

CHAPTER 10 DEFAULT RULES

10.01 Events of Default

The Clearing House may regard any of the following events as an event of default by a Clearing Participant:

- (a) the Clearing Participant ceasing to hold a valid and effective Capital Market Services Licence for carrying on the business of Clearing;
- (b) the suspension, expulsion or termination of the Clearing Participant as a participant of the Clearing House, Exchange or any Malaysian or overseas derivatives, securities, commodity or stock exchange or market or clearing or settlement facility;
- (c) the Clearing Participant is subject to any sanction imposed by the Clearing House, Exchange or any Malaysian or overseas derivatives, securities, commodity or stock exchange or market or clearing or settlement facility;
- (d) the Clearing Participant ceasing or suspending or threatening to cease or suspend substantially all of its business, or threatening to dispose of substantially all of its assets;
- (e) the Clearing Participant no longer satisfying the qualification criteria or failing to comply with any condition of admission as a Clearing Participant;
- (f) the Clearing Participant failing to comply with any reasonable direction, decision or requirement of the Clearing House;
- (g) the Clearing Participant failing to comply with or settle any of its obligations in relation to an Open Contract under these Rules or the Exchange Rules including such terms relating to Delivery and the acceptance of any Delivery;
- (h) the Clearing Participant failing to meet in full any contribution or deposit required to be paid under these Rules;
- (i) the Clearing Participant failing to comply with any of the financial requirements set out in Chapter 3 of these Rules;
- (j) the Clearing Participant failing to comply with or settle any of its financial obligations in relation to these Rules or the rules and regulations of any exchange or clearing house in which the Clearing Participant is a participant or member;
- (k) the Clearing Participant failing to pay when due, any sum due and payable, or is otherwise in default under the terms of any loan or other agreement relating to the Clearing Participant's indebtedness, or threatening or proposing to suspend, stop, defer or reschedule payment or to default under the terms of such loan or agreement;
- (l) the Clearing Participant is insolvent, or unable to pay its debts as and when they fall due, or a winding-up petition is presented, or a notice of a proposal for a resolution for the Clearing Participant's winding-up is given, or a voluntary arrangement is approved by the court of law for the benefit of its creditors, or an assignment or composition is made by the Clearing Participant for the benefit of its creditors or any of them, or the Clearing House considers in its absolute discretion that the occurrence of any such events or their equivalent is imminent or likely in any jurisdiction;
- (m) a liquidator, receiver, manager, trustee, an administrative receiver or similar officer is appointed over the Clearing Participant or a composition or scheme of arrangement approved by a court of law is made against the Clearing Participant;

- (n) a resolution to wind-up the Clearing Participant (save for the purpose of amalgamation or reconstruction) is passed or a winding-up order is made;
- (o) any distress, execution or other process is levied or enforced or served upon or against any property or assets of a Clearing Participant; or
- (p) any other event or series of events, whether related or not, occurring (or appearing likely to occur) which in the opinion of the Clearing House has (or appearing likely to have) a material effect on the capacity of the Clearing Participant to meet its obligations to the Clearing House.

#### **10.02 Powers of the Clearing House in the event of a default**

- (1) If the Clearing House considers that an event of default under Rule 10.01 has occurred, the Clearing House may take any or all of the following actions:
  - (a) suspend the Participants of the defaulting Clearing Participant;
  - (b) impose restrictions on the activities of the defaulting Clearing Participant;
  - (c) refuse to register Market Contracts in the defaulting Clearing Participant's name;
  - (d) exercise, or allow to expire, any Open Contract of the defaulting Clearing Participant;
  - (e) settle any or all of the Open Contracts of the defaulting Clearing Participant;
  - (f) instruct a designated agent to execute a buy-in of the Instrument up to the quantity required to be delivered by the defaulting Clearing Participant;
  - (g) liquidate or novate the rights and obligations under the Open Contracts of the defaulting Clearing Participant in any manner as the Clearing House may deem fit and this includes the Clearing House:
    - (i) appointing one or more Clearing Participants to liquidate the Open Contracts;
    - (ii) transferring or procuring the transfer of the Open Contracts to one or more Clearing Participants who have agreed to accept such transfer; and
    - (iii) unless the Clearing House determines otherwise, transferring or procuring the transfer of all monies and Approved Collateral associated with the Open Contracts transferred pursuant to Rule 10.02(1)(g)(ii);
  - (h) sell, realise or apply any Approved Collateral and calculate the sum of all assets of the defaulting Clearing Participant including its Security Deposit, Direct Clearing Participant Deposit (where applicable), Clearing Fund Contribution, cash and any other assets held by the Clearing House provided always that any Approved Collateral, cash or other assets deposited with the Clearing House with respect to Open Contracts recorded in a Segregated Account of the defaulting Clearing Participant must not be used to meet any obligations relating to Open Contracts in the Unsegregated Account;
  - (i) set-off any loss incurred by the Clearing House pursuant to Rules 10.02(1)(e), (f) and (g) against the monies determined in accordance with 10.02(1)(h) and:
    - (i) any surplus monies must be utilised in accordance with Rule 10.03;
    - (ii) any deficit must be met in accordance with Rule 10.04;

- (j) execute hedging transactions, in any manner, on behalf of and at the risk of the defaulting Clearing Participant, to eliminate or reduce market risk resulting from such Open Contracts; or
  - (k) take any other action which the Clearing House deems necessary for the protection of the public interest or the Clearing House.
- (2) The actions referred to in Rule 10.02(1) will be taken at the expense of the defaulting Clearing Participant.
- (3) The actions referred to in Rule 10.02(1) may be taken immediately or at any other time in any order the Clearing House determines and without the need for any prior notice to or consent of the defaulting Clearing Participant or any other person.

**10.03 Settlement of obligations**

The Clearing House will pay any surplus determined pursuant to Rule 10.02(1)(i)(i) to the defaulting Clearing Participant.

**10.04 Call upon funds**

Any shortfall determined pursuant to Rule 10.02(1)(i)(ii) must be met and made good by the use and application of funds in accordance with Rule 9.07.

**10.05 Advice to an Exchange and the Commission**

The Clearing House will inform the relevant Exchange(s) and the Commission of all actions taken under this Chapter.

**10.06 Clearing Participant to provide assistance**

The defaulting Clearing Participant must cooperate with the Clearing House and non-defaulting Clearing Participants in respect of any of the actions that the Clearing House may take pursuant to Rule 10.02.

[End of Chapter]