

香港場外結算有限公司  
(香港交易及結算所有限公司附屬公司)

**OTC CLEARING HONG KONG LIMITED**  
(A subsidiary of Hong Kong Exchanges and Clearing Limited)

## 通告 CIRCULAR

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**Subject:** Amendments to the Clearing Rules and Clearing Procedures of OTC Clearing Hong Kong Limited ("OTC Clear")

**Enquiry:** OTC Clear Operation Team : 2211 6538

Clearing Members of OTC Clear are requested to note that the Securities and Futures Commission has approved amendments to the Clearing Rules and Clearing Procedures in connection with:

1. the introduction of client clearing services for Hong Kong-incorporated Clearing Members who provide client clearing services through their Hong Kong head office; and
2. the acceptance of certain non-cash collateral from Hong Kong-incorporated Clearing Members.

The amendments, as shown in blackline in the Appendix, will come into effect on Monday, 20 March 2017.

The marked-up version of the amendments can be downloaded from the "Rule Update - Rules and Procedures of OTC Clear" section of the HKEX website.

Ferheen Mahomed  
Group General Counsel

**Amendments to OTC Clear's Clearing Rules and Clearing Procedures**

**OTC Clear Rates and FX Derivatives Clearing Rules**

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## **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 any types of 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<sup>4</sup>, 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 75% 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.

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<sup>4</sup> Client clearing service will not be available during the initial phase of establishment of OTC Clear.

## 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 Clearing Member”</b>	<u>has the meaning given to it in section 3.19 of the Clearing Procedures;</u>
<b>“Affected Contract”</b>	means any Contract registered in the name of the Defaulting Clearing Member in relation to its Client Clearing Services;
<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 <u>in force from time to time</u> , 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 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 any Auction Receivable payable by OTC Clear to the Successful Bidder, <u>the Unsettled VM Amount 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)</u> and/or 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 Payment”</b>	means the amount a Successful Bidder must pay to OTC Clear for the registration of the relevant Auction Contracts to such Successful Bidder;
<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;
<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 <del>(Laws of Hong Kong Cap.155);</del>
<b>“Automatic Early Termination Event”</b>	has the meaning given to it in Clearing Rule 1303;
<b>“Banking Ordinance”</b>	<u>means the Banking Ordinance (Laws of Hong Kong Cap. 155);</u>
<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>“Black Rainstorm Warning”</b>	<del>means the level “black” of the rainstorm warning system which is issued by the Hong Kong Observatory;</del>
<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> ); <del>and</del> <u>(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</u> (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), <del>and</del> the Clearing Notices <u>and any Deed of Charge</u> , 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</b>	means any notice, announcement, circular, guidance or practice note

<b>Notice</b>	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 Agreement”</b>	means the client clearing agreement between a Clearing Member and a Client <u>which governs the terms on which Client Clearing Services are provided and which contains the terms set out in Clearing Rule 817(3) in a form acceptable to OTC Clear from time to time;</u>
<b>“Client Clearing Category”</b>	has the meaning given to it in Clearing Rule 819;
<b>“Client Clearing Category 1 Account Balance”</b>	<u>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;</u>
<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”</b>	means a Client in respect of whom a Clearing Member offers Client Clearing Services on Client Clearing Category 1 Account Basis;

<b>Client”</b>	
<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><u>“Client Clearing Category 2 Account Balance”</u></b>	<u>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;</u>
<b><u>“Client Clearing Category 2 Account Basis”</u></b>	<u>means Client Clearing Services which are provided by a Clearing Member to the relevant Client through a Client Clearing Category 2 Position Account;</u>
<b><u>“Client Clearing Category 2 Accounts”</u></b>	<u>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;</u>
<b><u>“Client Clearing Category 2 Client”</u></b>	<u>means a Client in respect of whom a Clearing Member offers Client Clearing Services on Client Clearing Category 2 Account Basis;</u>
<b><u>“Client Clearing Category 2 Collateral Account”</u></b>	<u>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;</u>
<b><u>“Client Clearing Category 2 Position Account”</u></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>	<u>means a Client Clearing Category 1 Collateral Account or Client Clearing Category 2 Collateral Account;</u>
<b>“Client Entitlement”</b>	has the meaning given to it in <u>Clearing Rule 1307(2)(a)(A)</u> means: (1) <u>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</u> (2) <u>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;</u>
<b>“Client Position Account”</b>	<u>means a Client Clearing Category 1 Position Account or Client Clearing Category 2 Position Account;</u>
<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>	<u>has the meaning given to it in Clearing Rule 1324(4)(a);</u>
<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 <del>October 14</del> <u>September 8, 2014</u> , <u>2016</u> ” 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</b>	has the meaning given to it in Clearing Rule 903;

<b>Account</b>	
<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 Terms”</b>	means any of the Standard Rates Derivatives Contract Terms, Standard Cross-currency Rates Derivatives Contract Terms, Non Deliverable Rates Derivatives Contract Terms and FX Derivatives Contract Terms, as applicable;
<b>“Contractual Currency”</b>	<p>means:</p> <p>(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;</p> <p>(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;</p> <p>(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; and</p> <p>(4) in respect of a FX Derivatives Contract or an Original FX Derivatives Transaction, the “Settlement Currency” of such FX Derivatives Contract or Original FX Derivatives Transaction, as the case may be,</p> <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><u>“Corresponding Client Transaction”</u></b>	<u>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;</u>
<b>“Currency Cum</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

<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>	<u>means any custodian appointed by OTC Clear from time to time;</u>
<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 relating to such Auction Portfolio after <del>utilization of the DCM Margin in full</del> <u>all applications pursuant to Clearing Rule 1914(1)</u> 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 relating to such Auction Portfolio after utilization of the <del>DCM Margin</del> <u>Initial House Resources</u> in full;
<b>“DCM Margin”</b>	has the meaning given to it in Clearing Rule 1913(A)(1);
<b>“Deed of Charge”</b>	<u>means a deed of charge between a Clearing Member and OTC Clear in respect of non-cash Collateral;</u>
<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>“DTC”</b>	means a “deposit-taking company” which has the same meaning as in the Banking Ordinance <del>(Laws of Hong Kong Cap. 155);</del>
<b>“Derivative”</b>	means:

	<p>which is DMG Information; and</p> <p>(3) details of the Permitted Purpose and any of the proposals, terms, conditions, facts or other matters relating to any of the foregoing;</p>
<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;
<b>“DSMatch”</b>	<del>means the matching and confirmation system provided by MarkitSERV, LLC for over-the-counter derivatives transactions;</del>
<b>“Early Termination Date”</b>	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 <u>or novated</u> with effect from the Early Termination Date relating to it;
<b>“Economic Terms”</b>	means the terms of a Contract derived from the Transaction Data relating to the corresponding Original Transaction;
<b>“Eligible Currency”</b>	<del>means any of Hong Kong dollars, U.S. dollars (“USD”), Euros (“EUR”) and CNY (offshore). The list of Eligible Currencies may be amended or updated by OTC Clear from time to time;</del>
<b>“Eligibility Requirements”</b>	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;
<b>“Eligible Currency”</b>	<u>means any of Hong Kong dollars, U.S. dollars (“USD”), Euros (“EUR”) and CNY (offshore). The list of Eligible Currencies may be amended or updated by OTC Clear from time to time;</u>
<b>“Emergency Close-Out”</b>	<p>means the process by which:</p> <p>(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; and (c) in respect of a FX Derivatives Contract, if the Clearing Member is a Reference Currency Buyer under</p>

	<p>such FX Derivatives Contract, such Clearing Member shall become the Reference Currency Seller under the new 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;</p> <p>(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 <u>on the designated Early Termination Date</u>; or</p> <p>(3) a Contract is terminated at a price and on the terms determined by OTC Clear in a commercially reasonable manner <u>on the designated Early Termination Date</u>;</p>
<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>“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 <del>House Position Account or Client Clearing Category 1 Position Account(s)</del> , 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 <u>and any Ad Hoc Intra-day VM Call</u> (but excluding any requirements in respect of end-of-day Variation Margin <del>or Ad Hoc Intra-day VM Call</del> ), in each case, applicable to the relevant <del>House Position Account or Client Clearing Category 1 Position Account</del> ;
<b>“Expected Uncollateralized Loss”</b>	<del>has the meaning given to it in section 6.1.1(4) of the Clearing Procedures;</del>
<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</b>	has the meaning given to it in the ISDA Definitions;

<b>Date”</b>	
<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>“Full First Calculation Period”</b>	<del>has the meaning given to it in the 2004 ISDA Novation Definitions, as published by ISDA;</del>
<b>“FXC”</b>	means The Foreign Exchange Committee;
<b>“FX Derivatives”</b>	means the types of derivative transactions identified as such in accordance with Chapter 3 of the Clearing Procedures;
<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 Derivatives Contract Terms”</b>	has the meaning given to it in Clearing Rule 2401;
<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 Trade Repository – Matching and Confirmation”</b>	<del>means the matching and confirmation service provided by HKMA for over-the-counter derivatives transactions;</del>

<b>er “HKTR-MC service”</b>	
<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>	<u>has the meaning given to it in Clearing Rule 1913A;</u>
<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>	<u>has the meaning given to it in Clearing Rule 1306A(3);</u>
<b>“House Position Account”</b>	has the meaning given to it in Clearing Rule 902(1);
<b>“Hypothetical IM Percentage”</b>	<u>has the meaning given to it in Clearing Rule 1914(1)(c);</u>
<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</b>	has the meaning given to it in the ISDA Definitions;

<b>Amount”</b>	
<b>“Initial Exchange Date”</b>	has the meaning given to it in the ISDA Definitions;
<b>“Initial House Resources”</b>	<u>has the meaning given to it in Clearing Rule 1913A(1);</u>
<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>	<u>has the meaning given to it in Clearing Rule 1913B(1);</u>
<b>“Initial Order Notice”</b>	has the meaning given to it in Clearing Rule 1408;
<b>“Insolvency Proceedings”</b>	<p>means where an entity:</p> <ol 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 or filing its inability generally to pay its debts as they become due;</li> <li>(3) makes a general assignment, arrangement or composition with or for the benefit of its creditors;</li> <li>(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: <ul style="list-style-type: none"> <li>(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</li> <li>(b) is not dismissed, discharged, stayed or restrained in each case within 30 calendar days of the institution or presentation thereof;</li> </ul> </li> <li>(5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);</li> <li>(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;</li> <li>(7) has a secured party take possession of all or substantially all</li> </ol>

	<p>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>"Junior Tranche"</b>	has the meaning given to it in Clearing Rule 1914(4)(a);
<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 <del>(1)</del> (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 been successfully auctioned and all Auction Receivables and/or Auction Payments in respect of each such Auction Portfolio has been discharged in full by the relevant party on or prior to the Auction Receivable Payment Date or Auction Payment Date, respectively; 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 been successfully auctioned and the related Auction Receivables and/or Auction Payments have been discharged in full by the relevant party on or prior to the Auction Receivable Payment Date or Auction Payment Date, respectively;
<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 <del>of the</del> <u>determined by OTC Clear to be the riskiness of such Auction Portfolio, calculated by reference to the hypothetical Initial Margin (expressed as a positive number) with respect to such Auction Portfolio 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;</u>
<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>	<u>means:</u> (1) <u>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</u> (2) <u>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</u>

	<u>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;</u>
<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-, <u>Ad Hoc Intra-day Variation Margin</u> and Routine <del>Intra-Day</del> - <u>Intra-day Variation Margin</u> 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>“Margin Process Hours”</b>	<del>has the meaning given to it in section 1.3 of the Clearing Procedures;</del>
<b>“MarkitWire”</b>	<del>means the matching and confirmation service provided by MarkitSERV Limited for over-the-counter derivatives transactions;</del>
<b>“Maximum Current Liability”</b>	has the meaning given to it in Clearing Rule 1544;
<b>“Max EUL”</b>	<del>Has</del> <u>has</u> 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>	means: <ul 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> </ul>

	<p>(5) in respect of the designation of an Early Termination Date arising out of:</p> <ul 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> </ul> <p>in each case referred to in paragraphs (5)(a), (b) and (c) above, if <del>the Termination Amount</del> <u>an OTC Clear Default CM Receivable</u> is payable by OTC Clear, the Membership Termination Date shall be the day on which such <del>Termination Amount</del> <u>OTC Clear Default CM Receivable</u> becomes due and payable by OTC Clear; and if <del>the Termination Amount</del> <u>an OTC Clear Default Final CM Payable</u> 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 <del>Termination Amount</del> <u>OTC Clear Default Final CM Payable</u> pursuant to Clearing Rule <del>1324(4)(b)</del> <u>1324(7)(d)</u>;</p>
<p><b>“Middle Tranche”</b></p>	<p>has the meaning given to it in Clearing Rule 1914(4)(b);</p>
<p><b>“Minimum Capital Requirement”</b></p>	<p>means, in respect of any day in a calendar month:</p> <ul style="list-style-type: none"> <li>(1) with respect to any Clearing Member who is an Authorized Institution that is a bank (incorporated in Hong Kong or overseas<sup>2</sup>), an Authorized Institution that is a DTC or RLB incorporated overseas*, or a Remotely Regulated Entity, the higher of: <ul style="list-style-type: none"> <li>(a) HK\$10 billion; and</li> <li>(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 <del>Clearing Category 1</del> Position Accounts) of the Clearing Member for each day falling in the immediately preceding calendar month;</li> </ul> </li> <li>(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:</li> </ul>

<sup>2</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.

	<ul style="list-style-type: none"> <li>(a) HK\$ 390 million;</li> <li>(b) the capital requirement applicable to such Clearing Member set forth in the Seventh Schedule to the Banking Ordinance (<del>Laws of Hong Kong Cap. 155</del>); and</li> <li>(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 <del>Clearing Category 4</del> Position Accounts) of the Clearing Member for each day falling in the immediately preceding calendar month; and</li> </ul> <p>(3) with respect to any Clearing Member who is a Licensed Corporation, the higher of:</p> <ul style="list-style-type: none"> <li>(a) HK\$ 390 million;</li> <li>(b) the “required liquid capital” set forth by the Financial Resources Rule; and</li> <li>(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 <del>Clearing Category 4</del> Position Accounts) of the Clearing Member for each day falling in the immediately preceding calendar month;</li> </ul>
<b>“Minimum Capital Requirement Breach Period”</b>	has the meaning given to it in Clearing Rule 404(1);
<b>“Mitigating Measures”</b>	means the measures set out in sub-paragraphs (ii)(b), (ii)(c) and (ii)(d)(B) of section <del>3.14</del> <u>3.19</u> of the Clearing Procedures;
<b>“NDCM GF”</b>	has the meaning given to it in Clearing Rule <del>1913(4)</del> <u>1913A(4)</u> ;
<b>“NDCM GF Auction Shortfall”</b>	means, with respect to an Auction Portfolio, the amount by which (1) the remaining Auction 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 Auction 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 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 Rates Derivatives”</b>	means the types of derivative transactions satisfying the Product Eligibility <del>Requirements</del> 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-Hong Kong Incorporated Person”</b>	<del>means any Licensed Corporation or Authorized Institution with jurisdiction of incorporation outside Hong Kong, or any Remotely Regulated Entity;</del>
<b>“Non-Porting Client”</b>	has the meaning given to it in Clearing Rule <del>1707</del> <u>1708</u> ;
<b>“Non-Porting Client Credit”</b>	<u>has the meaning given to it in Clearing Rule 1306A(4);</u>
<b>“Non-Porting Client Deficit”</b>	<u>has the meaning given to it in Clearing Rule 1306A(3);</u>

<b><u>“Non-Porting Client Margin”</u></b>	has the meaning given to it in Clearing Rule 1913B(1);
<b><u>“Non-Porting Contracts”</u></b>	means, in respect of a Porting Client of a Defaulting Clearing Member, <u>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;</u>
<b><u>“Non Rule-Based Clearing Member”</u></b>	<u>means a Clearing Member who is not a Rule-Based Clearing Member;</u>
<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><del>“Novation Date”</del></b>	<del>has the meaning given to it in the 2004 ISDA Novation Definitions, as published by ISDA;</del>
<b>“Notional Exchange Failure”</b>	means a failure by a Clearing Member (a “Non-delivering Clearing Member”) to deliver an Initial Exchange Amount or Final Exchange Amount, 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;
<b>“Notional Exchange Failure Adjustment Amount”</b>	<del>Has</del> has the meaning given to it in section <del>3.14</del> <u>3.19</u> 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 FX Derivatives Transaction”</b>	means an Original Transaction in relation to a 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>	<u>has the meaning given to it in Clearing Rule 1324(8)(b);</u>
<b>“OTC Clear Default CM”</b>	<u>has the meaning given to it in Clearing Rule 1324(7)(a);</u>

<b><u>Receivable</u></b>	
<b><u>“OTC Clear Default Final CM Payable”</u></b>	has the meaning given to it in Clearing Rule 1324(7)(d);
<b><u>“OTC Clear Default Interim CM Payable”</u></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><u>“Paying Clearing Member”</u></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</b>	means the Personal Data (Privacy) Ordinance (Laws of Hong Kong

<b>(Privacy Ordinance)</b>	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 of <del>determined by OTC Clear to be the riskiness of such Auction Portfolio, calculated by reference to the hypothetical Initial Margin (expressed as a positive number) with respect to such Auction Portfolio</del> 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 Client"</b>	has the meaning given to it in Clearing Rule <del>4707</del> 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 terminate all Affected Contracts registered in the name of the original Clearing Member in respect of the Client <del>Clearing Category 1</del> Position Account relating to such Client and re-establishing the same with the Replacement Clearing Member should an Event of Default occur with respect to the original Clearing Member;
<b>"Position Account"</b>	means a Client <del>Clearing Category 1</del> 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 <del>t</del> during the Loss Distribution Period, the sum of Currency Cum MTM(t) in all currencies payable on such Position Account;
<b>"Position Account Cum VM Flow(t)"</b>	<del>means, with respect to each Position Account of each Non-Defaulting Clearing Member and an OTC Clear Clearing Day t, the sum of the Currency Cum VM Flow(t) in all currencies payable on such Position Account;</del>
<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 <del>Clearing Category 1</del> 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 Determination Date”</b>	means each of the days referred to in Clearing Rule 1503;
<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</b>	means, at any given time, the aggregate value of all CM Funded Contribution Amounts at such time;

<b>Fund</b>	
<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>	<u>has the meaning given to it in Clearing Rule 2001;</u>
<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 or TDRP02)” <u>in respect of a House Position Account or Report Number TDRP01_C or TDRP02_C in respect of a Client Position Account)</u> 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 ( <del>Laws of Hong Kong Cap. 155</del> ) and (b) the Banking (Capital) Rules (Laws of Hong Kong Cap. 155L) for Authorized Institutions incorporated in Hong Kong;
<b>“Relevant Affected Contract”</b>	<del>has the meaning given to it in Clearing Rule 1308(1)(a);</del>
<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>	<del>has the meaning given to it in Clearing Rule 1306A(4);</del>

<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>“Report Usage Guide”</b>	<del>means a user manual which details the specification of each report published by OTC Clear, the guidance for interpreting the contents therein, and the frequency of publication of each such report;</del>
<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 <del>(Laws of Hong Kong Cap. 155)</del> ;
<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>“Securities and Futures (Client Money) Rules”</b>	<del>means the Securities and Futures (Client Money) Rules (Laws of Hong Kong Cap. 571I);</del>
<b>“Rule-Based Clearing Member”</b>	<u>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;</u>
<b>“Security Assignment Deed”</b>	<u>means a security assignment deed or similar instrument under which entered into between a 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) and a Client in respect of a Client Clearing Agreement in the form prescribed by OTC Clear;</u>

<b>Contract Terms”</b>	
<b>“Successful Bid”</b>	means a Bid that has been accepted by OTC Clear pursuant to Clearing Rule <del>1919-1912</del> 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>“Termination Amount”</b>	<del>has the meaning given to it in Clearing Rule 1324(4);</del>
<b>“Termination Amount Payment Day”</b>	<del>means, with respect to a Termination Amount, any Currency Day for the currency in which such Termination Amount is denominated;</del>
<b>“Termination Gains”</b>	<del>has the meaning given to it in Clearing Rule 1308(2);</del>
<b>“Termination Losses”</b>	<del>has the meaning given to it in Clearing Rule 1308(1);</del>
<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><u>"Transferor Clearing Member"</u></b>	has the meaning given to it in Clearing Rule 825;
<b><u>"Transferee Clearing Member"</u></b>	has the meaning given to it in Clearing Rule 825;
<b><u>"Typhoon Signal Number 3"</u></b>	<del>means the number 3 tropical cyclone warning signal issued by The Hong Kong Observatory;</del>
<b><u>"Typhoon Signal Number 8"</u></b>	<del>means the number 8 tropical cyclone warning signal issued by The Hong Kong Observatory;</del>
<b><u>"U.S. Person"</u></b>	has the same meaning as is given to that term by the CFTC;
<b><u>"Unpaid Amounts"</u></b>	<u>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 the Auction of all Auction Portfolios relating to such DMP Event (excluding, for the avoidance of doubt, any Unsettled VM Amounts);</u>
<b><u>"Unsettled VM Amount"</u></b>	<u>means, in respect of a Position Account, the aggregate sum of the following amount calculated for each Auction Contract relating to that Position Account:</u>  <ol style="list-style-type: none"> <li><u>(1) the net present value of that Auction Contract on the date on which that Auction Contract is registered to a Successful Bidder;</u> <u>minus</u></li> <li><u>(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;</u></li> </ol>
<b><u>"Variation Margin"</u></b>	<del>means, in respect of each Clearing Member's House Position Account and each Client Clearing Category 1 Position Account(s) 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 House Position Account and Client Clearing Category 1 Position Account(s), respectively;</del>
<b><u>"VM Flow Adjustment(t)"</u></b>	means either the Gainer VM Flow Adjustment(t) or Loser VM Flow Adjustment(t), as applicable;
<b><u>"VM Haircut(t)"</u></b>	<u>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;</u>
<b><u>"VM Reversal"</u></b>	means, in respect of a Standard Cross-currency Rates Derivatives

	<p>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>(1) 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>(2) 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>
<b>“VM Haircut(t)”</b>	<del>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;</del>
<b>“VM Shortfall(t)”</b>	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;
<b>“Voluntary Recap Amount”</b>	has the meaning given to it in Clearing Rule 1541;
<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; <u>and</u>
<del><b>“Web Portal User Manual”</b></del>	<del>means a user manual which details the process of raising a request for movement of Collateral or retrieving a report via Web Portal; and</del>
<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) ~~(1)~~ these Clearing Rules;
    - (b) ~~(2)~~ the Clearing Procedures; and
    - (c) ~~(3)~~ the Clearing Notices.
  - (2) the Clearing Rules or the Membership Agreement on the one hand and the Client Clearing Agreement, the Security Assignment 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 Assignment Deed, the Security Assignment 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

- (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. ~~Information and statistics provided by OTC Clear including, but not limited to market prices, numbers of Contracts cleared and risk management assumptions, are made available on the understanding that OTC Clear, its Affiliates and a recognized exchange controller which is the controller of OTC Clear will not be liable or accountable to any party for that information's suitability or applicability for any use other than for managing or reporting activities internal to OTC Clear.~~

### **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;

- (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; ~~or~~
- (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 ~~(911)~~ above, the confidentiality of the information is made known to the recipient (it being understood that, if ~~a case is described in multiple sub-paragraphs 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 ~~(911)~~ 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 provides OTC Clear with information or access to information constituting personal data or is otherwise subject 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 ensure that:

(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) the Clearing Member has obtained all necessary consents prior to the disclosure of such personal data from the data subject; and~~

(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), ~~(v)~~ 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.

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.

## 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 Clearing Category 1 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.

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) ~~shall 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) ~~in respect of each if such Clearing Member is providing Client Clearing Services to its Clients, it shall at all times comply with the provisions relating to Client Clearing Rule 821 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) (15) 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) ~~(16)~~ 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) ~~(17)~~ participate in the implementation of the Default Management Process, including participation in regular fire drills, in accordance with the Clearing Documentation;
- (20) ~~(18)~~ 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) ~~(19)~~ 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) ~~(20)~~ 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) ~~(21)~~ (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 (b 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; and
- (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) ~~(22)~~ 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, the assignment to its Client in respect of the right to receive any Client Entitlement from OTC Clear under the Security Assignment 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.

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(15)~~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 ~~the House each Position Account and all Client Clearing Category 1 Position Accounts (if any)~~ 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 ~~Rule~~ Rules 1306-1, 1306A, 1306B, 1306C and 1307 or to initiate the Default Management Process

## 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 ~~an its Affiliate of a Clearing Member may not be a Client of such Clearing Member and may only may submit Original Transactions for registration in the capacity as the Designated Person of such Clearing Member. An Affiliate of a Clearing Member may however enter into arrangement with an unaffiliated Clearing Member such that it becomes the Client of the relevant unaffiliated Clearing Member for the purpose of utilizing the clearing services offered by OTC Clear.~~
- 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.

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 ~~Clearing Category~~ 4-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 ~~Clearing Category 4~~ 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 ~~Clearing Category 4~~ 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 ~~Clearing Category 4~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~House Position Account or Client Clearing Category 1~~ 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 ~~the a~~ Client ~~Clearing Category 1~~ 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

### **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 ~~did not satisfy the Eligibility Requirements~~ 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 ~~or an Ad Hoc Intra-day VM Call~~ (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, the assignment to its Client in respect of the right to receive any Client Entitlement from OTC Clear under the Security Assignment 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 ~~Clearing Category 1~~ 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 under the Security Assignment Deed pursuant to the terms therein (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 ~~Clearing Category 1~~ 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. ~~Prior~~ 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 any a Client, a Clearing Member shall provide written confirmation to OTC Clear showing that it has delivered to each of its Clients the Client Clearing Services Notice 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) and that each such Client understands that the only claim it may have against OTC Clear is for the payment of the Client Entitlement pursuant to the terms of the Security Assignment Deed.;

- (1) in the case of a Clearing Member who is a Non Rule-Based Clearing Member, enter into a Security Assignment Deed in respect of that Client and in relation to amounts due to it from OTC Clear pursuant to the Default Management Process;
- (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 Assignment Deed between the Defaulting Clearing Member and 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 Assignment Deed between the Defaulting Clearing Member and 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 the Security Assignment 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**”). ~~Pursuant to Clearing Rule 706, an Affiliate of a Clearing Member may not be a Client of such Clearing Member.~~

820. ~~A Clearing Member may offer that offers Client Clearing Services in each Client Clearing Category 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. However, a ~~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 Account(s)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; ~~and 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 Clearing Category 1 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(s) wish to effect porting upon the occurrence of an a DMP Event of Default 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 ~~Clearing Category 1~~ Account(s) relating to such Client(s) 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 ~~Clearing Category 1~~ 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 ~~prior to~~ by 5:00pm (Hong Kong time) on the OTC Clearing Day immediately following the occurrence of an a DMP Event of Default with respect to the original Clearing Member.

### **Segregation of Client ~~Clearing Category 1~~ Accounts**

823. A Clearing Member shall ensure due segregation of Contracts and their related Collateral between its House Account and its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account shall never be applied to meet any payment or delivery demands in respect of any other Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Accounts of such Clearing Member,

provided that this Clearing Rule 823 shall not prejudice the operation of Clearing Rules ~~1307-1308A and 1308-1309~~ in the event of the occurrence of a DMP Event ~~or Clearing Rule 1324(4)(c) in the event of the occurrence of an OTC Clear default.~~

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 ~~Clearing Category 1~~ 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 Members) or under the Security Assignment Deed pursuant to the terms therein (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 Assignment 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 sub-paragraph (1) above.

## Chapter 9 Accounts

### Accounts

901. Each Clearing Member shall establish Position Accounts and Collateral Accounts (including Client ~~Clearing Category 1~~ Position Accounts and Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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; ~~and~~
- (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 ~~an~~ 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 ~~and~~ a in respect of its House Position Account; ~~and~~
- (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 ~~(whether cash or non-cash)~~ 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 ~~3.14~~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 a such Clearing Member representing any income received by OTC Clear on non-cash Collateral transferred to OTC Clear, whether in satisfaction of its Margin requirements or CM Funded Contribution Amount, 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.

~~1006. Distributions of such income 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 ~~the 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 ~~or forming part of the Clearing Member's CM Funded Contribution Amount.~~

- 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 ~~House Position Account and its Client Clearing Category 1 Position Accounts (if any(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.

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.

## **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 ~~Clearing Category 4~~ 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 ~~and/or Ad Hoc Intra-day VM Call~~ calculation on such day, a Clearing Member delivers cash in the relevant Contractual Currency in full satisfaction of its end-of-day Variation Margin ~~and/or Ad Hoc Intra-day VM Call~~ 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 4-I to the Clearing Procedures).
1217. A Clearing Member may provide Collateral in excess of the Initial Margin and/or Additional Margin requirements applicable to ~~its House Position Account or any of its Client Clearing Category 1 Position Account(s)~~. Any such Collateral provided by a Clearing Member will be credited to the ~~relevant Collateral Account(s) in respect of its House Position Account or Client~~ designated by the Clearing Category 1 Position Account(s) 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 Variation Margin provided by a Clearing Member 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 ~~and/or Ad Hoc Intra-day VM Call calculation~~ in respect of the relevant Position Account on such day, and such Collateral shall form part of the Margin Balance ~~with respect to 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, ~~or the Clearing Member has obtained unconditional consent from the legal and beneficial owner of the Collateral for the use or application of such Collateral by the Clearing Member in accordance with these Clearing Rules;~~
- (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; ~~and~~
  - (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, the assignment of right to the Client to receive any Client Entitlement from OTC Clear under the Security Assignment Deed relating to such Collateral; ~~and~~
- (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.

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**

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 ~~Clearing Category 1~~ 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 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. In addition, OTC Clear may, at its discretion:

- (1) require a Clearing Member to ~~terminate or liquidate such Contracts to the extent necessary to reduce its open position(s) so as to meet its Position Limit within such time as OTC Clear may prescribe~~ clear certain Contracts and/or enter into risk-reducing Contracts;
- (2) demand Additional Margin as OTC Clear in its discretion determines; 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;

- (b) to apply any Collateral in the form of cash, and arranging for the liquidation of any non-cash Collateral and applying the ~~liquidation 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 ~~Rule~~ 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. Subject to Applicable Laws, OTC Clear agrees to exercise its default powers in such a manner as to comply with its obligations under the Security Assignment Deed.

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 ~~under 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 ~~under 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 ~~Rule~~ 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 ~~Rule~~ 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.

~~1306.~~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 trade values (as further described below in this Clearing Rule 1306) in relation to each Position Account with respect to such Defaulting Clearing Member, after taking into account all the rights and liabilities of such Defaulting Clearing Member under or in respect of the Contracts in the Position Account concerned, provided that any such trade values with respect to such Defaulting Clearing Member in relation to any Client Clearing Category 1 Position Account relating to any Non-Porting Client will be determined pursuant to Clearing Rule 1307;~~
- (1) (2) all trade values as determined in accordance with sub-paragraph (1) above shall be aggregated so as to produce one single aggregate trade value, if any, which may be 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) (3) if the aggregate trade value referred to in determined pursuant to sub-paragraph (2) above is a negative number, such value shall be netted against the value (expressed as a positive number) of all Collateral (or netted against the proceeds of the realization of such Collateral) held by OTC Clear as 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 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) Initial Margin, Additional Margin and Routine Intra-day Variation Margin in respect of such Defaulting Clearing Member’s House Position Account and comprising the Margin Balance of the corresponding House Collateral Account as at the Early Termination Date; and~~
  - (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

~~(c)~~(b) any remaining Rates and FX Contribution Balance relating to such Defaulting Clearing Member that is not allocated pursuant to sub-paragraph ~~(3)~~~~(b1)~~(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. ~~If the net sum determined under this sub-paragraph (3) is a positive number, then OTC Clear shall pay such net sum to the Defaulting Clearing Member, and if the net sum determined under this sub-paragraph (3) is a negative number, then the Defaulting Clearing Member shall pay such net sum to OTC Clear;~~

(2) ~~(4)~~ if the aggregate trade value referred to in sub-paragraph (2) above is a positive number, OTC Clear shall determine a further net sum which is payable to the Defaulting Clearing Member equal to such aggregate trade value, plus any amounts relating to the Margin Balance recorded in such Defaulting Clearing Member's House Collateral Account as at the Early Termination Date and any (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~~ 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 ~~(4)~~, the term "market collateral" bears the meaning set out in section 18 of the SFO); and

~~(5)~~(4) OTC Clear shall certify the net sum referred to in sub-paragraph ~~(3)~~ above this Clearing Rule 1306B as being payable by or OTC Clear to the Defaulting Clearing Member, or the net sum referred to in sub-paragraph (4) above payable by OTC Clear to that 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: (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 that Position Account (to the extent that such Unsettled VM Amount is payable by OTC Clear to the Defaulting Clearing Member (if any)) and (vi) in the case of the House Position Account only, minus the aggregate General Losses relating to that Position Account (if any).

~~In determining the trade values in relation to each Position Account under sub-paragraph (1) above, OTC Clear will calculate an amount that it determines to be the losses and costs that it would incur (expressed as a negative number) or gains that it would realise (expressed as a positive number) under the prevailing circumstances in replacing, or providing itself with the economic equivalent of, the Contracts in such Position Account, taking into account its losses, costs and gains under the porting, Hedging and Auction processes. OTC Clear will determine each such aggregate trade value in the Base Currency, and for the purpose of the calculations under this Clearing Rule 1306 to Clearing Rule 1308~~1309, OTC Clear may convert any amounts denominated in other ~~currency~~

currencies into the Base Currency at such rate prevailing at the time of the calculation as it shall reasonably select.

~~As part of the process described in this Clearing Rule 1306, OTC Clear shall have the power to sell, liquidate, dispose of, or procure the sales, liquidation or disposal of, any non-cash Collateral then held by OTC Clear in respect of the Defaulting Clearing Member, in such manner and at such price as OTC Clear may deem appropriate.~~

~~A certificate issued by OTC Clear under this Clearing Rule 1306~~ 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 this Clearing Rule 1306 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 the any net sum payable under this Clearing Rule 1306 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 this Clearing Rule 1306 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 this~~ The process described in Clearing Rule 1306 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 this Clearing Rule 1306 Rules 1306A, 1306B and 1306C, OTC Clear will make a report as required by section 47(1)(a) of the SFO.

~~1307. The trade values with respect to a Defaulting Clearing Member in relation to the Client Clearing Category 1 Position Account relating to its Non-Porting Client(s) will be determined as follows:~~

- ~~(1) with respect to each such Non-Porting Client, OTC Clear will determine:~~
  - ~~(a) the aggregate value of all Initial Margin, Additional Margin and Variation Margin transferred from the Defaulting Clearing Member to OTC Clear and comprising the Margin Balance recorded to such Non-Porting Client's Client Clearing Category 1 Collateral Account, plus all Termination Gains (if any) in respect of the Contracts in such Client Clearing Category 1 Position Account; less~~
  - ~~(b) the aggregate value of all Variation Margin transferred from OTC Clear to the Defaulting Clearing Member plus all Termination Losses (if any) in respect of Contracts in such Client Clearing Category 1 Position Account; and~~
- ~~(2) if the amount calculated in accordance with sub-paragraph (1) above is:~~

- (a) ~~zero or a positive number, then:~~
- (A) ~~any positive amount shall constitute the amount payable by OTC Clear to the Defaulting Clearing Member in respect of the relevant Client Clearing Category 1 Position Account (the “Client Entitlement”), and shall be payable by OTC Clear directly to the relevant Non-Porting Client pursuant to the terms of the Security Assignment Deed between the Defaulting Clearing Member and such Non-Porting Client, subject to OTC Clear and the relevant Non-Porting Client entering into relevant documentation between them (which may, without limitation, include an indemnity (secured or otherwise) to OTC Clear in respect of any loss or liability arising from such payment); and~~
  - (B) ~~subject to the payment under sub-paragraph (A) above (if any), the net amount in respect of such Client Clearing Category 1 Position Account shall be zero for the purpose of Clearing Rule 1306(1); or~~
- (b) ~~a negative number, then the absolute value of such negative number shall be the net amount in respect of such Client Clearing Category 1 Position Account for the purpose of Clearing Rule 1306(1); and~~

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) ~~(3)~~ OTC Clear will make any determination pursuant to this Clearing Rule 4307—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:

(a) in the case of a Clearing Member who is a Rule-Based Clearing Member, determine in the sole and absolute discretion of OTC Clear 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; or

(b) in the case of a Clearing Member who is a Non Rule-Based Clearing Member, pay the Client Entitlement directly to the Client instead of returning the same to the Defaulting Clearing Member pursuant to the terms of the Security Assignment Deed between the Defaulting Clearing Member and such Client.

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) 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);

(1A) 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:

(a) an amount equal to:

(i) 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

(ii) 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

(b) 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).

(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:

- (a) in the case of a Clearing Member who is a Rule-Based Clearing Member, determine in the sole and absolute discretion of OTC Clear 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; or
- (b) in the case of a Clearing Member who is a Non Rule-Based Clearing Member, pay the Client Entitlement directly to the Client instead of returning the same to the Defaulting Clearing Member pursuant to the terms of the Security Assignment Deed between the Defaulting Clearing Member and such Client.

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.

1308. In connection with Clearing Rule 1307:

- (1) ~~“Termination Losses” means, in respect of a Position Account registered in the name of the Defaulting Clearing Member in respect of any Non-Porting Client, an amount in the Base Currency specified in sub-paragraph (c) below as determined by OTC Clear in accordance with the process set out below:~~
  - (a) ~~OTC Clear will determine the total hedging and termination costs relating to each Auction Portfolio which includes notional trades with equivalent economic profile to one or more Affected Contracts relating to such Position Account (each, a “Relevant Affected Contract”) by reference to the Hedging and Auction process;~~
  - (b) ~~in respect of each Auction Portfolio referred to in sub-paragraph (a) above, the portion of the hedging and termination costs of such Auction Portfolio attributable to such Position Account will be equal to the product of:~~
    - (A) ~~the aggregate of the Initial Margin with respect to each Relevant Affected Contract relating to such Auction Portfolio divided by the aggregate of the Initial Margin with respect to each Affected Contract relating to such Auction Portfolio, 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 total hedging and termination losses relating to such Auction Portfolio determined pursuant to sub-paragraph (a) above; and~~

~~(c) OTC Clear will calculate an amount equal to the aggregate of the value(s) determined pursuant to sub-paragraph (b) above with respect to each Auction Portfolio referred to in sub-paragraph (a) above; and~~

~~(2) “Termination Gains” means, in respect of a Position Account registered in the name of the Defaulting Clearing Member in respect of any Non-Porting Client, an amount in the Base Currency specified in sub-paragraph (c) below as determined by OTC Clear in accordance with the process set out below:~~

~~(a) OTC Clear will determine the total hedging and termination gains arising out of each Auction Portfolio which includes notional trades with equivalent economic profile to one or more Relevant Affected Contracts;~~

~~(b) in respect of each Auction Portfolio referred to in sub-paragraph (a) above, the portion of the hedging and termination gains of such Auction Portfolio attributable to such Position Account will be equal to the product of:~~

~~(A) the aggregate of the Initial Margin with respect to each Relevant Affected Contract relating to such Auction Portfolio divided by the aggregate of the Initial Margin with respect to each Affected Contract relating to such Auction Portfolio, 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 total hedging and termination gains of such Auction Portfolio determined pursuant to sub-paragraph (a) above; and~~

~~(c) OTC Clear will calculate an amount equal to the aggregate of the value(s) determined pursuant to sub-paragraph (b) above with respect to each Auction Portfolio referred to in sub-paragraph (a) above.~~

~~1309. Pursuant to Clearing Rule 823(2), any amount standing to the credit of the House Account of a Clearing Member may be applied by OTC Clear to set-off any liabilities of that Clearing Member to OTC Clear, including liabilities in respect of the Client Clearing Category 1 Accounts registered in the name of such Clearing Member.~~

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, the relevant Security Assignment Deed, and the operations of section 56(1) ~~of the SFO~~ 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 Rule~~ 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; or

- (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,

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 with effect from the Early Termination Date, and neither OTC Clear nor such Clearing Member shall be obliged to make any further payments or deliveries under any Contract between them which would, but for the occurrence of such event, have fallen due for performance on or after the Early Termination Date, other than any rights and obligations under such Contract which survive termination, and any obligations to make further payments or deliveries which would otherwise have fallen due shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Termination Amount; 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(iii) 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

- ~~(2) all other payment or delivery obligations in respect of and under the Clearing Documentation, including OTC Clear's obligation to redeliver Collateral in equivalent form and amount to Collateral recorded in the relevant Collateral Account or GF Account in respect of such Clearing Member, shall become payable or deliverable on the Early Termination Date in accordance with this Clearing Rule 1324;~~
- ~~(3) OTC Clear shall on, or as soon as reasonably practicable after, the Early Termination Date, in good faith determine the value of each Contract (in accordance with the methodology set out in section 10.1(iii) of the Clearing Procedures) and each obligation (whether future, liquidated or unliquidated, actual or contingent) in respect of and under the Clearing Documentation. In respect of each such Contract, each gain to such Clearing Member or amount that OTC Clear owes to it shall be treated as a positive amount and each loss to such Clearing Member or amount that it owes to OTC Clear shall be treated as a negative amount.~~

~~For the avoidance of doubt, reference to future, liquidated or unliquidated, actual or contingent obligations as used in this sub-paragraph (3) shall include the value of OTC Clear's obligation to redeliver Margin or Rates and FX Contribution that have been delivered by outright transfer to OTC Clear;~~

- ~~(4) OTC Clear shall then aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Base Currency (the "**Termination Amount**"), provided that, where such Clearing Member has both House Position Account and Client Clearing Category 1 Position Account(s):~~
- ~~(a) OTC Clear shall determine the amounts pursuant to sub-paragraphs (1) to (3) above separately in respect of the House Account and each Client Clearing Category 1 Account, and aggregate such amounts to produce separate Termination Amounts pursuant to this sub-paragraph (4) in respect of the House Account and each Client Clearing Category 1 Account, provided that any amount that cannot be allocated to a specific Client Clearing Category 1 Account (such as the obligation to redeliver Collateral in equivalent form and amount to Collateral recorded in the relevant GF Account) shall be included in the determination of the Termination Amount for such Clearing Member's House Account;~~
- ~~(b) if any Termination Amount determined is a positive amount, OTC Clear shall pay such amount to such Clearing Member on the Termination Amount Payment Day immediately following such determination; if such Termination Amount is a negative amount, such Clearing Member shall pay to OTC Clear the absolute value of such amount on the Termination Amount Payment Day immediately~~

~~following the date on which OTC Clear notifies such Clearing Member of the Termination Amount payable; and~~

~~(c) notwithstanding Clearing Rule 823(2) or 1309, any positive Termination Amount payable by OTC Clear to a Clearing Member in respect of its House Account shall not be applied against any negative Termination Amount payable by such Clearing Member to OTC Clear in respect of its Client Clearing Category 1 Account(s) to OTC Clear;~~

~~(e) (5)all Termination Amounts shall be paid in the Base Currency, 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 the Termination Amount payable by itsuch payment, OTC Clear it may satisfy such payment obligation in any other Eligible Currency. For the purposes of any calculation required to be made under this Clearing Rule 1324, OTC Clear may this purpose OTC Clear shall be entitled to convert any amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as its 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;and~~

~~(6) any non-cash Collateral provided by such Clearing Member to OTC Clear on a security interest basis shall be redelivered to such Clearing Member at such time and in the manner provided for in the relevant security document. In respect of any Termination Amount due and payable by a Clearing Member to OTC Clear pursuant to sub-paragraph (4)(b) above, to the extent such Clearing Member fails to pay such amount to OTC Clear within the time frame described herein, OTC Clear shall have the right to apply set-off with respect to any non-cash Collateral then held by OTC Clear against the value of such Termination Amount in accordance with the terms of the relevant security document.~~

~~(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.

- (a) Initial Margin requirements (in respect of ~~the House each~~ Position Account and ~~all Client Clearing Category 1 Position Accounts (if any)~~ 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,

## 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 ~~Rule 1306(3)(b)~~ 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 two OTC Clear Business Days 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 at the relevant time 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 one OTC Clear Business Day after 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.

#### **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 ~~Rule~~ 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

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 relating to each Auction Portfolio constructed as a result of such DMP Event; ~~and~~
- (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 (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 the Auction 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 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) and (iv) ~~and~~ the Margin Balance then held by OTC Clear in respect of 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;
  - (b) second, the Rates and FX Contribution Balance of the Defaulting Clearing Member (by application in the manner set out in Clearing ~~Rules 1306(3)(b) and~~ 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); and

(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 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;
- (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

~~(2)(4)~~ upon completion of the process described in sub-paragraphs (1) and (2) above, OTC Clear shall determine the Auction 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), ~~4913(4)~~1516(2)(d), 1516(2)(f), 1913A(4), 1913A(6), 1913B(4) and ~~4913(6)~~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 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 ~~Client Clearing Category 1~~ Position Account (if any) of a Non-Defaulting Clearing Member will be treated as ~~a separate Position Account relating to such Non-Defaulting Clearing Member~~ 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 ~~under in respect of~~ any Contract, and any right to receive any further amount ~~under 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 ~~under~~ 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 ~~it~~ 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 ~~Clearing Category 1~~ Position Account(s), or between two or more Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account of ~~a one or more Non-Porting Client 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 ~~pursuant to the terms of the Security Assignment Deed between the Defaulting Clearing Member and such 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, the relevant Security Assignment 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.

#### **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 ~~under 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 ~~1306(3)(e)~~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.

## 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 and each Client Clearing Category 1 Position Account established by such Defaulting Clearing Member with OTC Clear as part of its Client Clearing Services,~~ OTC Clear shall:
- (1) calculate the balance of the ~~Client Clearing Category 1 Collateral Account in respect of such Client Clearing Category 1 Position Account;~~ and
  - (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 Clearing Category 1 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 ~~the a~~ Client Clearing Category 1 Position Account relating to a Client, provided that OTC Clear is reasonably satisfied that it has received completed Porting Instructions (i) the Replacement Clearing Member has been appointed prior to the occurrence of the relevant DMP Event, and (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 all such Affected Contracts within the time period specified by OTC Clear at the time such DMP Event is determined: 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) ~~in the absence of any DMP Event with respect to the Replacement Clearing Member at the time of purported porting, and provided that the relevant margin and credit check relevant to the purported porting is successfully passed<sup>3</sup>,~~ OTC Clear shall terminate and close-out such Affected Contracts at their market value (as

<sup>3</sup> ~~When OTC Clear is ready to launch client clearing services, Chapter 4 of the Clearing Procedures will be updated to reflect that any purported porting will need to go through the margin and credit check.~~

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;

- (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 balance standing to the Client Clearing Category 1 Collateral Account relating to such Client due to be returned to the Defaulting Clearing Member to the appointed Replacement Clearing Member (the “Client Clearing Category 1 Account Transfer Balance”).~~ The Client Clearing Category 1 Account Transfer Balance will reflect any payments made or received under such Affected Contracts by OTC Clear during the period between the occurrence of the relevant DMP Event with respect to such Affected Contracts and the time immediately prior to porting of such Affected Contracts to the Replacement Clearing Member; and 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 Transfer 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 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) 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;
- (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 closing-out of the each Affected Contract and ~~re-establishment of~~ re-establishing a new Contract on the same terms to as the relevant Affected Contract with the relevant

Replacement Clearing Member, and any associated movement of Collateral relating to such Affected Contract.

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 ~~the a~~ Client Clearing Category 1 Position Account relating to a Client, 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 ~~within the timeframe set out in the Clearing Procedures~~ 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. 4707.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.

## 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 ~~Rule~~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 ~~and shall not be included in the same Auction Portfolio as~~ Contracts registered to a Defaulting Clearing Member's Client ~~Clearing Category 1~~ Position Accounts in respect of ~~the Non-Porting Clients shall not be included in the same Auction Portfolio~~.
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 ~~Clearing Category 1~~ 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"**). ~~The resources set out in sub-paragraphs (1) to (6) below, to the extent not already applied in accordance with Clearing Rule 1516(1), shall together constitute the Preliminary Available Resources allocated to an Auction Portfolio for the purpose of satisfying any Auction 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 arising from an Auction Portfolio, provided that upon completion of the Auction of all Auction Portfolios relating to a DMP Event, it shall perform the loss allocation process set out in Clearing Rules 1914 to 1916:~~

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 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 arising from such House Auction Portfolio, provided that upon completion of the Auction 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 (if any) received by OTC Clear with respect to one or more such House Auction Portfolios Portfolio constructed as a result of such DMP Event, together with;
  - (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 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
  - ~~(1)~~(d) a pool of assets the value of which represents the ~~RAP of~~ 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 Rules 1306(3)(b) and Rule 1548~~);
  - ~~(3)~~ a pool of assets the value of which represents the RAP of the OTC Clear First Contribution;
  - (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 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 arising from such Client Auction Portfolio, provided that upon completion of the Auction 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 (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 comprised in such Client Auction Portfolio;
  - (c) the Unsettled VM Amount in respect of the Auction Contracts 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 ~~this Clearing Rule 1913~~ 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.

~~For the avoidance of doubt, this Clearing Rule 1913 does not apply to Non-Porting Clients. The trade values with respect to a Defaulting Clearing Member in relation to the Client Clearing Category 1 Position Account relating to its Non-Porting Client(s) are determined as set out in Clearing Rule 1307.~~

### **Loss Allocation**

1914. Upon completion of the Auction 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) ~~(1) first, the DCM Margin Initial House Resources~~ allocated to such a House Auction Portfolio pursuant to Rule 1913A will be applied towards the Auction Losses relating to such House Auction Portfolio provided that:

(A) ~~(a) to the extent that the Auction Payments (if any) and DCM Margin Initial House Resources~~ allocated to such House Auction Portfolio exceeds/exceed the Auction Losses relating to such Auction Portfolio, such excess shall be applied to satisfy any Auction 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; and

(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 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 relating to the Client Auction Portfolio(s) on a pro-rata basis by reference to the amount of such remaining Auction Losses; and

(C) ~~(b) 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 ~~DCM Margin~~ Initial House Resources of a Defaulting Clearing Member shall not be applied towards any Auction 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 relating to such Client Auction Portfolio to the extent that such Auction 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 relating to such Auction Portfolio, such excess shall be applied to satisfy any Auction 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 (to the extent that such remaining Auction 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 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 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 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 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 Auction Payments (if any) and DCM Margin Initial House Resources of the Defaulting Clearing Member in full, any remaining Auction 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 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 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 relating to such Auction Portfolio, such excess shall be applied towards the Auction 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, until the earlier to occur of:

- (a) the satisfaction in full of the Auction 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, OTC Clear will 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 above shall be referred to as the “**Tranching Methodology**”.

In the event that there is an NDCM GF Auction Shortfall relating to an Auction Portfolio, any NDCM GF Auction 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 Auction Shortfall (in accordance with the Tranching Methodology for the Auction Portfolio to which that NDCM GF Auction 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 Auction Shortfall by reference to the amount of such NDCM GF Auction Shortfall, until the earlier to occur of:

- (A) the satisfaction in full of the Auction 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, OTC Clear will satisfy such Auction 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 relating to such Auction Portfolio, such excess shall be applied towards the Auction 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, until the earlier to occur of:
- (a) the satisfaction in full of the Auction 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, OTC Clear will apply the relevant proportion of the Rates and FX Assessments of each Non-Defaulting Clearing Member using 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 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 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 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 ~~Margin held in respect of a Client Clearing Category 1 Position Account(s)~~ Initial Non-Porting Client Resources allocated to a Client Auction Portfolio of a Defaulting Clearing Member ~~relating to its Clients(s)~~ 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, OTC Clear may, in consultation with the Default Management Group, decide to combine or sub-divide previously constructed Auction Portfolios for successive Auctions.

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, 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 and 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 ~~1544~~-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 the Auction process 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 Contracts 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.

## 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 ~~25 October 2013~~20 March 2017) 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.

- (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);

(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); 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 2) and pay Rate B to, and receive Rate A from, Clearing Member 5 (in respect of its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 2, and will pay Rate B to, and receive Rate A from, such Clearing Member’s Client ~~Clearing Category 1~~ 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.

### **Standard Rates Derivatives Contracts Denominated in Hong Kong dollar**

2223. Where a Standard Rates Derivatives Contract is denominated in Hong Kong dollar, the Hong Kong dollars rate of exchange against US Dollars will be deemed to be 7.8 Hong Kong dollars to 1

## 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 ~~25 October 2013~~ 20 March 2017) and the FX Definitions (including all supplements thereto outstanding as at ~~25 October 2013~~ 20 March 2017) (the ISDA Definitions and FX Definitions together, the “**ND IRS Definitions**”), each outstanding as at ~~25 October 2013~~ 20 March 2017 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 ~~5 December 2011~~ 28 March 2014 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

(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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 2) and pay Rate B to, and receive Rate A from, Clearing Member 5 (in respect of its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 2, and pay Rate B to, and receive Rate A from, such Clearing Member's Client ~~Clearing Category 1~~ 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 FX Derivatives Contracts

### Product Specific Terms for FX Derivatives Contracts

2401. The terms of a FX Derivatives Contract shall include the following terms (together, the “**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 ~~25 October 2013~~ 20 March 2017, are incorporated by reference into these FX Derivatives Contract Terms. Unless otherwise specified, capitalized terms used in the 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 an FX Derivatives Contract outstanding as at ~~25 October 2013~~ 20 March 2017 recommended by EMTA or a recognized successor (the “**EMTA Template**”) are incorporated by reference into the relevant 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 FX Derivatives Contract from the Transaction Data of the corresponding Original FX Derivatives Transaction, all references in the ISDA FX Definitions to an “**FX Transaction**” shall be deemed to be references to an “**Original 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 FX Derivatives Contract Terms applicable to a FX Derivatives Contract shall be those applicable as at the Registration Time of such 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 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 FX Derivatives Contract Terms of each FX Derivatives Contract then registered with OTC Clear, and any prospective payment obligations arising out of each such FX Derivatives Contract shall be construed accordingly.

2410. The FX Derivatives Contract Terms supplement, form part of, and are subject to these Clearing Rules. In the event of any inconsistency between the 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 FX Derivatives Contract are derived from the Transaction Data relating to the corresponding Original FX Derivatives Transaction. The Original 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 FX Derivatives Transaction, then upon registration of the same as two FX Derivatives Contracts, OTC Clear, in respect of each FX Derivatives Contract to which it is party pursuant to the corresponding Original FX Derivatives Transaction, shall be the Reference Currency Buyer and Reference Currency Seller under such 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 FX Derivatives Transaction, then upon registration of the same as two FX Derivatives Contracts, one between Clearing Member 3 (in respect of its Client ~~Clearing Category 1~~ 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 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 FX Derivatives

Transaction, then upon registration of the same as two FX Derivatives Contracts, one between Clearing Member 3 (in respect of its Client ~~Clearing Category 1~~ 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 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 FX Derivatives Transaction, then upon registration of the same as two FX Derivatives Contracts, one between Clearing Member 5 (in respect of its Client ~~Clearing Category 1~~ Position Account relating to Client 1) and OTC Clear, and another one between Clearing Member 6 (in respect of its Client ~~Clearing Category 1~~ Position Account relating to Client 2) and OTC Clear, OTC Clear shall be the Reference Currency Buyer and Reference Currency Seller under each such 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 FX Derivatives Transaction, then upon registration of the same as two FX Derivatives Contracts, one between Clearing Member 5 (in respect of its Client ~~Clearing Category 1~~ Position Account relating to Client 1) and OTC Clear, and another one between Clearing Member 6 (in respect of its Client ~~Clearing Category 1~~ Position Account relating to Client 2) and OTC Clear, OTC Clear shall be the Reference Currency Seller and Reference Currency Buyer under each such 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 2); or
- (2) if such Clearing Member (in respect of its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 2).

### **General Terms**

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

### **Clearing Rules**

2418. A 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 FX Derivatives Contract.

### **Rounding**

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

### **Tax Provisions**

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

### **Governing Law**

2422. Each 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 ~~15 August 2016~~ 20 March 2017) 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.

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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 1) and Clearing Member 6 (in respect of its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ Position Account relating to Client 2) and pay Rate B to, and receive Rate A from, Clearing Member 5 (in respect of its Client ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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 ~~Clearing Category 1~~ 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.

# OTC Clearing Hong Kong Limited Clearing Procedures

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Pursuant to Clearing Rule 308, the OTC Clear Board may, in consultation with the Risk Management Committee (provided that such committee has been constituted), also approve an application in principle subject to the Applicant's fulfilment of conditions set by the OTC Clear Board. Upon receipt of the conditional approval, the Clearing Member may submit Original Transactions for registration by OTC Clear, provided that Clearing Rule 308 shall apply if a Clearing Member fails to fulfil the conditions within the specific time.

The OTC Clear Board's decision will be final and Applicants will be given written notice of approval or rejection. A failed Applicant may request OTC Clear to provide reasons for rejection of its application for Membership.

In accordance with Clearing Rule 405, Membership may not be assigned, transferred or sold without the prior written approval of OTC Clear Board.

#### **2.1.6 Execution of Membership Agreement and Initial Contribution to the Rates and Guarantee Fund**

An Applicant's Membership will only become effective if OTC Clear has received the following:

- (i) two copies of the Membership Agreement signed by the authorized signatory(ies) of the Applicant; and
- (ii) such Applicant's initial contribution to the Rates and FX Guarantee Fund, as determined pursuant to section 6.1.1 of these Clearing Procedures, to be delivered to OTC Clear within the time period set out in Clearing Rule 1504.

#### **2.1.7 Designated Person**

A Designated Person may submit Original Transactions for registration on behalf, and in the name, of its Clearing Member pursuant to the provisions of Chapter 7 of the Clearing Rules.

#### **2.1.8 Additional Documents Required in respect of Non-Hong Kong Incorporated Persons**

Where a Licensed Corporation or an Authorized Institution with jurisdiction of incorporation outside Hong Kong, or a Remotely Regulated Entity (a "Non-Hong Kong Incorporated Person") applies to become a Clearing Member, OTC Clear may require such Non-Hong Kong Incorporated Person to demonstrate in its application the ability to satisfy the obligations of a Clearing Member (including but not limited to those set out in Clearing Rule 401(4)), and to provide legal opinions on, among others, the enforceability of OTC Clear's rights under the Clearing Documentation against such Non-Hong Kong Incorporated Person if it were a Clearing Member in respect of the jurisdiction of incorporation of such Non-Hong Kong Incorporated Person.\*

### **2.2 Future Categories of Membership**

Pursuant to Clearing Rule 301, OTC Clear may, after consultation with the Risk Management Committee, establish one or more categories of membership in the future. OTC Clear will notify the Clearing Members of any new category(ies) of membership established, and provide details of the same.

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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.

## **2.3 Clearing Members' On-going Requirements and Obligations**

OTC Clear's requirements in respect of Clearing Members are designed to ensure Clearing Members have sufficient financial resources and the relevant infrastructure for submission of Original Transactions for registration as Contracts with OTC Clear.

### **2.3.1 Capital Requirement**

With respect to each Clearing Member, in addition to maintaining Capital in an amount not less than the Minimum Capital Requirement applicable to it set out in Clearing Rules 403 and 404, it shall also:

- (i) maintain Capital in an amount not less than its Rates and FX Liability;
- (ii) maintain Capital in an amount not less than its Expected Uncollateralized Loss as determined in accordance with section 6.1.1 of these Clearing Procedures; and
- (iii) on any day, maintain Capital in an amount such that the value of its CM Funded Contribution Amount (determined on such day as if it was a Rates and FX Contribution Determination Date) is less than 20% of the then total amount of its Capital.

### **2.3.2 Operational Requirement**

OTC Clear requires each Clearing Member to have operational capabilities to perform trade affirmation, contract settlement, portfolio valuation, portfolio reporting and system linkage with an Approved Trade Registration System. Please refer to section 3.2 of these Clearing Procedures for general information relating to such Approved Trade Registration System.

### **2.3.3 Risk Management Requirement**

Pursuant to Clearing Rule 401(9)(c), OTC Clear requires all Clearing Members to have established adequate risk management systems that are applied appropriately. This will include having risk management policies and procedures in place to ensure different aspects of risk are properly managed. Each Clearing Member's risk management systems, policies and procedures shall include, without limitation, the following:

#### **(i) Market and Credit Risk Management**

Each Clearing Member must have adequate risk policies and procedures in place to manage market and credit risk exposures of its trading portfolios submitted for registration with OTC Clear. Unless with the prior written approval from OTC Clear, a Clearing Member shall, as part of its risk management policies and procedures, set appropriate limits on the aggregate risk exposure of its House Position Account and (if it provides Client Clearing Services) on the risk exposure of each of its Client ~~Clearing Category 1~~ Position Accounts by utilizing the House Account Limit and/or Client Account Limit as described further in section 4.6.1 of these Clearing Procedures.

#### **(ii) Default Management Process Participation**

Clearing Members shall cooperate with OTC Clear in implementing the Default Management Process, including but not limited to:

- (a) participating in regular drills/tests (as set out in Clearing Rule 401(~~47~~19));
- (b) providing market access for Hedging (as set out in Chapter 18 of the Clearing Rules and sections 8.2 and 8.5 of these Clearing Procedures); and
- (c) bidding in one or more Auctions during the Default Management Process (as set out in Chapter 19 of the Clearing Rules and section 8.6 of these Clearing Procedures).

- (iii) Client Risk Management (only applicable to Clearing Members who provide Client Clearing Services)

A Clearing Member that provides Client Clearing Services must have adequate risk policies and procedures to mitigate, monitor and control client credit risk as well as fulfil the requirements as stipulated in the Membership Application Form.

- (iv) Margin

A Clearing Member must deliver Collateral to satisfy its Margin requirements. Please refer to Chapter 12 of the Clearing Rules and Chapter 4 of these Clearing Procedures for details.

- (v) Rates and FX Guarantee Fund and Rates and FX Assessments

A Clearing Member must deliver Collateral to OTC Clear in respect of its CM Funded Contribution Amount, as calculated and demanded by OTC Clear, taking into account any applicable Collateral Haircuts on a monthly basis or at such other times as required pursuant to Clearing Rule 1503. A request by OTC Clear to deliver additional Collateral in respect of a Clearing Member's CM Funded Contribution Amount shall be satisfied by the relevant Clearing Member within 2 OTC Clear Business Days from the date such request is delivered to the Clearing Member.

In addition to the CM Funded Contribution Amount, a Clearing Member may be required to pay in cash its CM Unfunded Contribution Amount. More details can be found in Clearing Rules 1506 and 1507 and Chapter 6 of these Clearing Procedures.

#### **2.3.4 Outsourcing**

Each Clearing Member must have the ability to perform its operational and risk management functions (including participating in fire drills and ~~being involved in the~~ Default Management Process) as required under the Clearing Documentation. To the extent that a Clearing Member wishes to have part or all of its operational and risk management functions performed by one or more of its Affiliates, such Clearing Member must have received written approval from OTC Clear to that effect prior to outsourcing or delegating such functions to the relevant Affiliate(s). OTC Clear will withhold its approval if a Clearing Member is seeking to outsource all of its risk management functions to its Affiliate who is also its Client. A Clearing Member who has outsourced part or all of its operational and risk management functions to its Affiliate(s) shall remain responsible to OTC Clear for the performance of all such functions pursuant to the Clearing Documentation. OTC Clear may revoke any approval in relation to the outsourcing or delegation of operational and risk management functions of a Clearing Member by providing such Clearing Member with written notice revoking the relevant approval. For the avoidance of doubt, a Clearing Member may not outsource its operational and risk management functions to any person other than its Affiliates.

#### **2.3.5 On-going Reporting Requirement**

A Clearing Member shall satisfy its obligations to provide OTC Clear with all relevant information as set out in Clearing Rules 401(13), 501, 503 and 504.

## 2.4 Client Clearing

A Clearing Member may apply to provide Client Clearing Services by completing part B of the Application Form.<sup>±</sup>

## 2.5 Changes to conditions of Membership

Any request to change any condition(s) of Membership, including but not limited to the type(s) of Contracts that a Clearing Member may submit for registration or whether it may provide Client Clearing Services, must be submitted to OTC Clear in writing.

Upon receipt of such request, OTC Clear may, at its discretion, require additional information or documents from such Clearing Member, conduct on-site inspection of such Clearing Member, or require such Clearing Member to submit a new Application Form. After assessing such request, OTC Clear will notify the Clearing Member in writing whether any requested change to condition(s) of Membership is approved or rejected.

## 2.6 Notification

- (i) In accordance with Clearing Rule 501(3), each Clearing Member is required to provide notification to OTC Clear for the events and changes specified below, within the periods specified herein:

Subject to OTC Clear's approval	any addition or removal of a Designated Person attached to a Clearing Member
At least 10 OTC Clear Business Days prior to the relevant event	any change in the settlement instructions by a Clearing Member
At least two OTC Clear Business Days prior to the relevant event	any of the following: (i) where practicable, any registration of new Contracts, or de-registration of existing Contracts from the House Position Account <u>or any Client Position Account(s)</u> of a Clearing Member that will or is expected to result in a <del>change in the</del> Initial Margin requirement relating to <del>the</del> <u>such House Position Account or Client Position Account(s) meeting or exceeding equal to or beyond</u> a certain percentage threshold designated, and notified, by OTC Clear from time to time. The initial percentage threshold relevant for this purpose is set as 20%; or (ii) any change in the names or contact details of the persons designated by the Clearing Member in the Application Form as responsible officers for handling operational and risk matters.
Immediate notice by telephone and followed by notice in writing as	(i) any transfer, change or cessation of a Clearing Member's business which has a material effect on the Clearing Member's over-the-counter derivatives trading

<sup>±</sup> ~~Client clearing is not available at the initial phase of establishment of OTC Clear.~~

soon as reasonably practicable	<p>business. A “material effect” on the Clearing Member’s OTC derivatives trading business will be deemed to have occurred if any transfer, change or cessation of a Clearing Member’s business leads to:</p> <p>(ii) - <del>a change in</del> the Initial Margin requirement relating to the House Position Account <u>or the Client Position Account(s)</u> of such Clearing Member <del>by meeting or beyond exceeding</del> a certain percentage threshold designated and notified by OTC Clear from time to time. The initial percentage threshold relevant for this purpose is 20%; and</p> <p>- the value of such change is in excess of the Rates and FX Minimum Contribution Amount; or</p> <p>(iii) de-registration of all Contracts recorded in the name of the Clearing Member (please refer to section 3.6 of these Clearing Procedures).</p>
Within 7 OTC Clear Business Days after the occurrence of the relevant event	<p>any change in any of the following in relation to the Clearing Member:</p> <p>(i) the legal or business name;</p> <p>(ii) the registered office address provided by the Clearing Member and stated on the Application Form;</p> <p>(iii) any chief executive or equivalent;</p> <p>(iv) share capital; or</p> <p>(v) auditor.</p>

(ii) In addition to the matters set out in sub-paragraph (i) above, each Clearing Member is also required to provide notification to OTC Clear for the events and changes specified below, within the periods specified herein:

As soon as the relevant event is identified	<p>(i) any action, proceeding or investigation instituted against the Clearing Member by or on behalf of any Governmental Authority, self-regulatory organization, other regulatory authority exercising any disciplinary functions to which the Clearing Member is subject or any Clearing Organization to which the Clearing Member is a member; or</p> <p>(ii) any action, proceeding or investigation instituted against any member of the board of directors, chief executive officer, chief financial officer or chief operations officer (or its equivalent) of the Clearing Member by or on behalf of any Governmental Authority, self-regulatory organization, other regulatory authority exercising any disciplinary functions to which the Clearing Member is subject or any Clearing Organization to which the Clearing Member is a member.</p>
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The above lists are not intended to be exhaustive and a Clearing Member is expected to notify OTC Clear of any matter set out in Clearing Rule 501 in writing without delay, provided that any materially adverse or time sensitive changes that may affect a Clearing Member's eligibility to continue as a Clearing Member shall be notified to OTC Clear by telephone promptly and followed by notice in writing as soon as reasonably practicable.

## **2.7 Audit, Inspection or System Tests**

Pursuant to Clearing Rule 401(186), officers or employees of OTC Clear or such persons appointed by OTC Clear may:

- (i) from time to time inspect and copy the statements, books, records, accounts and other documents maintained by a Clearing Member relating to Contracts; and/or
- (ii) conduct audits or system tests of each Clearing Member's operations related to its business with OTC Clear. Audit and system tests shall be conducted during business hours, and it is expected that, under normal circumstances, there will not be more than two audits being conducted within the same year with respect to a Clearing Member.

In addition, OTC Clear will conduct an on-site inspection of each Clearing Member at least once every 3 years.

A Clearing Member shall provide or allow relevant officers or employees or appointed persons of OTC Clear access to its premises, systems, statements, books, records, accounts and other documents necessary to discharging their duty for the purpose of carrying out the audit or system tests. A Clearing Member shall be entitled to deny entry to a representative of OTC Clear for the purpose of audit or system tests if it has reasonable grounds to believe any such representatives are conflicted in their role as an inspector or auditor, and has, in OTC Clear's reasonable determination, provided sufficient evidence to OTC Clear to substantiate such alleged conflict of interest.

Any costs and expenses reasonably incurred as a result of an inspection (including an on-site inspection) or audit or system test directed by OTC Clear under Clearing Rule 401(186) shall be borne by the Clearing Member concerned. OTC Clear will obtain at least two independent quotes for any such inspection or audit or system test.

If, upon the completion of an inspection or audit, OTC Clear is of the view that modifications are necessary to a Clearing Member's business activities, in whole or in part, such Clearing Member shall enter into good faith discussions with OTC Clear as to the necessary extent of any modifications and the timescale within which such Clearing Member will make such modifications.

## **2.8 Suspension, Termination and Resignation**

Membership may be suspended by OTC Clear in accordance with Chapter 6 of the Clearing Rules or terminated by OTC Clear in accordance with Clearing Rule 1311 or 1405.

A Clearing Member may resign from its Membership by giving written notice to OTC Clear in accordance with Clearing Rules 604 to 612.

## **2.9 Capped Liability Period**

In connection with Clearing Rules 609 and 1544, the following diagram illustrates how a Clearing Member's Maximum Current Liability is determined in respect of each Capped Liability Period:

- (i) if there is a single DMP Event (i.e. no other DMP Event has occurred in the period 20 OTC Clear Business Days prior or after such DMP Event), then the Capped Liability Period is the

## Chapter 3

### Rates and FX Clearing Services

#### 3.1 Overview

Upon execution of an Original Transaction, Clearing Members or Clients who are parties to such Original Transaction and who wish to submit such Original Transaction for registration with OTC Clear shall submit or, in the case of a Client, request the relevant Clearing Member to~~each~~ submit such instructions to the same Approved Trade Registration System. Upon receipt of the instructions from the Clearing Members, the Approved Trade Registration System will perform matching of the instructions. As described in section 3.2, each Approved Trade Registration System is a system provided by a third-party vendor and as such, OTC Clear will not be responsible or liable for any such trade matching performed by any such Approved Trade Registration System.

After an Original Transaction is matched by an Approved Trade Registration System, Clearing Members can submit an Original Transaction to OTC Clear for registration via an Approved Trade Registration System. Any Original Transaction which is submitted for registration is required to fulfil the applicable product eligibility requirements set out in section 3.4 and “Margin Process” as described in section 4.6 of these Clearing Procedures. The results of the registration will be communicated to the relevant Approved Trade Registration System and/or indicated in the “OTC Clear Trade Report (Report Number TDRP01, TDRP02, TDRP03, TDRP04, TDRP05 or TDRP06)” in relation to any House Position Account or “OTC Clear Trade Report for Client (Report Number TDRP01\_C, TDRP02\_C, TDRP03\_C, TDRP04\_C, TDRP05\_C or TDRP06\_C)” in relation to any Client Position Account. Both “OTC Clear Trade Report (Report Number TDRP01, TDRP02, TDRP03, TDRP04, TDRP05 or TDRP06)” and “OTC Clear Trade Report for Client (Report Number TDRP01\_C, TDRP02\_C, TDRP03\_C, TDRP04\_C, TDRP05\_C or TDRP06\_C)” are~~which is~~ available to the Clearing Members on the Web Portal.

The ISDA Definitions and FX Definitions are incorporated by reference into this Chapter 3. References to “Business Day(s)” as used in this Chapter 3 shall have the meaning given to it in the ISDA Definitions. For the avoidance of doubt, the meaning of “Business Day” incorporated by reference in Chapter 23 and Chapter 24 of the Clearing Rules shall not be applicable in this Chapter 3.

#### 3.2 Approved Trade Registration System

OTC Clear does not discriminate or distinguish between Original Transactions based upon execution method or venue. However, Original Transactions can only be submitted through an Approved Trade Registration System. Any Original Transaction submitted to OTC Clear through an Approved Trade Registration System shall be deemed to be submitted for or by the relevant Clearing Member. The Approved Trade Registration Systems designated by OTC Clear are the matching and confirmation service for over-the-counter derivatives transactions provided by (i) MarkitSERV Limited (“**MarkitWire**”), (ii) the HKMA (the “**HKTR-MC service**”) and (iii) MarkitSERV, LLC (“**DSMatch**”) (each an “**Approved Trade Registration System**”). OTC Clear only accepts an Original Transaction that is submitted via one of the relevant Approved Trade Registration Systems. Please refer to the ATRS Guide which sets out each data field on an Approved Trade Registration System accepted by OTC Clear for the purpose of submission of an Original Transaction for registration as Contracts. The ATRS Guide will also provide the relevant values applied by OTC Clear in respect of certain data fields. Each Clearing Member agrees and acknowledges that it shall be bound by the ATRS Guide.

Each of the Approved Trade Registration Systems is a system provided by a third-party vendor. OTC Clear has no involvement in and does not guarantee the level of performance, integrity or efficiency in

relation to any services provided by the providers of such Approved Trade Registration Systems. The service level agreements entered into between the provider of the relevant Approved Trade Registration System and the Clearing Members govern the terms and conditions of the provision of services by the provider of such Approved Trade Registration System to the relevant Clearing Members. OTC Clear accepts no liability arising from the usage of any Approved Trade Registration System by any Clearing Member.

It is the responsibility of a Clearing Member to ensure that all Original Transactions are submitted by its authorized personnel. A Clearing Member should ensure that it complies with the security and access procedures of the relevant Approved Trade Registration System. OTC Clear has no obligation to verify if the trade details are genuine and/or correctly reflect the trade which has been entered by the Clearing Member. OTC Clear is not liable for any losses suffered by any Clearing Member or Client which are incurred by any unauthorized input of trade into the Approved Trade Registration System.

OTC Clear does not make any representation as to the accuracy of any data sent via an Approved Trade Registration System (whether by Clearing Members to OTC Clear, or by OTC Clear to Clearing Members, in each case, via an Approved Trade Registration System). A Clearing Member shall be bound by the terms and conditions of a Contract on the basis of the data sent by an Approved Trade Registration System to OTC Clear notwithstanding the existence of any incorrect or corrupted data being sent by such Approved Trade Registration System to OTC Clear. OTC Clear is not required to perform any rectification or re-registration of such Contract, and shall have no liability for any loss relating to registration of such Contract.

### **3.3 Process of Registration and Rejection**

#### **3.3.1 Creation of Contracts through Submission of Original Transactions by Clearing Members - Status of Registration of a Transaction and Notification of Results**

Any Original Transaction submitted by a Clearing Member (or by a Designated Person on its behalf) to OTC Clear for registration is required to satisfy the Eligibility Requirements.

In respect of an Original Transaction submitted for registration before 18:00 hours Hong Kong time on an OTC Clear Clearing Day, OTC Clear will, on such OTC Clear Clearing Day, perform both product eligibility requirement checks set out in section 3.4 and the “Margin Process” set out in section 4.6 of these Clearing Procedures on such Original Transaction.

In respect of an Original Transaction submitted to OTC Clear for registration between 18:00 hours Hong Kong time and 19:00 hours Hong Kong time on an OTC Clear Clearing Day, OTC Clear will perform product eligibility requirements checks set out in section 3.4 on such Original Transaction on the same day. The “Margin Process” on such Original Transaction will only be performed during the Margin Process Hours, and as such, such Original Transaction will not be registered by OTC Clear until the immediately following OTC Clear Clearing Day assuming the Original Transaction satisfies the “Margin Process” set out in section 4.6 of these Clearing Procedures.

In respect of an Original Transaction submitted to OTC Clear for registration on a day which is not an OTC Clear Clearing Day, or at or after 19:00 hours Hong Kong time on an OTC Clear Clearing Day, OTC Clear will perform product eligibility requirements checks set out in section 3.4 and the “Margin Process” set out in section 4.6 of these Clearing Procedures on such Original Transaction on the immediately following OTC Clear Clearing Day.

If an Original Transaction does not satisfy the applicable product eligibility requirements as set out in section 3.4, or if it contains any invalid or incomplete trade data, such Original Transaction will be rejected and will not go through the “Margin Process” as set out in section 4.6 of these Clearing Procedures. The result will be communicated to the relevant Approved Trade Registration System.

If an Original Transaction satisfies the applicable product eligibility requirements set out in section 3.4, but does not satisfy the “Margin Process” as set out in section 4.6 of these Clearing Procedures, such Original Transaction will be put on “pending” status in the Rates and FX Clearing System. The result will be communicated to the relevant Approved Trade Registration System. The transaction will be flagged as “WAIT\_MARGIN”, “LIMIT\_FAILED” or “PROCESSING” in the “OTC Clear Trade Report (Report Number TDRP03 or TDRP04)” in relation to any House Position Account or “OTC Clear Trade Report for Client (Report Number TDRP03 C or TDRP04 C)” in relation to any Client Position Account. Both “OTC Clear Trade Report (Report Number TDRP03 or TDRP04)” and “OTC Clear Trade Report for Client (Report Number TDRP03 C or TDRP04 C)” are ~~which is~~ available to the Clearing Members on the Web Portal.

Any “pending” Original Transaction that is not accepted for registration by the commencement of the End-of-Day Settlement Process on the OTC Clear Clearing Day immediately following the day on which such “pending” Original Transaction satisfies the applicable product eligibility requirements set out in section 3.4 will be rejected by OTC Clear. The result will be communicated to the relevant Approved Trade Registration System. The transaction will be flagged as “REJECTED” in the “OTC Clear Trade Report (Report Number TDRP05 or TDRP06)” in relation to any House Position Account or “OTC Clear Trade Report for Client (Report Number TDRP05 C or TDRP06 C)” in relation to any Client Position Account. Both “OTC Clear Trade Report (Report Number TDRP05 or TDRP06)” and “OTC Clear Trade Report for Client (Report Number TDRP05 C or TDRP06 C)” are ~~which is~~ available to the Clearing Members on the Web Portal.

If an Original Transaction satisfies all applicable Eligibility Requirements, such Original Transaction will be registered by OTC Clear as two Contracts. The result will be communicated to the relevant Approved Trade Registration System. A unique trade identification number will be assigned to each such Contract, and such trade identification number will be published in the “OTC Clear Trade Report (Report Number TDRP01 or TDRP02)” in relation to any House Position Account or “OTC Clear Trade Report for Client (Report Number TDRP01 C or TDRP02 C)” in relation to any Client Position Account. Both “OTC Clear Trade Report (Report Number TDRP01 or TDRP02)” and “OTC Clear Trade Report for Client (Report Number TDRP01 C or TDRP02 C)” are ~~which is~~ available to the Clearing Members on the Web Portal. In addition, the Original Transaction submitted for registration will be flagged as “CLEARED” in such “OTC Clear Trade Report (Report Number TDRP01 or TDRP02)” or “OTC Clear Trade Report for Client (Report Number TDRP01 C or TDRP02 C)”.

### **3.3.2 Creation of Contracts other than through Submission of Original Transactions by Clearing Members**

- (i) Pursuant to Clearing Rule 813, Contracts may also be created by OTC Clear registering a Contract on its system. In doing so, OTC Clear may waive any required checks for assessing whether or not the applicable Eligibility Requirements have been satisfied; or
- (ii) Pursuant to Clearing Rule 825, Contracts may also be created by OTC Clear registering a Contract on its system in accordance with sections 3.17 and 3.18 of these Clearing Procedures.

## **3.4 Product Eligibility Requirements**

### **3.4.1 General Requirements for an Original Non Deliverable Rates Derivatives Transaction and Original FX Derivatives Transaction**

OTC Clear will accept an Original Transaction for registration only if:

example, if the term of an Original Transaction is one year, and the Payment Dates fall on 30 June and 30 December of that calendar year, the “frequency of payment” for that particular Original Transaction is 6 months;

(iii) Floating Amount

with regard to an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction or an Original Non Deliverable Rates Derivatives Transaction and the Floating Rate Payer for that particular Original Transaction (or if a Fixed Rate Payer is not applicable to that particular Original Transaction, then each Floating Rate Payer), OTC Clear will accept that particular Original Transaction for registration provided that:

- (a) ~~the frequency of payment of such Floating Amount is the same as the interval of the Calculation Period of such Floating Amount is the same as the frequency of payment of such Floating Amount being payable during the term of that particular Original Transaction~~ as designated by the Clearing Members; and
- (b) the intervals for the initial Calculation Period, the final Calculation Period and all other Calculation Periods (if applicable) in respect of the Floating Amounts payable by the Floating Rate Payer during the term of the Original Transaction are the same; and

(iv) Fixed Amount

with regard to an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction or an Original Non Deliverable Rates Derivatives Transaction whose terms include one or more Fixed Amount(s), OTC Clear will accept that particular Original Transaction for registration provided that:

- (a) ~~the frequency of payment of such Fixed Amount is the same as the interval of the Calculation Period of such Fixed Amount is the same as the frequency of payment of such Fixed Amount being payable during the term of that particular Original Transaction~~ as designated by the Clearing Members; and
- (b) the intervals for the initial Calculation Period, the final Calculation Period and all other Calculation Periods (if applicable) in respect of the Fixed Amount(s) being payable during the term of the Original Transaction are the same.

#### 3.4.2.9 Interpolation

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction or an Original Non Deliverable Rates Derivatives Transaction for registration only if interpolation is inapplicable.

#### 3.4.2.10 Period End Date

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction for registration only if either:

- (i) the Termination Date and all Period End Dates of that particular Original Transaction are subject to adjustment; or
- (ii) none of the Termination Date or any Period End Dates of that particular Original Transaction is subject to adjustment.

(b) a Currency Day for the Contractual Currency in which the Additional Payment is to be made under that particular Original Standard Cross-currency Rates Derivatives Transaction

and in each case is an OTC Clear Clearing Day;

- (v) the Payment Date for any Additional Payment falls on any day from and including the Effective Date to and including the Termination Date; and
- (vi) the payer and receiver of any Additional Payment payable under an Original Standard Rates Derivatives Transaction or an Original Standard Cross-currency Rates Derivatives Transaction are the Clearing Members who are counterparties to such Original Transaction.

For the avoidance of doubt, there is no limitation on the number of Additional Payments.

#### **3.4.2.18 Compounding**

In respect of an Original Standard Rates Derivatives Transaction or an Original Standard Cross-currency Rates Derivatives Transaction, OTC Clear will accept such Original Transaction for registration only if Compounding is elected to be inapplicable to such Original Transaction.

In respect of an Original Non Deliverable Rates Derivatives Transaction, OTC Clear will accept such Original Non Deliverable Rates Derivatives Transaction for registration only if:

- (i) Compounding is elected to be applicable; and
- (ii) Straight Compounding is applicable.

#### **3.4.2.19 Designated Maturity**

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction for registration only if the Designated Maturity elected for the relevant Floating Rate Option in respect of the Floating Amounts payable by the Floating Rate Payer (or if a Fixed Rate Payer is not applicable to that particular Original Transaction, then with respect to each Floating Rate Payer) of that particular Original Transaction is:

- (i) consistent with the period stipulated in section 3.4.2.1; and
- (ii) the same for all relevant Calculation Periods of the Floating Amounts payable by such Floating Rate Payer.

#### **3.4.2.20 Settlement Currency**

This is applicable to an Original Non Deliverable Rates Derivatives Transaction only.

OTC Clear will accept an Original Non Deliverable Rates Derivatives Transaction for registration only if the Settlement Currency of that particular Original Non Deliverable Rates Derivatives Transaction is USD.

#### **3.4.2.21 Optional Early Termination and Mandatory Early Termination**

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction for registration regardless of whether Optional Early Termination of such Original Transaction is applicable or not.

If Optional Early Termination is applicable to an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable

Rates Derivatives Transaction, however, OTC Clear will accept that particular Original Transaction for registration only if both parties have the right to early terminate the Original Transaction.

If Optional Early Termination is provided for under the terms of an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction:

- (i) OTC Clear will not maintain or record the feature of Optional Early Termination within its Rates and FX Clearing System when registering such Original Transaction;
- (ii) the Optional Early Termination feature, and its related provisions, will not form part of the Contract Terms of the Contracts created as a result of registration of such Original Transaction; and
- (iii) Clearing Members who become parties to the Contracts created as a result of registration of such Original Transaction may not exercise the right to early terminate such Contracts.

OTC Clear will not accept ~~any~~an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction ~~or~~and an Original Non Deliverable Rates Derivatives Transaction for registration if ~~it~~such Original Transaction contains provisions permitting Mandatory Early Termination.

#### **3.4.2.22 IMM Settlement Dates**

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction for registration regardless of whether IMM Settlement Dates are applicable or not.

If IMM Settlement Dates are applicable to an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction, however, OTC Clear will accept that particular Original Transaction for registration only if

- (i) such IMM Settlement Dates are limited to the third Wednesday of March, June, September and December of each calendar year; and
- (ii) both the Effective Date and Termination Date of that particular Original Transaction fall on a day which is the third Wednesday of March, June, September or December of a calendar year.

#### **3.4.2.23 Unweighted Average and Weighted Average**

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction for registration only if neither Unweighted Average nor Weighted Average is elected as applicable.

#### **3.4.2.24 Termination Date**

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction for registration only if only one Termination Date is applicable to that particular Original Transaction.

If both the Effective Date and Termination Date of an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction fall on the last calendar day in the relevant calendar month, OTC Clear will accept that particular Original Transaction for registration only if the Period End Date(s) or

Payment Date(s) is/are designated to be the last calendar day in any calendar month(s) during the term of an ~~an~~ such Original Transaction.

#### **3.4.2.25 Novation Transaction ~~Date~~**

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction for registration regardless of whether such Original Transaction is a “Novation Transaction” (as defined in the 2004 ISDA Novation Definitions, as published by ISDA) ~~Novation Date is applicable~~ or not.

~~If Novation Date is applicable to an Original Transaction, however, OTC Clear will accept that particular Original Transaction for registration only if:~~

- ~~(i) the Novation Date falls on or prior to the date on which such Original Transaction is submitted for registration; and~~
- ~~(ii) Full First Calculation Period is applicable.~~

#### **3.4.2.26 Trade Date**

OTC Clear will accept an Original Standard Rates Derivatives Transaction, an Original Standard Cross-currency Rates Derivatives Transaction and an Original Non Deliverable Rates Derivatives Transaction for registration only if the Trade Date of such Original Transaction falls on or prior to the date on which such Original Transaction is submitted for registration.

#### **3.4.2.27 Initial Exchange Amount and Final Exchange Amount**

This is applicable to an Original Standard Cross-currency Rates Derivatives Transaction only.

- (i) OTC Clear will accept an Original Standard Cross-currency Rates Derivatives Transaction for registration regardless of whether Initial Exchange Amount or Final Exchange Amount is applicable or not.
- (ii) If either Initial Exchange Amount or Final Exchange Amount is applicable to an Original Standard Cross-currency Rates Derivatives Transaction, OTC Clear will accept that particular Original Transaction for registration only if:
  - (a) each Initial Exchange Amount (if applicable) or each Final Exchange Amount (if applicable) is the same as the Currency Amount of the relevant currency;
  - (b) Initial Exchange Date is specified for each Initial Exchange Amount (if applicable) and Final Exchange Date is specified for each Final Exchange Amount (if applicable); and
  - (c) the receiver of the Initial Exchange Amount (if applicable) or the payer of the Final Exchange Amount (if applicable) in a particular currency is the Fixed Rate Payer (if applicable) or the Floating Rate Payer in such currency.
- (iii) If both Initial Exchange Amount and Final Exchange Amount are applicable to an Original Standard Cross-currency Rates Derivatives Transaction, OTC Clear will accept that particular Original Transaction for registration only if:
  - (a) each Initial Exchange Amount and each Final Exchange Amount is the same as the Currency Amount of the relevant currency;
  - (b) both Initial Exchange Date and Final Exchange Date are specified for each Initial Exchange Amount and Final Exchange Amount respectively;

### 3.4.3 Specific Requirements for an Original FX Derivatives Transaction

3.4.3.1 OTC Clear will only accept the types of Original FX Derivatives Transaction as set out in the table below:

Reference Currency	Settlement Currency	Maximum Residual Term	Valuation Days Offset
CNY	USD	2 years (740 days)	2 Beijing Business Days
INR		2 years (740 days)	2 Mumbai Business Days
KRW		2 years (740 days)	2 Seoul Business Days
TWD		2 years (740 days)	2 Taipei Business Days

#### 3.4.3.2 Residual Term

The residual term of an Original FX Derivatives Transaction is the period from (but excluding) the date on which OTC Clear performs the product eligibility requirements checks (set out in this section 3.4) on that particular Original FX Derivatives Transaction to (and including) the Settlement Date of that particular Original FX Derivatives Transaction.

OTC Clear will accept an Original FX Derivatives Transaction for registration only if the residual term of that particular Original FX Derivatives Transaction is:

- (i) greater than or equal to four days where each of these four days is (a) a Currency Day relating to the Contractual Currency of that particular Original Transaction and (b) an OTC Clear Clearing Day; and
- (ii) less than or equal to the relevant maximum residual term as set out in section 3.4.3.1.

#### 3.4.3.3 Reference Currency Notional Amount

OTC Clear will accept an Original FX Derivatives Transaction for registration only if the Reference Currency Notional Amount of that particular Original FX Derivatives Transaction is:

- (i) greater than or equal to one unit of the Reference Currency; and
- (ii) an integer of the Reference Currency if the relevant Reference Currency is KRW; or an integer or a number rounded up to two or less decimal places of the Reference Currency if the relevant Reference Currency is CNY, INR or TWD.

#### 3.4.3.4 Forward Rate

OTC Clear will accept an Original FX Derivatives Transaction for registration only if the Forward Rate of that particular Original FX Derivatives Transaction is:

- (i) greater than or equal to one;
- (ii) an integer or a number rounded up to four or less decimal places; and
- (iii) quoted in terms of the amount of Reference Currency per one unit of Settlement Currency.

For the avoidance of doubt, OTC Clear will only accept an Original FX Derivatives Transaction for registration if both the Forward Rate and at least one of (a) Notional Amount or (b) Reference Currency Notional Amount are specified in such Original FX Derivatives Transaction.

#### **3.4.3.5 Valuation Date and Settlement Date**

~~“Valuation Days Offset” (as set out in section 3.4.3.1) is the number of relevant Business Days by which the Valuation Date precedes the Settlement Date, subject to the Reference Currency of the Original Transaction.~~

OTC Clear will accept an Original FX Derivatives Transaction for registration only if:

- (i) both Settlement Date and Valuation Date are specified in that particular Original FX Derivatives Transaction;
- (ii) the Settlement Date specified in that particular Original FX Derivatives Transaction is a Currency Day for the Contractual Currency of that particular Original FX Derivatives Transaction; and
- (iii) the relevant Valuation Days Offset is applied to that particular Original FX Derivatives Transaction.

“Valuation Days Offset” (as set out in section 3.4.3.1) is the number of relevant Business Days by which the Valuation Date precedes the Settlement Date, subject to the Reference Currency of the Original FX Derivatives Transaction.

#### **3.4.3.6 Notional Amount**

OTC Clear will accept an Original FX Derivatives Transaction for registration only if:

- (i) the Notional Amount of that particular Original FX Derivatives Transaction is greater than or equal to one unit of USD;
- (ii) the Notional Amount of that particular Original FX Derivatives Transaction is an integer or a number rounded up to two or less decimal places; and
- (iii) the product of Forward Rate and Notional Amount is equivalent to the Reference Currency Notional Amount.

#### **3.4.3.7 Valuation Date**

OTC Clear will accept an Original FX Derivatives Transaction for registration only if the Valuation Date falls on or after the Trade Date of such Original FX Derivatives Transaction.

#### **3.4.3.8 Trade Date**

OTC Clear will accept an Original FX Derivatives Transaction for registration only if the Trade Date of such Original Transaction falls on or prior to the date on which such Original Transaction is submitted for registration.

### **3.5 Error Contract**

Pursuant to Clearing Rule 814, in the event OTC Clear terminates an Error Contract, the relevant Clearing Members who were parties to the Original Transaction which corresponds to the Error Contract being terminated will be notified through the “OTC Clear Trade Report (Report Number TDRP01 or TDRP02)” in respect of an Error Contract which has been registered in a House Position Account or “OTC Clear Trade Report for Client (Report Number TDRP01 C or TDRP02 C)” in respect of an Error Contract which has been registered in a Client Position Account. Both “OTC Clear Trade

Report (Report Number TDRP01 or TDRP02)” and “OTC Clear Trade Report for Client (Report Number TDRP01\_C or TDRP02\_C)” are available to the Clearing Members on the Web Portal. The status of any terminated Error Contract will be indicated in the “OTC Clear Trade Report (Report Number TDRP01 or TDRP02)” or “OTC Clear Trade Report for Client (Report Number TDRP01\_C or TDRP02\_C)” as a rejected transaction. The status will be flagged as “DECLEARED”, “TERMINATED” or “TRANSFERED”.

If OTC Clear determines that the value of the Error Contract has changed in between the time when the Variation Margin was last calculated and when such Error Contract was terminated, then OTC Clear will communicate to the relevant Clearing Members an amount representing such difference. The Clearing Members in whose names the Error Contracts were registered will then settle such difference between themselves without further involvement of OTC Clear.

OTC Clear will liaise with both the relevant Approved Trade Registration System and the relevant Clearing Members to facilitate the latest trade status of the Error Contract being updated in such Approved Trade Registration System.

### **3.6 De-registration**

Subsequent to the registration of an Original Transaction as two Contracts with OTC Clear, any proposed amendments to the terms of such Contracts, or termination or novation of such Contracts other than any transfer of Contracts relating to Clients in accordance with Clearing Rule 825, may only be effected by first de-registering the Contracts through submission of a de-registration request to OTC Clear.

OTC Clear will perform the de-registration process described in this section 3.6 and the “Margin Process” as described in section 4.6 of these Clearing Procedures with respect to any Contract which is the subject of a de-registration request.

#### **3.6.1 De-registration Conditions**

A request to de-register a Contract will only be accepted by OTC Clear if the following conditions are met:

- (i) the relevant Contract has not reached its scheduled Termination Date or Settlement Date, and has not been previously terminated; and
- (ii) the de-registration request is submitted by or on behalf of both Clearing Members who were parties to the Original Transaction corresponding to the Contract via the relevant Approved Trade Registration System. If ~~only one of the two relevant Clearing Members submits a de-registration request is submitted by or on behalf of only one of the two parties to the Original Transaction~~, OTC Clear will not accept such de-registration request. OTC Clear is not responsible for, and shall not be under any obligation to, providing a Clearing Member or Client (“first Clearing Member or Client”) with the identity of the Clearing Member or Client who was counterparty to the first Clearing Member or Client under the relevant Original Transaction corresponding to the Contract requested to be de-registered. For the avoidance of doubt, de-registration of Contracts corresponding to an Original Transaction will be processed on an all-or-nothing basis. The Margin Process referred to in section 4.6.5 of the Clearing Procedures must be satisfied with respect to both Contracts (corresponding to an Original Transaction) being de-registered. If the Margin Process referred to in section 4.6.5 of the Clearing Procedures is satisfied with respect to one but not both of the Contracts, OTC Clear will not accept the de-registration request relating to either of such Contracts.

### 3.6.2 Process of De-registration

In respect of a de-registration request submitted to OTC Clear before 18:00 hours Hong Kong time on an OTC Clear Clearing Day such de-registration request will be processed by OTC Clear on the same day.

In respect of a de-registration request submitted to OTC Clear between 18:00 hours Hong Kong time and 19:00 hours Hong Kong time on an OTC Clear Clearing Day, OTC Clear will perform the de-registration process described in this section 3.6 on the same day. The “Margin Process” will only be performed during the Margin Process Hours, and as such, the relevant Contract will not be de-registered by OTC Clear until the immediately following OTC Clear Clearing Day assuming the “Margin Process” set out in section 4.6 of these Clearing Procedures are satisfied.

In respect of a de-registration request submitted to OTC Clear on a day which is not an OTC Clear Clearing Day, or at or after 19:00 hours Hong Kong time on an OTC Clear Clearing Day, such de-registration request will be processed by OTC Clear on the immediately following OTC Clear Clearing Day.

If a de-registration request does not satisfy the conditions set out in section 3.6.1, or if it contains any invalid or incomplete trade data, such de-registration request will be rejected and will not go through the “Margin Process” as set out in section 4.6 of these Clearing Procedures. The result will be communicated to the relevant Approved Trade Registration System but will not be made available to the Clearing Members on the Web Portal.

If a de-registration request satisfies the conditions set out in section 3.6.1, but does not satisfy the “Margin Process” as set out in section 4.6 of these Clearing Procedures, such de-registration request will be put on “pending” status in the Rates and FX Clearing System. The result will be communicated to the relevant Approved Trade Registration System. The relevant Contracts will be flagged as “PEND\_TRF/TRM/DCL” in the “OTC Clear Trade Report (Report Number TDRP03 or TDRP04)” in relation to any House Position Account or “OTC Clear Trade Report for Client (Report Number TDRP03\_C or TDRP04\_C)” in relation to any Client Position Account. Both “OTC Clear Trade Report (Report Number TDRP03 or TDRP04)” and “OTC Clear Trade Report for Client (Report Number TDRP03\_C or TDRP04\_C)” ~~are~~ which is available to the Clearing Members on the Web Portal.

OTC Clear will reject any de-registration request which fails to satisfy the “Margin Process” as set out in section 4.6 of these Clearing Procedures by the commencement of the End-of-Day Settlement Process on the OTC Clear Clearing Day immediately following the day on which all conditions set out in section 3.6.1 have been satisfied. The result will be communicated to the relevant Approved Trade Registration System and the relevant Contracts will remain registered with OTC Clear.

If a de-registration request satisfies all conditions set out in section 3.6.1 and “Margin Process” as set out in section 4.6 of these Clearing Procedures, such Contracts will be de-registered by OTC Clear. The result will be communicated to the relevant Approved Trade Registration System. In addition, the relevant Contracts submitted for de-registration will be flagged as “DECLEARED” in such “OTC Clear Trade Report (Report Number TDRP01 or TDRP02)” in relation to any House Position Account or “OTC Clear Trade Report for Client (Report Number TDRP01\_C or TDRP02\_C)” in relation to any Client Position Account.

Save and except for the operation of section 3.8.1 and any fees due but unpaid by the relevant Clearing Member to OTC Clear (including the de-registration fee):

- (i) any Contract that has been de-registered shall have no further force or effect thereafter; and

- (ii) the rights and obligations of each of OTC Clear and the relevant Clearing Member under the Contract being de-registered shall be fully relinquished and discharged with effect from the time such Contract is de-registered.

Any de-registered transaction can be submitted for registration again, and subject to the Eligibility Requirements applicable to the relevant transaction.

Cancellation, novation or any other fees which have been agreed between the relevant Clearing Members who are counterparties to the particular Contract in connection with a de-registration request shall not be processed by OTC Clear.

### **3.7 Accounts**

Pursuant to Chapter 9 of the Clearing Rules, the following accounts may be opened for a Clearing Member on the OTC Clear's books and records: (i) one House Position Account and one or more Client ~~Clearing Category 1~~ Position Accounts may be established for a Clearing Member, (ii) one House Collateral Account and one or more Client ~~Clearing Category 1~~ Collateral Accounts may be established for a Clearing Member, (iii) but only one GF Account will be established for a Clearing Member. Each Clearing Member will be individually identified in OTC Clear Rates and FX Clearing System by way of designation of a bank identifier code (BIC) for each such Clearing Member. In addition, a unique identifier will be assigned to each Clearing Member and mapped to each of the accounts.

### **3.8 Settlement Components**

A "**Settlement Component**" consists of daily settlement components (as set out in section 3.8.1) and fees and interest (as set out in section 3.8.2).

Pursuant to Clearing Rule 226, the calculations made by OTC Clear shall be conclusive and binding on all Clearing Members. If a Clearing Member notifies OTC Clear of any alleged error in any calculations performed by OTC Clear pursuant to Clearing Rule 226, such Clearing Member is still obligated to settle the full amounts as stated in the "OTC Clear Settlement Reports" and "OTC Clear Settlement Reports for Client" (if applicable) on the payment due date pending investigation, resolution or (if applicable) rectification of the alleged error by OTC Clear.

For the avoidance of doubt, OTC Clear will only be responsible for settlement of any Settlement Component of a Contract if the Payment Date of such Settlement Component is in compliance with the terms set out in section 3.4.2.12.

The terms and provisions included in an ISDA Credit Support Annex published by ISDA will not form part of the Contract Terms of a Contract. As such, the Independent Amount (as defined in paragraph 10 of the ISDA Credit Support Annex (Bilateral Form-Transfer) published by ISDA) is not, and does not form part of the Settlement Component. OTC Clear is not responsible for, and will not be processing any transfer of Independent Amount and Clearing Member shall be responsible to put in place any relevant Collateral management procedures for processing any Independent Amount.

#### **3.8.1 Daily Settlement Components**

OTC Clear will determine the daily settlement components on each OTC Clear Clearing Day. Daily settlement components consist of (i) coupon payment for a Standard Rates Derivatives Contract, Standard Cross-currency Rates Derivatives Contract and Non Deliverable Rates Derivatives Contract, (ii) settlement amount for an FX Derivatives Contract, (iii) Additional Payment, (iv) Additional Amount, (v) Initial Margin, (vi) Additional Margin, (vii) Variation Margin, (viii) Rates and FX Contribution, (ix) Initial Exchange Amount and Final Exchange Amount for a Standard Cross-currency Rates

Derivatives Contract and any other components which may be specified by OTC Clear from time to time.

Market data (such as non-business days for different financial centers, any interest rate, exchange rate or price) which are applied to determine the daily settlement components will be published in the "OTC Clear Market Data Reports (Report Number MKDR01, MKDR02 and MKDR03)". The amount of daily settlement components to be settled by a Clearing Member will be published in the "OTC Clear Settlement Report (Report Number STRP01)" in respect of any payment relevant to a House Account or "OTC Clear Settlement Report for Client (Report Number STRP01\_C)" in respect of any payment relevant to a Client Account. Such reports are available to the Clearing Members on the Web Portal. The daily settlement components published in the "OTC Clear Settlement Report (Report Number STRP01)" and "OTC Clear Settlement Report for Client (Report Number STRP01\_C)" shall be final and conclusive, and shall be settled on the relevant "Value Date" as stipulated in the "OTC Clear Settlement Report (Report Number STRP01)" and "OTC Clear Settlement Report for Client (Report Number STRP01\_C)" in accordance with section 3.413.12. Any de-registration request that is accepted by OTC Clear after the publication of the "OTC Clear Settlement Report (Report Number STRP01)" or "OTC Clear Settlement Report for Client (Report Number STRP01\_C)" for any relevant "Value Date" shall not have any effect on the payment obligation of a Clearing Member to settle the daily settlement components set out in the relevant "OTC Clear Settlement Report (Report Number STRP01)" or "OTC Clear Settlement Report for Client (Report Number STRP01\_C)" for such "Value Date".

#### **3.8.1.1 Coupon Payment for a Standard Rates Derivatives Contract, a Standard Cross-currency Rates Derivatives Contract and a Non Deliverable Rates Derivatives Contract**

With respect to each of section 3.8.1.1.1 and section 3.8.1.1.2, if the Payment Date or Period End Date of a Standard Rates Derivatives Contract, Standard Cross-currency Rates Derivatives Contract or Non Deliverable Rates Derivatives Contract is specified to be the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> of a calendar month but there is not any such numerically corresponding day in the calendar month in which the Payment Date or Period End Date would otherwise fall, then the relevant Payment Date or Period End Date shall be deemed to fall on the last calendar day of the relevant calendar month, and be subject to adjustment in accordance with the Business Day Convention specified in the Contract Terms relating to such Standard Rates Derivatives Contract, Standard Cross-currency Rates Derivatives Contract or Non Deliverable Rates Derivatives Contract.

##### **3.8.1.1.1 Calculation of the Fixed Amount**

Calculation of the Fixed Amount is based on the methodologies stipulated in Sections 5.1(b) and 5.2 of the ISDA Definitions and the Economic Terms specified in the relevant Contract.

For the avoidance of doubt, irrespective of the Registration Time of a Contract, the Calculation Period of a Fixed Amount of such Contract is the period from and including the immediately preceding Period End Date (or the Effective Date if such Calculation Period is the initial Calculation Period of that particular Contract) to but excluding the Period End Date of the relevant Calculation Period (or the Termination Date if such Calculation Period is the final Calculation Period of that particular Contract).

##### **3.8.1.1.2 Calculation of the Floating Amount**

- (i) In respect of a Standard Rates Derivatives Contract, calculation of the Floating Amount is based on the methodologies stipulated in Section 6.1 of the ISDA Definitions and the Economic Terms specified in the relevant Standard Rates Derivatives Contract;
- (ii) in respect of a Non Deliverable Rates Derivatives Contract, calculation of the Floating Amount is based on the methodologies stipulated in Section 6.3(c) of the ISDA Definitions and the

Economic Terms specified in the relevant Non Deliverable Rates Derivatives Contract and the Compounding Date is deemed to be each relevant CNY 7-Repo Compounding Date in accordance with Section 7.1(a)(ii) of the ISDA Definitions; and

- (iii) In respect of a Standard Cross-currency Rates Derivatives Contract, calculation of the Floating Amount is based on the methodologies stipulated in Section 6.1 of the ISDA Definitions and the Economic Terms specified in the relevant Standard Cross-currency Rates Derivatives Contract.

For the avoidance of doubt, irrespective of the Registration Time of a Contract, the Calculation Period of a Floating Amount of such Contract is the period from and including the immediately preceding Period End Date (or the Effective Date if such Calculation Period is the initial Calculation Period of that particular Contract) to but excluding the Period End Date of the relevant Calculation Period (or the Termination Date if such Calculation Period is the final Calculation Period of that particular Contract).

A Clearing Member should note the provisions set out in Clearing Rules 2222, 2319 and 2518 in relation to the applicability of the "Negative Interest Rate Method" to a Standard Rates Derivatives Contract, Standard Cross-currency Rates Derivatives Contract or Non Deliverable Rates Derivatives Contract, as applicable.

#### 3.8.1.1.3 Determination of the Rate for a Reset Date

The rate for a Reset Date, including the source and the time at which such source is obtained from the relevant provider, is determined by reference to Article 7 of the ISDA Definitions.

#### 3.8.1.1.4 Adjustment to the Initial Exchange Date, the Final Exchange Date, the Payment Date and the Period End Date

OTC Clear uses Copp Clark as the data provider for information on holiday observances affecting world financial markets of days that are not Currency Days. OTC Clear will provide Clearing Members with regular updates of holidays affecting such non-Currency Days and Business Days through the "OTC Clear Market Data Report (Report Number MKDR03)". Any ad-hoc update of such ~~non-Currency Days~~ holidays will be notified to the Clearing Members.

- (i) In respect of a Standard Rates Derivatives Contract or a Non Deliverable Rates Derivatives Contract:

If ~~any update of a Currency Day results in an adjustment to~~ holiday declaration affects a scheduled Payment Date and/or a Period End Date (if applicable) of the relevant Calculation Period of a Contract, ~~such an~~ adjustment to the Payment Date and/or the amount of the settlement (if applicable) shall be made in accordance with the Contract Terms, provided that, in the event of a holiday declaration in respect of a particular day which would otherwise have been a Currency Day or a Business Day after 18:00 hours Hong Kong time on the OTC Clear Clearing Day immediately preceding such Currency Day or Business Day on which a Payment Date and/or Period End Date is scheduled to fall, no adjustment shall be made to such Payment Date and/or Period End Date of any Contract unless such declaration or curtailment affects the financial center or the foreign exchange market of the Contractual Currency of that Contract.

- (ii) In respect of a Standard Cross-currency Rates Derivatives Contract:

If ~~any update of a Currency Day results in an adjustment~~ holiday declaration affects to an a scheduled Initial Exchange Date (if applicable), a Final Exchange Date (if applicable), a Payment Date and/or a Period End Date (if applicable) of the relevant Calculation Period of a Contract, ~~such an~~ adjustment to the Initial Exchange Date (if applicable), the Final Exchange

Date (if applicable), the Payment Date and/or the amount of the settlement (if applicable) shall be made in accordance with the Contract Terms, provided that, in the event of a holiday declaration in respect of a particular day which would otherwise have been a Currency Day or a Business Day after 18:00 hours Hong Kong time on the OTC Clear Clearing Day immediately preceding such Currency Day or Business Day on which an Initial Exchange Date (if applicable), a Final Exchange Date (if applicable), a Payment Date and/or Period End Date (if applicable) is scheduled to fall, no adjustment shall be made to such Initial Exchange Date, Final Exchange Date, Payment Date and/or Period End Date of any Contract unless such declaration or curtailment affects the financial center or the foreign exchange market of any one of the Contractual Currencies of that Contract.

Any update to the Payment Date and/or amount of the settlement of a forthcoming payment is reflected in the “OTC Clear Settlement Report (Report Number STRP04, STRP06 or STRP09)” in respect of any payment relevant to a House Position Account or “OTC Clear Settlement Report for Client (Report Number STRP04 C, STRP06 C or STRP09 C)” in respect of any payment relevant to a Client Position Account. ~~which~~ Both “OTC Clear Settlement Report (Report Number STRP04, STRP06 or STRP09)” and “OTC Clear Settlement Report for Client (Report Number STRP04 C, STRP06 C or STRP09 C)” will be made available to the Clearing Members on the Web Portal.

OTC Clear has no involvement in Copp Clark’s business and therefore does not guarantee and is not responsible for the accuracy of any data provided by Copp Clark.

#### **3.8.1.1.5 Calculation of the Settlement Currency Amount for a Non Deliverable Rates Derivatives Contract**

The methodology stipulated in Section 2.2(b)(ii) of the FX Definitions for calculation of the Settlement Currency Amount for a Non Deliverable Rates Derivatives Contract shall be deemed to be replaced by the methodology stipulated in the ND IRS Template under the section entitled “Settlement Currency Amount”.

#### **3.8.1.1.6 Disruption Event and Disruption Fallback**

In respect of a Standard Rates Derivatives Contract or a Standard Cross-currency Rates Derivatives Contract which is denominated in CNY (offshore), in the event of the occurrence of a Disruption Event, the CNY (offshore) Disruption Provisions shall apply.

In respect of a Non Deliverable Rates Derivatives Contract, in the event of the occurrence of a Disruption Event, the relevant Disruption Fallback provisions stipulated in the ND IRS Template shall apply.

#### **3.8.1.2 Settlement Amount for an FX Derivatives Contract**

##### **3.8.1.2.1 Calculation of the Settlement Currency Amount**

Calculation of the Settlement Currency Amount is based on the methodologies stipulated in Article 2 of the FX Definitions and the Economic Terms specified in the relevant Contract.

##### **3.8.1.2.2 Determination of the Settlement Rate**

The Settlement Rate, including the source and the time at which such source is obtained from the relevant provider, is determined in accordance with the FX Definitions and the EMTA Template.

##### **3.8.1.2.3 Adjustment to the Valuation Date and the Settlement Date**

OTC Clear uses Copp Clark as the data provider ~~of non-business days for~~ information on holiday observances affecting world different financial centers/markets. OTC Clear will provide Clearing

Members with regular updates of holidays affecting Currency Days and Business Days such ~~non-business days~~ through the “OTC Clear Market Data Report (Report Number MKDR03)”. Any ad-hoc update of such ~~non-business days~~ holidays will be notified to the Clearing Members.

~~If an update of a holiday declaration affects business day results in an adjustment to a scheduled Valuation Date and/or a Settlement Date of a Contract, such an adjustment to the Valuation Date and/or the Settlement Date shall will~~ be made in accordance with the Contract Terms and the EMTA Template which is applicable to the relevant Currency Pair, even if such holiday declaration in respect of a particular day which would otherwise have been a Currency Day occurs after 18:00 hours Hong Kong time on the OTC Clear Clearing Day immediately preceding such Currency Day on which a Valuation Date or Settlement Date is scheduled to fall.

Any update in the Settlement Date and/or the Settlement Currency Amount is reflected in the “OTC Clear Settlement Report (Report Number STRP05)” in respect of any payment relevant to a House Position Account or “OTC Clear Settlement Report for Client (Report Number STRP05\_C)” in respect of any payment relevant to a Client Position Account. Both “OTC Clear Settlement Report (Report Number STRP05)” and “OTC Clear Settlement Report for Client (Report Number STRP05\_C)”, ~~which~~ will be made available to the Clearing Members on the Web Portal.

OTC Clear has no involvement in Copp Clark’s business and therefore does not guarantee and is not responsible for the accuracy of any data provided by Copp Clark.

#### **3.8.1.2.4 Disruption Event and Disruption Fallback**

In the event of the occurrence of a Disruption Event, the relevant Disruption Fallback provisions stipulated in the EMTA Template shall apply.

#### **3.8.2 Fees and Interest**

OTC Clear has the right to charge fees or interest for its services at such rates as prescribed from time to time. A Clearing Member shall pay the fees and interest within the prescribed timeframe as indicated by OTC Clear.

Details of fees and interest are monitored throughout each calendar month. The “OTC Clear Settlement Reports (Report Number STRP07 and STRP08)” in respect of any fees and interest relevant to a House Account or “OTC Clear Settlement Reports for Client (Report Number STRP07\_C and STRP08\_C)” in respect of any fees and interest relevant to a Client Account which are published at the beginning of each calendar month stipulates the fees and interest to be paid by each Clearing Member for the immediately preceding calendar month.

~~The amounts will~~ The amount of fees and interest to be settled by each a Clearing Member in the manner as set out in section 3.10 on the payment due date stated in the relevant “OTC Clear Settlement Reports” will be published in the “OTC Clear Settlement Report (Report Number STRP01)” in respect of any payment relevant to a House Account or “OTC Clear Settlement Report for Client (Report Number STRP01\_C)” in respect of any payment relevant to a Client Account. Such reports are available to the Clearing Members on the Web Portal. The fees and interest calculated by OTC Clear pursuant to the Clearing Rules and published in the “OTC Clear Settlement Report (Report Number STRP01)” and “OTC Clear Settlement Report for Client (Report Number STRP01\_C)” shall be conclusive and binding, and shall be settled on the relevant “Value Date” as stipulated in the “OTC Clear Settlement Report (Report Number STRP01)” and “OTC Clear Settlement Report for Client (Report Number STRP01\_C)” in accordance with section 3.12.

### 3.8.2.1 Fees

Types of fees which are applicable to a Clearing Member will be notified by OTC Clear to its Clearing Members from time to time and include, but are not limited to, the following:

- (i) annual fees, which are fees payable by each Clearing Member on an annual basis for the use of Rates and FX Clearing Services;
- (ii) registration fees, which are fees payable by each Clearing Member for registration of a Contract in its House Position Account or Client Position Account (if Client Clearing Services are provided by such Clearing Member). For the avoidance of doubt, registration fees relevant to a Contract are incurred at the time when such Contract is registered in the relevant Position Account;
- (iii) maintenance fees, which are fees payable by each Clearing Member on a monthly basis in respect of each Contract registered in its House Position Account or its Client Position Account (if Client Clearing Services are provided by such Clearing Member) until its maturity. For the avoidance of doubt, maintenance fees are incurred on a monthly basis to a Contract which remains registered in the relevant Position Account on the last OTC Clear Clearing Day in each calendar month;
- (iv) de-registration fees, which are fees payable by each Clearing Member in respect of each Contract previously registered in its name that has been de-registered in its House Position Account or its Client Position Account (if Client Clearing Services are provided by such Clearing Member). For the avoidance of doubt, de-registration fees in respect of a Contract are incurred at the time when such Contract is de-registered from the relevant Position Account;
- (v) costs of conducting an investigation or audit on a Clearing Member. Unless otherwise agreed by OTC Clear, such amounts should be borne by that Clearing Member;
- (vi) fees for resuming user access or resetting password for access to the Web Portal, which are fees payable by a Clearing Member who requests to have its designated password to be reset or retrieved by OTC Clear for the purpose of accessing the Web Portal. For the avoidance of doubt, the designated password for accessing the Web Portal will be provided by OTC Clear for free for first-time log-on. Such fees will be charged during the month of submission of the request for such reset or retrieval of password;
- (vii) fees for retrieval of reports subsequent to the same being removed from the Web Portal in accordance with section ~~3.133.16~~; and/or fees for delivery of print-out reports as requested by any Clearing Member. For the list of reports available on the Web Portal, please refer to the “Report Usage Guide” (which is a user manual detailing the specification of each report published by OTC Clear, the guidance for interpreting the contents therein, and the frequency of publication of each such report). Such fees will be charged during the month of submission of the request for such retrieval of reports or delivery of print-out reports; ~~and~~
- (viii) fees for processing each request for porting of Contracts from a Transferor Clearing Member's Client Position Account to a Transferee Clearing Member's Client Position Account. For the avoidance of doubt, such fees are payable by the Transferee Clearing Member irrespective of whether each request results in successful porting;
- (ix) fees for processing each request for porting of Contracts between Client Position Accounts of the same Clearing Member. For the avoidance of doubt, such fees are payable by a Clearing Member irrespective of whether each request results in successful porting;

(x) fees for processing each request for deposit, porting or withdrawal of non-cash Collateral by a Clearing Member. For the avoidance of doubt, such fees are payable by such Clearing Member irrespective of whether each request is successful; and

(viii)(xi) accommodation charges, administrative fees and/or commitment fees for credit lines in respect of any non-cash Collateral delivered by a Clearing Member for purposes of satisfying its Initial Margin requirements and/or, its Additional Margin requirements in respect of its House Position Account and/or its Client Position Account (if Client Clearing Services are provided by such Clearing Member) and/or its CM Funded Contribution Amount.

Fees itemised in this section 3.8.2.1 are stipulated in the Fees Schedule (see Appendix I to these Clearing Procedures). OTC Clear shall be entitled to make any changes to the Fees Schedule, in addition, OTC Clear reserves the right to charge any additional fee prescribed by it from time to time.

For the avoidance of doubt, no fees will be charged for the porting of Contracts and Collateral held by a Defaulting Clearing Member to a Replacement Clearing Member upon the occurrence of a DMP Event.

### **3.8.2.2 Interest to be Paid / Received by Clearing Members in respect of Collateral Delivered to OTC Clear**

Please refer to Chapter 7 of these Clearing Procedures for details.

### **3.9 Procedures for Voluntary Deposit of Cash Collateral, porting of Cash Collateral representing Excess Margin and Withdrawal of Cash Collateral representing Excess Margin and Rates and FX Contribution Excess**

This section 3.9 sets out the arrangement for any voluntary withdrawal, porting or deposit of cash Collateral by a Clearing Member. The arrangement for satisfying a Margin demand by a Clearing Member is governed by Chapter 4 and, in particular, section 4.7 of these Clearing Procedures. In respect of any cash settlement as a result of voluntary withdrawal or deposit of cash Collateral for satisfaction of Margin requirements or Rates and FX Liability, such cash settlement must be made via RTGS system as further described in section ~~3.10.4~~3.11.1.

#### **3.9.1 Procedure for Voluntary Withdrawal of Cash Collateral representing Excess Margin and Rates and FX Contribution Excess**

The following procedures apply to voluntary withdrawal of cash Collateral by a Clearing Member in respect of its Excess Margin, and its Rates and FX Contribution Excess:

- (i) prior to requesting withdrawal of any cash Collateral then deposited with OTC Clear for the purpose of satisfying its Margin requirements, the Clearing Member should check and ensure there is a positive cash balance (after taking into account any Collateral Concentration Limit(s) set out in section 7.4 of these Clearing Procedures) standing to the credit of its relevant House Collateral Account or Client Collateral Account, as the case may be, representing the Excess Margin;
- (ii) prior to requesting withdrawal of any cash Collateral then deposited with OTC Clear for the purpose of satisfying its Rates and FX Liability, the Clearing Member should check and ensure there is a positive cash balance standing to the credit of its GF Account representing ~~the~~ Rates and FX Contribution Excess;

- (iii) the Clearing Member shall input a request for withdrawal via the collateral management window of the Web Portal before 11:00 hours Hong Kong time on a day that is both a Currency Day relating to the relevant cash Collateral and an OTC Clear Business Day. Any request which is submitted (a) on a day other than a day that is both a Currency Day relating to the relevant cash Collateral and an OTC Clear Business Day or (b) after 11:00 hours Hong Kong time on such day will be rejected; and
- (iv) if such withdrawal is approved by OTC Clear:
  - ~~(iv)(a)~~ the amount of withdrawal will be deducted from the cash balance of the House Collateral Account, Client Collateral Account or the GF Account, as the case may be, relating to the Clearing Member once such request is processed by OTC Clear; and
  - ~~(v)~~ (b) OTC Clear will make the payment for value on the same day by the cash settlement method described in section 3.10.13.11.1; and
  - ~~(vi)~~ transfer of cash Collateral between the House Collateral Account and any of the Client Clearing Category 1 Collateral Accounts; or between any of the Client Clearing Category 1 Collateral Accounts, of a Clearing Member is not allowed.

For the avoidance of doubt, any request for withdrawal of cash Collateral which is designated with a value date for settlement other than the date on which such request is made will not be accepted or processed by OTC Clear.

Clearing Members are able to monitor the progress of their withdrawal requests on a daily basis through the Web Portal. The relevant information will be updated on the Web Portal by 18:00 hours Hong Kong time on each OTC Clear Business Day.

### 3.9.2 Procedure for Voluntary Deposit of Cash Collateral

The following procedures apply to voluntary deposit of cash Collateral by a Clearing Member in respect of its Margin requirements and its Rates and FX Liability:

- (i) the Clearing Member shall input a request for deposit via the collateral management window of the Web Portal before 16:00 hours Hong Kong time on a day that is both a Currency Day relating to the relevant cash Collateral and an OTC Clear Clearing Day. Any request which is submitted (a) on a day other than a day that is both a Currency Day relating to the relevant cash Collateral and an OTC Clear Clearing Day or (b) after 16:00 hours Hong Kong time on such day will be rejected;
- (ii) the amount of deposit will be settled by the cash settlement method described in section 3.10.13.11.1;
- (iii) the Clearing Member should ensure that the amount of deposit can be credited to OTC Clear by 17:00 hours Hong Kong time on the day such request is submitted. Otherwise such request will be deemed to be rejected by OTC Clear; and
- (iv) upon receipt of confirmation by OTC Clear from its settlement bank that the amount of deposit has been credited to OTC Clear, it will be reflected in the cash balance of the House Collateral Account, Client Collateral Account or the GF Account, as the case may be, relating to the Clearing Member; and
- ~~(v)~~ transfer of cash Collateral between the House Collateral Account and any of the Client Clearing Category 1 Collateral Accounts; or between any of the Client Clearing Category 1 Collateral Accounts, of a Clearing Member is not allowed.

For the avoidance of doubt, any request for deposit of cash Collateral which is designated with a value date for settlement other than the date on which such request is made will not be accepted or processed by OTC Clear.

Clearing Members are able to monitor the progress of their deposit requests on a daily basis through the Web Portal. The relevant information will be updated on the Web Portal by 18:00 hours Hong Kong time on each OTC Clear Clearing Day.

### **3.9.3 Procedure for porting of Cash Collateral representing Excess Margin**

The following procedures apply to porting of cash Collateral by a Clearing Member representing Excess Margin in its House Collateral Account to any of its Client Collateral Accounts. For the avoidance of doubt, porting of Excess Margin in a Client Collateral Account at a Clearing Member to satisfy Margin requirements in respect of another Client Position Account of that Clearing Member and porting of Excess Margin amongst Client Collateral Accounts of that Clearing Member is prohibited:

- (i) prior to requesting porting of any cash Collateral then deposited with OTC Clear for the purpose of satisfying its Margin requirements from its House Collateral Account to any of its Client Collateral Accounts, a Clearing Member should check and ensure that there is a positive cash balance (after taking into account any Collateral Concentration Limit(s) set out in section 7.4 of these Clearing Procedures) standing to the credit of its House Collateral Account representing Excess Margin;
- (ii) a Clearing Member with cash Collateral representing Excess Margin in its House Collateral Account may input a request for porting of such Excess Margin to any of its Client Collateral Accounts via the collateral management window of the Web Portal before 11:00 hours Hong Kong time on a day that is both a Currency Day for the currency of the relevant cash Collateral and an OTC Clear Business Day. Any request which is submitted after 11:00 hours Hong Kong time will be rejected and must be re-submitted on the next day that is both a Currency Day for the currency of the relevant cash Collateral and an OTC Clear Business Day. For the avoidance of doubt, any request for porting of cash Collateral with a value date for settlement other than the date on which such request is made will not be accepted or processed by OTC Clear;
- (iii) if such porting is approved by OTC Clear, the amount to be ported will be deducted from the cash balance of the relevant Clearing Member's House Collateral Account once such request has been processed by OTC Clear;
- (iv) OTC Clear will endeavour to effect the porting for value on the same day; and
- (v) upon receipt of confirmation by OTC Clear from its settlement bank that the transfer has been completed, OTC Clear will reflect the cash increase in the balance of the relevant Client Collateral Account of the relevant Clearing Member.

Porting of cash Collateral: (a) from the GF Account to the House Collateral Account or any Client Collateral Account, (b) from any Client Collateral Account to the House Collateral Account or the GF Account, (c) from the House Collateral Account to the GF Account or (d) amongst Client Collateral Accounts, is not allowed.

Cash Collateral representing Excess Margin ported from a Clearing Member's House Collateral Account to a Client Collateral Account on a particular OTC Clear Clearing Day will not be available in time to satisfy Margin calls made in respect of the corresponding Client Position Account on that OTC Clear Clearing Day.

Clearing Members are able to monitor the progress of their transfer requests on a daily basis through the Web Portal. The relevant information will be updated on the Web Portal by 18:00 hours Hong Kong time on each OTC Clear Business Day.

#### **3.9.33.9.4 Black Rainstorm Warning or Typhoon Signal Number 8**

If a level “black” of the rainstorm warning system (a “Black Rainstorm Warning”) or a number 8 tropical cyclone warning signal (a “Typhoon Signal Number 8”) or above is issued by The Hong Kong Observatory, the special arrangement as set out in section 9.5 of these Clearing Procedures will apply and the operation of the procedures set out in this section 3.9 shall be construed accordingly.

### **3.10 Types of Securities Acceptable as Non-cash Collateral and Procedures for Voluntary Deposit of Non-Cash Collateral, porting of Non-Cash Collateral representing Excess Margin and Withdrawal of Non-Cash Collateral representing Excess Margin**

OTC Clear only accepts non-cash Collateral delivered to it at its account at the relevant Custodian specified for the relevant type of eligible non-cash Collateral. Non-cash Collateral deposited for the purpose of satisfying Margin requirements in respect of a particular Position Account will not form part of the Margin Balance recorded to the corresponding Collateral Account until such non-cash Collateral is received by OTC Clear at its account at such relevant Custodian. OTC Clear publishes the Custodian and its standard delivery instruction for each type of eligible non-cash Collateral on the HKEx website and updates it from time to time.

Delivery of non-cash Collateral to OTC Clear must be executed free of payment.

Clearing Members are each required to open 2 accounts with their respective custodian(s) for the relevant type of eligible non-cash Collateral – one account for settlement of non-cash Collateral relating to House Business and the other account for settlement of non-cash Collateral relating to Contracts recorded in the Client Position Account of a Clearing Member (“Client Business”). Clearing Members must specify only one standard delivery instruction for House Business and only one standard delivery instruction for Client Business.

The relevant Custodian matches the details submitted by each Clearing Member via the Web Portal before accepting delivery of the relevant non-cash Collateral to OTC Clear’s account with it. In the event of a discrepancy, delivery will fail. Each Clearing Member must also indicate in the relevant payment message that the settlement mode is real time.

In respect of each request for withdrawal of non-cash Collateral which has been accepted by OTC Clear, OTC Clear will instruct the relevant Custodian to deliver the relevant non-cash Collateral to each Clearing Member in accordance with the standard delivery instructions provided by such Clearing Member.

If a Clearing Member wishes to change its standard delivery instruction in respect of settlement in relation to its House Collateral Account and/or its Client Collateral Accounts (if applicable), it must provide at least 10 OTC Clear Business Days’ advance notice to OTC Clear pursuant to section 2.6 of these Clearing Procedures prior to effecting such change.

OTC Clear will not be liable for any failure, hindrance or delay in the performance (in whole or in part) of any of its obligations to Clearing Members relating to the deposit, withdrawal or porting of non-cash Collateral where such failure, hindrance or delay arises from causes beyond the control of OTC Clear, such as, but not limited to, the failure (whether partial or total), interruption or suspension of any depository, Custodian or other depository service that OTC Clear uses, the termination or suspension of OTC Clear’s membership or use of a Custodian or any variation of a Custodian’s operational

timetable, whether or not occasioned by the action of the Custodian or other party, or any embargo, unavailability or restriction of bank transfer systems or wires, malfunction or overload of the depository or any other emergency.

### **3.10.1 Types of Securities Acceptable as Non-cash Collateral**

Clearing Members are requested to note that OTC Clear accepts the following securities as non-cash Collateral delivered to it at the relevant account at Central Moneymarkets Unit (“CMU”) of the Hong Kong Monetary Authority specified for the relevant type of securities:

<b><u>Type of securities acceptable as non-cash Collateral</u></b>	<b><u>Custodian</u></b>	<b><u>Minimum delivery amount</u></b>
<u>US Treasury Bills</u>	<u>CMU</u>	<u>USD100 and integral multiples of USD100 in excess thereof</u>
<u>US Treasury Notes</u>		<u>USD100 and integral multiples of USD100 in excess thereof</u>
<u>Hong Kong Exchange Fund Bills</u>	<u>CMU</u>	<u>HKD500,000 and integral multiples of HKD500,000 in excess thereof</u>
<u>Hong Kong Exchange Fund Notes</u>		<u>HKD50,000 and integral multiples of HKD50,000 in excess thereof</u>
<u>Bonds issued by the Ministry of Finance of the People’s Republic of China denominated in CNY(offshore)</u>	<u>CMU</u>	<u>CNY (offshore)500,000 and integral multiples of CNY (offshore)500,000 in excess thereof</u>

Collateral Haircuts for the relevant asset type are published on the HKEx website and will be updated from time to time:

<http://www.hkex.com.hk/eng/prod/clr/otclrsett/chaircut.htm>

### **3.10.2 Procedures for Voluntary Withdrawal of Non-Cash Collateral representing Excess Margin**

The following procedures apply to voluntary withdrawal of non-cash Collateral by a Clearing Member representing Excess Margin:

- (i) prior to requesting withdrawal of any non-cash Collateral then deposited with OTC Clear, the Clearing Member should ensure that there is a positive balance of the relevant security represented by the relevant international securities identification number assigned by the International Securities Identification Numbers Organization (“ISIN code”) standing to the credit of its House Collateral Account or relevant Client Collateral Account, as the case may be, and that such Collateral represents Excess Margin;
- (ii) the Clearing Member shall input a request for withdrawal of the relevant security via the collateral management window of the Web Portal before 11:00 hours Hong Kong time on an OTC Clear Clearing Day. Each withdrawal request must specify: (a) the ISIN code of each relevant non-cash Collateral that it is seeking to withdraw, (b) the notional amount of each such Collateral that it is seeking to withdraw and (c) the value date for settlement;
- (iii) in addition, each withdrawal request must comply with the following parameters:

<u>Type of non-cash Collateral to be withdrawn</u>	<u>Value Date for Settlement to be specified in each withdrawal request</u>	<u>Minimum withdrawal amount</u>
<u>US Treasury Bills</u>	<u>one New York Business Day following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>  <u>Where, “New York Business Day” means a day (other than Saturday and Sunday) on which commercial banks in New York City are open for general business.</u>	<u>USD100 and integral multiples of USD100 in excess thereof</u>
<u>US Treasury Notes</u>	<u>one New York Business Day following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>  <u>Where, “New York Business Day” means a day (other than Saturday and Sunday) on which commercial banks in New York City are open for general business.</u>	<u>USD100 and integral multiples of USD100 in excess thereof</u>
<u>Hong Kong Exchange Fund Bills</u>	<u>one Hong Kong Business Day following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>  <u>Where, “Hong Kong Business Day” means a day (other than Saturday and Sunday) on which commercial banks in Hong Kong are open for general business.</u>	<u>HKD500,000 and integral multiples of HKD500,000 in excess thereof</u>
<u>Hong Kong Exchange Fund Notes</u>	<u>one Hong Kong Business Day following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>  <u>Where, “Hong Kong Business Day” means a day (other than Saturday and Sunday) on which commercial banks in Hong Kong are open for general business.</u>	<u>HKD50,000 and integral multiples of HKD50,000 in excess thereof</u>
<u>Bonds issued by the Ministry of Finance of the People’s Republic of China denominated in CNY(offshore)</u>	<u>one day (which is both a Hong Kong Business Day and a Beijing Business Day) following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>  <u>Where, “Beijing Business Day” means a day (other than Saturday and Sunday) on which commercial banks in Beijing are open for general business.</u>	<u>CNY (offshore)500,000 and integral multiples of CNY (offshore)500,000 in excess thereof</u>

- (iv) a withdrawal request which does not comply with the above parameters or which is submitted after 11:00 hours Hong Kong time on an OTC Clear Clearing Day will be rejected and must be re-submitted on the next OTC Clear Clearing Day with the necessary amendments;
- (v) if such withdrawal request is approved and processed by OTC Clear:
- (a) the Margin Balance of the Clearing Member’s House Collateral Account or relevant Client Collateral Account, as the case may be, will be reduced to reflect the notional amount of securities withdrawn;
  - (b) OTC Clear will instruct CMU to deliver the relevant securities free of payment on the relevant value date for settlement specified in such withdrawal request in accordance with the latest standard delivery instructions (provided by the Clearing Member as set out in this section 3.10) in relation to its House Collateral Account or Client Collateral Accounts, as the case may be; and
  - (c) the Clearing Member should ensure that the information submitted to OTC Clear in the withdrawal request matches the details it submits to its receiving custodian. In the event of a discrepancy, delivery will fail; and

(vi) if such withdrawal request is rejected by OTC Clear, it will inform the Clearing Member via the Web Portal.

### **3.10.3 Procedures for Voluntary Deposit of Non-Cash Collateral**

The following procedures apply to voluntary deposit of non-cash Collateral by a Clearing Member to satisfy the Margin requirements relating to its House Position Account and Client Position Account(s):

- (i) prior to requesting deposit of any security as non-cash Collateral, the Clearing Member should ensure that any Collateral Concentration Limits imposed on it would not be exceeded upon the acceptance of such security as Collateral;
- (ii) if the ISIN code of such security stipulated in section 3.10.1 is not currently listed in the collateral management window of the Web Portal, prior to submitting a deposit request via the collateral management window of the Web Portal, the Clearing Member must give OTC Clear nine OTC Clear Business Days advance notice of the security that it wishes to deposit, providing OTC Clear with the ISIN code of the relevant security, subsequent to such notice, OTC Clear will list the ISIN code of such security in the collateral management window of the Web Portal;
- (iii) the Clearing Member shall input a deposit request via the collateral management window of the Web Portal before 16:00 hours Hong Kong time on an OTC Clear Clearing Day. Such deposit request must specify: (a) the ISIN code of each relevant security that it is seeking to deposit as Collateral, (b) the notional amount of each such security that it is seeking to deposit as Collateral and (c) the value date for settlement;
- (iv) in addition, each deposit request must comply with the following parameters:

<b><u>Type of security to be deposited as non-cash Collateral</u></b>	<b><u>Value Date for Settlement to be specified in each deposit request</u></b>	<b><u>Minimum deposit amount</u></b>
<u>US Treasury Bills</u>	<u>one New York Business Day following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>	<u>USD100 and integral multiples of USD100 in excess thereof</u>
<u>US Treasury Notes</u>	<u>Where, “<b>New York Business Day</b>” means a day (other than Saturday and Sunday) on which commercial banks in New York City are open for general business.</u>	<u>USD100 and integral multiples of USD100 in excess thereof</u>
<u>Hong Kong Exchange Fund Bills</u>	<u>one Hong Kong Business Day following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>	<u>HKD500,000 and integral multiples of HKD500,000 in excess thereof</u>
<u>Hong Kong Exchange Fund Notes</u>	<u>Where, “<b>Hong Kong Business Day</b>” means a day (other than Saturday and Sunday) on which commercial banks in Hong Kong are open for general business.</u>	<u>HKD50,000 and integral multiples of HKD50,000 in excess thereof</u>
<u>Bonds issued by the Ministry of</u>	<u>one day (which is both a Hong Kong</u>	<u>CNY (offshore)</u>

<u>Type of security to be deposited as non-cash Collateral</u>	<u>Value Date for Settlement to be specified in each deposit request</u>	<u>Minimum deposit amount</u>
<u>Finance of the People's Republic of China denominated in CNY(offshore)</u>	<u>Business Day and a Beijing Business Day) following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>  <u>Where, "Beijing Business Day" means a day (other than Saturday and Sunday) on which commercial banks in Beijing are open for general business.</u>	<u>500,000 and integral multiples of CNY (offshore) 500,000 in excess thereof</u>

- (v) a deposit request which seeks to request the deposit of a security whose ISIN code is not currently listed as eligible Collateral in the collateral management window of the Web Portal will be rejected;
- (vi) a deposit request which if processed would result in the Clearing Member breaching a Concentration Limit imposed on it will be rejected;
- (vii) a deposit request which does not comply with the above parameters or which is submitted after 16:00 hours Hong Kong time on an OTC Clear Clearing Day will be rejected and must be re-submitted on the next OTC Clear Clearing Day with the necessary amendments;
- (viii) if such deposit request is rejected by OTC Clear, it will inform the Clearing Member via the Web Portal; and
- (ix) upon confirmation from CMU that the relevant securities have been received in OTC Clear's relevant account(s), OTC Clear will update the Margin Balance of the Clearing Member's House Collateral Account or Client Collateral Account(s), as the case may be, provided that, if CMU notifies OTC Clear that the relevant securities have been received in OTC Clear's relevant account(s) after 19:00 hours Hong Kong time on an OTC Clear Clearing Day, OTC Clear will only update the Margin Balance of the Clearing Member's House Collateral Account or Client Collateral Account(s), as the case may be, at 11:00 hours Hong Kong time on the next OTC Clear Clearing Day. For the avoidance of doubt, the Clearing Member will continue to be responsible for complying with any Margin calls until the Margin Balance of the relevant Collateral Account has been updated, regardless of the value date on which such securities are delivered.

#### **3.10.4 Procedures for Porting of Non-Cash Collateral representing Excess Margin**

The following procedures apply to porting of non-cash Collateral by a Clearing Member representing Excess Margin in its House Collateral Account to any of its Client Collateral Accounts. For the avoidance of doubt, porting of Excess Margin amongst Client Collateral Accounts of a Clearing Member and porting of Excess Margin from a Client Collateral Account of a Clearing Member to the House Collateral Account of that Clearing Member is prohibited:

- (i) prior to requesting porting of any non-cash Collateral then deposited with OTC Clear, the Clearing Member should ensure that:
  - (a) there is a positive balance of the relevant security represented by the relevant ISIN code standing to the credit of its House Collateral Account, and that such Collateral represents Excess Margin; and

(b) any Collateral Concentration Limits imposed on it would not be exceeded upon the completion of such porting request;

(ii) the Clearing Member shall input a request for porting of such Excess Margin to any of its Client Collateral Accounts via the collateral management window of the Web Portal before 11:00 hours Hong Kong time on an OTC Clear Clearing Day. Each porting request must specify: (a) the ISIN code of each relevant non-cash Collateral that it is seeking to port, (b) the notional amount of each such Collateral that it is seeking to port, (c) the value date for settlement and (d) the Client Collateral Account into which such Collateral is to be ported;

(iii) in addition, each porting request must comply with the following parameters:

<u>Type of non-cash Collateral to be ported</u>	<u>Value Date for Settlement to be specified in each porting request</u>	<u>Minimum porting amount</u>
<u>US Treasury Bills</u>	<u>one New York Business Day following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>	<u>USD100 and integral multiples of USD100 in excess thereof</u>
<u>US Treasury Notes</u>	<u>Where, “<b>New York Business Day</b>” means a day (other than Saturday and Sunday) on which commercial banks in New York City are open for general business.</u>	<u>USD100 and integral multiples of USD100 in excess thereof</u>
<u>Hong Kong Exchange Fund Bills</u>	<u>one Hong Kong Business Day following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>	<u>HKD500,000 and integral multiples of HKD500,000 in excess thereof</u>
<u>Hong Kong Exchange Fund Notes</u>	<u>Where, “<b>Hong Kong Business Day</b>” means a day (other than Saturday and Sunday) on which commercial banks in Hong Kong are open for general business.</u>	<u>HKD50,000 and integral multiples of HKD50,000 in excess thereof</u>
<u>Bonds issued by the Ministry of Finance of the People’s Republic of China denominated in CNY(offshore)</u>	<u>one day (which is both a Hong Kong Business Day and a Beijing Business Day) following the day on which such request is submitted, provided that such value date shall not fall on or after the maturity date of the relevant security.</u>  <u>Where, “<b>Beijing Business Day</b>” means a day (other than Saturday and Sunday) on which commercial banks in Beijing are open for general business.</u>	<u>CNY (offshore) 500,000 and integral multiples of CNY (offshore) 500,000 in excess thereof</u>

(iv) a porting request which does not comply with the above parameters or which is submitted after 11:00 hours Hong Kong time on an OTC Clear Clearing Day will be rejected and must be re-submitted on the next OTC Clear Clearing Day with the necessary amendments;

- (v) a porting request which if processed would result in the Clearing Member breaching a Concentration Limit imposed on it will be rejected;
- (vi) if such porting request is rejected by OTC Clear, it will inform the Clearing Member via the Web Portal; and
- (vii) if such porting request is approved by OTC Clear, upon confirmation from CMU that the relevant securities have been transferred from OTC Clear's CMU account in which Collateral for Clearing Members' House Business is held to OTC Clear's CMU account in which Collateral for Clearing Members' Client Business is held, OTC Clear will update the Margin Balance of the Clearing Member's House Collateral Account and its relevant Client Collateral Account to reflect such porting. For the avoidance of doubt, the Clearing Member will continue to be responsible for complying with any Margin calls until the Margin Balance of the relevant Client Collateral Account has been updated, regardless of the value date on which such securities are transferred at CMU.

Clearing Members should be aware that non-cash Collateral representing Excess Margin ported from a Clearing Member's House Collateral Account to its Client Collateral Account on a particular OTC Clear Clearing Day will not be available in time to satisfy Margin calls made in respect of the corresponding Client Position Account on that OTC Clear Clearing Day.

### **3.403.11 Cash Settlement Method**

- (i) In respect of a particular payment date, payments in respect of Initial Margin and, Additional Margin and Rates and FX Contribution will be settled separately from (and will not be netted subject to netting with) any of the following other payments.
- (ii) In respect of a particular payment date, payments in respect of Rates and FX Contribution will be settled separately from and will not be netted with any other payments.
- (iii) (i) In respect of a particular payment date, settlements of (a) coupon payments of a Standard Rates Derivatives Contract, a Standard Cross-currency Rates Derivatives Contract or and a Non Deliverable Rates Derivatives Contract, (b) settlement of amounts due in respect of an FX Derivatives Contract, (c) Additional Payments and (d) Variation Margin which will all be settled on a net basis provided that each such sum is denominated in the same currency;
  - (a) in respect of a Clearing Member's House Business will be netted together;
  - (b) in respect of a Clearing Member's Client Business will be netted together (for the avoidance of doubt, payments of such amounts in respect of Client Business will not be netted with amounts due in respect of House Business).
- (iv) (ii) In respect of a particular payment date, settlements of (a) Additional Amount, (b) fees due to OTC Clear, and interest payable by OTC Clear in respect of cash Collateral and (c) any other components which will all be settled on a net basis provided that each such sum is denominated in the same currency; and;
  - (a) in respect of a Clearing Member's House Business will be netted together;
  - (b) in respect of a Clearing Member's Client Business will be netted together (for the avoidance of doubt, payments of such amounts in respect of Client Business will not be netted with amounts due in respect of House Business).

(v) ~~(iii)~~—In respect of a particular payment date, settlements of Initial Exchange Amount and/or Final Exchange Amount of any Standard Cross-currency Rates Derivatives Contract in the same Currency Pair (swap) will be netted together.:

(a) \_\_\_\_\_ in respect of a Clearing Member’s House Business will be netted together;

(b) \_\_\_\_\_ in respect of a Clearing Member’s Client Business will be netted together (for the avoidance of doubt, payments of such amounts in respect of Client Business will not be netted with amounts due in respect of House Business).

Clearing Members are required to maintain different settlement accounts for payments in respect of House Business and Client Business.

All cash settlements must be made in accordance with section ~~3.10~~3.11.

In relation to its House Business, each Clearing Member is allowed to elect only one settlement account for each Contractual Currency in respect of each of the payment categories specified in sections 3.11(i) to (v) above.

In relation to its Client Business, each Clearing Member is allowed to elect only one settlement account for each Contractual Currency in respect of each of the payment categories specified in sections 3.11(i) to (v) above.

For the avoidance of doubt, with regard to each Contractual Currency, the settlement account which is elected by the Clearing Member in relation to its House Business must be different from the settlement account which is elected by such Clearing Member in relation to its Client Business.

If there is any change to the standard settlement instruction used by OTC Clear, such change will be notified to the Clearing Members. If a Clearing Member wishes to change its standard settlement instruction in respect of cash payments relevant to its House Position Account and House Collateral Account and/or its Client Position Accounts and Client Collateral Accounts (if applicable), it must provide at least 10 OTC Clear Business Days’ advance notice to OTC Clear pursuant to section 2.6 of these Clearing Procedures prior to effecting such change.

#### 3.10.13.11.1 **RTGS**

Except for the situation described in the immediately following paragraph and subject to section ~~3.10.2~~3.11.2 below, all cash payments must be settled through the Real Time Gross Settlement system, where “**Real Time Gross Settlement**” (or “**RTGS**”) means the settlement services provided by Hong Kong Interbank Clearing Limited. For a Clearing Member who is not a member of RTGS system, for cash settlement purpose, it should maintain an account with a member of RTGS system. If a Clearing Member is a member of RTGS system, it must settle directly with the settlement bank of OTC Clear via RTGS system. The list of the settlement banks appointed by OTC Clear for settlement will be notified by OTC Clear to Clearing Members from time to time.

Cash payments may not be settled through the RTGS system if the Clearing Member and OTC Clear use the same member of the RTGS system for settlement of the relevant currency, and in such case, cash payments will be settled through intra-bank transfer within the relevant settlement bank.

Any payment made through RTGS system will be irrevocable at the point in time set out in the relevant operating rules of the RTGS system.

Under RTGS system, the settlement of any amount shall be initiated by the payer of such amounts.

### 3.40.23.11.2 PVP

In respect to the cash payments relevant to the settlements of Initial Exchange Amount and/or Final Exchange Amount of any Standard Cross-currency Rates Derivatives Contract relevant to a Currency Pair (swap) for a particular Clearing Member, if the netted amounts of both currencies of a Currency Pair (swap) are greater than zero and the amount in one currency is payable by OTC Clear while the amount in the other currency of the Currency Pair (swap) is receivable by OTC Clear, they must be settled through the payment-versus-payment mechanism, where “**payment-versus-payment**” (or “**PVP**”) means the settlement services linked with RTGS system which is provided by Hong Kong Interbank Clearing Limited. For a Clearing Member who is not a member of RTGS system, for cash settlement purpose, it should maintain an account with a member of RTGS system. If a Clearing Member is a member of RTGS system, it must settle directly with the settlement bank of OTC Clear via RTGS system. The list of the settlement banks appointed by OTC Clear for settlement will be notified by OTC Clear to Clearing Members from time to time.

Any payment made through PVP mechanism will be irrevocable at the point in time set out in the relevant operating rules of the RTGS system.

### 3.443.12 Cash Settlement Time

- (i) Save and except the Initial Exchange Amount and the Final Exchange Amount, any cash settlement to be payable by a Clearing Member on a particular payment date must be settled by the Clearing Member:
  - (a) no later than ~~10:30~~11:00 hours Hong Kong time on the relevant payment due date if the “OTC Clear Settlement Report (Report Number STRP01)” and/or “OTC Clear Settlement Report for Client (Report Number STRP01 C)” (if applicable) relating to that particular payment date is published at or prior to 08:30 hours Hong Kong time on such day; or
  - (b) in all other cases, within two hours following the “OTC Clear Settlement Report (Report Number STRP01)” and/or “OTC Clear Settlement Report for Client (Report Number STRP01 C)” (if applicable) relating to that particular payment date is published or information equivalent to that which would be set out in such reports is communicated to Clearing Member by OTC Clear, subject to the availability of RTGS services.
- (ii) In respect of the Initial Exchange Amount and the Final Exchange Amount:
  - (a) the Clearing Member must be operationally ready to settle the relevant cash settlement on a particular payment date by providing the relevant instruction to Hong Kong Interbank Clearing Limited and reserving sufficient funding for the relevant cash settlement no later than 12:00 hours Hong Kong time on the relevant payment due date regardless of whether the “OTC Clear Settlement Report (Report Number STRP01)” and/or “OTC Clear Settlement Report for Client (Report Number STRP01 C)” (if applicable) relating to that particular payment date is published at or prior to 08:30 hours Hong Kong time on such day or not; and
  - (b) the cash settlement process for the Initial Exchange Amount and the Final Exchange Amount must be completed by both Clearing Member and OTC Clear no later than 13:00 hours Hong Kong time on the relevant payment due date regardless of whether the “OTC Clear Settlement Report (Report Number STRP01)” and/or “OTC Clear Settlement Report for Client (Report Number STRP01 C)” (if applicable) relating to that particular payment date is published at or prior to 08:30 hours Hong Kong time on such day or not but provided that if such reports are not published information equivalent to that which would

be set out in such reports is communicated to Clearing Member by OTC Clear no later than 12:00 hours Hong Kong time; and

- (iii) Save and except the Initial Exchange Amount and the Final Exchange Amount and the interest amount (coupon) received from OTC Clear's Custodian in respect of the relevant non-cash Collateral and payable to the relevant Clearing Member, any cash settlement to be payable by OTC Clear on a particular payment date must be settled by OTC Clear:
- (a) no later than 14:00 hours Hong Kong time on the relevant payment due date if the "OTC Clear Settlement Report (Report Number STRP01)" and/or "OTC Clear Settlement Report for Client (Report Number STRP01 C)" (if applicable) relating to that particular payment date is published at or prior to 08:30 hours Hong Kong time on such day or information equivalent to that which would be set out in the reports is available to OTC Clear no later than 12:00 hours Hong Kong time; or
  - (b) in all other cases within two hours following the "OTC Clear Settlement Report (Report Number STRP01)" and/or "OTC Clear Settlement Report for Client (Report Number STRP01 C)" (if applicable) relating to that particular payment date is published, or information equivalent to that which would be set out in such reports is available to OTC Clear, subject to the availability of RTGS services.

Any Margin requirements must be satisfied in accordance with the timing set out in section 4.7.14.7.2 of these Clearing Procedures; and a Clearing Member's request for voluntary withdrawal, porting or deposit of cash Collateral will be governed by section 3.9.

For the avoidance of doubt, OTC Clear will pay the interest amount (coupon) in respect of the relevant non-cash Collateral to the Clearing Member on the appropriate value date only after OTC Clear has been credited with such interest amount (coupon) by its Custodian.

### **3.13 Interest received on Non-Cash Collateral**

Interest received by OTC Clear in respect of each Clearing Member's non-cash Collateral will be reflected in the "OTC Clear Settlement Report (Report Number STRP10)" or "OTC Clear Settlement Report for Client (Report Number STRP10 C)", which is made available to each Clearing Member on the Web Portal.

### **3.14 Maturity of Non-Cash Collateral**

Clearing Members must substitute any non-cash Collateral deposited with OTC Clear no later than five business days prior to the scheduled maturity date of the relevant security (calculated by reference to the definition of business days in the terms and conditions of the relevant security). OTC Clear does not process the redemption of securities held by it as non-cash Collateral.

Notwithstanding section 7.5.1, any non-cash Collateral which is not withdrawn on or before the cut off date set out in the foregoing will be treated as having an applicable Collateral Haircut of 100 per cent. with effect from that cut off date. On maturity, redemption proceeds of such non-cash Collateral will be:

- (i) held by the Custodian and form part of the security interest created under the relevant Deed of Charge; and
- (ii) treated as having an applicable Collateral Haircut of 100 per cent., but otherwise treated for the purposes of the Clearing Documentation as proceeds of the realization of such non-cash Collateral.

No interest will be paid by OTC Clear in respect of such redemption proceeds and a request must be made by the relevant Clearing Member to effect withdrawal of such proceeds.

The scheduled maturity date of each security comprising each Clearing Member's non-cash Collateral is reflected in the "OTC Clear Risk Management Report (Report Number RMRP05)", which is made available to each Clearing Member on the Web Portal.

### **3.123.15 Tax**

Any Additional Amount payable by a Clearing Member in respect of tax will be recorded in the "OTC Clear Settlement Report (Report Number STRP08)" in respect of any Additional Amount relevant to a House Account or "OTC Clear Settlement Report for Client (Report Number STRP08 C)" in respect of any Additional Amount relevant to a Client Account. The Clearing Member shall settle such Additional Amount within the prescribed timeframe set out in the "OTC Clear Settlement Report (Report Number STRP08)" and "OTC Clear Settlement Report for Client (Report Number STRP08 C)". Please refer to sections ~~3.10~~ and 3.11 and 3.12 for settlement method and settlement time.

### **3.133.16 Reporting**

All reports published by OTC Clear will be made available to Clearing Members on the Web Portal. Please refer to the "**Web Portal User Manual**" (which is a user manual detailing the process of raising a request for movement of Collateral or retrieving a report via Web Portal) and the Report Usage Guide for details. Clearing Member can print the reports locally or download the reports in a machine-readable data-file format.

All reports reflect the latest record of OTC Clear. Reports will remain available for download by Clearing Member for 12 OTC Clear Clearing Days from the date it is first made available on the Web Portal. Subsequent to the removal of the reports from the Web Portal, a Clearing Member may request OTC Clear to provide such reports either by delivery in print-out form, or by providing such Clearing Member with access to retrieve such reports electronically, in each case, subject to a fee as set out in section 3.8.2.1.

The relevant identification number, publication frequency, report name and guidance for interpreting the contents of each report are set out in the Report Usage Guide. Please refer to the Report Usage Guide for further details.

### **3.17 Porting of Client Contracts and Collateral to a Transferee Clearing Member**

Upon receipt of valid instructions from a Client, a Transferee Clearing Member may request that OTC Clear port some or all of the Contracts which are registered on behalf of such Client from a Transferor Clearing Member's Client Position Account to a Client Position Account identified as being held by such Transferee Clearing Member for such Client and, if applicable, to also port all of the Collateral held on behalf of such Client from a Transferor Clearing Member's Client Collateral Account to such Transferee Clearing Member's Client Collateral Account.

Contracts eligible for porting must not have reached their scheduled Termination Date or Settlement Date on or prior to the scheduled Porting Completion Time, and must remain outstanding as of the date of the submission of the porting request.

A Transferee Clearing Member must submit a separate porting request for each Client. In respect of each porting request, each Transferee Clearing Member is deemed to acknowledge, represent and undertake that:

- (a) it has received proper Client authorization for the instructions contained in such porting request;

- (b) it is solely responsible for the accuracy and completeness of the information contained in such porting request;
- (c) OTC Clear is entitled to rely conclusively on the instructions and information provided in such porting request without further enquiry; and
- (d) OTC Clear shall incur no liability for any delay, rejection, loss, cost, claim, action, demand or expense in the processing of such porting request and in effecting the porting of Contracts and Collateral in reliance on the information contained in such porting request.

If any information and/or instructions provided by the Transferee Clearing Member in a porting request is incomplete, inaccurate or inconsistent with its records, OTC Clear may, in its sole and absolute discretion, reject such porting request or liaise with such Clearing Member to rectify the relevant information and/or instruction.

### **3.17.1 Full Portfolio Porting**

#### **Requirements**

Each full portfolio porting request will only be accepted and processed by OTC Clear if all of the following conditions are satisfied:

- (i) the Transferee Clearing Member submits to OTC Clear an original completed and signed form for portfolio porting<sup>\*</sup>. The form must indicate whether the Collateral held on behalf of the relevant Client by the Transferor Clearing Member needs to be ported together with the corresponding Contracts;
- (ii) Contracts and Collateral are being ported from a Client Position Account and corresponding Client Collateral Account identified as being held by the relevant Transferor Clearing Member for a particular Client to a Client Position Account and corresponding Client Collateral Account identified as being held by the Transferee Clearing Member for the same Client;
- (iii) details of the particular Client and the Contracts and Collateral identified as being held by the Transferor Clearing Member for such Client as set out in the porting request match OTC Clear's records of such Client's holdings in the relevant Transferor Clearing Member's relevant Client Position Account and corresponding Client Collateral Account;
- (iv) If Collateral is not being ported, the Transferee Clearing Member must ensure that there is sufficient Collateral comprising the Margin Balance of the relevant Client Collateral Account prior to the last Portfolio Novation Cycle on the third OTC Clear Business Day following the submission of the porting request;
- (v) no DMP Event has occurred with respect to the Transferee Clearing Member and the relevant Transferor Clearing Member;
- (vi) the relevant Transferor Clearing Member has consented to the porting;
- (vii) the Transferor Clearing Member and the Transferee Clearing Member submit to OTC Clear an original completed and executed BAU Porting Supplemental Assignment Letter;

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<sup>\*</sup> Available on request from OTC Clear

- (viii) the Transferee Clearing Member's standard settlement instruction for each relevant Contractual Currency of the Contracts being ported is in place;
- (ix) the Transferee Clearing Member's standard settlement instruction for each relevant Eligible Currency of cash Collateral being ported is in place;
- (x) the Transferee Clearing Member's standard delivery instruction for each relevant non-cash Collateral being ported is in place; and
- (xi) the Transferee Clearing Member's standard settlement instruction for the relevant currency of denomination of the coupon (interest) of each relevant non-cash Collateral is in place.

**3.17.2 Procedures for Full Portfolio Porting where Collateral being ported from a Client Collateral Account of a Transferor Clearing Member to a Client Collateral Account of a Transferee Clearing Member comprises Non-Cash Collateral**

The following procedures apply to each full portfolio porting request where Collateral being ported from a Client Collateral Account of a Transferor Clearing Member identified as being held by the relevant Transferor Clearing Member for a particular Client to a Client Collateral Account identified as being held by the Transferee Clearing Member for the same Client comprises non-cash Collateral:

- (i) non-cash Collateral may only be ported if they are not scheduled to mature within four OTC Clear Business Days from the date of submission of the porting request; and
- (ii) any full portfolio porting request comprising non-cash Collateral which does not satisfy this condition will be rejected and should be amended to remove such non-cash Collateral and re-submitted.

Transferee Clearing Members and Clients should be aware that interest due in respect of non-cash Collateral which is successfully ported at a Porting Completion Time which falls after the record date for the payment of interest in respect of the relevant security will be paid to the Transferor Clearing Member.

**3.17.3 Partial Portfolio Porting**

**Requirements**

Each partial portfolio porting request will only be accepted and processed by OTC Clear if all of the following conditions are satisfied:

- (i) the Transferee Clearing Member submits to OTC Clear an original completed and signed form for portfolio porting<sup>\*</sup>. The form should contain complete details of the Contracts that the Transferee Clearing Member wishes to port. Please note that OTC Clear is unable to facilitate any porting of Collateral together with the corresponding Contracts as part of the partial portfolio porting process;
- (ii) the relevant Contracts are being ported from a Client Position Account identified as being held by the relevant Transferor Clearing Member for a particular Client to a Client Position Account identified as being held by the Transferee Clearing Member for the same Client;
- (iii) details of the particular Client and the Contracts identified as being registered by the Transferor Clearing Member for such Client as set out in the porting request match OTC

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<sup>\*</sup> Available on request from OTC Clear

Clear's records of such Client's holdings in the relevant Transferor Clearing Member's relevant Client Position Account;

- (iv) since Collateral cannot be ported concurrently with the relevant Contracts, the Transferee Clearing Member must ensure that there is sufficient Collateral comprising the Margin Balance of the relevant Client Collateral Account prior to the submission of the porting request;
- (v) no DMP Event has occurred with respect to the Transferee Clearing Member and the relevant Transferor Clearing Member;
- (vi) the relevant Transferor Clearing Member has consented to the porting; and
- (vii) the Transferee Clearing Member's standard settlement instruction for each relevant Contractual Currency of the Contracts being ported is in place.

#### **3.17.4 No porting of Collateral in a partial portfolio porting**

Please note that OTC Clear is unable to facilitate any porting of Collateral together with the corresponding Contracts as part of the partial portfolio porting process. The Transferee Clearing Member must therefore ensure that there is sufficient Collateral comprising the Margin Balance of the relevant Client Collateral Account prior to the submission of the porting request, otherwise porting will fail.

#### **3.17.5 Consent from Transferor Clearing Member**

Upon receipt of a porting request from a Transferee Clearing Member on a particular day, OTC Clear will, no later than 18:00 hours Hong Kong time on such day notify the relevant Transferor Clearing Member and request that the Transferor Clearing Member complete and return an original signed Transferor Clearing Member reply form\* no later than 09:00 hours Hong Kong time two (2) OTC Clear Business Days after receipt of such porting request, indicating either:

- (i) its consent to such porting request; or
- (ii) its objection to such porting request, together with its reasons for such objection.

For the avoidance of doubt, OTC Clear is not in a position to adjudicate on the merits of a Transferor Clearing Member's objection or override a Transferor Clearing Member's objection in favour of its Client. In the event that the Transferor Clearing Member objects to such porting request or fails to submit the original signed Transferor Clearing Member reply form within the deadline specified in the foregoing, OTC Clear will reject such porting request and the Transferee Clearing Member must re-submit a fresh request.

#### **3.17.6 Timing**

A porting request satisfying, in the opinion of OTC Clear, the requirements set out in sections 3.17.1 or 3.17.3 above, as applicable, and the conditions set out in the Clearing Rules which is received by OTC Clear by 13:00 hours Hong Kong time on an OTC Clear Business Day will be processed by OTC Clear and OTC Clear will use its reasonable endeavours to complete such porting request by 19:30 hours Hong Kong time on the third OTC Clear Business Day following the date of receipt of such request. Porting requests received by OTC Clear on a day which is not an OTC Clear Business Day or after 13:00 hours Hong Kong time on an OTC Clear Business Day, will be deemed to be received on the

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\* Available on request from OTC Clear

next OTC Clear Business Day. OTC Clear will notify the Transferor Clearing Member and the Transferee Clearing Member through their web portal of the date and time on which each porting request has been successfully effected (the “Porting Completion Time”).

Please refer to sections 9.5.1.3, 9.5.1.4, 9.5.2.3 and 9.5.2.4 for porting requests received under adverse weather conditions.

OTC Clear shall not be liable to any person in any way whatsoever for any delay of or failure/rejection of a porting request.

### **3.17.7 Update of Records**

At the Porting Completion Time:

- (i) each relevant Contract registered in the relevant Transferor Clearing Member’s relevant Client Position Account will be de-registered and flagged as “TRANSFERED” in the “OTC Clear Trade Report for Client (Report Number TDRP01\_C or TDRP02\_C)”;
- (ii) the status of each relevant Contract successfully ported to and registered in the Transferee Clearing Member’s relevant Client Position Account will be flagged as “CLEARED” in the “OTC Clear Trade Report for Client (Report Number TDRP01\_C or TDRP02\_C)”; and
- (iii) Collateral records (where applicable) in the relevant Transferor Clearing Member’s relevant Client Collateral Account and the Transferee Clearing Member’s relevant Client Collateral Account will be updated accordingly and reflected in the “OTC Clear Risk Management Report (Report Number RMRP05)”.

### **3.17.8 Payments and obligations due from the relevant Transferor Clearing Member**

Notwithstanding the submission of a porting request in respect of the Contracts in a Client Position Account and the Collateral in its corresponding Client Collateral Account, payment and other obligations due in respect of that Client Position Account and its corresponding Client Collateral Account prior to the relevant of Porting Completion Time of such porting request will continue to be obligations of the relevant Transferor Clearing Member.

For the avoidance of doubt, if a porting request is rejected by OTC Clear or cannot be completed successfully, payment and other obligations due in respect that Client Position Account and its corresponding Client Collateral Account will continue to be obligations of the relevant Transferor Clearing Member.

### **3.17.9 Payments and obligations due from the Transferee Clearing Member**

Payment and other obligations due in respect of the Contracts in a Client Position Account and the Collateral in its corresponding Client Collateral Account on and after the relevant Porting Completion Time of a porting request will be obligations of the Transferee Clearing Member.

### **3.18 Porting of Contracts and Collateral amongst Client Accounts of a Clearing Member**

Upon receipt of valid instructions from a Client wishing to change the segregation arrangements applicable to all the Contracts and Collateral identified as being held on its behalf by its Clearing Member, a Clearing Member may submit a request to port all of such Contracts and Collateral:

- (i) from the Client Clearing Category 1 Position Account and corresponding Client Clearing Category 1 Collateral Account identified as relating to such Client to a Client Clearing Category 2 Position Account and corresponding Client Clearing Category 2 Collateral Account identified as relating to such Client;

- (ii) from the Client Clearing Category 2 Position Account and corresponding Client Clearing Category 2 Collateral Account identified as relating to such Client to the Client Clearing Category 1 Position Account and corresponding Client Clearing Category 1 Collateral Account identified as relating to such Client; or
- (iii) from the Client Clearing Category 2 Position Account and corresponding Client Clearing Category 2 Collateral Account identified as relating to such Client to another Client Clearing Category 2 Position Account and corresponding Client Clearing Category 2 Collateral Account identified as relating to such Client.

Each Client must be allocated to one single Client Clearing Category at any given time. If any Contract or Collateral cannot be ported successfully, the entire porting request will be deemed unsuccessful and must be corrected and resubmitted.

Contracts eligible for porting must not have reached their scheduled Termination Date or Settlement Date, and must remain outstanding as of the date of the submission of the porting request.

A Clearing Member must submit a separate porting request for each Client.

In respect of each porting request, each Clearing Member is deemed to acknowledge, represent and undertake that:

- (a) it has duly informed its Client of the difference in rights, obligations and risk between the Client Clearing Category that such Client is currently allocated to and the Client Clearing Category that such Client is electing to change to;
- (b) it has received proper Client authorization for the instructions contained in such porting request;
- (c) it is solely responsible for the accuracy and completeness of the information contained in such porting request;
- (d) OTC Clear is entitled to rely conclusively on the instructions and information provided in such porting request without further enquiry; and
- (e) OTC Clear shall incur no liability for any delay, rejection, loss, cost, claim, action, demand or expense in the processing of such porting request and in effecting the porting of Contracts and Collateral in reliance on the information contained in such porting request.

### **3.18.1 Requirements**

Each porting request submitted pursuant to section 3.18 will only be accepted and processed by OTC Clear if all of the following conditions are satisfied:

- (i) the Clearing Member submits to OTC Clear an original completed and signed form for portfolio porting between Client Accounts at the same Clearing Member\*;
- (ii) Contracts and Collateral are being ported from a Client Position Account and corresponding Client Collateral Account identified as being held by the Clearing Member relating to a particular Client to a Client Position Account and corresponding Client Collateral Account identified as being held by the Clearing Member relating to the same Client;

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\* Available on request from OTC Clear

- (iii) details of the particular Client and the Contracts and Collateral identified as being held by the Clearing Member relating to such Client as set out in the porting request match OTC Clear's records of such Client's holdings in the Clearing Member's relevant Client Position Account and corresponding Client Collateral Account;
- (iv) the Clearing Member must ensure that there is sufficient Collateral\* comprising the Margin Balance of the relevant Client Collateral Account corresponding to the Client Position Account into which Contracts are being ported prior to the last Portfolio Novation Cycle on the fourth OTC Clear Business Day following the submission of the porting request; and
- (v) no DMP Event has occurred with respect to the Clearing Member.

### **3.18.2 Timing**

A porting request satisfying the requirements set out in section 3.18.1 above which is received by OTC Clear by 13:00 hours Hong Kong time on an OTC Clear Business Day will be processed by OTC Clear and OTC Clear will use its reasonable endeavours to complete such porting request by 19:30 hours Hong Kong time on the fourth OTC Clear Business Day following the date of receipt of such request. Porting requests received by OTC Clear on a day which is not an OTC Clear Business Day or after 13:00 hours Hong Kong time on an OTC Clear Business Day, will be deemed to be received on the next OTC Clear Business Day. OTC Clear will notify the Clearing Member through the web portal of the date and time on which each porting request has been successfully effected.

Please refer to sections 9.5.1.3, 9.5.1.4, 9.5.2.3 and 9.5.2.4 for porting requests received under adverse weather conditions.

OTC Clear shall not be liable to any person in any way whatsoever for any delay of or failure/rejection of a porting request.

### **3.18.3 Update of Records and closing of existing Client Accounts**

In respect of each porting request that has been successfully effected:

- (i) where such porting request relates to a scenario described in section 3.18 above, OTC Clear will close the existing Client Clearing Category 1 Position Account and its corresponding Client Clearing Category 1 Collateral Account identified as relating to the relevant Client and earmark the relevant existing Client Clearing Category 2 Position Account and its corresponding Client Clearing Category 2 Collateral Account as relating to the relevant Client;
- (ii) where such porting request relates to a scenario described in section 3.18 above, OTC Clear will open a new Client Clearing Category 1 Position Account and corresponding Client Clearing Category 1 Collateral Account under the relevant Clearing Member and earmark such Client Accounts as relating to the relevant Client;
- (iii) where such porting request relates to a scenario described in section 3.18 above, OTC Clear will earmark the relevant existing Client Clearing Category 2 Position Account and its corresponding Client Clearing Category 2 Collateral Account as relating to the relevant Client;

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\* It is likely that the Margin requirements are likely to increase for example where a Client wishes to port Contracts and Collateral from a Client Clearing Category 2 Position Account identified as relating to such Client to a Client Clearing Category 1 Position Account identified as relating to such Client.

- (iv) each Contract registered on behalf of the relevant Client in the existing Client Position Account identified as relating to such Client will be de-registered and flagged as “TRANSFERED” in the “OTC Clear Trade Report for Client (Report Number TDRP01\_C or TDRP02\_C)”;
- (v) the status of each Contract successfully ported to and registered in the new Client Position Account identified as relating to such Client will be flagged as “CLEARED” in the “OTC Clear Trade Report for Client (Report Number TDRP01\_C or TDRP02\_C)”; and
- (vi) Collateral records in the relevant Clearing Member’s relevant Client Collateral Accounts will be updated accordingly and reflected in the “OTC Clear Risk Management Report (Report Number RMRP05)”.

### **3.143.19 Notional Exchange Failure Handling Procedures**

Following the occurrence of a Notional Exchange Failure:

- (i) OTC Clear may, on the basis of the Notional Exchange Failure, determine that the Non-delivering 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 the Non-delivering Clearing Member pursuant to Clearing Rule 1301 (an “**Event of Default Determination**”); and
- (ii) irrespective of whether OTC Clear makes an Event of Default Determination in respect of that Notional Exchange Failure:
  - (a) subject to sub-paragraph (d) below, OTC Clear will continue the settlement of Initial Exchange Amounts and Final Exchange Amounts of Standard Cross-currency Rates Derivatives Contracts with other Clearing Members;
  - (b) OTC Clear may, in its sole discretion, obtain one or more short term loans and/or enter into one or more FX Transactions in order to fulfil OTC Clear’s outstanding obligations with other Clearing Members under Standard Cross-currency Rates Derivatives Contracts;
  - (c) if the relevant Initial Exchange Amount or Final Exchange Amount, as the case may be (the “**Unpaid Exchange Amount**”), remains unpaid at 13:00 hours Hong Kong time on the relevant Initial Exchange Date or Final Exchange Date, as the case may be, OTC Clear may, in its sole discretion, elect to satisfy its obligation to pay the Corresponding Exchange Amount in the following manner:
    - (A) the obligation of the Non-delivering Clearing Member to pay the Unpaid Exchange Amount shall be replaced by an obligation to pay an amount (the “**Substitute Exchange Amount**”) equal to (and payable in the same currency and on the same date as) the Corresponding Exchange Amount. The obligation of OTC Clear to pay the Corresponding Exchange Amount shall be immediately and automatically set-off against the obligation of Non-delivering Clearing Member to pay the Substitute Exchange Amount such that each such obligation is discharged in full;
    - (B) OTC Clear shall determine the Notional Exchange Failure Adjustment Amount in respect of the Unpaid Exchange Amount; and
    - (C) if that Notional Exchange Failure Adjustment Amount is a positive number, the Non-delivering Clearing Member shall pay it to OTC Clear immediately upon demand and if that Notional Exchange Failure Adjustment Amount is a negative

number, OTC Clear shall pay the absolute value of such amount to the Non-delivering Clearing Member as soon as practicable (subject to any rights of set-off against amounts owed by the Non-delivering Clearing Member to OTC Clear, including, without limitation, amounts owed by the Non-delivering Clearing Member pursuant to Clearing Rule 1002A);

- (d) in the event that OTC Clear is unable, as a result of that Notional Exchange Failure, to satisfy its obligation to pay an Initial Exchange Amount or Final Exchange Amount (the “**Affected Amount**”) under a Standard Cross-currency Rates Derivatives Contract with any other Clearing Member (the “**Affected Clearing Member**”) in the currency in which the Affected Amount is denominated by 16:00 hours Hong Kong time on the relevant Initial Exchange Date or Final Exchange Date, as the case may be:
- (A) OTC Clear shall promptly notify the Affected Clearing Member of OTC Clear’s inability to do so; and
- (B) OTC Clear may, in its sole discretion, elect to satisfy its obligation to pay that Affected Amount in the following manner:
- (i) the obligation of OTC Clear to pay the Affected Amount shall be replaced by an obligation to pay an amount (the “**Substitute Affected Amount**”) equal to (and payable in the same currency and on the same date as) the Corresponding Affected Amount. The obligation of the Affected Clearing Member to pay the Corresponding Affected Amount shall be immediately and automatically set-off against the obligation of OTC Clear to pay the Substitute Affected Amount such that each such obligation is discharged in full;
- (ii) OTC Clear shall determine the Notional Exchange Failure Adjustment Amount in respect of the Unpaid Exchange Amount (if not already calculated pursuant to sub-paragraph (c) above); and
- (iii) if that Notional Exchange Failure Adjustment Amount is a positive number, OTC Clear shall pay an amount equal to that amount to the Affected Clearing Member and if it is a negative number, the Affected Clearing Member shall pay an amount equal to the absolute value of such amount to OTC Clear, in each case as soon as practicable, but in no event later than 2 OTC Clear Business Days after the relevant Initial Exchange Date or Final Exchange Date, as the case may be; and
- (e) unless and until the Non-delivering Clearing Member fails to pay or deliver any amounts (excluding Initial Exchange Amounts and Final Exchange Amounts) when due under the Clearing Documentation or an Event of Default occurs with respect to the Non-delivering Clearing Member, OTC Clear will continue the settlement of cash settlements (other than Initial Exchange Amounts and Final Exchange Amounts) with the Non-defaulting Clearing Member in accordance with section 3.11 of these Clearing Procedures.

For the purpose of this section 3.193-14:

“**Corresponding Affected Amount**” means, in respect of an Affected Amount, the corresponding Initial Exchange Amount or Final Exchange Amount (as the case may be) payable by the relevant Affected Clearing Member to OTC Clear under the relevant Standard Cross-currency Rates

## Chapter 4

### Margin and Valuation

#### 4.1 Margin Requirement

A Clearing Member must at all times satisfy its Margin requirements calculated by OTC Clear in respect of all Contracts registered in its name. The Margin requirements in respect of Contracts recorded to a Clearing Member's House Position Account may be netted against each other, and the Margin requirement in respect of Contracts recorded to a Clearing Member's Client ~~Clearing Category 1~~ Position Account may be netted against each other, but not against Contracts recorded to such Clearing Member's House Position Account or other Client ~~Clearing Category 1~~ Position Account(s).

The types of Margin that may be demanded by OTC Clear in respect of each Clearing Member are summarised below:

- (i) Initial Margin (see section 4.2) – which in most circumstances is calculated during the End-of-Day Settlement Process in respect of each Position Account. Initial Margin will be calculated and presented in the Base Currency, and a Clearing Member may satisfy its Initial Margin requirements either in cash in any Eligible Currency or, subject to any Collateral Concentration Limit imposed by OTC Clear, any non-cash assets specified pursuant to section 7.3 of these Clearing Procedures. OTC Clear may, at any time during an OTC Clear Clearing Day, demand ad hoc intra-day Initial Margin from each Clearing Member if it determines that the then market conditions warrant this. Ad hoc intra-day Initial Margin requirement will apply to each Clearing Member with respect to each Position Account then registered in its name (including both its House Position Account and Client ~~Clearing Category 1~~ Position Account(s), if any). With respect to each such Position Account, ad hoc intra-day Initial Margin will be determined and presented in the Base Currency, and the Clearing Member may satisfy such demand either in cash in any Eligible Currency or any non-cash assets specified in section 7.3 of these Clearing Procedures;
- (ii) Variation Margin
  - (a) End-of-day Variation Margin (see section 4.3) – which is calculated during the End-of-Day Settlement Process in respect of each Contract. End-of-day Variation Margin will be calculated and presented in the Contractual Currency of the Contract, and a Clearing Member shall satisfy the end-of-day Variation Margin requirements in cash in the relevant Contractual Currency;
  - (b) Routine Intra-day VM Call (see section 4.4.2) – which may be made by OTC Clear at the Routine VM Call Time during an OTC Clear Business Day. At regular intervals during an OTC Clear Clearing Day, OTC Clear will determine the aggregate Initial Margin and Additional Margin requirements in respect of all the Contracts then recorded to a Clearing Member's House Position Account, taking into consideration any Variation Margin requirements reflecting intra-day market movements, and compare the same with the then Margin Balance relating to such Clearing Member's House Position Account. If the Initial Margin and Additional Margin requirements relating to a Clearing Member's House Position Account, taking into consideration any intra-day market movements, exceed the then Margin Balance relating to such Clearing Member's House Position Account by an amount equal to or greater than the Intra-day VM Limit set for such Clearing Member, then OTC Clear will make a Routine Intra-day VM Call with respect to such Clearing Member.

Routine Intra-day VM Call will be determined and presented in the Base Currency, and a Clearing Member may satisfy the Routine Intra-day VM Call either in cash in any Eligible Currency, or any non-cash assets specified pursuant to section 7.3 of these Clearing Procedures under the circumstances described in Clearing Rule 1211.

References to “intra-day market movements” as used in this section 4.1(ii)(b) means, with respect to an OTC Clear Clearing Day, any mark-to-market movements during the period from the completion of the End-of-Day Settlement Process on the immediately preceding OTC Clear Clearing Day to the time preceding the Routine VM Call Time, taking into account the latest market data then available, on such OTC Clear Clearing Day; and

- (c) Ad Hoc Intra-day VM Call (see section 4.4.3) – which may be made by OTC Clear at anytime on an OTC Clear Clearing Day if it determines that the then market conditions warrant an Ad Hoc Intra-day VM Call. The imposition of an Ad Hoc Intra-day VM Call, if applicable, will apply to each Clearing Member with respect to each Contract then registered in its name (including both House Position Account and Client ~~Clearing Category 1~~ Position Account, if any). With respect to each such Contract, Ad Hoc Intra-day VM Call will be determined and presented in the Contractual Currency of the relevant Contract, and the Clearing Member shall satisfy the Ad Hoc Intra-day VM Call in ~~such Contractual~~ cash in any Eligible Currency and non-cash assets eligible as Collateral. Please refer to the Web Portal User Manual for more details.

(iii) Additional Margin

- (a) Holiday Margin (see section 4.5.1) – OTC Clear may impose Holiday Margin in the circumstances described in section 4.5.1. Holiday Margin will be determined and presented in the Base Currency, and a Clearing Member may satisfy its Holiday Margin requirements either in cash in any Eligible Currency or any non-cash assets specified pursuant to section 7.3 of these Clearing Procedures;
- (b) Others (see section 4.5.2) – OTC Clear may also impose additional Margin in the circumstances described in section 4.5.2. Each of Holiday Margin, Notional Exchange Failure Margin and any additional Margin imposed by OTC Clear in the circumstances described in section 4.5.2 shall be “**Additional Margin**”. Additional Margin will be determined and presented in the Base Currency, and a Clearing Member may satisfy its Additional Margin requirements either in cash in any Eligible Currency or any non-cash assets specified pursuant to section 7.3 of these Clearing Procedures. OTC Clear may demand Additional Margin on each OTC Clear Clearing Day: at 08:30 hours Hong Kong time, at 14:15 hours Hong Kong time and at any other time determined by OTC Clear between 08:30 hours Hong Kong time and 15:00 hours Hong Kong time; and
- (c) Notional Exchange Failure Margin (see section 4.5.3) – OTC Clear may also demand Notional Exchange Failure Margin in the circumstances described in section 4.5.3.

Pricing and market data for calculating Margin (including construction of curves used in such calculations) will be obtained by OTC Clear from external quotes and third party sources throughout an OTC Clear Clearing Day. Details of the relevant pricing and market data, as well as curve construction methodology, for Rates Derivatives Contracts and FX Derivatives Contracts are set out in sections 5.1 and 5.2 of these Clearing Procedures, respectively.

In respect of any Margin requirements determined and presented in the Base Currency that may be satisfied by a Clearing Member in an Eligible Currency other than the Base Currency or non-cash assets denominated in a currency other than the Base Currency, satisfaction of such Margin requirements will be determined by OTC Clear by reference to relevant exchange rate(s) using third party data sources available on the latest practicable Currency Day. The relevant exchange rate(s) will be notified to the Clearing Members.

## **4.2 Initial Margin**

Initial Margin in respect of a Position Account covers the potential future exposure that OTC Clear could face in normal market conditions in the interval between its last Variation Margin collection in respect of such Position Account and the close-out of all Contracts recorded to such Position Account following the occurrence of a DMP Event with respect to the relevant Clearing Member. Pursuant to Clearing Rule ~~4204~~1205, OTC Clear may, at any time during an OTC Clear Clearing Day, demand ad hoc intra-day Initial Margin from each Clearing Member if it determines that the then market conditions warrant this. OTC Clear will, to the extent reasonably practicable, consult with the Risk Management Committee prior to determining whether the market conditions at the relevant time warrant a demand for ad hoc intra-day Initial Margin. If OTC Clear is unable to consult with the Risk Management Committee sufficiently promptly in the circumstances, OTC Clear will consult with the chief executive of OTC Clear. In the event that the chief executive of OTC Clear is unavailable at the time for any reason, OTC Clear will consult with any Representative of OTC Clear designated by the OTC Clear Board from time to time for purposes of the applicable consultation. In determining the amount of Collateral required with respect to each Position Account as a result of a demand for ad hoc intra-day Initial Margin, OTC Clear will perform a process substantially similar to the End-of-Day Settlement Process that relates to the determination of end-of-day Initial Margin. In addition to issuing the relevant call for ad hoc intra-day Initial Margin, OTC Clear will also use reasonable endeavours to notify each Clearing Member of such demand by telephone call or electronic mail.

### **4.2.1 Initial Margin Calculation Parameters and Methodology**

Initial Margin is calculated with respect to each Clearing Member's portfolio of Contracts recorded in each of such Clearing Member's Position Account (for ~~such purpose~~ the avoidance of doubt, each Client ~~Clearing Category 1~~ Position Accounts shall be treated separately) using an internally-built value-at-risk margin model based on simulation of historical data. Stress scenarios will be calibrated using historical volatility for yield and FX curves. Please contact OTC Clear for details.

Initial Margin is calculated in a different manner with respect to a Clearing Member's House Position Account and Client ~~Clearing Category 1~~ Position Account(s):

- (i) in respect of a House Position Account, the Initial Margin calculation will meet single-tailed confidence level of at least 99.0% with respect to a 5-OTC Clear Clearing Day close-out period; and
- (ii) in respect of a Client ~~Clearing Category 1~~ Position Account, the Initial Margin calculation will meet single-tailed confidence level of at least 99.0% with respect to a 7-OTC Clear Clearing Day close-out period.

### **4.2.2 Alteration to Initial Margin Calculation Parameters and Methodology**

The Initial Margin calculation parameters and methodology are back-tested and reviewed regularly by the OTC Clear. OTC Clear may alter the Initial Margin calculation parameters and methodology where appropriate. Please contact OTC Clear for details.

### 4.2.3 Risk Multiplier

Save and except for the Liquidity Risk Multiplier described in section 4.2.3.1 which OTC Clear may decide to impose in its sole discretion, OTC Clear may, in consultation with the Risk Management Committee, include different risk multipliers as part of the Initial Margin calculation where appropriate. The applicability of risk multipliers and the relevant thresholds will be reviewed regularly by OTC Clear. OTC Clear will notify Clearing Members if it decides to adopt a risk multiplier.

#### 4.2.3.1 Liquidity Risk Multiplier

Liquidity risk multiplier (the “**Liquidity Risk Multiplier**”) is one type of risk multipliers that may be imposed by OTC Clear. OTC Clear will apply the Liquidity Risk Multiplier to the Initial Margin calculation of a Clearing Member’s Position Account if a Clearing Member’s portfolio of Contracts in its House Position Account or any of its Client ~~Clearing Category 1~~ Position Accounts have exposures above set thresholds in a particular parameter, including but without limitation to currency, curve or underlying rate or in respect of the aggregate portfolio risk.

In order to determine the calibration of the levels of Liquidity Risk Multiplier to be applied to the Initial Margin calculations of a Clearing Member’s Position Account, OTC Clear may solicit bid/ask spread data or request other information from Clearing Members. The level of the Liquidity Risk Multiplier may vary from time to time, and OTC Clear will notify the Clearing Members of the updated level of the Liquidity Risk Multiplier.

As a result of the application of a Liquidity Risk Multiplier to the Initial Margin calculation with respect to a Position Account, additional Initial Margin will be required in respect of such Position Account.

#### 4.2.3.2 Notional Exchange Risk Multiplier

The notional exchange risk multiplier (the “**Notional Exchange Risk Multiplier**”) is one type of risk multiplier that may be imposed by OTC Clear. OTC Clear will apply the Notional Exchange Risk Multiplier to the Initial Margin calculation of a Clearing Member’s Position Account based on the aggregate of the Initial Exchange Amounts and/or Final Exchange Amounts of the Standard Cross-currency Rates Derivatives Contracts in a Clearing Member’s House Position Account and its Client Position Accounts.

To calibrate the Notional Exchange Risk Multiplier, OTC Clear may solicit bid/ask spread data or request other information from Clearing Members (including but not limited to market volatility or market liquidity of different currency pair(s) over different time horizons). The level of the Notional Exchange Risk Multiplier may vary from time to time, and OTC Clear will notify the Clearing Members of the revised Notional Exchange Risk Multiplier.

After the application of the Notional Exchange Risk Multiplier, OTC Clear may request additional Collateral from Clearing Members.

### 4.3 Variation Margin

Variation Margin covers OTC Clear’s calculation of the amount that is required to settle the daily or intra-day diminution in the net present value (if any) of the Contracts in each Position Account. Collection of Variation Margin helps to ensure that the risk exposure assumed by OTC Clear is constantly monitored and that OTC Clear remains risk neutral.

#### 4.3.1 Calculation and Valuation Process

OTC Clear will calculate, regularly, during the Margin Process Hours, the net present value and market price movements of each Contract using zero coupon curves constructed in accordance with Chapter 5 of these Clearing Procedures based on the latest market prices available from market sources. The

latest market prices utilised in such calculations will be published on the Web Portal ~~from time to time~~ on each OTC Clear Clearing Day.

#### 4.3.2 Price Alignment Interest

Variation Margin will be adjusted by application of price alignment interest (“PAI”). Without a PAI, the pricing of a Contract registered with OTC Clear would be distorted from that of equivalent transactions which are not registered with OTC Clear. PAI is intended to settle the internal rate of return on the cumulative Variation Margin payments transferred in respect of each OTC Clear Clearing Day.

In respect of each Clearing Member and its House Position Account and Client ~~Clearing Category 1~~ Position Account(s) (for such purpose, each Client ~~Clearing Category 1~~ Position Accounts shall be treated separately), PAI will be calculated separately in respect of all Contracts with the same Contractual Currency in each such Position Account during the End-of-Day Settlement Process on each OTC Clear Business Day from (and including) the first OTC Clear Business Day after the trade date of the relevant Contract to (and including) the OTC Clear Business Day prior to the settlement date of the relevant Contract (each, “T<sub>0</sub>”). PAI is calculated by OTC Clear in accordance with the following formula:

$$PAI_{T_0} = NPV_{T_{-1}} \times PAI \text{ Rate}_{T_{PAI}} \times \text{Accrual Factor}$$

where,

- (i) NPV<sub>T<sub>-1</sub></sub> is the net present value determined as at 18:00 hours Hong Kong time on T<sub>-1</sub> or such other time on T<sub>-1</sub> as OTC Clear considers appropriate and notifies to the Clearing Members from time to time, where “T<sub>0</sub>” is an OTC Clear Business Day and “T<sub>-1</sub>” is the OTC Clear Business Day immediately preceding T<sub>0</sub>;
- (ii) PAI Rate ~~means (the annual percentage rate)~~ is determined by OTC Clear by reference to the relevant end-of-day overnight index swap (“OIS”) curves calculated on T<sub>PAI</sub>, where “T<sub>PAI</sub>” is the Currency Day (for the relevant Contractual Currency) immediately preceding T<sub>0</sub> if the relevant OIS curves are available on such day (T<sub>-1</sub>), or ~~the second Currency Day (for the relevant Contractual Currency) preceding T<sub>0</sub> if the relevant OIS curves are not available on T<sub>-1</sub>, the last relevant OIS curves available (for the avoidance of doubt, if T<sub>PAI</sub> falls on a day other than a Currency Day, the relevant OIS curves the nearest immediately preceding Currency Day will be used); and~~
- (iii) Accrual Factor ~~means the day count fraction that is used by OTC Clear is used to convert the PAI Rate from an annual rate to a daily rate, on a basis of a year with a number of days equals to:~~
  - (a) 360 calendar days; or
  - (b) 365 calendar days,

as OTC Clear may, from time to time, ~~vary the Accrual Factor~~determine to be applied for conversion of the PAI Rate~~appropriate~~ in accordance with the then market convention for the conversion of the PAI Rate.

PAI will be notified to each Clearing Member and will be paid or received by such Clearing Member, as the case may be, as part of its Variation Margin requirement.

#### 4.4 Intra-day Variation Margin

##### 4.4.1 Intra-day Variation Margin Call and Calculation

There are two types of intra-day Variation Margin calls:

- (i) Routine Intra-day VM Call as set out in section 4.4.2; and
- (ii) Ad Hoc Intra-day VM Call as set out in section 4.4.3.

#### 4.4.2 Routine Intra-day VM Call

Each Clearing Member has its intra-day Variation Margin limit (“**Intra-day VM Limit**”) which is the threshold level at which a Routine Intra-day VM Call will be triggered in respect of such Clearing Member’s Contracts recorded to its House Position Account only (for the avoidance of doubt, no Routine Intra-day VM Call shall be made in respect of any Client ~~Clearing Category 1~~ Position Account(s)). OTC Clear will set an Intra-day VM Limit for each Clearing Member based on, including without limitation, the following factors:

- (i) OTC Clear’s determination of the relative change in Margin requirements in respect of such Clearing Member’s House Position Account;
- (ii) prevailing market conditions;
- (iii) OTC Clear’s evaluation of the financial condition of such Clearing Member and its Affiliates; and
- (iv) OTC Clear’s evaluation of the operational capability of such Clearing Member and its Affiliates.

Each Clearing Member will be notified of the Intra-day VM Limit applicable to it, and such Intra-day VM Limit will be reviewed by OTC Clear on a regular basis.

Between the hours of 08:30 hours Hong Kong time and 14:00 hours Hong Kong time on each OTC Clear Business Day, OTC Clear may, at regular intervals, calculate the aggregate Initial Margin and Additional Margin requirements in respect of each Clearing Member’s House Position Account, taking into consideration any Variation Margin requirements reflecting intra-day market movements. In the event that the aggregate Initial Margin and Additional Margin requirement in respect of such House Position Account, taking into account any Variation Margin requirements reflecting intra-day market movements, exceeds the aggregate value of the Margin Balance relating to such Clearing Member’s House Position Account by an amount equal to or greater than the Intra-day VM Limit in respect of such Clearing Member, OTC Clear will make a routine intra-day Variation Margin call (a “**Routine Intra-day VM Call**”) with respect to such Clearing Member on such OTC Clear Business Day. The time of the Routine Intra-day VM Call will be the same on any OTC Clear Business Day and will be published on the HKEx website (the “**Routine VM Call Time**”). References to “intra-day market movements” as used in this section 4.4.2 means, with respect to an OTC Clear Clearing Day, any mark-to-market movements during the period from the completion of the End-of-Day Settlement Process on the immediately preceding OTC Clear Clearing Day to the time preceding the Routine VM Call Time, taking into account the latest market data then available, on such OTC Clear Clearing Day.

If, prior to OTC Clear making a Routine Intra-day VM Call on an OTC Clear Business Day, the relevant Clearing Member has delivered additional Collateral such that the breach of the Intra-day VM Limit described in the immediately foregoing paragraph has been cured, no Routine Intra-day VM Call will be made on such OTC Clear Business Day.

#### 4.4.3 Ad Hoc Intra-day VM Call

In addition to the Routine Intra-day VM Call described in section 4.4.2, OTC Clear may make an ad hoc intra-day Variation Margin call (an “**Ad Hoc Intra-day VM Call**”) at any time on an OTC Clear Clearing Day if OTC Clear determines that the market conditions at the relevant time requires an Ad Hoc Intra-day VM Call. OTC Clear will, to the extent reasonably practicable, consult with the Risk Management Committee prior to determining whether the market conditions at the relevant time

warrant this. If OTC Clear is unable to consult with the Risk Management Committee sufficiently promptly in the circumstances, OTC Clear will consult with the chief executive of OTC Clear. In the event that the chief executive of OTC Clear is unavailable at the time for any reason, OTC Clear will consult with any Representative of OTC Clear designated by the OTC Clear Board from time to time for purposes of the applicable consultation.

Once OTC Clear determines that an Ad Hoc Intra-day VM Call shall be imposed, such imposition of Ad Hoc Intra-day VM Call shall apply to each Clearing Member with respect to each Contract then registered in its name (including its House Position Account and Client ~~Clearing Category 1~~ Position Account, if any). In determining the amount of Collateral required with respect to each Contract as a result of the Ad Hoc Intra-day VM Call, ~~OTC Clear will perform a process substantially similar to the End-of-Day Settlement Process that relates to the determination of end-of-day Variation Margin, save and except that no PAI adjustment will be made in the determination of an Ad Hoc Intra-day VM Call.~~ Upon imposition of an Ad Hoc Intra-day VM Call in respect of a Position Account, each Clearing Member must deposit Collateral to ensure that it has a Margin Balance on the corresponding Collateral Account that is equal to or greater than the Margin requirement on that Position Account.

In addition to issuing the relevant Ad Hoc Intra-day VM Call on the Web Portal, OTC Clear will also use reasonable endeavours to notify each Clearing Member of the Ad Hoc Intra-day VM Call by telephone call or electronic mail.

Please refer to the Web Portal User Manual for more details on the timing of an Ad Hoc Intra-day VM Call.

#### **4.4.4 Settlement of Intra-day Variation Margin**

Collateral for satisfaction of any intra-day Variation Margin call (including both the Routine Intra-day VM Call described in section 4.4.2 and Ad Hoc Intra-day VM Call described in section 4.4.3) must be received by OTC Clear within one hour after the call is made.

For the avoidance of doubt, notwithstanding section 4.7, if subsequent to an Ad Hoc Intra-day VM Call, and the delivery of Collateral by a Clearing Member to settle such call, the market price movements of the relevant Contract results in there being gains recorded to the relevant Collateral Account relating to the Clearing Member, ~~a~~ the sum representing such gains will not be paid to the Clearing Member through the End-of-Day Settlement Process on the relevant day as part of the Variation Margin payable by OTC Clear to such Clearing Member, but will be reflected as Excess Margin in the relevant Collateral Account which can be withdrawn or transferred as set out in sections 3.9 and 3.10.

#### **4.5 Additional Margin**

Pursuant to Clearing Rules 1208 and 1510, OTC Clear may at its discretion impose Additional Margin requirements on any Clearing Member in the circumstances described in this section 4.5. Any delivery of Collateral for the purpose of satisfying an Additional Margin requirement pursuant to this section 4.5 will be recorded by OTC Clear in the relevant Collateral Account.

##### **4.5.1 Holiday Margin**

One such Additional Margin requirement is the temporary Margin adjustment on each Position Account to cover potential market volatility during days which are not OTC Clear Business Days (“**Holiday Margin**”). Such potential market volatility refers to the additional market risk that OTC Clear may have to bear arising from significant overseas market movements during such days. The calculation of Holiday Margin is based on an internally-built exponentially weighted moving average model with reference to the number of days in the relevant period. Details of the Holiday Margin levels will be notified to Clearing Members prior to the beginning of the relevant period. For example, if

- (i) Position Limits check as set out in this section 4.6.1; and
- (ii) Margin and credit check as set out in sections 4.6.2 and 4.6.3.

Pursuant to Clearing Rule 1222, OTC Clear may prescribe, amend or revoke Position Limits. In addition, unless with the prior written approval from OTC Clear, OTC Clear requires a Clearing Member to impose a House Account Limit or (if applicable) Client Account Limit in respect of its House Position Account and Client ~~Clearing Category 1~~ Position Account(s) in accordance with section 4.6.1.1. Each of the limits referred to in this section 4.6.1 is a Position Limit. OTC Clear will not register any Original Transaction if registering such Original Transaction will cause, among others, a Position Limit described herein to be breached. All Position Limits imposed by OTC Clear are subject to changes from time to time and OTC Clear will notify the relevant Clearing Member(s) in respect of any such changes.

#### 4.6.1.1 Account Limits

Unless with the prior written approval from OTC Clear, a Clearing Member shall, as part of its risk management policies and procedures pursuant to section 2.3.3 of these Clearing Procedures, set a limit for all of its House Position Account (“**House Account Limit**”) and/or (if it provides Client Clearing Services) for each of its Client ~~Clearing Category 1~~ Position Account(s) separately (each a “**Client Account Limit**”, and together with House Account Limit, the “**Account Limits**”) in the Rates and FX Clearing System by utilizing the risk limit functionality. A Clearing Member shall inform OTC Clear in writing prior to making any changes to any Account Limits.

Notwithstanding that a Clearing Member may set any Account Limits, OTC Clear reserves the right to change any Account Limits from time to time if OTC Clear determines in its sole discretion that such Account Limits are not appropriate or commercially reasonable. OTC Clear will provide the relevant Clearing Member with reasonable advance notice, and in any event no less than two OTC Clear Business Days, prior to effecting any changes to the Account Limits, provided that if any such changes are required by Applicable Laws or the rules, regulations or requests of a Regulatory Authority, then OTC Clear may implement such changes without prior notice to the Clearing Member. Under normal circumstances, OTC Clear will most likely only lower an Account Limit. However, OTC Clear may consider increasing such Account Limits during the Default Management Process (for example, to allow porting of Affected Contracts to a Replacement Clearing Member) or for backloading of historical portfolios.

#### 4.6.1.2 Absolute Risk Limit

OTC Clear may impose an absolute risk limit (the “**Absolute Risk Limit**”) in respect of any Position Account. OTC Clear will use reasonable endeavours to provide the relevant Clearing Member with reasonable advance notice prior to imposing any Absolute Risk Limit. The Absolute Risk Limit is essentially a cap on OTC Clear’s risk exposure to the relevant Position Account (for such purpose, each Client ~~Clearing Category 1~~ Position Account will be treated separately). An Absolute Risk Limit will be established based on Margin, position or risk sensitivities relating to each relevant Position Account.

#### 4.6.1.3 Notional Exchange Risk Limit

OTC Clear will impose a notional exchange risk limit (the “**Notional Exchange Risk Limit**”) to all Position Accounts of each Clearing Member. The Notional Exchange Risk Limit shall be set per Clearing Member rather than per Position Account. The Notional Exchange Risk Limit is established to limit OTC Clear’s risk exposure to the Initial Exchange Amounts and/or Final Exchange Amounts of Standard Cross-currency Rates Derivatives Contracts in the Position Account. OTC Clear will use reasonable endeavours to provide Clearing Members with reasonable advance notice prior to

imposing or amending the Notional Exchange Risk Limit. In the event that the Notional Exchange Risk Limit of a Clearing Member's Position Account is fully utilised, Clearing Member may post additional cash Collateral in the same currency as the Notional Exchange Risk Limit to reduce the utilisation of the Notional Exchange Risk Limit and to accommodate more trades for registration.

#### 4.6.2 Margin and Credit Check – Real-Time Novation Process

During the Margin Process Hours on each OTC Clear Clearing Day, but excluding any period when a Portfolio Novation Cycle is in progress or any other period specified by OTC Clear, OTC Clear will repeatedly perform “**Real-Time Novation**”, which is the process set out in this section 4.6.2.

When an Original Transaction is submitted to OTC Clear for registration, OTC Clear will determine the incremental Margin required to cover such Original Transaction together with the Margin requirements in respect of the Position Account(s) to which such Original Transaction will be recorded (for such purpose, each Client ~~Clearing Category 1~~ Position Accounts shall be treated separately).

Once the Margin requirement in respect of such Original Transaction and the relevant Position Account(s) is determined, OTC Clear will perform the Position Limits check and check if the Margin Balance in respect of the relevant Position Account(s) is sufficient to cover the Margin requirement.

If OTC Clear is satisfied that the Margin Balance in respect of the relevant Position Account(s) is sufficient to cover the Margin requirement in respect of each Contract to be created upon registration of such Original Transaction, and provided that the Position Limits of each relevant Position Account(s) would not be breached as a result of the registration of such Original Transaction, OTC Clear will accept for registration such Original Transaction and two Contracts will be created pursuant to Clearing Rule 806.

In respect of each Original Transaction, if OTC Clear determines that either the Margin requirement in respect of each Contract to be created upon registration of such Original Transaction is not satisfied, or the Position Limits of the relevant Position Account(s) would be breached, in each case, as a result of the registration of such Original Transaction, such Original Transaction will be put on “pending” status in the Rates and FX Clearing System. “Pending” Original Transactions that are not accepted for registration during a Real-Time Novation process may be accepted for registration later during a Portfolio Novation Cycle as set out in section 4.6.3 or at a later Real-Time Novation until it is rejected by OTC Clear pursuant to section 3.3 of these Clearing Procedures.

#### 4.6.3 Margin and Credit Check – Portfolio Novation Cycle

OTC Clear will run various Portfolio Novation Cycles on each OTC Clear Clearing Day, at the times notified by OTC Clear to the Clearing Members. A “**Portfolio Novation Cycle**” is the process set out in this section 4.6.3.

During a Portfolio Novation Cycle, OTC Clear calculates the net amount of Collateral required to cover all “pending” Original Transactions submitted by a Clearing Member (or by a Designated Person on its behalf) in respect of a particular Position Account in bulk together with the Margin requirements in respect of the existing portfolio of Contracts recorded to such Position Account (for such purpose, each Client ~~Clearing Category 1~~ Position Accounts shall be treated separately). Once the amount of Collateral in respect of all such “pending” Original Transactions and the Margin requirements in respect of the existing Contracts then recorded to the relevant Position Account is determined, OTC Clear will perform the Position Limits check and check if the Margin Balance in respect of such Position Account is sufficient to cover the Margin requirement.

If OTC Clear is satisfied that the Margin Balance in respect of such Position Account is sufficient to meet the amount of Collateral required for all “pending” Original Transactions together with the Margin

requirements in respect of the existing portfolio of Contracts then recorded to the relevant Position Account, then provided that the Margin requirements in respect of each Contract to be created upon registration of each such Original Transaction are satisfied, and provided further that the Position Limits of the relevant Position Account(s) would not be breached as a result of the registration of each such Original Transaction, OTC Clear will accept for registration each such Original Transaction.

In respect of each Original Transaction, if OTC Clear determines that either the Margin requirement or Position Limits checks described above is not satisfied, all the relevant “pending” Original Transactions will continue to be shown with “pending” status in the Rates and FX Clearing System until both the Margin requirement and Position Limits checks are satisfied at the next Portfolio Novation Cycle or Real-Time Novation or such Original Transactions are rejected by OTC Clear pursuant to section 3.3 of these Clearing Procedures.

#### 4.6.4 Pending Trades

In respect of any “pending” Original Transactions to be registered in the name of a Clearing Member as Contracts, the Clearing Member will be notified, via the relevant Approved Trade Registration System, or report via the web portal, of the amount of Collateral required from it in order for all such “pending” Original Transactions to satisfy the Margin Process and be registered as Contracts.

#### 4.6.5 Margin Process in respect of a de-registration request and a porting of Client Contracts

- (i) In respect of a de-registration request for a Contract, OTC Clear will process such de-registration request only if, in respect of the Position Account to which the relevant Contract is recorded, subsequent to the de-registration of such Contract:
  - (a) ~~(i)~~there remains sufficient Margin Balance in ~~such Position~~ the corresponding Collateral Account to satisfy the Margin requirement relating to ~~each Contracts~~ remaining in such Position Account; and
  - (b) ~~(ii)~~the Position Limits of such Position Account would not be breached
- (ii) In respect of (a) any porting of Client Contracts following a DMP Event or (b) the porting of Contracts relating to Clients pursuant to Clearing Rule 825, OTC Clear will process such porting request only if:
  - (a) (in the case where not all the Contracts recorded in the same Position Account are to be ported) there is sufficient Margin Balance in the corresponding Collateral Account to satisfy the Margin requirement relating to Contracts remaining in such Position Account;
  - (b) in respect of the Position Account to which the relevant Contract is recorded, subsequent to the porting of such Contract, there is or will be sufficient Margin Balance in the corresponding Collateral Account to satisfy the revised Margin requirement relating to such Position Account; and
  - (c) the Position Limits of the relevant Position Accounts of the Clearing Member, Transferor Clearing Member, the Transferee Clearing Member and/or the Replacement Clearing Member as applicable would not be breached.

#### 4.7 End-of-Day Valuation and Settlement Process

The end-of-day pricing and market data cut-off time is 16:00 hours Hong Kong time on each OTC Clear Clearing Day (the “**End-of-Day Cut Off Time**”). OTC Clear will use the market price at such time to determine the risk exposure and the Margin requirements in respect of each Position Account (together, the “**End-of-Day Margin Requirements**”) in its end-of-day valuation and settlement

process, which commences at 18:00 hours Hong Kong time on each OTC Clear Clearing Day (the “**End-of-Day Settlement Process**”). The End-of-Day Settlement Process of an OTC Clear Clearing Day will end when the end-of-day Margin reports are made available to Clearing Members at or prior to 21:30 hours Hong Kong time on such OTC Clear Clearing Day pursuant to section 4.7.1.

The End-of-Day Settlement Process will capture the incremental risk exposure for a Clearing Member on any given OTC Clear Clearing Day. OTC Clear performs its regular Variation Margin calculation during the End-of-Day Settlement Process, and any Variation Margin gains determined in favour of a Clearing Member resulting from the market price movements of a Contract on such day will be redelivered to the relevant Clearing Member through the End-of-Day Settlement Process. If an OTC Clear Clearing Day is not a Currency Day for the Contractual Currency in which the Variation Margin is denominated, then OTC Clear will not make, or demand, a Variation Margin payment in respect of such Contract during the End-of-Day Settlement Process on such OTC Clear Clearing Day. The relevant Variation Margin will be made, or demanded, by OTC Clear on the immediately following Currency Day for the relevant Contractual Currency. For the avoidance of doubt, whilst any Variation Margin gains as a result of market price movements will be redelivered to a Clearing Member through the End-of-Day Settlement Process, any Collateral constituting the Excess Margin will only be redelivered to a Clearing Member upon its request pursuant to Clearing Rule 1218.

#### 4.7.1 Margin Reporting

Clearing Members can obtain certain information relating to end-of-day settlement curves, market price movements, Initial Margin, Additional Margin, Variation Margin and net present value, in each case, relating to one or more of its Position Accounts on the Web Portal.

The detailed Margin reports will show the End-of-Day Margin Requirements of each Clearing Member in respect of each of its Position Accounts. For information relating to Margin reporting, please refer to section ~~3.163-13~~ of these Clearing Procedures.

The End-of-Day Margin Requirements as shown in such Margin reports reflect the risk exposure of each relevant Contract on the Rates and FX Clearing System at a cut-off time of 18:00 hours Hong Kong time on an OTC Clear Clearing Day. The final Margin reports would be made available to each Clearing Member by 21:30 hours Hong Kong time on each OTC Clear Clearing Day.

#### 4.7.2 Settlement of Margin Requirements

The table below summarises the timing and manner in which relevant Margin requirements shall be satisfied by Clearing Members\*:

Margin requirements	Demand made by OTC Clear	Latest time in which Margin requirements shall be satisfied	Form of Collateral
End-of-day Initial Margin	At 08:30 hours Hong Kong time on an OTC Clear Clearing Day via Margin call issued on the Web	09:30 hours Hong Kong time on the OTC Clear Clearing Day on which the Margin call is made	Cash in any Eligible Currency and any non-cash assets specified pursuant to section 7.3 of these

\* Non-cash Collateral will not be accepted at the initial phase of establishment of OTC Clear. As such, all Margin requirements must be satisfied by cash in an Eligible Currency during the initial phase. Please see Chapter 7 of these Clearing Procedures for more information on the types of eligible cash and non-cash Collateral and any applicable Collateral Haircut.

Margin requirements	Demand made by OTC Clear	Latest time in which Margin requirements shall be satisfied	Form of Collateral
	Portal		Clearing Procedures
Ad hoc intra-day Initial Margin	At any time between 08:30 hours Hong Kong time and 15:00 hours Hong Kong time determined by OTC Clear on an OTC Clear Clearing Day via Margin call on the Web Portal	Within an hour following demand made by OTC Clear	Cash in any Eligible Currency and any non-cash assets specified pursuant to section 7.3 of these Clearing Procedures
End-of-day Variation Margin	At 21:30 hours Hong Kong time on an OTC Clear Clearing Day by publication in the OTC Clear Settlement Report (Report Number STRP01) or “ <u>OTC Clear Settlement Report for Client ((Report Number STRP01 C)</u> ”	<del>10:30-11:00</del> hours Hong Kong time on the OTC Clear Clearing Day immediately following the publication of the end-of-day Margin report, provided that such day is a Currency Day for the currency in which the end-of-day Variation Margin is denominated	Cash only in the Contractual Currency of the relevant Contract
Routine Intra-day VM Call	At the Routine VM Call Time on an OTC Clear Business Day via Margin call on the Web Portal	Within an hour following the Routine Intra-day VM Call	<del>Cash only in the Contractual</del> <u>any Eligible Currency and non-cash assets specified pursuant to section 7.3 of these Clearing Procedures</u> <del>the relevant Contract</del>
Ad Hoc Intra-day VM Call	At any time determined by OTC Clear on an OTC Clear Clearing Day via Margin call on the Web Portal	Within an hour following demand made by OTC Clear	<del>Cash only in the Contractual</del> <u>any Eligible Currency and non-cash assets specified pursuant to section 7.3 of these Clearing Procedures</u> <del>the relevant Contract</del>
Holiday Margin	At 08:30 hours Hong Kong time on the	By 09:30 hours Hong Kong time on the OTC	Cash in any Eligible Currency and

<b>Margin requirements</b>	<b>Demand made by OTC Clear</b>	<b>Latest time in which Margin requirements shall be satisfied</b>	<b>Form of Collateral</b>
	OTC Clear Business Day immediately preceding the start of a holiday period via Margin call on the Web Portal	Clear Business Day immediately preceding the start of a holiday period	non-cash assets specified pursuant to section 7.3 of these Clearing Procedures
Notional Exchange Failure Margin	At any time determined by OTC Clear on an OTC Clear Business Day via Margin call on the Web Portal or Email	Within an hour following demand made by OTC Clear	Cash only in the specified <u>Eligible Currency</u> <del>currency</del> required by OTC Clear
Other Additional Margin	Up to three times on each OTC Clear Clearing Day: At (1) 08:30 hours Hong Kong time; (2) 14:15 hours Hong Kong time and (3) at any other time between 08:30 hours Hong Kong time and 15:00 hours Hong Kong time determined by OTC Clear, in each case, on an OTC Clear Clearing Day via Margin call on the Web Portal	Within an hour following demand made by OTC Clear	Cash in any Eligible Currency and non-cash assets specified pursuant to section 7.3 of these Clearing Procedures

As provided for under section 4.1, in respect of any Margin requirements determined and presented in the Base Currency that may be satisfied by a Clearing Member in an Eligible Currency other than the Base Currency, the relevant exchange rate will be determined by OTC Clear using third party data sources. The relevant exchange rate will be notified to the Clearing Members.

#### **4.7.3 No Compression or Offsets**

Original Transactions with the same terms and conditions, as defined by the Eligibility Requirements, are economically equivalent within OTC Clear. However, notwithstanding the foregoing, even where a Clearing Member has Contracts registered to a Position Account which have substantially the same but opposite Economic Terms to other Contracts in the same Position Account, such Contracts shall not be compressed or offset one against one another. All Contracts registered to a Position Account shall remain in full force and effect, and shall continue to be binding upon Clearing Members, until terminated, novated, or de-registered pursuant to the Clearing Rules.

## Chapter 6

### Rates and FX Guarantee Resources

#### 6.1 Rates and FX Guarantee Resources

The Rates and FX Guarantee Resources comprise the Rates and FX Guarantee Fund, Rates and FX Assessments and OTC Clear Contribution. The amounts and type(s) of Collateral delivered by a Clearing Member as its Rates and FX Contribution will be recorded by OTC Clear in the GF Account relating to such Clearing Member.

##### 6.1.1 Rates and FX Guarantee Fund

The CM Funded Contribution Amount for each Clearing Member will be determined by OTC Clear on each Rates and FX Contribution Determination Date, being an amount equal to the greater of:

- (i) HK\$ 50 million or equivalent (after applying Collateral Haircuts on Collateral), being the Rates and FX Minimum Contribution Amount; and
- (ii) the product of:
  - (a) 110% ~~multiplied by~~ of the highest Max EUL value amongst the Max EUL values determined on each OTC Clear Clearing Day falling within the GF Calculation Period relating to such Rates and FX Contribution Determination Date (Max EUL is defined and determined pursuant to section 6.1.1(6), as modified by section 6.1.1(8) 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 at the relevant time); and
  - (b) the average of the relative pro-rata percentage shares relating to such Clearing Member determined in respect of each OTC Clear Clearing Day falling within the GF Calculation Period relating to such Rates and FX Contribution Determination Date, where:

**“GF Calculation Period”** means, with respect to a Rates and FX Contribution Determination Date occurring on the first or second OTC Clear Business Day of a calendar month pursuant to Clearing Rule 1503(1), each OTC Clear Clearing Day falling within the immediately preceding calendar month; and with respect to a Rates and FX Contribution Determination Date occurring on any other day pursuant to Clearing Rule 1503(2) or 1503(3), each OTC Clear Clearing Day falling within the calendar month in which such Rates and FX Contribution Determination Date falls up to (but excluding) such Rates and FX Contribution Determination Date.

While the resizing of the CM Funded Contribution Amount for each Clearing Member will only be performed on each Rates and FX Contribution Determination Date as defined in, and pursuant to, Clearing Rule 1503, OTC Clear will perform, for risk monitoring purposes, stress testing and calculation of the relevant pro-rata percentage share and the Daily GF Value with Reserve in respect of each Clearing Member on each OTC Clear Clearing Day.

Below is an illustrative example to show how the relative pro-rata percentage share and the Daily GF Value with Reserve are determined for each Clearing Member on OTC Clear Clearing Day “X”:

Clearing Member	Position Account STV <sup>(2)</sup>	Margin Balance <sup>(3)</sup> of Clearing Member	Expected Uncollateralized Loss <sup>(4)</sup>	Relative pro-rata percentage share <sup>(5)</sup>	Daily GF Value <sup>(6)</sup>	Daily GF Value with Reserve <sup>(7)</sup>
A	1,000	550	450	25.00%	125.00	137.50
B	300	100	200	11.11%	55.5556	61.11
C	500	250	250	13.89%	69.4544	76.394
D	800	300	500	27.78%	138.9089	152.78
E	600	400	200	11.11%	55.5556	61.11
F	400	200	200	11.11%	55.5556	61.11
<b>Total</b>			1,800	100%	500	550.0

(1) Assumptions

There are six Clearing Members A, B, C, D, E, and F, and none of these six Clearing Members engage in Client Clearing Services. As such, in this illustrative example, in respect of each Clearing Member, OTC Clear will perform the calculations set out in parameters (2), (3) and (4) below on ~~its~~ such Clearing Member's House Position Account.

Parameter (8) below explains how the Expected Uncollateralized Loss with respect to a Clearing Member may be different in case a Clearing Member engages in Client Clearing Services.

(2) Position Account STV

In respect of each Clearing Member and an OTC Clear Clearing Day, OTC Clear will ~~apply the net present value of a Clearing Member's House Position Account (such net present value being determined~~ determine, at the End-of-Day Cut Off Time on such OTC Clear Clearing Day) against the relevant:

- (i) the net present value of each Position Account of each Clearing Member (the "Base NPV"); and
- (ii) the net present value of each Position Account of each Clearing Member under each stress scenario prescribed by the stress test model prescribed by OTC Clear as described further in section 6.3. The stress test value derived for each Position Account of a Clearing Member is referred to as the "Position Account STV". ~~6.3 (each a "Stress NPV").~~

In respect of each Position Account of a Clearing Member on an OTC Clear Clearing Day, the absolute value of the largest decrease in net present value (determined by comparing each Stress NPV against the Base NPV) for that Position Account on that day is referred to as the "Position Account STV".

(3) Margin Balance

In the illustrative example, it is assumed that there is no Excess Margin with respect to the Clearing Member's House Position Account.

(4) Expected Uncollateralized Loss

On each OTC Clear Clearing Day, OTC Clear will then determine the Position Account EUL for each Position Account of each Clearing Member, where:

“**Position Account EUL**” means, with respect to a Position Account of a Clearing Member and an OTC Clear Clearing Day, an amount equal to (A) the Position Account STV less (B) the Margin Balance recorded to the Collateral Account relating to such Position Account, each determined as of the End-of-Day Cut Off Time on such OTC Clear Clearing Day.

In this illustrative example where none of the Clearing Members engage in Client Clearing Services, the “**Expected Uncollateralized Loss**” for each such Clearing Member is the Position Account EUL relating to its House Position Account.

(5) Relative pro-rata percentage share

The “**relative pro-rata percentage share**” means, with respect to a Clearing Member and an OTC Clear Clearing Day, the Expected Uncollateralized Loss with respect to such Clearing Member on such day divided by the total Expected Uncollateralized Loss with respect to all Clearing Members on such day. In the illustrative example, since the total Expected Uncollateralized Loss for all six Clearing Members is 1,800, the relative pro-rata percentage share of each Clearing Member will be a percentage equal to such Clearing Member’s Expected Uncollateralized Loss divided by the total Expected Uncollateralized Loss of 1,800. In the case of Clearing Member A, its relative pro-rata percentage share is 25% (being 450/1800) on OTC Clear Clearing Day “X”.

(6) Daily GF Value

In respect of each Clearing Member and an OTC Clear Clearing Day, OTC Clear will determine the “**Daily GF Value**” for such Clearing Member on such day to be the product of the Max EUL and such Clearing Member’s relative pro-rata percentage share on such day, where “**Max EUL**” means, on any given OTC Clear Clearing Day, the largest of the Expected Uncollateralized Loss amounts calculated with respect to all Clearing Members on such OTC Clear Clearing Day. The Max EUL in the illustrative example is 500 (Clearing Member D) on OTC Clear Clearing Day “X”. In the case of Clearing Member A, its Daily GF Value is 125 (being 500 X 25%) on OTC Clear Clearing Day “X” an amount equal to the greater of:

- (i) the largest Expected Uncollateralized Loss amount amongst all the Expected Uncollateralized Loss amounts calculated with respect to all Clearing Members under the same stress scenario within the GF Calculation Period; and
- (ii) the largest Expected Uncollateralized Loss amount amongst all the Expected Uncollateralized Loss amounts calculated with respect to all Clearing Members under the same stress scenario within the GF Calculation Period, with the following modifications:
  - (a) the Expected Uncollateralized Loss amount of all Clearing Members who are Affiliates of one another shall be aggregated with the Expected Uncollateralized Loss amount of the largest Affiliate; and
  - (b) the selection of the largest Expected Uncollateralized Loss amount is made on a revised pool excluding the Expected Uncollateralized Loss amounts determined in respect of the smaller Affiliated Clearing Members.

(7) Daily GF Value with Reserve

The “**Daily GF Value with Reserve**” in respect of a Clearing Member will be calculated on each OTC Clear Clearing Day by multiplying the Daily GF Value of such Clearing Member determined on such day by 110%. In the case of Clearing Member A, its Daily GF Value with Reserve is 137.5 (being 125 X 110%) on OTC Clear Clearing Day “X”.

(8) Client Clearing Services

With respect to any Clearing Member who engages in Client Clearing Services:

(i) OTC Clear will determine the Position Account STV, Margin Balance and Position Account EUL for each Client ~~Clearing Category 1~~ Position Account of such Clearing Member in exactly the same manner as described in parameters (2), (3) and (4) above;

(ii) the “**Expected Uncollateralized Loss**” for such Clearing Member shall be the ~~greater~~ sum of:

(a) ~~the sum of (A)~~ the Position Account EUL relating to its House Position Account;

(b) ~~and (B) aggregate value of the Position Account EULs relating to the Client Clearing Category 1 Position Accounts in respect of the Largest Client(s)~~ the greater of: (i) 50% of the aggregate Position Account EULs with positive values amongst all of such Clearing Member’s Client Accounts and (ii) the aggregate of the Position Account EULs of the two Client Accounts with the largest positive values amongst such Clearing Member’s Client Accounts identified as being held for Clients that are not Affiliates of such Clearing Member and which have either appointed a Replacement Clearing Member or (in the case of a Client Clearing Category 2 Position Account) where Clients identified as sharing the same Client Clearing Category 2 Position Account have all appointed the same Replacement Clearing Member; and

(c) ~~the aggregate of the Position Account EULs with positive values amongst such Clearing Member’s Client Accounts satisfying the following characteristics~~ sum of (A) the Position Account EUL relating to its House Position Account and (B) aggregate value of the Position Account EULs relating to the Client Clearing Category 1 Position Accounts of all Clients, provided that the aggregate value obtained in this sub-paragraph (b)(B) is greater than zero; and:

(1) Client Accounts identified as being held for Affiliates of such Clearing Member; and

(2) Client Accounts identified as being held for Clients which have either not appointed a Replacement Clearing Member or (in the case of a Client Clearing Category 2 Position Account) where Clients identified as sharing the same Client Clearing Category 2 Position Account have not all appointed the same Replacement Clearing Member.

(iii) ~~in order to identify the Largest Client(s) of such Clearing Member, OTC Clear shall select the two Client Clearing Category 1 Position Accounts with the largest positive Position Account EUL values among all Client Clearing Category 1 Position Accounts of such Clearing Member with a Position Account EUL greater than zero, (or if there is only one Client Clearing Category 1 Position Account in respect of such Clearing~~

Member and its Position Account EUL is greater than zero, such Client Clearing Category 1 Position Account) (each, being a “Largest Client”).

### 6.1.2 Rates and FX Assessments

On any given OTC Clear Clearing Day, the maximum CM Unfunded Contribution Amount of each Clearing Member will be two times (i.e. 2x) the value of its CM Funded Contribution Amount calculated on the last Rates and FX Contribution Determination Date pursuant to Clearing Rule 1503. The CM Unfunded Contribution Amount for each Clearing Member will be resized at the same time the CM Funded Contribution Amount for such Clearing Member is resized pursuant to Clearing Rule 1503. For risk monitoring purposes, OTC Clear will also calculate an estimated Rates and FX Assessments amount on each OTC Clear Clearing Day based on the aggregate of the Daily GF Value with Reserve calculated in respect of each Clearing Member on such OTC Clear Clearing Day. Based on the figures in the illustrative example, the estimated maximum proportionate share of the Rates and FX Assessments for each Clearing Member on OTC Clear Clearing Day “X” will be as follows:

Clearing Member	Daily GF Value with Reserve	Proportionate Share of the Rates and FX Assessments
A	137.50	275.00
B	<del>61.40</del> <u>11</u>	<del>122.20</del> <u>22</u>
C	<del>76.44</del> <u>39</u>	<del>152.78</del> <u>82</u>
D	<del>152.79</del> <u>78</u>	<del>305.58</del> <u>56</u>
E	<del>61.40</del> <u>11</u>	<del>122.20</del> <u>22</u>
F	<del>61.40</del> <u>11</u>	<del>122.20</del> <u>22</u>
<b>Total</b>	<del><b>550.00</b></del>	<del><b>1,100.00</b></del>

Pursuant to Clearing Rule 1506, each Clearing Member must satisfy its CM Unfunded Contribution Amount in cash.

### 6.2 Excess Margin and CM Funded Contribution Amount

Pursuant to section 6.1.1(4), with respect to each Clearing Member, its Margin Balance will be used to determine its Position Account EUL and its relative pro rata percentage share and hence any Excess Margin provided by such Clearing Member will be taken into account by OTC Clear to reduce the CM Funded Contribution Amount applicable to that Clearing Member.

Assuming that, applying the calculations referred to in parameter (2) above, the House Position Account of Clearing Member A gives the highest Position Account STV, and assuming further that Clearing Member A now has Excess Margin of ~~200~~150 on top of its Initial Margin recorded to the Collateral Account relating to the House Position Account, using the figures in the above illustrative example, the Margin Balance of Clearing Member A will be increased from 550 to ~~750~~700.

Based on the same calculation methodology described in section 6.1, Clearing Member A’s relative pro-rata percentage share and Daily GF Value on OTC Clear Clearing Day “X” will be reduced as shown in the table below:

Clearing Member	Position Account STV	Margin Balance of Clearing Member	Expected Uncollateralized Loss	Relative pro-rata percentage share	Daily GF value	Daily GF Value with Reserve
A	1,000	550 → <del>750</del> 700	<del>250</del> 300	<del>15.63</del> 18.18 %	<del>78.12</del> 90.91	<del>85.93</del> 100.00
B	300	100	200	12.5012%	62.5060.61	68.7566.67
C	500	250	250	15.6315%	78.1275.76	85.9383.33
D	800	300	500	31.250.30%	151.52156.26	171.89166.67
E	600	400	200	12.5012%	62.5060.61	68.7566.67
F	400	200	200	12.5012%	62.5060.61	68.7566.67
Total			1,600650	100%	500	550.0

The relative pro-rata percentage share calculated on OTC Clear Clearing Day “X” will be averaged with the relative pro-rata percentage share calculated on the OTC Clear Clearing Days in the relevant Calculation Period relating to the relevant Rates and FX Contribution Determination Date in determining the CM Funded Contribution Amount of Clearing Member A on such Rates and FX Contribution Determination Date.

### 6.3 Stress Test

The stress test model prescribed by OTC Clear will be calibrated to cover multi-day profit and loss moves from extreme, but plausible historic market moves and hypothetical scenarios.

Stress testing will be done daily. Some features which will be embedded in the stress testing model include, but are not limited to, the following:

- (i) 1987 stock crash
- (ii) 1998 Asian financial crisis
- (iii) 2003 SARS
- (iv) 2008 global financial crisis (including the default of Lehman Brothers)

### 6.4 OTC Clear Contribution

OTC Clear has two tranches of capital reserves specifically designated to cover Rates and FX Loss suffered by it as a result of its provision of the Rates and FX Clearing Services.

OTC Clear First Contribution will initially have a value of HK\$ 150 million. OTC Clear Second Contribution will start with a value of HK\$ 6 million and be built up to a maximum value of HK\$ 650 million using the investment income generated from investing the Rates and FX Guarantee Resources in the form of cash, less any administrative costs, hedging costs, commitment fees for credit lines, bid-offer on currency conversion, and/or other investment related expenses.

## Chapter 7

### Collateral

#### 7.1 Acceptable Collateral

OTC Clear may, at its sole discretion, determine from time to time the types of assets which are acceptable as Collateral for purposes of Margin requirements and Rates and FX Contribution, and determine when any asset will cease to be acceptable as Collateral for such purposes. OTC Clear ~~will publish~~ publishes the list of eligible Collateral on the HKEx website and updates it from time to time. OTC Clear ~~designates cash in any Eligible Currency and any non-cash asset as specified pursuant to~~ reserves the right to section 7.3 from time to time as change the list of eligible Collateral at its sole and absolute discretion. Assets previously posted to OTC Clear as Collateral but which no longer qualify as eligible Collateral will not be taken into account for the purposes of determining a Clearing Member's Margin Balance and CM Funded Contribution Amount and must be substituted with other eligible Collateral in order to meet a Clearing Member's Margin requirement and/or Rates and FX Liability. Assets previously posted to OTC Clear as Collateral but which no longer qualify as eligible Collateral will remain in each Clearing Member's relevant Collateral Account until they are withdrawn.

#### 7.2 Cash Collateral

Pursuant to Clearing Rules 1213 and 1502, Collateral in the form of cash delivered by a Clearing Member for the purpose of satisfying its Margin requirements or its Rates and FX Liability will be transferred outright to OTC Clear.

#### 7.3 Non-cash Collateral

OTC Clear currently accepts non-cash Collateral from Clearing Members only for the purposes of satisfying Margin requirements. OTC Clear currently does not accept non-cash Collateral for the purpose of satisfying a Clearing Member's Rates and FX Liability. Pursuant to Clearing Rule 1213, non-cash Collateral delivered by a Clearing Member to satisfy its Margin requirements will be transferred by way of security interest. ~~If OTC Clear decides to accept non-cash assets as Collateral in future, it will notify Clearing Members of such development and will provide a list of non-cash assets acceptable as Collateral, as such list may be amended or updated from time to time. As set out in Clearing Rule 1506, OTC Clear will not accept non-cash Collateral from a Clearing Member for the purpose of satisfaction of its CM Unfunded Contribution Amount, but OTC Clear may accept non-cash Collateral from a Clearing Member for purposes of satisfaction of its Margin requirements and CM Funded Contribution Amount.~~

A Clearing Member who intends to post non-cash Collateral for the purposes of satisfying its Margin requirements must:

- (i) execute a valid Deed of Charge in OTC Clear's standard form<sup>\*</sup>; and
- (ii) complete all perfection requirements in all relevant jurisdictions to the satisfaction of OTC Clear.

OTC Clear only accepts non-cash Collateral delivered to it at its account at the relevant Custodian specified for the relevant type of eligible non-cash Collateral.

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<sup>\*</sup> The standard form Deed of Charge is available from OTC Clear upon request.

OTC Clear will not accept a Clearing Member's non-cash Collateral if the documents required by OTC Clear have not been duly executed and all necessary perfection requirements in all relevant jurisdictions have not been completed within the necessary timeframe. Non-cash Collateral credited to a Clearing Member's Collateral Account will not be allowed to be used except as provided for under the Clearing Rules or these Clearing Procedures, or transferred or withdrawn by the Clearing Member unless with the express permission of OTC Clear.

~~The procedures for handling non-cash Collateral (if any is so designated pursuant to this section 7.3) will be set out in this section 7.3.~~

## **7.4 Collateral Concentration Limit**

Pursuant to Clearing Rule 1214, OTC Clear may impose a limit on the aggregate value of any particular type of Collateral (each, a "**Collateral Concentration Limit**") delivered by a Clearing Member for purposes of satisfying its Margin requirements ~~or its Rates and FX Liability~~ for, among others, the following reasons:

- (i) to avoid undue concentration of Collateral in a particular asset class, type of security, obligor, etc. For example, OTC Clear may impose an upper limit on the aggregate value attributable by a particular type of Collateral to be no more than a specific percentage of the ~~total value of Collateral~~ Margin Balance; ~~or~~
- (ii) to restrict the maximum amount of non-cash Collateral a Clearing Member may provide to OTC Clear for its Margin requirements in respect of each of its Position Accounts; ~~or~~
- ~~(iii) to restrict the maximum amount of non-cash Collateral a Clearing Member may provide to OTC Clear for its CM Funded Contribution Amount.~~

OTC Clear will, from time to time, notify Clearing Member of the relevant Collateral Concentration Limit.

For the avoidance of doubt, application of sub-paragraph (i) above may extend to any ~~cash~~ Collateral delivered by a Clearing Member to OTC Clear. OTC Clear may impose a Collateral Concentration Limit to restrict the maximum amount of ~~cash denominated~~ Collateral in a particular Eligible Currency ~~or Collateral type~~ that may be delivered by a Clearing Member for the purpose of satisfying the Margin requirements with respect to each of its Position Accounts. ~~OTC Clear may also impose a Collateral Concentration Limit to restrict the maximum amount of cash denominated in a particular Eligible Currency that may be delivered by such Clearing Member for the purpose of satisfying its Rates and FX Liability.~~

The situations described in this section 7.4 are not exhaustive, and OTC Clear shall have the right to, after consultation with the Risk Management Committee, impose any new, or cancel any existing, Collateral Concentration Limit and will notify Clearing Members of any such change. OTC Clear does not intend to, and shall not be under any obligation to, consult with the Risk Management Committee in respect of any calibration changes to the existing Collateral Concentration Limits.

## **7.5 Collateral Valuation**

### **7.5.1 Collateral Haircuts**

When determining whether each Clearing Member's Margin Balance and Rates and FX Contribution are sufficient to cover its Margin requirement and its Rates and FX Liability, respectively, OTC Clear will value the assets in such Clearing Member's Collateral Accounts and GF Account at their market value less any applicable valuation discount or haircut stipulated by OTC Clear ("**Collateral Haircut**").

~~Clearing Members will be notified of~~ OTC Clear publishes the relevant Collateral Haircut for each asset type on the HKEx website and updates it from time to time.

The Collateral Haircut applicable to each type of asset will be determined by OTC Clear based on the calibration result and wrong-way risk back testing referred to in section 7.5.2, and subject to change from time to time pursuant to Clearing Rule 1214. For the avoidance of doubt, Collateral Haircut may apply on both cash and non-cash Collateral, but does not apply for the purpose of determining the value of any Collateral to be redelivered to Clearing Members pursuant to these Clearing Rules. In respect of any Collateral, OTC Clear will review the applicable Collateral Haircut on a monthly basis and will notify Clearing Members of any change of in Collateral Haircut.

## **7.5.2 General Wrong-way Risk**

### **7.5.2.1 General Wrong-way risk**

Wrong-way risk can be generally defined as the adverse effect that the inclusion of a particular transaction or asset might create on an existing portfolio. In this context, it refers to an aspect of risk that tends to increase the overall risk exposure of a portfolio or where collateral posted to mitigate the overall risk exposure of a portfolio does not decrease such risk on a dollar by dollar basis.

For example, wrong-way risk may arise in a situation where a Clearing Member who trades gold futures posts gold as collateral. Although OTC Clear currently does not provide clearing service for gold futures, the intention of the above example is to give some context as to how collateral may create wrong-way risk. OTC Clear will determine and measure any wrong-way risk by comparing the value-at-risk of the portfolio with and without the relevant ~~e~~Collateral. To manage any wrong-way risk concern for Collateral, OTC Clear may request additional and/or other form of Collateral from Clearing Members.

### **7.5.2.2 Specific Wrong-way risk**

~~For s~~Specific wrong-way risk ~~relating to~~ is the risk that Collateral ~~that~~ would likely lose value in the event that a Clearing Member providing the Collateral defaults, OTC Clear will mitigate such risk ~~by limiting that kind of Collateral through the~~ imposition of, and/or adjustment to, Collateral Concentration Limit(s) and Collateral Haircut(s) as set out in sections 7.4 and 7.5.1, respectively.

## **7.5.3 Valuation**

All Collateral will be valued or marked-to-market at least once a day using current market data and quotes, and any such valuation will take into account the application of Collateral Haircut referred to in section 7.5.1. At any given time:

- (i) any cash Collateral denominated in an Eligible Currency other than the Base Currency will be valued at the Base Currency equivalent at such rate prevailing at the time of the conversion as OTC Clear shall reasonably select;
- (ii) any non-cash Collateral will be valued by OTC Clear by reference to the latest market prices available for such non-cash Collateral obtained from external market sources. Once OTC Clear is in receipt of the latest market prices for the non-cash Collateral, it will generate the mid or mean price for the purpose of valuing such non-cash Collateral. On any given day, if the latest market prices for any non-cash Collateral is not available from the external market sources, OTC Clear will determine the valuation of any such non-cash Collateral based on, among others, the following methodologies:
  - (a) the last available traded price of the relevant asset; and/or

- (b) the price performance of proxy instruments issued by the same issuer or its affiliates for the relevant asset; and
- (iii) in respect of any non-cash Collateral provided by a Clearing Member to OTC Clear as its Initial Margin ~~or, Additional Margin or CM Funded Contribution Amount~~, subsequent to liquidation of any such non-cash Collateral during a Default Management Process, such non-cash Collateral will be given a value equal to the value obtained by OTC Clear during the liquidation process and attached to the Total Available Resources relating to such Default Management Process.

Pursuant to section 4.5.2 of these Clearing Procedures, a Clearing Member may be required to transfer additional Collateral to OTC Clear if the Margin Balance or the Rates and FX Contribution Balance, as applicable, decreases due to either market movement affecting the value of such Collateral or change in the applicable Collateral Haircut. OTC Clear may also require Clearing Members to post additional Collateral types due to wrong-way risk concerns.

## **7.6 Treatment of Collateral**

### **7.6.1 Cash Collateral**

#### **7.6.1.1 Margin**

OTC Clear may invest with a conservative policy in respect of any Initial Margin, Routine Intra-day Variation Margin, Ad Hoc Intra-day Variation Margin or Additional Margin delivered in the form of cash by Clearing Members. OTC Clear will, on a monthly basis, pay a return calculated on a daily basis to Clearing Members in respect of any Initial Margin, Routine Intra-day Variation Margin, Ad Hoc Intra-day Variation Margin or Additional Margin delivered in the form of cash and comprising the Margin Balance as at the end of each OTC Clear Clearing Day at a rate which is the average savings rate published by the three note issuing banks for each relevant Eligible Currency. For the avoidance of doubt, in the event that the average of such rates in respect of a particular Eligible Currency is a negative rate, Clearing Members shall be required to pay to OTC Clear an amount equal to the absolute value of such rate multiplied by the portion of their Margin Balance that comprises cash Collateral in such Eligible Currency. Any loss arising from the investment activities is for OTC Clear. The obligation of OTC Clear to redeliver Margin in cash will not be affected by the investment performance.

#### **7.6.1.2 Guarantee Fund**

OTC Clear may invest with a conservative policy in respect of any Rates and FX Contribution delivered in the form of cash by Clearing Members. Any positive returns from such investment will form part of OTC Clear Contribution pursuant to section 6.4 of these Clearing Procedures. For the avoidance of doubt, any loss arising from the investment activities is for OTC Clear. The obligation of OTC Clear to redeliver Rates and FX Contribution in cash will not be affected by the investment performance.

#### **7.6.2 Non-Cash Collateral\***

Non-cash Collateral delivered to OTC Clear by a Clearing Member for purposes of satisfying its Margin requirements will be transferred to OTC Clear by way of security interest with no right of rehypothecation pursuant to Clearing Rule 1213. ~~Non-cash Collateral delivered to OTC Clear by a Clearing Member for the purpose of satisfying its CM Funded Contribution Amount will be transferred~~

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\* OTC Clear currently accepts non-cash Collateral from Clearing Members only for the purposes of satisfying Margin requirements. OTC Clear currently does not accept non-cash Collateral for the purpose of satisfying a Clearing Member's Rates and FX Liability.

~~outright pursuant to Clearing Rule 1502. Pursuant to Clearing Rule 1520, OTC Clear may only use any non-cash Collateral held in the Rates and FX Guarantee Resources as per Clearing Rule 1514.~~

Each Clearing Member will bear the risk for any loss and gain on the value of the non-cash Collateral, and pursuant to Clearing Rule 1006, OTC Clear will distribute an amount representing any income it has received in respect of any non-cash Collateral, taking into account the 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. Each of such fees will be set out in Appendix 41 to the Clearing Procedures.

## Chapter 8

### Default Management

#### 8.1 Interpretation and Overview

The procedure set out in this Chapter 8 is aimed at reducing and neutralizing the overall risk arising out of the occurrence of a DMP Event with respect to one or more Defaulting Clearing Members.

#### 8.2 Member Obligations

Each Clearing Member has provided an undertaking to discharge its obligations in participating in the Default Management Process pursuant to Clearing Rule 1609.

Non-Defaulting Clearing Members shall provide market access for OTC Clear to execute Hedging pursuant to Clearing Rule 1801 and section 8.5. Each Non-Defaulting Clearing Member shall support the Hedging or risk neutralization process by promptly providing the Default Management Group with competitive pricing for hedging trades upon request. OTC Clear will consult with the Default Management Group in determining the range of competitive pricing for a Hedging transaction.

If a DMG Delegate is no longer an employee or a director of the Clearing Member that nominates the DMG Delegate or the Clearing Member becomes aware that its DMG Delegate's employment or directorship will be terminated, such Clearing Member shall notify OTC Clear in writing as soon as practicable and such DMG Delegate will be removed from the Default Management Group. Such Clearing Member shall then nominate another employee or director to be a DMG Delegate.

#### 8.3 Scope and Responsibility of Default Management Group

OTC Clear will convene a meeting of the Default Management Group in accordance with the Default Management Group's terms of reference.

The Default Management Group will, among others, provide advice to the OTC Clear on market conditions including liquidity and also on construction of separate Auction Portfolios. OTC Clear will oversee the Hedging and Auction processes.

#### 8.4 Suspension of Activities

Upon the occurrence of a DMP Event with respect to a Defaulting Clearing Member, the Defaulting Clearing Member's clearing activities with OTC Clear will be suspended.

#### 8.5 Hedging (Risk Neutralizing)

The objective of Hedging is to mitigate, to the extent commercially practicable, any risk or economic exposure which arises as a result of the occurrence of a DMP Event.

OTC Clear will apply a risk based approach to hedging i.e. neutralizing exposures most vulnerable to market risk. Market risk may be expressed and measured in deltas across all the available tenor points. In respect of each Default Management Process and the related Hedging, the Default Management Group will present proposed Hedging strategies to OTC Clear. Once the Hedging strategies have been approved by OTC Clear, the Default Management Group is primarily responsible for execution of the Hedging strategy for OTC Clear.

Hedging will continue until such time as OTC Clear, in consultation with the Default Management Group, is reasonably satisfied that the risk arising out of the relevant DMP Event has been suitably reduced. OTC Clear will use reasonable endeavours to limit erosion of Margin Balances.

## **8.7 Portfolio Splitting and Re-composition**

In case of an unsuccessful Auction, in order to enhance the likelihood of success of a subsequent Auction, OTC Clear has the flexibility to, in consultation with the Default Management Group, combine Auction Portfolios of different Transaction Categories or further sub-divide a previously constructed Auction Portfolio into multiple Auction Portfolios. The prime considerations for portfolio splitting and re-composition include, but are not limited to, the size of the Auction Portfolio(s).

## **8.8 Cost of Default and Loss Attribution**

OTC Clear will assess its Rates and FX Loss incurred as a result of the occurrence of the DMP Event. Any Margin Balance of the Defaulting Clearing Member in excess of the full settlement of the default (but excluding any Client Entitlement which will be paid to the relevant Non-Porting Client of the Defaulting Clearing Member in accordance with Clearing Rule ~~1307(2)(a)(A)~~1309) will be redelivered to the Defaulting Clearing Member as part of the net sum payable to the Defaulting Clearing Member pursuant to Clearing Rule 1307, or be returned in accordance with the relevant security document. Any Rates and FX Contribution Balance of the Defaulting Clearing Member in excess of the full settlement of the default will be redelivered to the Defaulting Clearing Member in accordance with Clearing Rule 1547.

In the event that the Rates and FX Loss exceeds the Defaulting Clearing Member's Rates and FX Contribution Balance, OTC Clear will satisfy the losses in accordance with Clearing Rule 1516.

## **8.9 Post Auction Communication**

Upon disposal of all Auction Portfolios following the occurrence of a DMP Event with respect to the Defaulting Clearing Member, OTC Clear will announce the completion of the Default Management Process by notifying the Clearing Members and will provide a summary of the steps taken during the Default Management Process, such summary will be published on the HKEx website, a copy of which will also be provided to the SFC.

## **8.10 Review**

Upon the completion of the Default Management Process in respect of each occurrence of DMP Event, OTC Clear will review the process and may put forward recommendations to change the process.

OTC Clear will also, at a minimum of once every year, conduct review of the process set out in this Chapter 8 to ensure it is adequate, practical and effective. In doing so, OTC Clear will involve Clearing Members by inviting them to participate in fire drills as referred to in Clearing Rule 1611. OTC Clear will provide the results of any fire drills of the Default Management Process to the Risk Management Committee. OTC Clear will also publish the results of the fire drills on the HKEx website.

## **8.11 Porting of Affected Contracts and Collateral to a Replacement Clearing Member**

OTC Clear will facilitate porting of Affected Contracts in a Client Position Account (and Collateral in its corresponding Client Collateral Account) of a Defaulting Clearing Member if all of the following conditions are satisfied:

- (i) original valid and complete Porting Instructions\* are received by 17:00 hours Hong Kong Time on the OTC Clear Clearing Day immediately following the occurrence of the relevant DMP Event;
- (ii) no DMP Event has occurred with respect to the relevant Replacement Clearing Member;
- (iii) in respect of each Client Position Account, the relevant Replacement Clearing Member has consented (in writing) to accepting the porting of all Affected Contracts and Collateral in the corresponding Client Collateral Account by 17:00 hours Hong Kong Time on the OTC Clear Clearing Day immediately following the occurrence of the relevant DMP Event;
- (iv) the relevant Replacement Clearing Member's standard settlement instruction for each relevant Contractual Currency of the Affected Contracts being ported is in place;
- (v) the Replacement Clearing Member's standard settlement instruction for each relevant Eligible Currency of cash Collateral being ported is in place;
- (vi) the Replacement Clearing Member's standard delivery instruction for each relevant non-cash Collateral being ported is in place;
- (vii) the Replacement Clearing Member's standard settlement instruction for the relevant currency of denomination of the coupon (interest) of each relevant non-cash Collateral is in place;
- (viii) the Replacement Clearing Member fulfills its revised Margin requirements and successfully passes its margin and credit checks on or before the last Portfolio Novation Cycle on the second OTC Clear Clearing Day following the occurrence of the relevant DMP Event;
- (ix) all amounts that have become due and payable by the relevant Defaulting Clearing Member to OTC Clear in respect of Contracts recorded in the relevant Client Position Account (including, for the avoidance of doubt, any Non-Porting Contracts recorded in that Client Position Account) have been paid or otherwise fully and finally discharged to the satisfaction of OTC Clear; and
- (x) no Rates and FX Clearing Termination Event has occurred.

In respect of each Porting Instruction, each Defaulting Clearing Member and the Replacement Clearing Member named therein are deemed to acknowledge, represent and undertake that:

- (a) they are jointly responsible for the accuracy and completeness of the information contained in such Porting Instruction;
- (b) OTC Clear is entitled to rely conclusively on the instructions and information provided in such Porting Instruction without further enquiry; and
- (c) OTC Clear shall incur no liability for any delay, rejection, loss, cost, claim, action, demand or expense in the processing of such Porting Instruction and in effecting the porting of Affected Contracts and Collateral in reliance on the information contained in such Porting Instruction.

If any information and/or instructions provided by the relevant Client in a Porting Instruction is incomplete, inaccurate or inconsistent with its records, OTC Clear may, in its sole and absolute

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\* Forms are provided to Clearing Members as part of their onboarding process and thereafter are available from OTC Clear upon request.

discretion, reject such Porting Instruction or liaise with the Defaulting Clearing Member and/or the Replacement Clearing Member to rectify the relevant information/instruction.

#### **8.11.1 Porting Instructions**

Requirements for valid and complete Porting Instructions:

- (i) Porting Instructions must contain:
  - (a) the name, address and contact details of the Client;
  - (b) the name, address, contact details of the Defaulting Clearing Member, and the reference number of the relevant Client Accounts held by the Defaulting Clearing Member on behalf of the Client or identified as being shared with the Client; and
  - (c) the name, address and contact details of the Replacement Clearing Member;
- (ii) Porting Instructions must be signed by the Client, the Defaulting Clearing Member and the relevant Replacement Clearing Member;
- (iii) Porting Instructions submitted by Client Clearing Category 2 Clients sharing the same Client Clearing Category 2 Accounts must nominate the same Replacement Clearing Member; and
- (iv) the relevant Replacement Clearing Member that has been nominated has been approved by OTC Clear to provide Client Clearing Services to the relevant Client(s).

#### **8.11.2 Update of Records**

The status of each relevant Contract successfully ported to and registered in the Replacement Clearing Member's relevant Client Position Account will be flagged as "CLEARED" in the "OTC Clear Trade Report for Client (Report Number TDRP01 C or TDRP02 C)" and Collateral records in the relevant Replacement Clearing Member's relevant Client Collateral Account will be updated accordingly and reflected in the "OTC Clear Risk Management Report (Report Number RMRP05)".

#### **8.11.3 Unsuccessful Porting**

If porting cannot be completed successfully, the Affected Contracts of each Non-Porting Client will be subject to the Default Management Process relating to the relevant DMP Event.

- (i) the withdrawal, porting or deposit of ~~cash~~ Collateral;
- (ii) the conversion of currencies;
- (iii) the ability to cover liabilities in currencies other than their Contractual Currencies;
- (iv) the time at which Margin may be demanded by OTC Clear;
- (v) the settlement of a Settlement Component; and
- (vi) the settlement of Rates and FX Contribution.

In case of any amendment, deferral or suspension to the above-mentioned items, a message will be communicated to Clearing Members using the methods set out in section 9.1.1.

#### **9.1.5 Registration of Contracts**

During the period when business continuity plans have been invoked, the procedures for registration of Contracts as set out in Chapter 3 of these Clearing Procedures will continue to apply. However, OTC Clear reserves the right to amend the timing of registration of Contracts. Clearing Members will be notified (using the methods set out in section 9.1.1) if the registration of Contracts has to be delayed.

#### **9.1.6 New Office Address Notification**

If OTC Clear is unable to reoccupy OTC Clear's premises within two hours, Clearing Members will be notified of the proposed new office location, the contact details of OTC Clear and the effective date prior to it occupying the new premises, using the methods set out in section 9.1.1.

#### **9.1.7 Resumption of Normal Service**

If OTC Clear is able to resume normal service in the original OTC Clear's premises or in the permanent new location as stated in section 9.1.6, message will be communicated to Clearing Members using the methods set out in section 9.1.1.

#### **9.1.8 Periodic Testing of Business Continuity Plans**

OTC Clear will periodically review and test its business continuity plans and associated arrangements against various scenarios that may simulate wide-scale disasters. Clearing Members and critical service providers to OTC Clear may be involved in such review and testing.

### **9.2 Primary Data Center**

As the primary data center of OTC Clear is not located at OTC Clear's premises, evacuation of OTC Clear's premises will not affect Clearing Members' ability to access the Web Portal.

If the primary data center of OTC Clear fails, OTC Clear will switch to the secondary data center of OTC Clear as soon as reasonably practicable. The secondary data center is expected to be synchronized with the primary data center which means that data are stored at both data centers. In the absence of any failure or disruption to the primary data center, the secondary data center serves as a back-up and will be on standby.

The switch from the primary data center of OTC Clear to the secondary data center of OTC Clear is expected to take up to two hours for the core mission critical system. During the switch from primary data center to the secondary data center of OTC Clear, the Rates and FX Clearing Services will be suspended.

### 9.3 Service Outage

If the Rates and FX Clearing Services are not available to or the Web Portal is not accessible to Clearing Members due to technical failure or other reasons, OTC Clear cannot guarantee Clearing Members a particular level of services in this situation. OTC Clear will activate the relevant business continuity plans and use its best endeavours to restore the normal service. Message will be disseminated to Clearing Members using the methods set out in section 9.1.1 of these Clearing Procedures.

### 9.4 Special Arrangement for Valuation of a Standard Rates Derivatives Contract which is Denominated in HK\$ under Adverse Weather Conditions

For the avoidance of doubt, when a Black Rainstorm Warning or a Typhoon Signal Number 8 or above is issued by The Hong Kong Observatory, for purposes of valuing a Standard Rates Derivatives Contract denominated in Hong Kong dollars, Section 7.7 of the ISDA Definitions shall apply.

### 9.5 Special Arrangement of Voluntary Deposit of Cash Collateral, Porting of Excess Margin and Withdrawal of Excess Margin and Rates and FX Contribution Excess under Adverse Weather Conditions

This section 9.5 includes the arrangement surrounding depositing, porting or withdrawing cash Collateral on a voluntary basis as adopted by OTC Clear when a Black Rainstorm Warning or a Typhoon Signal Number 8 or above is issued by The Hong Kong Observatory.

~~OTC Clear currently does not accept non-cash Collateral. If OTC Clear decides to accept non-cash assets as Collateral in future, it will notify Clearing Members of such development and will provide a list of non-cash assets acceptable as Collateral, as such list may be amended or updated from time to time. The procedures for handling non-cash Collateral (if any so designated) will be set out in section 7.3 of these Clearing Procedures.~~

#### 9.5.1 Black Rainstorm Warning

##### 9.5.1.1 Deposit of Cash Collateral

- (i) if a Black Rainstorm Warning is issued prior to 07:00 hours Hong Kong time on an OTC Clear Clearing Day and is cancelled at or before 07:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for deposit of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.2 of these Clearing Procedures and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such deposit is due to be processed;
- (ii) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Clearing Day and is cancelled after 07:00 hours Hong Kong time but at or before 11:00 hours Hong Kong time, subject to sub-paragraphs (iii) and (iv) below, any request which is submitted by a Clearing Member for deposit of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.2 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such deposit is due to be processed;
- (iii) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Clearing Day and is cancelled at or before 11:00 hours Hong Kong time and re-issued at or before 13:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for deposit of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.2 of these Clearing Procedures on reasonable endeavour basis

and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such withdrawal is due to be processed;

- (v) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled after 11:00 hours Hong Kong time, any request which is submitted by a Clearing Member for withdrawal of cash Collateral on such day will, notwithstanding section 3.9.1 of these Clearing Procedures, not be processed on that day; or
- (vi) if a Black Rainstorm Warning is issued at or after 09:00 hours Hong Kong time on an OTC Clear Business Day, any request which is submitted by a Clearing Member for withdrawal of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.1 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such withdrawal is due to be processed.

**9.5.1.3 Porting of Cash Collateral from the House Collateral Account of a Clearing Member to a Client Collateral Account of that Clearing Member**

- (i) if a Black Rainstorm Warning is issued prior to 07:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled at or before 07:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for porting of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.3 of these Clearing Procedures and subject to the availability of banking services to OTC Clear in Hong Kong on the day such transfer is due to be processed;
- (ii) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled after 07:00 hours Hong Kong time but at or before 11:00 hours Hong Kong time, subject to sub-paragraphs (iii) and (iv) below, any request which is submitted by a Clearing Member for porting of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.3 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear in Hong Kong on the day such transfer is due to be processed;
- (iii) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled at or before 11:00 hours Hong Kong time and re-issued at or before 13:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for porting of cash Collateral on such day will, notwithstanding section 3.9.3 of these Clearing Procedures, not be processed on that day;
- (iv) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled at or before 11:00 hours Hong Kong time and re-issued after 13:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for porting of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.3 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear in Hong Kong on the day such transfer is due to be processed;
- (v) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled after 11:00 hours Hong Kong time, any request which is submitted by a Clearing Member for porting of cash Collateral on such day will, notwithstanding section 3.9.3 of these Clearing Procedures, not be processed on that day; or
- (vi) if a Black Rainstorm Warning is issued at or after 09:00 hours Hong Kong time on an OTC Clear Business Day, any request which is submitted by a Clearing Member for porting of cash

Collateral on such day will be processed by OTC Clear in accordance with section 3.9.3 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear in Hong Kong on the day such transfer is due to be processed.

**9.5.1.4 Porting of Cash Collateral from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member**

- (i) if a Black Rainstorm Warning is issued prior to 07:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled at or before 07:00 hours Hong Kong time on that day, requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, notwithstanding that banking services are not available to OTC Clear in Hong Kong on the day such porting of cash Collateral is due to be processed;
- (ii) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled after 07:00 hours Hong Kong time but at or before 11:00 hours Hong Kong time, subject to sub-paragraphs (iii) and (iv) below, requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, on reasonable endeavour basis;
- (iii) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled at or before 11:00 hours Hong Kong time and re-issued at or before 13:00 hours Hong Kong time on that day, requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, on reasonable endeavour basis;
- (iv) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled at or before 11:00 hours Hong Kong time and re-issued after 13:00 hours Hong Kong time on that day, requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, on reasonable endeavour basis;
- (v) if a Black Rainstorm Warning is issued prior to 09:00 hours Hong Kong time on an OTC Clear Business Day and is cancelled after 11:00 hours Hong Kong time, any porting of cash Collateral on such day, requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, on reasonable endeavour basis; or
- (vi) if a Black Rainstorm Warning is issued at or after 09:00 hours Hong Kong time on an OTC Clear Business Day, any porting of cash Collateral on such day, requests submitted for the

porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, on reasonable endeavour basis.

## 9.5.2 Typhoon Signal Number 8 or Above

### 9.5.2.1 Deposit of Cash Collateral

- (i) if a Typhoon Signal Number 8 or above is hoisted by The Hong Kong Observatory prior to 07:00 hours Hong Kong time on an OTC Clear Clearing Day and lowered to a number 3 tropical cyclone warning signal (a “Typhoon Signal Number 3”) or below by The Hong Kong Observatory at or prior to 07:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for deposit of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.2 of these Clearing Procedures and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such deposit is due to be processed;
- (ii) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Clearing Day and lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day, subject to sub-paragraphs (iii)(a) and (iv) below, any request which is submitted by a Clearing Member for deposit of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.2 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such deposit is due to be processed;
- (iii) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Clearing Day; and
  - (a) lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day and re-hoisted at or ~~prior to~~before 13:00 hours Hong Kong time on that day; or
  - (b) lowered to a Typhoon Signal Number 3 or below after 11:00 hours Hong Kong time on that day,any request which is submitted by a Clearing Member for deposit of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.2 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such deposit is due to be processed;
- (iv) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Clearing Day and lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day and re-hoisted after 13:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for deposit of cash Collateral on such day will be processed in accordance with section 3.9.2 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such deposit is due to be processed.

### 9.5.2.2 Withdrawal of Cash Collateral

- (i) if a Typhoon Signal Number 8 or above is hoisted prior to 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a Typhoon Signal Number 3 or below at or prior to 07:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for withdrawal of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.1 of these Clearing Procedures subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such withdrawal is due to be processed;
- (ii) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day, subject to sub-paragraphs (iii)(a) and (iv) below, any request which is submitted by a Clearing Member for withdrawal of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.1 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such withdrawal is due to be processed;
- (iii) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day and
  - (a) lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day and re-hoisted at or ~~prior to~~before 13:00 hours Hong Kong time on that day; or
  - (b) lowered to a Typhoon Signal Number 3 or below after 11:00 hours Hong Kong time on that day,any request which is submitted by a Clearing Member for withdrawal of cash Collateral on such day will, notwithstanding section 3.9.1 of these Clearing Procedures, not be processed on that day; or
- (iv) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day and re-hoisted after 13:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for withdrawal of cash Collateral on such day will be processed in accordance with section 3.9.1 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear and such Clearing Member in Hong Kong on the day such withdrawal is due to be processed.

### 9.5.2.3 Porting of Cash Collateral from the House Collateral Account of a Clearing Member to a Client Collateral Account of that Clearing Member

- (i) if a Typhoon Signal Number 8 or above is hoisted prior to 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a Typhoon Signal Number 3 or below at or prior to 07:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for porting of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.3 of these Clearing Procedures subject to the availability of banking services to OTC Clear in Hong Kong on the day such transfer is due to be processed;
- (ii) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day, subject to sub-paragraphs (iii)(a) and (iv) below, any

request which is submitted by a Clearing Member for porting of cash Collateral on such day will be processed by OTC Clear in accordance with section 3.9.3 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear in Hong Kong on the day such transfer is due to be processed;

- (iii) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day and
  - (a) lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day and re-hoisted at or before 13:00 hours Hong Kong time on that day; or
  - (b) lowered to a Typhoon Signal Number 3 or below after 11:00 hours Hong Kong time on that day,

any request which is submitted by a Clearing Member for porting of cash Collateral on such day will, notwithstanding section 3.9.3 of these Clearing Procedures, not be processed on that day; or

- (iv) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day and re-hoisted after 13:00 hours Hong Kong time on that day, any request which is submitted by a Clearing Member for porting of cash Collateral on such day will be processed in accordance with section 3.9.3 of these Clearing Procedures on reasonable endeavour basis and subject to the availability of banking services to OTC Clear in Hong Kong on the day such transfer is due to be processed.

#### **9.5.2.4 Porting of Cash Collateral from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member**

- (i) if a Typhoon Signal Number 8 or above is hoisted by The Hong Kong Observatory prior to 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a number 3 tropical cyclone warning signal (a “Typhoon Signal Number 3”) or below by The Hong Kong Observatory at or prior to 07:00 hours Hong Kong time on that day, requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, notwithstanding that banking services are not available to OTC Clear in Hong Kong on the day such porting of cash Collateral is due to be processed;
- (ii) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day, requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, on reasonable endeavour basis;
- (iii) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day; and

(a) lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day and re-hoisted at or before 13:00 hours Hong Kong time on that day;  
or

(b) lowered to a Typhoon Signal Number 3 or below after 11:00 hours Hong Kong time on that day,

requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed by OTC Clear in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, on reasonable endeavour basis; or

(iv) if a Typhoon Signal Number 8 or above is in effect at or after 07:00 hours Hong Kong time on an OTC Clear Business Day and lowered to a Typhoon Signal Number 3 or below at or before 11:00 hours Hong Kong time on that day and re-hoisted after 13:00 hours Hong Kong time on that day, requests submitted for the porting of cash Collateral on such day from a Client Account opened with a Transferor Clearing Member to a Client Account opened with a Transferee Clearing Member or amongst Client Accounts of a Clearing Member, as the case may be, will be processed in accordance with section 3.17.6 or 3.18.2 of these Clearing Procedures, respectively, on reasonable endeavour basis.

## Chapter 10

### **Determination of Close-out Value, and Winding Down of the Rates and FX Clearing Service and OTC Clear Default**

#### ~~Determination of Close-out Value of a Contract~~

#### **10.1 Close-out Value**

The close-out value for each Contract will be determined in the Base Currency, and shall be the difference between the aggregate net Variation Margin (but excluding Routine Intra-day Variation Margin) ~~last satisfied~~ settled by the relevant Clearing Member up to and including the last End-of-Day Settlement Process immediately preceding the Final Settlement Cycle Determination Date in respect of such Contract and the Close-out Variation Margin relating to such Contract, where:

“**Close-out Variation Margin**” means, with respect to a Contract, the net present value relating to such Contract as determined by OTC Clear using calculation methodology similar to that used to determine Variation Margin in the End-of-Day Settlement Process, except that the relevant calculations will be determined on the basis of the curve(s) built and pricing input(s) and instrument quote(s) obtained as at 11:00 hours Hong Kong time on:

- (i) with respect to a Contract being terminated as a result of the occurrence of Rates and FX Clearing Termination Event, the Final Settlement Cycle Determination Date;
- (ii) with respect to a Contract which is the subject of Emergency Close-Out, the OTC Clear Business Day on which OTC Clear exercises such power; and
- (iii) with respect to a Contract being terminated during the OTC Clear Failure to Pay Grace Period, or as a result of the occurrence of OTC Clear Failure to Pay Event or OTC Clear Insolvency Event, the OTC Clear Business Day on which such termination, OTC Clear Failure to Pay Event or OTC Clear Insolvency Event, as the case may be, occurs.

The Close-out Variation Margin amount determined in any of the situations described in sub-paragraph (i), (ii) or (iii) above will not be adjusted by PAI.

#### **10.2 Rates and FX Clearing Termination Event**

In the case of a winding down of the Rates and FX Clearing Service pursuant to Clearing Rules 1530 to 1540, OTC Clear will determine the Close-out Variation Margin for all Contracts on the Final Settlement Cycle Determination Date, where the “**Final Settlement Cycle Determination Date**” shall fall on:

- (i) if a Rates and FX Clearing Termination Event is declared by OTC Clear at or prior to 09:00 hours Hong Kong time on an OTC Clear Business Day, such OTC Clear Business Day; or
- (ii) if a Rates and FX Clearing Termination Event is declared after 09:00 hours Hong Kong time on an OTC Clear Business Day, the OTC Clear Business Day immediately following the day on which such Rates and FX Clearing Termination Event is declared.

OTC Clear will announce the decision to determine the Close-out Variation Margin with respect to all Contracts by 09:00 hours Hong Kong time on a Final Settlement Cycle Determination Date.

### **10.3 OTC Clear Default**

Upon the designation of an Early Termination Date pursuant to Clearing Rule 1320(1), 1321(1) or 1323, OTC Clear will determine the Close-out Variation Margin for all Contracts on the Final Settlement Cycle Determination Date, where the Final Settlement Cycle Determination Date shall fall on:

- (i) if an Early Termination Date is declared by OTC Clear at or prior to 09:00 hours Hong Kong time on an OTC Clear Business Day, such OTC Clear Business Day; or
- (ii) if Early Termination Date is declared after 09:00 hours Hong Kong time on an OTC Clear Business Day, the OTC Clear Business Day immediately following the day on which such Early Termination Date is declared.

OTC Clear will announce the decision to determine the Close-out Variation Margin with respect to all Contracts by 09:00 hours Hong Kong time on a Final Settlement Cycle Determination Date.

## Appendix I Fees Schedule

**(i) Annual Fee, Registration Fee and Maintenance Fee (for Clearing Members engaged in House Business)**

**(a) Standard Rates Derivatives Contract and Non Deliverable Rates Derivatives Contract**

<b>Tariff</b>	<b>Annual Fee</b>	<b>Registration Fee</b>	<b>Maintenance Fee</b>
Tariff A	HK\$ 5 million	Nil	HK\$ 20 on a monthly basis in respect of each Contract until its maturity.
Tariff B	HK\$ 1 million	In case of backloading, Nil for registration of a Contract.  Otherwise HK\$ 750 for registration of a Contract.	HK\$ 60 on a monthly basis in respect of each Contract until its maturity.
Tariff C	Nil	In case of backloading, Nil for registration of a Contract.  Otherwise HK\$ 1,500 for registration of a Contract.	HK\$ 120 on a monthly basis in respect of each Contract until its maturity.

**(b) Standard Cross-currency Rates Derivatives Contract**

Tenor	Fee Rate	
	Registration Fee	Maintenance Fee
0 – 1 year	0.0015% of the notional amount of the USD leg of the Contract.	0.00008% of the notional amount of the USD leg of the Contract, on a monthly basis in respect of each Contract until its maturity.  Registration Fees and Maintenance Fees will be billed in aggregate (in HK\$) monthly in arrears.
>1 – 3 years	0.0035% of the notional amount of the USD leg of the Contract.	
>3 – 5 years	0.0065% of the notional amount of the USD leg of the Contract.	
>5 – 7 years	0.0085% of the notional amount of the USD leg of the Contract.	
>7 – 10 years	0.0115% of the notional amount of the USD leg of the Contract.	

**(c) FX Derivatives Contract**

Tariff	Annual Fee	Registration Fee
Tariff A	HK\$ 5 million	In case of backloading, HK\$ 3.9 per each million notional amount (in USD) for registration of a Contract.  Otherwise HK\$ 7.8 per each million notional amount (in USD) for registration of a Contract.
Tariff B	HK\$ 1 million	In case of backloading, HK\$ 11.7 per each million notional amount (in USD) for registration of a Contract.  Otherwise HK\$ 23.4 per each million notional amount (in USD) for registration of a Contract.
Tariff C	Nil	In case of backloading, HK\$ 23.4 per each million notional amount (in USD) for registration of a Contract.  Otherwise HK\$ 46.8 per each million notional amount (in USD) for registration of a Contract.

**(ii) Registration Fee and Maintenance Fee (for Clearing Members providing Client Clearing Services to their Clients)****(a) Standard Rates Derivatives Contract and Non Deliverable Rates Derivatives Contract**

<u>Type of Client Position Account</u>	<u>Registration Fee (paid in arrears at the end of each month)</u>	<u>Maintenance Fee (paid in arrears at the end of each month)</u>
Contracts	0.001% of the notional amount of	0.00004% of the notional amount

<u>Type of Client Position Account</u>	<u>Registration Fee (paid in arrears at the end of each month)</u>	<u>Maintenance Fee (paid in arrears at the end of each month)</u>
<u>registered to a Client Clearing Category 1 Position Account and remaining outstanding at the end of each month</u>	<u>each Contract per Position Account.</u> <u>Registration Fees and Maintenance Fees will be billed in aggregate monthly in arrears.</u>	<u>of each Contract per Position Account.</u> <u>Registration Fees and Maintenance Fees will be billed in aggregate monthly in arrears.</u>
<u>Contracts registered to a Client Clearing Category 2 Position Account and remaining outstanding at the end of each month</u>	<u>0.001% of the notional amount of each Contract per Position Account.</u> <u>Registration Fees and Maintenance Fees will be billed in aggregate monthly in arrears.</u>	<u>0.00004% of the notional amount of each Contract per Position Account.</u> <u>Registration Fees and Maintenance Fees will be billed in aggregate monthly in arrears.</u>

**(b) Standard Cross-currency Rates Derivatives Contract**

<u>Tenor</u>	<u>Fee Rate</u>	
	<u>Registration Fee</u>	<u>Maintenance Fee</u>
<u>0 – 1 year</u>	<u>0.0015% of the notional amount of the USD leg of the Contract.</u>	<u>0.00008% of the notional amount of the USD leg of the Contract, on a monthly basis in respect of each Contract until its maturity.</u>
<u>&gt;1 – 3 years</u>	<u>0.0035% of the notional amount of the USD leg of the Contract.</u>	<u>Registration Fees and Maintenance Fees will be billed in aggregate (in HK\$) monthly in arrears.</u>
<u>&gt;3 – 5 years</u>	<u>0.0065% of the notional amount of the USD leg of the Contract.</u>	
<u>&gt;5 – 7 years</u>	<u>0.0085% of the notional amount of the USD leg of the Contract.</u>	
<u>&gt;7 – 10 years</u>	<u>0.0115% of the notional amount of the USD leg of the Contract.</u>	

**(c) FX Derivatives Contract**

<u>Type of Client Position Account</u>	<u>Registration Fee (paid in arrears at the end of each month)</u>
<u>Contracts registered to a Client Clearing Category 1 Position Account and remaining outstanding at</u>	<u>0.0006% of the notional amount (in USD) of each Contract per Position Account.</u> <u>Registration Fees will be billed in aggregate monthly in arrears.</u>

<u>the end of each month</u>	
<u>Contracts registered to a Client Clearing Category 2 Position Account and remaining outstanding at the end of each month</u>	<u>0.0006% of the notional amount (in USD) of each Contract per Position Account.</u> <u>Registration Fees will be billed in aggregate monthly in arrears.</u>

**(ii)(iii) De-registration Fee**

HK\$ 250 in respect of each Standard Rates Derivatives Contract, Standard Cross-currency Rates Derivatives Contract, Non Deliverable Rates Derivatives Contract or FX Derivatives Contract previously registered in its name that has been de-registered.

**(iii)(iv) Fee for Resuming User Access or Resetting Password**

HK\$ 50 per each user access resumption, password reset or retrieval for the Web Portal (excluding, for the avoidance of doubt, password provided for first time log on).

**(iv)(v) Fee for Retrieval of Reports Removed from the Web Portal and/or Printing of Reports**

HK\$ 5 per page, up to HK\$ 1,000 per each report.

**(v)(vi) Accommodation charges, administrative fees and/or commitment fees for credit lines in respect of any non-cash Collateral**

An accommodation charge~~The methodologies used for determining the relevant fees will be charged monthly in arrears notified by OTC Clear to the each Clearing Member, calculated at the rate of 0.15% of the average daily aggregate principal amount of Members when non-cash Collateral outstanding across each Clearing Member's Collateral Accounts over the immediately preceding month is accepted.~~

**(vi)(vii) Default Interest Rate**

Default Interest Rate, with respect to an Eligible Currency, represents 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.

**(viii) Fee for porting of Contracts between Position Accounts held by the same Clearing Member)**

HK\$ 10,000 per request

**(ix) Fee for porting of some or all Contracts to a Transferee Clearing Member**

**(a) Partial porting of Contracts: HK\$ 20,000 per request**

**(b) Full porting of Contracts: HK\$ 20,000 per request**

For the avoidance of doubt, no fees will be charged for the porting of Contracts and Collateral held by a Defaulting Clearing Member to a Replacement Clearing Member upon the occurrence of a DMP Event.

**(x) Fee for each request for deposit, porting or withdrawal of non-cash Collateral**

**(a) Deposit: Charge at cost**

**(b) Porting: Charge at cost**

**(c) Withdrawal: Charge at cost**

For the avoidance of doubt, no fees will be charged for the porting of non-cash Collateral held by a Defaulting Clearing Member to a Replacement Clearing Member upon the occurrence of a DMP Event.

Note:

Backloading applies when (a) the Trade Date of a Contract registered in the name of a Clearing Member precedes the commencement of the Membership of that particular Clearing Member; or (b) the Trade Date of an Original Transaction submitted for registration as Contracts precedes the effective date of the amendment in the specific product eligibility requirements (as set out in section 3.4 of the Clearing Procedures) and such Original Transaction, but for such amendment, would have not been accepted for registration.

**Appendix II**  
**Additional Financial CenterCenters**

Amsterdam	Helsinki	Prague
Ankara	Hong Kong	Reykjavik
Athens	Jakarta	Riyadh
Auckland	Johannesburg	Santiago
Bangkok	Kampala	Sao Paulo
Beijing	Kuala Lumpur	Seoul
Beirut	Lima	Singapore
Bogota	Lisbon	Stockholm
Bratislava	London	Sydney
Brussels	Lusaka	Taipei
Bucharest	Luxembourg	Tallinn
Budapest	Madrid	TARGET
Buenos Aires	Manila	Tel Aviv
Cairo	Mexico City	Tokyo
Caracas	Milan	Toronto
Copenhagen	Moscow	Vienna
Dubai	Mumbai	Warsaw
Dublin	Nairobi	Wellington
Frankfurt	New York	Zurich
Gaborone	Oslo	
Hanoi	Paris	

**Appendix III**  
**Template Hong Kong law Deed of Charge – House Collateral**  
**Account**

DEED OF CHARGE – HOUSE COLLATERAL ACCOUNT

dated [ \_\_\_\_\_ ]

created by

*[CLEARING MEMBER]*

(Registered No. [ \_\_\_\_\_ ])

as a Clearing Member

in favour of

*OTC CLEARING HONG KONG LIMITED*

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THIS DEED is dated [ \_\_\_\_\_ ] and made between:

- (1) [ \_\_\_\_\_ ] a company incorporated in [ \_\_\_\_\_ ] having company number [ \_\_\_\_\_ ] and its [registered] / [principal] office at [ \_\_\_\_\_ ] (the "**Clearing Member**");  
and
- (2) OTC Clearing Hong Kong Limited of 12/F, One International Finance Centre, 1 Harbour View Street, Central, Hong Kong ("**OTC Clear**").

### **Background**

- (A) The Clearing Member is entering into this Deed in connection with the Clearing Documentation.
- (B) The Board of Directors of the Clearing Member is satisfied that entering into this Deed is for the purposes and to the benefit of the Clearing Member and its business.

This DEED witnesses the following:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Deed:

**"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

**"Charged Assets"** means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets.

**"Charges"** means all or any of the Security created or expressed to be created by or pursuant to this Deed.

**"Clearing Procedures"** means the practices, procedures and administrative requirements prescribed by OTC Clear from time to time in effect.

**"Clearing Rules"** means the clearing rules of OTC Clear as from time to time in effect and shall include the Clearing Procedures.

**"Clearing System"** means each of (i) the Hong Kong Monetary Authority acting as operator of the Central Moneymarkets Unit Service and (ii) any other clearing system agreed by the Clearing Member and OTC Clear.

**"Companies Ordinance"** means the Companies Ordinance (Cap. 622) of the Laws of Hong Kong.

**"Companies (Winding Up and Miscellaneous Provisions) Ordinance"** means the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of the Laws of Hong Kong.

**"CPO"** means the Conveyancing and Property Ordinance (Cap. 219) of the Laws of Hong Kong.

**"Delegate"** means a delegate or sub-delegate appointed under Clause 10.2 (*Delegation*).

**"Interest"** means all present and future:

- (a) interest and distributions of any kind and any other cash or securities or investments received or receivable in respect of any of the Charged Assets; and

(b) all other rights attaching to, deriving from, relating to or exercisable by virtue of the ownership of any of the Charged Assets.

**"Liabilities"** means all present and future moneys, debts, liabilities and obligations due, owing or incurred by the Clearing Member to OTC Clear under or in connection with any Contract or Clearing Documentation (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise).

**"Party"** means a party to this Deed.

**"Receiver"** means a receiver and manager or other receiver appointed in respect of the Charged Assets.

**"Repeating Representations"** means each of the representations set out in paragraphs (i), (ii), (iii), (iv), (v) and (vii) of Clause 7(a).

**"Securities"** means:

- (a) securities and investments of any kind (other than cash and balances in respect of cash) from time to time recorded in the Clearing Member's House Collateral Account; and
- (b) all rights relating to those securities and investments referred to in paragraph (a) above which are deposited with, or registered in the name of, any depositary, custodian, nominee, clearing house or system, investment manager, chargee or other similar person or their nominee, in each case whether or not on a fungible basis (including rights against any such person).

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"SFO"** means the Securities and Futures Ordinance (Cap. 571) of the Laws of Hong Kong.

**"Winding-up"** means winding up, amalgamation, reconstruction, administration, dissolution, liquidation, merger or consolidation or any analogous procedure or step in any jurisdiction.

## **1.2 Incorporation of defined terms**

Unless a contrary indication appears, terms used in the Clearing Rules have the same meaning in this Deed.

## **1.3 Construction**

(c) Unless a contrary indication appears, any reference in this Deed to:

- (i) "OTC Clear", the "Clearing Member" or any "Party" shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Clearing Documentation;
- (ii) any "Contract", any "Clearing Documentation" or any other agreement or instrument is a reference to that Contract, Clearing Documentation or other agreement or instrument as amended, novated, supplemented, extended,

restated (however fundamentally and whether or not more onerous) or replaced; and

(iii) a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality).

(d) The provisions in Clearing Rules 102 to 108 apply to this Deed with all necessary changes.

(e) In the context of the rights, powers, privileges, discretions and immunities conferred on OTC Clear, a Receiver or a Delegate, references to charge or mortgage in any provision of the CPO shall, for the purposes of this Deed, be deemed to be references to the Charges and references to mortgaged land in any provision of the CPO shall, for the purposes of this Deed, be deemed to be references to the Charged Assets.

#### **1.4 Third Party Rights**

(a) Unless expressly provided to the contrary in the Clearing Documentation, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce or to enjoy the benefit of any term of this Deed.

(b) Notwithstanding any term of any Clearing Documentation, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

#### **2. UNDERTAKING TO PAY**

The Clearing Member shall pay each of its Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by OTC Clear.

#### **3. SECURITY**

The Clearing Member, as beneficial owner of the Securities and as continuing security for the due and punctual payment and discharge of all Liabilities charges in favour of OTC Clear:

(a) by way of first mortgage, all its present and future Securities and Interest; and

(b) by way of first fixed charge, to the extent not validly and effectively mortgaged under paragraph (a) above, all its present and future Securities and Interest and all its present and future rights relating to any of the Securities, including without limitation:

(i) rights (contractually or otherwise) to give instructions relating to the Securities; and

(ii) all claims for damages and rights to receive moneys due or to become due for any reason whatsoever in respect of any of the Securities.

#### **4. RESTRICTIONS AND FURTHER ASSURANCE**

##### **4.1 Negative pledge**

The Clearing Member shall not create or permit to subsist any Security over any Charged Assets except for the Charges.

##### **4.2 Disposal**

The Clearing Member shall not (nor agree to) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, withdraw, transfer or otherwise dispose of any Charged Asset except as permitted by the Clearing Rules and Clearing Procedures.

##### **4.3 Delivery of documents**

The Clearing Member shall deliver or procure that there shall be delivered to OTC Clear such documents relating to the Securities as OTC Clear requires.

##### **4.4 Further assurance**

(a) The Clearing Member shall promptly do whatever OTC Clear requires:

(i) to perfect or protect the Charges or the priority of the Charges; or

(ii) to facilitate the realisation of the Charged Assets or the exercise of any rights vested in OTC Clear or any Receiver,

including, without limitation, making any registration and giving any notice, order or direction.

(b) The Clearing Member shall take all such action as is available to it (including making all filings and registrations) as may from time to time be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on OTC Clear by or pursuant to this Deed.

#### **5. MORTGAGED SECURITIES**

##### **5.1 Voting before enforcement**

Subject to Clause 5.2 (*Voting after enforcement*), the Clearing Member shall not be entitled to exercise, and shall not be entitled to direct the exercise of, the voting and other rights attached to any Securities.

##### **5.2 Voting after enforcement**

At any time after the occurrence of a DMP Event with respect to the Clearing Member:

(a) OTC Clear or the Receiver shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Securities in such manner as it or he sees fit; and

(b) the Clearing Member shall comply or procure the compliance with any directions of OTC Clear or the Receiver in respect of the exercise of those rights and shall promptly execute and/or deliver to OTC Clear or the Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights.

**5.3 Interest before enforcement**

Subject to Clause 5.4 (*Interest after enforcement*), the Clearing Member shall be entitled to receive, and OTC Clear shall pay, such amounts in respect of cash income derived from the Securities as are specified in the Clearing Rules and Clearing Procedures.

**5.4 Interest after enforcement**

At any time after the occurrence of a DMP Event with respect to the Clearing Member, OTC Clear (or, as the case may be, its nominee) shall be entitled to retain any such cash income derived from the Securities received by it and apply the same in such manner as OTC Clear sees fit.

**5.5 Communications**

The Clearing Member shall promptly deliver to OTC Clear a copy of every circular, notice, report, set of accounts or other documents received by it or its nominee in connection with the Securities or in connection with or from the issuer of any of the Securities.

**5.6 Payment of calls etc.**

The Clearing Member will promptly pay or procure the payment of all calls, instalments or other payments which may at any time become due in respect of any of the Charged Assets.

**6. GENERAL UNDERTAKINGS**

**6.1 Information**

The Clearing Member shall supply to OTC Clear promptly such information regarding the Charged Assets and its compliance with this Deed as OTC Clear may reasonably request.

**6.2 No prejudicial conduct**

The Clearing Member shall not do, or permit to be done, anything which could prejudice the Charges.

**7. REPRESENTATIONS AND WARRANTIES**

(a) The Clearing Member makes the representations and warranties set out in this paragraph (a) to OTC Clear on the date of this Deed:

(i) It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

(ii) It has the power to own its assets and carry on its business as it is being conducted.

(iii) The obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable, subject to:

(A) any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered to OTC Clear in respect of this Deed; or

(B) any registrations to be made after the date of this Deed which are specifically referred to in any legal opinion delivered to OTC Clear in respect of this Deed.

(iv) Its entry into, performance and delivery of this Deed, and the transactions contemplated by this Deed, do not and will not conflict with:

- (A) any law or regulation applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets,
- nor (except for the Charges) result in the existence of, or oblige it to create, any Security (or any other Encumbrance) over any of its assets.
- (v) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated this Deed.
- (vi) All Authorisations required or desirable:
- (A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed;
- (B) to make this Deed admissible in evidence in its jurisdiction of incorporation; and
- (C) to enable it to create the Charges and to ensure that the Charges have the priority and ranking the Charges are expressed to have,
- have been obtained or effected and are in full force and effect, subject to any registrations specifically referred to in any legal opinion delivered to OTC Clear in respect of this Deed.
- (vii) Subject to any qualifications specifically referred to in any legal opinion delivered to OTC Clear in respect of this Deed:
- (A) the choice of Hong Kong law as the governing law of this Deed will be recognised and enforced in its jurisdiction of incorporation; and
- (B) any judgment obtained in Hong Kong in relation to this Deed will be recognised and enforced in its jurisdiction of incorporation.
- (b) The Repeating Representations are deemed to be made by the Clearing Member by reference to the facts and circumstances then existing on each day additional Securities become Charged Assets.
- (c) In addition, the Clearing Member makes the representations and warranties set out in Clearing Rule 1220 to OTC Clear:
- (i) on the date of this Deed; and
- (ii) pursuant to Clearing Rule 1220, on each day Collateral is delivered to OTC Clear pursuant to the Clearing Rules.

## **8. ENFORCEMENT**

### **8.1 When enforceable**

The Charges shall be immediately enforceable on and at any time after the occurrence of a DMP Event with respect to the Clearing Member, and OTC Clear:

(a) may enforce all or any part of any Charges (at the times, in the manner and on the terms it thinks fit) and take possession and hold or dispose of all or any part of the Charged Assets; and

(b) whether or not it has appointed a Receiver, may exercise all or any of the powers, authorities and discretions given to mortgagees and receivers by the CPO as varied or extended by this Deed or otherwise conferred by law.

## **8.2 Power of sale**

The statutory power of sale, of appointing a Receiver and the other statutory powers conferred on mortgagees by Section 51 (*Powers of mortgagee and receiver*) and Section 53 (*Sale by Mortgagee*) of the CPO and the Fourth Schedule (*Powers of mortgagee and receiver*) to the CPO as varied and extended by this Deed shall arise on the date of this Deed and no restriction imposed by any ordinance or other statutory provision in relation to the exercise of any power of sale shall apply to this Deed.

## **8.3 No requirement of notice period**

OTC Clear is not required to give any prior notice of non-payment or default to the Clearing Member before enforcing the Charges, there is no minimum period for which Liabilities must remain due and unpaid before the Charges can be enforced and Paragraph 11 of the Fourth Schedule (*Powers of mortgagee and receiver*) to the CPO (and any similar provision under other laws) does not apply to this Deed.

## **8.4 No Liability as mortgagee in possession**

Nothing done by or on behalf of OTC Clear pursuant to this Deed shall render it liable to account as a mortgagee in possession for any sums other than actual receipts.

## **8.5 Wide construction of enforcement powers**

The powers of OTC Clear under this Deed shall be construed in the widest possible sense and all Parties intend that OTC Clear shall have as wide and flexible a range of powers as may be conferred (or, if not expressly conferred, as is not restricted) by any applicable law.

## **9. APPOINTMENT AND RIGHTS OF RECEIVERS**

### **9.1 Appointment of Receivers**

If:

(a) requested by the Clearing Member; or

(b) the Charges become enforceable (whether or not OTC Clear has taken possession of the Charged Assets).

without any notice or further notice, OTC Clear may, by deed, or otherwise in writing signed by any officer or manager of OTC Clear or any person authorised for this purpose by OTC Clear, appoint one or more persons to be a Receiver. OTC Clear may similarly remove any Receiver and appoint any person instead of any Receiver. If OTC Clear appoints more than one person as Receiver, OTC Clear may give those persons power to act either jointly or severally. The provisions of section 50 (*Power to appoint a receiver*) of the CPO (as varied and/or extended by this Deed) shall apply to any appointment made pursuant to this Deed.

## **9.2 Scope of appointment**

Any Receiver may be appointed Receiver of all of the Charged Assets or Receiver of a part of the Charged Assets specified in the appointment. In the latter case, the rights conferred on a Receiver as set out in the Schedule to this Deed shall have effect as though every reference in the Schedule to this Deed to any Charged Assets were a reference to the part of those assets so specified or any part of those assets.

## **9.3 Rights of Receivers**

Any Receiver appointed pursuant to this Clause 9 shall have the rights, powers, discretions, privileges and immunities conferred on receivers by the CPO (as varied and/or extended by this Deed), all powers (if any) conferred on receivers by law or otherwise and shall also have the powers and rights set out in the Schedule to this Deed, all of which powers and rights are exercisable without further notice.

## **9.4 Agent of Clearing Member**

Any Receiver shall be the agent of the Clearing Member for all purposes. The Clearing Member alone shall be responsible for the Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by the Receiver.

## **9.5 Remuneration**

OTC Clear may determine the remuneration of any Receiver and direct payment of that remuneration out of moneys he receives as Receiver. The Clearing Member alone shall be liable for the remuneration and all other costs, losses, liabilities and expenses of the Receiver.

## **10. OTC CLEAR'S RIGHTS**

### **10.1 Rights of OTC Clear**

Any rights conferred by this Deed upon a Receiver may be exercised by OTC Clear after the Charges become enforceable, whether or not OTC Clear shall have taken possession or appointed a Receiver of the Charged Assets.

### **10.2 Delegation**

OTC Clear may delegate in any manner to any person any rights exercisable by OTC Clear under this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as OTC Clear thinks fit.

## **11. ORDER OF DISTRIBUTIONS**

All amounts received or recovered by OTC Clear or any Receiver or any Delegate in exercise of their rights under this Deed shall be applied in the following order of priority (subject to Clause 15.5 (*Appropriations*)), in each case in accordance with the terms of the Clearing Rules and Clearing Procedures:

(a) in or towards the payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or Delegate and the exercise of any of his rights, including his remuneration and all outgoings paid by him (to the extent that, in OTC Clear's opinion, such costs, losses, liabilities and expenses relate to the amount received or recovered);

(b) in or towards the payment of Liabilities; and

(c) \_\_\_\_\_ in payment of any surplus to the Clearing Member or other person entitled to it.

## **12. LIABILITY OF OTC CLEAR, RECEIVERS AND DELEGATES**

### **12.1 Possession**

If OTC Clear, any Receiver or any Delegate takes possession of the Charged Assets, it or he may at any time relinquish possession.

### **12.2 OTC Clear's liability**

(a) Neither OTC Clear nor any Receiver or Delegate shall (either by reason of taking possession of the Charged Assets or for any other reason and whether as mortgagee in possession or otherwise) be liable to the Clearing Member or any other person for any costs, losses, liabilities or expenses relating to the realisation of any Charged Assets or from any act, default, omission or misconduct of OTC Clear, any Receiver, any Delegate or their respective officers, employees or agents in relation to the Charged Assets or in connection with any Contract or Clearing Documentation provided that the relevant realisation, act, default, omission or misconduct is done or made, as the case may be, in good faith.

(b) Nothing in this Deed shall be construed as placing on OTC Clear any liability whatsoever in respect of any calls, instalments or other payments relating to any of the Charged Assets or any rights, shares or other securities accruing, offered or arising as aforesaid, and the Clearing Member shall indemnify OTC Clear in respect of all calls, instalments or other payments relating to any of the Charged Assets owned by it and to any rights, shares and other securities accruing, offered or arising as aforesaid in respect of any of the Charged Assets.

## **13. POWER OF ATTORNEY**

### **13.1 Appointment**

The Clearing Member by way of security irrevocably appoints OTC Clear, every Receiver and every Delegate severally as its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit:

(a) to do anything which the Clearing Member is obliged to do (but has not done) under any Clearing Documentation (including to execute charges over, transfers, conveyances, assignments and assurances of, and other instruments, notices, orders and directions relating to, the Charged Assets); and

(b) to exercise any of the rights conferred on OTC Clear, any Receiver or any Delegate in relation to the Charged Assets, under or in connection with any Clearing Documentation or under the CPO, the Companies Ordinance, the Companies (Winding Up and Miscellaneous Provisions) Ordinance, the SFO or generally under Hong Kong law.

### **13.2 Ratification**

The Clearing Member ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted by it in Clause 13.1 (*Appointment*).

## **14. PROTECTION OF THIRD PARTIES**

### **14.1 No duty to enquire**

No person dealing with OTC Clear, any Receiver or any Delegate shall be concerned to enquire:

- (a) whether the power or rights conferred under or in connection with this Deed are exercisable;
- (b) whether any consents, regulations, restrictions or directions relating to such rights have been obtained or complied with;
- (c) otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such rights; or
- (d) as to the application of any money borrowed or raised.

### **14.2 Protection to purchasers**

Subject to the provisions of this Deed, all the protection to purchasers contained in Sections 52 (Protection of purchaser), 53 (Sale by mortgagee) and 55 (Mortgagee's receipt) of the CPO or in any other applicable legislation shall apply to any person purchasing from or dealing with OTC Clear, any Receiver or any Delegate.

## **15. SAVING PROVISIONS**

### **15.1 Continuing Security**

Subject to Clause 16 (Discharge of Security), the Charges are continuing Security and will extend to the ultimate balance of the Liabilities, regardless of any intermediate payment or discharge in whole or in part.

### **15.2 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of the Clearing Member or any security for those obligations or otherwise) is made by OTC Clear in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Clearing Member and the Charges shall continue or be reinstated as if the discharge, release or arrangement had not occurred.

### **15.3 Waiver of defences**

Neither the obligations of the Clearing Member under this Deed nor the Charges will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under any Contract or Clearing Documentation or any of the Charges (without limitation and whether or not known to it or OTC Clear) including:

- (a) any time, waiver or consent granted to, or composition with, the Clearing Member or other person;
- (b) the release of the Clearing Member or other person under the terms of any composition or arrangement with any creditor of the Clearing Member;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or security over assets of,

the Clearing Member or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Clearing Member or other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Contract or Clearing Documentation or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Contract or Clearing Documentation or any other document or security; or
- (g) any insolvency or similar proceedings.

#### **15.4 Immediate recourse**

The Clearing Member waives any right it may have of first requiring OTC Clear (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Clearing Member under this Deed. This waiver applies irrespective of any law or any provision of any Contract or Clearing Documentation to the contrary.

#### **15.5 Appropriations**

Until all the Liabilities have been irrevocably paid in full and the Membership of the Clearing Member has been terminated in accordance with the Clearing Rules, OTC Clear (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by OTC Clear (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Clearing Member shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Clearing Member or on account of the Clearing Member's liability under this Deed.

#### **15.6 Additional Security**

The Charges are in addition to and are not in any way prejudiced by any other guarantees or security now or subsequently held OTC Clear.

### **16. DISCHARGE OF SECURITY**

#### **16.1 Final redemption**

Subject to Clause 16.2 (*Retention of security*), if OTC Clear is satisfied that all the Liabilities have been irrevocably paid in full and that the Membership of the Clearing Member has been terminated in accordance with the Clearing Rules, OTC Clear shall at the request and cost of the Clearing Member release, reassign or discharge (as appropriate) the Charged Assets from the Charges.

## **16.2 Retention of security**

If OTC Clear considers that any amount paid or credited to OTC Clear under any Contract or Clearing Documentation is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Liabilities have been irrevocably paid.

## **16.3 Consolidation**

Any restrictions on the consolidation of Security shall be excluded to the fullest extent permitted by law and OTC Clear shall, so far as it is lawful and subject to other provisions of this Deed, be entitled to consolidate all or any of the Charges with any other Security whether in existence on the date of this Deed or in the future.

## **17. PAYMENTS**

### **17.1 Demands**

Any demand for payment made by OTC Clear shall be valid and effective even if it contains no statement of the relevant Liabilities or an inaccurate or incomplete statement of them.

### **17.2 Payments**

All payments by the Clearing Member under this Deed (including damages for its breach) shall be made to such account, with such financial institution and in such other manner as OTC Clear may direct.

### **17.3 Continuation of accounts**

At any time after:

- (a) the receipt by OTC Clear of notice (either actual or otherwise) of any subsequent Security affecting the Charged Assets; or
- (b) the presentation of a petition or the passing of a resolution in relation to the Winding-up of the Clearing Member,

OTC Clear may open a new account in the name of the Clearing Member (whether or not it permits any existing account to continue). If OTC Clear does not open such a new account, it shall nevertheless be treated as if it had done so when the relevant event occurred. No moneys paid into any account, whether new or continuing, after that event shall discharge or reduce the Liabilities as at the time the relevant event occurred.

## **18. RIGHTS, WAIVERS AND DETERMINATIONS**

### **18.1 Ambiguity**

Where there is any ambiguity or conflict between the rights conferred by law and those conferred by or pursuant to this Deed, the terms of this Deed shall prevail.

### **18.2 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of OTC Clear, any Receiver or any Delegate any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No waiver or election to affirm this Deed on the part of OTC Clear, any Receiver or any Delegate shall be effective unless in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

**18.3 Determinations**

Any determination by or certificate of OTC Clear, any Receiver or any Delegate under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**19. SEPARATE AND INDEPENDENT OBLIGATIONS**

The Security created by the Clearing Member by or in connection with any Contract or Clearing Documentation is separate from and independent of the Security created or intended to be created by any other person by or in connection with any Contract or Clearing Documentation.

**20. COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

**21. GOVERNING LAW**

This Deed is governed by Hong Kong law.

**22. JURISDICTION**

- (a) The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed) (a "Dispute").
- (b) The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 22 is for the benefit of OTC Clear only. As a result, OTC Clear shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, OTC Clear may take concurrent proceedings in any number of jurisdictions.

**SCHEDULE**  
**RIGHTS OF RECEIVERS**

Any Receiver appointed pursuant to Clause 9 (*Appointment and rights of Receivers*) shall have the right, either in its own name or in the name of the Clearing Member or otherwise and in such manner and upon such terms and conditions as the Receiver thinks fit, and either alone or jointly with any other person:

**(a) Take possession**

to take possession of, get in and collect the Charged Assets, and to require payment to it of all Interest including without limitation, to complete any instruments of transfer and to procure the transfer of the Charged Assets into the name of the Receiver or its nominee and, if necessary, take possession of and collect any documents of title relating to the Charged Assets and/or cause physical documents of title to be withdrawn from any Clearing System and/or cause the Charged Assets to be deposited into any relevant Clearing System, in each case, at the cost and risk of the Clearing Member;

**(b) Deal with Charged Assets**

to sell, transfer, assign, exchange, lend or otherwise dispose of or realise the Charged Assets to any person either by public offer or auction, tender or private contract and for a consideration of any kind (which may be payable or delivered in one amount or by instalments spread over a period or deferred);

**(c) Borrow money**

to borrow or raise money either unsecured or on the security of the Charged Assets (either in priority to the Charges or otherwise);

**(d) Rights of ownership**

to exercise and do (or permit the Clearing Member or any nominee of it to exercise and do) all such rights and things as OTC Clear would be capable of exercising or doing if it were the absolute beneficial owner of the Charged Assets;

**(e) Claims**

to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating to the Charged Assets;

**(f) Legal actions**

to bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Assets or any business of the Clearing Member;

**(g) Redemption of Security**

to redeem any Security (whether or not having priority to the Charges) over the Charged Assets and to settle the accounts of any person with an interest in the Charged Assets; and

**(h) Other powers**

to do anything else it may think fit for the realisation of the Charged Assets or incidental to the exercise of any of the rights conferred on the Receiver under or by virtue of any Contract, any Clearing Documentation, the CPO, the Companies Ordinance, the Companies (Winding

Up and Miscellaneous Provisions) Ordinance, the SFO and other applicable statutory provisions and common law.

In witness whereof this Deed has been [signed/executed/sealed]<sup>1</sup> [and delivered] as a deed on the date stated at the beginning.

**Clearing Member**

**[Note: For use by a Hong Kong company executing by seal]**

**[THE [COMMON SEAL] of]**

**[COMMON SEAL OF CLEARING MEMBER]**

**[CLEARING MEMBER]**

was affixed in the presence of:

.....  
[Signature of Director]

Director

.....  
[Signature of Director/Secretary]

[Director/Secretary]

**OR**

**[Note: For use by a Hong Kong company executing under hand (subject to requirements in Articles)]**

**[EXECUTED AND DELIVERED as**

**a DEED by and in the name of**

**[CLEARING MEMBER] acting by [its sole director]/[two directors]/[a director and its company secretary]:**

.....  
[Signature of Director]

Director

.....  
[Signature of Director/Secretary]

[Director/Secretary]

<sup>1</sup> Ensure that this is consistent with the words used in the relevant signature block – in particular whether “signed”, “executed” and/or “sealed” has been used.

[Signature of witness]

Name

Address

Occupation]

**OTC Clear**

**EXECUTED** by [name of authorised  
signatory] for and on behalf of **OTC**  
**CLEARING HONG KONG LIMITED** in the  
presence of

[Signature of authorised signatory]

.....

.....

[Signature of witness]

Name

Address

Occupation

Address:

Fax No:

Attention:

**Appendix IV**  
**Template Hong Kong law Deed of Charge – Client Collateral**  
**Accounts**

DEED OF CHARGE – CLIENT COLLATERAL ACCOUNTS

dated [ \_\_\_\_\_ ]

created by

*[CLEARING MEMBER]*

(Registered No. [ \_\_\_\_\_ ])

as a Clearing Member

in favour of

*OTC Clearing Hong Kong Limited*

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THIS DEED is dated [ ] and made between:

- (1) [ ] a company incorporated in [ ] having company number [ ] and its [registered] / [principal] office at [ ] (the "**Clearing Member**");  
and
- (2) OTC Clearing Hong Kong Limited of 12/F, One International Finance Centre, 1 Harbour View Street, Central, Hong Kong ("**OTC Clear**").

### **Background**

- (A) The Clearing Member is entering into this Deed in connection with the Clearing Documentation.
- (B) The Board of Directors of the Clearing Member is satisfied that entering into this Deed is for the purposes and to the benefit of the Clearing Member and its business.

This DEED witnesses the following:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Deed:

**"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

**"Charged Assets"** means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets.

**"Charges"** means all or any of the Security created or expressed to be created by or pursuant to this Deed.

**"Clearing Procedures"** means the practices, procedures and administrative requirements prescribed by OTC Clear from time to time in effect.

**"Clearing Rules"** means the clearing rules of OTC Clear as from time to time in effect and shall include the Clearing Procedures.

**"Clearing System"** means each of (i) the Hong Kong Monetary Authority acting as operator of the Central Moneymarkets Unit Service and (ii) any other clearing system agreed by the Clearing Member and OTC Clear.

**"Companies Ordinance"** means the Companies Ordinance (Cap. 622) of the Laws of Hong Kong.

**"Companies (Winding Up and Miscellaneous Provisions) Ordinance"** means the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of the Laws of Hong Kong.

**"CPO"** means the Conveyancing and Property Ordinance (Cap. 219) of the Laws of Hong Kong.

**"Delegate"** means a delegate or sub-delegate appointed under Clause 10.2 (*Delegation*).

**"Interest"** means all present and future:

- (a) interest and distributions of any kind and any other cash or securities or investments received or receivable in respect of any of the Charged Assets; and

(b) all other rights attaching to, deriving from, relating to or exercisable by virtue of the ownership of any of the Charged Assets.

**"Liabilities"** means all present and future moneys, debts, liabilities and obligations due, owing or incurred by the Clearing Member to OTC Clear under or in connection with any Contract or Clearing Documentation (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise), other than moneys, debts, liabilities and obligations relating to the Clearing Member's House Position Account.

**"Party"** means a party to this Deed.

**"Receiver"** means a receiver and manager or other receiver appointed in respect of the Charged Assets.

**"Relevant Charged Assets"** means, in relation to an amount received or recovered by OTC Clear, any Receiver or any Delegate in exercise of their rights under this Deed, the Charged Assets in respect of which the amount is received or recovered.

**"Repeating Representations"** means each of the representations set out in paragraphs (i), (ii), (iii), (iv), (v) and (vii) of Clause 7(a).

**"Securities"** means:

(a) securities and investments of any kind (other than cash and balances in respect of cash) from time to time recorded in any Client Collateral Account from time to time maintained for the Clearing Member; and

(b) all rights relating to those securities and investments referred to in paragraph (a) above which are deposited with, or registered in the name of, any depository, custodian, nominee, clearing house or system, investment manager, chargee or other similar person or their nominee, in each case whether or not on a fungible basis (including rights against any such person).

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"SFO"** means the Securities and Futures Ordinance (Cap. 571) of the Laws of Hong Kong.

**"Winding-up"** means winding up, amalgamation, reconstruction, administration, dissolution, liquidation, merger or consolidation or any analogous procedure or step in any jurisdiction.

## **1.2 Incorporation of defined terms**

Unless a contrary indication appears, terms used in the Clearing Rules have the same meaning in this Deed.

## **1.3 Construction**

(a) Unless a contrary indication appears, any reference in this Deed to:

(i) "OTC Clear", the "Clearing Member" or any "Party" shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Clearing Documentation;

(ii) any "Contract", any "Clearing Documentation" or any other agreement or instrument is a reference to that Contract, Clearing Documentation or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced; and

(iii) a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality).

(b) The provisions in Clearing Rules 102 to 108 apply to this Deed with all necessary changes.

(c) In the context of the rights, powers, privileges, discretions and immunities conferred on OTC Clear, a Receiver or a Delegate, references to charge or mortgage in any provision of the CPO shall, for the purposes of this Deed, be deemed to be references to the Charges and references to mortgaged land in any provision of the CPO shall, for the purposes of this Deed, be deemed to be references to the Charged Assets.

#### **1.4 Third Party Rights**

(a) Unless expressly provided to the contrary in the Clearing Documentation, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce or to enjoy the benefit of any term of this Deed.

(b) Notwithstanding any term of any Clearing Documentation, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

#### **2. UNDERTAKING TO PAY**

The Clearing Member shall pay each of its Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by OTC Clear.

#### **3. SECURITY**

The Clearing Member, as beneficial owner of the Securities and as continuing security for the due and punctual payment and discharge of all Liabilities charges in favour of OTC Clear:

(a) by way of first mortgage, all its present and future Securities and Interest;

(b) by way of first fixed charge, all present and future equities of redemption assigned to the Clearing Member as Transferee Clearing Member or Replacement Clearing Member from time to time in connection with the porting of Collateral pursuant to the Clearing Rules and Clearing Procedures; and

(c) by way of first fixed charge, to the extent not validly and effectively mortgaged under paragraph (a) above, all its present and future Securities and Interest and all its present and future rights relating to any of the Securities, including without limitation:

- (i) rights (contractually or otherwise) to give instructions relating to the Securities; and
- (ii) all claims for damages and rights to receive moneys due or to become due for any reason whatsoever in respect of any of the Securities.

#### **4. RESTRICTIONS AND FURTHER ASSURANCE**

##### **4.1 Negative pledge**

The Clearing Member shall not create or permit to subsist any Security over any Charged Assets except for the Charges.

##### **4.2 Disposal**

The Clearing Member shall not (nor agree to) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, withdraw, transfer or otherwise dispose of any Charged Asset except as permitted by the Clearing Rules and Clearing Procedures.

##### **4.3 Delivery of documents**

The Clearing Member shall deliver or procure that there shall be delivered to OTC Clear such documents relating to the Securities as OTC Clear requires.

##### **4.4 Further assurance**

(a) The Clearing Member shall promptly do whatever OTC Clear requires:

- (i) to perfect or protect the Charges or the priority of the Charges; or
- (ii) to facilitate the realisation of the Charged Assets or the exercise of any rights vested in OTC Clear or any Receiver,

including, without limitation, making any registration and giving any notice, order or direction.

(b) The Clearing Member shall take all such action as is available to it (including making all filings and registrations) as may from time to time be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on OTC Clear by or pursuant to this Deed.

##### **4.5 Assignment of equities of redemption**

The Clearing Member shall not assign any equities of redemption held by it in respect of Collateral that is subject to a Deed of Charge in respect of Client Collateral Account(s) other than pursuant to Clearing Rule 835, 1703 or 1704.

##### **4.6 BAU Porting Supplemental Assignment Letter**

In respect of any non-cash Collateral that is to be ported pursuant to Clearing Rule 835 either from the Clearing Member as Transferor Clearing Member or to the Clearing Member as Transferee Clearing Member, the Clearing Member shall, upon request by OTC Clear, promptly (and in any event within any timeframe specified by OTC Clear) execute (as Transferor Clearing Member or Transferee Clearing Member, as the case may be) and deliver to OTC Clear a letter in the form of Schedule 2 (*Form of BAU Porting Supplemental Assignment Letter*) to this Deed in respect of that Collateral.

#### **4.7 Default Porting Supplemental Assignment Letter**

In respect of any non-cash Collateral that is to be ported pursuant to Clearing Rule 1703 or 1704 either from the Clearing Member as Defaulting Clearing Member or to the Clearing Member as Replacement Clearing Member, the Clearing Member shall, upon request by OTC Clear, promptly (and in any event within any timeframe specified by OTC Clear) execute (as Defaulting Clearing Member or Replacement Clearing Member, as the case may be) and deliver to OTC Clear a letter in the form of Schedule 3 (*Form of Default Porting Supplemental Assignment Letter*) to this Deed in respect of that Collateral.

### **5. MORTGAGED SECURITIES**

#### **5.1 Voting before enforcement**

Subject to Clause 5.2 (*Voting after enforcement*), the Clearing Member shall not be entitled to exercise, and shall not be entitled to direct the exercise of, the voting and other rights attached to any Securities.

#### **5.2 Voting after enforcement**

At any time after the occurrence of a DMP Event with respect to the Clearing Member:

- (a) OTC Clear or the Receiver shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Securities in such manner as it or he sees fit; and
- (b) the Clearing Member shall comply or procure the compliance with any directions of OTC Clear or the Receiver in respect of the exercise of those rights and shall promptly execute and/or deliver to OTC Clear or the Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights.

#### **5.3 Interest before enforcement**

Subject to Clause 5.4 (*Interest after enforcement*), the Clearing Member shall be entitled to receive, and OTC Clear shall pay, such amounts in respect of cash income derived from the Securities as are specified in the Clearing Rules and Clearing Procedures.

#### **5.4 Interest after enforcement**

At any time after the occurrence of a DMP Event with respect to the Clearing Member, OTC Clear (or, as the case may be, its nominee) shall be entitled to retain any such cash income derived from the Securities received by it and apply the same in such manner as OTC Clear sees fit.

#### **5.5 Communications**

The Clearing Member shall promptly deliver to OTC Clear a copy of every circular, notice, report, set of accounts or other documents received by it or its nominee in connection with the Securities or in connection with or from the issuer of any of the Securities.

#### **5.6 Payment of calls etc.**

The Clearing Member will promptly pay or procure the payment of all calls, instalments or other payments which may at any time become due in respect of any of the Charged Assets.

## **6. GENERAL UNDERTAKINGS**

### **6.1 Information**

The Clearing Member shall supply to OTC Clear promptly such information regarding the Charged Assets and its compliance with this Deed as OTC Clear may reasonably request.

### **6.2 No prejudicial conduct**

The Clearing Member shall not do, or permit to be done, anything which could prejudice the Charges.

## **7. REPRESENTATIONS AND WARRANTIES**

(a) The Clearing Member makes the representations and warranties set out in this paragraph (a) to OTC Clear on the date of this Deed:

(i) It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

(ii) It has the power to own its assets and carry on its business as it is being conducted.

(iii) The obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable, subject to:

(A) any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered to OTC Clear in respect of this Deed; or

(B) any registrations to be made after the date of this Deed which are specifically referred to in any legal opinion delivered to OTC Clear in respect of this Deed.

(iv) Its entry into , performance and delivery of this Deed, and the transactions contemplated by this Deed, do not and will not conflict with:

(A) any law or regulation applicable to it;

(B) its constitutional documents; or

(C) any agreement or instrument binding upon it or any of its assets.

nor (except for the Charges) result in the existence of, or oblige it to create, any Security (or any other Encumbrance) over any of its assets.

(v) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated this Deed.

(vi) All Authorisations required or desirable:

(A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed;

(B) to make this Deed admissible in evidence in its jurisdiction of incorporation; and

(C) to enable it to create the Charges and to ensure that the Charges have the priority and ranking the Charges are expressed to have,

have been obtained or effected and are in full force and effect, subject to any registrations specifically referred to in any legal opinion delivered to OTC Clear in respect of this Deed.

(vii) Subject to any qualifications specifically referred to in any legal opinion delivered to OTC Clear in respect of this Deed:

(A) the choice of Hong Kong law as the governing law of this Deed will be recognised and enforced in its jurisdiction of incorporation; and

(B) any judgment obtained in Hong Kong in relation to this Deed will be recognised and enforced in its jurisdiction of incorporation.

(b) The Repeating Representations are deemed to be made by the Clearing Member by reference to the facts and circumstances then existing on each day additional Securities become Charged Assets.

(c) In addition, the Clearing Member makes the representations and warranties set out in Clearing Rule 1220 to OTC Clear:

(i) on the date of this Deed; and

(ii) pursuant to Clearing Rule 1220, on each day Collateral is delivered to OTC Clear pursuant to the Clearing Rules.

## **8. ENFORCEMENT**

### **8.1 When enforceable**

The Charges shall be immediately enforceable on and at any time after the occurrence of a DMP Event with respect to the Clearing Member, and OTC Clear:

(a) may enforce all or any part of any Charges (at the times, in the manner and on the terms it thinks fit) and take possession and hold or dispose of all or any part of the Charged Assets; and

(b) whether or not it has appointed a Receiver, may exercise all or any of the powers, authorities and discretions given to mortgagees and receivers by the CPO as varied or extended by this Deed or otherwise conferred by law.

### **8.2 Power of sale**

The statutory power of sale, of appointing a Receiver and the other statutory powers conferred on mortgagees by Section 51 (*Powers of mortgagee and receiver*) and Section 53 (*Sale by Mortgagee*) of the CPO and the Fourth Schedule (*Powers of mortgagee and receiver*) to the CPO as varied and extended by this Deed shall arise on the date of this Deed and no restriction imposed by any ordinance or other statutory provision in relation to the exercise of any power of sale shall apply to this Deed.

### **8.3 No requirement of notice period**

OTC Clear is not required to give any prior notice of non-payment or default to the Clearing Member before enforcing the Charges, there is no minimum period for which Liabilities must

remain due and unpaid before the Charges can be enforced and Paragraph 11 of the Fourth Schedule (*Powers of mortgagee and receiver*) to the CPO (and any similar provision under other laws) does not apply to this Deed.

#### **8.4 No Liability as mortgagee in possession**

Nothing done by or on behalf of OTC Clear pursuant to this Deed shall render it liable to account as a mortgagee in possession for any sums other than actual receipts.

#### **8.5 Wide construction of enforcement powers**

The powers of OTC Clear under this Deed shall be construed in the widest possible sense and all Parties intend that OTC Clear shall have as wide and flexible a range of powers as may be conferred (or, if not expressly conferred, as is not restricted) by any applicable law.

### **9. APPOINTMENT AND RIGHTS OF RECEIVERS**

#### **9.1 Appointment of Receivers**

If:

- (a) \_\_\_\_\_ requested by the Clearing Member; or
- (b) \_\_\_\_\_ the Charges become enforceable (whether or not OTC Clear has taken possession of the Charged Assets),

without any notice or further notice, OTC Clear may, by deed, or otherwise in writing signed by any officer or manager of OTC Clear or any person authorised for this purpose by OTC Clear, appoint one or more persons to be a Receiver. OTC Clear may similarly remove any Receiver and appoint any person instead of any Receiver. If OTC Clear appoints more than one person as Receiver, OTC Clear may give those persons power to act either jointly or severally. The provisions of section 50 (*Power to appoint a receiver*) of the CPO (as varied and/or extended by this Deed) shall apply to any appointment made pursuant to this Deed.

#### **9.2 Scope of appointment**

Any Receiver may be appointed Receiver of all of the Charged Assets or Receiver of a part of the Charged Assets specified in the appointment. In the latter case, the rights conferred on a Receiver as set out in Schedule 1 (*Rights of Receivers*) to this Deed shall have effect as though every reference in that Schedule to any Charged Assets were a reference to the part of those assets so specified or any part of those assets.

#### **9.3 Rights of Receivers**

Any Receiver appointed pursuant to this Clause 9 shall have the rights, powers, discretions, privileges and immunities conferred on receivers by the CPO (as varied and/or extended by this Deed), all powers (if any) conferred on receivers by law or otherwise and shall also have the powers and rights set out in Schedule 1 (*Rights of Receivers*) to this Deed, all of which powers and rights are exercisable without further notice.

#### **9.4 Agent of Clearing Member**

Any Receiver shall be the agent of the Clearing Member for all purposes. The Clearing Member alone shall be responsible for the Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by the Receiver.

#### **9.5 Remuneration**

OTC Clear may determine the remuneration of any Receiver and direct payment of that remuneration out of moneys he receives as Receiver. The Clearing Member alone shall be

liable for the remuneration and all other costs, losses, liabilities and expenses of the Receiver.

## **10. OTC CLEAR'S RIGHTS**

### **10.1 Rights of OTC Clear**

Any rights conferred by this Deed upon a Receiver may be exercised by OTC Clear after the Charges become enforceable, whether or not OTC Clear shall have taken possession or appointed a Receiver of the Charged Assets.

### **10.2 Delegation**

OTC Clear may delegate in any manner to any person any rights exercisable by OTC Clear under this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as OTC Clear thinks fit.

## **11. ORDER OF DISTRIBUTIONS**

All amounts received or recovered by OTC Clear or any Receiver or any Delegate in exercise of their rights under this Deed shall be applied in the following order of priority (subject to Clause 15.5 (*Appropriations*)), in each case in accordance with the terms of the Clearing Rules and Clearing Procedures:

- (a) in or towards the payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or Delegate and the exercise of any of his rights, including his remuneration and all outgoings paid by him (to the extent that, in OTC Clear's opinion, such costs, losses, liabilities and expenses relate to the amount received or recovered);
- (b) in or towards the payment of Liabilities relating to the Client Position Account to which the Relevant Charged Assets are or were attributed by OTC Clear in accordance with the Clearing Rules and Clearing Procedures; and
- (c) in payment of any surplus to the Clearing Member or other person entitled to it.

## **12. LIABILITY OF OTC CLEAR, RECEIVERS AND DELEGATES**

### **12.1 Possession**

If OTC Clear, any Receiver or any Delegate takes possession of the Charged Assets, it or he may at any time relinquish possession.

### **12.2 OTC Clear's liability**

- (a) Neither OTC Clear nor any Receiver or Delegate shall (either by reason of taking possession of the Charged Assets or for any other reason and whether as mortgagee in possession or otherwise) be liable to the Clearing Member or any other person for any costs, losses, liabilities or expenses relating to the realisation of any Charged Assets or from any act, default, omission or misconduct of OTC Clear, any Receiver, any Delegate or their respective officers, employees or agents in relation to the Charged Assets or in connection with any Contract or Clearing Documentation provided that the relevant realisation, act, default, omission or misconduct is done or made, as the case may be, in good faith.
- (b) Nothing in this Deed shall be construed as placing on OTC Clear any liability whatsoever in respect of any calls, instalments or other payments relating to any of the Charged Assets or

any rights, shares or other securities accruing, offered or arising as aforesaid, and the Clearing Member shall indemnify OTC Clear in respect of all calls, instalments or other payments relating to any of the Charged Assets owned by it and to any rights, shares and other securities accruing, offered or arising as aforesaid in respect of any of the Charged Assets.

### **13. POWER OF ATTORNEY**

#### **13.1 Appointment**

The Clearing Member by way of security irrevocably appoints OTC Clear, every Receiver and every Delegate severally as its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit:

- (a) to do anything which the Clearing Member is obliged to do (but has not done) under any Clearing Documentation (including to execute charges over, transfers, conveyances, assignments and assurances of, and other instruments, notices, orders and directions relating to, the Charged Assets); and
- (b) to exercise any of the rights conferred on OTC Clear, any Receiver or any Delegate in relation to the Charged Assets or under or in connection with any Clearing Documentation or under the CPO, the Companies Ordinance, the Companies (Winding Up and Miscellaneous Provisions) Ordinance, the SFO or generally under Hong Kong law.

#### **13.2 Ratification**

The Clearing Member ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted by it in Clause 13.1 (*Appointment*).

### **14. PROTECTION OF THIRD PARTIES**

#### **14.1 No duty to enquire**

No person dealing with OTC Clear, any Receiver or any Delegate shall be concerned to enquire:

- (a) whether the power or rights conferred under or in connection with this Deed are exercisable;
- (b) whether any consents, regulations, restrictions or directions relating to such rights have been obtained or complied with;
- (c) otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such rights; or
- (d) as to the application of any money borrowed or raised.

#### **14.2 Protection to purchasers**

Subject to the provisions of this Deed, all the protection to purchasers contained in Sections 52 (*Protection of purchaser*), 53 (*Sale by mortgagee*) and 55 (*Mortgagee's receipt*) of the CPO or in any other applicable legislation shall apply to any person purchasing from or dealing with OTC Clear, any Receiver or any Delegate.

## **15. SAVING PROVISIONS**

### **15.1 Continuing Security**

Subject to Clause 16 (Discharge of Security), the Charges are continuing Security and will extend to the ultimate balance of the Liabilities, regardless of any intermediate payment or discharge in whole or in part.

### **15.2 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of the Clearing Member or any security for those obligations or otherwise) is made by OTC Clear in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Clearing Member and the Charges shall continue or be reinstated as if the discharge, release or arrangement had not occurred.

### **15.3 Waiver of defences**

Neither the obligations of the Clearing Member under this Deed nor the Charges will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under any Contract or Clearing Documentation or any of the Charges (without limitation and whether or not known to it or OTC Clear) including:

- (a) any time, waiver or consent granted to, or composition with, the Clearing Member or other person;
- (b) the release of the Clearing Member or other person under the terms of any composition or arrangement with any creditor of the Clearing Member;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or security over assets of, the Clearing Member or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Clearing Member or other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Contract or Clearing Documentation or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Contract or Clearing Documentation or any other document or security; or
- (g) any insolvency or similar proceedings.

### **15.4 Immediate recourse**

The Clearing Member waives any right it may have of first requiring OTC Clear (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Clearing Member under this Deed. This waiver applies irrespective of any law or any provision of any Contract or Clearing Documentation to the contrary.

## **15.5 Appropriations**

Until all the Liabilities have been irrevocably paid in full and the Membership of the Clearing Member has been terminated in accordance with the Clearing Rules, OTC Clear (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by OTC Clear (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Clearing Member shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Clearing Member or on account of the Clearing Member's liability under this Deed.

## **15.6 Additional Security**

The Charges are in addition to and are not in any way prejudiced by any other guarantees or security now or subsequently held OTC Clear.

## **16. DISCHARGE OF SECURITY**

### **16.1 Final redemption**

Subject to Clause 16.2 (*Retention of security*), if OTC Clear is satisfied that all the Liabilities have been irrevocably paid in full and that the Membership of the Clearing Member has been terminated in accordance with the Clearing Rules, OTC Clear shall at the request and cost of the Clearing Member release, reassign or discharge (as appropriate) the Charged Assets from the Charges.

### **16.2 Retention of security**

If OTC Clear considers that any amount paid or credited to OTC Clear under any Contract or Clearing Documentation is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Liabilities have been irrevocably paid.

### **16.3 Consolidation**

Any restrictions on the consolidation of Security shall be excluded to the fullest extent permitted by law and OTC Clear shall, so far as it is lawful and subject to other provisions of this Deed, be entitled to consolidate all or any of the Charges with any other Security whether in existence on the date of this Deed or in the future.

## **17. PAYMENTS**

### **17.1 Demands**

Any demand for payment made by OTC Clear shall be valid and effective even if it contains no statement of the relevant Liabilities or an inaccurate or incomplete statement of them.

### **17.2 Payments**

All payments by the Clearing Member under this Deed (including damages for its breach) shall be made to such account, with such financial institution and in such other manner as OTC Clear may direct.

### **17.3 Continuation of accounts**

At any time after:

(a) the receipt by OTC Clear of notice (either actual or otherwise) of any subsequent Security affecting the Charged Assets; or

(b) the presentation of a petition or the passing of a resolution in relation to the Winding-up of the Clearing Member,

OTC Clear may open a new account in the name of the Clearing Member (whether or not it permits any existing account to continue). If OTC Clear does not open such a new account, it shall nevertheless be treated as if it had done so when the relevant event occurred. No moneys paid into any account, whether new or continuing, after that event shall discharge or reduce the Liabilities as at the time the relevant event occurred.

## **18. RIGHTS, WAIVERS AND DETERMINATIONS**

### **18.1 Ambiguity**

Where there is any ambiguity or conflict between the rights conferred by law and those conferred by or pursuant to this Deed, the terms of this Deed shall prevail.

### **18.2 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of OTC Clear, any Receiver or any Delegate any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No waiver or election to affirm this Deed on the part of OTC Clear, any Receiver or any Delegate shall be effective unless in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

### **18.3 Determinations**

Any determination by or certificate of OTC Clear, any Receiver or any Delegate under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## **19. SEPARATE AND INDEPENDENT OBLIGATIONS**

The Security created by the Clearing Member by or in connection with any Contract or Clearing Documentation is separate from and independent of the Security created or intended to be created by any other person by or in connection with any Contract or Clearing Documentation.

## **20. COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

## **21. GOVERNING LAW**

This Deed is governed by Hong Kong law.

## **22. JURISDICTION**

(a) The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed) (a "Dispute").

- (b) The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 22 is for the benefit of OTC Clear only. As a result, OTC Clear shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, OTC Clear may take concurrent proceedings in any number of jurisdictions.

**SCHEDULE 1**  
**RIGHTS OF RECEIVERS**

Any Receiver appointed pursuant to Clause 9 (*Appointment and rights of Receivers*) shall have the right, either in its own name or in the name of the Clearing Member or otherwise and in such manner and upon such terms and conditions as the Receiver thinks fit, and either alone or jointly with any other person:

**(a) Take possession**

to take possession of, get in and collect the Charged Assets, and to require payment to it of all Interest including without limitation, to complete any instruments of transfer and to procure the transfer of the Charged Assets into the name of the Receiver or its nominee and, if necessary, take possession of and collect any documents of title relating to the Charged Assets and/or cause physical documents of title to be withdrawn from any Clearing System and/or cause the Charged Assets to be deposited into any relevant Clearing System, in each case, at the cost and risk of the Clearing Member;

**(b) Deal with Charged Assets**

to sell, transfer, assign, exchange, lend or otherwise dispose of or realise the Charged Assets to any person either by public offer or auction, tender or private contract and for a consideration of any kind (which may be payable or delivered in one amount or by instalments spread over a period or deferred);

**(c) Borrow money**

to borrow or raise money either unsecured or on the security of the Charged Assets (either in priority to the Charges or otherwise);

**(d) Rights of ownership**

to exercise and do (or permit the Clearing Member or any nominee of it to exercise and do) all such rights and things as OTC Clear would be capable of exercising or doing if it were the absolute beneficial owner of the Charged Assets;

**(e) Claims**

to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating to the Charged Assets;

**(f) Legal actions**

to bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Assets or any business of the Clearing Member;

**(g) Redemption of Security**

to redeem any Security (whether or not having priority to the Charges) over the Charged Assets and to settle the accounts of any person with an interest in the Charged Assets; and

**(h) Other powers**

to do anything else it may think fit for the realisation of the Charged Assets or incidental to the exercise of any of the rights conferred on the Receiver under or by virtue of any Contract, any Clearing Documentation, the CPO, the Companies Ordinance, the Companies (Winding

Up and Miscellaneous Provisions) Ordinance, the SFO and other applicable statutory provisions and common law.

**SCHEDULE 2**  
**FORM OF BAU PORTING SUPPLEMENTAL ASSIGNMENT LETTER**

**To:** [●] (the “**Transferee Clearing Member**”)  
**Cc:** OTC Clearing Hong Kong Limited (“**OTC Clear**”)  
**From:** [●] (the “**Transferor Clearing Member**”)

[Insert date]

Dear Sirs

1. We refer to:
  - a. the clearing membership agreement between the Transferor Clearing Member and OTC Clear dated [●] (the “**Membership Agreement**”); and
  - b. the porting request made by the Transferee Clearing Member pursuant to Clearing Rule 830 with reference number [●] and dated [●] (the “**Porting Request**”).
2. Terms used and not defined in this letter have the meanings that such terms have for the purposes of the Membership Agreement.
3. To the extent not already assigned pursuant to the Clearing Rules, the Transferor Clearing Member hereby assigns absolutely, on the terms of Clearing Rule 835, to the Transferee Clearing Member any equities of redemption held by the Transferor Clearing Member in respect of Collateral that is:
  - a. subject to a Deed of Charge between the Transferor Clearing Member and OTC Clear in respect of Client Collateral Account(s) (as defined in the Clearing Rules); and
  - b. to be ported from the Transferor Clearing Member to the Transferee Clearing Member pursuant to the Porting Request.
4. This letter shall be governed by and construed in accordance with the laws of Hong Kong.
5. The Transferor Clearing Member and Transferee Clearing Member intend this letter to take effect as a deed even if the Transferee Clearing Member only executes it under hand. This letter has been delivered as a deed on the date stated at the beginning of this letter.

**Signature page to the BAU Porting Supplemental Assignment Letter**

**Transferor Clearing Member**

**[Note: For use by a Hong Kong company executing by seal]**

**[THE [COMMON SEAL] of]**  
**[TRANSFEROR CLEARING MEMBER]**

**[COMMON SEAL OF TRANSFEROR  
CLEARING MEMBER]**

was affixed in the presence of:

.....  
[Signature of Director]

Director

.....  
[Signature of Director/Secretary]

[Director/Secretary]

**OR**

**[Note: For use by a Hong Kong company executing under hand (subject to requirements in Articles)]**

**[EXECUTED AND DELIVERED as  
a DEED by and in the name of**

**[TRANSFEROR CLEARING MEMBER] acting by [its sole director]/[two  
directors]/[a director and its company secretary]:**

.....  
[Signature of Director]

Director

.....  
[Signature of Director/Secretary]

[Director/Secretary]

[Signature of witness]

Name

Address

Occupation]

**Transferee Clearing Member**

**[INSERT NAME OF TRANSFEREE CLEARING  
MEMBER]**

By:

### SCHEDULE 3

#### FORM OF DEFAULT PORTING SUPPLEMENTAL ASSIGNMENT LETTER

To: [●] (the "Replacement Clearing Member")  
Cc: OTC Clearing Hong Kong Limited ("OTC Clear")  
From: [●] (the "Defaulting Clearing Member")

[Insert date]

Dear Sirs

1. We refer to:
  - a. the clearing membership agreement between the Defaulting Clearing Member and OTC Clear dated [●] (the "**Membership Agreement**"); and
  - b. the Porting Instructions submitted to OTC Clear pursuant to Clearing Rule 822 with reference number[s] [●] and dated [●] (the "**Porting Instructions**").
2. Terms used and not defined in this letter have the meanings that such terms have for the purposes of the Membership Agreement.
3. To the extent not already assigned pursuant to the Clearing Rules, the Defaulting Clearing Member hereby assigns absolutely, on the terms of Clearing Rule 1703, to the Replacement Clearing Member any equities of redemption held by the Defaulting Clearing Member in respect of Collateral that is:
  - a. subject to a Deed of Charge between the Defaulting Clearing Member and OTC Clear in respect of Client Collateral Account(s) (as defined in the Clearing Rules);
  - b. recorded in the Client Clearing Category 1 Collateral Account (as defined in the Clearing Rules) relating to the Client referred to in the Porting Instructions; and
  - c. to be ported from the Defaulting Clearing Member to the Replacement Clearing Member pursuant to Clearing Rule 1703.
4. To the extent not already assigned pursuant to the Clearing Rules, the Defaulting Clearing Member hereby assigns absolutely, on the terms of Clearing Rule 1704, to the Replacement Clearing Member any equities of redemption held by the Defaulting Clearing Member in respect of Collateral that is:
  - a. subject to a Deed of Charge between the Defaulting Clearing Member and OTC Clear in respect of Client Collateral Account(s) (as defined in the Clearing Rules);
  - b. recorded in the Client Clearing Category 2 Collateral Account (as defined in the Clearing Rules) relating to (amongst others) the Client referred to in the Porting Instructions; and
  - c. to be ported from the Defaulting Clearing Member to the Replacement Clearing Member pursuant to Clearing Rule 1704.
5. This letter shall be governed by and construed in accordance with the laws of Hong Kong.

6. The Defaulting Clearing Member and Replacement Clearing Member intend this letter to take effect as a deed even if the Replacement Clearing Member only executes it under hand. This letter has been delivered as a deed on the date stated at the beginning of this letter.

**Signature page to the Default Porting Supplemental Assignment Letter**

**Defaulting Clearing Member**

***[Note: For use by a Hong Kong company executing by seal]***

**[THE [COMMON SEAL] of]**  
**[DEFAULTING CLEARING MEMBER]**

**[COMMON SEAL OF DEFAULTING CLEARING MEMBER]**

was affixed in the presence of:

.....  
[Signature of Director]

Director

.....  
[Signature of Director/Secretary]

[Director/Secretary]

**OR**

***[Note: For use by a Hong Kong company executing under hand (subject to requirements in Articles)]***

**[EXECUTED AND DELIVERED as**  
**a DEED by and in the name of**

**[DEFAULTING CLEARING MEMBER] acting by [its sole director]/[two**  
**directors]/[a director and its company secretary]:**

.....  
[Signature of Director]

Director

.....  
[Signature of Director/Secretary]

[Director/Secretary]

[Signature of witness]

Name

Address

Occupation]

**Replacement Clearing Member**

**[INSERT NAME OF REPLACEMENT  
CLEARING MEMBER]**

By:

**Signature page to the Deed of Charge**

In witness whereof this Deed has been [signed/executed/sealed]<sup>1</sup> [and delivered] as a deed on the date stated at the beginning.

**Clearing Member**

**[Note: For use by a Hong Kong company executing by seal]**

**[[THE [COMMON SEAL] of]**  
**[CLEARING MEMBER]**

**[COMMON SEAL OF CLEARING MEMBER]**

was affixed in the presence of:

.....  
[Signature of Director]

Director

.....  
[Signature of Director/Secretary]

[Director/Secretary]

**OR**

**[Note: For use by a Hong Kong company executing under hand (subject to requirements in Articles)]**

**[EXECUTED AND DELIVERED as**  
**a DEED by and in the name of**

**[CLEARING MEMBER] acting by [its sole director]/[two**  
**directors]/[a director and its company secretary]:**

.....  
[Signature of Director]

Director

.....  
[Signature of Director/Secretary]

<sup>1</sup> Ensure that this is consistent with the words used in the relevant signature block – in particular whether “signed”, “executed” and/or “sealed” has been used.

[Director/Secretary]

[Signature of witness]

Name

Address

Occupation]

**OTC Clear**

**EXECUTED** by [name of authorised signatory] for and on behalf of **OTC CLEARING HONG KONG LIMITED** in the presence of

[Signature of authorised signatory]

.....

.....

[Signature of witness]

Name

Address

Occupation

Address:

Fax No:

Attention:

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