

## **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.