>	means a Contract relating to FX Derivatives;
<b>“FX Definitions”</b>	means the 1998 FX and Currency Option Definitions (including Annex A thereto) as published by ISDA, EMTA and FXC;
<b>“Gainer VM Flow Adjustment(t)”</b>	means the Gainer VM Flow Adjustment Base Currency(t) converted into the currency in which the relevant Currency Payment is denominated at the Latest Exchange Rate determined on OTC Clear Clearing Day t;
<b>“Gainer VM Flow Adjustment Base Currency(t)”</b>	means an amount determined in the Base Currency on the relevant OTC Clear Clearing Day t for each Currency Payment relating to a Position Account as follows: Currency MTM Chg(t) – (Currency Cum MTM(t) X (1-VM Haircut(t)) – Currency Cum VM Flow(t-1))
<b>“General Losses”</b>	has the meaning given to it in Clearing Rule 1515(2);

<b>“GF Account”</b>	has the meaning given to it in Clearing Rule 905;
<b>“GF Increase Effective Date”</b>	has the meaning given to it in Clearing Rule 1512;
<b>“Governmental Authority”</b>	means any Regulatory Authority and any national, federal, supranational, state, regional, provincial, local or other government, government department, ministry, governmental or administrative authority, regulator, agency, commission, secretary of state, minister, court, tribunal, judicial body or arbitral body or any other Person exercising judicial, executive, interpretative, enforcement, regulatory, investigative, fiscal, taxing or legislative powers or authority anywhere in the world with competent jurisdiction;
<b>“Hedging”</b>	means the process of mitigating or reducing the market risk associated with the occurrence of a DMP Event with respect to a Clearing Member, as described in Chapter 18 of these Clearing Rules;
<b>“HKEX”</b>	means Hong Kong Exchanges and Clearing Limited, a recognized exchange controller under the SFO which is the controller of OTC Clear;
<b>“HKEX website”</b>	means the official website of HKEX at <a href="http://www.hkex.com.hk">http://www.hkex.com.hk</a> or at such other website address specified by HKEX or OTC Clear from time to time;
<b>“HKMA”</b>	means the Hong Kong Monetary Authority;
<b>“Hong Kong”</b>	means the Hong Kong Special Administrative Region;
<b>“Hong Kong dollars” or “HK\$”</b>	means the lawful currency of Hong Kong;
<b>“House Account”</b>	means a House Position Account or House Collateral Account;
<b>“House Auction Portfolio”</b>	has the meaning given to it in Clearing Rule 1913A;
<b>“House Business”</b>	means Contracts recorded in the House Position Account of a Clearing Member;
<b>“House Collateral Account”</b>	means, in respect of a House Position Account opened in the name of a Clearing Member, an account opened in the books of OTC Clear for the purposes of recording the type(s) and amount of Collateral attributed by OTC Clear to such House Position Account in accordance with these Clearing Rules;
<b>“House Credit”</b>	has the meaning given to it in Clearing Rule 1306A(3);
<b>“House Position Account”</b>	has the meaning given to it in Clearing Rule 902(1);
<b>“Hypothetical IM Percentage”</b>	has the meaning given to it in Clearing Rule 1914(1)(c);
<b>“Identified”</b>	has the meaning given to it in Clearing Rule 1918A;

<b>Contract</b>	
<b>“Illegality”</b>	means due to the adoption of, or any change in, any Applicable Laws after the date on which a Contract is registered by OTC Clear, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or Regulatory Authority with competent jurisdiction of any Applicable Laws after such date, it becomes unlawful for a Clearing Member and/or OTC Clear who are a party to the Contract to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Contract or to comply with other material provision of the Clearing Documentation and/or Contract Terms;
<b>“Increased Risk”</b>	has the meaning given to it in Clearing Rule 1510;
<b>“Indebtedness”</b>	means any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of payment or, repayment of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit) or any Derivative Transaction;
<b>“Information Barrier”</b>	means an information barrier established within different divisions of a firm to ensure any and all applicable confidentiality obligation is respected in order to avoid any conflict of interest;
<b>“Initial Exchange Amount”</b>	has the meaning given to it in the ISDA Definitions;
<b>“Initial Exchange Date”</b>	has the meaning given to it in the ISDA Definitions;
<b>“Initial House Resources”</b>	has the meaning given to it in Clearing Rule 1913A(1);
<b>“Initial Margin”</b>	means, with respect to each Clearing Member and a Position Account, an amount required to cover OTC Clear’s potential future exposure in respect of such Position Account, as calculated in accordance with section 4.2 of the Clearing Procedures;
<b>“Initial Non-Porting Client Resources”</b>	has the meaning given to it in Clearing Rule 1913B(1);
<b>“Initial Order Notice”</b>	has the meaning given to it in Clearing Rule 1408;
<b>“INR”</b>	means the lawful currency of India;
<b>“Insolvency Proceedings”</b>	means where an entity: <ul style="list-style-type: none"> <li>(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger);</li> <li>(2) becomes insolvent or unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding</li> </ul>

	<p>or filing its inability generally to pay its debts as they become due;</p> <p>(3) makes a general assignment, arrangement or composition with or for the benefit of its creditors;</p> <p>(4) institutes or has instituted against it a proceeding seeking judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights or a petition is presented for its winding-up or liquidation and in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition: (a) results in a judgment of insolvency or bankruptcy, or the entry of an order for relief, or the making of an order for winding-up or liquidation; or (b) is not dismissed, discharged, stayed or restrained in each case within 30 calendar days of the institution or presentation thereof;</p> <p>(5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);</p> <p>(6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets;</p> <p>(7) has a secured party take possession of all or substantially all its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained in each case within 30 calendar days thereafter; or</p> <p>(8) causes or is subject to any event with respect to it which, under Applicable Laws, has an analogous effect to any of the events specified in paragraphs (1) to (7) above;</p>
<b>"ISDA"</b>	means the International Swaps and Derivatives Association, Inc.;
<b>"ISDA Amendment"</b>	has the meaning given to it in Clearing Rule 2207;
<b>"ISDA Definitions"</b>	means the definitions and provisions contained in the 2006 ISDA Definitions, as published by ISDA;
<b>"ISDA FX Amendment"</b>	has the meaning given to it in Clearing Rule 2408;
<b>"ISDA FX Definitions"</b>	has the meaning given to it in Clearing Rule 2403;
<b>"ISDA FX Deliverables"</b>	has the meaning given to it in Clearing Rule 2607;

<b>Amendment</b>	
<b>“Junior Tranche”</b>	has the meaning given to it in Clearing Rule 1914(4)(a);
<b>“KRW”</b>	means the lawful currency of the Republic of Korea;
<b>“Latest Exchange Rate”</b>	means, with respect to any day, the exchange rate determined and applied by OTC Clear on such day for converting a Currency Payment denominated in a currency other than the Base Currency into the Base Currency;
<b>“Licensed Corporation”</b>	means a corporation which is licensed to carry on regulated activity under section 116 of the SFO;
<b>“Limited Recourse Applicable Percentage”</b>	has the meaning given to it in Clearing Rule 1538(2);
<b>“Limited Recourse Final CM Payable”</b>	has the meaning given to it in Clearing Rule 1537(4);
<b>“Limited Recourse Interim CM Payable”</b>	has the meaning given to it in Clearing Rule 1537(1);
<b>“Limited Recourse CM Receivable”</b>	has the meaning given to it in Clearing Rule 1537(1);
<b>“Loser VM Flow Adjustment(t)”</b>	means the Loser VM Flow Adjustment Base Currency(t) converted into the currency in which the relevant Currency Payment is denominated in at the Latest Exchange Rate determined on OTC Clear Clearing Day t;
<b>“Loser VM Flow Adjustment Base Currency(t)”</b>	means an amount determined in the Base Currency on the relevant OTC Clear Clearing Day t for each Currency Payment relating to a Position Account as follows:  Currency MTM Chg(t) – (Currency Cum MTM(t) – Currency Cum VM Flow(t-1))
<b>“Loss Distribution Period”</b>	means the period from (and including) the DMP Day to (but excluding) the OTC Clear Clearing Day on which all Auction Portfolios constructed for the relevant DMP Event have either been successfully auctioned or the subject of a Contract Termination Event, and all Auction Receivables, Auction Payments and/or Contract Termination Net Payments (as applicable) in respect of each such Auction Portfolio has been discharged in full by the relevant party on or prior to the relevant date of payment; or if one or more subsequent DMP Events occur prior to the end of a Loss Distribution Period, such Loss Distribution Period shall be extended and will end on the day on which all Auction Portfolios constructed for each such subsequent DMP Event have either been successfully auctioned or the subject of a

	Contract Termination Event and the related Auction Receivables and/or Auction Payments and/or Contract Termination Net Payments (as applicable) have been discharged in full by the relevant party on or prior to the relevant date of payment;
<b>“Loss Distribution Process”</b>	has the meaning given to it in Clearing Rule 1523;
<b>“Lower Bidder”</b>	means, with respect to an Auction Portfolio, any Bidder, other than any Better Bidder, Equal Bidder or Successful Bidder, who has submitted a Bid the value of which is equal to or greater than (1) the value of the Successful Bid less (2) the value determined by OTC Clear to be the riskiness of such Auction Portfolio, calculated by reference to the hypothetical Initial Margin of such Auction Portfolio at the Portfolio Novation Cycle immediately preceding the commencement of the Auction for such Auction Portfolio assuming that the Contracts forming part of such Auction Portfolio were all booked into a single separate hypothetical position account;
<b>“Margin”</b>	means Initial Margin (including any intra-day Initial Margin), Additional Margin and Variation Margin (including any intra-day Variation Margin) required by OTC Clear pursuant to these Clearing Rules;
<b>“Margin Allocation Percentage”</b>	means: (1) in respect of a House Auction Portfolio, the margin allocation percentage determined by OTC Clear and assigned to such House Auction Portfolio representing the risk that such House Auction Portfolio bears to the aggregate risk of all House Auction Portfolios constructed in respect of a DMP Event; and (2) in respect of a Client Auction Portfolio and a Client Collateral Account, the margin allocation percentage determined by OTC Clear and assigned to such Client Collateral Account representing the risk that the Contracts in the Client Position Account attributed to such Client Collateral Account bears to the aggregate risk of all Client Auction Portfolios constructed in respect of a DMP Event which comprise Contracts of the Client Position Account to which such Client Collateral Account is attributed;
<b>“Margin Balance”</b>	means, in respect of a Clearing Member and a Position Account, the aggregate value (as determined in accordance with Chapter 7 of the Clearing Procedures and including any Excess Margin) of Collateral provided in respect of Initial Margin, Additional Margin, Ad Hoc Intra-day Variation Margin and Routine Intra-day Variation Margin by (and not being requested to be redelivered to) such Clearing Member, in each case, as recorded in the corresponding Collateral Account, and subject to application in accordance with Chapter 13, Chapter 15 or Chapter 19 of these Clearing Rules;
<b>“Maximum Current”</b>	has the meaning given to it in Clearing Rule 1544;

<b>Liability”</b>	
<b>“Max EUL”</b>	has the meaning given to it in section 6.1.1(6) of the Clearing Procedures;
<b>“Membership”</b>	has the meaning given to it in the definition of Clearing Member;
<b>“Membership Agreement”</b>	means the agreement in prescribed form between a Clearing Member and OTC Clear regulating the terms and conditions of such Clearing Member’s membership in OTC Clear;
<b>“Membership Termination Date”</b>	<p>means:</p> <ol style="list-style-type: none"> <li>(1) in respect of a voluntary resignation by a Clearing Member pursuant to Clearing Rule 604, the Resignation Effective Date;</li> <li>(2) in respect of the termination of a Clearing Member’s Membership by OTC Clear pursuant to Clearing Rule 1224(2), the date notified by OTC Clear to the relevant Clearing Member;</li> <li>(3) in respect of the termination of a Clearing Member’s Membership by OTC Clear pursuant to Clearing Rule 1405, the date determined in accordance with Clearing Rule 1409;</li> <li>(4) in respect of any occurrence of an Automatic Early Termination Event or delivery of a Notice of Default, the date determined by OTC Clear, and notified, to the Defaulting Clearing Member pursuant to Clearing Rule 1311, which shall fall on a date subsequent to the completion of the Default Management Process; and</li> <li>(5) in respect of the designation of an Early Termination Date arising out of: <ol style="list-style-type: none"> <li>(a) an OTC Clear Failure to Pay Event pursuant to Clearing Rule 1321;</li> <li>(b) an OTC Clear Insolvency Event pursuant to Clearing Rule 1322; or</li> <li>(c) such designation by OTC Clear during the OTC Clear Failure to Pay Grace Period pursuant to Clearing Rule 1320(1),</li> </ol> <p>in each case referred to in paragraphs (5)(a), (b) and (c) above, if an OTC Clear Default CM Receivable is payable by OTC Clear, the Membership Termination Date shall be the day on which such OTC Clear Default CM Receivable becomes due and payable by OTC Clear; and if an OTC Clear Default Final CM Payable is payable by the relevant Clearing Member, the Membership Termination Date shall be the day on which the relevant Clearing Member has fully discharged its obligation to pay the OTC Clear Default Final CM Payable pursuant to Clearing Rule 1324(7)(d);</p> </li> </ol>
<b>“Middle Tranche”</b>	has the meaning given to it in Clearing Rule 1914(4)(b);

<p><b>“Minimum Capital Requirement”</b></p>	<p>means, in respect of any day in a calendar month:</p> <p>(1) with respect to any Clearing Member who is an Authorized Institution that is a bank (incorporated in Hong Kong or overseas<sup>*</sup>), an Authorized Institution that is a DTC or RLB incorporated overseas<sup>*</sup>, or a Remotely Regulated Entity, the higher of:</p> <p>(a) HK\$10 billion; and</p> <p>(b) an amount equal to the product of (i) 5% and (ii) the average of the aggregate Initial Margin requirements in respect of all Position Accounts (including the House Position Account and all Client Position Accounts) of the Clearing Member for each day falling in the immediately preceding calendar month;</p> <p>(2) with respect to any Clearing Member who is an Authorized Institution that is a DTC or RLB incorporated in Hong Kong, the higher of:</p> <p>(a) HK\$ 390 million;</p> <p>(b) the capital requirement applicable to such Clearing Member set forth in the Seventh Schedule to the Banking Ordinance; and</p> <p>(c) an amount equal to the product of (i) 5% and (ii) the average of the aggregate Initial Margin requirements in respect of all Position Accounts (including the House Position Account and all Client Position Accounts) of the Clearing Member for each day falling in the immediately preceding calendar month; and</p> <p>(3) with respect to any Clearing Member who is a Licensed Corporation, the higher of:</p> <p>(a) HK\$ 390 million;</p> <p>(b) the “required liquid capital” set forth by the Financial Resources Rule; and</p> <p>(c) an amount equal to the product of (i) 5% and (ii) the average of the aggregate Initial Margin requirements in respect of all Position Accounts (including the House Position Account and all Client Position Accounts) of the Clearing Member for each day falling in the immediately preceding calendar month;</p>
<p><b>“Minimum Capital</b></p>	<p>has the meaning given to it in Clearing Rule 404(1);</p>

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<sup>\*</sup> Note: Introduction of remote membership is being considered by HKEX at the moment, and is not intended to be available during the initial phase of establishment of OTC Clear.

<b>Requirement Breach Period</b>	
<b>“Mitigating Measures”</b>	means the measures set out in sub-paragraphs (ii)(b), (ii)(c) and (ii)(d)(B) of section 3.19 of the Clearing Procedures;
<b>“MYR”</b>	means the lawful currency of the Federation of Malaysia;
<b>“NDCM GF”</b>	has the meaning given to it in Clearing Rule 1913A(4);
<b>“NDCM GF Shortfall”</b>	means, with respect to an Auction Portfolio, the amount by which (1) the remaining Auction Losses or Contract Termination Losses relating to such Auction Portfolio after utilization of the OTC Clear First Contribution in full pursuant to Clearing Rule 1914(3) exceeds (2) the product of RAP and NDCM GF (each relating to such Auction Portfolio);
<b>“NDCM GF Surplus”</b>	means, with respect to an Auction Portfolio, the amount by which (1) the product of RAP and NDCM GF (each relating to such Auction Portfolio) exceeds (2) the remaining Auction Losses or Contract Termination Losses relating to such Auction Portfolio after utilization of the OTC Clear First Contribution in full pursuant to Clearing Rule 1914(3);
<b>“ND IRS Amendment”</b>	has the meaning given to it in Clearing Rule 2308;
<b>“ND IRS Definitions”</b>	has the meaning given to it in Clearing Rule 2303;
<b>“ND IRS Template”</b>	has the meaning given to it in Clearing Rule 2304;
<b>“No Position NDCM”</b>	means, with respect to an Auction Portfolio, a Non-Defaulting Clearing Member who does not, on any day during the 20 OTC Clear Business Day-period immediately preceding the Auction of such Auction Portfolio, have any Contract registered in its name of a Transaction Category which is the same as any Auction Positions within such Auction Portfolio and who chooses not to bid for such Auction Portfolio;
<b>“Non-Bidder”</b>	means a Non-Defaulting Clearing Member who is required to bid for an Auction Portfolio but fails to do so;
<b>“Non-Defaulting Clearing Member”</b>	means at any time, any Clearing Member who is not a Defaulting Clearing Member at such time;
<b>“Non-Default Unwind”</b>	means, in relation to a Clearing Member, the process by which the Clearing Member unwinds its Contracts through a liquidation or other form of close-out of its Contracts as part of the resignation of a Clearing Member’s Membership;
<b>“Non Deliverable FX Derivatives”</b>	means the types of derivative transactions satisfying the Product Eligibility Requirements for Non Deliverable FX Derivatives set out in section 3.4 of the Clearing Procedures;

<b>“Non Deliverable FX Derivatives Contract”</b>	means a Contract relating to Non Deliverable FX Derivatives;
<b>“Non Deliverable FX Derivatives Contract Terms”</b>	has the meaning given to it in Clearing Rule 2401;
<b>“Non Deliverable Rates Derivatives”</b>	means the types of derivative transactions satisfying the Product Eligibility Requirements for Non Deliverable Rates Derivatives set out in section 3.4 of the Clearing Procedures;
<b>“Non Deliverable Rates Derivatives Contract”</b>	means a Contract relating to Non Deliverable Rates Derivatives;
<b>“Non Deliverable Rates Derivatives Contract Terms”</b>	has the meaning given to it in Clearing Rule 2301;
<b>“Non-delivering Clearing Member”</b>	means the Clearing Member responsible for a “Notional Exchange Failure”;
<b>“Non-Porting AET Contract”</b>	means, in respect of a Porting Client of a Defaulting Clearing Member in respect of which an Automatic Early Termination Event has occurred, any Affected AET Contract that was recorded in the relevant Client Position Account immediately prior to the occurrence of that Automatic Early Termination Event and which had a scheduled Termination Date or Settlement Date, as the case may be, that would have fallen prior to the relevant porting being completed;
<b>“Non-Porting Client”</b>	has the meaning given to it in Clearing Rule 1708;
<b>“Non-Porting Client Credit”</b>	has the meaning given to it in Clearing Rule 1306A(4);
<b>“Non-Porting Client Deficit”</b>	has the meaning given to it in Clearing Rule 1306A(3);
<b>“Non-Porting Client Margin”</b>	has the meaning given to it in Clearing Rule 1913B(1);
<b>“Non-Porting Contracts”</b>	means, in respect of a Porting Client of a Defaulting Clearing Member, the Contracts recorded in the relevant Client Position Account that remain outstanding as at the date the relevant DMP Event occurs and which have a scheduled Termination Date or Settlement Date, as the case may be, that falls prior to the relevant porting being completed;
<b>“Non Rule-</b>	means a Clearing Member who is not a Rule-Based Clearing Member;

<b>Based Clearing Member”</b>	
<b>“Notice of Default”</b>	has the meaning given to it in Clearing Rule 1304;
<b>“Notice of Disciplinary Appeals Committee Hearing”</b>	has the meaning given to it in Clearing Rule 1410;
<b>“Notice of Disciplinary Committee Hearing”</b>	has the meaning given to it in Clearing Rule 1406;
<b>“Notional Exchange Failure”</b>	means a failure by a Clearing Member (a “Non-delivering Clearing Member”) to deliver (1) an Initial Exchange Amount or Final Exchange Amount of a Standard Cross-currency Rates Derivatives Contract as the case may be, by 12:00 hours Hong Kong time on the Initial Exchange Date or Final Exchange Date respectively of a Standard Cross-currency Rates Derivatives Contract and/or (2) a notional amount of a Deliverable FX Derivatives Contract as the case may be, by 12:00 hours Hong Kong time on the Settlement Date of a Deliverable FX Derivatives Contract;
<b>“Notional Exchange Failure Adjustment Amount”</b>	has the meaning given to it in section 3.19 of the Clearing Procedures;
<b>“Notional Exchange Failure Margin”</b>	has the meaning given to it in Clearing Rule 1002A;
<b>“Notional Exchange Risk Limit”</b>	has the meaning given to it in section 4.6.1.3 of the Clearing Procedures;
<b>“Offshore CNY Center”</b>	means the jurisdiction specified as such by a Clearing Member or a Client to an Original Transaction, or if no Offshore CNY Center is specified by the Clearing Member or Client, as the case may be, the Offshore CNY Center shall be Hong Kong;
<b>“open position”</b>	means a position that arises if a Person is a party to a Contract which has not been closed and is not offset by the position arising from other Contracts to which such Person is a party;
<b>“Original Deliverable FX Forward Transaction”</b>	means an Original Transaction in relation to a Deliverable FX Forward transaction;

<b>“Original Deliverable FX Swap Transaction”</b>	means an Original Transaction in relation to a Deliverable FX Swap transaction;
<b>“Original Non Deliverable FX Derivatives Transaction”</b>	means an Original Transaction in relation to a Non Deliverable FX Derivatives transaction;
<b>“Original Non Deliverable Rates Derivatives Transaction”</b>	means an Original Transaction in relation to a Non Deliverable Rates Derivatives transaction;
<b>“Original Standard Cross-currency Rates Derivatives Transaction”</b>	means an Original Transaction in relation to a Standard Cross-currency Rates Derivatives transaction;
<b>“Original Standard Rates Derivatives Transaction”</b>	means an Original Transaction in relation to a Standard Rates Derivatives transaction;
<b>“Original Transaction”</b>	means a transaction in relation to Rates Derivatives or FX Derivatives originally entered into between two Clearing Members, a Clearing Member and a Client, or two Clients, and that is submitted for registration with OTC Clear in accordance with these Clearing Rules;
<b>“OTC Clear”</b>	means OTC Clearing Hong Kong Limited, a company incorporated under the laws of Hong Kong, which is a subsidiary of HKEX;
<b>“OTC Clear Board”</b>	means the board of directors of OTC Clear and, where the context so permits, any committee of that board;
<b>“OTC Clear Business Day”</b>	means a day (other than Saturday and Sunday) on which commercial banks are open for general business in Hong Kong;
<b>“OTC Clear Clearing Day”</b>	means, at any time, each day appearing on the OTC Clear Clearing Days Calendar that is in effect at such time;
<b>“OTC Clear Clearing Days Calendar”</b>	means the OTC Clear clearing days calendar published by OTC Clear which includes each day on which the Rates and FX Clearing Services is in operation, as updated from time to time;
<b>“OTC Clear Contribution”</b>	means OTC Clear First Contribution and OTC Clear Second Contribution together;
<b>“OTC Clear Default Applicable Percentage”</b>	has the meaning given to it in Clearing Rule 1324(8)(b);

<b>“OTC Clear Default CM Receivable”</b>	has the meaning given to it in Clearing Rule 1324(7)(a);
<b>“OTC Clear Default Final CM Payable”</b>	has the meaning given to it in Clearing Rule 1324(7)(d);
<b>“OTC Clear Default Interim CM Payable”</b>	has the meaning given to it in Clearing Rule 1324(7)(a);
<b>“OTC Clear Failure to Pay Event”</b>	has the meaning given to it in Clearing Rule 1318;
<b>“OTC Clear Failure to Pay Grace Period”</b>	means the period from (but excluding) the day on which OTC Clear receives a Failure to Pay Notice from a Relevant Clearing Member to (and including) the 21st OTC Clear Business Day following such day;
<b>“OTC Clear First Contribution”</b>	means an amount equal to HK\$ 150 million, which represents the first tranche of the contribution payable by OTC Clear to the Rates and FX Guarantee Resources as may be replenished by OTC Clear from time to time in accordance with Clearing Rule 1511;
<b>“OTC Clear Insolvency Event”</b>	has the meaning given to it in Clearing Rule 1322;
<b>“OTC Clear Second Contribution”</b>	means an initial amount of HK\$ 6 million which may be built up to a maximum value of HK\$ 650 million as described in section 6.4 of the Clearing Procedures, and represents the second tranche of the contribution payable by OTC Clear to the Rates and FX Guarantee Resources. OTC Clear may replenish the OTC Clear Second Contribution from time to time in accordance with Clearing Rule 1511;
<b>“OTC Derivatives Contract”</b>	has the meaning given to it in the Preface to the Clearing Rules;
<b>“Outright Transfer Margin Balance”</b>	means, with respect to any Position Account and at any time, any unused Margin Balance recorded in the Collateral Account relating to such Position Account (but excluding the aggregate value of any non-cash Collateral comprising such Margin Balance provided to OTC Clear on a security interest basis for such Position Account);
<b>“Paying Clearing Member”</b>	has the meaning given to it in Clearing Rule 814B(3);
<b>“Permitted Purpose”</b>	means, with respect to a Default Management Process, any purpose the objective of which is to allow the Clearing Member to fulfil its duties under such Default Management Process;
<b>“Person”</b>	means any individual, partnership, firm, body corporate, association, trust, unincorporated organization or other entity;

<b>“Personal Data (Privacy) Ordinance”</b>	means the Personal Data (Privacy) Ordinance (Laws of Hong Kong Cap. 486);
<b>“Poor Bidder”</b>	means, with respect to an Auction Portfolio, any Bidder who submitted a Bid the value of which is lower than (1) the value of the Successful Bid less (2) the value determined by OTC Clear to be the riskiness of such Auction Portfolio, calculated by reference to the hypothetical Initial Margin of such Auction Portfolio at the Portfolio Novation Cycle immediately preceding the commencement of the Auction for such Auction Portfolio assuming that the Contracts forming part of such Auction Portfolio were all booked into a single separate hypothetical position account;
<b>“Portfolio Novation Cycle”</b>	has the meaning given to it in section 4.6.3 of the Clearing Procedures;
<b>“Porting AET Contract”</b>	means, in respect of a Porting Client of a Defaulting Clearing Member in respect of which an Automatic Early Termination Event has occurred, any Affected AET Contract that was recorded in the relevant Client Position Account immediately prior to the occurrence of that Automatic Early Termination Event and which had a scheduled Termination Date or Settlement Date that would have fallen on or after the relevant porting being completed;
<b>“Porting Client”</b>	has the meaning given to it in Clearing Rule 1708;
<b>“Porting Instruction”</b>	means the instructions to OTC Clear, in such form as OTC Clear may require from time to time, provided by a Client, its original Clearing Member and the Replacement Clearing Member appointed by such Client, which evidence the consent of all parties thereto to:  (1) if a DMP Event (other than an Automatic Early Termination Event) occurs with respect to the original Clearing Member, terminate all Affected Contracts registered in the name of the original Clearing Member in respect of the Client Position Account relating to such Client and re-establishing the same with the Replacement Clearing Member; or  (2) if an Automatic Early Termination Event occurs with respect to the original Clearing Member, enter into new Contracts with the Replacement Clearing Member on the same terms as the Porting AET Contracts for such Client;
<b>“Position Account”</b>	means a Client Position Account or House Position Account;
<b>“Position Account Cum MTM(t)”</b>	means, with respect to each Position Account and each OTC Clear Clearing Day t during the Loss Distribution Period, the sum of Currency Cum MTM(t) in all currencies payable on such Position Account;
<b>“Position Account Gain”</b>	means, with respect to each Position Account Gainer and an OTC Clear Clearing Day during the Loss Distribution Period, the amount of

	positive Position Account Cum MTM in respect of such Position Account Gainer on such OTC Clear Clearing Day;
<b>“Position Account Gainer”</b>	means, with respect to any OTC Clear Clearing Day during the Loss Distribution Period, each Position Account of a Non-Defaulting Clearing Member in respect of which the value of the Position Account Cum MTM on such OTC Clear Clearing Day is greater than zero;
<b>“Position Account Loser”</b>	means, with respect to any OTC Clear Clearing Day during the Loss Distribution Period, each Position Account of a Non-Defaulting Clearing Member in respect of which the value of the Position Account Cum MTM on such OTC Clear Clearing Day is equal to or less than zero;
<b>“Position Limit”</b>	means, with respect to a Clearing Member, an Account Limit and/or an Absolute Risk Limit, whether in relation to its House Position Account or Client Position Account(s) relating to such Clearing Member as described in section 4.6.1 of the Clearing Procedures;
<b>“Preliminary Available Resources”</b>	has the meaning given to it in Clearing Rule 1913;
<b>“RAP”</b>	means, in respect of each Auction Portfolio, the risk allocation percentage determined by OTC Clear and assigned to such Auction Portfolio representing the risk that such Auction Portfolio bears to the aggregate risk of the Auction Book;
<b>“Rates and FX Assessments”</b>	means an amount determined by OTC Clear in accordance with section 6.1.2 of the Clearing Procedures;
<b>“Rates and FX Clearing Services”</b>	means Rates Derivatives Clearing Services and FX Derivatives Clearing Services together;
<b>“Rates and FX Clearing System”</b>	means the IT system managed by OTC Clear and providing Clearing Members with technical access to the Rates and FX Clearing Service;
<b>“Rates and FX Clearing Termination Event”</b>	has the meaning given to it in Clearing Rule 1530;
<b>“Rates and FX Contribution”</b>	means, with respect to each Clearing Member, the Collateral that has been provided by such Clearing Member as contribution to the Rates and FX Guarantee Fund or Rates and FX Assessments pursuant to Clearing Rule 1502;
<b>“Rates and FX Contribution Balance”</b>	means, with respect to each Clearing Member, the aggregate value of its Rates and FX Contribution, which is subject to application in accordance with Chapter 13, Chapter 15 and Chapter 19 of these Clearing Rules;
<b>“Rates and FX Contribution</b>	means each of the days referred to in Clearing Rule 1503;

<b>Determination Date</b>	
<b>“Rates and FX Contribution Excess”</b>	means, in relation to a Clearing Member, the amount (if any) by which its Rates and FX Contribution Balance exceeds its Rates and FX Liability;
<b>“Rates and FX Guarantee Fund”</b>	means, at any given time, the aggregate value of all CM Funded Contribution Amounts at such time;
<b>“Rates and FX Guarantee Resources”</b>	means the aggregate of the Rates and FX Guarantee Fund, Rates and FX Assessments and OTC Clear Contribution;
<b>“Rates and FX Liability”</b>	means, in respect of a Clearing Member, the aggregate of its CM Funded Contribution Amount and, if demanded in accordance with Clearing Rule 1507, its CM Unfunded Contribution Amount;
<b>“Rates and FX Loss”</b>	has the meaning given to it in Clearing Rule 1515;
<b>“Rates and FX Minimum Contribution Amount”</b>	means the amount set out in section 6.1.1(i) of the Clearing Procedures;
<b>“Rates Derivatives”</b>	means Standard Rates Derivatives, Standard Cross-currency Rates Derivatives and Non Deliverable Rates Derivatives together;
<b>“Rates Derivatives Clearing Services”</b>	means the service provided by OTC Clear in respect of clearing Rates Derivatives transaction in the over-the-counter derivatives market in accordance with the Clearing Documentation;
<b>“Rates Derivatives Contract”</b>	means a Contract relating to Rates Derivatives;
<b>“Receiving Clearing Member”</b>	has the meaning given to it in Clearing Rule 2001;
<b>“recognized exchange controller”</b>	has the same meaning as in the SFO;
<b>“Registration Time”</b>	means, with respect to each Contract, the time shown in the “OTC Clear Trade Report (Report Number TDRP01, TDRP02 or TDRP11)” in respect of a House Position Account or Report Number TDRP01_C, TDRP02_C or TDRP11_C in respect of a Client Position Account) as the “Registration Time”;
<b>“Regulated Exchange”</b>	means any exchange or similar body duly authorized, regulated, recognized or licensed (to the extent necessary) under Applicable Laws in any jurisdiction, including, but not limited to, any recognized

	exchange company, recognized investment exchange, recognized overseas investment exchange, designated investment exchange, designated contract market, exempt commercial market, regulated market, alternative trading system, multilateral trading facility or similar entity;
<b>“Regulatory Authority”</b>	means any governmental authority which exercises a regulatory or supervisory function under the laws of any jurisdiction in relation to financial services, the financial markets, Regulated Exchanges or Clearing Organizations (including, without limitation, the SFC, any Person given powers under the SFO, the HKMA and the Financial Secretary of Hong Kong);
<b>“Regulatory Capital Requirement”</b>	means any requirement regarding capitalization, solvency, liquidity or similar financial requirement with which an entity is required to comply under Applicable Laws, and for the avoidance of doubt includes the (1) Financial Resources Rules for Licensed Corporations; and (2)(a) Part XVIA and the Seventh Schedule (section 6) of the Banking Ordinance and (b) the Banking (Capital) Rules (Laws of Hong Kong Cap. 155L) for Authorized Institutions incorporated in Hong Kong;
<b>“Relevant Clearing Member”</b>	has the meaning given to it in Clearing Rule 1317;
<b>“Relevant CM Contract”</b>	has the meaning given to it in Clearing Rule 1319;
<b>“relevant proportion of the OTC Clear First Contribution”</b>	means, with respect to an Auction Portfolio, the product of (1) RAP of such Auction Portfolio and (2) the OTC Clear First Contribution determined immediately prior to the commencement of the relevant Auction;
<b>“relevant proportion of the OTC Clear Second Contribution”</b>	means, with respect to an Auction Portfolio, the product of (1) RAP of such Auction Portfolio and (2) the OTC Clear Second Contribution determined immediately prior to the commencement of the relevant Auction;
<b>“relevant proportion of the Rates and FX Assessments”</b>	means, with respect to each Non-Defaulting Clearing Member and an Auction Portfolio, the product of (1) RAP of such Auction Portfolio and (2) the CM Unfunded Contribution Amount of such Non-Defaulting Clearing Member determined immediately prior to the commencement of the relevant Auction;
<b>“relevant proportion of the Rates and FX Guarantee Fund”</b>	means, with respect to each Non-Defaulting Clearing Member and an Auction Portfolio, the product of (1) RAP of such Auction Portfolio and (2) the CM Funded Contribution Amount of such Non-Defaulting Clearing Member determined immediately prior to the commencement of the relevant Auction;
<b>“Remaining Balance”</b>	has the meaning given to it in Clearing Rule 1534(1);

<b>“Remaining Non-Porting Client Deficit”</b>	has the meaning given to it in Clearing Rule 1306A(4);
<b>“Remotely Regulated Entity”</b>	has the meaning given to it in Clearing Rule 401(4)(b);
<b>“Replacement Clearing Member”</b>	means, in relation to Client Clearing Services, the Clearing Member appointed by a Client who will be acting as a replacement Clearing Member in the event of the occurrence of an Event of Default with respect to such Client’s original Clearing Member, and as notified to OTC Clear;
<b>“Representative”</b>	means any Person that carries out or is responsible for (or purports to carry out or be responsible for) any of the functions of another Person, including without limitation any director, partner, officer, executive, employee, Affiliate, Client, contractor or agent of that other Person;
<b>“Resignation Effective Date”</b>	has the meaning given to it in Clearing Rule 604;
<b>“Risk Management Committee”</b>	means the risk management committee established by OTC Clear whose main function is to manage the risk that is, or may be, assumed by OTC Clear in respect of its provision of the Rates and FX Clearing Services;
<b>“RLB”</b>	means a “restricted licence bank” which has the same meaning as in the Banking Ordinance;
<b>“Routine Intra-day VM Call”</b>	has the meaning given to it in section 4.4.2 of the Clearing Procedures;
<b>“Routine Intra-day Variation Margin”</b>	means, with respect to a Clearing Member, any Collateral provided by such Clearing Member to OTC Clear for purposes of satisfying its Routine Intra-day VM Call;
<b>“Rule-Based Clearing Member”</b>	means a Clearing Member who is incorporated in Hong Kong and who only provides Client Clearing Services through its Hong Kong head office, or a Clearing Member incorporated in other suitable jurisdictions as notified by OTC Clear from time to time;
<b>“Security Deed”</b>	means a security deed or similar instrument (that is in form and substance satisfactory to OTC Clear) entered into by a Non Rule-Based Clearing Member in favour of its Client(s) in respect of any relevant Client Entitlements under which such Clearing Member charges, assigns and agrees to assign absolutely to its Client(s) its rights, title and interest (present and future) in and to the Contracts booked in its Client Position Account(s) designated by the Clearing Member for such Client(s) and the Collateral standing to the credit of the corresponding Client Collateral Account(s) to such Client(s) as security for the amounts owing to such Client(s) under the relevant Client Clearing Agreement(s);
<b>“Senior Tranche”</b>	has the meaning given to it in Clearing Rule 1914(4)(c);

<b>“SFC”</b>	means the Securities and Futures Commission which was established under the repealed Securities and Futures Commission Ordinance (Laws of Hong Kong Cap. 24) and whose existence continued by virtue of section 3(1) of the SFO or any other body which assumes in whole or in part the powers and functions of the Securities and Futures Commission and has jurisdiction over OTC Clear under the SFO;
<b>“SFO”</b>	means the Securities and Futures Ordinance (Laws of Hong Kong Cap. 571);
<b>“Special Default Account”</b>	means the book-keeping account of OTC Clear for the purpose of recording the notional portfolio of trades the economic terms of which is the same as the portfolio of Contracts registered in the name of a Defaulting Clearing Member immediately prior to the occurrence of an Automatic Early Termination Event or delivery of a Notice of Default, but excluding any Affected Contract registered in the name of such Defaulting Clearing Member which have been successfully ported in accordance with Chapter 17 of these Clearing Rules. For the avoidance of doubt, if a DMP Event has occurred with respect to more than one Clearing Member, and the relevant Default Management Processes are continuing, there will be one notional portfolio created on the Special Default Account for each relevant Defaulting Clearing Member;
<b>“Standard Cross-currency Rates Derivatives”</b>	means the types of derivative transactions satisfying the Product Eligibility Requirements for Standard Cross-currency Rates Derivatives set out in section 3.4 of the Clearing Procedures;
<b>“Standard Cross-currency Rates Derivatives Contract”</b>	means a Contract relating to Standard Cross-currency Rates Derivatives;
<b>“Standard Cross-currency Rates Derivatives Contract Terms”</b>	has the meaning given to it in Clearing Rule 2501;
<b>“Standard Rates Derivatives”</b>	means the types of derivative transactions satisfying the Product Eligibility Requirements for Standard Rates Derivatives set out in section 3.4 of the Clearing Procedures;
<b>“Standard Rates Derivatives Contract”</b>	means a Contract relating to Standard Rates Derivatives;
<b>“Standard Rates Derivatives Contract Terms”</b>	has the meaning given to it in Clearing Rule 2201;

<b>“Successful Bid”</b>	means a Bid that has been accepted by OTC Clear pursuant to Clearing Rule 1912 and the Clearing Procedures;
<b>“Successful Bidder”</b>	means a Bidder of a Successful Bid;
<b>“SWIFT”</b>	means the secured messaging services platform and interface software provided by the Society for Worldwide Interbank Financial Telecommunication;
<b>“t”</b>	means an OTC Clear Clearing Day t;
<b>“t-1”</b>	means the OTC Clear Clearing Day preceding OTC Clear Clearing Day t;
<b>“Tax”</b>	means any present or future tax, levy, impost, duty, charge, assessment, or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any Governmental Authority or taxing authority;
<b>“Tax Information Exchange Framework”</b>	means: <ul style="list-style-type: none"> <li>(1) sections 1471 to 1474 of the United States Internal Revenue Code of 1986, as amended (the <b>“Code”</b>) or any similar or successor legislation introduced by the United States;</li> <li>(2) any agreement described in section 1471(b) of the Code;</li> <li>(3) any regulations or guidance pursuant to any of the foregoing;</li> <li>(4) any official interpretations of any of the foregoing;</li> <li>(5) any intergovernmental agreement (an <b>“IGA”</b>) to facilitate the implementation of any of the foregoing; or</li> <li>(6) any law implementing an IGA;</li> </ul>
<b>“THB”</b>	means the lawful currency of the Kingdom of Thailand;
<b>“The Hong Kong Observatory”</b>	means a government department of Hong Kong which is responsible for forecasting weather and issuing warnings on weather-related hazards;
<b>“Total Available Resources”</b>	has the meaning given to it in Clearing Rule 1516;
<b>“Total Gains(t)”</b>	means, with respect to each OTC Clear Clearing Day t during the Loss Distribution Period, the sum of all Position Account Gains in respect of all Position Account Gainers on such OTC Clear Clearing Day t;
<b>“Total Position Accounts Cum MTM(t)”</b>	means, with respect to any OTC Clear Clearing Day t during the Loss Distribution Period, the sum of Total Position Accounts Currency Cum MTM(t) in all currencies;
<b>“Total Position Accounts Currency Cum MTM(t)”</b>	means, with respect to each OTC Clear Clearing Day t during the Loss Distribution Period, the sum of the Total Position Accounts Currency MTM for each OTC Clear Clearing Day from (from including) the DMP Day to (and including) such OTC Clear Clearing Day t;

<b>“Total Position Accounts Currency MTM(t)”</b>	means, with respect to each OTC Clear Clearing Day t during the Loss Distribution Period, the sum of Currency MTM Chg(t) in respect of all Position Accounts of all Non-Defaulting Clearing Members;
<b>“Tranche”</b>	has the meaning given to it in Clearing Rule 1914(4)(c);
<b>“Transaction Category”</b>	<p>means any of the following:</p> <ol style="list-style-type: none"> <li>(1) Standard Rates Derivatives Contract – single currency interest rate swap denominated in USD;</li> <li>(2) Standard Rates Derivatives Contract – single currency interest rate swap denominated in EUR;</li> <li>(3) Standard Rates Derivatives Contract – single currency interest rate swap denominated in HK dollars;</li> <li>(4) Standard Rates Derivatives Contract – single currency interest rate swap denominated in CNY (offshore);</li> <li>(5) Standard Rates Derivatives Contract – single currency basis swap denominated in USD;</li> <li>(6) Standard Rates Derivatives Contract – single currency basis swap denominated in EUR;</li> <li>(7) Standard Rates Derivatives Contract – single currency basis swap denominated in HK dollars;</li> <li>(8) Standard Cross-currency Rates Derivatives Contract – cross currency interest rate swap denominated in CNY (offshore) and USD;</li> <li>(9) Standard Cross-currency Rates Derivatives Contract – cross currency basis swap denominated in CNY (offshore) and USD;</li> <li>(10) Standard Cross-currency Rates Derivatives Contract – cross currency interest rate swap denominated in HK dollars and USD;</li> <li>(11) Standard Cross-currency Rates Derivatives Contract – cross currency basis swap denominated in HK dollars and USD;</li> <li>(12) Non Deliverable Rates Derivatives Contract denominated in CNY;</li> <li>(13) Non Deliverable Rates Derivatives Contract denominated in INR;</li> <li>(14) Non Deliverable Rates Derivatives Contract denominated in KRW;</li> <li>(15) Non Deliverable Rates Derivatives Contract denominated in MYR;</li> </ol>

	(16) Non Deliverable Rates Derivatives Contract denominated in THB;
	(17) Non Deliverable Rates Derivatives Contract denominated in TWD;
	(18) Non Deliverable FX Derivatives Contract denominated in CNY;
	(19) Non Deliverable FX Derivatives Contract denominated in INR;
	(20) Non Deliverable FX Derivatives Contract denominated in KRW;
	(21) Non Deliverable FX Derivatives Contract denominated in TWD;
	(22) Deliverable FX Forward Contract denominated in CNY (offshore) and USD;
	(23) Deliverable FX Forward Contract denominated in HK dollars and USD;
	(24) Deliverable FX Swap Contract denominated in CNY (offshore) and USD; and
	(25) Deliverable FX Swap Contract denominated in HK dollars and USD;
<b>"Transaction Data"</b>	means, in respect of an Original Transaction, the economic terms relating to such Original Transaction as designated by the Clearing Member(s) or Client(s) to such Original Transaction;
<b>"Transaction Register"</b>	means any database available to OTC Clear for retrieval of records of Contracts;
<b>"Transferor Clearing Member"</b>	has the meaning given to it in Clearing Rule 825;
<b>"Transferee Clearing Member"</b>	has the meaning given to it in Clearing Rule 825;
<b>"TWD"</b>	means the lawful currency of the Republic of China;
<b>"U.S. Person"</b>	has the same meaning as is given to that term by the CFTC;
<b>"USD"</b>	means the lawful currency of the United States of America;
<b>"Unpaid Amounts"</b>	any amounts that became payable in respect of Contracts recorded in a Defaulting Clearing Member's House Position Account or Client Position Accounts on or prior to such DMP Event and which remain unpaid as at the completion of a successful Auction or the occurrence of a Contract Termination Event (as applicable) in respect of all Auction Portfolios relating to such DMP Event (excluding, for the avoidance of

	doubt, any Unsettled VM Amounts);
<b>“Unsettled VM Amount”</b>	<p>means, in respect of a Position Account and:</p> <p>(a) in respect of each Auction Contract relating to that Position Account:</p> <ol style="list-style-type: none"> <li>(1) the net present value of that Auction Contract as determined by OTC Clear pursuant to Chapter 5 of the Clearing Procedures on the date on which that Auction Contract is registered to a Successful Bidder; minus</li> <li>(2) the aggregate net Variation Margin settled by or with the relevant Defaulting Clearing Member in respect of the Contract with the relevant Defaulting Clearing Member corresponding to that Auction Contract up to but excluding the date on which that Auction Contract is registered to a Successful Bidder; and</li> </ol> <p>(b) in respect of each Auction Failed Position relating to that Position Account:</p> <ol style="list-style-type: none"> <li>(1) the net present value of that Auction Failed Position as determined by OTC Clear pursuant to Chapter 5 of the Clearing Procedures as of the last End-of Day Settlement Process immediately preceding the relevant Final Settlement Cycle Determination Date; minus</li> <li>(2) the aggregate net Variation Margin settled by or with the relevant Defaulting Clearing Member in respect of the Contract with the relevant Defaulting Clearing Member corresponding to that Auction Failed Position as of the last End-of Day Settlement Process immediately preceding the relevant Final Settlement Cycle Determination Date;</li> </ol>
<b>“Variation Margin”</b>	<p>means, in respect of each House Position Account and each Client Position Account of a Clearing Member, the aggregate amount (including any Intra-day Variation Margin) determined by OTC Clear in accordance with Clearing Rules 1206 and 1207 and the Clearing Procedures on each OTC Clear Clearing Day, which is payable to, or receivable by, the Clearing Member in respect of such Position Account;</p>
<b>“VM Flow Adjustment(t)”</b>	<p>means either the Gainer VM Flow Adjustment(t) or Loser VM Flow Adjustment(t), as applicable;</p>
<b>“VM Haircut(t)”</b>	<p>means, on each OTC Clear Clearing Day t during the Loss Distribution Period, an amount equal to the (1) VM Shortfall(t) divided by (2) Total Gains(t), expressed as a percentage figure;</p>
<b>“VM Reversal”</b>	<p>means,</p> <ol style="list-style-type: none"> <li>(1) in respect of a Standard Cross-currency Rates Derivatives Contract that expires on an OTC Clear Clearing Day, the amount which would be paid by OTC Clear to a Non-Defaulting Clearing Member (expressed as a positive number) or by such</li> </ol>

	<p>Non-Defaulting Clearing Member to OTC Clear (expressed as a negative number) on such OTC Clear Clearing Day, calculated by:</p> <p>(a) aggregating the amount of Variation Margin, in relation to the change in market value of Initial Exchange Amount and Final Exchange Amount, paid by such Clearing Member to OTC Clear during the term of such Standard Cross-currency Rates Derivatives Contract (excluding the amount of any Variation Margin calculated in respect of the expiry date); and</p> <p>(b) subtracting the aggregate amount of Variation Margin, in relation to the change in market value of Initial Exchange Amount and Final Exchange Amount, paid by OTC Clear to such Clearing Member during the term of such Standard Cross-currency Rates Derivatives Contract (excluding the amount of any Variation Margin calculated in respect of the expiry date);</p> <p>For the avoidance of doubt, Variation Margin, in relation to the change in market value of coupons, paid or received by OTC Clear during the term of such Standard Cross-currency Rates Derivatives Contract will not form part of the VM Reversal.</p> <p>(2) in respect of a Deliverable FX Derivatives Contract that expires on an OTC Clear Clearing Day, the amount which would be paid by OTC Clear to a Non-Defaulting Clearing Member (expressed as a positive number) or by such Non-Defaulting Clearing Member to OTC Clear (expressed as a negative number) on such OTC Clear Clearing Day, calculated by:</p> <p>(a) aggregating the amount of Variation Margin, in relation to the change in market value of Notional Amount, paid by such Clearing Member to OTC Clear during the term of such Deliverable FX Derivatives Contract (excluding the amount of any Variation Margin calculated in respect of the expiry date); and</p> <p>(b) subtracting the aggregate amount of Variation Margin, in relation to the change in market value of Notional Amount, paid by OTC Clear to such Clearing Member during the term of such Deliverable FX Derivatives Contract (excluding the amount of any Variation Margin calculated in respect of the expiry date);s</p>
<p><b>“VM Shortfall(t)”</b></p>	<p>means, in respect of OTC Clear Clearing Day t, the greater of (1) zero and (2) an amount equal to (i) Total Position Accounts Cum MTM(t) plus (ii) the Auction Transfer Costs less (iii) the Total Available Resources, each determined on such OTC Clear Clearing Day t, but excluding any Rates and FX Assessments which have not been deposited with OTC Clear on such day;</p>
<p><b>“Voluntary Recap Amount”</b></p>	<p>has the meaning given to it in Clearing Rule 1541;</p>

<b>“Voluntary Recap Request Notice”</b>	has the meaning given to it in Clearing Rule 1541;
<b>“Web Portal”</b>	means a user interface via which a Clearing Member can, amongst other things, lodge a request for movement of Collateral or retrieve a report; and
<b>“Withholding Tax”</b>	means any withholding or deduction pursuant to the Tax Information Exchange Framework.

## Interpretation

102. Where the context so permits, words importing the singular number include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa.
103. The headings shall not affect the construction of these Clearing Rules.
104. Where reference is made in the Clearing Documentation to a Chapter or Clearing Rule, such reference is to the relevant Chapter or Clearing Rule of these Clearing Rules except as otherwise expressly provided in these Clearing Rules. Schedules to these Clearing Rules form part of these Clearing Rules.
105. References to any law or regulation in the Clearing Documentation shall include any rule, notice, order, guidance, example or subordinate legislation made from time to time under such law or regulation.
106. References to any law, regulation or directive in the Clearing Documentation shall be construed as references to such law, regulation or directive as in force from time to time. To the extent any liability arises under such law, regulation or directive as a result of an act or omission by a Person, the reference to such law, regulation or directive shall include any relevant law, regulation or directive which was applicable at the time of such act or omission.
107. Except as otherwise expressly provided in these Clearing Rules, a reference to these Clearing Rules include the Clearing Procedures. The Clearing Procedures supplement and form part of these Clearing Rules, and therefore, subject to Clearing Rule 108, shall take effect and shall be binding on Clearing Members. OTC Clear may from time to time issue Clearing Notices, which shall be binding on all Clearing Members.
108. In the event of any conflict between:
  - (1) any definition or provision contained in these Clearing Rules, the Clearing Procedures or any Clearing Notices, unless OTC Clear otherwise determines, the document first listed shall have precedence and shall prevail over the documents listed later, in descending order, as follows:
    - (a) these Clearing Rules;
    - (b) the Clearing Procedures; and
    - (c) the Clearing Notices.
  - (2) the Clearing Rules or the Membership Agreement on the one hand and the Client Clearing Agreement, the Security Deed or any Deed of Charge on the other, the Clearing Rules or the Membership Agreement shall prevail.
  - (3) the Client Clearing Agreement and the Security Deed, the Security Deed will prevail over the Client Clearing Agreement.
109. OTC Clear shall, at all times, act in good faith and in a commercially reasonable manner in its interpretation of these Clearing Rules. The interpretation by OTC

Clear of these Clearing Rules and Clearing Notices shall be final, conclusive and binding on all Clearing Members and the parties to all Contracts.

110. These Clearing Rules are in the English language.

## **Chapter 2 General Provisions**

### **Amendment**

201. Subject to the SFO and the Articles of Association of OTC Clear:

- (1) the OTC Clear Board, after consultation with the Risk Management Committee, shall have the power to amend this Clearing Rule 201, or to add to, vary or waive any of these Clearing Rules set out in Chapter 3, Chapter 4, Chapter 6, Chapter 12, Chapter 13, Chapter 15 and Chapter 16 to Chapter 21 of these Clearing Rules; and
- (2) the OTC Clear Board shall have the power to amend, add to, vary or waive any of the remaining Clearing Rules which are not referred to in sub-paragraph (1) above without first consulting the Risk Management Committee.

Without prejudice to the foregoing, OTC Clear recognizes that circumstances may arise which may require OTC Clear to make ad hoc or urgent decisions on a case specific basis or where a meeting of the OTC Clear Board and/or the Risk Management Committee cannot be convened in a timely manner. Accordingly, the OTC Clear Board may delegate its powers under sub-paragraphs (1) and (2) above to the chief executive or such other senior executives of OTC Clear as it considers appropriate, provided that in respect of matters referred to sub-paragraph (1) above, the chairman of the Risk Management Committee shall be consulted before a decision is made.

### **Liability**

202. A Clearing Member shall be liable for any Damage incurred or suffered by OTC Clear or any of its officers or employees as a consequence of such Clearing Member's breach of any of its obligations under the Clearing Documentation or the terms of a Contract or any Applicable Laws.

203. Except as otherwise expressly provided in these Clearing Rules, OTC Clear, its Affiliates, a recognized exchange controller which is the controller of OTC Clear, or any of their respective Representatives shall not be liable to any Clearing Member or to any other Person in respect of anything done or omitted to be done by it in good faith in connection with the operations of the Rates and FX Clearing Services, the provision of such services and facilities available thereunder, and all other matters as contemplated in these Clearing Rules, including but not limited to any civil liability, whether arising in contract, tort, defamation, equity or otherwise for any Damage suffered or incurred directly or indirectly by a Clearing Member or any other Person as a result of or in connection with the following matters:

- (1) any error, interruption, failure or malfunction of, or inability to use any systems, communication lines or facilities or technology supplied, operated or used (directly or indirectly) by OTC Clear for purposes of operating its Rates and FX Clearing System;
- (2) any action or omission by any of them in connection with the operation of the Rates and FX Clearing System, the provision of services and facilities available thereunder, and all other matters as contemplated in these Clearing Rules;

- (3) any suspension, restriction or closure of OTC Clear or its services or any relevant over-the-counter derivatives market;
  - (4) any act or omission, including any delay on the part, of any Clearing Member, any Client or any other third party;
  - (5) any dispute relating to the validity, existence or terms of any Contract;
  - (6) a failure by a Clearing Member to comply with any Clearing Documentation;
  - (7) the taking of action or the omission of taking of actions by OTC Clear authorized, permitted or contemplated in the Clearing Documentation;
  - (8) the inability of OTC Clear to perform as a result of the invalidity or, cancellation of any insurance or assurances effected by OTC Clear or the insolvency of such insurers or assurers (provided that the selection of such insurance, assurances or insurers by OTC Clear shall not have been unreasonable at the time of selection);
  - (9) any act or omission by OTC Clear in accordance with the directions of any Governmental Authority, or an order made or directions given by a court in exercise of its proper jurisdiction, where it is required to do so by Applicable Law;
  - (10) any failure by OTC Clear to obtain appropriate warranties, certificates or other commitments from any system's supplier or a failure to take any steps to enforce the same;
  - (11) any acts or omissions, or delay on the part, of the owners and licensees of all hardware and software operated or used by the OTC Clear for the purposes of providing the Rates and FX Clearing Services (or any acts or omissions of the employees or agents of those owners and licensees);
  - (12) any proceeding or investigation brought by or on behalf of any Governmental Authority, self-regulatory organization, or other regulatory authority exercising any disciplinary functions to which one or more Clearing Member is subject;
  - (13) any acts or omissions, including any delay on the part, of OTC Clear's own banker, or any other custodians, sub-custodians, depositories, clearing systems, if any, appointed or used by OTC Clear in relation to Collateral, or the occurrence of an Insolvency Proceedings with respect to such Persons (provided that the selection by OTC Clear of such Persons shall not have been unreasonable); and
  - (14) any inability by any Clearing Member or any other Person to use any programme or system for purposes of accessing the Rates and FX Clearing Services.
204. OTC Clear reserves the right to act in accordance with the directions of any Governmental Authority, or an order made or directions given by a court in exercise of its proper jurisdiction, where it is required to do so by Applicable Law.
205. OTC Clear, its Affiliates, a recognized exchange controller which is the controller of OTC Clear, or any of their respective Representatives shall not be liable to

any Clearing Member or to any other Person in respect of any information and statistics (including but not limited to market prices, numbers of Contracts cleared and risk management assumptions) provided or made available by OTC Clear in good faith in connection with the operations of the Rates and FX Clearing Services, the provision of such services and facilities available thereunder, and all other matters as contemplated in these Clearing Rules, including but not limited to any civil liability, whether arising in contract, tort, defamation, equity or otherwise for any Damage suffered or incurred directly or indirectly by a Clearing Member or any other Person.

#### **Force Majeure Events and Illegality**

206. Neither OTC Clear (its Affiliates, a recognized exchange controller which is the controller of OTC Clear, or any of their respective Representatives) nor a Clearing Member will under any circumstances be liable for any failure, hindrance or delay in the performance in whole or in part of its obligations under these Clearing Rules or under any Contract if such failure, hindrance or delay arises as a result of the occurrence of a Force Majeure Event or Illegality. Without limiting the generality of the immediately foregoing, if the Force Majeure Event or Illegality occurs with respect to OTC Clear only, the exclusion of liability provided for OTC Clear (its Affiliates, a recognized exchange controller which is the controller of OTC Clear, or any of their respective Representatives) under this Clearing Rule 206 shall extend to any civil liability, whether arising in contract, tort, defamation, equity or otherwise for any Damage to any Clearing Member or to any other Person.
207. A Clearing Member shall immediately notify OTC Clear if it becomes aware that an event that could be a Force Majeure Event or Illegality has occurred or is likely to occur with respect to it.
208. In respect of the occurrence of events that may give rise to a Force Majeure Event or Illegality with respect to OTC Clear and/or a Clearing Member, such determination will be made by the OTC Clear Board, and to the extent practicable, having consulted with the Risk Management Committee. If OTC Clear is unable to convene a meeting of the OTC Clear Board sufficiently promptly in the circumstances, the relevant determination will be determined by the chief executive of OTC Clear. In the event that the chief executive of OTC Clear is unavailable at the time for any reason, any Representative of OTC Clear designated by the OTC Clear Board from time to time for purposes of the applicable determination may make such determination. If the relevant determination is being made by the chief executive or a Representative of OTC Clear, OTC Clear shall convene a meeting of the OTC Clear Board as soon as practicable thereafter to ratify such determination, rescind such determination (only where such rescission is possible or practicable) or where rescission is desired but not possible or practicable, to amend such determination as appropriate.

Without prejudice to any potential rescission of, or amendment to, a determination made by the chief executive or Representative(s) of OTC Clear pursuant to this Clearing Rule 208, decisions made by the OTC Clear Board, the chief executive of OTC Clear or a Representative of OTC Clear pursuant to this Clearing Rule 208 shall be final and binding against all Clearing Members for the

purposes of these Clearing Rules and not be subject to challenge by any such Clearing Members or any other Person under these Clearing Rules or otherwise.

209. If, pursuant to Clearing Rule 208, it is determined that a Force Majeure Event or Illegality has occurred, either with respect to one or more Clearing Members or OTC Clear itself, OTC Clear shall declare the occurrence of such Force Majeure Event or Illegality and notify all Clearing Members of such occurrence.

210. Upon the declaration of the occurrence of a Force Majeure Event or Illegality, as the case may be, with respect to one or more Clearing Member or OTC Clear itself by OTC Clear pursuant to Clearing Rule 209:

(1) OTC Clear shall be entitled to perform Emergency Close-Out in respect of:

- (a) any Contract affected by such Force Majeure Event or Illegality;
- (b) the Contract with equal but opposite terms which was created from the same Original Transaction or otherwise that corresponds to the Contract referred to in sub-paragraph (a) above; and
- (c) any other Contract associated with the Contracts referred to in sub-paragraphs (a) and (b) above for the purpose of ensuring OTC Clear is risk-neutral overall,

in each case, in accordance with this Clearing Rule 210, and each Clearing Member who is party to such Contract agrees to such Emergency Close-Out as may be selected by OTC Clear. OTC Clear may designate an Early Termination Date in case of an Emergency Close-Out;

(2) OTC Clear shall be entitled to require Clearing Members to comply with any directions issued by OTC Clear regarding the performance of, or otherwise in respect of, such affected Contracts as are specified by OTC Clear;

(3) if the Force Majeure Event or Illegality occurs with respect to a Clearing Member only but not OTC Clear, and such Force Majeure Event or Illegality affects the relevant Clearing Member's ability to perform its payment obligation under a Contract, OTC Clear shall have the right to suspend any payment obligations OTC Clear has towards another Clearing Member under a related Contract whose terms are equal but opposite to the affected Contract, until receipt of the relevant payments from the affected Clearing Member. Any suspension of payment by OTC Clear pursuant to this sub-paragraph (3) shall not constitute failure to pay on the part of OTC Clear;

(4) in the event the Force Majeure Event or Illegality occurs only with respect to one or more Clearing Members but not OTC Clear itself, OTC Clear shall be entitled to commence the Default Management Process (with such adjustments as OTC Clear, in consultation with the Risk Management Committee, deem appropriate in applying such process in respect of a Force Majeure Event or Illegality);

- (5) if a Force Majeure Event occurs with respect to OTC Clear, OTC Clear shall be entitled to suspend the whole or any part of the operations of the Rates and FX Clearing Services. OTC Clear shall notify all Clearing Members as soon as practicable upon a decision to either suspend or resume any operation of the Rates and FX Clearing Services pursuant to this sub-paragraph (5);
  - (6) if a Force Majeure Event or Illegality has occurred with respect to a Clearing Member, such Clearing Member shall use all reasonable endeavours to mitigate the effects of the same upon its ability to perform its obligations to OTC Clear; and
  - (7) each Clearing Member affected by the Force Majeure Event or Illegality shall notify OTC Clear immediately as soon as its ability to perform is no longer affected by the Force Majeure Event or Illegality (or, if OTC Clear is the person affected by the Force Majeure Event or Illegality, OTC Clear shall notify all Clearing Members in relation to the cessation of the Force Majeure Event or Illegality).
211. In exercising its powers under Clearing Rule 210, OTC Clear shall act in good faith and have regard to its duties as a recognized clearing house under the SFO. Any decisions made pursuant to, and any exercise of powers under, Clearing Rule 210 shall be final and binding against all Clearing Members for the purposes of these Clearing Rules and not be subject to challenge by any such Clearing Members or any other Person under these Clearing Rules or otherwise.

#### **Disclosure of Information**

212. All information provided to or in the possession of OTC Clear regarding past or current positions carried by OTC Clear for a Clearing Member, Margin payments between OTC Clear and a Clearing Member or deliveries made by or to a Clearing Member and any financial statements submitted to OTC Clear by any Clearing Member shall be kept confidential by OTC Clear in accordance with such procedures or policies as OTC Clear may from time to time determine. Notwithstanding the foregoing, OTC Clear may disclose any information described in the immediately preceding sentence, any information received from a Clearing Member and any other information in connection with a Clearing Member at any time:
- (1) with the written consent of the Clearing Member involved;
  - (2) to HKEX and any of its Affiliates and any Representatives, committees, auditors or advisers of HKEX or any Affiliate of OTC Clear which is a recognized exchange company or a recognized clearing house under the SFO;
  - (3) pursuant to any requirement or request of any Governmental Authority, including, but not limited to, the SFC, HKMA and the Inland Revenue Department of the Hong Kong government; or to any Person required by or in accordance with the Tax Information Exchange Framework;
  - (4) pursuant to any order of a court of competent jurisdiction;
  - (5) as expressly permitted by the Clearing Documentation, including, without limitation, to one or several Clearing Members, to the extent that such

disclosure is necessary for the proper management of an Event of Default and the implementation by OTC Clear and Clearing Members of settlement of any Contract provided that where OTC Clear discloses any information to any Clearing Member in such circumstances, the receiving Clearing Member shall treat such information as confidential information and shall not make the information known or available to any other Person or use the information for any purpose other than that for which it has been disclosed by OTC Clear;

- (6) to any insurer, insurance broker or banker in connection with any arrangement in support of the Rates and FX Guarantee Resources;
- (7) to any professional advisers, auditors or consultants of OTC Clear;
- (8) as required by any Applicable Law;
- (9) to any trade repository or Governmental Authority (whether in Hong Kong or elsewhere) with whom OTC Clear or HKEX has entered into an information sharing arrangement or reporting service agreement or pursuant to the Tax Information Exchange Framework, such trade repository or Governmental Authority may use, handle, store, transfer and disclose such information in accordance with the terms of any such information sharing arrangement, reporting service agreement or pursuant to the Tax Information Exchange Framework;
- (10) to any service provider or third party contractor whom OTC Clear has engaged to provide data processing or other similar services for OTC Clear, provided that any such persons shall be bound by confidentiality obligation or undertaking;
- (11) to any Person if the information comes into the public domain, other than as a result of a breach of this Clearing Rule 212 by OTC Clear or any of its Representatives; or
- (12) to any Client or Designated Person to which the information relates,

provided that, in any such case other than under sub-paragraphs (1), (3), (4), (5), (9) and (11) above, the confidentiality of the information is made known to the recipient (it being understood that, if more than one sub-paragraph of this sentence applies to a particular disclosure and that include any of sub-paragraph (1), (3), (4), (5), (9) or (11) above, then the confidentiality of the information need not be made known to the recipient).

Each Clearing Member agrees that OTC Clear has the power to publish aggregated trade information in respect of Contracts cleared and settled through OTC Clear, whether relating to data on open positions, trade volumes, types of Contracts cleared and settled by OTC Clear, provided that the identity of Clearing Members or Clients cannot reasonably be determined from the data, statistics or other materials so published.

213. OTC Clear may direct a Clearing Member to provide it with any information requested by a trade repository or Governmental Authority (whether in Hong Kong or elsewhere) with whom OTC Clear or HKEX has entered into an

information sharing or reporting service agreement or arrangement or pursuant to the Tax Information Exchange Framework.

214. To the extent that the information to be provided by a Clearing Member to OTC Clear under Clearing Rule 213 or pursuant to any other obligations under the Clearing Rules constitutes personal data as defined in the Personal Data (Privacy) Ordinance, the Clearing Member shall:
- (1) ensure that the disclosure of personal data by the Clearing Member or its Representatives to OTC Clear is in all respects and in each case lawful;
  - (2) ensure that the Clearing Member has obtained (and if requested by OTC Clear, provide) all necessary consents from the data subject prior to the disclosure of such personal data to OTC Clear, such consent to be sufficient to allow disclosure by OTC Clear of such personal data to any trade repository or Governmental Authority (whether in Hong Kong or elsewhere) upon request or as required by Applicable Law or the terms of any information sharing or reporting service agreement or arrangement that OTC Clear or HKEX has entered into or pursuant to the Tax Information Exchange Framework and to allow any subsequent use, handling, storage, transfer and disclosure by any such trade repository or Governmental Authority in accordance with the terms of any such information sharing or reporting service agreement or arrangement or pursuant to such Tax Information Exchange Framework;
  - (3) ensure that the Clearing Member has fully complied with its obligations as a data user under the Personal Data (Privacy) Ordinance;
  - (4) take all practicable steps to ensure that all personal data collected from relevant data subjects and disclosed to OTC Clear is accurate in all material respects;
  - (5) where a Clearing Member provides Client Clearing Services to its Clients who are individuals, obtain from such Client a duly attested consent confirmation in the form prescribed by OTC Clear (from time to time) so as to ensure that personal data of such Client may be disclosed, transferred or provided by OTC Clear to any trade repository or Governmental Authority (whether in Hong Kong or elsewhere) upon request or as required by Applicable Law or the terms of any information sharing or reporting service agreement or arrangement that OTC Clear or HKEX has entered into or pursuant to the Tax Information Exchange Framework, and thereafter be used, handled, stored, transferred and disclosed by such trade repository or Governmental Authority in accordance with the terms of any such information sharing or reporting service agreement or arrangement or pursuant to such Tax Information Exchange Framework;
  - (6) where a data subject withdraws, revokes or modifies any consent as described in sub-paragraph (2) above, the Clearing Member shall immediately inform OTC Clear of the same.

For the purpose of this Clearing Rule 214, the terms “**personal data**”, “**data subject**” and “**data user**” shall have the meanings given to them under the Personal Data (Privacy) Ordinance.

### **Governing Law**

215. Except as otherwise expressly provided in these Clearing Rules, these Clearing Rules shall be governed by, and construed in accordance with, the laws of Hong Kong.
216. Each Clearing Member irrevocably agrees for the benefit of OTC Clear that the courts of Hong Kong shall have exclusive jurisdiction to hear and determine any action or dispute which may arise out of or in connection with these Clearing Rules. Each Clearing Member irrevocably submits to the exclusive jurisdiction of Hong Kong courts and agree to waive any objection it might otherwise have to such jurisdiction, save that this submission to the exclusive jurisdiction of the courts of Hong Kong shall not (and shall not be construed so as to) limit the right of OTC Clear to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude OTC Clear from taking action in any other jurisdiction, whether concurrently or not.
217. Any definitions or documents incorporated by reference by these Clearing Rules and any Contracts shall be governed by and construed in accordance with the laws of Hong Kong.
218. Each Clearing Member irrevocably waives, to the extent permissible by Applicable Laws, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from:
- (1) suit or proceedings;
  - (2) jurisdiction of any court or arbitral tribunal;
  - (3) relief by way of injunction or order for specific performance or recovery of property;
  - (4) attachment of its assets (whether before or after judgment or award), any effort to confirm, enforce, or execute any decision, settlement, award, judgment, service of process, execution order or attachment that results from any judicial or administrative proceedings; and
  - (5) execution or enforcement of any judgment or award to which it or its revenues or assets might otherwise be entitled in any proceedings before an arbitral tribunal or in the courts of any jurisdiction.

Each Clearing Member irrevocably agrees, to the extent permitted by law, that it will not claim any such immunity, or assert a defence of sovereign immunity, in any proceedings. The rights and obligations of a Clearing Member under these Clearing Rules and in relation to any Contract are of a commercial and not a governmental nature.

### **Notice**

219. Except as otherwise expressly provided in these Clearing Rules, all notices, requests, demands or other communications from OTC Clear to Clearing

Members may be given orally or in writing, in person or by post, by electronic or wire transmission (including authenticated SWIFT), by telephone or facsimile, by posting on the HKEX website, or by any means of computer data transmission. Notwithstanding the immediately foregoing, in respect of any Notice of Default, Notice of Disciplinary Appeals Committee Hearing, Notice of Disciplinary Committee Hearing, or any other notices relating to suspension of Membership, or designation of an Early Termination Date in respect of the Contract(s) registered in the name(s) of some (but not all) Clearing Members, OTC Clear shall deliver such notices to the relevant Clearing Member(s) by post, electronic or wire transmission or facsimile.

220. In the case of communications sent by post to the address last specified by a Clearing Member as its address, the communications from OTC Clear shall be deemed to have been received by the Clearing Member on the following OTC Clear Business Day if the address is in Hong Kong and, if the address is outside Hong Kong, on such day as OTC Clear may from time to time specify with reference to the time the communications would be delivered to such address in the ordinary course of post. If the communications are delivered in person to such address, the communications will be deemed to have been received by the Clearing Member at the time of delivery made to such address.
221. In the case of communications made by OTC Clear to a Clearing Member by electronic or wire transmission, by telephone or facsimile, by posting on the HKEX website or any other instantaneous means, the communications shall be deemed to have been received by the Clearing Member immediately.
222. Unless otherwise provided in these Clearing Rules, all notices from Clearing Members to OTC Clear shall be given in writing and delivered in person or sent by post, or by facsimile transmission to the address of OTC Clear (as OTC Clear may from time to time notify Clearing Members) or by authenticated SWIFT.
223. Notice by Clearing Members to OTC Clear shall be deemed to have been given at the time of receipt by OTC Clear.

#### **Process Agent**

224. Where an entity not incorporated or registered in Hong Kong is admitted as a Clearing Member, such Clearing Member shall appoint and maintain an agent in Hong Kong to act as its agent to accept service of process issued out of the courts of Hong Kong in relation to any proceedings in connection with any Clearing Documentation and shall deliver to OTC Clear a copy of the agreement relating to such appointment countersigned by such agent. No Clearing Member shall give any notice of revocation to, or otherwise terminate the appointment of, any such agent unless prior to such termination it has validly appointed a replacement agent in Hong Kong to accept service of process issued out of the courts of Hong Kong in relation to any proceedings in connection with any Clearing Documentation, and has delivered to OTC Clear an agreement relating to the appointment of such replacement agent and countersigned by such replacement agent. If for any other reason any agent appointed under this Clearing Rule 224 ceases to be such an agent, the Clearing Member shall forthwith appoint a replacement agent in Hong Kong, and deliver to OTC Clear a

copy of the new agent's acceptance of that appointment within 10 OTC Clear Business Days of such appointment. Nothing in the Clearing Documentation or any Contract shall affect the right of OTC Clear to serve process in any other manner permitted by law.

#### **Time Reference**

225. Where reference is made in the Clearing Documentation to a time or deadline, it shall mean Hong Kong time, except as otherwise expressly provided in the Clearing Documentation.

#### **Calculations and Currency**

226. The calculations made by OTC Clear pursuant to these Clearing Rules shall be conclusive and binding on all Clearing Members. If a Clearing Member believes that there is any error in OTC Clear's calculations, the Clearing Member shall immediately notify OTC Clear in writing and in any event, no later than 17:00 hours Hong Kong time on the immediately following OTC Clear Clearing Day upon receipt of the relevant calculations.
227. In exercising its right of netting, set-off, consolidation or combination of accounts under these Clearing Rules, OTC Clear may convert any sums subject to such netting, set-off, consolidation or combination into either the Base Currency or the currency in which the other amount is denominated, in each case, at the rate of exchange at which OTC Clear would be able to, acting in a reasonable manner and in good faith, purchase the relevant amount of such currency.

#### **Third Party Rights**

228. Unless expressly provided to the contrary in these Clearing Rules, a person who is not OTC Clear or a Clearing Member has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce or to enjoy the benefit of any term or provision of these Clearing Rules.

**PART II**  
**MEMBERSHIP**

## **Chapter 3 General Provisions**

### **OTC Clear Membership**

301. The OTC Clear Board shall have the power to establish categories of membership in the provision of clearing services in respect of different types of OTC Derivatives Contracts, and to attach different rights, benefits, obligations and liabilities to each category established as it may from time to time consider appropriate after consultation with the Risk Management Committee. These Clearing Rules may be expanded, or separate sets of rules and procedures may be introduced, to govern the clearing of different types of OTC Derivatives Contracts and different categories of membership.

### **Clearing Members**

302. OTC Clear may admit Clearing Members for the clearing of FX Derivatives and/or Rates Derivatives and/or such other types of OTC Derivatives Contracts as OTC Clear may determine from time to time. OTC Clear will only register an Original Transaction if such transaction satisfies the Eligibility Requirements applicable to the Original Transaction at the time of its submission to OTC Clear for registration, through to the Registration Time. Clearing Members may register Contracts to their House Account and, if permitted to do so under Applicable Laws and if approved by OTC Clear, and subject to the provisions in Chapter 8 and other relevant provisions of the Clearing Rules relating to client clearing, to one or more Client Accounts.

### **Qualification**

303. To be eligible for admission as a Clearing Member, an Applicant must enter into a Membership Agreement with OTC Clear and must be able to comply, and be able to demonstrate to the satisfaction of OTC Clear the ability to comply, at all times with each of the requirements set out in Clearing Rule 401 and in Chapter 2 of the Clearing Procedures.

### **Applications and Approval**

304. Applications for admission as a Clearing Member, or to change the types of contracts a Clearing Member may register with OTC Clear or any other conditions to which a Clearing Member is subject, shall be made in accordance with the Clearing Procedures. OTC Clear shall have the power to charge a fee for the processing of any applications.
305. Each Applicant shall provide OTC Clear with such further information as OTC Clear may require for dealing with the application.
306. The OTC Clear Board shall determine, in consultation with the Risk Management Committee (provided that such committee has been constituted), whether to approve or reject applications made under Clearing Rule 304. The decision of the OTC Clear Board shall be final and binding.
307. The OTC Clear Board in consultation with the Risk Management Committee shall give written notice of approval or rejection to each Applicant and, in the case where an application is made by an Applicant or a Clearing Member for the provision of Client Clearing Services, the OTC Clear Board in consultation with

the Risk Management Committee shall give written notice of approval or rejection to each such application.

308. Any notice of approval issued pursuant to Clearing Rule 307 may be granted subject to such conditions as the OTC Clear Board, in consultation with the Risk Management Committee (provided that such committee has been constituted), thinks fit. Applicants may be required to satisfy such conditions within a certain time period specified in the notice of approval, or on a continued basis. In the former case, Applicants must satisfy all conditions attached to their approval within the time period specified in the notice of approval (or such longer period as the OTC Clear Board may allow). In the event that an Applicant becomes a Clearing Member on the basis of a conditional approval, but fails to satisfy the relevant conditions within the time period specified, and the period for satisfaction is not extended by OTC Clear Board, OTC Clear may determine that such failure constitutes an Event of Default in accordance with Clearing Rule 1301, provided that OTC Clear shall not make such determination in the case where:
- (1) the relevant Clearing Member remedies such breach within 10 OTC Clear Business Days (the “**Conditional Approval Breach Period**”); or
  - (2) such breach continues and is existing upon the expiry of the Conditional Approval Breach Period, but the relevant Clearing Member has given notice of resignation in accordance with Clearing Rule 608 prior to the expiry of such Conditional Approval Breach Period and the related Non-Default Unwind is completed within 10 OTC Clear Business Days following the expiry of the Conditional Approval Breach Period, provided that the Clearing Member is at all relevant times in full compliance with its obligations set out in Clearing Rules 608 and 609.
309. OTC Clear may publish on its website a list of the names of the Clearing Members from time to time.

## Chapter 4 Legal Obligations

### Continuing Obligations

401. Each Clearing Member shall at all times:

- (1) adhere strictly to, and be bound by, the Clearing Documentation and any conditions stipulated in the notice of approval of its Membership;
- (2) comply with the decisions, directions, directives, determinations, findings of fact and/or interpretation of the OTC Clear in the exercise or performance of any right, power, privilege, discretion, function, duty or obligation conferred on it by or pursuant to the Clearing Documentation;
- (3) be validly incorporated and existing under the laws of its jurisdiction of incorporation which is a jurisdiction acceptable to OTC Clear, (if relevant in such jurisdiction) be in good standing and have all the necessary approvals, licences and authorisations in place for the carrying on of its business in all jurisdictions;
- (4) have established a place of business in Hong Kong and be a Licensed Corporation or an Authorized Institution, provided that:
  - (a) a Licensed Corporation or an Authorized Institution which is not incorporated in Hong Kong may become a Clearing Member; and
  - (b) OTC Clear may admit any Person that is neither a Licensed Corporation nor an Authorized Institution (a “**Remotely Regulated Entity**”)\* as a Clearing Member subject to such Person having in place, in its country of incorporation and any other jurisdiction in which it conducts business, all regulatory authorizations, licenses, permissions and approvals which OTC Clear reasonably determines to be necessary for the Clearing Member to carry out its business as a Clearing Member in the relevant jurisdictions and subject to the provision of such opinions or other information as OTC Clear may require from time to time,and provided further that in each case, the relevant Clearing Member satisfies the obligations set out in section 2.1.8 of the Clearing Procedures;
- (5) act in good faith in its dealings with OTC Clear;
- (6) maintain Capital in an amount not less than the Minimum Capital Requirement and comply with all applicable Regulatory Capital

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\* Note: Introduction of remote membership is being considered by HKEX at the moment, and is not intended to be available during the initial phase of establishment of OTC Clear.

Requirement and related obligations evidencing compliance with such requirements;

- (7) pay when due all amounts required by OTC Clear in accordance with the Clearing Documentation, including, without limitation, its Margin requirement, its Rates and FX Liability and cash payment obligations, including but not limited to fees, levies, duties, charges and fines;
- (8) hold an account or accounts (as necessary) for settlement purposes as prescribed under the Clearing Procedures;
- (9) have, to the satisfaction of OTC Clear, adequate personnel, operational capability, systems, facilities, equipment and controls in place to ensure that:
  - (a) it is able to support the proper performance of its business as a Clearing Member, including such computer hardware and software systems as may be specified by OTC Clear for gaining access to the Rates and FX Clearing System used or managed by OTC Clear;
  - (b) it has an effective management and organisational structure to enable it to conduct its business in a sound, efficient and effective manner;
  - (c) it has adequate risk management systems that are applied appropriately;
  - (d) it is able to continuously monitor communication facilities for receipt of communications from OTC Clear; and
  - (e) it is able to promptly review Clearing Notices and other communications delivered or made available to the Clearing Member or its Representatives by OTC Clear, and ensure that such personnel, operational capability, systems, facilities equipment and controls are properly maintained;
- (10) have in place sufficient procedures providing for business continuity reasonably satisfactory to OTC Clear;
- (11) satisfy OTC Clear that it has a sufficient level of knowledge about the types of Contracts that it intends to clear and any risks involved in relation to the same;
- (12) maintain accurate daily records of all Contracts to which it is or has been party and make such regular financial returns as may from time to time be prescribed by OTC Clear, including but not limited to those required pursuant to Clearing Rule 504 and the Clearing Procedures;
- (13) undertake to certify on an annual basis that the information or representations provided or given in its Application Form, Membership Agreement or otherwise in connection with its application of Membership is true, complete and accurate;

- (14) if such Clearing Member is providing Client Clearing Services to its Clients, comply with the provisions relating to Client Clearing Services in Chapter 8 of these Clearing Rules;
- (14A) if such Clearing Member is a U.S. Person, limit its submission of Original Transactions to OTC Clear for registration to those transactions in which one of the counterparties is: (i) such Clearing Member; (ii) a Client of such Clearing Member who is not a U.S. Person; or (iii) a Client of such Clearing Member who is a U.S. Person that falls within such Clearing Member's "proprietary account", as that term is defined in CFTC Regulation 1.3(y) (17 C.F.R. § 1.3(y));
- (14B) if such Clearing Member is not a U.S. Person, limit its submission of Original Transactions to OTC Clear for registration on behalf of Clients who are U.S. Persons to those U.S. Persons that fall within such Clearing Member's "proprietary account", as that term is defined in CFTC Regulation 1.3(y) (17 C.F.R. § 1.3(y));
- (14C) if such Clearing Member is registered with the CFTC as a futures commission merchant (an "FCM"), limit its submission of Original Transactions to OTC Clear for registration to those transactions in which one of the counterparties is either: (i) such FCM; or (ii) a Client of such FCM who is a U.S. Person that falls within such Clearing Member's "proprietary account", as that term is defined in CFTC Regulation 1.3(y) (17 C.F.R. § 1.3(y));
- (14D) if such Clearing Member submits Original Transactions to OTC Clear for registration on behalf of Clients who are Affiliates that are registered with the CFTC as FCMs, limit its submission of such Original Transactions to those transactions in which one of the counterparties is one of such FCMs;
- (15) if such Clearing Member is providing Client Clearing Services to its Clients, undertake to disclose to OTC Clear (i) the identity of its Clients which are its Affiliates and (ii) the Client Accounts which are held by such Clearing Member for the benefit of its Affiliates;
- (16) if such Clearing Member is providing Client Clearing Services to its Clients, undertake not to comingle positions and Collateral held on behalf of its Affiliates with positions and Collateral held on behalf of Clients who are not its Affiliates;
- (17) have registered with OTC Clear:
  - (a) a Person, having director, general partner, trustee or senior officer status at the Clearing Member (or a Person occupying a similar status or performing similar functions) who is acceptable to OTC Clear and is both responsible for the clearing operations of the Clearing Member and authorized to act on behalf of the Clearing Member in respect of all transactions with or involving OTC Clear; and
  - (b) an alternate Person that satisfies the requirements set out in sub-paragraph (a) above and who is authorized to act on behalf

of the Clearing Member in the event that the first Person is incapable or unable to act;

- (18) in the event that OTC Clear in its reasonable discretion so directs, allow formal audits, inspection (including on-site inspection) or system tests related to its business with OTC Clear at the expense of the Clearing Member;
  - (19) participate in the implementation of the Default Management Process, including participation in regular fire drills, in accordance with the Clearing Documentation;
  - (20) comply with any procedures or enter into any documentation from time to time prescribed by OTC Clear and which relate to the business of OTC Clear;
  - (21) be fit and proper, have sufficient qualities of financial responsibility, reputation and competence as OTC Clear, in its discretion, considers necessary or appropriate and satisfy OTC Clear that its directors, officers and Representatives also satisfy such tests;
  - (22) not be subject to Insolvency Proceedings;
  - (23) ensure and undertake, at all times, that it will not cause OTC Clear to violate any Applicable Laws as a result of the provision of Client Clearing Services to its Clients by the Clearing Member;
  - (24) (a) be subject to Applicable Laws relating to money laundering and terrorist financing that requires it to undertake due diligence and identity verification measures on its Clients to the extent that it provides Client Clearing Services, (b) comply with all Applicable Laws relating to its status, the conduct of its business and the performance of its obligations as a Clearing Member, including, for the avoidance of doubt, all Applicable Laws relating to the prevention of bribery, money laundering, financial crimes and terrorist financing and (c) not be subject to any sanctions promulgated or imposed by the United Nations or any Governmental Authority relevant to it or its clearing activities;
  - (25) have all necessary authorisations, licences, permissions, approvals or equivalent in respect of each Regulatory Authority required to enter into and clear Original Transactions, including, where relevant, Original Transactions with or on behalf of Clients, through OTC Clear; and
  - (26) be able to demonstrate, to the satisfaction of OTC Clear, the ability to comply with the above.
402. Subject to the Maximum Current Liability applicable in respect of a Clearing Member's Rates and FX Guarantee Liability, OTC Clear may from time to time impose on any Clearing Member new, additional or special capital, margin, financial, or operational requirements, including but not limited to requirements to change the personnel, facilities or other aspects of the internal operations of such Clearing Member. Each Clearing Member shall comply with any such requirements within the time frame and in accordance with any instructions specified by OTC Clear in connection with such requirements.

### **Capital Requirement**

403. Each Clearing Member must at all times maintain Capital:
- (1) in an amount not less than the Minimum Capital Requirement and comply with the applicable Regulatory Capital Requirement; and
  - (2) at a level such that the Capital requirements set out in section 2.3.1 of the Clearing Procedures will be satisfied.
404. In the event that a Clearing Member fails to maintain Capital in an amount not less than the Minimum Capital Requirement, OTC Clear may determine that such failure constitutes an Event of Default in accordance with Clearing Rule 1301, provided that OTC Clear shall not make such determination in the case where:
- (1) the relevant Clearing Member remedies such breach within 10 OTC Clear Business Days following the receipt of a notification of such breach (the "**Minimum Capital Requirement Breach Period**"); or
  - (2) such breach continues and is existing upon the expiry of the Minimum Capital Requirement Breach Period, but the relevant Clearing Member has given notice of resignation in accordance with Clearing Rule 608 prior to the expiry of such Minimum Capital Requirement Breach Period and the related Non-Default Unwind is completed within 10 OTC Clear Business Days following the expiry of the Minimum Capital Requirement Breach Period, provided that the Clearing Member is at all relevant times in full compliance with its obligations set out in Clearing Rules 608 and 609.

### **Transfer of Membership**

405. Unless the prior written approval of the OTC Clear Board, in consultation with the Risk Management Committee, has been obtained, Membership shall not be capable of being transferred and no Clearing Member shall attempt to sell or transfer its Membership.
406. A Clearing Member shall not pledge or mortgage, or create any trust, charge, lien or other Encumbrance over, its Membership.
407. Save and except for, in the case of a Clearing Member who is a Rule-Based Clearing Member, the right of its Client to receive any Client Entitlement from OTC Clear under Clearing Rules 1308A, 1308B, 1309 and 1309A and, in the case of a Non Rule-Based Clearing Member, any Encumbrance created pursuant to a Security Deed, a Clearing Member shall not assign any of its rights, benefits, privileges or obligations as a Clearing Member and such rights, benefits and privileges shall be incapable of assignment.
408. OTC Clear shall not be bound or in any way compelled to recognize (even if it has notice of the same) any purported dealing or disposition made in contravention of Clearing Rule 405, 406 or 407.

### **Reporting Obligation**

409. Each Clearing Member shall notify OTC Clear and provide OTC Clear with the following information upon submitting an Original Transaction for registration which it, its Affiliate or its CM Branch, pursuant to CFTC rules and regulations,

either voluntarily reports or is required to report, to a swap data repository registered with the CFTC:

- (1) the unique swap identifier for each such Original Transaction;
  - (2) the name of each swap data repository to which each such Original Transaction was reported; and
  - (3) any other information set out in Clearing Notices issued from time to time by OTC Clear in order for OTC Clear to comply with its reporting obligations under the Dodd-Frank Wall Street Reform and Consumer Protection Act and any related rules or regulations issued by the CFTC or any other applicable Governmental Authority.
410. Upon acceptance of each Original Transaction for registration and the creation of the relevant Contracts, each Clearing Member or its Affiliate or CM Branch who has reporting obligations under the Part 45 rules issued by the CFTC to implement Section 2(a)(13)(G) of the Commodity Exchange Act shall report the termination of such Original Transaction to the relevant swap data repository to whom the primary economic terms data was originally reported.
411. In order to avoid duplicative reporting, neither a Clearing Member nor its Affiliates and CM Branches shall report to any swap data repository registered with the CFTC any details of the Contracts created upon acceptance of an Original Transaction for registration.
412. Each Clearing Member at all times represents and warrants to OTC Clear that the provision of information by such Clearing Member to OTC Clear pursuant to Clearing Rule 409, and the reporting of such information by OTC Clear in order for OTC Clear to comply with its reporting obligations under the Dodd-Frank Wall Street Reform and Consumer Protection Act and any related rules or regulations issued by the CFTC or any other applicable Governmental Authority, would not result in any breach of any Applicable Law.

## **Chapter 5 Information Obligations**

### **Notifications by Clearing Members**

501. Each Clearing Member shall notify OTC Clear in writing without delay providing full particulars known to it of:
- (1) any non-compliance with a Regulatory Capital Requirement or any failure to maintain Capital in an amount not less than the Minimum Capital Requirement;
  - (2) a decrease in Capital by more than 10% from the amount of Capital shown on its most recent financial information as provided to OTC Clear pursuant to Clearing Rule 504;
  - (3) any events or matters which relate to the Clearing Member's clearing activities and exposure to general and financial risks as from time to time specified in the Clearing Procedures or as OTC Clear may from time to time specify or notify to Clearing Members;
  - (4) any material breach, infringement of or non-compliance with any provisions of the Clearing Documentation, or where it has reason to suspect any such breach, infringement or non-compliance whether by itself, its Representatives, other Persons acting on its behalf; and
  - (5) anything relating to the Clearing Member which would cause any statement or information previously furnished to OTC Clear in connection with (a) the Rates Derivatives Clearing Services and/or FX Derivatives Clearing Services, (b) its application for admission to be a Clearing Member, or (c) the Tax Information Exchange Framework, to be inaccurate, incomplete or superseded.

### **Right to Demand Documents**

502. Every Clearing Member shall, within a period as OTC Clear may specify, submit to it such statements, books, records, accounts, other documents or information which relate to the Clearing Member's clearing activities or its exposure to general and financial risks as OTC Clear may reasonably demand, and shall promptly respond to all queries from OTC Clear.

### **Organization Structure**

503. A Clearing Member shall send to OTC Clear:
- (1) as soon as reasonably practicable subsequent to any reorganisation of its corporate group, an updated group organization chart;
  - (2) on an annual basis, a list of each of its direct and indirect shareholders holding more than a 10% interest in the share capital or voting rights of the Clearing Member;
  - (3) as soon as reasonably practicable following a change (direct or indirect) affecting 10% or more in the share capital or voting rights of the Clearing Member (including any change in the interest of an existing shareholder who holds an interest (direct or indirect) of 10% or more in the share capital or voting rights of the Clearing Member and any new shareholder acquiring an interest (direct or indirect) of 10% or more in the share

capital or voting rights of the Clearing Member), the relevant information setting out such change; and

- (4) as soon as reasonably practicable subsequent to any change to the identity of those Persons referred to in Clearing Rule 401(17), the updated list of such Persons.

This is without prejudice to OTC Clear's right to reasonably request such or other information more frequently if it wishes to do so, and without prejudice to its rights under Clearing Rules 501 and 502.

### **Financial Information**

504. Each Clearing Member must file the following information with OTC Clear:

- (1) audited financial statements and audited consolidated financial statements, including balance sheet and profit and loss accounts, with the auditor's report drawn up in accordance with Applicable Law and accounting standards within 120 days of the end of the Clearing Member's fiscal year;
- (2) quarterly balance sheet and profit and loss statements that are signed by authorized signatory or signatories of such Clearing Member, drawn up in accordance with Applicable Law and accounting standards, within 30 days of its quarter-end date, together with evidence of signing authority and specimen signatures. Save and except for any changes made to a Clearing Member's list of authorized signatory(ies), a Clearing Member is only required to provide evidence of signing authority and specimen signatures for the first time its quarterly balance sheet and profit and loss statements are delivered to OTC Clear;
- (3) copies of all financial returns made by a Clearing Member to its regulator as soon as reasonably practicable following such returns are submitted to the relevant regulator; and
- (4) such financial or other relevant information which relate to the Clearing Member's clearing activities or its exposure to general and financial risks, in addition to what is explicitly required by this Clearing Rule 504, as may be requested by OTC Clear at its reasonable discretion from time to time.

### **Record Keeping**

505. Each Clearing Member is required to keep all books, records or documents relating to each Contract registered in its name for the term of such Contract and for at least seven years following the termination of each such Contract.

## **Chapter 6 Suspension and Termination of Membership**

### **Suspension**

601. OTC Clear shall be entitled to suspend a Clearing Member:

- (1) if OTC Clear in its reasonable discretion determines that an Event of Default has occurred in respect of a Clearing Member;
- (2) as a result of disciplinary proceedings brought against that Clearing Member pursuant to Chapter 14 of these Clearing Rules;
- (3) in the event of any Force Majeure Event or Illegality affecting the Clearing Member;
- (4) if OTC Clear at its discretion considers that suspension of the Membership of such Clearing Member is necessary to protect the interests of OTC Clear or its Clearing Members (excluding the Clearing Member concerned); or
- (5) if and to the extent permitted by any provision in the Articles of Association.

In respect of a suspension under Clearing Rules 601(1) to (4), the suspension may occur on such terms and for such period as OTC Clear may think fit. In respect of a suspension under Clearing Rule 601(5), the suspension may occur on such terms and for such period as OTC Clear may think fit and as contemplated in the relevant provisions in the Articles of Association.

602. Where a Clearing Member is suspended:

- (1) all monies, including any Margin requirements and its Rates and FX Liability, due to OTC Clear shall remain due and payable by the Clearing Member as if it had not been suspended;
- (2) it shall not enter into any new Contracts other than to offset any existing Contracts, or otherwise directed by, or with the consent of, OTC Clear;
- (3) OTC Clear may, after consultation with the Risk Management Committee, order the liquidation of all or a portion of the Contracts of the Clearing Member;
- (4) subject to sub-paragraph (3) above, the suspension shall not in any way affect the validity or enforceability of any Contract or other agreement or arrangement to which that Clearing Member was party prior to the suspension;
- (5) OTC Clear may take such action pursuant to these Clearing Rules as it, in its absolute discretion, sees fit;
- (6) a suspended Clearing Member shall, prior to its Membership Termination Date, continue to be bound by the Clearing Documentation during such period of suspension; and
- (7) notice of suspension of Membership of any Clearing Member shall be given by OTC Clear as soon as reasonably practicable to all Clearing Members and the SFC.

603. OTC Clear shall be entitled, at any time and at its discretion, to revoke the suspension imposed on a Clearing Member under Clearing Rule 601.

### Resignation

604. A Clearing Member may resign its Membership by giving written notice at any time to OTC Clear, such resignation to become effective on the later of:
- (1) the OTC Clear Clearing Day on which each of the:
    - (a) Initial Margin requirements (in respect of each Position Account of such resigning Clearing Member) shown on the end-of-day Margin report published on such day; and
    - (b) the net notional of all Contracts recorded in the name of such resigning Clearing Member, becomes zero; and
  - (2) the date designated by such resigning Clearing Member, (the “**Resignation Effective Date**”).
605. A notice of resignation may only be revoked with the prior written consent of OTC Clear. The resigning Clearing Member is required to submit a written request to OTC Clear giving reasons for the revocation within five OTC Clear Business Days of its submission of the resignation notice. OTC Clear will notify such Clearing Member in writing whether it accepts the revocation request.
606. If OTC Clear is satisfied that a Clearing Member is resigning its Membership pursuant to a reorganization of the group of companies of which the Clearing Member is a member and in circumstances where another company in the same group (“**substitute company**”) is to become a Clearing Member and to continue the business of the existing Clearing Member (the “**resigning Clearing Member**”) in place of the resigning Clearing Member (and for this purpose a company shall be regarded as in the same group as another company if, in the opinion of OTC Clear, the ultimate beneficial owners of both companies are the same or substantially the same), then, upon written application of the resigning Clearing Member, OTC Clear may issue a written notice exempting the resigning Clearing Member from compliance with Clearing Rules 608(2) and 609. OTC Clear may, in its absolute discretion, allow the resigning Clearing Member’s Rates and FX Contribution to be credited to the substitute company with effect from a date stipulated by OTC Clear (such date not to be later than the date upon which the new member becomes a Clearing Member). Any such notice may be issued on such conditions as OTC Clear thinks fit. OTC Clear shall have an absolute discretion to determine whether or not the ultimate beneficial ownership of companies is “**the same or substantially the same**” and OTC Clear’s decision in relation to the same shall be final and binding.

### Termination

607. A Clearing Member’s Membership may be terminated as a result of:
- (1) the operation of Clearing Rule 1224(2);
  - (2) the operation of Clearing Rule 1311;

- (3) the operation of Clearing Rules 1405 and 1409; or
- (4) a Clearing Member resigning in accordance with Clearing Rules 604 to 612, provided that no such termination shall be effective if it becomes a Defaulting Clearing Member at the time of notice of resignation or subsequently.

### **Resignation and Termination**

608. Unless otherwise determined by OTC Clear, a Clearing Member who gives notice of resignation of its Membership or whose Membership is being terminated by OTC Clear pursuant to Clearing Rule 1224(2) or 1405 shall, prior to the relevant Membership Termination Date:
- (1) subject to Clearing Rule 609, continue to be obliged to pay when due all amounts required by OTC Clear in accordance with the Clearing Documentation, including without limitation, its Margin requirements, its Rates and FX Liability and cash payment obligations until its Membership Termination Date;
  - (2) in respect of a Clearing Member who gives notice of resignation of its Membership, at the time it gives such notice or within such time period specified by OTC Clear, submit to OTC Clear a plan for a Non-Default Unwind of all Contracts to which it is party, and shall adhere to that plan until the Resignation Effective Date;
  - (3) in respect of a Clearing Member whose Membership is being terminated by OTC Clear, cooperate with OTC Clear in winding down its business with OTC Clear;
  - (4) not enter into any new Contracts, except if such new Contracts are risk-reducing as determined by OTC Clear; and
  - (5) continue to be bound by the Clearing Documentation until the Membership Termination Date.
609. A Clearing Member's liability after its Membership Termination Date in respect of any Rates and FX Loss shall be limited to any Rates and FX Loss arising out of any DMP Event occurring in any Capped Liability Period that has commenced prior to its Membership Termination Date (even if the expiry of the relevant Capped Liability Period occurs after the Membership Termination Date). In addition, any application of the Rates and FX Contribution Balance or demand for the CM Unfunded Contribution Amount after a Clearing Member's Membership Termination Date in respect of such Rates and FX Loss shall be limited to its Maximum Current Liability in respect of the relevant Capped Liability Period.
610. In respect of a Clearing Member whose Membership is being terminated by OTC Clear pursuant to Clearing Rule 1405, or in respect of a resigning Clearing Member who has failed to comply with Clearing Rule 608(2) (including its obligation to adhere to the Non-Default Unwind plan), OTC Clear may deem such Clearing Member as Defaulting Clearing Member and take all necessary steps, including but not limited to those set out in Clearing Rules 1306, 1306A, 1306B, 1306C and 1307 or to initiate the Default Management Process in order

to ensure the orderly winding down of such Clearing Member's business in relation to OTC Clear.

611. Termination of a Clearing Member's Membership shall not affect the validity and operation of Clearing Rules 212 to 214, 609, 612, 613, 1002A, 1220, 1316, 1529, 1538 and 1547, which shall survive termination of a Clearing Member's Membership.
612. Following its Membership Termination Date, a Former Clearing Member shall be entitled to the redelivery of Collateral in form and amount equal to the Rates and FX Contribution delivered by such Clearing Member, to the extent not applied in accordance with Chapter 15 and Chapter 19 of these Clearing Rules, and subject to, and in accordance with, the provisions of Clearing Rules 1546 and 1547.

### **Former Clearing Members**

613. OTC Clear and any Former Clearing Member shall remain:
  - (1) subject to any arbitration, investigations, panels or proceedings, and provisions of any of the Clearing Documentation which relate in whole or in part to any acts or omissions of OTC Clear or the Former Clearing Member while it was a Clearing Member; and
  - (2) liable in respect of all cash payment obligations including fees, levies, duties, fines, charges and payments under the Clearing Documentation, amounts due to OTC Clear or the Former Clearing Member as a result of the Clearing Documentation and any other liabilities entered into and accrued prior to the relevant Membership Termination Date.

## **Chapter 7 Designated Person**

### **General**

701. A Designated Person may submit an Original Transaction to OTC Clear on behalf, and in the name, of its Clearing Member for purposes of registering such Original Transaction to form a Contract between OTC Clear and such Clearing Member.
702. In order to be approved as a Designated Person by OTC Clear, a Clearing Member may submit for OTC Clear's approval one or more of its Affiliates and/or CM Branches to act as its Designated Person(s) and it must clearly indicate the branch location or jurisdiction of incorporation and the location from which it may utilize the Rates and FX Clearing Services (including the location from which it may submit an Original Transaction), as applicable, of each CM Branch or Affiliate whom it proposes to become its Designated Person.
703. A Designated Person can only be attached to one (and not more than one) Clearing Member at any given time and a CM Branch can only be a Designated Person of the Clearing Member of which it is a branch.
704. OTC Clear has the sole right and discretion in determining whether to approve an Affiliate or a CM Branch to be a Designated Person of a Clearing Member. OTC Clear will only accept for registration Original Transactions submitted by the Clearing Member or by its Designated Person(s).
705. Each Clearing Member represents that unless prior written approval has been obtained from OTC Clear, it will only utilize the Rates and FX Clearing Services through its place of business in Hong Kong, or through its Designated Person(s) at the branch location or jurisdiction of incorporation or the location from which it may submit an Original Transaction, as applicable, each of which as approved by OTC Clear.
706. Each Clearing Member acknowledges that its Affiliate may submit Original Transactions for registration in the capacity as the Designated Person of such Clearing Member.
- 706A. An Affiliate of a Clearing Member wishing to utilize the clearing services offered by OTC Clear in respect of Original Transactions to which it is a party may enter into a Client Clearing Agreement with (and become a Client of) its Clearing Member or any other Clearing Member.
707. A Clearing Member may request OTC Clear to remove the status of one or more Designated Persons and OTC Clear will only be required to accept such request if no Contracts relating to the Original Transaction that have been originally submitted for registration by such Designated Person is outstanding, and OTC Clear is satisfied that there is no outstanding liability or sums owing to OTC Clear in respect of such Contracts.

### **Continuing Authority of a Designated Person**

708. Each Clearing Member confirms that it has granted continuing authority to each of its Designated Person(s) to carry out any and all acts on behalf of such Clearing Member, and accordingly:

- (1) it waives any defences it may otherwise have as to the lack of authority of its Designated Persons to act on its behalf; and
- (2) in respect of any instruction initiated or provided by a Designated Person, OTC Clear is under no obligation to notify, or verify such instruction with, the relevant Clearing Member. OTC Clear shall be deemed to have acted in good faith if it acts in accordance with the instructions of a Designated Person.

**Acknowledgment by a Designated Person**

709. Without prejudice to the operation of Clearing Rule 708, OTC Clear may, from time to time, limit, restrict or vary the scope in which a Designated Person may submit Original Transaction to OTC Clear on behalf, or in the name, of its Clearing Member and OTC Clear will notify the relevant Clearing Member of any such limitation, restriction or variation.

**PART III**  
**CLEARING OPERATIONS**

## Chapter 8 Clearing by OTC Clear

### Acceptance for Registration of Original Transactions

801. Clearing Members (or Designated Person on behalf of the relevant Clearing Member) and Clients may from time to time submit Original Transactions to OTC Clear for registration in accordance with the Clearing Procedures. In order to qualify for registration, an Original Transaction must satisfy the Eligibility Requirements applicable to such Original Transaction. The Eligibility Requirements applicable to an Original Transaction are determined by OTC Clear and will be set out in the Clearing Procedures.
802. Without prejudice to Clearing Rule 801, OTC Clear may at any time reject any Original Transaction submitted for registration if, at the relevant time:
- (1) an Event of Default has occurred, or in OTC Clear's reasonable opinion, is likely to occur, in relation to the relevant Clearing Member;
  - (2) the Original Transaction does not satisfy the applicable Eligibility Requirements; or
  - (3) the Clearing Member in whose name such Original Transaction will be registered has not satisfied its Margin requirements.
803. If OTC Clear determines that an Original Transaction is acceptable for registration, such Original Transaction will be registered in accordance with Clearing Rule 806, provided that OTC Clear may, in its sole discretion, apply any other conditions to the registration of such Original Transaction.
804. In the event that an Original Transaction fails to be accepted for registration pursuant to these Clearing Rules, OTC Clear shall, in accordance with the Clearing Procedures, notify the relevant Clearing Member(s) of its decision.
805. Any Original Transaction that fails to be accepted for registration shall remain in full force and effect as between the two original parties to such Original Transaction pursuant to the terms therein.

### Creation of Contracts through Submission of Original Transactions by Clearing Members or Clients

806. Any Original Transaction submitted for, and accepted by, OTC Clear for registration by a Clearing Member, a Client or a Designated Person submitting an Original Transaction on behalf of its Clearing Member will result in the novation of the Original Transaction and the formation of two Contracts in its place with effect from the Registration Time, as follows:
- (1) if the Original Transaction is between two Clearing Members, then:
    - (a) one Contract is created between a Clearing Member ("**Clearing Member 1**") who was party to the Original Transaction and OTC Clear (as principal), under which:
      - (A) the rights and obligations of OTC Clear arising from the Economic Terms of such Contract will be the same as those of the other Clearing Member ("**Clearing Member**")

2") who was party to the Original Transaction under the economic terms of the Original Transaction; and

- (B) the rights and obligations of Clearing Member 1 arising from the Economic Terms of such Contract will be the same as those it had under the economic terms of the Original Transaction against Clearing Member 2, except that such rights and obligations are modified by the replacement of OTC Clear as the counterparty to Clearing Member 1,

and are subject to any changes as a result of the operation of the Contract Terms (as supplemented by the Clearing Procedures and the ATRS Guide) for that Contract;

- (b) another Contract is created between Clearing Member 2 with OTC Clear (as principal), under which:

- (A) the rights and obligations of OTC Clear arising from the Economic Terms of such Contract will be the same as those of Clearing Member 1 under the economic terms of the Original Transaction; and

- (B) the rights and obligations of Clearing Member 2 arising from the Economic Terms of such Contract will be the same as those it had under the economic terms of the Original Transaction against Clearing Member 1, except that such rights and obligations are modified by the replacement of OTC Clear as the counterparty to Clearing Member 2,

and are subject to any changes as a result of the operation of the Contract Terms (as supplemented by the Clearing Procedures and the ATRS Guide) for that Contract; and

- (c) in respect of the Original Transaction between two Clearing Members, upon the creation of the two Contracts under subparagraphs (a) and (b) above, the rights and obligations of the parties to the corresponding Original Transaction will be automatically and completely discharged and of no further force or effect, save and except for any amounts which are due and payable (or deliverable) by one party to the other prior to the Registration Time pursuant to the terms of such Original Transaction and which remain unpaid (or undelivered);

- (2) if the Original Transaction is between a Clearing Member and a Client (the "**Relevant Client**"), then:

- (a) one Contract is created between the Clearing Member who provides Client Clearing Services to the Relevant Client ("**Clearing Member 3**") (in respect of its Client Position Account relating to the Relevant Client) and OTC Clear (as principal), under which:

- (A) the rights and obligations of OTC Clear arising from the Economic Terms of such Contract will be the same as those of the Clearing Member (“**Clearing Member 4**”) who was party to the Original Transaction with the Relevant Client under the economic terms of the Original Transaction; and
- (B) the rights and obligations of Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) arising from the Economic Terms of such Contract will be the same as those the Relevant Client had under the economic terms of the Original Transaction against Clearing Member 4, except that such rights and obligations are modified by the replacement of OTC Clear as counterparty to Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client),

and are subject to any changes as a result of the operation of the Contract Terms (as supplemented by the Clearing Procedures and the ATRS Guide) for that Contract;

- (b) one Contract is created between Clearing Member 4 (in respect of its House Position Account) and OTC Clear (as principal), under which:
  - (A) the rights and obligations of OTC Clear arising from the Economic Terms of such Contract will be the same as those of the Relevant Client under the economic terms of the Original Transaction; and
  - (B) the rights and obligations of Clearing Member 4 (in respect of its House Position Account) arising from the Economic Terms of such Contract will be the same as those it had under the economic terms of the Original Transaction against the Relevant Client, except that such rights and obligations are modified by the replacement of OTC Clear as the counterparty to Clearing Member 4 (in respect of its House Position Account),

and are subject to any changes as a result of the operation of the Contract Terms (as supplemented by the Clearing Procedures and the ATRS Guide) for that Contract;

- (c) where Clearing Member 3 and Clearing Member 4 are the same Clearing Member, then for the purposes of this sub-paragraph (2), the Contract created pursuant to sub-paragraph (a) above will be recorded to such Clearing Member’s Client Position Account relating to the Relevant Client, and the Contract created pursuant to sub-paragraph (b) above will be recorded to such Clearing Member’s House Position Account; and

- (d) in respect of the Original Transaction between Clearing Member 4 and the Relevant Client, upon the creation of the two Contracts under sub-paragraphs (a) and (b) above, the rights and obligations of the parties to the corresponding Original Transaction will be automatically and completely discharged and of no further force or effect, save and except for any amounts which are due and payable (or deliverable) by one party to the other prior to the Registration Time pursuant to the terms of such Original Transaction and which remain unpaid (or undelivered); and
- (3) if the Original Transaction is between two Clients (“**Client 1**” and “**Client 2**”), then:
- (a) one Contract is created between the Clearing Member who provides Client Clearing Services to Client 1 (“**Clearing Member 5**”) (in respect of its Client Position Account relating to Client 1) and OTC Clear (as principal), under which:
    - (A) the rights and obligations of OTC Clear arising from the Economic Terms of such Contract will be the same as those of Client 2 under the economic terms of the Original Transaction; and
    - (B) the rights and obligations of Clearing Member 5 (in respect of its Client Position Account relating to Client 1) arising from the Economic Terms of such Contract will be the same as those of Client 1 under the economic terms of the Original Transaction, except that such rights and obligations are modified by the replacement of OTC Clear as counterparty to Clearing Member 5 (in respect of its Client Position Account relating to Client 1),and are subject to any changes as a result of the operation of the Contract Terms (as supplemented by the Clearing Procedures and the ATRS Guide) for that Contract;
  - (b) one Contract is created between the Clearing Member who provides Client Clearing Services to Client 2 (“**Clearing Member 6**”) (in respect of its Client Position Account relating to Client 2) and OTC Clear (as principal), under which:
    - (A) the rights and obligations of OTC Clear arising from the Economic Terms of such Contract will be the same as those of Client 1 under the economic terms of the Original Transaction; and
    - (B) the rights and obligations of Clearing Member 6 (in respect of its Client Position Account relating to Client 2) arising from the Economic Terms of such Contract will be the same as those of Client 2 under the economic terms of the Original Transaction, except that such rights and obligations are modified by the replacement of OTC

Clear as the counterparty to Clearing Member 6 (in respect of its Client Position Account relating to Client 2),

and are subject to any changes as a result of the operation of the Contract Terms (as supplemented by the Clearing Procedures and the ATRS Guide) for that Contract;

- (c) where Clearing Member 5 and Clearing Member 6 are the same Clearing Member, then for the purposes of this sub-paragraph (3), the Contract created pursuant to sub-paragraph (a) above will be recorded to such Clearing Member's Client Position Account relating to Client 1, and the Contract created pursuant to sub-paragraph (b) above will be recorded to such Clearing Member's Client Position Account relating to Client 2; and
- (d) upon the creation of the two Contracts under sub-paragraphs (a) and (b) above, the rights and obligations of the parties to the corresponding Original Transaction will be automatically and completely discharged and of no further force or effect, save and except for any amounts which are due and payable (or deliverable) by one party to the other prior to the Registration Time pursuant to the terms of such Original Transaction and which remain unpaid (or undelivered).

807. When an Original Transaction is submitted for registration, the relevant party shall specify (i) whether such Original Transaction is being submitted for registration as part of a Clearing Member's Client Clearing Services and (ii) to which of the relevant Clearing Member's Position Account the corresponding Contract(s) should be booked, in accordance with the following:

- (1) each Contract created under Clearing Rule 806(1) or Clearing Rule 806(2)(b) should be booked to the House Position Account of the Clearing Member who was party to the corresponding Original Transaction; and
- (2) each Contract created under Clearing Rule 806(2)(a), Clearing Rule 806(3)(a) or Clearing Rule 806(3)(b) should be booked to a Client Position Account relating to the relevant Client.

Any Contract arising as a result of submission of an Original Transaction by a Designated Person on behalf, and in the name, of a Clearing Member shall be recorded to such Clearing Member's House Position Account.

808. Each Contract created under Clearing Rule 806 shall be governed by the applicable Contract Terms for that Contract. OTC Clear's obligations and liabilities under any Contract shall be limited to those pursuant to the Clearing Documentation.

809. Each Clearing Member agrees to be bound by each Contract pursuant to the particulars submitted by it or its Designated Person that is entered in such Clearing Member's name as principal and not as agent, and on the terms set out in the Clearing Documentation.

810. The Transaction Register, or such other record as OTC Clear shall accept in its sole discretion, shall constitute conclusive evidence of Contracts which have been validly made unless OTC Clear otherwise determines. The relevant reports published by OTC Clear in reliance on, or on the basis of, the Transaction Register shall be final and conclusive in determining whether a Contract has been registered with, or de-registered by, OTC Clear.
811. Following the creation of a Contract with effect from the Registration Time of such Contract:
- (1) such Contract will be a “market contract” as defined in, and for purposes of, the SFO;
  - (2) each relevant Clearing Member shall, or shall procure its Designated Person, to the extent applicable, to update its books and records to reflect such registration;
  - (3) notwithstanding any non-performance of a party's obligations under the Original Transaction, or any invalidity, unenforceability, revocation or avoidance of the Original Transaction, the terms and validity of the corresponding Contracts shall remain in full force and effect; and
  - (4) notwithstanding the occurrence of any Insolvency Proceedings with respect to a Clearing Member in whose name a Contract is registered during or prior to the Registration Time of such Contract, and regardless of whether OTC Clear is aware, or could reasonably be expected to be aware, of such occurrence of Insolvency Proceedings, the Contract, once created, shall remain in full force and effect.

#### **Clearing Members' Representations as at Registration Time**

812. In relation to each Contract, OTC Clear will, and will be entitled to, rely on the following representations and warranties from each Clearing Member proposing to become a party to any Contract (whether in respect of an Original Transaction submitted by such Clearing Member itself or by its Designated Person in the name, and on behalf, of such Clearing Member), which are deemed to arise automatically pursuant to these Clearing Rules immediately prior as at the Registration Time:
- (1) that the Clearing Member is in full compliance with the Clearing Documentation and with all Applicable Laws in respect of such Original Transaction;
  - (2) that the Clearing Member has authorized all data submitted to OTC Clear and such data is complete and correct in all aspects; and
  - (3) any representation that an Original Transaction was, pursuant to CFTC rules and regulations, either voluntarily reported, or required to be reported, to a swap data repository registered with the CFTC.

#### **Creation of Contracts other than through Submission of Original Transaction by Clearing Members or Clients**

813. Contracts may be created by ways other than through submission of Original Transaction by Clearing Members or Clients as described in Clearing Rule 806 if such Contracts arise as a result of the operation of Clearing Rule 210(1),

1320(1), 1321, 1703 or 1921, in each case, with effect from the Registration Time applicable to the relevant Contract.

### **Termination of Contracts relating to Ineligible Original Transactions after Registration**

814. If, subsequent to the registration of an Original Transaction, OTC Clear determines in its sole discretion that such Original Transaction would otherwise have been rejected under Clearing Rule 802 for registration at the Registration Time, or in respect of an Original Transaction submitted as part of a Clearing Member's Client Clearing Services, OTC Clear determines in its sole discretion that the relevant Clearing Member has not been approved of providing client clearing services, or was in breach of one or more conditions or requirements stipulated by OTC Clear in connection with it providing Client Clearing Services, or OTC Clear determines in its sole discretion that any consent provided by the Clearing Member, its Clients or their respective contact persons pursuant to Clearing Rule 212(1), 214(2) or 214(5), as the case may be, respectively, has been revoked, at the Registration Time:

- (1) OTC Clear will terminate the Contracts corresponding to such Original Transaction (each, an "**Error Contract**") as soon as reasonably practicable, and such Error Contracts shall have no further force or effect thereafter;
- (2) any payments made by OTC Clear or a Clearing Member, including, without limitation, for purposes of satisfying any end-of-day Variation Margin requirements (but excluding Initial Margin, Additional Margin, Ad Hoc Intra-day Variation Margin or Routine Intra-day Variation Margin), in connection with such Error Contracts shall be retained by the receiving party thereto; and
- (3) if OTC Clear determines that the value of an Error Contract has changed in between the time when the Variation Margin was last calculated and when such Error Contract was terminated, then a payment representing such difference in value shall be made between the Clearing Members in whose names the Error Contracts were registered. Any payment made pursuant to the immediately foregoing sentence will be made outside of the Rates and FX Clearing System, and shall fully discharge a party's obligations under such Error Contract.

OTC Clear will notify the relevant Clearing Member of any termination of an Error Contract registered in the name of such Clearing Member pursuant to this Clearing Rule 814. Without prejudice to Clearing Rule 203, OTC Clear shall not be liable to any Person in any way whatsoever in consequence of registration of any Original Transaction and the subsequent termination of, any related Error Contracts.

814A. OTC Clear shall have the discretion to avoid Contracts corresponding to an Original Transaction if one or more of such Contracts whether in whole or in part are made or received by OTC Clear subsequent to the institution of a proceeding against the relevant Clearing Member(s) seeking judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights or the presentation of a petition for its

winding-up or liquidation against the relevant Clearing Member(s) (the **“Insolvent Clearing Member”**).

814B. If Contracts corresponding to an Original Transaction are avoided pursuant to Clearing Rule 814A, OTC Clear shall as soon as practicable notify the affected Clearing Members and upon such notification:

- (1) the affected Contracts corresponding to the relevant Original Transaction shall be void ab initio from the time the Contracts are created;
- (2) save for subparagraphs (3), (4) and (5) below, OTC Clear and the affected Clearing Members shall not have any rights, liabilities and obligations under the affected Contracts;
- (3) any payments made by OTC Clear to an affected Clearing Member, including, without limitation, for purposes of satisfying any end-of-day Variation Margin requirements, in connection with an affected Contract corresponding to the relevant Original Transaction shall as soon as practicable be returned by such affected Clearing Member (the **“Paying Clearing Member”**) to OTC Clear without interest;
- (4) if the relevant affected Contract corresponding to the Original Transaction is registered to the House Position Account, any payments made by an affected Clearing Member to OTC Clear, including, without limitation, for purposes of satisfying any end-of-day Variation Margin requirements (but excluding Initial Margin, Additional Margin, Ad Hoc Intra-day Variation Margin or Routine Intra-day Variation Margin which, for the avoidance of doubt, shall form part of the Margin Balance), in connection with such affected Contract shall as soon as practicable be returned by OTC Clear to such affected Clearing Member without interest, provided that the payment obligations of OTC Clear under this subparagraph (4) shall be limited to such amount OTC Clear has actually received from the Paying Clearing Member under subparagraph (3) above;
- (5) if the relevant affected Contract corresponding to the Original Transaction is registered to a Client Position Account of an affected Clearing Member that is not the Insolvent Clearing Member, any payments made by such affected Clearing Member to OTC Clear, including, without limitation, for purposes of satisfying any end-of-day Variation Margin requirements (but excluding Initial Margin, Additional Margin, Ad Hoc Intra-day Variation Margin or Routine Intra-day Variation Margin which, for the avoidance of doubt, shall form part of the Margin Balance), in connection with such affected Contract shall as soon as practicable be returned by OTC Clear to such affected Clearing Member without interest, provided that the payment obligations of OTC Clear under this subparagraph (5) shall be limited to such amount OTC Clear has actually received from the Paying Clearing Member under subparagraph (3) above;
- (6) if the relevant Contract corresponding to the Original Transaction is registered to a Client Position Account of the Insolvent Clearing Member, any payments made by the Insolvent Clearing Member to OTC Clear,

including, without limitation, for purposes of satisfying any end-of-day Variation Margin requirements (but excluding Initial Margin, Additional Margin, Ad Hoc Intra-day Variation Margin or Routine Intra-day Variation Margin which, for the avoidance of doubt, shall form part of the Margin Balance), in connection with such affected Contract shall, subject to entering into relevant documentation between OTC Clear and the relevant Client (which may, without limitation, include an indemnity (secured or otherwise) to OTC Clear in respect of any loss or liability arising from the legal invalidity of any payment of such moneys to the relevant Client), be returned directly by OTC Clear to the relevant Client without interest, provided that the payment obligations of OTC Clear under this subparagraph (6) shall be limited to such amount OTC Clear has actually received from the Paying Clearing Member under subparagraph (3) above. If the relevant Client fails to enter into relevant documentation with OTC Clear, OTC Clear shall reserve the right to withhold payment of such amounts until such time such relevant documentation has been properly entered into; and

- (7) if OTC Clear determines that no further amounts in respect of any amount payable by the Paying Clearing Member under subparagraph (3) are likely to be recovered and notifies the same to the affected Clearing Member and/or the relevant Client (as the case may be), then the unpaid balance of any payment payable by OTC Clear under subparagraphs (4), (5) and (6) above shall thereafter be extinguished and the affected Clearing Member and the relevant Client (as the case may be) shall have no further recourse to OTC Clear (its Affiliates, a recognized exchange controller which is the controller of OTC Clear, or any of their respective Representatives) in respect thereof.

### **Transfers of Contracts**

815. Save and except for, in the case of a Clearing Member who is a Rule-Based Clearing Member, the right of its Client to receive any Client Entitlement from OTC Clear under Clearing Rules 1308A, 1308B, 1309 and 1309A and, in the case of a Non Rule-Based Clearing Member, any Encumbrance created pursuant to a Security Deed, a Clearing Member shall not assign, novate, transfer or create any Encumbrance whatsoever in relation to any of its rights, liabilities or obligations under a Contract.

### **Client Clearing**

816. A Clearing Member shall, prior to offering Client Clearing Services to its Clients, obtain relevant approval from OTC Clear. OTC Clear may stipulate any conditions or requirements in connection with a Clearing Member's application to provide Client Clearing Services. Any purported client clearing services provided by a Clearing Member prior to the relevant approval being obtained or in breach of any condition or requirement stipulated by OTC Clear in the relevant approval shall not be considered Client Clearing Services under these Clearing Rules, and the clients of such Clearing Member shall not be considered as Clients under these Clearing Rules. Accordingly, Original Transactions submitted as such Clearing Member's Client Clearing Services shall not be registered as Contracts.

817. A Clearing Member providing Client Clearing Services to its Clients shall be liable to OTC Clear and be responsible for all its obligations as principal in respect of the Contracts and Client Accounts registered in its name. Each Clearing Member acknowledges that, save and except for the Client's right to receive any Client Entitlement directly from OTC Clear under Clearing Rules 1309 or 1309A (in the case of a Clearing Member who is a Rule-Based Clearing Member) or pursuant to a Security Deed (in the case of a Clearing Member who is a Non Rule-Based Clearing Member), OTC Clear owes no obligation towards any Client or any other Person that is not a Clearing Member whatsoever in respect of the Contracts or any Client Accounts. It is the responsibility of the Clearing Member (and not OTC Clear) to ensure its own compliance with Applicable Laws relating to conduct of business, client money and segregation of client assets. Subject to the provisions of these Clearing Rules, Client Clearing Services may be provided by a Clearing Member to its Clients on whatever terms the Clearing Member decides should apply, provided that each Clearing Member must, prior to providing Client Clearing Services to a Client:

- (1) in the case of a Clearing Member who is a Non Rule-Based Clearing Member, enter into a Security Deed in favour of that Client which is legal, valid, binding and enforceable, in accordance with its terms, and provide written confirmation to OTC Clear that it has complied with Clearing Rule 818 in respect of that Security Deed;;
- (2) provide written confirmation to OTC Clear showing that it has delivered the Client Clearing Services Notice to such Client, and has undertaken to do all such things as OTC Clear may from time to time reasonably require to ensure that such Client is informed of the nature, costs and risks of the Client Clearing Services (including each Client Clearing Category);
- (3) enter into a Client Clearing Agreement with that Client that incorporates provisions with the following effect:
  - (a) in the case of a Clearing Member who is a Rule-Based Clearing Member, the Clearing Member confirms that the positions and Collateral held in the relevant Client Account(s) by the Clearing Member as well as any Client Entitlement calculated by OTC Clear in respect thereto each relate to the corresponding positions between the Client and the Clearing Member and that, pursuant to the power of OTC Clear to make rules under section 40(2A) of the SFO, following an Event of Default of the Clearing Member, in the case of a Non-Porting Client such Client Entitlement shall be returned by OTC Clear directly to that Client pursuant to Clearing Rules 1308A and 1309 and in the case of a Porting Client such Client Entitlement shall be returned by OTC Clear directly to that Client pursuant to Clearing Rules 1308B and 1309A;
  - (b) in the case of a Clearing Member who is a Non Rule-Based Clearing Member, each of the Clearing Member and the Client confirms that the positions and Collateral held in the relevant

Client Account(s) by the Clearing Member as well as any Client Entitlement calculated by OTC Clear in respect thereto each relate to the corresponding positions between the Client and the Clearing Member and, following an Event of Default of the Clearing Member, in the case of a Non-Porting Client such Client Entitlement shall be returned by OTC Clear to that Client pursuant to Clearing Rule 1309 and the terms of the Security Deed entered into by the Defaulting Clearing Member in favour of such Client and in the case of a Porting Client such Client Entitlement shall be returned by OTC Clear to that Client pursuant to Clearing Rule 1309A and the terms of the Security Deed entered into by the Defaulting Clearing Member in favour of such Client;

- (c) Corresponding Client Transactions shall be transacted pursuant to the terms of the Client Clearing Agreement and be segregated (contractually or otherwise) from any other transactions entered into between the Clearing Member and the Client;
- (d) upon the occurrence or designation of an Early Termination Date in respect of the Clearing Member following an Event of Default, any Corresponding Client Transaction with the Defaulting Clearing Member must either (i) be automatically terminated and re-established with, transferred or novated to a Replacement Clearing Member or (ii) the Client must have the right to terminate such transaction and re-establish, transfer or novate such transaction to a Replacement Clearing Member;
- (e) if a Corresponding Client Transaction is terminated following such Early Termination Date, the net replacement value of the Corresponding Client Transaction shall be equal to the value attributed by OTC Clear to the Contract to which the Corresponding Client Transaction relates following such Early Termination Date;
- (f) any non-cash collateral in respect of Corresponding Client Transactions shall be provided by way of full title transfer from the Client to the Clearing Member;
- (g) that "two way payments" arise in the event of a termination of all Corresponding Client Transactions, the substantive effect of which is that either a Clearing Member or a Client will be entitled to receive payment under the relevant termination provisions if the net replacement value of all terminated Corresponding Client Transactions effected under the Client Clearing Agreement is in its favour;
- (h) an acknowledgement from the Client that the provision of Client Clearing Service by the Clearing Member to it will not give rise to any liability owed by OTC Clear to the Client;

- (i) the Clearing Member shall have the right in the event of a Rates and FX Clearing Termination Event relating to OTC Clear, to terminate the Corresponding Client Transaction;
- (j) upon the request of a Transferee Clearing Member to OTC Clear to port to the Transferee Clearing Member a Client's portfolio of Contracts registered with the Transferor Clearing Member in the relevant Client Position Account in full pursuant to Clearing Rule 830 or in part pursuant to Clearing Rule 831 from the Transferor Clearing Member to the Transferee Clearing Member, the Transferor Clearing Member shall have the right to (i) terminate the relevant Corresponding Client Transaction with such Client and/or (ii) have the relevant Corresponding Client Transaction re-established with, transferred or novated to the Transferee Clearing Member;
- (k) in the event that OTC Clear exercises its right under section 3.19 of the Clearing Procedures to vary the Economic Terms of a Standard Cross-currency Rates Derivatives Contract, the relevant Affected Clearing Member shall have the right to vary the terms and conditions of the relevant Corresponding Client Transaction to reflect such variation;
- (l) the Clearing Member shall only accept from the Client, as collateral for the Corresponding Client Transactions, the same types of Collateral which OTC Clear accepts from the Clearing Member in respect of the relevant Client Position Account to which Contracts relating to such Corresponding Client Transactions are recorded; and
- (m) no margin financing or collateral transformation services shall be provided by the Clearing Member to the Client under the Client Clearing Agreement,

and to the extent there is no Client Clearing Agreement in full force and effect or there is any deficiency in the Client Clearing Agreement, the Clearing Member and the Client will be deemed to have entered into a binding agreement into which the terms set out in this Clearing Rule 817(3) shall be deemed to have been incorporated. Any changes made to the terms of a Contract by OTC Clear shall be deemed to be reflected in the Corresponding Client Transaction.

818. Where any formalities or registration requirements apply in respect of a Security Deed (and any other document which OTC Clear may from time to time determine), a Clearing Member is required to comply with such obligations or to procure by agreement that such requirements are to be complied with.

#### **Types of Client Clearing Categories**

819. Client Clearing Services may be provided by a Clearing Member to its Clients, and Contracts will be entered into by a Clearing Member with OTC Clear in respect of such Clients on a Client Clearing Category 1 Account Basis, a Client Clearing Category 2 Account Basis, or any other basis as OTC Clear may decide to introduce from time to time (each a "**Client Clearing Category**").

820. A Clearing Member that offers Client Clearing Services to one or more Clients shall offer its Clients the choice between the Client Clearing Category 1 Account Basis and the Client Clearing Category 2 Account Basis, and shall inform them of the costs and level of protection associated with each option. The Clearing Member shall procure that each Client confirms its choice in writing. A Client must be allocated to one single Client Clearing Category at any given time, provided that a Client may, at any time but subject to the prior approval by OTC Clear and subject to any conditions that OTC Clear may impose (including without limitation any requirements as to Margin and Rates and FX Liability), elect to change to a different Client Clearing Category. Upon approval by OTC Clear of a Client's request to change the Client Clearing Category to which it belongs and (if applicable) confirmation by OTC Clear that all relevant conditions have been satisfied, the Clearing Member shall be solely responsible for effecting any related adjustments to the relevant Client Account(s). A Clearing Member may operate one or more Client Clearing Category 1 Accounts and/or one or more Client Clearing Category 2 Accounts, but each Client may not be allocated to more than one Client Position Account at any point in time.
821. In respect of any Client Clearing Services provided by a Clearing Member to its Clients, such Clearing Member shall:
- (1) provide OTC Clear with accurate information relating to the identity of the Client(s) in respect of whom Client Clearing Services are being provided. In the event that OTC Clear reasonably requests the provision of any further information relating to the Clearing Member's Client Clearing Services or a Client, the Clearing Member shall, as soon as reasonably practicable, deliver, or procure the delivery of, such information;
  - (2) maintain and regularly update the books and records relating to its Client Clearing Services; the Clearing Member shall provide such information relating to each Client as reasonably requested by OTC Clear, including at the end of each OTC Clear Business Day. In particular, the Clearing Member or its insolvency practitioner shall promptly provide such information to OTC Clear in the event that an Automatic Early Termination Event occurs or OTC Clear declares an Event of Default in respect of such Clearing Member;
  - (3) comply with the terms of the Clearing Documentation and any condition or requirement stipulated in the relevant approval obtained from OTC Clear in its provision of such Client Clearing Services, including but not limited to any trading, risk or credit limits applicable to the Client Account(s) registered in the name of such Clearing Member;
  - (4) indemnify and hold OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear harmless against any liability to its Clients as a result of the provision by it of Client Clearing Services to its Clients;
  - (5) require each Client to comply with such security obligations as OTC Clear may reasonably request or are otherwise prudent to protect the financial integrity of OTC Clear;

- (6) ensure that any acts or omissions of its Clients will not prevent it from complying with the Clearing Rules;
- (7) require each of its Clients to comply with the following requirements:
  - (a) such Client shall not breach any Applicable Laws or requirements of any Regulatory Authority or any of these Clearing Rules which would be likely to have a material adverse effect on the Client's suitability as a Client in respect of the Client Clearing Services;
  - (b) such Client shall comply with all Applicable Laws relating to its status, the conduct of its business and the performance of its obligations as a Client in relation to the Corresponding Client Transaction, including, for the avoidance of doubt, all Applicable Laws relating to the prevention of bribery, money laundering, financial crimes and terrorist financing and (b) not be subject to any sanctions promulgated or imposed by the United Nations or any Governmental Authority relevant to it or its clearing activities;
  - (c) the use of the Client Clearing Services by such Client shall not cause OTC Clear to be in breach of any Applicable Laws or requirements of any Regulatory Authority;
  - (d) such Client shall not engage in any other practice or take any action which in OTC Clear's opinion is likely to damage the reputation or impair the financial integrity of OTC Clear,

and shall, at the request of OTC Clear, immediately take action to ensure that no further Original Transactions are cleared on behalf of a Client by reducing its Position Limits relating to that Client to zero in the event that OTC Clear reasonably believes such Client is in breach of any of the prohibitions referred to in in this Clearing Rule 821(7);

- (8) only accept from each Client, as collateral for the relevant Corresponding Client Transactions, the same types of Collateral which OTC Clear accepts in respect of the Client Position Account to which Contracts relating to each relevant Corresponding Client Transactions are recorded; and
- (9) not provide any margin financing or collateral transformation services to the Client under the Client Clearing Agreement.

822. A Clearing Member shall inform each of its Client(s) that:

- (1) should such Client wish to effect porting upon the occurrence of a DMP Event with respect to the Clearing Member, complete Porting Instructions shall be delivered to OTC Clear as soon as reasonably practicable at or after commencement of clearing operations in relation to the Client Account(s) relating to such Client and a Replacement Clearing Member must be appointed prior to the occurrence of a DMP Event with respect to the original Clearing Member;
- (2) subsequent to the submission of Porting Instructions and prior to the occurrence of a DMP Event with respect to the original Clearing Member,

a Client who wishes to appoint a different Replacement Clearing Member may deliver, or procure the delivery of, new Porting Instructions appointing another Replacement Clearing Member. The latest Porting Instructions received by OTC Clear in respect of the Client Accounts relating to a Client will be deemed to have superseded and replaced previous Porting Instructions relating to such Client; and

- (3) all Porting Instructions must be received by OTC Clear by 5:00pm (Hong Kong time) on the OTC Clearing Day immediately following the occurrence of a DMP Event with respect to the original Clearing Member.

### **Segregation of Client Accounts**

823. A Clearing Member shall ensure due segregation of Contracts and their related Collateral between its House Account and its Client Account(s). A Clearing Member shall clearly identify the exact type(s) and amount of Collateral provided to OTC Clear in respect of each of its House Collateral Account and Client Collateral Account(s), and retain the same information in its file for record. In particular:

- (1) Collateral held in respect of a Clearing Member's Client Position Account shall never be applied to meet any payment or delivery demands in respect of any other Client Position Account(s) or House Position Account of such Clearing Member; and
- (2) Excess Margin held in respect of a Clearing Member's House Position Account may be applied to meet any payment or delivery demands in respect of one or more Client Position Accounts of such Clearing Member,

provided that this Clearing Rule 823 shall not prejudice the operation of Clearing Rules 1308A and 1309 in the event of the occurrence of a DMP Event.

824. Each Clearing Member represents that it has duly informed each of its Clients that any amounts or monies provided by a Clearing Member to OTC Clear for Margin purposes in respect of its Client Position Account(s) (whether such amounts or monies are provided by the Client or not) are transferred on an outright basis with the effect that, except for the Client's right to receive any Client Entitlement directly from OTC Clear under Clearing Rules 1308A, 1308B, 1309 and 1309A (in the case of a Clearing Member who is a Rule-Based Clearing Member) or pursuant to a Security Deed (in the case of a Clearing Member who is a Non Rule-Based Clearing Member) following the default of such Clearing Member, OTC Clear shall have full legal and equitable interest in the amounts or monies so transferred.

### **Porting of Contracts relating to Clients**

825. Contracts recorded in a Client Account of a Clearing Member shall only be ported in a manner permitted under Clearing Rules 825 to 833 and the Clearing Procedures except upon the occurrence of a DMP Event with respect to such Clearing Member. Porting permitted under this Clearing Rule 825 comprises full portfolio porting in accordance with Clearing Rule 830, partial portfolio porting in accordance with Clearing Rule 831 and porting of Contracts and Collateral between Client Accounts of the same Clearing Member in accordance with

section 3.18 of the Clearing Procedures. A Clearing Member in respect of whom Contracts in its Client Account is ported to another Clearing Member in accordance with this Clearing Rule 825 shall be a “**Transferor Clearing Member**”, and the Clearing Member nominated by the relevant Client(s) to receive the porting of Contracts from the Transferor Clearing Member in accordance with this Clearing Rule 825 shall be a “**Transferee Clearing Member**”.

826. It is the Transferee Clearing Member’s obligation to procure the Transferor Clearing Member to consent to the relevant porting request. OTC Clear shall not be responsible for (i) obtaining consent from a Transferor Clearing Member in relation to the porting of Contracts and Collateral or (ii) determining whether any objection from a Transferor Clearing Member has any merit.
827. OTC Clear shall be authorised and entitled to rely conclusively on the instructions of, and any instruction provided by, the relevant Transferee Clearing Member(s) in connection with the porting of any Contracts and Collateral pursuant to these Clearing Rules 825 to 833, and shall not have any liability including, but not limited to, any civil liability, whether arising in contract, tort, defamation, equity or otherwise for any Damage suffered or incurred directly or indirectly by a Client or any other Person as a result of any porting or failure to port any Contracts and Collateral pursuant to a porting request by OTC Clear in good faith and in accordance with these Clearing Rules.
828. Each Transferee Clearing Member shall indemnify OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear and keep OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear indemnified from and against any loss, cost (including cost of enforcement), interests, liability (including any tax or other fiscal liability), claim or Damage which OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear incurred or suffered in connection with the porting of any Contract and Collateral pursuant to any porting request.
829. In respect of the porting of a Client's portfolio of Contracts registered with the Transferor Clearing Member in the relevant Client Position Account from the Transferor Clearing Member to the Transferee Clearing Member, no amounts shall be payable between and amongst the Transferor Clearing Member, the Transferee Clearing Member and the Client solely as a result of the change in the net present value of such Contracts.

#### **Full Portfolio Porting**

830. Upon the instruction or at the request of any Client Clearing Category 1 Client or a Client Clearing Category 2 Client, a Transferee Clearing Member may request OTC Clear to port to the Transferee Clearing Member the relevant Client's portfolio (and not less than its entire portfolio) of Contracts registered with the Transferor Clearing Member in the relevant Client Position Account and, if also requested, to port the Collateral in respect of such Client recorded in the corresponding Client Collateral Account from the Transferor Clearing Member to the Transferee Clearing Member. Such request shall be made in accordance with and subject to the Clearing Procedures. Any request to port Collateral shall be made in accordance with Clearing Rule 831 below and the Clearing Procedures.

### **Partial Portfolio Porting**

831. Upon the instruction or at the request of any Client Clearing Category 1 Client or Client Clearing Category 2 Client to port a portion of that Client's portfolio of Contracts in the relevant Client Position Account, a Transferee Clearing Member may request OTC Clear to port to the Transferee Clearing Member the relevant portion of that Client's portfolio of Contracts registered with the Transferor Clearing Member in the relevant Client Position Account from the Transferor Clearing Member to the Transferee Clearing Member. Such request shall be made in accordance with and subject to the Clearing Procedures. For the avoidance of doubt, in no circumstances may any Collateral recorded in the relevant Client Collateral Account relating to such Contracts be ported in connection with partial portfolio porting.

### **Porting of Client Collateral**

832. In connection with any full portfolio porting that includes the porting of the corresponding Collateral, the Transferee Clearing Member shall notify OTC Clear of the specific Collateral which should comprise the Collateral to be ported in accordance with the Clearing Procedures, failing which OTC Clear will not proceed with the full portfolio porting. In the event that, for whatever reason, OTC Clear is unable to port such Collateral, OTC Clear will also not proceed with the full portfolio porting.

### **Conditions Precedent to Porting of Contracts relating to Clients**

833. In addition to the requirements set out in the Clearing Procedures, a full portfolio porting and a partial portfolio porting must each satisfy the following conditions precedent:
- (1) such porting would not violate or result in the violation of any Applicable Laws;
  - (2) the porting would not cause the Position Limits applicable to either the Transferee Clearing Member or the Client to be exceeded;
  - (3) the relevant Client(s), the Transferor Clearing Member and the Transferee Clearing Member have each executed all documents necessary or required by OTC Clear in order to effect such porting (including, where applicable, a Security Deed or Deed of Charge); and
  - (4) in the event that the porting will lead to a requirement for the Transferor Clearing Member to post additional Collateral to OTC Clear, the Transferor Clearing Member posts sufficient Collateral to OTC Clear.

By making a full portfolio porting or partial portfolio porting request, both the Transferor Clearing Member and the Transferee Clearing Member shall be deemed to have represented to OTC Clear that all of the relevant conditions to such porting set forth herein and all the requirements set forth in the Clearing Procedures have been satisfied.

### **Completion of Porting**

834. Provided that the conditions in Clearing Rule 833 and all requirements in the Clearing Procedures are satisfied in OTC Clear's sole discretion, OTC Clear shall port the relevant Contracts to be ported (and, if applicable, any Collateral to

be ported that is not subject to the Deed of Charge entered into between the Transferor Clearing Member and OTC Clear) into the name of the Transferee Clearing Member in the relevant Client Account of the Client(s) by way of novation of all of the Transferor Clearing Member's rights and obligations in respect of such Contracts and Collateral to the Transferee Clearing Member, at the time and manner set out in the Clearing Procedures.

835. In respect of any Collateral to be ported that is subject to a Deed of Charge entered into between the Transferor Clearing Member and OTC Clear, such porting shall be effected as follows:

- (1) any equities of redemption held by the Transferor Clearing Member in respect of that Collateral shall be assigned absolutely to the Transferee Clearing Member, such that those equities of redemption become subject to the security interests granted in favour of OTC Clear pursuant to the Deed of Charge between the Transferee Clearing Member and OTC Clear; and
- (2) OTC Clear shall release that Collateral from the security interests granted in favour OTC Clear pursuant to the Deed of Charge between the Transferor Clearing Member and OTC Clear, such that the Transferee Clearing Member becomes entitled to redeem that Collateral pursuant to any equities of redemption assigned to it pursuant to subparagraph (1) above.

## Chapter 9 Accounts

### Accounts

901. Each Clearing Member shall establish Position Accounts and Collateral Accounts (including Client Position Accounts and Client Collateral Accounts, if applicable) with OTC Clear in accordance with the Clearing Procedures.

### Position Accounts

902. OTC Clear shall, with respect to each Clearing Member open one House Position Account and may open one or more Client Position Accounts, in each case, in accordance with the Clearing Documentation, where:

- (1) a **“House Position Account”** is a book-keeping account opened by a Clearing Member with OTC Clear in order to book Contracts in respect of such Clearing Member’s own account;
- (2) a **“Client Clearing Category 1 Position Account”** is a book-keeping account opened by a Clearing Member with OTC Clear in order to book Contracts in respect of its Client Clearing Services provided to a single Client only; and
- (3) a **“Client Clearing Category 2 Position Account”** is a book-keeping account opened by a Clearing Member with OTC Clear in order to book Contracts in respect of one or more Clients sharing the same account on an omnibus net basis, where the Contracts in respect of such Clients are recorded/booked on a gross basis and Margin in respect of Contracts in the whole Client Clearing Category 2 Position Account are calculated on a net basis in accordance with Clearing Rules 1012 to 1015.

### Collateral Accounts

903. A **“Collateral Account”** is a book-keeping account opened in the books of OTC Clear for the purpose of identifying the type(s) and amount of Collateral provided by each Clearing Member to meet its Margin requirements in respect of each of its Position Account(s). OTC Clear shall maintain:

- (1) a House Collateral Account in respect of its House Position Account;
- (2) a separate Client Clearing Category 1 Collateral Account in respect of each Client Clearing Category 1 Position Account; and
- (3) a separate Client Clearing Category 2 Collateral Account in respect of each Client Clearing Category 2 Position Account.

904. Cash Collateral provided by a Clearing Member for the purpose of satisfying its Margin requirements will be delivered by way of outright transfer and will be held by OTC Clear in accordance with the Clearing Procedures, whereas non-cash Collateral provided by a Clearing Member for the purpose of satisfying its Margin requirements will be transferred to OTC Clear by way of security interest in accordance with the Clearing Procedures.

### **GF Accounts**

905. A “**GF Account**” is an account opened in the books of OTC Clear for the purpose of recording the type(s) and amount of Collateral provided by each Clearing Member in respect of its Rates and FX Liability. There will be one GF Account recorded on the books of OTC Clear in respect of each Clearing Member.
906. Collateral provided by a Clearing Member for the purposes of satisfying its Rates and FX Liability will be delivered by way of outright transfer and will be held by OTC Clear in accordance with the Clearing Procedures.

### **Multiple Client Accounts**

907. In the event that (i) more than one Client Account is established by and in respect of a Clearing Member and (ii) a Termination Date has occurred or been designated in respect of all Contracts registered in the name of such Clearing Member, subject to Clearing Rules 823(2) and 1306A in relation to the application of any excess Margin Balance to set off against losses in respect of any Client Account:
- (1) there shall not be any set-off, combination or consolidation between any of the Client Position Accounts in the name of such Defaulting Clearing Member; and
  - (2) pursuant to Clearing Rules 1306, 1306A, 1306B, 1306C and 1307, the closing out of all open positions with respect to the House Account and each Client Account shall be conducted independently and separately with respect to each such account.

### **Accounts for Holding of Non-Cash Collateral**

908. OTC Clear shall deposit non-cash Collateral received by it with its Custodian(s).
909. OTC Clear may hold non-cash Collateral in the accounts of its Custodian(s) in the following manner:
- (1) non-cash Collateral received in respect of Margin Requirements of all the Clearing Members’ House Accounts shall be held in one commingled account; and
  - (2) non-cash Collateral received in respect of Margin Requirements of all the Clearing Members’ Client Accounts shall be held in one commingled account,

in each case separate from any account holding OTC Clear’s own assets.

## **Chapter 10 Payments**

### **Contract Payments**

1001. Each Clearing Member and OTC Clear shall pay all amounts due under the relevant Contract Terms in respect of a Contract at the times and in such amounts as are required pursuant to the Contract Terms and the Clearing Documentation.

### **Margin and Rates and FX Contribution**

1002. Each Clearing Member shall make any payment to OTC Clear in respect of Margin and Rates and FX Liability from time to time in accordance with Chapter 12 and Chapter 15 of these Clearing Rules.

### **Reimbursement of Costs and Expenses**

1002A Upon the occurrence of a Notional Exchange Failure OTC Clear may, in its absolute discretion, effect Mitigating Measures under section 3.19 of the Clearing Procedures in respect of that Notional Exchange Failure. The Non-delivering Clearing Member in respect of a Notional Exchange Failure shall:

- (1) immediately upon demand by OTC Clear, indemnify OTC Clear against all fees, liabilities or Damage incurred by OTC Clear as a result of it effecting any Mitigating Measures in respect of that Notional Exchange Failure; and
- (2) for the purpose of collateralising its liabilities to OTC Clear (including its obligation to indemnify OTC Clear pursuant to Clearing Rule 1002A(1)), provide Collateral in the form of cash on an outright transfer basis, in such amount and at such time as may be requested by OTC Clear ("**Notional Exchange Failure Margin**").

If a Clearing Member fails to comply with this Rule, OTC Clear may, on the basis of such failure, determine that that Clearing Member is or appears to be unable, or likely to become unable, to meet its obligations in respect of the Clearing Documentation and/or one or more Contracts to which it is party, such that an Event of Default occurs with respect to that Clearing Member pursuant to Clearing Rule 1301.

### **Default Interest**

1003. If a Clearing Member defaults in the performance of any of its payment obligations, it will, to the extent permitted by Applicable Laws, pay interest on the overdue amount in the currency in which such debt is owed at the Default Interest Rate, such interest will accrue daily during the period from (and including) the original due date for payment to (but excluding) the date of actual payment. In the event that OTC Clear suffers any Damage as a result of the non-performance of a payment obligation by a Clearing Member, OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear shall be entitled to be indemnified by such Clearing Member against any Damage reasonably incurred by it pursuant to Clearing Rule 1316.

### **Interest Rates**

1004. Any alteration in the basis of calculating interest rates under Clearing Rule 1003 shall become effective on the date designated and notified by OTC Clear to the Clearing Members.

### **Income on Cash Collateral**

1005. OTC Clear may, but is under no obligation to, pay an amount to Clearing Members representing any income received by OTC Clear on cash Collateral transferred to OTC Clear in satisfaction of its Initial Margin and/or Additional Margin requirements as further described in section 7.6.1.1 of the Clearing Procedures.

### **Income and Redemption Proceeds on Non-Cash Collateral**

1006. Provided that OTC Clear is satisfied that no DMP Event has occurred or is likely to occur with respect to the relevant Clearing Member, OTC Clear will pay an amount to such Clearing Member representing any income received by OTC Clear on non-cash Collateral transferred to OTC Clear, net of any Tax (including net of any Withholding Tax). After the occurrence of a DMP Event with respect to such Clearing Member, any such amounts shall not be paid to such Clearing Member and shall instead form part of the Total Available Resources for application in accordance with Clearing Rule 1516 in respect of such DMP Event.

Distributions of amounts pursuant to this Clearing Rule 1006 will take into account any deduction required to reflect any accommodation charges, administration costs or commitment fees for credit lines incurred by OTC Clear in respect of such non-cash Collateral in accordance with section 7.6.2 of the Clearing Procedures. Without prejudice to the foregoing, to the extent required by the Tax Information Exchange Framework or other Applicable Laws, OTC Clear shall be entitled to deduct or withhold Withholding Tax (whether withheld by OTC Clear or any other parties) from any payment of income received by OTC Clear on the non-cash Collateral to a Clearing Member (or from any other payment made by OTC Clear to a Clearing Member) and shall have no obligation to gross-up any such payment or to pay any additional amount as a result of such Withholding Tax.

1007. Save and except as provided for in Clearing Rule 1006, no interest or other amount will be paid by OTC Clear to a Clearing Member in respect of any non-cash Collateral transferred by such Clearing Member to, and then held by, OTC Clear.
1008. If, for any reason, OTC Clear is unable to pay to a Clearing Member an amount representing income received by it in respect of any non-cash Collateral delivered by such Clearing Member to OTC Clear pursuant to Clearing Rule 1006, such income will not be treated by OTC Clear as Margin.
- 1008A. Upon the request of the relevant Clearing Member and subject to the consent of OTC Clear, OTC Clear will pay an amount to such Clearing Member representing redemption proceeds received by it in respect of any non-cash Collateral delivered by such Clearing Member to OTC Clear, net of any Tax (including net of any Withholding Tax), provided that after the occurrence of a DMP Event with respect to that Clearing Member, any such amounts shall not be

paid to such Clearing Member and shall instead form part of the Total Available Resources for application in accordance with Clearing Rule 1516 in respect of such DMP Event.

Distributions of amounts pursuant to this Clearing Rule 1008A will take into account any deduction required to reflect any accommodation charges, administration costs or commitment fees for credit lines incurred by OTC Clear in respect of such non-cash Collateral in accordance with section 7.6.2 of the Clearing Procedures. Without prejudice to the foregoing, to the extent required by the Tax Information Exchange Framework or other Applicable Laws, OTC Clear shall be entitled to deduct or withhold Withholding Tax (whether withheld by OTC Clear or any other parties) from any payment of redemption proceeds received by OTC Clear on the non-cash Collateral to a Clearing Member (or from any other payment made by OTC Clear to a Clearing Member) and shall have no obligation to gross-up any such payment or to pay any additional amount as a result of such Withholding Tax.

1008B. No interest or other amount will be paid by OTC Clear to a Clearing Member in respect of any redemption proceeds received by OTC Clear on non-cash Collateral transferred to OTC Clear.

1008C. If, for any reason, OTC Clear is unable to pay to the Clearing Member an amount representing redemption proceeds received by it in respect of any non-cash Collateral delivered by such Clearing Member to OTC Clear pursuant to Clearing Rule 1008A, such redemption proceeds will not be treated by OTC Clear as Margin and shall be subject to haircut in accordance with section 3.14 of the Clearing Procedures.

#### **Fees, Levies and Charges**

1009. Each Clearing Member shall pay to OTC Clear, in respect of every Contract to which that Clearing Member is party, such fees as may from time to time be prescribed by OTC Clear.

1010. OTC Clear may add to or change any fees payable by a Clearing Member at any time. OTC Clear shall make available the latest Fees Schedule (which is appended to the Clearing Procedures) on the HKEX website.

1011. All amounts payable by each Clearing Member pursuant to Clearing Rules 1003 to 1010 (inclusive) will, unless stated otherwise, be settled in accordance with the Clearing Procedures.

#### **Payments Calculation**

1012. On each OTC Clear Clearing Day, OTC Clear will determine the amounts payable by or to each Clearing Member in respect of its Position Account(s) and shall advise each Clearing Member of such amounts in accordance with the method of communication set out in the Clearing Procedures.

1013. OTC Clear may net the sums which would be payable by the relevant Clearing Member in respect of a particular account to OTC Clear on such date against the sums which would be payable by OTC Clear to such Clearing Member in respect of the same account on such date (in each case, including, without limitation, any amounts which became payable on or prior to such date and which remain unpaid and not otherwise discharged in full as at such date). For

the avoidance of doubt, obligations to deliver an asset other than cash cannot be netted against a cash payment.

1014. Any net sum payable by OTC Clear to each Clearing Member shall be payable at such times and in such manner as shall be specified in the Clearing Procedures.

1015. In addition to any other rights OTC Clear may have under these Clearing Rules, where OTC Clear has an obligation to make a net payment under Clearing Rule 1013 in a Contractual Currency, and OTC Clear considers in its reasonable opinion that it becomes, or has become, impossible to obtain the Contractual Currency for the purpose of settlement of payment, OTC Clear may in lieu of making payment in that Contractual Currency make payment to the Clearing Member concerned, in full or in part, in such other currency or currencies and at such conversion rate(s) as OTC Clear may in its absolute discretion determine to be fair and reasonable having regard to all the circumstances of the case.

## Chapter 11 Tax

### Tax

1101. In the event that any payment made by a Clearing Member to OTC Clear under the Clearing Documentation or any Contract is subject to deduction or withholding (either at the time of such payment or in the future) for or on account of any Tax and/or any Withholding Tax, then the Clearing Member shall pay to OTC Clear an amount (the “**Additional Amount**”), in addition to the payment to which OTC Clear is otherwise entitled under the Clearing Documentation or any Contract, necessary to ensure that the net amount actually received by OTC Clear (free and clear of any such deduction or withholding for or on account of any such Tax and/or Withholding Tax), will be equal to the full amount OTC Clear would have received in the absence of any such deduction or withholding.
1102. OTC Clear shall make any payments due to a Clearing Member under the Clearing Documentation or any Contract net of any deduction or withholding for or on account of any Tax it is required to make from such payments and (to the extent required by the Tax Information Exchange Framework or Applicable Laws) net of any Withholding Tax, and OTC Clear shall have no obligation to gross-up any such payment or to pay any additional amount as a result of such deduction, withholding or payment of any such Tax or any such Withholding Tax.
1103. If:
- (1) a Clearing Member is required by any Applicable Law, as modified by the practice of any relevant Governmental Authority, to make any deduction or withholding from any payment made to OTC Clear under the Clearing Documentation or any Contract for or on account of any Tax, in respect of which the Clearing Member would be required to pay an Additional Amount to OTC Clear under Clearing Rule 1101;
  - (2) the Clearing Member does not so deduct or withhold; and
  - (3) a liability resulting from such Tax is assessed directly against OTC Clear, then, except to the extent the Clearing Member has satisfied or then satisfies the liability resulting from such Tax, the Clearing Member will promptly pay to OTC Clear the amount of such liability (including any related liability for interest, penalties and costs).
1104. Each Clearing Member will pay any stamp, registration, documentation, excise, sales or value added Tax or any other similar Tax levied or imposed upon it or in respect of its execution or performance of any agreement, contract or transaction in connection with the Clearing Documentation and will indemnify OTC Clear against any such stamp, registration, documentation, excise, sales or value added Tax (to the extent that OTC Clear is not able, in OTC Clear’s commercially reasonable judgment, to reclaim or recover such value added Tax) or any other similar Tax levied or imposed upon OTC Clear or in respect of OTC Clear’s execution or performance of any agreement, contract or transaction in connection with the Clearing Documentation. Any payment required to be made by a Clearing Member to OTC Clear under this Clearing Rule 1104 shall include an additional amount equal to any Tax levied or imposed on OTC Clear as a result of the receipt of any payment under this Clearing Rule 1104.

1105. Each Clearing Member shall provide OTC Clear with sufficient Information so as to enable OTC Clear to determine whether any payments to be made by it under the Clearing Documentation or any Contract are withholdable payments pursuant to the Tax Information Exchange Framework and to enable OTC Clear to meet any applicable obligations relating to the Tax Information Exchange Framework.

**PART IV**  
**RISK MANAGEMENT AND DEFAULT**  
**PROCEDURES**

## **Chapter 12 Margin**

### **Margin and Collateral**

1201. Each Clearing Member shall, in respect of each Contract registered in its name, pay or provide, on demand by OTC Clear, Collateral in respect of Margin in such amounts, in such forms and at such times in accordance with the Clearing Procedures.
1202. OTC Clear will determine the amount of Initial Margin, Additional Margin and Variation Margin payable by or (in some cases in respect of Variation Margin) to each Clearing Member in accordance with the Clearing Procedures.
1203. Margin (including Initial Margin, Additional Margin and Variation Margin) in respect of the House Position Account and each Client Position Account, if any, of a Clearing Member will be calculated by OTC Clear separately and shall be satisfied by a Clearing Member in the manner set out in the Clearing Procedures.

### **Initial Margin, Additional Margin, Variation Margin, and Intra-day Variation Margin**

1204. Each Clearing Member shall deliver sufficient Collateral as Margin as a pre-condition for registration of an Original Transaction by OTC Clear.
1205. OTC Clear shall calculate and, where appropriate, demand Initial Margin on each OTC Clear Clearing Day. In addition, OTC Clear may, from time to time, in its absolute discretion and on any OTC Clear Clearing Day, make an intra-day call for Initial Margin.
1206. OTC Clear shall calculate the Variation Margin payable by or to a Clearing Member on each OTC Clear Clearing Day. If such calculation indicates an increase in the Variation Margin payable by a Clearing Member, OTC Clear will be entitled to demand additional Collateral from such Clearing Member.
1207. OTC Clear may on any OTC Clear Business Day demand Routine Intra-day Variation Margin from one or more Clearing Members. In addition, OTC Clear may on any OTC Clear Clearing Day demand from, or pay to, a Clearing Member Ad Hoc Intra-day Variation Margin. The amount of any Routine Intra-day Variation Margin or Ad Hoc Intra-day Variation Margin shall be calculated by OTC Clear using such methods as prescribed in the Clearing Procedures.
1208. OTC Clear may impose Additional Margin requirements on any Clearing Member in the circumstances described in section 4.5 of the Clearing Procedures, and may, at its discretion amend or withdraw any such Additional Margin requirements on any Clearing Member.

### **Margin Settlement**

1209. Save where the Clearing Procedures require otherwise, Initial Margin and Additional Margin requirements (other than Notional Exchange Failure Margin requirements) may be satisfied by payment in cash in any Eligible Currency, or by delivery of non-cash assets specified pursuant to section 7.3 of the Clearing Procedures.

1210. Save where the Clearing Procedures require otherwise, and subject to Clearing Rule 1211, Variation Margin requirements must be satisfied by payments in cash in the relevant Contractual Currency of each Contract pursuant to the relevant Contract Terms of such Contract.
1211. Notwithstanding Clearing Rule 1210, for the purpose of satisfying a Routine Intra-day VM Call and Ad Hoc Intra-day VM Call, a Clearing Member may, in lieu of payment of cash in an Eligible Currency, deliver to OTC Clear non-cash Collateral as is acceptable to OTC Clear in the manner and at or prior to the time specified in the Clearing Procedures. Any Collateral (cash or non-cash) delivered by a Clearing Member for satisfaction of a Routine Intra-day VM Call and Ad Hoc Intra-day VM Call on an OTC Clear Business Day shall not be taken into account when OTC Clear performs its end-of-day Variation Margin and/or Ad Hoc Intra-day VM Call calculation on such day. If, subsequent to the end-of-day Variation Margin calculation on such day, a Clearing Member delivers cash in the relevant Contractual Currency in full satisfaction of its end-of-day Variation Margin requirement determined for such day, such Clearing Member shall be entitled to request OTC Clear to redeliver any Collateral previously delivered by the relevant Clearing Member to satisfy a Routine Intra-day VM Call and Ad Hoc Intra-day VM Call under this Clearing Rule 1211 as Excess Margin.
1212. If any Margin falls due and the Margin Balance of the relevant Clearing Member is insufficient to cover its Margin requirements as determined by OTC Clear, such Clearing Member shall deliver such Collateral in such form and manner and at or prior to the time specified in the Clearing Procedures.
1213. Cash delivered by Clearing Members to OTC Clear for satisfaction of their Margin requirements will be held by OTC Clear in accordance with the Clearing Procedures. Nothing in these Clearing Rules intends to create in favour of OTC Clear any mortgage, charge, lien, pledge, encumbrance or other security interest in any cash Collateral transferred by a Clearing Member to OTC Clear pursuant to these Clearing Rules. OTC Clear has the power to invest any cash Collateral delivered to it in accordance with its investment policy. OTC Clear may perform any such investment itself as it sees fit, or it may engage an independent third party to perform such investment.

A Clearing Member who intends to transfer non-cash Collateral for purposes of satisfying its Margin requirements shall execute all necessary documentation as may be required by OTC Clear in order to create, and perfect, a valid security interest over the relevant assets. OTC Clear will not re-use, rehypothecate or re-invest any non-cash Collateral delivered by Clearing Members as Margin. If OTC Clear accepts non-cash Collateral from Clearing Members as Margin, then the manner in which OTC Clear will hold such non-cash Collateral will be set out in the Clearing Procedures.

#### **Acceptable Collateral for Margin and Rates and FX Contribution**

1214. OTC Clear may restrict or add to the types of Eligible Currencies and acceptable Collateral, or modify any valuation procedures or haircuts set out in Chapter 7 of the Clearing Procedures, or impose a maximum on the amount of each type of Eligible Currency or Collateral which OTC Clear may accept for purposes of

satisfying Margin requirements or Rates and FX Liability. In respect of any eligible non-cash Collateral, OTC Clear will only accept delivery of such non-cash Collateral if it is delivered in minimum tradable board lot size applicable to such non-cash Collateral and acceptable to OTC Clear's custodians. OTC Clear will use reasonable endeavours to provide Clearing Members with three-month's advance written notice prior to removing any Collateral from the then existing list of Eligible Currencies and acceptable Collateral. For the avoidance of doubt, OTC Clear may add to the types of Eligible Currencies and acceptable Collateral, or modify any valuation procedures or haircuts set out in the Clearing Procedures, at any time as it thinks fit. The value of any instruments which are not Eligible Currencies or acceptable Collateral will not be taken into account in determining the Margin Balance of such Clearing Member.

1215. OTC Clear may at any time, in its sole and absolute discretion, require a Clearing Member to transfer cash in other Eligible Currencies or other types of Collateral to it in substitution for any Collateral already transferred to it.
1216. OTC Clear may charge Clearing Members accommodation charges, administrative costs and/or commitment fees for credit lines in respect of any non-cash Collateral provided to it as Margin at a rate determined by OTC Clear and set out in the Fees Schedule (see Appendix I to the Clearing Procedures).
- 1216A. OTC Clear may incur charges or costs or receive negative interest rates when investing any Rates and FX Contribution delivered in the form of cash by Clearing Members. If it does so, OTC Clear shall be entitled to demand reimbursement of such amounts from the relevant Clearing Members.
1217. A Clearing Member may provide Collateral in excess of the Initial Margin and/or Additional Margin requirements applicable to any of its Position Account(s). Any such Collateral provided by a Clearing Member will be credited to the Collateral Account designated by the Clearing Member and shall form part of the Margin Balance relating to such Collateral Account. In addition, any Collateral provided for the purpose of satisfying Routine Intra-day VM Call and Ad Hoc Intra-day VM Call on an OTC Clear Business Day pursuant to Clearing Rule 1211 will not be taken into account when OTC Clear performs its end-of-day Variation Margin calculation in respect of the relevant Position Account on such day, and such Collateral shall form part of the Margin Balance relating to the relevant Collateral Account of such Clearing Member.
1218. A Clearing Member may request OTC Clear to redeliver Collateral in equivalent form and currency as any Collateral it has delivered to OTC Clear as Margin in a value not exceeding the Excess Margin. A Clearing Member shall specify the exact form and currency of the relevant Collateral requested to be redelivered. Following receipt of such request, OTC Clear will deliver to such Clearing Member (in the manner described in section 4.7 of the Clearing Procedures) Collateral in equivalent form and currency as requested in an amount not exceeding the Excess Margin, except that OTC Clear may deliver Collateral in other form or currency determined by OTC Clear if:
  - (1) with respect to a Defaulting Clearing Member only, the relevant Collateral is delivered prior to any DMP Event and such Collateral or part thereof was applied in such DMP Event; or

- (2) any part of the Collateral is of a type or currency that is subject to any foreign exchange or other settlement risk or disruption, as determined by OTC Clear, at the time such Collateral is due to be redelivered to Clearing Members.

**Rights relating to Collateral in respect of Margin and Rates and FX Contribution and Representations of Clearing Members**

1219. Unless otherwise stated in Clearing Rules 817 and 1310, OTC Clear will take no account of any right or interest which any Person other than the Clearing Member may have in any Collateral provided by, or on behalf of, such Clearing Member to OTC Clear. The operations of section 56(1) of the SFO shall be modified by this Clearing Rule 1219 as permitted under section 56(2) of the SFO.

1220. Each Clearing Member represents and warrants to OTC Clear that:

- (1) immediately prior to delivery of the Collateral to OTC Clear, the Clearing Member is the sole legal and beneficial owner of all Collateral delivered to OTC Clear;
- (2) any Collateral delivered to OTC Clear pursuant to these Clearing Rules is not subject to any Encumbrance whatsoever save for:
  - (a) any Encumbrance in favour of OTC Clear;
  - (b) any liens granted to the clearing systems through which the Collateral is being transferred;
  - (c) in the case of a Clearing Member who is a Rule-Based Clearing Member, the right of its Client to receive any Client Entitlement from OTC Clear under Clearing Rules 1308A and 1309; and
  - (d) in the case of a Clearing Member who is a Non Rule-Based Clearing Member, any Encumbrance created pursuant to a Security Deed;
- (3) in delivering the Collateral to OTC Clear pursuant to these Clearing Rules, the Clearing Member is not in breach of any of its contractual obligations towards any third party or under any Applicable Laws;
- (4) all filings and registrations necessary for the purpose of the creation, perfection, protection and maintenance of any security conferred or intended to be conferred on OTC Clear by or pursuant to any Deed of Charge between OTC Clear and the Clearing Member have been effected and are in full force and effect; and
- (5) any Deed of Charge between OTC Clear and the Clearing Member creates in favour of OTC Clear the security which it is expressed to create with the ranking and priority it is expressed to have.

The representations and warranties made by a Clearing Member pursuant to this Clearing Rule 1220 shall be deemed to be repeated by such Clearing Member on each day Collateral is delivered to OTC Clear pursuant to these Clearing Rules.

1220A. Each Non Rule-Based Clearing Member represents and warrants to OTC Clear that:

- (1) all filings and registrations necessary for the purpose of the creation, perfection, protection and maintenance of any security conferred or intended to be conferred on each Client by or pursuant to any Security Deed have been effected and are in full force and effect; and
- (2) any Security Deed creates in favour of each Client identified therein security over the relevant Client Entitlement in respect of such Client that is legal, valid, binding and enforceable, in accordance with the terms of such deed.

The representations and warranties made by a Non Rule-Based Clearing Member pursuant to this Clearing Rule 1220A shall be deemed to be repeated by such Clearing Member on each day on which an Original Transaction is submitted for registration as part of such Clearing Member's Client Clearing Services and each day on which Collateral is delivered to OTC Clear pursuant to these Clearing Rules and in connection with such Clearing Member's Client Clearing Services.

1221. A Clearing Member shall be liable to OTC Clear for any Damage incurred by OTC Clear as a result of OTC Clear possessing, holding, perfecting the title to or otherwise being associated with, any Collateral delivered by such Clearing Member.

#### **Position Limits and Notional Exchange Risk Limits**

1222. Pursuant to section 4.6.1 of the Clearing Procedures, unless with the prior written approval from OTC Clear, each Clearing Member is required to impose a House Account Limit in respect of its House Position Account and a Client Account Limit in respect of each of its Client Position Accounts, provided that OTC Clear may, at any time and from time to time, in its absolute discretion, in respect of each Position Account, override, amend or revoke any such Position Limits and/or impose an Absolute Risk Limit and/or a Notional Exchange Risk Limit.

1223. If a Clearing Member exceeds any Position Limits or Notional Exchange Risk Limits imposed, that Clearing Member must immediately notify OTC Clear and take appropriate steps to ensure that, within such period as OTC Clear may specify, it is in compliance with such Position Limits or Notional Exchange Risk Limits, as the case may be. In addition, OTC Clear may, at its discretion:

- (1) require a Clearing Member to de-clear certain Contracts and/or enter into risk-reducing Contracts, including, without limitation, the measures described in section 3.20 of the Clearing Procedures with respect to any exceedance of a Notional Exchange Risk Limit;
- (2) demand such Additional Margin as OTC Clear in its discretion determines including, without limitation, Additional Margin be provided in specific settlement currency(ies) with respect to any exceedance of a Notional Exchange Risk Limit; and/or

- (3) take such other action as OTC Clear in its discretion determines.

As further described in section 4.6.1 of the Clearing Procedures, OTC Clear will not register any Original Transactions submitted by a Clearing Member (or by a Designated Person on its behalf) if registration of any such Original Transactions will result in a breach of any Position Limits applicable to such Clearing Member.

1224. If the Clearing Member fails to comply with any requirement imposed on it pursuant to Clearing Rule 1223, the Clearing Member shall be in breach of these Clearing Rules and, without limitation, OTC Clear may, at its discretion, in respect of the Clearing Member concerned:

- (1) declare an Event of Default under Clearing Rule 1301;
- (2) suspend or terminate Membership of the Clearing Member;
- (3) terminate or liquidate such Contracts as OTC Clear at its discretion selects on behalf of the Clearing Member;
- (4) instigate an investigation or disciplinary proceedings under Chapter 14 of these Clearing Rules;
- (5) impose such other requirements on the Clearing Member as it sees fit; and/or
- (6) take such other action as OTC Clear in its discretion determines.

## Chapter 13 Default Procedures

### Clearing Member Event of Default

1301. In these Clearing Rules, an “**Event of Default**” shall mean any event or circumstance which leads OTC Clear to determine that a Clearing Member is or appears to be unable, or likely to become unable, to meet its obligations in respect of the Clearing Documentation and/or one or more Contracts to which it is party. Without prejudice to the generality of the immediately foregoing, OTC Clear may take the occurrence of any one or more of the following events or circumstances as sufficient ground for determining that a Clearing Member is or appears to be unable, or likely to become unable, to meet such obligations:

- (1) failure by a Clearing Member to pay or deliver any amounts when due under the Clearing Documentation, including, without limitation, failure by a Clearing Member to pay any Remaining Balance in accordance with the time frame set out in, and under, Clearing Rule 1534 or failure by a Successful Bidder to pay any Auction Payment or Margin required following the completion of the auction of the relevant Auction Portfolio under Clearing Rule 1923;
- (2) failure by a Clearing Member to comply with the Regulatory Capital Requirement;
- (3) failure by a Clearing Member to maintain Capital in an amount not less than the Minimum Capital Requirement and such failure continues and is existing upon the expiry of the Minimum Capital Requirement Breach Period and the related Non-Default Unwind is not completed within 10 OTC Clear Business Days following the expiry of the Minimum Capital Requirement Breach Period;
- (4) a Clearing Member makes a material misstatement or omission (whether in the Membership Agreement or otherwise) or misleads or attempts to mislead OTC Clear, a recognized exchange controller which is the controller of OTC Clear or their respective employees or officers;
- (5) failure by a Clearing Member, within any required time period, to take any action required by OTC Clear to ensure compliance with the Clearing Documentation, including, without limitation, failure by a Clearing Member who is subject to disciplinary proceedings to commence the Non-Default Unwind following the expiry of the relevant Appeal Period pursuant to the terms of Clearing Rule 1409(1);
- (6) in respect of a Clearing Member which is also a participant or member of any clearing and settlement system operated by HKEX or any of its Affiliates:
  - (a) failure to meet any obligation owed by it to the central counterparty or operator of such system;
  - (b) breach of the rules or terms of participation or membership of such system;
  - (c) declaration of default by, or suspension or expulsion from participation or membership of such system;

- (7) the occurrence of a default, event of default or other similar condition or event (however described) in respect of the Clearing Member under one or more agreements or instruments relating to Indebtedness;
- (8) breach of the rules or regulations of a Regulatory Authority to which it is subject or its authorization, licence or approval by a Regulatory Authority is suspended or withdrawn;
- (9) the occurrence of Insolvency Proceedings with respect to a Clearing Member;
- (10) the occurrence of a Financial Emergency with respect to a Clearing Member;
- (11) a Clearing Member is convicted of any criminal offence relating to fraud, dishonesty or any act of bad faith under any Applicable Laws;
- (12) a Clearing Member fails to comply with any actions prescribed by OTC Clear under Clearing Rule 1223;
- (13) breach of any obligations, undertakings or representations by a Clearing Member under the Membership Agreement to which it is a party; or
- (14) the occurrence of any of the above events in respect of (a) any Affiliate of the Clearing Member which in the opinion of OTC Clear has a material adverse effect on the ability of the Clearing Member to meet its obligations under the Clearing Documentation and/or one or more Contract to which it is a party, or (b) a person who has guaranteed or provided an indemnity in favour of OTC Clear in respect of any of the obligations of the Clearing Member.

For the events described in sub-paragraphs (1), (8) and (9) above and, to the extent analogous to sub-paragraphs (8) and (9) above, the event described in sub-paragraph (14) above, OTC Clear may, in its own right, determine whether or not an Event of Default has occurred pursuant to the relevant provisions. In all other cases, in determining whether an Event of Default has occurred with respect to a Clearing Member, OTC Clear will endeavour to consult the Risk Management Committee. Where OTC Clear endeavours to consult the Risk Management Committee but the Risk Management Committee is not available or cannot be convened sufficiently promptly in the circumstances, OTC Clear will consult the chief executive of OTC Clear, provided that if the chief executive of OTC Clear is unavailable at the time for any reason, any Representative of OTC Clear designated by the OTC Clear Board from time to time for purposes of the applicable determination may make such determination.

1302. A Clearing Member shall immediately give notice to OTC Clear if it is, or if it suspects that it is likely to become, unable to meet its obligations under the Clearing Documentation and/or one or more Contracts to which it is party.

**Termination following a Clearing Member Event of Default**

1303. OTC Clear may from time to time notify Clearing Members specific criteria (including but not limited to the jurisdiction of incorporation of a Clearing Member) according to which the occurrence of an event described in paragraph (1), (3), (4), (5), (6) or, to the extent analogous thereto, (8) under the definition of

Insolvency Proceedings with respect to a Clearing Member will constitute an “**Automatic Early Termination Event**” in respect of such Clearing Member. Where an Automatic Early Termination Event has occurred with respect to a Clearing Member as a result of an event described in paragraph (1), (3), (5), (6) or, to the extent analogous thereto, (8) under the definition of Insolvency Proceedings, an Early Termination Date in respect of all Contracts then registered in the name of such Clearing Member shall occur immediately upon the occurrence of the relevant event; and where an Automatic Early Termination Event has occurred with respect to a Clearing Member as a result of an event described in paragraph (4) or, to the extent analogous thereto, (8) under the definition of Insolvency Proceedings, an Early Termination Date in respect of all Contracts then registered in the name of such Clearing Member shall occur immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition, and in each case, without the need for any other or prior notice or determination by OTC Clear. With effect from, and including, the date on which an Early Termination Date occurs with respect to all Contracts registered in a name of a Clearing Member as a result of an Automatic Early Termination Event, such Clearing Member shall become a Defaulting Clearing Member.

1304. Where an Event of Default has occurred and is continuing with respect to a Clearing Member but such Event of Default does not constitute an Automatic Early Termination Event, OTC Clear may exercise such rights it may have under these Clearing Rules (including without limitation any rights of suspension of Membership) and/or may send to the relevant Clearing Member a default notice declaring such Event of Default (the “**Notice of Default**”). With effect from, and including, the date on which such Clearing Member receives the Notice of Default, the Clearing Member shall become a Defaulting Clearing Member. OTC Clear will notify Non-Defaulting Clearing Members, the SFC and also members of the public following the occurrence of an Automatic Early Termination Event or declaration of an Event of Default with respect to a Clearing Member.
1305. Upon the occurrence of an Automatic Early Termination Event or delivery of a Notice of Default with respect to a Defaulting Clearing Member, OTC Clear may take such steps with respect to such Defaulting Clearing Member as in the circumstances appear to it, in its absolute discretion, best calculated:
  - (1) to discharge the Defaulting Clearing Member’s rights, obligations and liabilities under or in respect of one or more or all Contracts to which the Defaulting Clearing Member is party;
  - (2) to minimize losses or the potential for losses to OTC Clear as a result of the default of the Defaulting Clearing Member; or
  - (3) without the need for any prior notice to or consent of such Defaulting Clearing Member:
    - (a) (where an Automatic Early Termination Event has not occurred) to terminate any Contract of the Defaulting Clearing Member by designating an Early Termination Date in respect of such Contract;

- (b) to apply any Collateral in the form of cash, and arranging for the liquidation of any non-cash Collateral and applying the proceeds of the realization of non-cash Collateral, for the absorption of losses incurred by OTC Clear as a result of the default of the Defaulting Clearing Member;
- (c) to obtain any advice or assistance from the Defaulting Clearing Member and/or any third party as OTC Clear may deem necessary for any matter arising out of or in connection with an Event of Default and at the expense of the Defaulting Clearing Member, and/or
- (d) to complete the process set out in Clearing Rules 1306, 1306A, 1306B, 1306C and 1307 in relation to such Defaulting Clearing Member,

in each case, acting in consultation with the Default Management Group and in accordance with the Default Management Process.

Upon the occurrence of an Automatic Early Termination Event or delivery of a Notice of Default in respect of a Clearing Member, OTC Clear shall not be obliged to: (a) pay any Notional Exchange Failure Adjustment Amount payable by it in respect of such Clearing Member; or (b) make any further payments or deliveries in respect of any Contract registered in the name of such Clearing Member, in either case which would otherwise have fallen due on or after such time, and upon the occurrence of an Early Termination Date in respect of such Contracts, any obligations to pay such Notional Exchange Failure Adjustment Amount or to make such further payments or deliveries and any amounts that are due but unpaid in respect of such Contracts shall be satisfied by the payment by, or to, the Defaulting Clearing Member of a single net sum to be determined in accordance with Clearing Rules 1306, 1306A, 1306B, 1306C and 1307, provided that if a Rates and FX Clearing Termination Event occurs at any time prior to the completion of the Default Management Process with respect to a Defaulting Clearing Member, no net sum shall be payable in accordance with Clearing Rules 1306, 1306A, 1306B, 1306C and 1307 and the applicable termination amounts shall instead be determined in accordance with Clearing Rules 1531 to 1540.

#### **Calculations of Net Payment following a Clearing Member Event of Default**

1306. Where the Defaulting Clearing Member has one House Position Account and one or more Client Position Account(s), each Position Account of the Defaulting Clearing Member shall constitute a separate “capacity” pursuant to Part 5 of Schedule 3 to the SFO so that no Client Position Account of the Defaulting Clearing Member shall be combined with any other Position Account of the Defaulting Clearing Member, and the process set out in Clearing Rules 1306A, 1306B, 1306C and 1307 shall be applied to each such capacity separately.
- 1306A Subject to Clearing Rules 1530 to 1540, subsequent to the completion of the Default Management Process with respect to a Defaulting Clearing Member (including, for the avoidance of doubt, the processes described in Clearing Rules 1516(1), 1516(2) and 1914) and the occurrence of an Early Termination Date in respect of all of the Defaulting Clearing Member’s Contracts, for the purposes of

Part 5 of Schedule 3 to the SFO, the single net sum payable by OTC Clear to such Defaulting Clearing Member, or by such Defaulting Clearing Member to OTC Clear, in respect of each capacity of the Defaulting Clearing Member relating to the House Account(s) and the Client Accounts of Non-Porting Clients shall be determined as follows:

- (1) OTC Clear will determine the aggregate trade value in respect of all of the Contracts in the relevant Position Account in accordance with Clearing Rule 1307. Such aggregate trade value may be zero, positive or negative. A positive aggregate trade value indicates an overall sum being payable by OTC Clear to the Defaulting Clearing Member in respect of such capacity; and a negative aggregate trade value indicates an overall sum being payable by the Defaulting Clearing Member to OTC Clear in respect of such capacity;
- (2) if the aggregate trade value determined pursuant to sub-paragraph (1) above is a negative number, such value shall be netted against the value (expressed as a positive number) of all Collateral (including the proceeds of the realization of such Collateral) held by OTC Clear in respect of such capacity as Initial Margin, Additional Margin, Routine Intra-day Variation Margin and Ad Hoc Intra-day Variation Margin in respect of the relevant Position Account and comprising the Margin Balance of the corresponding Collateral Account and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Defaulting Clearing Member, each as at the Early Termination Date, reflecting the application of such resources towards (i) Unpaid Amounts in respect of the relevant Position Account pursuant to Clearing Rules 1516(1)(a) or 1516(2)(a), as applicable, (ii) the Auction Losses and/or Contract Termination Losses relating to the relevant Position Account pursuant to Clearing Rule 1914(1) and (iii) in the case of the House Position Account, General Losses pursuant to Clearing Rule 1516(1)(a). If the aggregate trade value determined pursuant to sub-paragraph (1) above is zero or a positive number, such value shall be aggregated with the value (expressed as a positive number) of all Collateral (including any proceeds of the realization of such Collateral) held by OTC Clear in respect of such capacity as Initial Margin, Additional Margin, Routine Intra-day Variation Margin and Ad Hoc Intra-day Variation Margin in respect of the relevant Position Account and comprising the Margin Balance of the corresponding Collateral Account and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Defaulting Clearing Member, each as at the Early Termination Date;
- (3) if the net sum determined pursuant to sub-paragraph (2) above in respect of the House Position Account is a positive number (a "**House Credit**"), such House Credit shall be used to set off against each negative net sum determined pursuant to sub-paragraph (2) above for a Client Account of Non-Porting Client(s) (a "**Non-Porting Client Deficit**"), by applying such House Credit to each Non-Porting Client Deficit in the proportion that the absolute value of the Non-Porting Client Deficit of each particular Client Account bears to the absolute value of the

aggregate of the Non-Porting Client Deficits for all Client Accounts of Non-Porting Clients of the Defaulting Clearing Member; and

- (4) if the net sum determined pursuant to sub-paragraphs (1) to (2) above for a Client Account of a Non-Porting Client(s) is a positive number, such amount (the “**Non-Porting Client Credit**”) shall form part of the Client Entitlement to be returned to the Client(s) pursuant to Clearing Rule 1309. If the net sum determined pursuant to sub-paragraph (3) above for a Client Account of a Non-Porting Client(s) remains a negative number (a “**Remaining Non-Porting Client Deficit**”), such amount shall be further netted as set out in Clearing Rule 1306B below. At the end of the processes referred to in sub-paragraphs (1) to (3) above, in respect of each Client Account of Non-Porting Client(s), OTC Clear shall certify a single net sum as being payable by OTC Clear to the Defaulting Clearing Member (in the case of Client Accounts with a Non-Porting Client Credit) or by the Defaulting Clearing Member to OTC Clear (in the case of Client Accounts with a Remaining Non-Porting Client Deficit) or, if there is no such net sum (in the case of Client Accounts where a Non-Porting Client Deficit becomes zero), OTC Clear shall certify that fact.

1306B. If the net sum determined pursuant to Clearing Rule 1306A(2) in respect of the House Position Account is a negative number or, in the case of a Client Account with a Remaining Non-Porting Client Deficit:

- (1) such negative sum shall then be further netted against the value (expressed as a positive number) of all Collateral (including the proceeds of the realization of such Collateral) held by OTC Clear as,
  - (a) the Rates and FX Contribution Balance recorded in such Defaulting Clearing Member’s GF Account as at the Early Termination Date to the extent that any Rates and FX Losses are allocated to such Defaulting Clearing Member in accordance with Clearing Rules 1516(1)(b), 1516(2)(b) 1914(2) and 1916(2), and in the amount of such Rates and FX Losses allocated; and
  - (b) any remaining Rates and FX Contribution Balance relating to such Defaulting Clearing Member that is not allocated pursuant to sub-paragraph (1)(a) above after taking into account any application of such remaining Rates and FX Contribution Balance by OTC Clear pursuant to Clearing Rule 1548,

so as to produce a single net sum (if any) payable by or to the Defaulting Clearing Member;

- (2) (i) the net sum of the House Account and each Client Account of Non-Porting Client(s) determined pursuant to sub-paragraph (1) above and (ii) any unused Rates and FX Contribution Balance recorded in such Defaulting Clearing Member’s GF Account after being applied pursuant to Clearing Rules 1516(1)(b), 1516(2)(b) and 1914(2) and taking into account the operation of Clearing Rule 1548 shall be aggregated to arrive at a further net sum. If the further net sum determined is a positive number, then OTC Clear shall pay such net sum to the Defaulting Clearing Member, and if the further net sum determined is a negative

number, then the Defaulting Clearing Member shall pay such net sum to OTC Clear;

- (3) any property which has been provided by the Defaulting Clearing Member as market collateral shall cease to be market collateral (for the purpose of this sub-paragraph, the term “market collateral” bears the meaning set out in section 18 of the SFO); and
- (4) OTC Clear shall certify the net sum referred to in this Clearing Rule 1306B as being payable by OTC Clear to the Defaulting Clearing Member or by the Defaulting Clearing Member to OTC Clear, or, if there is no such net sum, OTC Clear shall certify that fact.

1306C. If the net sum determined pursuant to Clearing Rule 1306A(2) in respect of the House Position Account is zero, if there is a House Credit and no Non-Porting Client Deficits or, if there is a surplus after applying the House Credit to each Non-Porting Client Deficit pursuant to Clearing Rule 1306A(3), then:

- (1) such amount shall then be aggregated with the value (expressed as a positive number) of all Collateral (including the proceeds of the realization of such Collateral) held by OTC Clear as,
  - (a) the Rates and FX Contribution Balance recorded in such Defaulting Clearing Member’s GF Account as at the Early Termination Date to the extent that any Rates and FX Losses are allocated to such Defaulting Clearing Member in accordance with Clearing Rules 1516(1)(b), 1516(2)(b), 1914(2) and 1916(2), and in the amount of such Rates and FX Losses allocated; and
  - (b) any remaining Rates and FX Contribution Balance relating to such Defaulting Clearing Member that is not allocated pursuant to sub-paragraph (1)(a) above after taking into account any application of such remaining Rates and FX Contribution Balance by OTC Clear pursuant to Clearing Rule 1548,

so as to produce a single net sum (if any) payable to the Defaulting Clearing Member.

Any property which has been provided by the Defaulting Clearing Member as market collateral shall cease to be market collateral (for the purpose of this sub-paragraph, the term “market collateral” bears the meaning set out in section 18 of the SFO); and

- (2) OTC Clear shall certify the net sum referred to in this Clearing Rule 1306C as being payable by OTC Clear to the Defaulting Clearing Member or, if there is no such net sum, OTC Clear shall certify that fact.

1307. Subject to Clearing Rules 1914(1)(c) and 1914(1)(d), the aggregate trade value in respect of all Contracts in a Position Account for the purposes of Clearing Rule 1306A(1) above shall be an amount equal to the aggregate of the following (without double-counting): (i) the aggregate Auction Payments relating to that Position Account (if any), (ii) minus the aggregate Auction Losses relating to that Position Account (if any), (iii) plus the Unpaid Amounts due from OTC Clear to the Defaulting Clearing Member in respect of all Contracts in that Position

Account (if any), (iv) minus the Unpaid Amounts due from the Defaulting Clearing Member to OTC Clear in respect of all Contracts in that Position Account (if any), (v) plus the Unsettled VM Amount in respect of the Auction Contracts and Auction Failed Positions of that Position Account (to the extent that such Unsettled VM Amount is payable by OTC Clear to the Defaulting Clearing Member (if any)), (vi) plus the aggregate Contract Termination Net Payments payable by Non-Defaulting Clearing Members to OTC Clear as a result of a Contract Termination Event relating to that Position Account (if any), (vii) minus the aggregate Contract Termination Losses as a result of a Contract Termination Event relating to that Position Account (if any), and (viii) in the case of the House Position Account only, minus the aggregate General Losses relating to that Position Account (if any).

OTC Clear will determine such aggregate trade value in the Base Currency, and for the purpose of the calculations under Clearing Rule 1306 to Clearing Rule 1309, OTC Clear may convert any amounts denominated in other currencies into the Base Currency at such rate prevailing at the time of the calculation as it shall reasonably select.

A certificate issued by OTC Clear under Clearing Rules 1306A, 1306B and 1306C in respect of a separate capacity of the Defaulting Clearing Member shall be conclusive as to the discharge of the Defaulting Clearing Member's rights and liabilities in respect of the Contracts registered in its name in such capacity, and OTC Clear and the Defaulting Clearing Member shall duly pay any net sums certified under Clearing Rules 1306A, 1306B and 1306C to each other at the time and in such manner prescribed in these Clearing Rules. If OTC Clear does not have sufficient Base Currency to satisfy any net sum payable under Clearing Rules 1306A, 1306B and 1306C, OTC Clear may satisfy such net sum payable to the Defaulting Clearing Member in any other Eligible Currency such that the overall payment made by OTC Clear to the Defaulting Clearing Member will be equal to the Base Currency value determined pursuant to Clearing Rules 1306A, 1306B and 1306C. Pursuant to Clearing Rule 823(2) and section 3(c) of Part 5 of Schedule 3 to the SFO, a Clearing Member's House Credit may be applied by OTC Clear to set-off any liabilities of that Clearing Member to OTC Clear, including such Clearing Member's Non-Porting Client Deficits.

The process described in Clearing Rules 1306A, 1306B and 1306C with respect to each Defaulting Clearing Member and each of their capacities will only be performed upon the expiry of the Capped Liability Period relating to the relevant DMP Event. Upon the completion of the process in Clearing Rules 1306A, 1306B and 1306C, OTC Clear will make a report as required by section 47(1)(a) of the SFO.

1308. [DELETED]

1308A. In respect of each Non-Porting Client of a Defaulting Clearing Member, OTC Clear will determine the Client Entitlement in accordance with Clearing Rule 1309. In respect of a Rule-Based Clearing Member, OTC Clear recognises that the Client Entitlement relates to the positions corresponding to the Affected Contracts that are entered into between the Defaulting Clearing Member and

such Non-Porting Client and, pursuant to the power under section 40(2A) of the SFO, OTC Clear makes rules for the taking of proceedings or other action in respect of the Client Entitlement under Clearing Rule 1309(3). Following an Event of Default in respect of the Clearing Member, OTC Clear shall return the Client Entitlement directly to such Client pursuant to Clearing Rule 1309(3).

1308B. In respect of each Porting Client of a Defaulting Clearing Member, OTC Clear will determine the Client Entitlement in accordance with Clearing Rule 1309A. In respect of a Rule-Based Clearing Member, OTC Clear recognises that the Client Entitlement relates to the positions corresponding to the Contracts recorded in the relevant Client Position Account, and pursuant to the power under section 40(2A) of the SFO, OTC Clear makes rules for the taking of proceedings or other action in respect of the Client Entitlement under Clearing Rule 1309A(3). Following an Event of Default in respect of the Clearing Member, OTC Clear shall return the Client Entitlement directly to such Client pursuant to Clearing Rule 1309A(3).

1309. OTC Clear will determine the Client Entitlement in respect of each Non-Porting Client in accordance with the following:

(1) the Client Entitlement relating to each Client Clearing Category 1 Position Account to which Contracts relating to a Non-Porting Client are recorded shall be an amount equal to (i) the Non-Porting Client Credit in respect of such Client Position Account to which Contracts relating to such Non-Porting Client is recorded (if any) as determined in accordance with Clearing Rule 1306A or (ii) (following the occurrence of a Rates and FX Clearing Termination Event) the Limited Recourse Applicable Percentage of the Limited Recourse CM Receivable in respect of such Client Position Account as determined in accordance with Clearing Rule 1538.

(1A) the Client Entitlement relating to each Client Clearing Category 2 Position Account to which Contracts relating to a Non-Porting Client are recorded shall be the greater of zero and an amount equal to the product of:

(a) the hypothetical Initial Margin with respect to the Affected Contracts of such Non-Porting Client (calculated on a portfolio margining basis assuming that all Affected Contracts of such Non-Porting Client were booked into a single separate hypothetical position account assigned solely to such Non-Porting Client) divided by the aggregate of the hypothetical Initial Margin with respect to the Affected Contracts relating to all Non-Porting Clients of such Client Clearing Category 2 Position Account (each such hypothetical Initial Margin for each individual Non-Porting Client being calculated on a portfolio margining basis assuming that the Affected Contracts of each individual Non-Porting Client were booked into a single separate hypothetical position account assigned solely to such individual Non-Porting Client), in each case, such Initial Margin being calculated during the Portfolio Novation Cycle immediately preceding the occurrence of the relevant DMP Event; and

- (b) (i) the Non-Porting Client Credit in respect of such Client Position Account to which Contracts relating to such Non-Porting Clients are recorded (if any) as determined in accordance with Clearing Rule 1306A or (ii) (following the occurrence of a Rates and FX Clearing Termination Event) the Limited Recourse Applicable Percentage of the Limited Recourse CM Receivable in respect of such Client Position Account as determined in accordance with Clearing Rule 1538.
- (2) OTC Clear will make any determination pursuant to Clearing Rules 1308A and 1309 using its own records based on the information provided to it by the Defaulting Clearing Member. OTC Clear shall be entitled to rely on such records without conducting any independent verification in respect of the same. Notwithstanding the immediately foregoing, OTC Clear may, in its absolute discretion (i) adjust such records to reflect any factors reasonably taken into consideration when performing such valuation and/or (ii) withhold delivery of any Client Entitlement until such time as the Defaulting Clearing Member or its representative provides to OTC Clear any information requested by OTC Clear.
- (3) Following the calculation of a Client Entitlement, where the relevant Client instructs OTC Clear to pay an amount to it equal to the Client Entitlement due to be returned in respect of it to the Defaulting Clearing Member, then subject to entering into relevant documentation between OTC Clear and the relevant Client (which may, without limitation, include an indemnity (secured or otherwise) to OTC Clear in respect of any loss or liability arising from the legal invalidity of any payment of the Client Entitlement to the Client), OTC Clear shall determine in its sole and absolute discretion, the period of time during which it will give effect to instructions received from its Client pursuant to Clearing Rule 1309(3) and, within such period of time, pay the Client Entitlement directly to the Client instead of returning the same to the Defaulting Clearing Member.

If the relevant Client fails to enter into relevant documentation with OTC Clear and/or, if applicable, provide OTC Clear with appropriate documentation, each as required under this Clearing Rule 1309(3), OTC Clear shall reserve the right to withhold the delivery of any Client Entitlement until such time such relevant documentation has been properly entered into with OTC Clear and/or, if applicable, such appropriate documentation has been properly provided to OTC Clear.

1309A. OTC Clear will determine the Client Entitlement in respect of each Porting Client in accordance with the following:

- (1) if the relevant DMP Event with respect to the Defaulting Clearing Member is not an Automatic Early Termination Event:
  - (a) the Client Entitlement relating to each Client Clearing Category 1 Position Account to which Contracts (including, for the avoidance of doubt, any Non-Porting Contracts) relating to a Porting Client are (or, immediately prior to the relevant scheduled Termination

Date or Settlement Date, as the case may be, were) recorded shall be the aggregate of all amounts that have become due and payable by OTC Clear to the Defaulting Clearing Member on or after the date the relevant DMP Event in respect of any Contracts (including, for the avoidance of doubt, any Non-Porting Contracts) recorded in the relevant Client Position Account which have not already been paid (without prejudice to, and after giving effect to, any rights of set-off, netting and/or currency conversion under the Clearing Rules); and

- (b) the Client Entitlement relating to each Client Clearing Category 2 Position Account to which Contracts (including, for the avoidance of doubt, any Non-Porting Contracts) relating to a Porting Client are (or, immediately prior to the relevant scheduled Termination Date or Settlement Date, as the case may be, were) recorded shall be the greater of zero and an amount equal to the product of:
  - (i) an amount equal to:
    - (A) the hypothetical net amount payable by OTC Clear to the Defaulting Clearing Member in respect of all amounts that have become due and payable by OTC Clear to the Defaulting Clearing Member or by the Defaulting Clearing Member to OTC Clear, in each case on or after the date the relevant DMP Event occurs in respect of any Contracts (including, for the avoidance of doubt, any Non-Porting Contracts) relating to such Porting Client recorded in the relevant Client Position Account which have not already been paid (calculated on a hypothetical basis after giving effect to any rights of set-off or netting under the Clearing Rules and after converting any amounts denominated in other currencies into the Base Currency at such rate prevailing at the time of the calculation as OTC Clear shall reasonably select) (to the extent such hypothetical net sum is a positive number, such amount a **"Porting Client Hypothetical Net Receivable"**); divided by
    - (B) the sum of all Porting Client Hypothetical Net Receivables for each of the Porting Clients sharing the relevant Client Clearing Category 2 Position Account; and
  - (ii) the aggregate of all amounts that have become due and payable by OTC Clear to the Defaulting Clearing Member on or after the date the relevant DMP Event occurs in respect of any Contracts (including, for the avoidance of doubt, any Non-Porting Contracts) recorded in the relevant Client Position Account which have not already been paid (without prejudice to, and after giving effect to, any rights of set-off, netting and/or currency conversion under the Clearing Rules).

- (1A) if the relevant DMP Event with respect to the Defaulting Clearing Member is an Automatic Early Termination Event:
- (a) the Client Entitlement relating to relating to a Porting Client which is a Client Clearing Category 1 Client shall be the positive net sum (if any) determined in accordance with Clearing Rule 1703(1A)(a)(ii) in respect of that Porting Client; and
  - (b) the Client Entitlement relating to a Porting Client which is a Client Clearing Category 2 Client shall be the greater of zero and an amount equal to the product of:
    - (i) the hypothetical Initial Margin with respect to the Non-Porting AET Contracts of such Porting Client (calculated on a portfolio margining basis assuming that all Non-Porting AET Contracts of such Porting Client had not terminated and were booked into a single separate hypothetical position account assigned solely to such Porting Client) divided by the aggregate of the hypothetical Initial Margin with respect to the Non-Porting AET Contracts relating to all Porting Clients of the relevant Client Clearing Category 2 Position Account (each such hypothetical Initial Margin for each individual Porting Client being calculated on a portfolio margining basis assuming that the Non-Porting AET Contracts of each individual Porting Client were not terminated and were booked into a single separate hypothetical position account assigned solely to such individual Porting Client), in each case, such Initial Margin being calculated during the Portfolio Novation Cycle immediately preceding the occurrence of the relevant DMP Event; and
    - (ii) the positive net sum (if any) determined in accordance with Clearing Rule 1704(1A)(a)(ii) in respect of the relevant Client Clearing Category 2 Position Account.
- (2) OTC Clear will make any determination pursuant to Clearing Rules 1308B and 1309A using its own records based on the information provided to it by the Defaulting Clearing Member. OTC Clear shall be entitled to rely on such records without conducting any independent verification in respect of the same. Notwithstanding the immediately foregoing, OTC Clear may, in its absolute discretion (i) adjust such records to reflect any factors reasonably taken into consideration when performing such valuation and/or (ii) withhold delivery of any Client Entitlement until such time as the Defaulting Clearing Member or its representative provides to OTC Clear any information requested by OTC Clear.
- (3) Following the calculation of a Client Entitlement, where the relevant Client instructs OTC Clear to pay an amount to it equal to the Client Entitlement due to be returned in respect of it to the Defaulting Clearing Member, then subject to entering into relevant documentation between OTC Clear and the relevant Client (which may, without limitation, include an indemnity (secured or otherwise) to OTC Clear in respect of any loss or liability arising from the legal invalidity of any payment of the Client Entitlement to the Client), OTC Clear shall determine in its sole and

absolute discretion, the period of time during which it will give effect to instructions received from its Client pursuant to Clearing Rule 1309A(3) and, within such period of time, pay the Client Entitlement directly to the Client instead of returning the same to the Defaulting Clearing Member.

If the relevant Client fails to enter into relevant documentation with OTC Clear and/or, if applicable, provide OTC Clear with appropriate documentation, each as required under this Clearing Rule 1309A(3), OTC Clear shall reserve the right to withhold the delivery of any Client Entitlement until such time such relevant documentation has been properly entered into with OTC Clear and/or, if applicable, such appropriate documentation has been properly provided to OTC Clear.

1310. For the purpose of the processes set out in Clearing Rule 1306 to 1309, OTC Clear may take into account any Client's interest in any Collateral or proceeds thereof forming part of its Client Entitlement pursuant to Clearing Rules 1308A and 1309 and, if applicable, any relevant Security Deed, and the operations of section 56(1) shall be modified by this Clearing Rule 1310, as permitted under section 56(2) of the SFO.

#### **Termination of the Membership of a Defaulting Clearing Member**

1311. The Membership of a Defaulting Clearing Member shall terminate with effect from the Membership Termination Date designated by OTC Clear following the completion of the Default Management Process with respect to such Defaulting Clearing Member. Upon the completion of the Default Management Process with respect to a Defaulting Clearing Member, OTC Clear shall promptly notify all Clearing Members of the completion of the relevant Default Management Process. In addition, OTC Clear shall notify the Defaulting Clearing Member of its Membership Termination Date, which shall fall no later than five OTC Clear Business Days after the completion of the Default Management Process.

#### **General Provisions relating to Clearing Member Event of Default**

1312. OTC Clear may appoint any Person to take or assist it in taking any step under these Clearing Rules and to complete or assist it in completing the process set out in Clearing Rules 1306, 1306A, 1306B, 1306C and 1307. OTC Clear may at any time consult with any Person, and act in reliance upon advice received, in relation to any action it takes.
1313. Without prejudice to the right of OTC Clear to take any step pursuant to Clearing Rule 1305, OTC Clear may, upon determining that an Event of Default has occurred, issue a cautionary notice to the Defaulting Clearing Member including such directions and requirements to be complied with by the Defaulting Clearing Member within such time period as OTC Clear may think fit.
1314. The exercise by OTC Clear of any of its rights under these Clearing Rules is without prejudice to and shall not preclude OTC Clear from exercising any other rights (including the right to take disciplinary action) in respect of any default by a Clearing Member. Furthermore, no delay or omission on the part of OTC Clear in exercising any right, power or remedy shall impair such right, power or remedy or operate as any kind of waiver.

1315. A receiver, liquidator or other similar official appointed in respect of a Clearing Member must comply with any directions given by OTC Clear (or by any Person appointed by OTC Clear) pursuant to these Clearing Rules.

### **Indemnity**

1316. Each Clearing Member shall indemnify OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear and keep OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear indemnified from and against any loss, cost (including cost of enforcement), interests, liability (including any tax or other fiscal liability), claim or Damage which OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear:
- (1) incurred or suffered as a consequence of such Clearing Member's conduct, or a breach of any of such Clearing Member's obligations under the Clearing Documentation or the terms of a Contract or any Applicable Laws, including as a consequence of OTC Clear acting upon the instructions of a Clearing Member's Designated Person(s) in connection with any Original Transaction submitted by such Designated Person(s) on behalf, and in the name, of the Clearing Member;
  - (2) incurred or suffered directly in connection with OTC Clear's ensuring the settlement of a Contract in the case of a DMP Event relating to any other Clearing Member, whether or not OTC Clear takes any steps pursuant to Clearing Rule 1305 or any other steps under these Clearing Rules, provided that the aggregate amount indemnified by any Non-Defaulting Clearing Member in respect of each Capped Liability Period shall not exceed its Maximum Current Liability and shall be satisfied by application of its Rates and FX Contribution Balance in accordance with Clearing Rule 1549; or
  - (3) incurred or suffered in connection with any actions taken by OTC Clear or any actions that OTC Clear is required to take to comply with any obligations relating to the Tax Information Exchange Framework (or fails to take relating to Withholding Tax obligations) with respect to such Clearing Member.

### **OTC Clear Default**

#### **OTC Clear Failure to Pay Event**

1317. If OTC Clear fails to make, when due, any payment to a Clearing Member (other than a Defaulting Clearing Member) (the "**Relevant Clearing Member**") arising from a Contract, the Relevant Clearing Member may provide written notification (the "**Failure to Pay Notice**") to OTC Clear formally informing OTC Clear of such failure pursuant to this Clearing Rule 1317.
1318. An "**OTC Clear Failure to Pay Event**" shall be deemed to occur if after the receipt of the Failure to Pay Notice by OTC Clear, OTC Clear has not made all relevant payments to the Clearing Member by the end of the relevant OTC Clear Failure to Pay Grace Period, provided that no OTC Clear Failure to Pay Event shall occur if (1) such failure to pay arises as a result of technical or administrative reasons beyond the control of OTC Clear; or (2) during the OTC Clear Failure to Pay Grace

Period, OTC Clear has exercised its powers under Clearing Rule 1320(1) and/or 1320(2). During the OTC Clear Failure to Pay Grace Period, the Relevant Clearing Member shall continue to be obliged to pay when due all amounts required by OTC Clear in accordance with the Clearing Documentation and shall satisfy in full all its other obligations under the Clearing Documentation.

1319. Upon the occurrence of an OTC Clear Failure to Pay Event, the Relevant Clearing Member may terminate and liquidate all its outstanding Contracts (each a “**Relevant CM Contract**”) by delivering a notice to OTC Clear.
1320. During the OTC Clear Failure to Pay Grace Period, OTC Clear may take the following action or actions:
  - (1) designate an Early Termination Date in respect of all the Relevant CM Contracts by delivering a notice to the Relevant Clearing Member whereupon all the Relevant CM Contracts shall be novated with effect from the day that falls on the second OTC Clear Clearing Day following the date of delivery of such notice by OTC Clear. Upon the delivery of such notice, the Relevant Clearing Member agrees that OTC Clear shall novate all the Relevant CM Contracts on the designated Early Termination Date by terminating such Relevant CM Contracts and registering in the name of any other Clearing Member (other than a Defaulting Clearing Member) Contracts on substantially similar terms as any Relevant CM Contract with the agreement of such other Clearing Member, and the provisions as set out in Clearing Rule 1324 shall apply; or
  - (2) declare, and notify all Clearing Members of the occurrence of, a Rates and FX Clearing Termination Event pursuant to the terms set out in Clearing Rule 1530, whether or not OTC Clear has, prior to such declaration of Rates and FX Clearing Termination Event, exercised its power pursuant to sub-paragraph (1) above. Upon the occurrence of a Rates and FX Clearing Termination Event, the Rates and FX Clearing Services will be wound down in accordance with Clearing Rules 1531 to 1540.
1321. In the event that the Relevant Clearing Member delivers a notice to OTC Clear to terminate all the Relevant CM Contracts pursuant to Clearing Rule 1319, OTC Clear shall:
  - (1) terminate all the Relevant CM Contracts on the day that falls on the second OTC Clear Clearing Day following the date of delivery of such notice by the Relevant Clearing Member (such day being the “**Early Termination Date**” for the purpose of this Clearing Rule 1321) by registering in the name of any other Clearing Member (other than a Defaulting Clearing Member) one or more Contracts on substantially similar terms as any Relevant CM Contract with the agreement of such other Clearing Member on the Early Termination Date and Clearing Rule 1324 shall apply; or
  - (2) declare, and notify all Clearing Members of the occurrence of, a Rates and FX Clearing Termination Event, upon which the Rates and FX Clearing Services will be wound down in accordance with Clearing Rules 1531 to 1540.

### **OTC Clear Insolvency Event**

1322. An “**OTC Clear Insolvency Event**” shall occur if OTC Clear voluntarily commences a procedure seeking or proposing liquidation, administration, receivership, judicial management or a scheme of arrangement, or other similar relief with respect to itself or its debts under any bankruptcy, insolvency, regulatory, supervisory or similar law, or if any of the foregoing case or procedure is commenced in relation to OTC Clear by any other person and either:
- (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for OTC Clear’s winding-up or liquidation; or
  - (2) such case or procedure is not dismissed, discharged, stayed or restrained in each case within 21 OTC Clear Business Days of the institution or presentation thereof.

Upon the occurrence of an OTC Clear Insolvency Event, a Non-Defaulting Clearing Member may designate an Early Termination Date for the termination and liquidation of all Contracts then registered in its name.

1323. In the event that a Non-Defaulting Clearing Member delivers a notice to OTC Clear to terminate all of its Contracts then registered with OTC Clear pursuant to Clearing Rule 1322 as a result of the occurrence of an OTC Clear Insolvency Event, then all Contracts of all Clearing Members will be terminated with effect from (and including) the day that falls on the second OTC Clear Clearing Day following the date of delivery of such notice by the Non-Defaulting Clearing Member (such day being the “**Early Termination Date**” for the purpose of this Clearing Rule 1323) and Clearing Rule 1324 will apply to each Clearing Member. Upon receipt of a notice from a Non-Defaulting Clearing Member declaring the occurrence of an OTC Clear Insolvency Event, OTC Clear will notify all Clearing Members of (1) the occurrence of such event and (2) the Early Termination Date with respect to all outstanding Contracts registered in the name of all Clearing Members.

### **Calculations of Net Payment following OTC Clear Default**

1324. Upon the designation of an Early Termination Date with respect to all Contracts then registered in the name of a Clearing Member pursuant to Clearing Rule 1320(1), 1321(1) or 1323:
- (1) all obligations of OTC Clear and such Clearing Member in respect of any such Contract between them shall cease to exist and be replaced with the obligation to pay the termination amounts determined under sub-paragraph (3) below. The close-out value for each Contract shall be determined in accordance with section 10.1(ii) of the Clearing Procedures, provided that OTC Clear may also take into account any unpaid amounts that have become due and payable in respect of any Contract on or prior to the designation of the Early Termination Date;
  - (2) any unused Margin Balance and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Clearing Member(s) then held by OTC Clear in respect of one or more Clearing Members shall be returned to the relevant Clearing Members in accordance with sub-paragraph (6) below; and any unused Rates and FX Contribution Balance then held by OTC Clear in respect of one or more

Clearing Members shall be returned to the relevant Clearing Members in accordance with sub-paragraph (8)(d) below;

- (3) OTC Clear shall on, or as soon as reasonably practicable after, the Early Termination Date, calculate a net sum payable by or to each Clearing Member separately in relation to each Position Account registered in the name of such Clearing Member. In determining such net sum, OTC Clear will take into account the close-out values established for each Contract pursuant to sub-paragraph (1) above, and the value of all other amounts which is due to OTC Clear from the Clearing Member under these Clearing Rules or which is due to it from OTC Clear (other than OTC Clear's obligation to return any unused Margin Balance, any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the relevant Clearing Member or Former Clearing Member and/or Rates and FX Contribution Balance to the relevant Clearing Member or Former Clearing Member), in each case, whether future, liquidated or unliquidated, actual or contingent. There shall be no combining or set-off between any House Position Account and Client Position Account(s), or between two or more Client Position Accounts. OTC Clear will determine any such net sum payable by, or to, a Clearing Member in the Base Currency. For the purpose of the determination under this sub-paragraph (3), OTC Clear may convert any amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as it shall reasonably select;
- (4) If, pursuant to sub-paragraph (3) above, a net sum is determined to be payable by a Clearing Member to OTC Clear with respect to one or more of its Position Accounts, OTC Clear shall reduce each such sum by application of the Outright Transfer Margin Balance, if any, relating to the relevant Position Account. With respect to each Clearing Member and each of its Position Account(s), after application of the Outright Transfer Margin Balance relating to the relevant Position Account:
  - (a) if there remains a balance payable by the Clearing Member to OTC Clear for such Position Account (the "**CM Payable Balance**"), OTC Clear will, as soon as reasonably practicable, notify the relevant Clearing Member of the CM Payable Balance, and the relevant Clearing Member shall pay OTC Clear the CM Payable Balance within three OTC Clear Business Days following receipt of such notification; and
  - (b) if the Clearing Member fails to pay the CM Payable Balance within the time frame set out in sub-paragraph (4)(a) above, OTC Clear may declare an Event of Default in respect of such Clearing Member. OTC Clear may, in satisfaction of any due but unpaid CM Payable Balance in respect of a Position Account, apply the proceeds of enforcement of any non-cash Collateral comprising the Margin Balance of the corresponding Collateral Account and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by such Clearing Member;

- (5) if, pursuant to sub-paragraph (3) above, a net sum is determined to be payable by OTC Clear to a Clearing Member with respect to one or more of its Position Accounts, each such sum shall form part of an OTC Clear Default CM Receivable with respect to the relevant Position Account;
- (6) with respect to each Clearing Member and each of its Position Account(s), taking into account (if applicable) the operation of sub-paragraph (4) above:
- (a) any unused Outright Transfer Margin Balance and, if applicable, any remaining proceeds of enforcement of non-cash Collateral further to the application of sub-paragraph (4)(b) above for such Position Account shall be returned to the Clearing Member; and
  - (b) any non-cash Collateral provided to OTC Clear on a security interest basis and comprising the Margin Balance of the Collateral Account corresponding to such Position Account and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Clearing Member shall be redelivered to the Clearing Member in accordance with the relevant security document;
- (7) following the completion of the processes described in sub-paragraphs (4) to (6) above:
- (a) OTC Clear shall, with respect to each Position Account (without regard to its obligation to return any unused Rates and FX Contribution Balance to the relevant Clearing Member or Former Clearing Member), determine the resulting net sum payable by a Clearing Member to OTC Clear for such Position Account (such sum, an “OTC Clear Default Interim CM Payable”), or the resulting net sum payable by OTC Clear to a Clearing Member for such Position Account (such sum, an **“OTC Clear Default CM Receivable”**);
  - (b) OTC Clear shall notify the relevant Clearing Member of its OTC Clear Default Interim CM Payable(s) or OTC Clear Default CM Receivable(s). Each Clearing Member that receives a notice to pay any OTC Clear Default Interim CM Payable shall pay each such amount to OTC Clear in full within three OTC Clear Business Days following receipt of such notification;
  - (c) if a Clearing Member fails to pay any OTC Clear Default Interim CM Payable in full within the time frame set out in sub-paragraph (7)(b) above, regardless of whether such OTC Clear Default Interim CM Payable arises out of a House Position Account or Client Position Account belonging to such Clearing Member, OTC Clear may apply any unused Rates and FX Contribution Balance then held by OTC Clear in respect of such Clearing Member against the unpaid OTC Clear Default Interim CM Payable;
  - (d) with respect to a Clearing Member and each of its Position Account(s) with an OTC Clear Default Interim CM Payable, following the application of any unused Rates and FX Contribution Balance

as described in sub-paragraph (7)(c) above, OTC Clear shall determine the final net sum payable by the Clearing Member, if any (each a “**OTC Clear Default Final CM Payable**”) with respect to such Position Account, and notify such Clearing Member of the same. Each Clearing Member that receives a notice to pay any OTC Clear Default Final CM Payable shall pay each such amount to OTC Clear in full at or prior to the time specified by OTC Clear; and

- (e) for the avoidance of doubt, a Clearing Member may have an OTC Clear Default Interim CM Payable or OTC Clear Default Final CM Payable in respect of one Position Account registered in its name, but an OTC Clear Default CM Receivable in respect of another Position Account registered in its name;
- (8) with respect to each Clearing Member who has an OTC Clear Default CM Receivable, and each Clearing Member or Former Clearing Member with any unused Rates and FX Contribution Balance (taking into account the operation of sub-paragraph (7)(c) above), OTC Clear shall pay each such Clearing Member or Former Clearing Member in proportion to the value of their respective claims on OTC Clear under sub-paragraph (7) above in the following manner:
- (a) OTC Clear shall, until the time specified in sub-paragraph (9) below, take reasonable steps to recover any unpaid OTC Clear Default Final CM Payables. and may deduct from such amounts any reasonable costs in connection with such recovery;
  - (b) following receipt of all or some (if any Clearing Member defaults in its payment of the relevant OTC Clear Default Final CM Payable) OTC Clear Default Final CM Payables, OTC Clear will calculate a percentage (“**OTC Clear Default Applicable Percentage**”) equal to the lesser of:
    - (A) 100%; and
    - (B)
      - (I) the aggregate value of (i) the Rates and FX Guarantee Resources then held by OTC Clear, (ii) any Margin Balance and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Clearing Members or Former Clearing Members applied pursuant to Clearing Rules 1324(3) and/or 1324(4)(b) and (iii) all OTC Clear Default Final CM Payables received; divided by
      - (II) the aggregate value representing the sum of (i) all OTC Clear Default CM Receivables and (ii) any unused Rates and FX Contribution Balance then held by OTC Clear in respect of all Clearing Members or Former Clearing Members (taking into account the operation of subparagraph (7)(c) above);

- (c) OTC Clear shall pay each Clearing Member with an OTC Clear Default CM Receivable an amount equal to the OTC Clear Default Applicable Percentage of such OTC Clear Default CM Receivable;
  - (d) OTC Clear shall pay each Clearing Member or Former Clearing Member with unused Rates and FX Contribution Balance an amount equal to the OTC Clear Default Applicable Percentage of such unused Rates and FX Contribution Balance, provided that the aggregate sum payable by OTC Clear in respect of unused Rates and FX Contribution Balance for all Clearing Member(s) and Former Clearing Member(s) shall never exceed the value of the Rates and FX Guarantee Resources then held by OTC Clear. Once the Rates and FX Guarantee Resources have been exhausted, the unpaid balance of any unused Rates and FX Contribution Balance shall be extinguished; and
  - (e) all payments made under this sub-paragraph (8) shall be made in the Base Currency provided that if OTC Clear does not have sufficient Base Currency to satisfy such payment, it may satisfy such payment obligation in any other Eligible Currency. For this purpose OTC Clear shall be entitled to convert any amounts denominated in the Base Currency into any other Eligible Currency (or vice versa) at such rate prevailing at the time of settlement as it shall reasonably select;
- (9) if OTC Clear determines that no further amounts in respect of any OTC Clear Default Final CM Payables are likely to be recovered and notifies the same to the relevant Clearing Member(s) and Former Clearing Member(s), then the unpaid balance of any OTC Clear Default CM Receivable and/or unused Rates and FX Contribution Balance shall thereafter be extinguished and the relevant Clearing Member(s) and Former Clearing Member(s) shall have no further recourse to OTC Clear (its Affiliates, a recognized exchange controller which is the controller of OTC Clear, or any of their respective Representatives) in respect thereof; and
  - (10) OTC Clear will, as soon as reasonably practicable, inform the SFC of the occurrence of an OTC Clear Failure to Pay Event or OTC Clear Insolvency Event upon becoming aware of the same.
1325. The obligations of a Clearing Member to pay any amounts due and payable to OTC Clear pursuant to the Clearing Documentation shall survive the Membership Termination Date relating to such Clearing Member.

## Chapter 14 Disciplinary Actions and Proceedings

### Situations Calling for Disciplinary Action

1401. OTC Clear may commence disciplinary proceedings against a Clearing Member:

- (1) if the Clearing Member contravenes any provisions of the Clearing Documentation or any conditions attached to its Membership, including any breach of its obligations, undertakings or representations by the Clearing Member under the Membership Agreement to which it is a party;
- (2) if the Clearing Member commits any act or omits to commit any act relating to its clearing activities which may adversely affect the reputation of OTC Clear, or the soundness or integrity of OTC Clear as a recognized clearing house;
- (3) if OTC Clear has determined that an Event of Default (excluding an Automatic Early Termination Event) has occurred in relation to that Clearing Member;
- (4) if the Clearing Member fails to provide information requested by an exchange, clearing house, Regulatory Authority or an organization with whom HKEX or OTC Clear has entered into an information sharing agreement;
- (5) if the Clearing Member fails to participate in the Default Management Process when required to do so under the Clearing Documentation or OTC Clear, after consultation with the Risk Management Committee, determines that the Clearing Member participated in the Default Management Process in bad faith;
- (6) if a Clearing Member is subject to an adverse finding by any Governmental Authority, Clearing Organization or Regulated Exchange in respect of its activities as a Clearing Member;
- (7) if the Clearing Member refuses to answer fully questions or produce books, records or other documents as may be required at or during the course of any disciplinary investigation or proceedings, or testifies falsely;
- (8) if the Clearing Member refuses to appear before the Disciplinary Committee, the Disciplinary Appeals Committee or any other committee of OTC Clear duly constituted under these Clearing Rules to deal with disciplinary matters, at or during the course of any disciplinary investigation or proceedings; or
- (9) if the Clearing Member fails to meet or comply with any disciplinary sanction or other requirement imposed on it.

OTC Clear will notify the relevant Regulatory Authority of a Remotely Regulated Entity in case any disciplinary proceedings have been commenced by OTC Clear against such Remotely Regulated Entity.

1402. An initial election by OTC Clear to commence disciplinary proceedings against a Clearing Member with respect to whom an Event of Default (excluding Automatic Early Termination Event) has occurred shall not prejudice, or otherwise affect, OTC Clear's right to subsequently deliver a Notice of Default, provided that an Event of

Default is then in existence and continuing (regardless of whether such event constitutes the same, or different, ground of Event of Default which leads to the disciplinary action taken by OTC Clear pursuant to Clearing Rule 1401(3)).

### **Co-operation**

1403. In any investigation into a disciplinary matter or into circumstances possibly giving rise to a disciplinary matter, every Clearing Member shall co-operate with OTC Clear, the OTC Clear Board, the Disciplinary Committee, the Disciplinary Appeals Committee, a recognized exchange controller which is the controller of OTC Clear, the SFC and any other Person or body of Persons to whom the investigation may be entrusted.

### **Notification**

1404. Any proposal to take disciplinary proceedings, and the outcome of any disciplinary proceedings, shall be notified to the SFC.

### **Disciplinary Actions**

1405. Without prejudice to any other rights OTC Clear may have, following the conclusion of disciplinary proceedings carried out against a Clearing Member pursuant to Clearing Rules 1406 to 1408, the Disciplinary Committee may impose no disciplinary action or any of the following disciplinary actions:

- (1) to terminate the Membership of a Clearing Member;
- (2) to call upon a Clearing Member, by written notice, to resign pursuant to Clearing Rule 604. If the relevant Clearing Member fails to tender its notice of resignation within seven days of receipt of such notice from OTC Clear, OTC Clear may exercise its power to terminate the Membership of such Clearing Member;
- (3) to suspend a Clearing Member from Membership pursuant to Clearing Rules 601 to 603 on such terms and for such period as OTC Clear shall think fit;
- (4) to impose a fine on a Clearing Member;
- (5) to censure publicly or privately a Clearing Member;
- (6) to issue a warning, including, as appropriate, a requirement that certain actions be taken (which may include a requirement that the Clearing Member cease and desist from certain actions) within the period specified in the warning and specifying the sanction (including a fine, suspension or revocation) in the event that such actions are not taken within the specified period;
- (7) to require for rectification or other remedial action or restitutionary measures to be taken by the Clearing Member within a stipulated period, including, if appropriate, the appointment of independent accountants, solicitors, consultants or other professionals in connection therewith;
- (8) to notify the matter to any competent authority to which a Clearing Member is subject; or
- (9) to take such other disciplinary action as the Disciplinary Committee shall consider appropriate in the circumstances.

The Disciplinary Appeals Committee may, following the conclusion of appeal hearings carried out pursuant to Clearing Rules 1409 and 1410, overturn any decision made by the Disciplinary Committee or impose any of the disciplinary actions set out in sub-paragraphs (1) to (8) above or take such other disciplinary action as the Disciplinary Appeals Committee shall consider appropriate in the circumstances.

### **Procedures relating to Disciplinary Committee**

1406. If OTC Clear proposes to commence disciplinary proceedings against a Clearing Member in respect of any situation set out in Clearing Rule 1401, it shall provide the Clearing Member and the Disciplinary Committee a notice (the “**Notice of Disciplinary Committee Hearing**”) at least 10 OTC Clear Business Days prior to the proposed date of the hearing, and the Notice of Disciplinary Committee Hearing shall include:

- (1) the statement of case which shall comprise the charge(s), a summary of the facts to be relied on alleged to give rise to that situation;
- (2) a copy of the documents in the possession of OTC Clear which are relied on to support the facts alleged, as well as a copy of any document in the possession of OTC Clear which contradicts the alleged facts; and
- (3) the date, time and place of the hearing,

provided that OTC Clear shall have the power (either on its own initiative or upon a request received from the Clearing Member) to postpone or adjourn such hearing to a date, time and place to be determined by OTC Clear. In case of such proposed postponement or adjournment, OTC Clear shall notify the Clearing Member at least 10 OTC Clear Business Days prior to the date on which such proposed or adjourned hearing is due to take place.

1407. The Clearing Member shall have the right to attend the hearing of the Disciplinary Committee and to make representations, and may be legally represented at such hearing. A representative of OTC Clear may also make representations on behalf of OTC Clear.

1408. The Disciplinary Committee will communicate the outcome of such hearing, including any action to be taken by OTC Clear, and/or order as to costs by way of provision of a notice (the “**Initial Order Notice**”) to the relevant Clearing Member. Such Initial Order Notice shall set out in reasonable detail the reasons for the conclusions of the Disciplinary Committee.

### **Appeals to the Disciplinary Appeals Committee**

1409. Following receipt of the Initial Order Notice, a Clearing Member may appeal to the Disciplinary Appeals Committee on one of the grounds set out in Clearing Rule 1411 within the Appeal Period, where the “**Appeal Period**” means:

- (1) three OTC Clear Business Days from the date of receipt of the Initial Order Notice by a Clearing Member if the Initial Order Notice indicates that such Clearing Member’s Membership shall be terminated. If the relevant Clearing Member does not appeal within the Appeal Period, it shall commence the Non-Default Unwind immediately and its Membership Termination Date shall fall on the OTC Clear Clearing Day on which each of the:

- (a) Initial Margin requirements (in respect of each Position Account of such Clearing Member) shown on the end-of-day Margin report published on such day; and
- (b) the net notional of all Contracts recorded in the name of such Clearing Member,

becomes zero.

Failure by a Clearing Member to commence the Non-Default Unwind following the expiry of the Appeal Period pursuant to this Clearing Rule 1409(1) shall constitute an Event of Default with respect to such Clearing Member; and

- (2) 10 OTC Clear Business Days from the date of receipt of the Initial Order Notice by a Clearing Member if the Initial Order Notice indicates that OTC Clear will take disciplinary measures against the relevant Clearing Member other than termination of its Membership. If no appeal is brought by the Clearing Member prior to the expiry of the Appeal Period, then OTC Clear may, at the end of the Appeal Period, immediately enforce the proposed disciplinary action as set out in the Initial Order Notice against such Clearing Member.

A Clearing Member shall clearly indicate the ground(s) of appeal in its request to appeal. An appeal shall be deemed invalid if a Clearing Member fails to clearly indicate the ground(s) of appeal in its request to appeal within the Appeal Period.

1410. If an appeal on one of the grounds set out in Clearing Rule 1411 is lodged by a Clearing Member within the Appeal Period, then OTC Clear will provide such Clearing Member and the Disciplinary Appeals Committee a notice (the “**Notice of Disciplinary Appeals Committee Hearing**”) stating the date, time and place where the appeal hearing will take place, provided that OTC Clear shall have the power (either on its own initiative or upon a request received from the Clearing Member) to postpone or adjourn such hearing to a date, time and place to be determined by OTC Clear. In case of such proposed postponement or adjournment, OTC Clear shall notify the Clearing Member at least 10 OTC Clear Business Days prior to the date on which such proposed or adjourned hearing is due to take place.

#### **Grounds for Appeal**

1411. The Disciplinary Appeals Committee shall hear and determine appeals against a decision of the Disciplinary Committee on the following grounds:

- (1) that the Disciplinary Committee misdirected or misconducted itself contrary to these Clearing Rules or the rules of natural justice;
- (2) that the Disciplinary Committee’s decision was one which no reasonable Disciplinary Committee could have reached;
- (3) that the Disciplinary Committee’s decision was based on an error of law or a gross misinterpretation of these Clearing Rules; or
- (4) that any disciplinary action or penalty imposed by the Disciplinary Committee is unduly excessive,

provided that in each case, the onus of proof lies with the Clearing Member who appeals against the decision of the Disciplinary Committee as set out in the Initial Order Notice.

1412. The Clearing Member shall have the right to attend the hearing of the Disciplinary Appeals Committee and to make representations and shall be permitted to be legally represented at such hearing. A representative of OTC Clear may also make representations on behalf of OTC Clear.
1413. Unless otherwise determined by OTC Clear or the Disciplinary Appeals Committee, pending the outcome of any appeal to the Disciplinary Appeals Committee, the decision being appealed against shall be stayed from the date on which the appeal is lodged by the Clearing Member.
1414. The decision of the Disciplinary Appeals Committee on an appeal made to it pursuant to these Clearing Rules shall be final and conclusive. The Disciplinary Appeals Committee will issue and communicate the outcome of such hearing including any action to be taken by OTC Clear and/or order as to costs by way of provision of a notice (the "**Final Order Notice**") to the relevant Clearing Member.

#### **Order as to Costs**

1415. Where disciplinary proceedings are commenced against a Clearing Member, the Disciplinary Committee or Disciplinary Appeals Committee, as appropriate, may order any party to the disciplinary proceedings to pay or share such costs and expenses including, without limitation, the remuneration and expenses of the members of the Disciplinary Committee and/or the Disciplinary Appeals Committee adjudicating at the hearing, legal costs, administration costs and expenses, and costs and expenses incurred in the investigation, preparation and presentation of the case.
1416. Subject to Clearing Rule 1417, any costs awarded against a Clearing Member at any disciplinary hearing shall be payable within 10 OTC Clear Business Days of the delivery of the Initial Order Notice (if not appealed) or the Final Order Notice, as applicable and the determination of the amount of the costs.
1417. The Disciplinary Appeals Committee may affirm or reassess any order of costs made by the Disciplinary Committee whether or not an appeal is allowed, dismissed or withdrawn, and such order as to costs made by the Disciplinary Appeals Committee, if any, shall come into effect on the service of the Final Order Notice on the Clearing Member.

## Chapter 15 Rates and FX Guarantee Resources

### Rates and FX Guarantee Resources Purpose

1501. The purpose of the Rates and FX Guarantee Resources is to provide resources to support the obligations of OTC Clear as a counterparty under Contracts in respect of the Rates and FX Clearing Service but not for any other clearing service that OTC Clear may from time to time offer, and shall only be used in accordance with these Clearing Rules. The Rates and FX Guarantee Resources comprise the Rates and FX Guarantee Fund, Rates and FX Assessments and OTC Clear Contribution.
1502. Each Clearing Member agrees and acknowledges that, for the purpose of securing its liabilities (including to indemnify OTC Clear in the circumstances described in Clearing Rule 1316), it shall provide Collateral on an outright transfer basis in respect of its CM Funded Contribution Amount and CM Unfunded Contribution Amount, each in an amount determined by OTC Clear in accordance with the Clearing Procedures. With respect to a Defaulting Clearing Member, for the purpose of securing its liabilities to OTC Clear in connection with the settlement of its Contracts, the Rates and FX Contribution Balance of such Defaulting Clearing Member shall be taken into account by OTC Clear when determining the net sum payable by, or to, such Defaulting Clearing Member in accordance with Clearing Rules 1306B and 1306C. With respect to a Non-Defaulting Clearing Member, for the purpose of securing its liabilities to indemnify OTC Clear in the circumstances described in Clearing Rule 1316(2), the Rates and FX Contribution Balance of each Non-Defaulting Clearing Member may be applied in accordance with Clearing Rule 1549. Unless otherwise specified in Clearing Rule 1508(1)(a), each Clearing Member must satisfy a demand for CM Funded Contribution Amount and/or CM Unfunded Contribution Amount within one OTC Clear Business Day following the receipt of such demand from OTC Clear.

### Calculations relating to the Rates and FX Guarantee Fund, Rates and FX Assessments and Rates and FX Contribution Balance

1503. Subject to Clearing Rule 1508, OTC Clear shall calculate the Rates and FX Guarantee Fund and Rates and FX Assessments and resize the CM Funded Contribution Amount and CM Unfunded Contribution Amount for each Clearing Member, in each case as detailed in section 6.1 of the Clearing Procedures, on each Rates and FX Contribution Determination Date. A “**Rates and FX Contribution Determination Date**” will occur on:
- (1) the first or second OTC Clear Business Day of each calendar month, as may be notified by OTC Clear;
  - (2) on any date if the Max EUL calculated on such date changes by more than 20% from the Max EUL calculated on the immediately preceding Rates and FX Contribution Determination Date, where “Max EUL” has the meaning given to it in section 6.1.1(6) and as modified by section 6.1.1(8) of the Clearing Procedures if Client Clearing Services are provided by one or more Clearing Members on OTC Clear Clearing Days falling within the GF Calculation Period relating to such Rates and FX Contribution Determination Date; and
  - (3) upon expiry of a Capped Liability Period pursuant to Clearing Rule 1508(2).

The Rates and FX Contribution Balance will be valued by OTC Clear daily in accordance with section 7.5.3 of the Clearing Procedures.

#### **Initial Rates and FX Contribution**

1504. A Clearing Member shall, upon receipt of a notice of approval of its application to become a Clearing Member, deliver Collateral with an aggregate value, determined by OTC Clear in accordance with Chapter 7 of the Clearing Procedures, equal to the Rates and FX Minimum Contribution Amount plus such other amount as OTC Clear may determine at its discretion based on projected clearing activity of such Clearing Member as its initial contribution to the Rates and FX Guarantee Fund. OTC Clear will set out any such additional amount required from a Clearing Member as part of its initial contribution to the Rates and FX Guarantee Fund in the notice of approval to become a Clearing Member. A Clearing Member shall satisfy its initial contribution to the Rates and FX Guarantee Fund in full no later than five OTC Clear Business Days from the date of receipt of notice of approval, or if earlier, the day prior to it submitting its first Original Transaction to OTC Clear for registration.

#### **Further Rates and FX Contribution**

1505. Following each Rates and FX Contribution Determination Date, each Clearing Member will be notified of its CM Funded Contribution Amount and CM Unfunded Contribution Amount in the Base Currency, each as determined by OTC Clear in the manner set out in Chapter 6 of the Clearing Procedures and calculated as at such Rates and FX Contribution Determination Date. The demand will be issued on the relevant Rates and FX Contribution Determination Date and will specify the amount of any additional Collateral required or any Rates and FX Contribution Excess. Each Clearing Member must satisfy the demand for additional Collateral one OTC Clear Business Day following receipt of such demand.

#### **Rates and FX Assessments Demand**

1506. Each Clearing Member agrees and acknowledges that, for the purpose of securing its liabilities in connection with the settlement of its Contracts pursuant to Clearing Rules 1306, 1306A, 1306B, 1306C and 1307 and to indemnify OTC Clear in the circumstances described in Clearing Rule 1316(2), it has an unconditional obligation to pay its CM Unfunded Contribution Amount in cash to the Rates and FX Guarantee Resources if required to do so by OTC Clear pursuant to Clearing Rule 1507.

1507. If, following the occurrence of a DMP Event with respect to one or more Clearing Members:

- (1) the Rates and FX Contribution Balance of all Clearing Members (for the avoidance of doubt, excluding any amounts applied by OTC Clear in connection with the DMP Event, but including the value of any Rates and FX Contribution in respect of any earlier demand of Rates and FX Assessments) falls below, or is expected to fall below, 75% of the last calculated value of the Rates and FX Guarantee Fund; or
- (2) OTC Clear determines in its sole discretion that all cash or liquid resources comprising the Rates and FX Guarantee Fund then held by it have been utilized in full, or are expected to be utilized in full, regardless of whether the value of the Rates and FX Contribution Balance of all Clearing

Members (for the avoidance of doubt, excluding any amounts applied by OTC Clear in connection with the DMP Event, but including the value of any Rates and FX Contribution in respect of any earlier demand of Rates and FX Assessments) have fallen below 75% of the last calculated value of the Rates and FX Guarantee Fund,

OTC Clear may issue a Rates and FX Assessments demand to each Non-Defaulting Clearing Member demanding it to contribute its CM Unfunded Contribution Amount to bring the total Rates and FX Contribution Balance of all Clearing Members to 100% of the last calculated value of the Rates and FX Guarantee Fund. If a Rates and FX Assessments demand is issued by OTC Clear under this Clearing Rule 1507, unless otherwise specified in Clearing Rule 1508(1)(a), each Clearing Member has an unconditional obligation to deliver its CM Unfunded Contribution Amount so demanded within one OTC Clear Business Day following receipt of such demand from OTC Clear. OTC Clear may issue multiple Rates and FX Assessments demands under this Clearing Rule 1507 following a DMP Event, provided that no such Rates and FX Assessments demands shall cause the Rates and FX Liability in respect of a Clearing Member to exceed its Maximum Current Liability set out in Clearing Rule 1544.

#### **Rates and FX Contribution due to Recalculations or Replenishments**

1508.

- (1) Subject to sub-paragraph (2) below, if the Rates and FX Contribution Balance in respect of a Clearing Member is less than the then current Rates and FX Liability of that Clearing Member, OTC Clear will notify such Clearing Member of the updated CM Funded Contribution Amount in the Base Currency, and:
  - (a) if the shortfall arises as a result of either market movement affecting the value of such Collateral or change in the applicable Collateral Haircut, or if OTC Clear determines there are wrong-way risk concerns, the Clearing Member shall deliver additional Collateral required to meet such shortfall to OTC Clear within one hour following receipt of such demand;
  - (b) in all other cases, the Clearing Member shall deliver additional Collateral required to meet such shortfall to OTC Clear within one OTC Clear Business Day following receipt of such demand;
- (2) save and except for the circumstance described in Clearing Rule 1510(2), following the occurrence of any DMP Event, any recalculation of the Rates and FX Guarantee Fund and Rates and FX Assessments shall be suspended until after the expiry of the relevant Capped Liability Period. Upon the expiry of a Capped Liability Period, OTC Clear will recalculate the Rates and FX Guarantee Fund, the Rates and FX Assessments and with respect to each Non-Defaulting Clearing Member, the Rates and FX Contribution Balance and the Rates and FX Liability relating to each such Non-Defaulting Clearing Member. In any such recalculation, and with respect to each Non-Defaulting Clearing Member, OTC Clear shall take into account any reduction in the Rates and FX Contribution Balance relating to such Non-Defaulting Clearing Member by the amount applied during the

Default Management Process in respect of such Capped Liability Period in accordance with Clearing Rule 1516. If the Default Management Process(es) in respect of any DMP Event(s) relating to such Capped Liability Period has not been completed at the time of recalculation, OTC Clear shall, for the purpose of determining the Rates and FX Contribution Balance in sub-paragraph (1) above only, and only for so long as the relevant Default Management Process(es) have not been completed, treat the Rates and FX Contribution Balance prior to the end of the Capped Liability Period as having been applied in full regardless of whether such Rates and FX Contribution Balance have in fact been so applied, in whole or in part. Following completion of the relevant Default Management Process(es), OTC Clear will determine the reduction in the Rates and FX Contribution Balance with respect to each Clearing Member, and a Clearing Member may request the redelivery of Collateral in respect of any Rates and FX Contribution Excess in accordance with Clearing Rule 1546. Subject to sub-paragraph (3) below, any Rates and FX Contribution delivered by any Clearing Member following the expiry of such Capped Liability Period shall not be applied in respect of any Rates and FX Loss arising out of any DMP Event occurring prior to the expiry of such Capped Liability Period; and

- (3) notwithstanding sub-paragraph (2) above, following the expiry of a Capped Liability Period, OTC Clear may apply any Rates and FX Contribution delivered to it prior to the end of such Capped Liability Period and may demand additional Rates and FX Assessments up to the Maximum Current Liability relating to such Capped Liability Period, in each case, for application in accordance with Clearing Rule 1516 in respect of DMP Event(s) relating to such Capped Liability Period.

1509. Unless otherwise specified in Clearing Rule 1508(1)(a), each Clearing Member shall deliver additional Collateral in respect of its Rates and FX Liability as notified to it by OTC Clear within one OTC Clear Business Day following receipt of demand from OTC Clear. For the avoidance of doubt, in respect of any Rates and FX Contribution Determination Date falling after the occurrence of the DMP Event with respect to a Defaulting Clearing Member, such Defaulting Clearing Member will not be included for the purpose of recalculation of the Rates and FX Guarantee Fund and Rates and FX Assessments by OTC Clear on any such Rates and FX Contribution Determination Date, notwithstanding the fact that the Membership Termination Date of such Defaulting Clearing Member may fall on or after any such Rates and FX Contribution Determination Date.

1510. Notwithstanding the operation of Clearing Rule 1508, if OTC Clear determines that:

- (1) the Expected Uncollateralized Loss ("EUL") with respect to a Clearing Member on any two consecutive OTC Clear Clearing Days during the period between two Rates and FX Contribution Determination Dates exceeds its largest EUL within the GF Calculation Period relating to the earlier of the two Rates and FX Contribution Determination Dates by 10% or more and the EUL for such Clearing Member exceeds 50% of the Rates and FX Guarantee Fund, where Expected Uncollateralised Loss has the meaning given to it in section 6.1.1(4) of the Clearing Procedures (and as

modified by section 6.1.1(8) of the Clearing Procedures if Client Clearing Services are provided); or

- (2) the EUL with respect to a Clearing Member on any two consecutive OTC Clear Clearing Days during a Capped Liability Period exceeds its largest EUL within the GF Calculation Period relating to the Rates and FX Contribution Determination Date immediately preceding the start of such Capped Liability Period by 10% or more, and the EUL for such Clearing Member exceeds 50% of the Rates and FX Guarantee Fund

(such excess, the “**Increased Risk**”),

then OTC Clear has the right to demand additional Collateral from such Clearing Member in an amount equal to the Increased Risk determined on the relevant second consecutive OTC Clear Clearing Day. The relevant Clearing Member shall provide additional Collateral to OTC Clear on the immediately following OTC Clear Business Day following receipt of OTC Clear’s notice. Thereafter, the requirement on additional Collateral will be determined by OTC Clear on a daily basis according to the latest calculation of Increased Risk less the amount of additional Collateral collected under this Clearing Rule 1510. Any additional Collateral provided by the relevant Clearing Member pursuant to this Clearing Rule 1510 shall be treated as part of such Clearing Member’s Additional Margin. Additional Collateral provided by a Clearing Member pursuant to a demand made by OTC Clear under this Rule 1510 one day before the later Rates and FX Contribution Determination Date will still be required by OTC Clear as Additional Margin under this Clearing Rule 1510 until the receipt of any additional Collateral demanded by OTC Clear pursuant to Clearing Rule 1505 to reflect the new CM Funded Contribution Amount of such Clearing Member as calculated on the later Rates and FX Determination Date. The Maximum Current Liability determined in respect of a Non-Defaulting Clearing Member during a Capped Liability Period pursuant to Clearing Rule 1513 will not be increased by virtue of the application of this Clearing Rule 1510.

1511. Following the occurrence of any DMP Event, and completion of the related Default Management Process, provided that there is no ongoing Default Management Process relating to other DMP Events taking place at the relevant time, OTC Clear will determine any reduction in the OTC Clear Contribution by the amount applied during the Default Management Process in accordance with Clearing Rule 1516. If prior to the completion of a Default Management Process, a subsequent DMP Event occurs, OTC Clear will only determine any reduction in the OTC Clear Contribution at the time where all relevant Default Management Processes have been completed. To the extent that the OTC Clear First Contribution and/or OTC Clear Second Contribution have been utilized as a result of the operation of the Default Management Process(es), OTC Clear will replenish each of the OTC Clear First Contribution and OTC Clear Second Contribution to its original value using its retained earnings, provided that OTC Clear will only replenish the OTC Clear Second Contribution if the OTC Clear First Contribution has first been replenished in full to its original value. In either case, OTC Clear shall only replenish if and to the extent that OTC Clear’s working capital after such replenishment shall not fall below the amount required for its continuous operation for the following 12 months (including but not limited to OTC Clear’s ability to meet all its other actual, contingent or anticipated future liabilities (taking into account for these purposes

the obligation of OTC Clear to redeliver Collateral in respect of Margin provided in the form of cash and any Rates and FX Liability to the relevant Clearing Members)).

### **Changes to Calculations relating to the Rates and FX Guarantee Fund and Rates and FX Assessments**

1512. Any changes to the methodology for calculating the Rates and FX Guarantee Fund and Rates and FX Assessments that result in an increase to the Rates and FX Guarantee Fund and Rates and FX Assessments of 20% or more shall be effective on the 20<sup>th</sup> OTC Clear Business Day following the date OTC Clear provides notice to Clearing Members of such change, provided that in respect of any such changes due to a change of requirement in Applicable Laws, rules, regulations or a request of a Regulatory Authority, such changes to the methodology shall be effective on the day as required by the Applicable Laws, rules or regulations, or the day specified in the relevant request of the Regulatory Authority, as applicable (in each case, a “**GF Increase Effective Date**”). Clearing Members shall deliver any additional Collateral required on or prior to the date such change is effective. OTC Clear will not initiate a change to the calculation methodology during a Capped Liability Period unless such change is required or mandated by a change of requirement in Applicable Laws, the rules or regulations or a request of a Regulatory Authority. For the avoidance of doubt, this Clearing Rule 1512 does not apply to any increase to the Rates and FX Guarantee Fund and Rates and FX Assessments resulting from periodic recalculations and not resulting from changes to the methodology.
1513. A Clearing Member who resigns pursuant to Clearing Rule 604 as a result of the increase to the Rates and FX Guarantee Fund and Rates and FX Assessments of 20% or more but who fails to complete the Non-Default Unwind in respect of all of its House Business and Client Clearing Services (if any) prior to the relevant GF Increase Effective Date will be subject to the increased Rates and FX Guarantee Fund and Rates and FX Assessments with effect from (and including) the relevant GF Increase Effective Date, provided that such increased requirement will only apply in respect of the Contracts then registered in the name of such Clearing Member (excluding those which the Clearing Member has successfully unwound as part of its Non-Default Unwind prior to the GF Increase Effective Date).

For the avoidance of doubt, the Maximum Current Liability determined in respect of a Non-Defaulting Clearing Member during a Capped Liability Period will not be increased by virtue of the application of Clearing Rule 1512 and this Clearing Rule 1513.

### **OTC Clear Use of the Rates and FX Guarantee Resources**

1514. Amounts standing to the credit of the Rates and FX Guarantee Resources may only be applied in accordance with Clearing Rule 1516 following the occurrence of a DMP Event or in the following limited circumstances:
- (1) to satisfy any amount due to OTC Clear by the Defaulting Clearing Member as a result of the occurrence of a DMP Event (including but not limited to Margin, amounts due pursuant to Contract Terms, fees, dues, assessments, fines and any costs and expenses of recovery against the Defaulting Clearing Member); or

- (2) for the purposes described in Clearing Rules 1520 and 1521.

### **Reduction of Losses on a DMP Event and Application of the Rates and FX Guarantee Resources**

1515. The total losses suffered by OTC Clear as a result of the occurrence of a DMP Event relating to a Defaulting Clearing Member (the “**Rates and FX Loss**”) are:

- (1) all Auction Losses or Contract Termination Losses relating to each Auction Portfolio constructed as a result of such DMP Event;
- (2) any other general losses suffered by OTC Clear as a result of such DMP Event which is not attributable to a specific Auction Portfolio or Contract Termination Losses (the “**General Losses**”), including but not limited to any costs involved in entering into Hedging instruments pursuant to Rule 1803 which do not form part of the Auction Portfolio, porting Affected Contracts registered in the name of such Defaulting Clearing Member to the Replacement Clearing Member, the losses or costs incurred by OTC Clear in liquidating any non-cash Collateral, for purchasing equivalent assets for the redelivery of the Rates and FX Contribution Balance to a Clearing Member to the extent utilised pursuant to Clearing Rule 1516, for currency conversion, or as a result of payment of any interest on liquidity facilities, in each case, with respect to the Default Management Process relating to such DMP Event; and
- (3) Unpaid Amounts due from such Defaulting Clearing Member to OTC Clear, excluding, for the avoidance of doubt, losses in respect of Contracts relating to Porting Clients.

1516. OTC Clear shall be entitled to apply its resources, in any manner or order including for the avoidance of doubt in an order which is different from the order described hereunder, for satisfaction of the Rates and FX Loss during a Default Management Process invoked as a result of the occurrence of a DMP Event with respect to a Defaulting Clearing Member, provided that upon completion of a successful Auction or the occurrence of a Contract Termination Event (as applicable) in respect of all Auction Portfolios relating to such DMP Event, it shall perform the loss allocation process set out below:

- (1) OTC Clear shall first determine the General Losses suffered by it as a result of the DMP Event and the extent to which there are any Unpaid Amounts due from such Defaulting Clearing Member to OTC Clear in respect of Contracts recorded in such Defaulting Clearing Member’s House Position Account, and reduce or bear such General Losses and Unpaid Amounts by application of the following resources in descending order as follows:
  - (a) first, the aggregate of (i) all Auction Payments (if any) received by OTC Clear with respect to one or more House Auction Portfolios constructed as a result of such DMP Event, (ii) any Unpaid Amounts due from OTC Clear to such Defaulting Clearing Member in respect of Contracts recorded in such Defaulting Clearing Member’s House Position Account, (iii) the Unsettled VM Amount in respect of the Auction Contracts and/or Auction Failed Positions comprised in House Auction Portfolio(s) (to the extent that such Unsettled VM

Amount is payable by OTC Clear to the relevant Defaulting Clearing Member) (if any), (iv) the Margin Balance recorded to the House Collateral Account, any income and redemption proceeds on any non-cash Collateral recorded to the House Collateral Account and any proceeds of realization of any such non-cash Collateral that have not already been paid to or withdrawn by the Defaulting Clearing Member and (v) the aggregate Contract Termination Net Payments payable by Non-Defaulting Clearing Members to OTC Clear as a result of a Contract Termination Event;

- (b) second, the Rates and FX Contribution Balance of the Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1548);
  - (c) third, the OTC Clear First Contribution;
  - (d) fourth, the aggregate value of the Rates and FX Contribution Balance in respect of the CM Funded Contribution Amount of each Non-Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1517);
  - (e) fifth, the OTC Clear Second Contribution; and
  - (f) sixth, the aggregate value of the Rates and FX Contribution Balance in respect of the CM Unfunded Contribution Amount of each Non-Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1517);
- (2) To the extent that there are any Unpaid Amounts due from such Defaulting Clearing Member to OTC Clear in respect of Contracts recorded in such Defaulting Clearing Member's Client Position Account(s), OTC Clear shall reduce or bear each such Unpaid Amounts by application of the following resources in descending order as follows. In respect of such Unpaid Amounts due in respect of a Client Position Account:
- (a) first, the aggregate of (i) all Auction Payments (if any) received by OTC Clear with respect to one or more Client Auction Portfolios constructed as a result of such DMP Event which relate to such Client Position Account, (ii) any Unpaid Amounts due from OTC Clear to such Defaulting Clearing Member in respect of Contracts recorded in such Client Position Account, (iii) the Unsettled VM Amount in respect of the Auction Contracts and/or Auction Failed Positions comprised in Client Auction Portfolio(s) which relate to Contracts recorded in such Client Position Account (to the extent that such net amount is payable by OTC Clear to the relevant Defaulting Clearing Member) (if any), (iv) the Margin Balance recorded to the Client Collateral Account attributed to such Client Position Account, (v) any income and redemption proceeds on any non-cash Collateral recorded to the Client Collateral Account attributed to such Client Position Account and any proceeds of realization of any such non-cash Collateral that have not already been paid to or withdrawn by the Defaulting Clearing Member and (vi) the aggregate Contract Termination Net Payments payable by

Non-Defaulting Clearing Members to OTC Clear as a result of a Contract Termination Event relating to Contracts recorded in such Client Position Account;

- (b) second, the Rates and FX Contribution Balance of the Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1548);
  - (c) third, the OTC Clear First Contribution;
  - (d) fourth, the aggregate value of the Rates and FX Contribution Balance in respect of the CM Funded Contribution Amount of each Non-Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1517);
  - (e) fifth, the OTC Clear Second Contribution; and
  - (f) sixth, the aggregate value of the Rates and FX Contribution Balance in respect of the CM Unfunded Contribution Amount of each Non-Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1517);
- (3) for the purposes of sub-paragraph (2)(a) above, the amount of Auction Payments in the form of risk concessions that shall be treated as “relating to” a Client Position Account shall be an amount equal to the product of:
- (A) with respect to an Auction Portfolio, the hypothetical Initial Margin with respect to the Contracts of that Client Position Account comprised in the relevant Auction Portfolio (calculated on a portfolio margining basis assuming that such Contracts were booked into a single separate hypothetical Client Position Account) divided by the aggregate of the hypothetical Initial Margin of all Client Position Accounts comprised in such Auction Portfolio (where such Auction Portfolio comprises Contracts originally booked to more than one Client Position Account, but the entire Client Position Account is not comprised in such Auction Portfolio, the hypothetical Initial Margin for each such partial Client Position Account shall be calculated on a portfolio margining basis disregarding the fact that such Client Position Account is not whole; for the avoidance of doubt, where such Auction Portfolio comprises Contracts originally booked to more than one Client Position Account and each entire Client Position Account is comprised in such Auction Portfolio, the Initial Margin of such Client Position Accounts shall be aggregated), in each case, such Initial Margin being calculated during the Portfolio Novation Cycle immediately preceding the occurrence of the relevant DMP Event; and
  - (B) the amount of Auction Payments in the form of risk concessions relating to the relevant Auction Portfolio referred to in sub-paragraph (3)(A) above; and

- (4) upon completion of the process described in sub-paragraphs (1) and (2) above, OTC Clear shall determine the Auction Losses or Contract Termination Losses with respect to each Auction Portfolio constructed as a result of the DMP Event, and shall reduce or bear such losses in accordance with Clearing Rules 1914 to 1916, and

with respect to each DMP Event, the aggregate value of the resources described in sub-paragraphs (1)(a) to (1)(f) and (2)(a) to (2)(f) above is the “**Total Available Resources**” with respect to such DMP Event. The Total Available Resources, together with any Gainer VM Flow Adjustment and/or Voluntary Recap Amount received by OTC Clear pursuant to Clearing Rules 1524(2) and 1542, respectively, shall be the sole source of funds for satisfaction of the Rates and FX Loss arising out of the relevant DMP Event.

1517. OTC Clear will satisfy its claim under the indemnities given by each Non-Defaulting Clearing Member pursuant to Clearing Rule 1316(2) in respect of the Rates and FX Loss, by setting off the amount of loss calculated under Clearing Rules 1516(1)(d), 1516(1)(f), 1516(2)(d), 1516(2)(f), 1913A(4), 1913A(6), 1913B(4) and 1913B(6) against OTC Clear’s obligation to pay the amount specified in Clearing Rule 1549.
1518. OTC Clear will notify the affected Clearing Members of any amounts applied pursuant to Clearing Rule 1516 and, where applicable, notify Clearing Members of any obligations to deliver additional Collateral in respect of their respective Rates and FX Liability pursuant to Clearing Rule 1509.

#### **Accounts of Rates and FX Guarantee Resources**

1519. OTC Clear shall maintain a separate record of all amounts of the Rates and FX Guarantee Resources from time to time, clearly identifying the amount and type(s) of Collateral provided by each Clearing Member in respect of their respective Rates and FX Liability in the relevant GF Account. In addition, OTC Clear shall maintain a separate account in respect of all the Rates and FX Contribution made (and not reinvested by OTC Clear under Clearing Rule 1520) or required to be made by each Clearing Member to the Rates and FX Guarantee Resources. OTC Clear undertakes to all Clearing Members from time to time to maintain amounts equal to the OTC Clear Contribution in a separate account from its other assets and to use such amounts only for the purposes of investment under Clearing Rule 1520, or meeting shortfalls arising directly or indirectly from Events of Default or a Rates and FX Clearing Termination Event in accordance with this Chapter 15. Simultaneously, with the annual audit of its accounts, OTC Clear shall request its auditors to prepare a report on the Rates and FX Guarantee Resources for circulation to the SFC and, upon request, to Clearing Members.
1520. OTC Clear has the power to invest any cash amount contributed to the Rates and FX Guarantee Resources in accordance with its investment policy. OTC Clear may perform any such investment itself as it sees fit, or it may engage an independent third party to perform such investment. OTC Clear’s power to invest any cash amount contributed to the Rates and FX Guarantee Resources shall be suspended in case of occurrence of an OTC Clear Failure to Pay Event or OTC Clear Insolvency Event. OTC Clear may not exercise its power of investment under this Clearing Rule 1520 in respect of any non-cash asset contributed to the Rates and FX Guarantee Resources, provided that in the case of any DMP Event, OTC Clear may sell, liquidate, transfer or create any security or other third party right or

interest in or over any non-cash asset contributed to the Rates and FX Guarantee Resources for the purpose of ensuring that OTC Clear shall in its determination have sufficient liquid resources available to meet its payment obligations in a timely manner as they fall due. For the avoidance of doubt, notwithstanding any such sale, liquidation, transfer or creation of right or interest, OTC Clear shall remain liable to redeliver Rates and FX Contribution in equivalent form and currency to the relevant Clearing Member at the time and to the extent required under Clearing Rules 1546 and 1547.

1521. OTC Clear may apply any amounts contributed to the Rates and FX Guarantee Resources which are in the opinion of OTC Clear surplus to the Rates and FX Guarantee Fund (the reference to “surplus” in the immediately preceding sentence shall mean any gains arising out of the investment of the Rates and FX Guarantee Fund) in such manner as OTC Clear thinks fit. OTC Clear may appropriate such monies out of the Rates and FX Guarantee Resources temporarily or permanently for the following purposes including, but not limited to:

- (1) payment of any amount representing interest or money obligations as may be determined from time to time by OTC Clear in respect of Rates and FX Contribution; and
- (2) payment for costs and expenses incurred in establishing, maintaining, managing, administering and terminating any arrangements such as bank facilities and policies of insurance as OTC Clear may from time to time consider appropriate for the purpose of providing additional resources to the Rates and FX Guarantee Fund.

#### **Recoveries**

1522. If any amount paid out of the Rates and FX Guarantee Fund pursuant to Clearing Rule 1516 is subsequently recovered by OTC Clear, OTC Clear may use such amount (less any costs and expenses of recovery) to refund the relevant Clearing Members or itself in the reverse order of application under Clearing Rule 1516.

#### **Loss Distribution Process**

1523. On each OTC Clear Clearing Day during the Loss Distribution Period, OTC Clear will determine whether the Rates and FX Loss resulting from a DMP Event will exceed the Total Available Resources and any relevant Voluntary Recap Amount received or to be received under Clearing Rule 1541 relating to such DMP Event. If it does, then OTC Clear will consult with the SFC and will either invoke the “**Loss Distribution Process**” set out in this Clearing Rule 1523 to Clearing Rule 1528 or invoke the limited recourse wind down with respect to OTC Clear as set out in Clearing Rules 1529 to 1539.

1524. If the Loss Distribution Process applies, then on each OTC Clear Clearing Day during the Loss Distribution Period:

- (1) OTC Clear will determine whether a Position Account registered in the name of a Non-Defaulting Clearing Member is a Position Account Gainer or a Position Account Loser;
- (2) if the Position Account registered in the name of a Non-Defaulting Clearing Member is a Position Account Gainer, and the Gainer VM Flow Adjustment calculated for a Currency Payment in respect of that Position Account for

that OTC Clear Clearing Day is a positive number, the relevant Non-Defaulting Clearing Member shall pay an amount equal to such Gainer VM Flow Adjustment to OTC Clear. If the Position Account registered in the name of a Non-Defaulting Clearing Member is a Position Account Gainer and the Gainer VM Flow Adjustment calculated for a Currency Payment in respect of that Position Account for that OTC Clear Clearing Day is a negative number, OTC Clear shall pay to the relevant Non-Defaulting Clearing Member an amount equal to the absolute value of such Gainer VM Flow Adjustment; and

- (3) if the Position Account registered in the name of a Non-Defaulting Clearing Member is a Position Account Loser, OTC Clear shall pay to the relevant Non-Defaulting Clearing Member an amount equal to the absolute value of such negative Loser VM Flow Adjustment calculated for a Currency Payment in respect of that Position Account for that OTC Clear Clearing Day.

For the purpose of the calculations and adjustments conducted under the Loss Distribution Process, each Position Account of a Non-Defaulting Clearing Member will be treated separately.

If an OTC Clear Clearing Day is not a Currency Day for a Currency Payment, OTC Clear will perform the calculations and adjustment required under the Loss Distribution Process on such OTC Clear Clearing Day, but payment of the relevant Currency Payment, as adjusted by the Gainer VM Flow Adjustment or Loser VM Flow Adjustment, as the case may be, will be deferred to the immediately following Currency Day for such Currency Payment.

1525. On each OTC Clear Clearing Day during the Loss Distribution Period, OTC Clear will apply the Latest Exchange Rate determined on the relevant OTC Clear Clearing Day in making the calculations required to be made under the Loss Distribution Process, including components which relate to payments made, or falling due, on previous days.
1526. On each Loss Distribution Day, OTC Clear shall apply set-off with respect to any payment or receipt of any VM Flow Adjustment on such day against any payments denominated in the same currency as such VM Flow Adjustment payable to, or receivable from, the relevant Clearing Member.
1527. Without prejudice to the operation of Clearing Rule 1531, in the absence of manifest error, any VM Flow Adjustment determined by OTC Clear shall be final and conclusive. Any application of a Gainer VM Flow Adjustment resulting in a reduction of Currency Payment by OTC Clear to a Non-Defaulting Clearing Member shall not constitute a failure to pay by OTC Clear.
1528. Subsequent to the completion of the Loss Distribution Process by OTC Clear, if OTC Clear receives any amounts from the Defaulting Clearing Member, or any other amounts howsoever obtained or recovered during the Default Management Process relating to the Defaulting Clearing Member, OTC Clear shall reimburse the Non-Defaulting Clearing Members (regardless of whether the relevant Non-Defaulting Clearing Member remains a Clearing Member at the time of recovery) on a pro-rata basis by reference to the resources which have been applied pursuant to

Clearing Rule 1516 after deducting any costs or expenses incurred by OTC Clear during the process of such recovery.

For the avoidance of doubt, nothing in this Clearing Rule 1528 shall oblige OTC Clear to pursue any action to recover the amounts contemplated above.

### **Rates and FX Clearing Service Limited Recourse**

1529. The Total Available Resources, together with any Gainer VM Flow Adjustment and/or Voluntary Recap Amount received by OTC Clear pursuant to Clearing Rules 1524(2) and 1542, respectively, shall be the sole source of funds available to cover any Rates and FX Loss arising from a DMP Event. In the event OTC Clear determines that utilization of such resources in their entirety will be insufficient to cover payments due to one or more Clearing Members arising out of such DMP Event, all Contracts will be closed-out in accordance with the procedures set out in Clearing Rules 1530 to 1540 without any further recourse to the capital or any other assets of OTC Clear. As from the occurrence of a Rates and FX Clearing Termination Event, neither OTC Clear nor any Clearing Member shall be required to pay any further amount in respect of any Contract, and any right to receive any further amount in respect of any Contract shall be satisfied by settlement (by payment, set-off or otherwise) of the Limited Recourse Final CM Payable or the Limited Recourse Applicable Percentage of the Limited Recourse CM Receivable payable relating to the Position Account to which such Contract is registered under Clearing Rule 1538. Neither the Clearing Members nor their respective Clients shall have any recourse to any other funds or any other entity, including without limitation any Affiliate or recognized exchange controller which is the controller of OTC Clear once the Total Available Resources, together with any Gainer VM Flow Adjustment and/or Voluntary Recap Amount received by OTC Clear, have been exhausted. In particular, no Clearing Members or Clients shall be entitled to institute steps for the winding-up of, or the appointment of a receiver to, OTC Clear.

### **Winding Down of the Rates and FX Clearing Services**

1530. If OTC Clear determines at any stage that:

- (1)
  - (a) the Rates and FX Loss(es) resulting from one or more DMP Events occurring within the same Capped Liability Period will exceed the Total Available Resources with respect to all such DMP Events and decides not to issue a Voluntary Recap Request Notice pursuant to Clearing Rule 1541;
  - (b) notwithstanding a Voluntary Recap Request Notice has been issued pursuant to Clearing Rule 1541, it has not received any Voluntary Recap Amount within the period set out therein; or
  - (c) the Rates and FX Loss(es) exceed the Voluntary Recap Amount received by OTC Clear; or
- (2) OTC Clear has determined to withdraw the Rates and FX Clearing Services, including without limitation the circumstance contemplated by Clearing Rules 1320(2) and 1321(2) but excluding any temporary suspension of the Rates and FX Clearing Services in accordance with Clearing Rule 210(5),

then a **“Rates and FX Clearing Termination Event”** shall occur and OTC Clear shall notify all Clearing Members of the occurrence of such Rates and FX Clearing Termination Event, and the Rates and FX Clearing Service will be wound down in accordance with Clearing Rules 1531 to 1540. For the avoidance of doubt, a declaration of a Rates and FX Clearing Termination Event shall be irrevocable.

1531. Upon the occurrence of a Rates and FX Clearing Termination Event, with respect to each Clearing Member, all obligations of OTC Clear and such Clearing Member in respect of any Contract between them shall cease to exist and be replaced with the obligation to pay the termination amounts determined under Clearing Rules 1531 to 1540. The close-out value for each Contract shall be determined in accordance with section 10.1(i) of the Clearing Procedures, provided that OTC Clear may also take into account any unpaid amounts that have become due and payable in respect of any Contract on or prior to the occurrence of the Rates and FX Clearing Termination Event, including without limitation, any Gainer VM Flow Adjustment made during the Loss Distribution Period to which the Rates and FX Clearing Termination Event relates.
1532. Following the declaration of a Rates and FX Clearing Termination Event, any unused Margin Balance then held by OTC Clear in respect of one or more Clearing Members and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Clearing Member(s) shall be returned to the relevant Clearing Members in accordance with Clearing Rule 1536; and any unused Rates and FX Contribution Balance then held by OTC Clear in respect of one or more Clearing Members or Former Clearing Members shall be returned to the relevant Clearing Members or Former Clearing Members in accordance with Clearing Rule 1538(4).
1533. As soon as reasonably practicable following a Rates and FX Clearing Termination Event, OTC Clear shall calculate a net sum payable by or to each Clearing Member separately in relation to each Position Account registered in the name of such Clearing Member. In determining such net sum, OTC Clear will take into account the close-out values established for each Contract pursuant to Clearing Rule 1531, and the value of all other amounts which is due to OTC Clear from the Clearing Member under these Clearing Rules, or which is due to the Clearing Member from OTC Clear (other than OTC Clear’s obligation to return (i) any unused Margin Balance, (ii) any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the relevant Clearing Member or Former Clearing Member and/or (iii) Rates and FX Contribution Balance to the relevant Clearing Member or Former Clearing Member), in each case, whether future, liquidated or unliquidated, actual or contingent. There shall be no combining or set-off between any House Position Account and Client Position Account(s), or between two or more Client Position Accounts. OTC Clear will determine any such net sum payable by, or to, a Clearing Member in the Base Currency. For the purpose of the determination under this Clearing Rule 1533, OTC Clear may convert any amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as it shall reasonably select.
1534. If, pursuant to Clearing Rule 1533, a net sum is determined to be payable by a Clearing Member to OTC Clear with respect to one or more of its Position Accounts, OTC Clear shall reduce each such sum by application of the Outright

Transfer Margin Balance, if any, relating to the relevant Position Account. With respect to each Clearing Member and each of its Position Account(s), after application of the Outright Transfer Margin Balance relating to the relevant Position Account:

- (1) if there remains a balance payable by the Clearing Member to OTC Clear for such Position Account (the "**Remaining Balance**"), OTC Clear will, as soon as reasonably practicable, notify the relevant Clearing Member of the Remaining Balance, and the relevant Clearing Member shall pay OTC Clear the Remaining Balance within two OTC Clear Business Days following receipt of such notification; and
  - (2) if the Clearing Member fails to pay the Remaining Balance within the time frame set out in sub-paragraph (1) above, OTC Clear may declare an Event of Default in respect of such Clearing Member. OTC Clear may, in satisfaction of any due but unpaid Remaining Balance in respect of a Position Account, apply the proceeds of enforcement of any non-cash Collateral comprising the Margin Balance of the corresponding Collateral Account and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by such Clearing Member, and if any of the Remaining Balance remains unsatisfied following such application, the unsatisfied amount shall form part of the Limited Recourse Interim CM Payable with respect to the relevant Position Account.
1535. If, pursuant to Clearing Rule 1533, a net sum is determined to be payable by OTC Clear to a Clearing Member with respect to one or more of its Position Accounts, each such sum shall form part of the Limited Recourse CM Receivable with respect to the relevant Position Account.
1536. With respect to each Clearing Member and each of its Position Account(s), taking into account (if applicable) the operation of Clearing Rule 1534:
- (1) any unused Outright Transfer Margin Balance and, if applicable, any remaining proceeds of enforcement of non-cash Collateral further to the application of Clearing Rule 1534(2) for such Position Account shall be returned to the Clearing Member; and
  - (2) any non-cash Collateral provided to OTC Clear on a security interest basis and comprising the Margin Balance of the Collateral Account corresponding to such Position Account and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Clearing Member shall be redelivered to the Clearing Member in accordance with the relevant security document.
1537. Following the completion of the processes described in Clearing Rules 1534 to 1536:
- (1) OTC Clear shall, with respect to each Position Account (without regard to its obligation to return any unused Rates and FX Contribution Balance to the relevant Clearing Member or Former Clearing Member), determine the resulting net sum payable by a Clearing Member to OTC Clear for such Position Account (such sum, a "**Limited Recourse Interim CM Payable**"),

- or the resulting net sum payable by OTC Clear to a Clearing Member for such Position Account (such sum, a “**Limited Recourse CM Receivable**”);
- (2) OTC Clear shall notify the relevant Clearing Member of its Limited Recourse Interim CM Payable(s) or Limited Recourse CM Receivable(s). Each Clearing Member that receives a notice to pay any Limited Recourse Interim CM Payable shall pay each such amount to OTC Clear in full within two OTC Clear Business Days following receipt of such notification;
  - (3) if a Clearing Member fails to pay any Limited Recourse Interim CM Payable in full within the time frame set out in sub-paragraph (2) above, regardless of whether such Limited Recourse Interim CM Payable arises out of a House Position Account or Client Position Account belonging to such Clearing Member, OTC Clear will apply any unused Rates and FX Contribution Balance then held by OTC Clear in respect of such Clearing Member against the unpaid Limited Recourse Interim CM Payable;
  - (4) with respect to a Clearing Member and each of its Position Account(s) with a Limited Recourse Interim CM Payable, following the application of any unused Rates and FX Contribution Balance as described in sub-paragraph (3) above, OTC Clear shall determine the final net sum payable by the Clearing Member, if any (each a “**Limited Recourse Final CM Payable**”) with respect to such Position Account, and notify such Clearing Member of the same. Each Clearing Member that receives a notice to pay any Limited Recourse Final CM Payable shall pay each such amount to OTC Clear in full at or prior to the time specified by OTC Clear; and
  - (5) for the avoidance of doubt, a Clearing Member may have a Limited Recourse Interim CM Payable or Limited Recourse Final CM Payable in respect of one Position Account registered in its name, but a Limited Recourse CM Receivable in respect of another Position Account registered in its name.
1538. With respect to each Clearing Member who has a Limited Recourse CM Receivable (and, for the avoidance of doubt, subject to Rule 1539), and each Clearing Member or Former Clearing Member with any unused Rates and FX Contribution Balance (taking into account the operation of Clearing Rule 1537(3)), OTC Clear shall pay each such Clearing Member or Former Clearing Member in proportion to the value of their respective claims on OTC Clear under Clearing Rule 1537 in the following manner:
- (1) OTC Clear shall, until the time specified in Clearing Rule 1540, take reasonable steps to recover any unpaid Limited Recourse Final CM Payables, and may deduct from such amounts any reasonable costs in connection with such recovery;
  - (2) following receipt of all or some (if any Clearing Member defaults in its payment of the relevant Limited Recourse Final CM Payable) Limited Recourse Final CM Payables, OTC Clear will calculate a percentage (“**Limited Recourse Applicable Percentage**”) equal to the lesser of:
    - (a) 100%; and

(b)

(A) the aggregate value of (I) the Rates and FX Guarantee Resources then held by OTC Clear, (II) any Margin Balance and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Clearing Members or Former Clearing Members applied pursuant to Clearing Rules 1533 and/or 1534(2) and (III) all Remaining Balance, Limited Recourse Interim CM Payables and/or Limited Recourse Final CM Payables received by OTC Clear; divided by

(B) the aggregate value representing the sum of (I) all Limited Recourse CM Receivables and (II) any unused Rates and FX Contribution Balance then held by OTC Clear in respect of all Clearing Members or Former Clearing Members (taking into account the operation of Clearing Rule 1537(3));

- (3) subject to Clearing Rule 1539, OTC Clear shall pay each Clearing Member with a Limited Recourse CM Receivable an amount equal to the Limited Recourse Applicable Percentage of such Limited Recourse CM Receivable;
- (4) OTC Clear shall pay each Clearing Member or Former Clearing Member with unused Rates and FX Contribution Balance an amount equal to the Limited Recourse Applicable Percentage of such unused Rates and FX Contribution Balance, provided that the aggregate sum payable by OTC Clear in respect of unused Rates and FX Contribution Balance for all Clearing Member(s) and Former Clearing Member(s) shall never exceed the value of the Rates and FX Guarantee Resources then held by OTC Clear. Once the Rates and FX Guarantee Resources have been exhausted, the unpaid balance of any unused Rates and FX Contribution Balance shall be extinguished; and
- (5) all payments made under this Clearing Rule 1538 shall be made in the Base Currency provided that if OTC Clear does not have sufficient Base Currency to satisfy such payment, it may satisfy such payment obligation in any other Eligible Currency.

1539. Where a Limited Recourse CM Receivable relates to a Client Position Account of one or more Non-Porting Clients of a Defaulting Clearing Member, and subject to entering into relevant documentation between OTC Clear and the relevant Non-Porting Client(s) (which may, without limitation, include an indemnity (secured or otherwise) to OTC Clear in respect of any loss or liability arising from the legal invalidity of any payment of the relevant Limited Recourse CM Receivable to the Client(s)), OTC Clear shall pay any amount payable by it under Clearing Rule 1538(3) in relation to such Limited Recourse CM Receivable directly to the relevant Non-Porting Client(s) as Client Entitlement in accordance with Clearing Rules 1308A and 1309. For the purpose of this Clearing Rule 1539, OTC Clear may take into account any Non-Porting Client's interest in any Collateral or proceeds thereof pursuant to Clearing Rules 1308A and 1309 and, if applicable, any relevant Security Deed, and the operations of section 56(1) of the SFO shall be modified by this Clearing Rule 1539, as permitted under section 56(2) of the SFO.

1540. If OTC Clear determines that no further amounts in respect of any Limited Recourse Final CM Payables are likely to be recovered and notifies the same to the relevant Clearing

Member(s) and Former Clearing Member(s), then the unpaid balance of any Limited Recourse CM Receivable and/or unused Rates and FX Contribution Balance shall thereafter be extinguished and the relevant Clearing Member(s) and Former Clearing Member(s) shall have no further recourse to OTC Clear (its Affiliates, a recognized exchange controller which is the controller of OTC Clear, or any of their respective Representatives) in respect thereof.

### **Voluntary Recapitalisation**

1541. If OTC Clear determines at any stage that the Rates and FX Loss resulting from a DMP Event will exceed the Total Available Resources relating to such DMP Event determined under Clearing Rule 1516, it has absolute discretion in determining whether to declare a Rates and FX Clearing Termination Event or to issue a written notice (the “**Voluntary Recap Request Notice**”) requesting each Non-Defaulting Clearing Member to make a payment of funds (each a “**Voluntary Recap Amount**”) to OTC Clear.
1542. Upon receipt of the Voluntary Recap Request Notice, each Non-Defaulting Clearing Member may, but is not obliged to, provide its Voluntary Recap Amount to OTC Clear within one OTC Clear Business Day following receipt of the Voluntary Recap Request Notice. Any Voluntary Recap Amount made by a Non-Defaulting Clearing Member to OTC Clear may not be withdrawn.
1543. Any Voluntary Recap Amount received by OTC Clear from a Non-Defaulting Clearing Member shall form part of the Rates and FX Contribution Balance relating to such Non-Defaulting Clearing Member, and the usage of the same will be subject to Clearing Rule 1514.
- 1543A. If, on any OTC Clear Business Day, OTC Clear in its sole discretion determines that any Voluntary Recap Amount that OTC Clear expects to receive from a Non-Defaulting Clearing Member, when aggregated with the Total Available Resources and any Voluntary Recap Amounts that OTC Clear expects to receive from other Non-Defaulting Clearing Members, is insufficient to meet any outstanding obligations and liabilities in relation to the DMP Event, that Voluntary Recap Amount (i) shall not form part of the Rates and FX Contribution Balance relating to that Non-Defaulting Clearing Member, (ii) shall be refunded to the relevant Clearing Member on the next OTC Clear Business Day and (iii) shall in no circumstances be available to pay any other creditor of OTC Clear.

### **Multiple DMP Events**

1544. In respect of one or more DMP Event(s) occurring within a Capped Liability Period, the maximum current liability of a Non-Defaulting Clearing Member to contribute to the Rates and FX Guarantee Resources in respect of such Capped Liability Period shall be capped at the aggregate of the CM Funded Contribution Amount and the CM Unfunded Contribution Amount allocated to such Non-Defaulting Clearing Member on the immediately preceding Rates and FX Contribution Determination Date falling prior to the start of such Capped Liability Period (the “**Maximum Current Liability**”).
1545. In the event of multiple DMP Events occurring within a Capped Liability Period, then:
- (1) the loss allocation process described in Clearing Rule 1516 will only commence upon completion of the Default Management Processes with respect to all such DMP Events;
  - (2) multiple Default Management Processes will be invoked as a result of multiple DMP Events occurring within the same Capped Liability Period. Notwithstanding the

immediately foregoing, however, “Total Available Resources” and “Rates and FX Losses” shall be construed to mean the aggregate sum of the Total Available Resources and Rates and FX Losses relating to each such DMP Event, and OTC Clear will consolidate any Loss Distribution Process described in Clearing Rules 1523 to 1528 invoked during such Capped Liability Period into one single process, and will only issue one Voluntary Recap Request Notice during such Capped Liability Period; and

- (3) with respect to any Clearing Member who has delivered its Rates and FX Contribution during such Capped Liability Period and who subsequently becomes a Defaulting Clearing Member within the same Capped Liability Period, the entirety of its Rates and FX Contribution Balance shall be applied and utilized in accordance with Clearing Rules 1516(1)(b) and 1516(2)(b), notwithstanding that at the time of provision of such CM Funded Contribution Amount and/or CM Unfunded Contribution Amount, no DMP Event has yet occurred with respect to the relevant Clearing Member.

### **Terms of Redelivery or Repayment of Rates and FX Contribution**

1546. Subject to Clearing Rules 1324, 1530 to 1540, 1548 and 1549, if a Clearing Member’s Rates and FX Contribution Balance exceeds its then current Rates and FX Liability, it may request OTC Clear to redeliver Collateral in equivalent form and currency as any Collateral it has delivered to OTC Clear as CM Funded Contribution Amount and/or CM Unfunded Contribution Amount in a value not exceeding the Rates and FX Contribution Excess. A Clearing Member shall specify the exact form and currency of the relevant Collateral requested to be redelivered. Following receipt of such request, OTC Clear shall redeliver Collateral in respect of such Rates and FX Contribution Excess in equivalent form and currency as requested in an amount not exceeding the Rates and FX Contribution Excess, provided that:

- (1) if and only to the extent that any Rates and FX Losses are allocated to such Clearing Member in accordance with Clearing Rules 1516 and 1914, then OTC Clear’s obligation to redeliver Collateral in equivalent form and currency shall be converted into an obligation to pay an amount equal to the value of the Rates and FX Contribution Balance as determined by OTC Clear; or
- (2) in the event that OTC Clear is unable to obtain Collateral in equivalent form and currency for such redelivery, including but not limited to the case where the relevant Rates and FX Contribution is of a type or currency that is the subject of foreign exchange or other settlement risk or disruption, as determined by OTC Clear, at the time such redelivery is due, then OTC Clear may deliver Collateral in other forms or currency determined by OTC Clear.

OTC Clear may apply set-off with respect to any Collateral to be redelivered to a Clearing Member against any obligation such Clearing Member owes to OTC Clear, and OTC Clear may withhold any Collateral to be redelivered to a Clearing Member if such Clearing Member is not in compliance with any of these Clearing Rules.

1547. Subject to Clearing Rules 1306, 1306A, 1306B, 1306C, 1307, 1324, 1548 and 1549, OTC Clear will redeliver to a Former Clearing Member Collateral, in equivalent form and currency to the Rates and FX Contribution recorded on the relevant GF Account of such Clearing Member, 21 calendar days after its Membership Termination Date, provided that OTC Clear is satisfied that such Former Clearing Member has no outstanding liability or

sums owing to OTC Clear (including pursuant to Clearing Rules 606 and 609), and OTC Clear's obligation to redeliver any such Collateral (whether in the form of cash or non-cash) will be subject to the relevant custodian being able to process any such withdrawal or release request at the relevant time, provided further that OTC Clear may deliver such Collateral in other forms or currency determined by OTC Clear:

- (1) if and only to the extent that any Rates and FX Losses are allocated to such Clearing Member in accordance with Clearing Rules 1516 and 1914, then OTC Clear's obligation to redeliver Collateral in equivalent form and currency shall be converted into an obligation to pay an amount equal to the value of the Rates and FX Contribution Balance as determined by OTC Clear; or
- (2) in the event that OTC Clear is unable to obtain Collateral in equivalent form and currency for such redelivery, including but not limited to the case where the relevant Rates and FX Contribution is of a type or currency that is the subject of foreign exchange or other settlement risk or disruption, as determined by OTC Clear, at the time such redelivery is due,

and provided further that OTC Clear may deduct:

- (a) any amount in respect of which it is indemnified by a Former Clearing Member pursuant to these Clearing Rules; and
- (b) an amount determined by OTC Clear to be adequate to satisfy any outstanding contingent liabilities of a Former Clearing Member.

To the extent that assets of the Rates and FX Guarantee Fund in excess of a Former Clearing Member's Rates and FX Contribution Balance are applied in discharging the rights and liabilities in respect of any Contracts to which it was party, OTC Clear may recover in full the amount so applied from that Clearing Member as a debt due to OTC Clear from it.

This Clearing Rule 1547 shall not be applicable in the occurrence of a Rates and FX Clearing Termination Event. In the event of the occurrence of a Rates and FX Clearing Termination Event, OTC Clear's obligation to return any unused Rates and FX Contribution Balance attributable to a Clearing Member shall be converted into an obligation to pay an amount in respect of such unused Rates and FX Contribution and be returned to such Clearing Member in the manner set out in Clearing Rules 1530 to 1540.

1548. Upon the occurrence of a DMP Event with respect to a Defaulting Clearing Member, OTC Clear's obligation to redeliver Collateral in equivalent form and currency shall be converted into an obligation to pay an amount equal to the value of such Defaulting Clearing Member's Rates and FX Contribution Balance as determined by OTC Clear, and such amount may be applied by OTC Clear in good faith if and only to the extent that any Rates and FX Losses are allocated to such Defaulting Clearing Member pursuant to Clearing Rules 1516(1)(b), 1516(2)(b) and 1914(2). Any remaining Rates and FX Contribution Balance relating to such Defaulting Clearing Member shall be applied by OTC Clear in accordance with Clearing Rules 1516 and 1914 in connection with any other DMP Events occurring in the relevant Capped Liability Period. Upon OTC Clear being satisfied that such Defaulting Clearing Member has no outstanding liability or sums owing to OTC Clear, the remaining value of its Rates and FX Contribution Balance as determined by OTC Clear shall be taken into account by OTC Clear in determining the net sum payable by, or to, such Defaulting Clearing Member in accordance with Clearing Rule 1306B(2).

1549. Upon the occurrence of a DMP Event, in respect of each Non-Defaulting Clearing Member, if and only to the extent that any Rates and FX Losses are allocated to such Non-Defaulting Clearing Member in accordance with Clearing Rules 1516 and 1914, any obligation of OTC Clear to return the Rates and FX Contribution to the Non-Defaulting Clearing Member shall be converted into an obligation of OTC Clear to pay an amount in respect of its Rates and FX Contribution equal to the sum(s) allocated to such Non-Defaulting Clearing Member in accordance with Clearing Rules 1516 and 1914. Such payment shall discharge OTC Clear's obligation to pay the amount set out in Clearing Rule 1546 to the extent of the amount paid, and such Non-Defaulting Clearing Member's GF Account and Rates and FX Contribution Balance shall be adjusted by OTC Clear in good faith accordingly.

**PART V**  
**DEFAULT MANAGEMENT PROCESS**

## Chapter 16 Default Management Process

### Default Management Process

1601. The “**Default Management Process**” means the provisions set out in this PART V of these Clearing Rules and Chapter 8 of the Clearing Procedures, or the process described therein, as applicable, which shall be carried out by OTC Clear, in consultation with, and with the assistance of, the Default Management Group. The Default Management Process shall commence:

- (1) immediately following the occurrence of an Automatic Early Termination Event or the delivery of a Notice of Default with respect to one or more Clearing Members;
- (2) at a time determined by OTC Clear in the event of the occurrence of a Force Majeure Event or Illegality with respect to one or more Clearing Members pursuant to Clearing Rule 210(4); and
- (3) at a time determined by OTC Clear in the event of the occurrence of an event described in Clearing Rule 610 with respect to one or more Clearing Members,

each of the above, a “**DMP Event**”.

1602. Upon the occurrence of a DMP Event, OTC Clear will arrange for the following to occur in the order set out below:

- (1) to convene the Default Management Group;
- (2) if applicable and to the extent reasonably practicable, to arrange for the Affected Contracts to be ported as further described in Chapter 17 of these Clearing Rules;
- (3) to create on the Special Default Account a notional portfolio the economic profile of which is equivalent to the Contracts registered in the name of the Defaulting Clearing Member (but excluding any Affected Contracts registered in the name of such Defaulting Clearing Member which have been successfully ported pursuant to Chapter 17 of these Clearing Rules);
- (4) to execute measures in order to mitigate the risks associated with the DMP Event by putting on Hedging transactions for OTC Clear’s own account in accordance with the Hedging strategy proposed by the Default Management Group and approved by OTC Clear, as further described in Chapter 18 of these Clearing Rules; and
- (5) to complete the Auction process as further described in Chapter 19 of these Clearing Rules.

The provisions set out in Chapter 17, Chapter 18 and Chapter 19 of these Clearing Rules are implemented pursuant to Clearing Rule 1601 upon the occurrence of a DMP Event.

1603. Each Clearing Member must participate in the Default Management Process to the extent specified in the Clearing Rules, and take all steps and execute all documents necessary or desirable in relation thereto, including but not limited to executing relevant agreement(s) each in a form prescribed by OTC Clear for the purpose of execution of a Hedging transaction between a Non-Defaulting Clearing Member and OTC Clear.

1604. Whenever the Default Management Process is implemented by OTC Clear in respect of a Defaulting Clearing Member, OTC Clear will, with the assistance of the Default

Management Group, provide such ongoing information to the Non-Defaulting Clearing Members as OTC Clear deems reasonably appropriate in respect of the progress of the Default Management Process, provided that OTC Clear is not under any obligation to disclose information in respect of the Default Management Process which, in the reasonable opinion of OTC Clear, may be subject to obligations of confidentiality, may constitute market sensitive data or is, in OTC Clear's reasonable opinion, inappropriate for disclosure to Clearing Members.

### **Default Management Group**

1605. The Default Management Group shall convene:
- (1) immediately following the occurrence of a DMP Event, and at sufficiently frequent intervals thereafter for a period so long as may be necessary to assist OTC Clear in the implementation of the Default Management Process relating to such DMP Event; or
  - (2) at such other time as OTC Clear may deem appropriate and/or necessary from time to time.
1606. The Default Management Group shall be made up of representatives from both OTC Clear and Clearing Members.
1607. Upon request by OTC Clear, a Defaulting Clearing Member shall provide a representative to participate in the Default Management Group.
1608. The terms of reference of the Default Management Group will be published on HKEX website. Any amendment to the terms of reference of the Default Management Group will be subject to the approval of the OTC Clear Board. OTC Clear Board will, if it deems necessary, consult with the Risk Management Committee prior to approving any such proposed amendment.

### **Undertaking by Clearing Members**

1609. Each Clearing Member agrees, and shall procure, that:
- (1) it shall, at all times, provide representatives (each a "**DMG Delegate**") to participate in the processes described in Clearing Rules 1611 and 1612. The exact number of DMG Delegates that a Clearing Member shall provide, and the skill and expertise required from each such DMG Delegate will be notified by OTC Clear to each Clearing Member from time to time;
  - (2) if OTC Clear requests a substitute where it believes a Clearing Member's nominated representative in the Default Management Group, as appropriate, is conflicted for its role as a DMG Member, or does not have the requisite skills or expertise, it shall provide such substitute;
  - (3) its DMG Member will be fully available, at any time and for such periods of time as OTC Clear may require during the Default Management Process, to perform his function as a member of the Default Management Group including attending meetings in person or by telephone, considering and advising OTC Clear on the Default Management Process. The Clearing Member shall ensure that its DMG Member's other work commitments will not affect his availability for this purpose;
  - (4) to take all steps to respect the confidential capacity in which its DMG Member receives information through the Default Management Group and to establish

adequate procedures to prevent the disclosure or use for any purpose outside the scope of the Default Management Process of any such confidential information by it or its DMG Member. Such procedures shall normally include, without limitation, the establishment of Information Barriers within the Clearing Member; and

- (5) to be bound by and to ensure that it and any of its executives, directors or employees serving on the Default Management Group complies with the provisions set out in Chapter 20 and Chapter 21 of these Clearing Rules.

Each DMG Member, in performing its role in the Default Management Process, shall act in the best interests of OTC Clear only and each Clearing Member agrees that it shall not require its DMG Member to undertake any obligations to it which would result in that DMG Member being in breach of this duty.

### **Amendments to Default Management Process**

1610. Notwithstanding any contrary provisions contained in these Clearing Rules, in the event that OTC Clear, after consultation with the Risk Management Committee, deems appropriate to amend the Default Management Process, OTC Clear or the Risk Management Committee may present the relevant proposed amendments to the OTC Clear Board, which shall have the power to amend the Default Management Process in accordance with Clearing Rule 201.
1611. The DMG Delegates shall:
  - (1) at least once a year, gather for the purpose of reviewing the provisions of the Default Management Process, and to the extent considered appropriate, recommend any amendment or revision to such provisions for consideration by the Risk Management Committee and the OTC Clear Board. The OTC Clear Board may, after consultation with the Risk Management Committee, approve any such proposed amendment or revision to the Default Management Process in accordance with Clearing Rule 201; and
  - (2) participate in each fire drill conducted by OTC Clear in relation to the Default Management Process. Fire drills in relation to the Default Management Process will be held at least once a year.
1612. If, during the implementation of the Default Management Process following the occurrence of a DMP Event with respect to a Clearing Member, OTC Clear, in consultation with the Default Management Group determines that it would be necessary or desirable for the efficient management of such default to deviate from, or supplement, the Default Management Process, it may, without prior notice to the Clearing Members, implement the Default Management Process in such modified manner or timetable as it sees fit, provided that OTC Clear, with the assistance of the Default Management Group shall promptly notify the Risk Management Committee of such decision. OTC Clear and the Default Management Group shall take into account interest of the investing public, the Non-Defaulting Clearing Members and OTC Clear in determining whether it is necessary or desirable to deviate from, or supplement, the Default Management Process.

## Chapter 17 Porting

### Porting

1701. An Affected Contract will not be subject to Hedging, and will not form part of the Auction Book, until such time as OTC Clear has determined that the Affected Contract in question will not be ported as described in this Chapter 17.
1702. In respect of each Client Position Account established by a Defaulting Clearing Member with OTC Clear, OTC Clear shall:
- (1) calculate the balance of the Client Collateral Account in respect of such Client Position Account;
  - (2) in respect of each Client Clearing Category 1 Client who has appointed a Replacement Clearing Member, in the absence of an Event of Default with respect to such Replacement Clearing Member, provide to the Replacement Clearing Member details relating to the Affected Contracts registered in the name of such Defaulting Clearing Member in respect of such Client, and the balance of the Client Collateral Account relating to each such Client; and
  - (3) in respect of all Client Clearing Category 2 Clients sharing one single Client Clearing Category 2 Position Account, provided that all such Client Clearing Category 2 Clients have appointed the same Replacement Clearing Member, provide to the Replacement Clearing Member details relating to the Affected Contracts and the balance of the related Client Clearing Category 2 Collateral Account registered in the name of the Defaulting Clearing Member.
1703. In respect of all Affected Contracts registered in the name of a Defaulting Clearing Member in respect of a Client Clearing Category 1 Position Account relating to a Client, provided that OTC Clear is reasonably satisfied that (i) the Replacement Clearing Member has been appointed prior to the occurrence of the relevant DMP Event, (ii) it has received completed Porting Instructions by 5:00pm (Hong Kong time) on the OTC Clear Clearing Day immediately following the occurrence of such DMP Event, (iii) it has further received the consent of the appointed Replacement Clearing Member to accept the porting of all such Affected Contracts by 5:00pm (Hong Kong time) on the OTC Clear Clearing Day immediately following the occurrence of such DMP Event, (iv) no DMP Event has occurred with respect to the Replacement Clearing Member at the time of purported porting, and (v) the relevant margin and credit check relevant to the purported porting is successfully passed:
- (1) if the relevant DMP Event with respect to the Defaulting Clearing Member is not an Automatic Early Termination Event, OTC Clear shall terminate and close-out such Affected Contracts at their market value (as determined by OTC Clear in its discretion) and enter into new Contracts on the same terms to such Affected Contracts with the appointed Replacement Clearing Member;
  - (1A) if the relevant DMP Event with respect to the Defaulting Clearing Member is an Automatic Early Termination Event:
    - (a) in respect of all such Affected Contracts that are Non-Porting AET Contracts:
      - (i) OTC Clear will determine the aggregate trade value in respect of all such Non-Porting AET Contracts as at the relevant Early Termination Date. Such aggregate trade value may be zero, positive or negative. A positive aggregate trade value indicates a net sum being payable by OTC Clear

to the Defaulting Clearing Member in respect of such Non-Porting AET Contracts; and a negative aggregate trade value indicates a net sum being payable by the Defaulting Clearing Member to OTC Clear in respect of such Non-Porting AET Contracts;

- (ii) if the aggregate trade value determined pursuant to sub-paragraph (i) above is a positive number, such value shall be netted against any losses incurred by OTC Clear relating to such Non-Porting AET Contracts as a result of the default of the Defaulting Clearing Member. If the aggregate trade value determined pursuant to sub-paragraph (i) above is zero or a negative number, such value shall be aggregated with any such losses;
  - (iii) if the net sum determined pursuant to sub-paragraph (ii) is a negative number, the Outright Transfer Margin Balance, if any, relating to the relevant Client Clearing Category 1 Position Account and, if necessary, any proceeds of enforcement of any non-cash Collateral comprising the Margin Balance of the corresponding Collateral Account (and any income and redemption proceeds thereon that have not already been paid to or withdrawn by the Defaulting Clearing Member) shall be reduced by an amount equal to the absolute value of such net sum; and
  - (iv) if the net sum determined pursuant to sub-paragraph (ii) is a positive number, such net sum shall form part of the Client Entitlement to be returned to the relevant Client pursuant to Clearing Rule 1309A; and
- (b) in respect of all such Affected Contracts that are Porting AET Contracts, OTC Clear shall enter into new Contracts with the appointed Replacement Clearing Member on the same terms as such Porting AET Contracts;
- (2) pursuant to the terms of the Client Clearing Agreement between the Defaulting Clearing Member and such Client, OTC Clear shall transfer, on account of such Client, the Client Clearing Category 1 Account Balance relating to such Client (excluding any Collateral recorded in the Client Clearing Category 1 Collateral Account relating to such Client that is subject to a Deed of Charge between the Defaulting Clearing Member and OTC Clear in respect of the Client Collateral Account(s)) to the appointed Replacement Clearing Member;
- (3) the amount due to be returned to the Defaulting Clearing Member in respect of such Client Clearing Category 1 Position Account and related Client Clearing Category 1 Collateral Account shall be reduced by an amount equal to the Client Clearing Category 1 Account Balance referred to in sub-paragraph (2) above; and
- (4) in respect of any Collateral recorded in the Client Clearing Category 1 Collateral Account relating to such Client that is subject to a Deed of Charge between the Defaulting Clearing Member and OTC Clear in respect of the Client Collateral Account(s), porting shall be effected as follows:
- (a) any equities of redemption held by the Defaulting Clearing Member in respect of that Collateral shall be assigned absolutely to the Replacement Clearing Member, such that those equities of redemption become subject to the security interests granted in favour of OTC Clear pursuant to the Deed of Charge between the Replacement Clearing Member and OTC Clear; and

- (b) OTC Clear shall release that Collateral from the security interests granted in favour of OTC Clear pursuant to the relevant Deed of Charge between the Defaulting Clearing Member and OTC Clear, such that the Replacement Clearing Member becomes entitled to redeem that Collateral pursuant to any equities of redemption assigned to it pursuant to sub-paragraph (a) above.

1704. In respect of all Affected Contracts registered in the name of a Defaulting Clearing Member in respect of a Client Clearing Category 2 Position Account, provided that OTC Clear is reasonably satisfied that (i) the Replacement Clearing Member has been appointed by all Clients identified as sharing such Client Clearing Category 2 Position Account prior to the occurrence of the relevant DMP Event, (ii) all such Clients have appointed the same Replacement Clearing Member, (iii) it has received completed Porting Instructions from all of the Clients identified as sharing such Client Clearing Category 2 Position Account by 5:00pm (Hong Kong time) on the OTC Clear Clearing Day immediately following the occurrence of such DMP Event, (iv) OTC Clear has further received the consent of the appointed Replacement Clearing Member to accept the porting of all such Affected Contracts by 5:00pm (Hong Kong time) on the OTC Clear Clearing Day immediately following the occurrence of such DMP Event, (v) no DMP Event has occurred with respect to the Replacement Clearing Member at the time of purported porting, and (vi) the relevant margin and credit check relevant to the purported porting is successfully passed:

- (1) if the relevant DMP Event with respect to the Defaulting Clearing Member is not an Automatic Early Termination Event, OTC Clear shall terminate and close-out such Affected Contracts at their market value (as determined by OTC Clear in its discretion) and enter into new Contracts on the same terms to such Affected Contracts with the appointed Replacement Clearing Member;
- (1A) if the relevant DMP Event with respect to the Defaulting Clearing Member is an Automatic Early Termination Event:
  - (a) in respect of all such Affected Contracts that are Non-Porting AET Contracts:
    - (i) OTC Clear will determine the aggregate trade value in respect of all such Non-Porting AET Contracts as at the relevant Early Termination Date. Such aggregate trade value may be zero, positive or negative. A positive aggregate trade value indicates a net sum being payable by OTC Clear to the Defaulting Clearing Member in respect of such Non-Porting AET Contracts; and a negative aggregate trade value indicates a net sum being payable by the Defaulting Clearing Member to OTC Clear in respect of such Non-Porting AET Contracts;
    - (ii) if the aggregate trade value determined pursuant to sub-paragraph (i) above is a positive number, such value shall be netted against any losses incurred by OTC Clear relating to such Non-Porting AET Contracts as a result of the default of the Defaulting Clearing Member. If the aggregate trade value determined pursuant to sub-paragraph (i) above is zero or a negative number, such value shall be aggregated with any such losses;
    - (iii) if the net sum determined pursuant to sub-paragraph (ii) is a negative number, the Outright Transfer Margin Balance, if any, relating to the relevant Client Clearing Category 2 Position Account and, if necessary,

- any proceeds of enforcement of any non-cash Collateral comprising the Margin Balance of the corresponding Collateral Account (and any income and redemption proceeds thereon that have not already been paid to or withdrawn by the Defaulting Clearing Member) shall be reduced by an amount equal to the absolute value of such net sum; and
- (iv) if the net sum determined pursuant to sub-paragraph (ii) is a positive number, such net sum shall form part of the Client Entitlement to be returned to the relevant Client pursuant to Clearing Rule 1309A; and
  - (b) in respect of all such Affected Contracts that are Porting AET Contracts, OTC Clear shall enter into new Contracts with the appointed Replacement Clearing Member on the same terms as such Porting AET Contracts;
- (2) pursuant to the terms of the Client Clearing Agreement between the Defaulting Clearing Member and each such Client, OTC Clear shall transfer, on account of all such Clients sharing the same Client Clearing Category 2 Position Account, the aggregate Client Clearing Category 2 Account Balances of such Clients (excluding any Collateral recorded in the Client Clearing Category 2 Collateral Account relating to that Client Clearing Category 2 Position Account that is subject to a Deed of Charge between the Defaulting Clearing Member and OTC Clear in respect of the Client Collateral Account(s)) to the appointed Replacement Clearing Member;
  - (3) the amount due to be returned to the Defaulting Clearing Member in respect of such Client Clearing Category 2 Position Account and such Client Clearing Category 2 Collateral Account shall be reduced by an amount equal to the Client Clearing Category 2 Account Balances referred to in sub-paragraph (2) above; and
  - (4) in respect of any Collateral recorded in such Client Clearing Category 2 Collateral Account that is subject to a Deed of Charge between the Defaulting Clearing Member and OTC Clear in respect of the Client Collateral Account(s), porting shall be effected as follows:
    - (a) any equities of redemption held by the Defaulting Clearing Member in respect of that Collateral shall be assigned absolutely to the Replacement Clearing Member, such that those equities of redemption become subject to the security interests granted in favour of OTC Clear pursuant to the Deed of Charge between the Replacement Clearing Member and OTC Clear; and
    - (b) OTC Clear shall release that Collateral from the security interests granted in favour of OTC Clear pursuant to the relevant Deed of Charge between the Defaulting Clearing Member and OTC Clear, such that the Replacement Clearing Member becomes entitled to redeem that Collateral pursuant to any equities of redemption assigned to it pursuant to sub-paragraph (a) above.

1704A. A Defaulting Clearing Member agrees to waive any of its rights or entitlements to object to the Affected Contracts registered in its name to be ported. In respect of each Affected Contract being ported at a Client's request and pursuant to these Clearing Rules, the Defaulting Clearing Member and the relevant Replacement Clearing Member shall cooperate with OTC Clear and the Client(s) and facilitate such porting arrangement, including:

- (1) if the relevant DMP Event with respect to the Defaulting Clearing Member is not an Automatic Early Termination Event, closing-out each Affected Contract and re-establishing a new Contract on the same terms as the relevant Affected Contract with the relevant Replacement Clearing Member; or
- (2) if the relevant DMP Event with respect to the Defaulting Clearing Member is an Automatic Early Termination Event, OTC Clear entering into new Contracts with the relevant Replacement Clearing Member on the same terms as such Affected Contracts that are Porting AET Contracts,

and any associated movement of Collateral relating to such Affected Contracts.

1704B. In respect of the porting of a Client's portfolio of Contracts registered with the Defaulting Clearing Member in the relevant Client Position Account from the Defaulting Clearing Member to the Replacement Clearing Member, no amounts shall be payable between and amongst the Defaulting Clearing Member, the Replacement Clearing Member and the Client solely as a result of the change in the net present value of such Contracts.

1705. OTC Clear is entitled to rely on the Porting Instructions or any other document relating thereto reasonably believed by it to be genuine, correct and appropriately authorised, and OTC Clear shall be deemed to have acted in good faith if it has conducted the porting in accordance with the Porting Instructions.

1706. It is the obligation of a Clearing Member to duly advise and inform its Clients that:

- (1) if no Replacement Clearing Member has been appointed (or, in the case of a Client Clearing Category 2 Position Account, if all of the Clients identified as sharing such Client Clearing Category 2 Position Account have not appointed the same Replacement Clearing Member or if that Replacement Clearing Member does not accept porting of all of the Clients identified as sharing such Client Clearing Category 2 Position Account), then following designation of such Clearing Member as a Defaulting Clearing Member, any Affected Contracts registered in the name of such Clearing Member will not be ported; and
- (2) if a Replacement Clearing Member has been appointed in respect of all Affected Contracts registered in the name of such Clearing Member in respect of a Client Position Account, subsequent to such Clearing Member becoming a Defaulting Clearing Member, whilst OTC Clear will, in accordance with Clearing Rule 1703, arrange for all such Affected Contracts to be ported, whether or not such Affected Contracts will be successfully ported is dependant on whether the Replacement Clearing Member will accept the porting of all such Affected Contracts, or, in the case of a Client Clearing Category 2 Position Account, whether all of the Clients identified as sharing such Client Clearing Category 2 Position Account have appointed the same Replacement Clearing Member or whether the Replacement Clearing Member will accept porting of all of the Clients identified as sharing such Client Clearing Category 2 Position Account. OTC Clear may deem the purported porting of any Affected Contract to the relevant Replacement Clearing Member as having failed if such porting cannot be completed for any reason on or before the last Portfolio Novation Cycle on the second OTC Clear Clearing Day following the occurrence of such DMP Event. Any Affected Contract that has not been successfully ported will form part of the Auction Book.

OTC Clear shall not have any liability including, but not limited to, any civil liability, whether arising in contract, tort, defamation, equity or otherwise for any Damage suffered or incurred directly or indirectly by a Client or any other Person as a result of a failure to port an Affected Contract registered in the name of the Defaulting Clearing Member.

1707. Each of the Defaulting Clearing Member and the Replacement Clearing Member shall jointly and severally indemnify OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear and keep OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear indemnified from and against any loss, cost (including cost of enforcement), interests, liability (including any tax or other fiscal liability), claim or Damage which OTC Clear, its Affiliate and a recognized exchange controller which is the controller of OTC Clear incurred or suffered in connection with the porting of any Contract and Collateral pursuant to any porting instruction.
1708. Clients in respect of whom porting has been successfully carried out pursuant to this Chapter 17 are referred to as “**Porting Clients**”; and Clients in respect of whom porting are not, or have not been successfully, carried out pursuant to this Chapter 17 are referred to as “**Non-Porting Clients**”, and “**Porting Client**” and “**Non-Porting Client**” shall be construed accordingly.
1709. Pursuant to the power of OTC Clear to make rules under section 40(2A) of the SFO, if an Affected Contract has been successfully ported to the Replacement Clearing Member pursuant to this Chapter 17, any Corresponding Client Transaction corresponding to such Affected Contract may at the option of the Client be terminated with the Defaulting Clearing Member, re-established with, transferred or novated to the Replacement Clearing Member.
1710. References to Affected Contracts being “ported” pursuant to this Chapter 17 shall mean:
  - (1) in respect of Affected Contracts other than Affected AET Contracts, such Affected Contracts being terminated and OTC Clear entering into new Contracts on the same terms as such Affected Contracts with the relevant Replacement Clearing Member pursuant to Clearing Rule 1703(1) or Clearing Rule 1704(1); or
  - (2) in respect of Porting AET Contracts, OTC Clear entering into new Contracts with the relevant Replacement Clearing Member on the same terms as Porting AET Contracts pursuant to Clearing Rule 1703(1A)(b) or Clearing Rule 1704(1A)(b).

## Chapter 18 Hedging

### Hedging

1801. Following the occurrence of the relevant DMP Event in respect of a Defaulting Clearing Member, and subsequent to the completion of porting with respect to all Affected Contracts registered in the name of the Defaulting Clearing Member, provided that the Hedging strategies presented by the Default Management Group have been approved by OTC Clear, the Default Management Group will, on behalf of OTC Clear, conduct Hedging to mitigate, to the extent commercially practicable, any risk or economic exposure which arises as a result of the occurrence of the relevant DMP Event. Notwithstanding the immediately foregoing, OTC Clear has no obligation to conduct Hedging following the occurrence of a DMP Event. Neither OTC Clear nor the Default Management Group shall owe any fiduciary duty to any Clearing Member or any other Person in approving Hedging strategies or executing any such Hedging strategy.
1802. In executing Hedging transactions as part of the Default Management Process, the Default Management Group will take into account the risks introduced by the DMP Event to OTC Clear, other Non-Defaulting Clearing Members and the investing public, and shall at all times endeavour to obtain the best prevailing price and terms available, taking into account any constraints on the time available for execution of such Hedging.
1803. All Hedging shall be undertaken by OTC Clear for its own account. In respect of any Hedging transaction executed between OTC Clear and a Non-Defaulting Clearing Member as a hedge provider pursuant to this Chapter 18 which is intended to form part of an Auction Portfolio, OTC Clear shall register such Hedging transaction as a Contract. Upon completion of the Auction process, OTC Clear shall create and register a Contract between OTC Clear and the Successful Bidder, with equal but opposite terms to the relevant Hedging transaction referred to in this Clearing Rule 1803. In addition, for Hedging of Standard Cross-currency Rates Derivatives Contracts, other Hedging instruments may be considered by OTC Clear at its discretion for liquidity management and Hedging purposes. Such Hedging instruments shall be entered into by OTC Clear for its own account and may be entered into with entities that are not Clearing Members.
1804. For the avoidance of doubt, a single Hedging transaction cannot be split into more than one Auction Portfolio. In addition, any Hedging transactions with entities that are not Clearing Members should not be included in Auction Portfolios. Any losses or costs incurred as a result of the entering into of a Hedging transaction shall be allocated as part of the Auction Losses or Contract Termination Losses relating to the relevant Auction Portfolio.

## **Chapter 19 Auction**

### **Auction Portfolios**

1901. The purpose of the Auction process described in this Chapter 19 is to identify replacement Clearing Members who will enter into Contracts with OTC Clear with the same economic terms as Contracts registered in the name of the Defaulting Clearing Member (other than any Affected Contract that has been successfully ported pursuant to Chapter 17 of these Clearing Rules). The Auction process intends for OTC Clear to remain risk-neutral following the occurrence of a DMP Event, and to assist OTC Clear in determining the termination value of the portfolio of Contracts registered in the name of the Defaulting Clearing Member immediately prior to their termination (other than any Affected Contract that has been successfully ported pursuant to Chapter 17 of these Clearing Rules), which will be used in the calculations performed under Clearing Rules 1306, 1306A, 1306B, 1306C and 1307.
1902. OTC Clear will, in consultation with the Default Management Group, construct one or more Auction Portfolio(s) in respect of the Auction Positions on the Auction Book.
1903. OTC Clear and the Default Management Group will exercise their discretion in constructing Auction Portfolios consisting of Auction Positions with similar risk profile, with the aim to maximize the likelihood of achieving Successful Bids at a commercially reasonable price, provided that Contracts registered to a Defaulting Clearing Member's House Position Account shall not be included in the same Auction Portfolio as Contracts registered to a Defaulting Clearing Member's Client Position Accounts in respect of Non-Porting Clients.
1904. The construction of Auction Portfolios will be determined by OTC Clear, in consultation with the Default Management Group, separately in respect of each DMP Event and therefore may vary from one DMP Event to another.

### **Auction for Multiple Auction Portfolios**

1905. Each Auction Portfolio shall be subject to its own Auction.

### **Conduct of Auction**

1906. A Non-Defaulting Clearing Member must participate in the Auction for an Auction Portfolio if it has, on any day during the 20 OTC Clear Business Day-period immediately prior to such Auction, any Contract of a Transaction Category which is the same as any Contracts registered in the name of a Defaulting Clearing Member within that Auction Portfolio. Each Bidder agrees to enter into Contracts with OTC Clear on the same terms as the Auction Positions upon acceptance by OTC Clear of its Bid.
1907. A Non-Defaulting Clearing Member who, on any day during the 20 OTC Clear Business Day-period immediately prior to the Auction of an Auction Portfolio, does not have a Contract of a Transaction Category which is the same as any Contracts registered in the name of a Defaulting Clearing Member within such Auction Portfolio shall be entitled, but is not obliged, to participate in the Auction for such Auction Portfolio.
1908. Notwithstanding Clearing Rules 1906 and 1907, a resigning Clearing Member is not required to participate in the Auction if each of:
  - (1) the Initial Margin requirements (in respect of each of its House Position Account and Client Position Accounts (if any)) shown on the end-of-day Margin report published on an OTC Clear Clearing Day; and

(2) the net notional of all Contracts recorded to such resigning Clearing Member, becomes zero prior to the commencement of the Auction process, provided that such resigning Clearing Member shall notify OTC Clear of the same no later than 5 OTC Clear Business Days prior to the commencement of the Auction.

1909. Each Bidder shall comply with the bidding process set out in these Clearing Rules.

### **Bidding**

1910. Each Bidder shall specify the account to which any Auction Contract should be registered if the Bid is successful.

1911. A DMG Member shall not submit Bids for and on behalf of the Bidder of which it is representative and the identity of each Bidder shall be kept anonymous from the DMG Members.

1912. OTC Clear will oversee the bidding process and ensure that Bids represent fair value of the relevant Auction Portfolio on the basis of such factors as OTC Clear considers appropriate. OTC Clear may, but is not obliged, to consult with the Risk Management Committee prior to accepting any Bids, but OTC Clear will inform the Risk Management Committee regarding the progress of the Default Management Process.

### **Initial Allocation of Resources**

1913. In respect of each Auction Portfolio, OTC Clear will, in consultation with the Default Management Group, determine the RAP and the Margin Allocation Percentage(s) for such Auction Portfolio. OTC Clear will, prior to the commencement of Auction, notify all Non-Defaulting Clearing Members of the RAP for each Auction Portfolio. On the basis of the RAP and the Margin Allocation Percentage(s) determined for an Auction Portfolio, OTC Clear will allocate a pool of resources for such Auction Portfolio (the "**Preliminary Available Resources**").

1913A. In respect of an Auction Portfolio in relation to Contracts registered to a Defaulting Clearing Member's House Position Account (a "**House Auction Portfolio**"), the resources set out in sub-paragraphs (1) to (6) below, to the extent not already applied in accordance with Clearing Rules 1516(1) and 1516(2), shall together constitute the Preliminary Available Resources allocated to such House Auction Portfolio for the purpose of satisfying any Auction Losses or Contract Termination Losses arising from such Auction Portfolio. OTC Clear shall be entitled to apply its resources, in any manner or order including for the avoidance of doubt in an order which is different from the order described hereunder, for satisfaction of the Auction Losses or Contract Termination Losses arising from such House Auction Portfolio, provided that upon completion of a successful Auction or the occurrence of a Contract Termination Event (as applicable) in respect of all Auction Portfolios relating to a DMP Event, it shall perform the loss allocation process set out in Clearing Rules 1914 to 1916:

- (1) a pool of assets comprising the following (the "**Initial House Resources**"):
  - (a) all Auction Payments and Contract Termination Net Payments (if any) received by OTC Clear with respect to such House Auction Portfolio constructed as a result of such DMP Event;
  - (b) any Unpaid Amounts due from OTC Clear to the Defaulting Clearing Member in respect of Contracts recorded in such Defaulting Clearing Member's House Position Account;

- (c) the Unsettled VM Amount in respect of the Auction Contracts and/or Auction Failed Positions comprised in such House Auction Portfolio (to the extent that such Unsettled VM Amount is payable by OTC Clear to the Defaulting Clearing Member) (if any); and
  - (d) a pool of assets the value of which represents the Margin Allocation Percentage for such House Auction Portfolio applied to the Margin Balance recorded to the House Collateral Account, any income and redemption proceeds on any non-cash Collateral recorded to the House Collateral Account and any proceeds of realization of any such non-cash Collateral that have not already been paid to or withdrawn by the Defaulting Clearing Member in respect of the Defaulting Clearing Member (the “**DCM Margin**”);
- (2) a pool of assets the value of which represents the RAP (assigned to such House Auction Portfolio) of the Rates and FX Contribution Balance recorded to the GF Account of the Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1548);
  - (3) a pool of assets the value of which represents the RAP (assigned to such House Auction Portfolio) of the OTC Clear First Contribution;
  - (4) a pool of assets the value of which represents the RAP (assigned to such House Auction Portfolio) of the aggregate Rates and FX Contribution Balance in respect of the CM Funded Contribution Amount of each Non-Defaulting Clearing Member and recorded to the GF Account of each such Non-Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1517) (the aggregate value of the CM Funded Contribution Amount of all Non-Defaulting Clearing Members is referred to as the “**NDCM GF**”);
  - (5) a pool of assets the value of which represents the RAP (assigned to such House Auction Portfolio) of the OTC Clear Second Contribution; and
  - (6) a pool of assets the value of which represents the RAP (assigned to such House Auction Portfolio) of the aggregate value of the Rates and FX Contribution Balance in respect of the CM Unfunded Contribution Amount of each Non-Defaulting Clearing Member and recorded to the GF Account of each such Non-Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1517).

For the avoidance of doubt, this Clearing Rule 1913A does not apply to an Auction Portfolio in relation to Contracts registered to a Defaulting Clearing Member’s Client Position Account(s) with respect to its Non-Porting Client(s) (a “**Client Auction Portfolio**”). The Preliminary Available Resources for a Client Auction Portfolio are determined as set out in Clearing Rule 1913B.

1913B. In respect of a Client Auction Portfolio, the resources set out in sub-paragraphs (1) to (6) below, to the extent not already applied in accordance with Clearing Rules 1516(1) and 1516(2), shall together constitute the Preliminary Available Resources allocated to such Client Auction Portfolio for the purpose of satisfying any Auction Losses or Contract Termination Losses arising from such Client Auction Portfolio. OTC Clear shall be entitled to apply its resources, in any manner or order including for the avoidance of doubt in an order which is different from the order described hereunder, for satisfaction of the Auction Losses or Contract Termination Losses arising from such Client Auction Portfolio, provided that upon completion of a successful Auction or the occurrence of a Contract Termination

Event (as applicable) in respect of all Auction Portfolios relating to a DMP Event, it shall perform the loss allocation process set out in Clearing Rules 1914 to 1916:

- (1) a pool of assets comprising the following (the “**Initial Non-Porting Client Resources**”):
  - (a) all Auction Payments and Contract Termination Net Payments (if any) received by OTC Clear with respect to such Client Auction Portfolio constructed as a result of such DMP Event;
  - (b) any Unpaid Amounts due from OTC Clear to the Defaulting Clearing Member in respect of the Contracts corresponding to the Auction Contracts and/or Auction Failed Positions comprised in such Client Auction Portfolio;
  - (c) the Unsettled VM Amount in respect of the Auction Contracts and/or Auction Failed Positions comprised in such Client Auction Portfolio (to the extent that such Unsettled VM Amount is payable by OTC Clear to the Defaulting Clearing Member) (if any); and
  - (d) a pool of assets the value of which represents the aggregate of, for each Client Collateral Account corresponding to that Client Auction Portfolio, the Margin Allocation Percentage for that Client Collateral Account and Client Auction Portfolio applied to the aggregate of the Margin Balance recorded to that Client Collateral Account, any income and redemption proceeds on any non-cash Collateral recorded to that Client Collateral Account and any proceeds of realization of any such non-cash Collateral that have not already been paid to or withdrawn by the Defaulting Clearing Member in respect of the Non-Porting Client(s) (the “**Non-Porting Client Margin**”);
- (2) a pool of assets the value of which represents the RAP (assigned to such Client Auction Portfolio) of the Rates and FX Contribution Balance recorded to the GF Account of the Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1548);
- (3) a pool of assets the value of which represents the RAP (assigned to such Client Auction Portfolio) of the OTC Clear First Contribution;
- (4) a pool of assets the value of which represents the RAP (assigned to such Client Auction Portfolio) of the NDCM GF (by application in the manner set out in Clearing Rule 1517);
- (5) a pool of assets the value of which represents the RAP (assigned to such Client Auction Portfolio) of the OTC Clear Second Contribution; and
- (6) a pool of assets the value of which represents the RAP (assigned to such Client Auction Portfolio) of the aggregate value of the Rates and FX Contribution Balance in respect of the CM Unfunded Contribution Amount of each Non-Defaulting Clearing Member and recorded to the GF Account of each such Non-Defaulting Clearing Member (by application in the manner set out in Clearing Rule 1517).

1913C. With respect to each layer of Preliminary Available Resources set out in Clearing Rules 1913A and 1913B, to the extent that it comprises Collateral in more than one currency or form, OTC Clear has the sole discretion in allocating such Collateral, in any currency or form, or combination of currencies or forms and in whatever percentage, as part of the Preliminary Available Resources allocated to an Auction Portfolio. In performing the

immediately foregoing, OTC Clear will consult the Default Management Group, and take into account factors such as risk correlation or foreign exchange risk relating to the Auction Positions comprising the Auction Portfolio.

### **Loss Allocation**

1914. Upon completion of a successful Auction or the occurrence of a Contract Termination Event (as applicable) with respect to all Auction Portfolios constructed as a result of the occurrence of a DMP Event with respect to the Defaulting Clearing Member, and provided that the process described in Clearing Rules 1516(1) and 1516(2) is completed, OTC Clear, in consultation with the Default Management Group, will perform the following loss allocation process with respect to each such Auction Portfolio:

- (1) first:
  - (a) the Initial House Resources allocated to a House Auction Portfolio pursuant to Rule 1913A will be applied towards the Auction Losses or Contract Termination Losses relating to such House Auction Portfolio provided that:
    - (A) to the extent that the Initial House Resources allocated to such House Auction Portfolio exceed the Auction Losses or Contract Termination Losses relating to such Auction Portfolio, such excess shall be applied to satisfy any Auction Losses or Contract Termination Losses relating to other House Auction Portfolio(s) constructed as a result of the occurrence of a DMP Event with respect to such Defaulting Clearing Member, if any, on a pro-rata basis by reference to the amount of such remaining Auction Losses or Contract Termination Losses;
    - (B) to the extent that there are (i) any excess Initial House Resources of a Defaulting Clearing Member subsequent to the application of the same pursuant to sub-paragraph (A) above and (ii) any Auction Losses or Contract Termination Losses relating to Client Auction Portfolio(s) constructed as a result of the occurrence of a DMP Event with respect to such Defaulting Clearing Member after the application of the relevant Initial House Resources pursuant to subparagraph 1914(1)(b)(A) below, such excess Initial House Resources shall be applied to satisfy such Auction Losses or Contract Termination Losses relating to the Client Auction Portfolio(s) on a pro-rata basis by reference to the amount of such remaining Auction Losses or Contract Termination Losses; and
    - (C) to the extent that there is any excess DCM Margin of a Defaulting Clearing Member subsequent to the application of the same pursuant to sub-paragraph (A) and (B) above, such excess DCM Margin shall constitute Excess Margin of such Defaulting Clearing Member pursuant to Clearing Rule 1218;

For the avoidance of doubt, the Initial House Resources of a Defaulting Clearing Member shall not be applied towards any Auction Losses or Contract Termination Losses relating to Auction Portfolio(s) constructed as a result of the occurrence of a DMP Event with respect to any other Defaulting Clearing Member;

- (b) the Initial Non-Porting Client Resources allocated to a Client Auction Portfolio pursuant to Clearing Rule 1913B will be applied towards the Auction Losses or Contract Termination Losses relating to such Client Auction Portfolio to the extent that such Auction Losses or Contract Termination Losses relate to the Client Position Account to which the Unsettled VM Amount or Unpaid Amount relates, or in the case of Non-Porting Client Margin, the Client Position Account attributed to the Client Collateral Account in which such Non-Porting Client Margin is recorded, provided that:
- (A) subsequent to that application process, to the extent that there are any Initial Non-Porting Client Resources allocated to such Client Auction Portfolio pursuant to Clearing Rule 1913B which are not applied to the Auction Losses or Contract Termination Losses relating to such Auction Portfolio, such excess shall be applied to satisfy any Auction Losses or Contract Termination Losses relating to other Client Auction Portfolio(s) constructed as a result of the occurrence of a DMP Event in respect of the same corresponding Client Position Account(s), if any, on a pro-rata basis by reference to the amount of such remaining Auction Losses or Contract Termination Losses (to the extent that such remaining Auction Losses or Contract Termination Losses relate to the Client Position Account to which the Unsettled VM Amount or Unpaid Amount relates, or in the case of Non-Porting Client Margin, the Client Position Account attributed to the Client Collateral Account in which such excess Non-Porting Client Margin is recorded); and
- (B) to the extent that there are any excess Initial Non-Porting Client Resources subsequent to the application of the same pursuant to sub-paragraph (A) above, such excess Initial Non-Porting Client Resources would form part of the Non-Porting Client Credit and, hence, the Client Entitlement of the relevant Client(s);

For the avoidance of doubt, any excess Initial Non-Porting Client Resources shall only form part of the Client Entitlement of the Client(s) to which such Initial Non-Porting Client Resources relate and shall not form part of the Client Entitlement of other Client(s);

- (c) for the purposes of sub-paragraph (b)(A) above and Clearing Rule 1307, the amount of Auction Losses or Contract Termination Losses in the form of hedging costs or risk premia that shall be treated as “relating to” a Client Position Account shall be an amount equal to the product of:
- (A) with respect to an Auction Portfolio, the hypothetical Initial Margin with respect to the Contracts of that Client Position Account comprised in the relevant Auction Portfolio (calculated on a portfolio margining basis assuming that such Contracts were booked into a single separate hypothetical Client Position Account) divided by the aggregate of the hypothetical Initial Margin of all Client Position Accounts comprised in such Auction Portfolio (where such Auction Portfolio comprises Contracts originally booked to more than one Client Position Account, but the entire Client Position Account is not

comprised in such Auction Portfolio, the hypothetical Initial Margin for each such partial Client Position Account shall be calculated on a portfolio margining basis disregarding the fact that such Client Position Account is not whole; for the avoidance of doubt, where such Auction Portfolio comprises Contracts originally booked to more than one Client Position Account and each entire Client Position Account is comprised in such Auction Portfolio, the Initial Margin of such Client Position Accounts shall be aggregated), in each case, such Initial Margin being calculated during the Portfolio Novation Cycle immediately preceding the occurrence of the relevant DMP Event (the “**Hypothetical IM Percentage**”); and

- (B) the amount of Auction Losses or Contract Termination Losses in the form of hedging costs and risk premia relating to the relevant Auction Portfolio referred to in sub-paragraph (c)(A) above;
- (d) for the purposes of sub-paragraph (b)(A) above and Clearing Rule 1307, the amount of Auction Payments or Contract Termination Net Payments in the form of risk concessions that shall be treated as “relating to” a Client Position Account shall be an amount equal to the product of:
  - (A) with respect to an Auction Portfolio, the Hypothetical IM Percentage for that Client Position Account calculated pursuant to sub-paragraph (c)(A) above; and
  - (B) the amount of Auction Payments in the form of risk concessions relating to the relevant Auction Portfolio referred to in sub-paragraph (d)(A) above;

For the avoidance of doubt, the process in this sub-paragraph (b) shall be repeated until all the Auction Losses or Contract Termination Losses relating to such Client Auction Portfolio have been applied to the Client Collateral Account(s) comprising the Initial Non-Porting Client Resources allocated to such Client Auction Portfolio pursuant to Clearing Rule 1913B.

- (2) second, having utilized the Initial House Resources of the Defaulting Clearing Member in full, any remaining Auction Losses or Contract Termination Losses arising from such Auction Portfolio and attributable to such Defaulting Clearing Member will be satisfied using the RAP of the Rates and FX Contribution Balance of the Defaulting Clearing Member allocated to such Auction Portfolio pursuant to Rule 1913A or 1913B, as the case may be. In the event there is a DCM GF Surplus relating to an Auction Portfolio, such DCM GF Surplus will be applied towards any DCM GF Shortfall relating to other Auction Portfolios (constructed as a result of the occurrence of a DMP Event with respect to such Defaulting Clearing Member), on a pro-rata basis among all such Auction Portfolios by reference to the amount of such DCM GF Shortfall, until the earlier to occur of:
  - (a) the satisfaction in full of the Auction Losses or Contract Termination Losses with respect to all such Auction Portfolios; and
  - (b) the utilization of the DCM GF in full.

The above shall be without prejudice to the operation of Clearing Rule 1916.

- (3) third, subsequent to the utilization of the Rates and FX Contribution Balance of the Defaulting Clearing Member in full (or, in the occurrence of multiple DMP Events within the same Capped Liability Period, taking into account the operation of Clearing Rule 1916, the utilization of the Rates and FX Contribution Balance of all Defaulting Clearing Members with respect to whom a DMP Event has occurred during the relevant Capped Liability Period), OTC Clear will satisfy the Auction Losses or Contract Termination Losses arising from such Auction Portfolio using the relevant proportion of the OTC Clear First Contribution allocated to such Auction Portfolio pursuant to Rule 1913A or 1913B, as the case may be. To the extent that the relevant proportion of the OTC Clear First Contribution allocated to such Auction Portfolio exceeds the Auction Losses or Contract Termination Losses relating to such Auction Portfolio, such excess shall be applied towards the Auction Losses or Contract Termination Losses relating to other Auction Portfolios (constructed as a result of the occurrence of a DMP Event with respect to such Defaulting Clearing Member) on a pro-rata basis by reference to the amount of such remaining Auction Losses or Contract Termination Losses, until the earlier to occur of:
- (a) the satisfaction in full of the Auction Losses or Contract Termination Losses with respect to all such Auction Portfolios; and
  - (b) utilization of the OTC Clear First Contribution in full;
- (4) subsequent to the utilization of the OTC Clear First Contribution in full, with respect to each Auction Portfolio (constructed as a result of the occurrence of a DMP Event with respect to such Defaulting Clearing Member) with remaining Auction Losses or Contract Termination Losses, OTC Clear will (i) in the case of Contract Termination Losses, apply the NDCM GF towards such Contract Termination Losses or (ii) in the case of Auction Losses, apply the relevant proportion of the NDCM GF in the following order:
- (a) first, the relevant proportion of the Rates and FX Guarantee Fund of each Non-Bidder and Poor Bidder will be applied (the “**Junior Tranche**”);
  - (b) second, the relevant proportion of the Rates and FX Guarantee Fund of each Lower Bidder will be applied (the “**Middle Tranche**”); and
  - (c) third, the relevant proportion of the Rates and FX Guarantee Fund of each Successful Bidder, Equal Bidder, Better Bidder and No Position NDCM will be applied (the “**Senior Tranche**”, and together with the Junior Tranche and Middle Tranche, the “**Tranches**” and each a “**Tranche**”),

in each case, the relevant proportion of the Rates and FX Guarantee Fund of each Bidder will be applied on a pro-rata basis among each other Bidder within the same Tranche.

The methodology described in item (ii) above shall be referred to as the “**Tranching Methodology**”.

In the event that there is an NDCM GF Shortfall relating to an Auction Portfolio, any NDCM GF Surplus relating to other Auction Portfolios (constructed as a result of the occurrence of a DMP Event with respect to such Defaulting Clearing Member) will be applied towards such NDCM GF Shortfall (in the case of Auction Losses, in accordance with the Tranching Methodology for the Auction Portfolio to which that

NDCM GF Surplus relates), on a pro-rata basis among all other Auction Portfolios (constructed as a result of the occurrence of a DMP Event with respect to such Defaulting Clearing Member) with an NDCM GF Shortfall by reference to the amount of such NDCM GF Shortfall, until the earlier to occur of:

- (A) the satisfaction in full of the Auction Losses and Contract Termination Losses with respect to all such Auction Portfolios; and
  - (B) utilization of the NDCM GF in full;
- (5) subsequent to the utilization of the NDCM GF in full, with respect to each Auction Portfolio with remaining Auction Losses or Contract Termination Losses, OTC Clear will satisfy such Auction Losses or Contract Termination Losses using the relevant proportion of the OTC Clear Second Contribution allocated to such Auction Portfolio pursuant to Rule 1913A or 1913B, as the case may be. To the extent that the relevant proportion of the OTC Clear Second Contribution allocated to such Auction Portfolio exceeds the Auction Losses or Contract Termination Losses relating to such Auction Portfolio, such excess shall be applied towards the Auction Losses or Contract Termination Losses relating to other Auction Portfolios (constructed as a result of the occurrence of a DMP Event with respect to such Defaulting Clearing Member) on a pro-rata basis by reference to the amount of such remaining Auction Losses or Contract Termination Losses, until the earlier to occur of:
- (a) the satisfaction in full of the Auction Losses or Contract Termination Losses with respect to all such Auction Portfolios; and
  - (b) utilization of the OTC Clear Second Contribution in full; and
- (6) subsequent to the utilisation of OTC Clear Second Contribution in full, with respect to each Auction Portfolio with remaining Auction Losses or Contract Termination Losses, OTC Clear will apply the relevant proportion of the Rates and FX Assessments of each Non-Defaulting Clearing Member (using, in the case of Auction Losses, the Tranching Methodology as set out in sub-paragraph (4) above and any references to NDCM GF therein shall be construed to mean Rates and FX Assessments).

The loss allocation process set out in this Clearing Rule 1914 shall be conducted in manner consistent with that set out in Clearing Rule 1517.

For the purpose of this Clearing Rule 1914 but without prejudice to the operation of Clearing Rule 1916, with respect to each DMP Event, any reference to a “Non-Defaulting Clearing Member” shall mean any Clearing Member other than the Defaulting Clearing Member with respect to whom such DMP Event has occurred.

1915. With respect to each layer of Preliminary Available Resources, to the extent that the Collateral of the same Clearing Member comprises more than one form of assets but all of which constitute the same layer of resources, OTC Clear shall have the discretion to utilize any form of such Clearing Member’s Collateral within the same layer of resources in any order and manner as it sees fit.

1916. In the event that more than one DMP Event occurs within the same Capped Liability Period, Clearing Rule 1545 shall apply. In addition, with respect to the Auction Losses

and/or Contract Termination Losses arising out of the DMP Events occurring within the same Capped Liability Period:

(1) OTC Clear may make such adjustments as are necessary in determining the Preliminary Available Resources and the RAP and the Margin Allocation Percentage(s) for each Auction Portfolio constructed as a result of each DMP Event occurring within the same Capped Liability Period. In doing so, OTC Clear will review the aggregate sum of all resources it has then to satisfy the Rates and FX Loss arising out of each such DMP Event, namely, the then Margin Balance held in respect of the Defaulting Clearing Members, any Unsettled VM Amount (to the extent that such Unsettled VM Amount is payable by OTC Clear to the Defaulting Clearing Members) and any income and redemption proceeds on any non-cash Collateral that have not already been paid to or withdrawn by the Defaulting Clearing Members, the OTC Clear Contribution, and the Rates and FX Contribution Balance then held in respect of by all Non-Defaulting Clearing Members; and

(2)

(a) to the extent that the Auction Losses and/or Contract Termination Losses arising from all Auction Portfolios constructed for one single Defaulting Clearing Member do not require utilization in full of the Rates and FX Contribution of such Defaulting Clearing Member, any remaining Rates and FX Contribution of such Defaulting Clearing Member shall be utilized to satisfy any Auction Losses and/or Contract Termination Losses arising from one or more Auction Portfolios constructed for another Default Management Process in respect of another Defaulting Clearing Member;

(b) any excess Rates and FX Contribution of a Defaulting Clearing Member will be applied on a pro-rata basis based on the share of Rates and FX Contribution contributed by the relevant Defaulting Clearing Member; and

(c) OTC Clear will always ensure that the Rates and FX Contribution of all Defaulting Clearing Members whose DMP Events occurred within the same Capped Liability have been utilized in full prior to utilizing the OTC Clear First Contribution.

1917. OTC Clear will at all times observe Clearing Rule 823 in carrying out the loss allocation process described in Clearing Rules 1914 to 1916, and Initial Non-Porting Client Resources allocated to a Client Auction Portfolio of a Defaulting Clearing Member shall never be utilized to meet any losses arising out of such or other Defaulting Clearing Members' House Account.

### **Successive Auction**

1918. If an Auction is unsuccessful in dealing with all Auction Positions in the relevant Auction Portfolio, further round(s) of Auction may be held. In order to facilitate the Auction process and/or if OTC Clear declares a Contract Termination Event affecting more than one Auction Portfolio, OTC Clear may, in consultation with the Default Management Group, decide to combine or sub-divide previously constructed Auction Portfolios for successive Auctions or for the purpose of allocating losses relating to a Contract Termination Event.

1918A. If, pursuant to Clearing Rule 1918, an Auction is held and is unsuccessful, and if OTC Clear reasonably believes that further round(s) of Auction will not be successful in dealing

with all Auction Positions in one or more Auction Portfolio(s) within a reasonable time frame as determined by OTC Clear, OTC Clear may invoke the contract termination process as provided for in this Clearing Rule in consultation with the SFC. OTC Clear shall determine which Contracts will be terminated, either in whole or in part, ("**Identified Contracts**") under this Clearing Rule, shall notify the relevant Clearing Members of the details of the relevant Identified Contracts, and shall declare the occurrence of a termination event in respect of such Identified Contracts, either in whole or in part, (a "**Contract Termination Event**"). In making this determination, OTC Clear may:

- (i) select (a) those Contracts executed between OTC Clear and any Non-Defaulting Clearing Member for the purpose of Hedging the exposure of OTC Clear in relation to the Auction Failed Positions of the Defaulting Clearing Member and (b) those Contracts between OTC Clear and Non-Defaulting Clearing Members which have equal but opposite terms to the Auction Failed Positions in respect of the Defaulting Clearing Member; or
- (ii) select (a) those Contracts executed between OTC Clear and any Non-Defaulting Clearing Member for the purpose of Hedging the exposure of OTC Clear in relation to the Auction Failed Positions of the Defaulting Clearing Member and (b) all Contracts which are of the same Transaction Category as the Contracts described in Clearing Rule 1918A(i)(b), regardless of whether such Contracts are on the same or equal but opposite terms to those of the Auction Failed Positions in respect of the Defaulting Clearing Member; or
- (iii) select all Contracts registered at OTC Clear regardless of the Transaction Category of such Contracts.

The Identified Contracts shall be terminated as of the Final Settlement Cycle Determination Date for such Contract Termination Event as determined pursuant to section 10.5 of the Clearing Procedures.

1918B. On the Final Settlement Cycle Determination Date for a Contract Termination Event, all obligations of OTC Clear and the relevant Non-Defaulting Clearing Member in respect of each Identified Contract between them shall cease to exist and be replaced with the obligation of OTC Clear or the relevant Non-Defaulting Clearing Member, as the case may be, to pay a net sum in respect of all such Identified Contracts as between them (each a "**Contract Termination Net Payment**") equal to the change in net present value for each such Identified Contract between the last End-of Day Settlement Process immediately preceding the relevant Final Settlement Cycle Determination Date and 11.00 hours Hong Kong time on the Final Settlement Cycle Determination Date, as determined by OTC Clear in accordance with this Clearing Rule and sections 10.1(iv) and 10.5 of the Clearing Procedures. OTC Clear will, as soon as reasonably practicable on the Final Settlement Cycle Determination Date, notify the relevant Non-Defaulting Clearing Member of the Contract Termination Net Payment payable by it, and the relevant Non-Defaulting Clearing Member shall pay OTC Clear such amount within one OTC Clear Business Day after the Final Settlement Cycle Determination Date. Notwithstanding the above, if at any time during the Contract Termination Event process but prior to the effective date of termination of the relevant Identified Contracts, OTC Clear determines that the Contract Termination Net Payments would result in any of the events set out in Clearing Rule 1530(1), OTC Clear may, instead of proceeding with the Contract Termination Event, declare the occurrence of a Rates and FX Clearing Termination Event, and in such case the Identified Contracts shall not be terminated pursuant to this Clearing Rule 1918B but shall be

terminated in accordance with Clearing Rule 1531 instead. Any Contract Termination Net Payment payable by OTC Clear to Non-Defaulting Clearing Members shall form part of the Contract Termination Losses payable in accordance with Clearing Rules 1515 and 1516 by application of the Total Available Resources of OTC Clear.

1919. Upon the expiry of a Capped Liability Period, with respect to each Auction Portfolio constructed for the DMP Event(s) occurring within such Capped Liability Period that was the subject of a successful Auction, OTC Clear will notify all relevant Bidders the result of the application of the Tranching Methodology with respect to each such Auction Portfolio.

### **OTC Clear Financial Resources**

1920. Following the completion of each Auction, OTC Clear shall determine whether its Total Available Resources are sufficient to meet its obligations arising from such Auction, including but not limited to the ability to credit all Successful Bidders with the relevant Auction Receivables. OTC Clear may only perform its obligations pursuant to Clearing Rules 1921 and 1922 in respect of all Auction Contracts arising from such Auction if it has reasonably determined that its Total Available Resources are sufficient. If OTC Clear determines that, even after exhausting the Total Available Resources, invoking the Loss Distribution Process described in Clearing Rules 1523 to 1528, declaring one or more Contract Termination Events, and/or taking into account any Voluntary Recap Amounts received from one or more Non-Defaulting Clearing Members, it will not be able to meet all the Successful Bids received in respect of all Auction Portfolios arising out of a completed Auction, then the procedure set out in Clearing Rules 1530 to 1540 shall take effect. In such event, OTC Clear shall notify all Bidders of the failure of the Auction and the occurrence of a Rates and FX Clearing Termination Event in accordance with the Clearing Procedures and, for the avoidance of doubt, no Bidder shall be deemed to have a Successful Bid in respect of such Auction and OTC Clear shall not be permitted to register any Auction Contract with any Successful Bidder.

### **Registration of Auction Contracts**

1921. Following the completion of Auction or Contract Termination Event (as applicable) with respect to all Auction Portfolios constructed for a DMP Event, all Successful Bidders will be notified of their Successful Bids and the Auction Payment or Auction Receivable (as applicable) payable in connection the registration of Auction Contracts relating to such Successful Bids. OTC Clear will register the Auction Contracts to the account specified by each Successful Bidder. Auction Contracts will be registered in the name of the Successful Bidder by OTC Clear entering into the Auction Contracts with the Successful Bidder.
1922. Each Successful Bidder will be required to comply with such conditions as may be required by OTC Clear, after consultation with the Default Management Group, to effect the registration of the Auction Contracts. Upon the completion of the Auction(s):
- (1) each Successful Bidder shall provide OTC Clear with Collateral to satisfy the Margin required for the registration of the Auction Contracts, such Collateral must be delivered by the Successful Bidder on or prior the relevant Auction Payment Date;
  - (2) each Successful Bidder shall also pay to OTC Clear any Auction Payment on or prior to the Auction Payment Date; and
  - (3) OTC Clear will pay any Auction Receivable payable to the relevant Successful Bidder(s) on or prior to the Auction Receivable Payment Date.

### **Failed Registration**

1923. If a Successful Bidder for an Auction Contract fails to pay in full to OTC Clear the corresponding Auction Payment or fails to provide in full the corresponding required Margin to OTC Clear, in either case, on or prior to the relevant Auction Payment Date, such failure shall constitute an Event of Default with respect to the Successful Bidder pursuant to Clearing Rule 1301.

1924.

- (1) If OTC Clear fails to pay in full an Auction Receivable to a Successful Bidder on or prior to the relevant Auction Receivable Payment Date, such registration of the Auction Contract shall be deemed *void ab initio* and unenforceable against that Successful Bidder;
- (2) OTC Clear shall not take such Auction Contract into account for the purpose of calculating that Successful Bidder's Margin requirement on an ongoing basis; and
- (3) to the extent a demand for Margin has already been served upon that Successful Bidder, taking into account such Auction Contract, and the relevant Successful Bidder has transferred Collateral in satisfaction of such Margin requirement, the amount of Collateral called in respect of such Auction Contract shall be returned to that Successful Bidder on the second Auction Receivable Payment Date following the completion of the relevant Auction.

## Chapter 20 Confidentiality Obligations relating to Receipt of DMP Information

### Confidentiality

2001. Each Clearing Member agrees and undertakes that, in consideration of it being provided the DMP Information (in such capacity, each a “**Receiving Clearing Member**”), it shall:

- (1) keep all the DMP Information confidential;
- (2) only use the DMP Information for the Permitted Purpose and comply with the provisions of the Default Management Process in respect thereof; and
- (3) upon demand by OTC Clear and to the extent reasonably practicable, promptly return to OTC Clear all or any part of the DMP Information in its possession in whatever form it may be by a secure method of transportation, or, save and except for any electronic back-up copies which are not readily accessible to the Receiving Clearing Member, destroy or procure the destruction of any copies or reproductions of any material, paper, programme or record incorporating the DMP Information including the destruction or expungement thereof from any memory device or medium, provided that the Clearing Member may retain copies of any DMP Information as required by law.

Upon demand by OTC Clear the Clearing Member shall provide to OTC Clear a written confirmation that all the provisions of sub-paragraph (3) above have been fully complied with.

2002. Each Receiving Clearing Member agrees and undertakes that it shall only disclose the DMP Information to its employees, officers, representatives, advisers or Affiliates for the Permitted Purpose (and to that extent only) on a “**strictly need to know**” basis.

2003. Each Clearing Member shall establish adequate procedures and mechanisms, including but not limited to the establishment of Information Barriers, to ensure that the DMP Information is, at all times, solely used for the Permitted Purpose by it and any of its employees, officers, representatives, advisers or Affiliates.

2004. Nothing in these Clearing Rules shall prohibit disclosure or use of the DMP Information if and to the extent:

- (1) it becomes publicly available otherwise than as a result of a breach of the provisions of these Clearing Rules by the Receiving Clearing Member and in particular the Default Management Process;
- (2) the Receiving Clearing Member is required to do so by order of a court of competent jurisdiction which arises as a result of an application by a third party;
- (3) the Clearing Member is required or requested to do so by any Regulatory Authority asserting jurisdiction over the Clearing Member; or
- (4) OTC Clear has given prior written approval to the disclosure.

### Term

2005. In respect of each Receiving Clearing Member, the confidentiality obligations set out in this Chapter 20 shall continue for a period of two years from the date on which the DMP Information is provided by OTC Clear to such Receiving Clearing Member. The immediately foregoing shall not prejudice any other confidentiality obligations imposed on the relevant Receiving Clearing Member under any Applicable Laws.

### **Rights to DMP Information**

2006. The parties acknowledge that the DMP Information or any part of it shall remain the property of OTC Clear, neither the Receiving Clearing Member nor any of its employees, officers, representatives, advisers or Affiliates shall be entitled to any right or licence in respect thereof.

### **Liability of OTC Clear**

2007. Subject to compliance with the terms of these Clearing Rules, and in particular, this Chapter 20, by the Receiving Clearing Member and any other person to whom the DMP Information is provided in accordance with the terms herein, OTC Clear acknowledges and agrees that, participation by a Clearing Member in the Default Management Process shall not prevent such Clearing Member from conducting any transaction, or otherwise providing investment services in respect of, investments that the Clearing Member may subsequently learn are the subject of DMP Information provided that, in such circumstances, the relevant Clearing Member shall establish appropriate Information Barriers to ensure its continued compliance with the terms of these Clearing Rules, and in particular, this Chapter 20. Without prejudice to any other provisions contained in these Clearing Rules and OTC Clear's right to enforce the same, OTC Clear agrees that, it shall not assert that there is a conflict of interest by the Clearing Member in doing so nor shall OTC Clear have a claim or action in respect of the foregoing against the Clearing Member.

### **Relief**

2008. Each Receiving Clearing Member expressly acknowledges and agrees that the DMP Information may contain commercially sensitive information which if used otherwise than in accordance with the Default Management Process or for the Permitted Purpose, may result in irreparable harm to OTC Clear which damages alone may not be an adequate remedy, and will result in it gaining an unfair commercial advantage over other Clearing Members. Accordingly, each Receiving Clearing Member acknowledges that OTC Clear may seek injunctive relief, whether interim or final, specific performance, other equitable reliefs or any other combination of these remedies against the Receiving Clearing Member in the event of any threatened or actual breach of the terms of use of DMP Information as set out in this Chapter 20 by it or any of its employees, officers, representatives, advisers or Affiliates, and no proof of special damages will be necessary to enforce its rights to such remedies.
2009. The rights of OTC Clear under Clearing Rule 2008 shall be in addition to OTC Clear's other rights in law or in equity specific performance, other equitable reliefs or any other combination of these remedies.

## **Chapter 21 Obligations, Undertaking and Liability of Clearing Members relating to Participation in the Default Management Group**

### **Confidentiality Obligations**

2101. In the event that OTC Clear has determined that a DMP Event has occurred, each Clearing Member acknowledges that OTC Clear may demand a Clearing Member to provide one DMG Member to be part of the Default Management Group and such DMG Member shall participate in the Default Management Process.
2102. Each Clearing Member shall procure its DMG Member to keep the DMG Information strictly confidential and secure. The DMG Member shall not disclose the DMG Information to any Person (including, for the avoidance of doubt, the Clearing Member who nominated the appointment of such DMG Member to the Default Management Group or any other employee, officer, representative, adviser or Affiliates of that Clearing Member) without the prior written approval of OTC Clear.
2103. Upon demand by OTC Clear and to the extent reasonably practicable, and in any event upon termination of the membership of the DMG Member with the Default Management Group, the Clearing Member shall procure the DMG Member promptly return to OTC Clear all or any part of the DMG Information in its possession in whatever form it may be by a secure method of transportation of any copies or reproductions of any material, paper, programme or record incorporating the DMG Information including the destruction or expungement thereof from any memory device or medium. Upon demand by OTC Clear, the DMG Member shall provide to OTC Clear a written confirmation that it has fully complied with the foregoing.

### **Conflict of Interest**

2104. In the event that a DMG Member is of the view that there may be a possible conflict of interest in the conduct of any part of the business of the Default Management Group, such DMG Member shall report his/her view promptly to the head of the Default Management Group, who shall act accordingly, taking advice of other DMG Members as he/she sees fit.

### **Representations and Warranties**

2105. Each Clearing Member represents and warrants that:
- (1) it is fully aware of the obligations of confidentiality under the Default Management Process;
  - (2) none of the provisions in the Default Management Process will cause any breach of duty or obligation (whether arising pursuant to contract or otherwise) which the DMG Member owes to the Clearing Member or any other contract counterparty of the DMG Member or under any Applicable Laws; and
  - (3) it will procure that the DMG Member who is its representative shall use any DMG Information solely for the purpose of properly discharging and fulfilling his/her duties as a DMG Member.

### **No Liability**

2106. Each Clearing Member acknowledges that:
- (1) DMG Members are conducting the Default Management Process in order to assist OTC Clear in ensuring the on-going integrity of the Rates and FX Clearing Service

in the interests of OTC Clear, the Non-Defaulting Clearing Members and the investing public; and

- (2) in respect of any actions carried out by OTC Clear, a DMG Member or the Default Management Group pursuant to these Clearing Rules, provided that the relevant party has acted in good faith, it shall not have any liability including but not limited to any civil liability, whether arising in contract, tort, defamation, equity or otherwise for any Damage suffered or incurred directly or indirectly by a Clearing Member or any other Person as a result of or in connection with any of its such actions or decisions.

**PART VI**  
**PRODUCT SPECIFIC TERMS**

## Chapter 22 Product Specific Terms for Standard Rates Derivatives Contracts

### Product Specific Terms for Standard Rates Derivatives Contracts

2201. The terms of a Standard Rates Derivatives Contract shall include the following terms (together, the “**Standard Rates Derivatives Contract Terms**”):

- (1) Clearing Rules 2203 to 2210 (the “**Interpretation Provisions**”);
- (2) the Economic Terms; and
- (3) the General Terms, as set out in Clearing Rules 2217 to 2227,

each as interpreted in accordance with the Interpretation Provisions.

2202. In the event of any inconsistency between the Economic Terms and General Terms, the General Terms will prevail.

### Interpretation

2203. The ISDA Definitions (including all supplements thereto outstanding as at 30 April 2018) are incorporated by reference into these Standard Rates Derivatives Contract Terms. Unless otherwise specified, capitalized terms used in the Standard Rates Derivatives Contract Terms but not defined in the Clearing Documentation shall have the meanings given to them in the ISDA Definitions. In the event of any inconsistency between the ISDA Definitions and the Clearing Documentation, the Clearing Documentation will prevail.

2204. In respect of a Standard Rates Derivatives Contract denominated in CNY (offshore), the CNY (offshore) Disruption Provisions shall be incorporated by reference into the relevant Standard Rates Derivatives Contract Terms.

2205. In deriving the Economic Terms of the Standard Rates Derivatives Contract from the Transaction Data of the corresponding Original Standard Rates Derivatives Transaction, all references in the ISDA Definitions to a “**Swap Transaction**” shall be deemed to be an “**Original Standard Rates Derivatives Transaction**”.

2206. Subject to subsequent ISDA Amendment adopted by OTC Clear pursuant to Clearing Rule 2207, the ISDA Definitions and the Standard Rates Derivatives Contract Terms applicable to a Standard Rates Derivatives Contract shall be those applicable as at the Registration Time of such Standard Rates Derivatives Contract.

2207. In case of any amendment to the ISDA Definitions, or publication of any supplement, annex or protocol by ISDA relating to the ISDA Definitions or amendment to the CNY (offshore) Disruption Provisions (each an “**ISDA Amendment**”), OTC Clear may, in its sole discretion, determine whether any such ISDA Amendment should be adopted for the purpose of interpreting or implementing the Standard Rates Derivatives Contract Terms, the manner of any such adoption and when such adoption shall take effect, and notify all Clearing Members of the same. Any non-receipt of such notice by Clearing Members shall not invalidate the effectiveness of the adoption of ISDA Amendment by OTC Clear.

2208. In respect of any adoption of ISDA Amendment by OTC Clear, such adopted ISDA Amendment shall govern the Standard Rates Derivatives Contract Terms of each Standard Rates Derivatives Contract then registered with OTC Clear, and any prospective payment obligations arising out of each such Standard Rates Derivatives Contract shall be construed accordingly.

2209. The Standard Rates Derivatives Contract Terms supplement, form part of, and are subject to these Clearing Rules. In the event of any inconsistency between the Standard Rates Derivatives Contract Terms and these Clearing Rules, these Clearing Rules will prevail.

2210. Except where expressly stated otherwise, all reference to “**Sections**” means Sections in the ISDA Definitions.

### **Economic Terms**

2211. The Economic Terms of a Standard Rates Derivatives Contract are derived from the Transaction Data relating to the corresponding Original Standard Rates Derivatives Transaction. The Original Standard Rates Derivatives Transaction submitted to OTC Clear for registration must include information that satisfies each of the Economic Terms fields set out in Clearing Rule 2212.

2212. The Economic Terms fields comprise:

- (1) Notional Amount (see Section 4.7 of the ISDA Definitions);
- (2) Currency (see Section 1.7 of the ISDA Definitions);
- (3) Trade Date (see Section 3.7 of the ISDA Definitions);
- (4) Effective Date (see Section 3.2 of the ISDA Definitions);
- (5) Termination Date (see Section 3.3 of the ISDA Definitions);
- (6) Additional Payments/Fees:
  - (a) the Payer of the Additional Payments/Fees (if applicable);
  - (b) the amount of the Additional Payments/Fees (specify zero if none);
  - (c) the Additional Payments/Fees dates (if applicable);
- (7) Business Days (see Section 1.4 of the ISDA Definitions);
- (8) Business Day Convention (see Section 4.12 of the ISDA Definitions);
- (9) Where Fixed Rate – Floating Rate Swap:
  - (a) Fixed Rate Payer (see Section 2.1 of the ISDA Definitions);
  - (b) Fixed Rate Payer Payment Dates;
  - (c) Fixed Rate and Fixed Rate Day Count Fraction;
  - (d) Floating Rate Payer (see Section 2.2 of the ISDA Definitions);
  - (e) Floating Rate Payer Payment Dates;
  - (f) Floating Rate Payer compounding dates (if applicable);
  - (g) Floating Rate Option (see Section 6.2(h) of the ISDA Definitions);
  - (h) Designated Maturity (see Section 7.3(b) of the ISDA Definitions) (if applicable);
  - (i) Spread (see Section 6.2(e) of the ISDA Definitions);
  - (j) Reset Dates (see Section 6.2(b) of the ISDA Definitions);
  - (k) Floating Rate Day Count Fraction (see Section 6.2(f) of the ISDA Definitions);
  - (l) Floating Rate (if applicable) (see Section 6.2(a) of the ISDA Definitions);
- (10) Where Floating Rate – Floating Rate Swap (“**basis**” swap):
  - (a) Floating Rate Payer 1 (see Section 2.2 of the ISDA Definitions);

- (A) Floating Rate Payer Payment Dates;
- (B) Floating Rate Payer compounding dates (if applicable);
- (C) Floating Rate Option (see Section 6.2(h) of the ISDA Definitions);
- (D) Designated Maturity (see Section 7.3(b) of the ISDA Definitions);
- (E) Spread (see Section 6.2(e) of the ISDA Definitions);
- (F) Reset Dates (see Section 6.2(b) of the ISDA Definitions);
- (G) Floating Rate Day Count Fraction (see Section 6.2(f) of the ISDA Definitions);
- (H) Floating Rate (if applicable) (see Section 6.2(a) of the ISDA Definitions);

(b) Floating Rate Payer 2 (see Section 2.2 of the ISDA Definitions):

- (A) Floating Rate Payer Payment Dates;
- (B) Floating Rate Payer compounding dates (if applicable);
- (C) Floating Rate Option (see Section 6.2(h) of the ISDA Definitions);
- (D) Designated Maturity (see Section 7.3(b) of the ISDA Definitions);
- (E) Spread (see Section 6.2(e) of the ISDA Definitions);
- (F) Reset Dates (see Section 6.2(b) of the ISDA Definitions);
- (G) Floating Rate Day Count Fraction (see Section 6.2(f) of the ISDA Definitions);
- (H) Floating Rate (if applicable) (see Section 6.2(a) of the ISDA Definitions);  
and

(11) Details of the relevant financial center(s) must be indicated in the Original Standard Rates Derivatives Transaction.

2213. Pursuant to Clearing Rule 806(1), if Clearing Member 1 was the party paying a rate (“**Rate A**”) to, and receiving a rate (“**Rate B**”) from, Clearing Member 2, and Clearing Member 2 was the party paying Rate B to, and receiving Rate A from, Clearing Member 1 under an Original Standard Rates Derivatives Transaction, then upon registration of the same as two Standard Rates Derivatives Contracts between OTC Clear and each of Clearing Member 1 and Clearing Member 2, and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original Standard Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 2 and pay Rate B to, and receive Rate A from, Clearing Member 1.

2214. Pursuant to Clearing Rule 806(2), if the Relevant Client was the party paying a rate (“**Rate A**”) to, and receiving a rate (“**Rate B**”) from, Clearing Member 4, and Clearing Member 4 was the party paying Rate B to, and receiving Rate A from, the Relevant Client under an Original Standard Rates Derivatives Transaction, then upon registration of the same as two Standard Rates Derivatives Contracts between OTC Clear and Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) and Clearing Member 4 (in respect of its House Position Account), and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original

Standard Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 4 (in respect of its House Position Account) and pay Rate B to, and receive Rate A from, Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client).

If, pursuant to Clearing Rule 806(2)(c), Clearing Member 3 and Clearing Member 4 are the same Clearing Member, then OTC Clear will pay Rate A to, and receive Rate B from, such Clearing Member's House Position Account, and will pay Rate B to, and receive Rate A from, such Clearing Member's Client Position Account relating to the Relevant Client.

2215. Pursuant to Clearing Rule 806(3), if Client 1 was the party paying a rate ("**Rate A**") to, and receiving a rate ("**Rate B**") from, Client 2, and Client 2 was the party paying Rate B to, and receiving Rate A from, Client 1 under an Original Standard Rates Derivatives Transaction, then upon registration of the same as two Standard Rates Derivatives Contracts between OTC Clear and Clearing Member 5 (in respect of its Client Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client Position Account relating to Client 2), and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original Standard Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 6 (in respect of its Client Position Account relating to Client 2) and pay Rate B to, and receive Rate A from, Clearing Member 5 (in respect of its Client Position Account relating to Client 1).

If, pursuant to Clearing Rule 806(3)(c), Clearing Member 5 and Clearing Member 6 are the same Clearing Member, then OTC Clear will pay Rate A to, and receive Rate B from, such Clearing Member's Client Position Account relating to Client 2, and will pay Rate B to, and receive Rate A from, such Clearing Member's Client Position Account relating to Client 1.

### **General Terms**

2216. Clearing Rules 2217 to 2227 are designated as General Terms of a Standard Rates Derivatives Contract.

### **Clearing Rules**

2217. A Standard Rates Derivatives Contract shall be subject to the Clearing Rules, which shall form a part of its terms. In the event of any inconsistency between these Contract Terms and the Clearing Rules, the Clearing Rules will prevail.

### **Economic and Monetary Union (EMU) Provisions**

2218. The occurrence or non-occurrence of an event associated with EMU will not alter, discharge or excuse the obligation of a party under a Standard Rates Derivatives Contract, where "**an event associated with EMU**" include those set out in the "**EMU Continuity Provisions**" published by ISDA.
2219. In case of the occurrence of an event associated with EMU, OTC Clear may, in its sole discretion determine whether any changes to the Standard Rates Derivatives Contract Terms are necessary, and whether such changes shall take immediate or deferred effect.
2220. OTC Clear will notify Clearing Members of its decision to implement any changes to the Standard Rates Derivatives Contract Terms as a result of the occurrence of an event associated with EMU, and the time at which such changes will take effect. OTC Clear may deem any such changes to be effective from the time an event associated with EMU occur.
2221. Any non-receipt of such notice by Clearing Members, shall not invalidate the effectiveness of changes made to the Standard Rates Derivatives Contract Terms by OTC Clear.

### **Negative Interest Rates**

2222. Notwithstanding Section 6.4(a) of the ISDA Definitions, “**Negative Interest Rate Method**” will be deemed to apply to a Standard Rates Derivatives Contract, and Sections 6.4(b) and 6.4(c) of the ISDA Definitions will apply to a Standard Rates Derivatives Contract.

2223. [DELETED]

### **Rounding**

2224. Sections 8.1 and 8.2 of the ISDA Definitions will apply to a Standard Rates Derivatives Contract.

### **Tax Provisions**

2225. Chapter 11 of these Clearing Rules shall form part of the Standard Rates Derivatives Contract Terms as if they were set out in full herein.

### **Calculation Agent**

2226. OTC Clear shall be deemed the Calculation Agent in respect of each Standard Rates Derivatives Contract.

### **Governing Law**

2227. Each Standard Rates Derivatives Contract shall be governed by and construed in accordance with the laws of Hong Kong and the parties irrevocably agree for the benefit of OTC Clear that the courts of Hong Kong shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. Each Clearing Member hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of Hong Kong shall not (and shall not be construed so as to) limit the right of OTC Clear to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude OTC Clear from taking action in any other jurisdiction, whether concurrently or not.

## Chapter 23 Product Specific Terms for Non Deliverable Rates Derivatives Contracts

### Product Specific Terms for Non Deliverable Rates Derivatives Contracts

2301. The terms of a Non Deliverable Rates Derivatives Contract shall include the following terms (together, the “**Non Deliverable Rates Derivatives Contract Terms**”):

- (1) Clearing Rules 2303 to 2310 (the “**Interpretation Provisions**”);
- (2) the Economic Terms; and
- (3) the General Terms, as set out in Clearing Rules 2317 to 2322,

each as interpreted in accordance with the Interpretation Provisions.

2302. In the event of any inconsistency between the Economic Terms and General Terms, the General Terms will prevail.

### Interpretation

2303. The ISDA Definitions (together with all supplements thereto outstanding as at 30 April 2018) and the FX Definitions (including all supplements thereto outstanding as at 30 April 2018) (the ISDA Definitions and FX Definitions together, the “**ND IRS Definitions**”), each outstanding as at 30 April 2018 are incorporated by reference into these Non Deliverable Rates Derivatives Contract Terms. Unless otherwise specified, capitalized terms used in the Non Deliverable Rates Derivatives Contract Terms but not defined in the Clearing Documentation shall have the meanings given to them in the ND IRS Definitions. In the event of any inconsistency between the ISDA Definitions and the FX Definitions, the ISDA Definitions will prevail except that the FX Definitions will prevail for purposes of the “**Settlement Terms**” and “**Other Terms**” as set out in the ND IRS Template. In the event of any inconsistency between the ND IRS Definitions and the Clearing Documentation, the Clearing Documentation will prevail.

2304. The “**Asian Currencies Non-Deliverable Swap Transaction Standard Terms Supplement and Fallback Matrix**” outstanding as at 1 April 2018 published by ISDA or a recognized successor (the “**ND IRS Template**”) are incorporated by reference into the relevant Non Deliverable Rates Derivatives Contract Terms.

2305. If the terms of a ND IRS Template conflict with the ND IRS Definitions, the terms of the ND IRS Template shall prevail.

2306. In deriving the Economic Terms of the Non Deliverable Rates Derivatives Contract from the Transaction Data of the corresponding Original Non Deliverable Rates Derivatives Transaction, all references in the ISDA Definitions to a “**Swap Transaction**” shall be deemed to be “**Original Non Deliverable Rates Derivatives Transaction**”.

2307. Subject to the ND IRS Amendment adopted by OTC Clear pursuant to Clearing Rule 2308, the ND IRS Definitions and the Non Deliverable Rates Derivatives Contract Terms applicable to a Non Deliverable Rates Derivatives Contract shall be those applicable as at the Registration time of such Non Deliverable Rates Derivatives Contract.

2308. In case of any amendment to the ND IRS Definitions, the form of the relevant ND IRS Template, or publication of any supplement, annex or protocol by ISDA relating to the ND IRS Definitions (each a “**ND IRS Amendment**”), OTC Clear may, in its sole discretion, determine whether any such ND IRS Amendment should be adopted for the purpose of interpreting or implementing the Non Deliverable Rates Derivatives Contract Terms, the manner of any such adoption and when such adoption shall take effect, and notify all Clearing Members of the same. Any non-receipt of

such notice by Clearing Members shall not invalidate the effectiveness of the adoption of ND IRS Amendment by OTC Clear.

2309. In respect of any adoption of ND IRS Amendment by OTC Clear, such adopted ND IRS Amendment shall govern the Non Deliverable Rates Derivatives Contract Terms of each Non Deliverable Rates Derivatives Contract then registered with OTC Clear, and any prospective payment obligations arising out of each such Non Deliverable Rates Derivatives Contract shall be construed accordingly.
2310. The Non Deliverable Rates Derivatives Contract Terms supplement, form part of, and are subject to these Clearing Rules. In the event of any inconsistency between the Non Deliverable Rates Derivatives Contract Terms and these Clearing Rules, these Clearing Rules will prevail.

### **Economic Terms**

2311. The Economic Terms of a Non Deliverable Rates Derivatives Contract are derived from the Transaction Data relating to the corresponding Original Non Deliverable Rates Derivatives Transaction. The Original Non Deliverable Rates Derivatives Transaction submitted to OTC Clear for registration must include information that satisfies each of the Economic Terms fields set out in Clearing Rule 2312.

2312. The Economic Terms fields comprise:

- (1) Trade Date (see Section 3.7 of the ISDA Definitions);
- (2) Effective Date (see Section 3.2 of the ISDA Definitions);
- (3) Termination Date (see Section 3.3 of the ISDA Definitions);
- (4) Business Days (see Section 1.4 of the ISDA Definitions);
- (5) Business Day Convention (see Section 4.12 of the ISDA Definitions);
- (6) Where Fixed Rate – Floating Rate Swap:
  - (a) Fixed Rate Payer (see Section 2.1 of the ISDA Definitions);
  - (b) Fixed Rate Payer Currency Amount;
  - (c) Fixed Rate Payer Payment Dates;
  - (d) Fixed Rate and Fixed Rate Day Count Fraction;
  - (e) Floating Rate Payer (see Section 2.2 of the ISDA Definitions);
  - (f) Floating Rate Payer Currency Amount;
  - (g) Floating Rate Payer Payment Dates;
  - (h) Floating Rate Payer compounding dates (if applicable);
  - (i) Floating Rate Payer Compounding Period;
  - (j) Floating Rate Option (see Section 6.2(h) of the ISDA Definitions);
  - (k) Designated Maturity (see Section 7.3(b) of the ISDA Definitions) (if applicable);
  - (l) Spread (see Section 6.2(e) of the ISDA Definitions);
  - (m) Reset Dates (see Section 6.2(b) of the ISDA Definitions);
  - (n) Floating Rate Day Count Fraction (see Section 6.2(f) of the ISDA Definitions);
  - (o) Compounding (if applicable) (see Section 6.1(b) of the ISDA Definitions);

- (p) Floating Rate (if applicable) (see Section 6.2(a) of the ISDA Definitions);
- (7)
- (a) Reference Currency (Section 1.19 of the FX Definitions);
  - (b) Settlement Currency (Section 1.16(b) of the FX Definitions);
  - (c) in the event that the Currency Pair is not expressed in the format of “**Reference Currency – Settlement Currency**”, or no election is made with respect to which currency is the Reference Currency and which currency is the Settlement Currency, then the Settlement Currency will be deemed to be USD, or any other currency(ies) as specified by OTC Clear and notified to the Clearing Members from time to time;
- (8) Details of the relevant financial center(s) must be indicated in the Original Non Deliverable Rates Derivatives Transaction; and
- (9) Additional Payments/Fees:
- (a) the Payer of the Additional Payments/Fees (if applicable);
  - (b) the amount of the Additional Payments/Fees (specify zero if none);
  - (c) the Additional Payments/Fees dates (if applicable).
2313. Pursuant to Clearing Rule 806(1), if Clearing Member 1 was the party paying a rate (“**Rate A**”) to, and receiving a rate (“**Rate B**”) from, Clearing Member 2, and Clearing Member 2 was the party paying Rate B to, and receiving Rate A from, Clearing Member 1 under an Original Non Deliverable Rates Derivatives Transaction, then upon registration of the same as two Non Deliverable Rates Derivatives Contracts between OTC Clear and each of Clearing Member 1 and Clearing Member 2, and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original Non Deliverable Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 2 and pay Rate B to, and receive Rate A from, Clearing Member 1.
2314. Pursuant to Clearing Rule 806(2), if the Relevant Client was the party paying a rate (“**Rate A**”) to, and receiving a rate (“**Rate B**”) from Clearing Member 4, and Clearing Member 4 was the party paying Rate B to, and receiving Rate A from, the Relevant Client under an Original Non Deliverable Rates Derivatives Transaction, then upon registration of the same as two Non Deliverable Rates Derivatives Contracts between OTC Clear and Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) and Clearing Member 4 (in respect of its House Position Account), and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original Non Deliverable Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 4 (in respect of its House Position Account) and pay Rate B to, and receive Rate A from, Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client).
- If, pursuant to Clearing Rule 806(2)(c), Clearing Member 3 and Clearing Member 4 are the same Clearing Member, then OTC Clear will pay Rate A to, and receive Rate B from, such Clearing Member’s House Position Account, and pay Rate B to, and receive Rate A from, such Clearing Member’s Client Position Account relating to the Relevant Client.
2315. Pursuant to Clearing Rule 806(3), if Client 1 was the party paying a rate (“**Rate A**”) to, and receiving a rate (“**Rate B**”) from Client 2, and Client 2 was the party paying Rate B to, and receiving Rate A from, Client 1 under an Original Non Deliverable Rates Derivatives

Transaction, then upon registration of the same as two Non Deliverable Rates Derivatives Contracts between OTC Clear and Clearing Member 5 (in respect of its Client Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client Position Account relating to Client 2), and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original Non Deliverable Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 6 (in respect of its Client Position Account relating to Client 2) and pay Rate B to, and receive Rate A from, Clearing Member 5 (in respect of its Client Position Account relating to Client 1).

If, pursuant to Clearing Rule 806(3)(c), Clearing Member 5 and Clearing Member 6 are the same Clearing Member, then OTC Clear will pay Rate A to, and receive Rate B from, such Clearing Member's Client Position Account relating to Client 2, and pay Rate B to, and receive Rate A from, such Clearing Member's Client Position Account relating to Client 1.

### **General Terms**

2316. Clearing Rules 2317 to 2322 are designated as General Terms of a Non Deliverable Rates Derivatives Contract.

### **Clearing Rules**

2317. A Non Deliverable Rates Derivatives Contract shall be subject to the Clearing Rules, which shall form a part of its terms. In the event of any inconsistency between these Contract Terms and the Clearing Rules, the Clearing Rules will prevail.

### **Calculation Agent**

2318. OTC Clear shall be deemed the Calculation Agent in respect of each Non Deliverable Rates Derivatives Contract.

### **Negative Interest Rates**

2319. Notwithstanding Section 6.4(a) of the ISDA Definitions, "**Negative Interest Rate Method**" will be deemed to apply to a Non Deliverable Rates Derivatives Contract, and Sections 6.4(b) and 6.4(c) of the ISDA Definitions will apply to a Non Deliverable Rates Derivatives Contract.

### **Rounding**

2320. Sections 8.1 and 8.2 of the ISDA Definitions will apply to a Non Deliverable Rates Derivatives Contract.

### **Tax Provisions**

2321. Chapter 11 of these Clearing Rules shall form part of the Non Deliverable Rates Derivatives Contract Terms as if they were set out in full herein.

### **Governing Law**

2322. Each Non Deliverable Rates Derivatives Contract shall be governed by and construed in accordance with the laws of Hong Kong and the parties irrevocably agree for the benefit of OTC Clear that the courts of Hong Kong shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. Each Clearing Member hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of Hong Kong shall not (and shall not be construed so as to) limit the right of OTC Clear to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude OTC Clear from taking action in any other jurisdiction, whether concurrently or not.

## Chapter 24 Product Specific Terms for Non Deliverable FX Derivatives Contracts

### Product Specific Terms for Non Deliverable FX Derivatives Contracts

2401. The terms of a Non Deliverable FX Derivatives Contract shall include the following terms (together, the “**Non Deliverable FX Derivatives Contract Terms**”):

- (1) Clearing Rules 2403 to 2411 (the “**Interpretation Provisions**”);
- (2) the Economic Terms; and
- (3) the General Terms, as set out in Clearing Rules 2418 to 2422,

each as interpreted in accordance with the Interpretation Provisions.

2402. In the event of any inconsistency between the Economic Terms and the General Terms, the General Terms will prevail.

### Interpretation

2403. Sections 8.1 and 8.2 of the ISDA Definitions and the FX Definitions (Sections 8.1 and 8.2 of the ISDA Definitions and the FX Definitions together, the “**ISDA FX Definitions**”), each outstanding as at 30 April 2018, are incorporated by reference into these Non Deliverable FX Derivatives Contract Terms. Unless otherwise specified, capitalized terms used in the Non Deliverable FX Derivatives Contract Terms but not defined in the Clearing Documentation shall have the meanings given to them in the ISDA FX Definitions. In the event of any inconsistency between the ISDA FX Definitions and the Clearing Documentation, the Clearing Documentation will prevail.

2404. Any template terms of a Non Deliverable FX Derivatives Contract outstanding as at 30 April 2018 recommended by EMTA or a recognized successor (the “**EMTA Template**”) are incorporated by reference into the relevant Non Deliverable FX Derivatives Contract Terms.

2405. If the terms of an EMTA Template conflict with the ISDA FX Definitions, the terms of the EMTA Template shall prevail.

2406. In deriving the Economic Terms of the Non Deliverable FX Derivatives Contract from the Transaction Data of the corresponding Original Non Deliverable FX Derivatives Transaction, all references in the ISDA FX Definitions to an “**FX Transaction**” shall be deemed to be references to an “**Original Non Deliverable FX Derivatives Transaction**”.

2407. Subject to subsequent ISDA FX Amendment adopted by OTC Clear pursuant to Clearing Rule 2408, the ISDA FX Definitions and the Non Deliverable FX Derivatives Contract Terms applicable to a Non Deliverable FX Derivatives Contract shall be those applicable as at the Registration Time of such Non Deliverable FX Derivatives Contract.

2408. In case of any amendment to the ISDA FX Definitions, the form of the relevant EMTA Template or publication of any supplement, annex or standard terms relating to the ISDA FX Definitions by ISDA, EMTA or FXC jointly or severally (each, an “**ISDA FX Amendment**”), OTC Clear may, in its sole discretion, determine whether any such ISDA FX Amendment should be adopted for the purpose of interpreting or implementing the Non Deliverable FX Derivatives Contract Terms, the manner of any such adoption and when such adoption shall take effect, and notify all Clearing Members of the same. Any non-receipt of such notice by Clearing Members, shall not invalidate the effectiveness of the adoption of ISDA FX Amendment by OTC Clear.

2409. In respect of any adoption of ISDA FX Amendment by OTC Clear, such adopted ISDA FX Amendment shall govern the Non Deliverable FX Derivatives Contract Terms of each Non Deliverable FX Derivatives Contract then registered with OTC Clear, and any prospective

payment obligations arising out of each such Non Deliverable FX Derivatives Contract shall be construed accordingly.

2410. The Non Deliverable FX Derivatives Contract Terms supplement, form part of, and are subject to these Clearing Rules. In the event of any inconsistency between the Non Deliverable FX Derivatives Contract Terms and these Clearing Rules, these Clearing Rules will prevail.

2411. Except where expressly stated otherwise, all reference to “**Sections**” means Sections in the ISDA FX Definitions.

### **Economic Terms**

2412. The Economic Terms of a Non Deliverable FX Derivatives Contract are derived from the Transaction Data relating to the corresponding Original Non Deliverable FX Derivatives Transaction. The Original Non Deliverable FX Derivatives Transaction submitted to OTC Clear for registration must include information that satisfies each of the Economic Terms fields set out in Clearing Rule 2413.

2413. The Economic Terms fields comprise:

- (1) Trade Date (Section 1.25 of the FX Definitions);
- (2) Reference Currency (Section 1.19 of the FX Definitions);
- (3) Reference Currency Notional Amount (Section 1.21 of the FX Definitions);
- (4) Notional Amount (Section 1.17(b) of the FX Definitions) or Forward Rate (Section 2.1(a) of the FX Definitions);
- (5) Reference Currency Buyer (Section 1.20 of the FX Definitions);
- (6) Reference Currency Seller (Section 1.22 of the FX Definitions);
- (7) Settlement Currency (Section 1.16(b) of the FX Definitions);
- (8) scheduled Settlement Date (Section 1.24 of the FX Definitions) (without prejudice to the adjustments set out in the relevant EMTA Template);
- (9) scheduled Valuation Date (Section 1.16(f) of the FX Definitions) (without prejudice to the adjustments set out in the relevant EMTA Template); and
- (10) in the event that the Currency Pair is not expressed in the format of “**Reference Currency – Settlement Currency**”, or no election is made with respect to which currency is the Reference Currency and which currency is the Settlement Currency, then the Settlement Currency will be deemed to be USD, or any other currency(ies) as specified by OTC Clear and notified to the Clearing Members from time to time.

2414. Pursuant to Clearing Rule 806(1), if Clearing Member 1 was the Reference Currency Seller, and Clearing Member 2 was the Reference Currency Buyer under an Original Non Deliverable FX Derivatives Transaction, then upon registration of the same as two Non Deliverable FX Derivatives Contracts, OTC Clear, in respect of each Non Deliverable FX Derivatives Contract to which it is party pursuant to the corresponding Original Non Deliverable FX Derivatives Transaction, shall be the Reference Currency Buyer and Reference Currency Seller under such Non Deliverable FX Derivatives Contract, respectively.

2415. Pursuant to Clearing Rule 806(2), if the Relevant Client was the Reference Currency Seller and Clearing Member 4 was the Reference Currency Buyer under an Original Non Deliverable FX Derivatives Transaction, then upon registration of the same as two Non Deliverable FX Derivatives Contracts, one between Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) and OTC Clear, and another one between Clearing Member 4 (in

respect of its House Position Account) and OTC Clear, OTC Clear shall be the Reference Currency Buyer and Reference Currency Seller under each such Non Deliverable FX Derivatives Contract, respectively.

Pursuant to Clearing Rule 806(2), if the Relevant Client was the Reference Currency Buyer and Clearing Member 4 was the Reference Currency Seller under an Original Non Deliverable FX Derivatives Transaction, then upon registration of the same as two Non Deliverable FX Derivatives Contracts, one between Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) and OTC Clear, and another one between Clearing Member 4 (in respect of its House Position Account) and OTC Clear, OTC Clear shall be the Reference Currency Seller and Reference Currency Buyer under each such Non Deliverable FX Derivatives Contract, respectively.

If, pursuant to Clearing Rule 806(2)(c), Clearing Member 3 and Clearing Member 4 are the same Clearing Member, then:

- (1) if such Clearing Member (in respect of its Client Position Account relating to the Relevant Client) was the Reference Currency Seller, OTC Clear will be the Reference Currency Buyer in respect of the Contract between OTC Clear and such Clearing Member (in respect of its Client Position Account relating to the Relevant Client), and Reference Currency Seller in respect of the Contract between OTC Clear and such Clearing Member (in respect of its House Position Account); or
- (2) if such Clearing Member (in respect of its Client Position Account in respect of the Relevant Client) was the Reference Currency Buyer, OTC Clear will be the Reference Currency Seller in respect of the Contract between OTC Clear and such Clearing Member (in respect of its Client Position Account relating to the Relevant Client), and Reference Currency Buyer in respect of the Contract between OTC Clear and such Clearing Member (in respect of its House Position Account).

2416. Pursuant to Clearing Rule 806(3), if Client 1 was the Reference Currency Seller and Client 2 was the Reference Currency Buyer under an Original Non Deliverable FX Derivatives Transaction, then upon registration of the same as two Non Deliverable FX Derivatives Contracts, one between Clearing Member 5 (in respect of its Client Position Account relating to Client 1) and OTC Clear, and another one between Clearing Member 6 (in respect of its Client Position Account relating to Client 2) and OTC Clear, OTC Clear shall be the Reference Currency Buyer and Reference Currency Seller under each such Non Deliverable FX Derivatives Contract, respectively.

Pursuant to Clearing Rule 806(3), if Client 1 was the Reference Currency Buyer and Client 2 was the Reference Currency Seller under an Original Non Deliverable FX Derivatives Transaction, then upon registration of the same as two Non Deliverable FX Derivatives Contracts, one between Clearing Member 5 (in respect of its Client Position Account relating to Client 1) and OTC Clear, and another one between Clearing Member 6 (in respect of its Client Position Account relating to Client 2) and OTC Clear, OTC Clear shall be the Reference Currency Seller and Reference Currency Buyer under each such Non Deliverable FX Derivatives Contract, respectively.

If, pursuant to Clearing Rule 806(3)(c), Clearing Member 5 and Clearing Member 6 are the same Clearing Member, then:

- (1) if such Clearing Member (in respect of its Client Position Account relating to Client 1) was the Reference Currency Seller, OTC Clear will be the Reference Currency Buyer in respect of the Contract between OTC Clear and such Clearing Member (in respect of its Client Position Account relating to Client 1), and Reference Currency Seller in respect of

the Contract between OTC Clear and such Clearing Member (in respect of its Client Position Account relating to Client 2); or

- (2) if such Clearing Member (in respect of its Client Position Account in respect of Client 1) was the Reference Currency Buyer, OTC Clear will be the Reference Currency Seller in respect of the Contract between OTC Clear and such Clearing Member (in respect of its Client Position Account relating to Client 1), and Reference Currency Buyer in respect of the Contract between OTC Clear and such Clearing Member (in respect of its Client Position Account relating to Client 2).

### **General Terms**

2417. Clearing Rules 2418 to 2422 are designated as General Terms of a Non Deliverable FX Derivatives Contract.

### **Clearing Rules**

2418. A Non Deliverable FX Derivatives Contract shall be subject to the Clearing Rules, which shall form a part of its terms. In the event of any inconsistency between these Contract Terms and the Clearing Rules, the Clearing Rules will prevail.

### **Calculation Agent**

2419. OTC Clear shall be deemed the Calculation Agent in respect of each Non Deliverable FX Derivatives Contract.

### **Rounding**

2420. Sections 8.1 and 8.2 of the ISDA Definitions will apply to a Non Deliverable FX Derivatives Contract.

### **Tax Provisions**

2421. Chapter 11 of these Clearing Rules shall form part of the Non Deliverable FX Derivatives Contract Terms as if they were set out in full herein.

### **Governing Law**

2422. Each Non Deliverable FX Derivatives Contract shall be governed by and construed in accordance with the laws of Hong Kong and the parties irrevocably agree for the benefit of OTC Clear that the courts of Hong Kong shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. Each Clearing Member hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of Hong Kong shall not (and shall not be construed so as to) limit the right of OTC Clear to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude OTC Clear from taking action in any other jurisdiction, whether concurrently or not.

## Chapter 25 Product Specific Terms for Standard Cross-currency Rates Derivatives Contracts

### Product Specific Terms for Standard Cross-currency Rates Derivatives Contracts

2501. The terms of a Standard Cross-currency Rates Derivatives Contract shall include the following terms (together, the “**Standard Cross-currency Rates Derivatives Contract Terms**”):

- (1) Clearing Rules 2503 to 2510 (the “**Interpretation Provisions**”);
- (2) the Economic Terms; and
- (3) the General Terms, as set out in Clearing Rules 2517 to 2522,

each as interpreted in accordance with the Interpretation Provisions.

2502. In the event of any inconsistency between the Economic Terms and General Terms, the General Terms will prevail.

### Interpretation

2503. The ISDA Definitions (including all supplements thereto outstanding as at 30 April 2018) are incorporated by reference into these Standard Cross-currency Rates Derivatives Contract Terms. Unless otherwise specified, capitalized terms used in the Standard Cross-currency Rates Derivatives Contract Terms but not defined in the Clearing Documentation shall have the meanings given to them in the ISDA Definitions. In the event of any inconsistency between the ISDA Definitions and the Clearing Documentation, the Clearing Documentation will prevail.

2504. In respect of a Standard Cross-currency Rates Derivatives Contract with one of the notional amounts denominated in CNY (offshore), the CNY (offshore) Disruption Provisions shall be incorporated by reference into the relevant Standard Cross-currency Rates Derivatives Contract Terms.

2505. In deriving the Economic Terms of the Standard Cross-currency Rates Derivatives Contract from the Transaction Data of the corresponding Original Standard Cross-currency Rates Derivatives Transaction, all references in the ISDA Definitions to a “**Swap Transaction**” shall be deemed to be an “**Original Standard Cross-currency Rates Derivatives Transaction**”.

2506. Subject to subsequent ISDA Amendment adopted by OTC Clear pursuant to Clearing Rule 2507, the ISDA Definitions and the Standard Cross-currency Rates Derivatives Contract Terms applicable to a Standard Cross-currency Rates Derivatives Contract shall be those applicable as at the Registration Time of such Standard Cross-currency Rates Derivatives Contract.

2507. In case of any amendment to the ISDA Definitions, or publication of any supplement, annex or protocol by ISDA relating to the ISDA Definitions or amendment to the CNY (offshore) Disruption Provisions (each an “**ISDA Amendment**”), OTC Clear may, in its sole discretion, determine whether any such ISDA Amendment should be adopted for the purpose of interpreting or implementing the Standard Cross-currency Rates Derivatives Contract Terms, the manner of any such adoption and when such adoption shall take effect, and notify all Clearing Members of the same. Any non-receipt of such notice by Clearing Members shall not invalidate the effectiveness of the adoption of ISDA Amendment by OTC Clear.

2508. In respect of any adoption of ISDA Amendment by OTC Clear, such adopted ISDA Amendment shall govern the Standard Cross-currency Rates Derivatives Contract Terms of each Standard Cross-currency Rates Derivatives Contract then registered with OTC Clear, and any prospective payment obligations arising out of each such Standard Cross-currency Rates Derivatives Contract shall be construed accordingly.

2509. The Standard Cross-currency Rates Derivatives Contract Terms supplement, form part of, and are subject to these Clearing Rules. In the event of any inconsistency between the Standard Cross-currency Rates Derivatives Contract Terms and these Clearing Rules, these Clearing Rules will prevail.
2510. Except where expressly stated otherwise, all reference to “**Sections**” means Sections in the ISDA Definitions.

### **Economic Terms**

2511. The Economic Terms of a Standard Cross-currency Rates Derivatives Contract are derived from the Transaction Data relating to the corresponding Original Standard Cross-currency Rates Derivatives Transaction. The Original Standard Cross-currency Rates Derivatives Transaction submitted to OTC Clear for registration must include information that satisfies each of the Economic Terms fields set out in Clearing Rule 2512.
2512. The Economic Terms fields comprise:
- (1) Trade Date (see Section 3.7 of the ISDA Definitions);
  - (2) Effective Date (see Section 3.2 of the ISDA Definitions);
  - (3) Termination Date (see Section 3.3 of the ISDA Definitions);
  - (4) Initial Exchange:
    - (a) Initial Exchange Date (see Section 3.4 of the ISDA Definitions) (if applicable);
    - (b) Initial Exchange Amounts (see Section 4.1 of the ISDA Definitions) (if applicable);
    - (c) the Payer of each Initial Exchange Amount (if applicable);
  - (5) Final Exchange:
    - (a) Final Exchange Date (see Section 3.6 of the ISDA Definitions) (if applicable);
    - (b) Final Exchange Amounts (see Section 4.3 of the ISDA Definitions) (if applicable);
    - (c) the Payer of each Final Exchange Amount (if applicable);
  - (6) Additional Payments/Fees:
    - (a) the Payer of the Additional Payments/Fees (if applicable);
    - (b) the amount of the Additional Payments/Fees (specify zero if none);
    - (c) the Additional Payments/Fees dates (if applicable);
  - (7) Business Days (see Section 1.4 of the ISDA Definitions);
  - (8) Business Day Convention (see Section 4.12 of the ISDA Definitions);
  - (9) Where Fixed Rate – Floating Rate Swap:
    - (a) Fixed Rate Payer (see Section 2.1 of the ISDA Definitions);
    - (b) Fixed Rate Payer Payment Dates;
    - (c) Fixed Rate and Fixed Rate Day Count Fraction;
    - (d) Fixed Rate Payer Currency Amount (see Section 4.6 of the ISDA Definitions);
    - (e) Floating Rate Payer (see Section 2.2 of the ISDA Definitions);

- (f) Floating Rate Payer Payment Dates;
  - (g) Floating Rate Payer compounding dates (if applicable);
  - (h) Floating Rate Payer Currency Amount (see Section 4.6 of the ISDA Definitions);
  - (i) Floating Rate Option (see Section 6.2(h) of the ISDA Definitions);
  - (j) Designated Maturity (see Section 7.3(b) of the ISDA Definitions) (if applicable);
  - (k) Spread (see Section 6.2(e) of the ISDA Definitions);
  - (l) Reset Dates (see Section 6.2(b) of the ISDA Definitions);
  - (m) Floating Rate Day Count Fraction (see Section 6.2(f) of the ISDA Definitions);
  - (n) Floating Rate (if applicable) (see Section 6.2(a) of the ISDA Definitions);
- (10) Where Floating Rate – Floating Rate Swap (“**basis**” swap):
- (a) Floating Rate Payer 1 (see Section 2.2 of the ISDA Definitions):
    - (A) Floating Rate Payer Payment Dates;
    - (B) Floating Rate Payer compounding dates (if applicable);
    - (C) Floating Rate Payer Currency Amount (see Section 4.6 of the ISDA Definitions);
    - (D) Floating Rate Option (see Section 6.2(h) of the ISDA Definitions);
    - (E) Designated Maturity (see Section 7.3(b) of the ISDA Definitions);
    - (F) Spread (see Section 6.2(e) of the ISDA Definitions);
    - (G) Reset Dates (see Section 6.2(b) of the ISDA Definitions);
    - (H) Floating Rate Day Count Fraction (see Section 6.2(f) of the ISDA Definitions);
    - (I) Floating Rate (if applicable) (see Section 6.2(a) of the ISDA Definitions);
  - (b) Floating Rate Payer 2 (see Section 2.2 of the ISDA Definitions):
    - (A) Floating Rate Payer Payment Dates;
    - (B) Floating Rate Payer compounding dates (if applicable);
    - (C) Floating Rate Payer Currency Amount (see Section 4.6 of the ISDA Definitions);
    - (D) Floating Rate Option (see Section 6.2(h) of the ISDA Definitions);
    - (E) Designated Maturity (see Section 7.3(b) of the ISDA Definitions);
    - (F) Spread (see Section 6.2(e) of the ISDA Definitions);
    - (G) Reset Dates (see Section 6.2(b) of the ISDA Definitions);
    - (H) Floating Rate Day Count Fraction (see Section 6.2(f) of the ISDA Definitions);

- (l) Floating Rate (if applicable) (see Section 6.2(a) of the ISDA Definitions);  
and

(11) Details of the relevant financial center(s) must be indicated in the Original Standard Cross-currency Rates Derivatives Transaction.

2513. Pursuant to Clearing Rule 806(1), (1) if Clearing Member 1 was the party paying an Initial Exchange Amount (“**Initial Exchange Amount C**”) and a Final Exchange Amount (“**Final Exchange Amount D**”) to, and receiving an Initial Exchange Amount (“**Initial Exchange Amount E**”) and a Final Exchange Amount (“**Final Exchange Amount F**”) from, Clearing Member 2, and Clearing Member 2 was the party paying Initial Exchange Amount E and Final Exchange Amount F to, and receiving Initial Exchange Amount C and Final Exchange Amount D from, Clearing Member 1 under an Original Standard Cross-currency Rates Derivatives Transaction, then upon registration of the same as two Standard Cross-currency Rates Derivatives Contracts between OTC Clear and each of Clearing Member 1 and Clearing Member 2, and when deriving the relevant Economic Terms relating to any Payer of Initial Exchange Amount and Payer of Final Exchange Amount from the Transaction Data of the corresponding Original Standard Cross-currency Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Initial Exchange Amount C and Final Exchange Amount D to, and receive Initial Exchange Amount E and Final Exchange Amount F from, Clearing Member 2 and pay Initial Exchange Amount E and Final Exchange Amount F to, and receive Initial Exchange Amount C and Final Exchange Amount D from, Clearing Member 1; and (2) if Clearing Member 1 was the party paying a rate (“**Rate A**”) to, and receiving a rate (“**Rate B**”) from, Clearing Member 2, and Clearing Member 2 was the party paying Rate B to, and receiving Rate A from, Clearing Member 1 under an Original Standard Cross-currency Rates Derivatives Transaction, then upon registration of the same as two Standard Cross-currency Rates Derivatives Contracts between OTC Clear and each of Clearing Member 1 and Clearing Member 2, and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original Standard Cross-currency Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 2 and pay Rate B to, and receive Rate A from, Clearing Member 1.
2514. Pursuant to Clearing Rule 806(2), (1) if the Relevant Client was the party paying an Initial Exchange Amount (“**Initial Exchange Amount C**”) and a Final Exchange Amount (“**Final Exchange Amount D**”) to, and receiving an Initial Exchange Amount (“**Initial Exchange Amount E**”) and a Final Exchange Amount (“**Final Exchange Amount F**”) from, Clearing Member 4, and Clearing Member 4 was the party paying Initial Exchange Amount E and Final Exchange Amount F to, and receiving Initial Exchange Amount C and Final Exchange Amount D from, the Relevant Client under an Original Standard Cross-currency Rates Derivatives Transaction, then upon registration of the same as two Standard Cross-currency Rates Derivatives Contracts between OTC Clear and Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) and Clearing Member 4 (in respect of its House Position Account), and when deriving the relevant Economic Terms relating to any Payer of Initial Exchange Amount and Payer of Final Exchange Amount from the Transaction Data of the corresponding Original Standard Cross-currency Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Initial Exchange Amount C and Final Exchange Amount D to, and receive Initial Exchange Amount E and Final Exchange Amount F from, Clearing Member 4 (in respect of its House Position Account) and pay Initial Exchange Amount E and Final Exchange Amount F to, and receive Initial Exchange Amount C and Final Exchange Amount D from, Clearing Member 3 (in respect of its Client Position Account relating to the

Relevant Client), and (2) if the Relevant Client was the party paying a rate (“**Rate A**”) to, and receiving a rate (“**Rate B**”) from, Clearing Member 4, and Clearing Member 4 was the party paying Rate B to, and receiving Rate A from, the Relevant Client under an Original Standard Cross-currency Rates Derivatives Transaction, then upon registration of the same as two Standard Cross-currency Rates Derivatives Contracts between OTC Clear and Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) and Clearing Member 4 (in respect of its House Position Account), and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original Standard Cross-currency Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 4 (in respect of its House Position Account) and pay Rate B to, and receive Rate A from, Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client).

If, pursuant to Clearing Rule 806(2)(c), Clearing Member 3 and Clearing Member 4 are the same Clearing Member, then OTC Clear will pay Rate A, Initial Exchange Amount C and Final Exchange Amount D to, and receive Rate B, Initial Exchange Amount E and Final Exchange Amount F from, such Clearing Member’s House Position Account, and will pay Rate B, Initial Exchange E and Final Exchange Amount F to, and receive Rate A, Initial Exchange Amount C and Final Exchange Amount D from, such Clearing Member’s Client Position Account relating to the Relevant Client.

2515. Pursuant to Clearing Rule 806(3), (1) if Client 1 was the party paying an Initial Exchange Amount (“**Initial Exchange Amount C**”) and a Final Exchange Amount (“**Final Exchange Amount D**”) to, and receiving an Initial Exchange Amount (“**Initial Exchange Amount E**”) and a Final Exchange Amount (“**Final Exchange Amount F**”) from, Client 2, and Client 2 was the party paying Initial Exchange Amount E and Final Exchange Amount F to, and receiving Initial Exchange Amount C and Final Exchange Amount D from, Client 1 under an Original Standard Cross-currency Rates Derivatives Transaction, then upon registration of the same as two Standard Cross-currency Rates Derivatives Contracts between OTC Clear and Clearing Member 5 (in respect of its Client Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client Position Account relating to Client 2), and when deriving the relevant Economic Terms relating to any Payer of Initial Exchange Amount and Payer of Final Exchange Amount from the Transaction Data of the corresponding Original Standard Cross-currency Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Initial Exchange Amount C and Final Exchange Amount D to, and receive Initial Exchange Amount E and Final Exchange Amount F from, Clearing Member 6 (in respect of its Client Position Account relating to Client 2) and pay Initial Exchange Amount E and Final Exchange Amount F to, and receive Initial Exchange Amount C and Final Exchange Amount D from, Clearing Member 5 (in respect of its Client Position Account relating to Client 1), and (2) if Client 1 was the party paying a rate (“**Rate A**”) to, and receiving a rate (“**Rate B**”) from, Client 2, and Client 2 was the party paying Rate B to, and receiving Rate A from, Client 1 under an Original Standard Cross-currency Rates Derivatives Transaction, then upon registration of the same as two Standard Cross-currency Rates Derivatives Contracts between OTC Clear and Clearing Member 5 (in respect of its Client Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client Position Account relating to Client 2), and when deriving the relevant Economic Terms relating to any Floating Rate Payer and/or Fixed Rate Payer from the Transaction Data of the corresponding Original Standard Cross-currency Rates Derivatives Transaction, the terms shall be derived such that OTC Clear will pay Rate A to, and receive Rate B from, Clearing Member 6 (in respect of its Client Position Account relating to Client 2) and pay Rate B to, and receive Rate A from, Clearing Member 5 (in respect of its Client Position Account relating to Client 1).

If, pursuant to Clearing Rule 806(3)(c), Clearing Member 5 and Clearing Member 6 are the same Clearing Member, then OTC Clear will pay Rate A, Initial Exchange Amount C and Final Exchange Amount D to, and receive Rate B, Initial Exchange Amount E and Final Exchange Amount F from, such Clearing Member's Client Position Account relating to Client 2, and will pay Rate B, Initial Exchange Amount E and Final Exchange Amount F to, and receive Rate A, Initial Exchange Amount C and Final Exchange Amount D from, such Clearing Member's Client Position Account relating to Client 1.

### **General Terms**

2516. Clearing Rules 2517 to 2522 are designated as General Terms of a Standard Cross-currency Rates Derivatives Contract.

### **Clearing Rules**

2517. A Standard Cross-currency Rates Derivatives Contract shall be subject to the Clearing Rules, which shall form a part of its terms. In the event of any inconsistency between these Contract Terms and the Clearing Rules, the Clearing Rules will prevail.

### **Negative Interest Rates**

2518. Notwithstanding Section 6.4(a) of the ISDA Definitions, "**Negative Interest Rate Method**" will be deemed to apply to a Standard Cross-currency Rates Derivatives Contract and Sections 6.4(b) and 6.4(c) of the ISDA Definitions will apply to a Standard Cross-currency Rates Derivatives Contract.

### **Rounding**

2519. Sections 8.1 and 8.2 of the ISDA Definitions will apply to a Standard Cross-currency Rates Derivatives Contract.

### **Tax Provisions**

2520. Chapter 11 of these Clearing Rules shall form part of the Standard Cross-currency Rates Derivatives Contract Terms as if they were set out in full herein.

### **Calculation Agent**

2521. OTC Clear shall be deemed the Calculation Agent in respect of each Standard Cross-currency Rates Derivatives Contract.

### **Governing Law**

2522. Each Standard Cross-currency Rates Derivatives Contract shall be governed by and construed in accordance with the laws of Hong Kong and the parties irrevocably agree for the benefit of OTC Clear that the courts of Hong Kong shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. Each Clearing Member hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of Hong Kong shall not (and shall not be construed so as to) limit the right of OTC Clear to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude OTC Clear from taking action in any other jurisdiction, whether concurrently or not.

## Chapter 26 Product Specific Terms for Deliverable FX Derivatives Contracts

### Product Specific Terms for Deliverable FX Derivatives Contracts

2601. The terms of a Deliverable FX Forward Contract and a Deliverable FX Swap Contract shall include the following terms (the “**Deliverable FX Forward Contract Terms**” and “**Deliverable FX Swap Contract Terms**” respectively):
- (1) Clearing Rules 2603 to 2610 (the “**Interpretation Provisions**”);
  - (2) the Economic Terms; and
  - (3) the General Terms, as set out in Clearing Rules 2617 to 2621,
- each as interpreted in accordance with the Interpretation Provisions.
2602. In the event of any inconsistency between the Economic Terms and the General Terms, the General Terms will prevail.

### Interpretation

2603. Sections 8.1 and 8.2 of the ISDA Definitions and the FX Definitions (Sections 8.1 and 8.2 of the ISDA Definitions and the FX Definitions together, the “**ISDA FX Definitions**”), each outstanding as at 30 April 2018, are incorporated by reference into these Deliverable FX Forward Contract Terms and Deliverable FX Swap Contract Terms. Unless otherwise specified, capitalized terms used in the Deliverable FX Forward Contract Terms and Deliverable FX Swap Contract Terms but not defined in the Clearing Documentation shall have the meanings given to them in the ISDA FX Definitions. In the event of any inconsistency between the ISDA FX Definitions and the Clearing Documentation, the Clearing Documentation will prevail.
2604. In respect of a Deliverable FX Forward Contract or Deliverable FX Swap Contract with one of the notional amounts denominated in CNY (offshore), the CNY (offshore) Disruption Provisions shall be incorporated by reference into the relevant Deliverable FX Forward Contract Terms or Deliverable FX Swap Contract Terms respectively.
2605. In deriving the Economic Terms of the Deliverable FX Forward Contract or Deliverable FX Swap Contract, as the case may be, from the Transaction Data of the corresponding Original Deliverable FX Forward Transaction or Original Deliverable FX Swap Transaction respectively, all references in the ISDA FX Definitions to an “**FX Transaction**” shall be deemed to be references to an “**Original Deliverable FX Forward Transaction**” or “**Original Deliverable FX Swap Transaction**” respectively.
2606. Subject to subsequent ISDA FX Deliverables Amendment adopted by OTC Clear pursuant to Clearing Rule 2607, the ISDA FX Definitions and the Deliverable FX Forward Contract Terms or Deliverable FX Swap Contract Terms applicable to a Deliverable FX Forward Contract or Deliverable FX Swap Contract respectively shall be those applicable as at the Registration Time of the relevant Deliverable FX Forward Contract or Deliverable FX Swap Contract.
2607. In case of any amendment to the ISDA FX Definitions, publication of any supplement, annex or standard terms relating to the ISDA FX Definitions by ISDA, EMTA or FXC jointly or severally or publication of any supplement, annex or protocol by ISDA relating to amendment to the CNY (offshore) Disruption Provisions (each an “**ISDA FX Deliverables Amendment**”), OTC Clear may, in its sole discretion, determine whether any such ISDA FX Deliverables Amendment should be adopted for the purpose of interpreting or implementing the Deliverable FX Forward Contract Terms or Deliverable FX Swap Contract Terms, as the

case may be, the manner of any such adoption and when such adoption shall take effect, and notify all Clearing Members of the same. Any non-receipt of such notice by Clearing Members shall not invalidate the effectiveness of the adoption of ISDA FX Deliverables Amendment by OTC Clear.

2608. In respect of any adoption of ISDA FX Deliverables Amendment by OTC Clear, such adopted ISDA FX Deliverables Amendment shall govern the Deliverable FX Forward Contract Terms of each Deliverable FX Forward Contract and Deliverable FX Swap Contract Terms of each Deliverable FX Swap Contract, as the case may be, then registered with OTC Clear, and any prospective payment obligations arising out of each such Deliverable FX Forward Contract or Deliverable FX Swap Contract, as the case may be, shall be construed accordingly.
2609. The Deliverable FX Forward Contract Terms and Deliverable FX Swap Contract Terms supplement, form part of, and are subject to these Clearing Rules. In the event of any inconsistency between the Deliverable FX Forward Contract Terms or Deliverable FX Swap Contract Terms and these Clearing Rules, these Clearing Rules will prevail.
2610. Except where expressly stated otherwise, all reference to “**Sections**” means Sections in the ISDA FX Definitions.

### **Economic Terms**

2611. The Economic Terms of a Deliverable FX Forward Contract and Deliverable FX Swap Contract are derived from the Transaction Data relating to the corresponding Original Deliverable FX Forward Transaction and Original Deliverable FX Swap Transaction respectively. The Original Deliverable FX Forward Transaction or Original Deliverable FX Swap Transaction submitted to OTC Clear for registration must include information that satisfies each of the relevant Economic Terms fields set out in Clearing Rule 2612.
2612. The Economic Terms fields comprise:
- (1) In respect of a Deliverable FX Forward Contract:
    - (a) Trade Date (Section 1.25 of the FX Definitions);
    - (b) Notional Amount (Section 1.17(a) of the FX Definitions) and currency payable by one party and the identity of such party;
    - (c) Notional Amount (Section 1.17(a) of the FX Definitions) and currency payable by another party and the identity of such party; and
    - (d) Settlement Date (Section 1.24 of the FX Definitions); and
  - (2) In respect of a Deliverable FX Swap Contract:
    - (a) Trade Date (Section 1.25 of the FX Definitions);
    - (b) In near leg:
      - (A) Notional Amount (Section 1.17(a) of the FX Definitions) and currency payable by one party and the identity of such party;
      - (B) Notional Amount (Section 1.17(a) of the FX Definitions) and currency payable by another party and the identity of such party; and
      - (C) Settlement Date (Section 1.24 of the FX Definitions); and
    - (c) In far leg:

- (A) Notional Amount (Section 1.17(a) of the FX Definitions) and currency payable by one party and the identity of such party;
- (B) Notional Amount (Section 1.17(a) of the FX Definitions) and currency payable by another party and the identity of such party; and
- (C) Settlement Date (Section 1.24 of the FX Definitions).

2613. Pursuant to Clearing Rule 806(1), (1) if Clearing Member 1 was the party paying Notional Amount A to, and receiving Notional Amount B from, Clearing Member 2, and Clearing Member 2 was the party paying Notional Amount B to, and receiving Notional Amount A from, Clearing Member 1 under an Original Deliverable FX Forward Transaction, then upon registration of the same as two Deliverable FX Forward Contracts between OTC Clear and each of Clearing Member 1 and Clearing Member 2, and when deriving the relevant Economic Terms relating to the relevant payer of each of Notional Amount A and Notional Amount B from the Transaction Data of the corresponding Original Deliverable FX Forward Transaction, the terms shall be derived such that OTC Clear will pay Notional Amount A to, and receive Notional Amount B from, Clearing Member 2 in one Deliverable FX Forward Contract and pay Notional Amount B to, and receive Notional Amount A from, Clearing Member 1 in another Deliverable FX Forward Contract; and (2) under an Original Deliverable FX Swap Transaction if (a) Clearing Member 1 was the party paying Notional Amount C to, and receiving Notional Amount D from, Clearing Member 2, and Clearing Member 2 was the party paying Notional Amount D to, and receiving Notional Amount C from, Clearing Member 1 in the near leg and (b) Clearing Member 1 was the party paying Notional Amount E to, and receiving Notional Amount F from, Clearing Member 2, and Clearing Member 2 was the party paying Notional Amount F to, and receiving Notional Amount E from, Clearing Member 1 in the far leg, then upon registration of the same as two Deliverable FX Swap Contracts between OTC Clear and each of Clearing Member 1 and Clearing Member 2, and when deriving the relevant Economic Terms relating to the relevant payer of each of Notional Amount C, Notional Amount D, Notional Amount E and Notional Amount F from the Transaction Data of the corresponding Original Deliverable FX Swap Transaction, the terms shall be derived such that (c) in one Deliverable FX Swap Contract OTC Clear will pay Notional Amount C to, and receive Notional Amount D from, Clearing Member 2 in the near leg and pay Notional Amount E to, and receive Notional Amount F from, Clearing Member 2 in the far leg and (d) in another Deliverable FX Swap Contract OTC Clear will pay Notional Amount D to, and receive Notional Amount C from, Clearing Member 1 in the near leg and pay Notional Amount F to, and receive Notional Amount E from, Clearing Member 1 in the far leg.

2614. Pursuant to Clearing Rule 806(2), (1) if the Relevant Client was the party paying Notional Amount A to, and receiving Notional Amount B from, Clearing Member 4, and Clearing Member 4 was the party paying Notional Amount B to, and receiving Notional Amount A from, the Relevant Client under an Original Deliverable FX Forward Transaction, then upon registration of the same as two Deliverable FX Forward Contracts between OTC Clear and each of Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) and Clearing Member 4 (in respect of its House Position Account), and when deriving the relevant Economic Terms relating to the relevant payer of each of Notional Amount A and Notional Amount B from the Transaction Data of the corresponding Original Deliverable FX Forward Transaction, the terms shall be derived such that OTC Clear will pay Notional Amount A to, and receive Notional Amount B from, Clearing Member 4 (in respect of its House Position Account) in one Deliverable FX Forward Contract and pay Notional Amount B to, and receive Notional Amount A from, Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) in another Deliverable FX Forward Contract; and (2) under an

Original Deliverable FX Swap Transaction if (a) the Relevant Client was the party paying Notional Amount C to, and receiving Notional Amount D from, Clearing Member 4, and Clearing Member 4 was the party paying Notional Amount D to, and receiving Notional Amount C from, the Relevant Client in the near leg and (b) the Relevant Client was the party paying Notional Amount E to, and receiving Notional Amount F from, Clearing Member 4, and Clearing Member 4 was the party paying Notional Amount F to, and receiving Notional Amount E from, the Relevant Client in the far leg, then upon registration of the same as two Deliverable FX Swap Contracts between OTC Clear and each of Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) and Clearing Member 4 (in respect of its House Position Account), and when deriving the relevant Economic Terms relating to the relevant payer of each of Notional Amount C, Notional Amount D, Notional Amount E and Notional Amount F from the Transaction Data of the corresponding Original Deliverable FX Swap Transaction, the terms shall be derived such that (c) in one Deliverable FX Swap Contract OTC Clear will pay Notional Amount C to, and receive Notional Amount D from, Clearing Member 4 (in respect of its House Position Account) in the near leg and pay Notional Amount E to, and receive Notional Amount F from, Clearing Member 4 (in respect of its House Position Account) in the far leg and (d) in another Deliverable FX Swap Contract OTC Clear will pay Notional Amount D to, and receive Notional Amount C from, Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) in the near leg and pay Notional Amount F to, and receive Notional Amount E from, Clearing Member 3 (in respect of its Client Position Account relating to the Relevant Client) in the far leg.

If, pursuant to Clearing Rule 806(2)(c), Clearing Member 3 and Clearing Member 4 are the same Clearing Member, then (3) OTC Clear will pay Notional Amount A to, and receive Notional Amount B from, such Clearing Member's House Position Account in one Deliverable FX Forward Contract, and OTC Clear will pay Notional Amount B to, and receive Notional Amount A from, such Clearing Member's Client Position Account relating to the Relevant Client in another Deliverable FX Forward Contract; and (4)(a) in one Deliverable FX Swap Contract, OTC Clear will pay Notional Amount C to, and receive Notional Amount D from, such Clearing Member's House Position Account in the near leg and pay Notional Amount E to, and receive Notional Amount F from, such Clearing Member's House Position Account in the far leg and (b) in another Deliverable FX Swap Contract, OTC Clear will pay Notional Amount D to, and receive Notional Amount C from, such Clearing Member's Client Position Account relating to the Relevant Client in the near leg and pay Notional Amount F to, and receive Notional Amount E from, such Clearing Member's Client Position Account relating to the Relevant Client in the far leg.

2615. Pursuant to Clearing Rule 806(3), (1) if Client 1 was the party paying Notional Amount A to, and receiving Notional Amount B from, Client 2, and Client 2 was the party paying Notional Amount B to, and receiving Notional Amount A from, Client 1 under an Original Deliverable

FX Forward Transaction, then upon registration of the same as two Deliverable FX Forward Contracts between OTC Clear and each of Clearing Member 5 (in respect of its Client Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client Position Account relating to Client 2), and when deriving the relevant Economic Terms relating to the relevant payer of each of Notional Amount A and Notional Amount B from the Transaction Data of the corresponding Original Deliverable FX Forward Transaction, the terms shall be derived such that OTC Clear will pay Notional Amount A to, and receive Notional Amount B from, Clearing Member 6 (in respect of its Client Position Account relating to Client 2) in one Deliverable FX Forward Contract and pay Notional Amount B to, and receive Notional Amount A from, Clearing Member 5 (in respect of its Client Position Account relating to Client 1) in another Deliverable FX Forward Contract; and (2) under an Original Deliverable FX Swap Transaction if (a) Client 1 was the party paying Notional Amount C to, and receiving Notional Amount D from, Client 2, and Client 2 was the party paying Notional Amount D to, and receiving Notional Amount C from, Client 1 in the near leg and (b) Client 1 was the party paying Notional Amount E to, and receiving Notional Amount F from, Client 2, and Client 2 was the party paying Notional Amount F to, and receiving Notional Amount E from, Client 1 in the far leg, then upon registration of the same as two Deliverable FX Swap Contracts between OTC Clear and each of Clearing Member 5 (in respect of its Client Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client Position Account relating to Client 2), and when deriving the relevant Economic Terms relating to the relevant payer of each of Notional Amount C, Notional Amount D, Notional Amount E and Notional Amount F from the Transaction Data of the corresponding Original Deliverable FX Swap Transaction, the terms shall be derived such that (c) in one Deliverable FX Swap Contract OTC Clear will pay Notional Amount C to, and receive Notional Amount D from, Clearing Member 6 (in respect of its Client Position Account relating to Client 2) in the near leg and pay Notional Amount E to, and receive Notional Amount F from, Clearing Member 6 (in respect of its Client Position Account relating to Client 2) in the far leg and (d) in another Deliverable FX Swap Contract OTC Clear will pay Notional Amount D to, and receive Notional Amount C from, Clearing Member 5 (in respect of its Client Position Account relating to Client 1) in the near leg and pay Notional Amount F to, and receive Notional Amount E from, Clearing Member 5 (in respect of its Client Position Account relating to Client 1) in the far leg.

If, pursuant to Clearing Rule 806(3)(c), Clearing Member 5 and Clearing Member 6 are the same Clearing Member, then (3) OTC Clear will pay Notional Amount A to, and receive Notional Amount B from, such Clearing Member's Client Position Account relating to Client 2 in one Deliverable FX Forward Contract, and OTC Clear will pay Notional Amount B to, and receive Notional Amount A from, such Clearing Member's Client Position Account relating to Client 1 in another Deliverable FX Forward Contract; and (4)(a) in one Deliverable FX Swap Contract, OTC Clear will pay Notional Amount C to, and receive Notional Amount D from, such Clearing Member's Client Position Account relating to Client 2 in the near leg and pay Notional Amount E to, and receive Notional Amount F from, such Clearing Member's Client Position Account relating to Client 2 in the far leg and (b) in another Deliverable FX Swap Contract, OTC Clear will pay Notional Amount D to, and receive Notional Amount C from, such Clearing Member's Client Position Account relating to Client 1 in the near leg and pay Notional Amount F to, and receive

Notional Amount E from, such Clearing Member's Client Position Account relating to Client 1 in the far leg.

### **General Terms**

2616. Clearing Rules 2617 to 2621 are designated as General Terms of a Deliverable FX Forward Contract and a Deliverable FX Swap Contract.

### **Clearing Rules**

2617. A Deliverable FX Forward Contract and a Deliverable FX Swap Contract shall be subject to the Clearing Rules, which shall form a part of their relevant terms. In the event of any inconsistency between these Contract Terms and the Clearing Rules, the Clearing Rules will prevail.

### **Calculation Agent**

2618. OTC Clear shall be deemed the Calculation Agent in respect of each Deliverable FX Forward Contract and Deliverable FX Swap Contract.

### **Rounding**

2619. Sections 8.1 and 8.2 of the ISDA Definitions will apply to a Deliverable FX Forward Contract and a Deliverable FX Swap Contract.

### **Tax Provisions**

2620. Chapter 11 of these Clearing Rules shall form part of the Deliverable FX Forward Contract Terms and Deliverable FX Swap Contract Terms as if they were set out in full herein.

### **Governing Law**

2621. Each Deliverable FX Forward Contract and Deliverable FX Swap Contract shall be governed by and construed in accordance with the laws of Hong Kong and the parties irrevocably agree for the benefit of OTC Clear that the courts of Hong Kong shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. Each Clearing Member hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of Hong Kong shall not (and shall not be construed so as to) limit the right of OTC Clear to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude OTC Clear from taking action in any other jurisdiction, whether concurrently or not.