

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.