

## 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.