

15 May 2019



Mr Chris Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st St., N.W.
Washington, DC 20581
United States of America

VIA EMAIL

Dear Mr Kirkpatrick,

Self-certification of amendments to the SGX-DC Clearing Rules

1 Introduction

1.1 Singapore Exchange Derivatives Clearing Limited (“**SGX-DC**”), a derivatives clearing organisation (“**DCO**”) registered with the Commodity Futures Trading Commission (the “**Commission**”), hereby submits a self-certification for amendments to its Clearing Rules (the “**Amendments**”) pursuant to Commission regulation 40.6(a).

2 Intended Implementation Date

2.1 The Amendments are proposed to be implemented on or after 3 June 2019, but will not be implemented prior to the Commission’s 10 business day review period.

3 Explanation and Analysis

3.1 The Amendments are mainly in relation to two areas:

- (a) Limitation of liability and indemnity—With Singapore Exchange Regulation Pte Ltd (“**SGX RegCo**”) taking over the regulatory responsibilities of SGX-DC on 15 September 2017, administrative amendments were made to the SGX-DC Clearing Rules to make clear SGX RegCo’s authority to exercise the rights, powers, authorities and discretions of SGX-DC under the SGX-DC Clearing Rules, and to allow SGX-DC to delegate and assign those rights, powers, authorities and discretions to any other person or entity.

Given that SGX RegCo acts on behalf of SGX-DC, amendments were also made to expand the limitation of liability and indemnity clauses in the SGX-DC Clearing Rules to cover SGX RegCo and its directors, officers, employees, representatives and agents. SGX-DC is amending the SGX-DC Rules to further expand those clauses to also cover any other delegates, as such delegates will also be acting on behalf of SGX-DC and should be duly protected.

Additionally, SGX-DC is amending the limitation of liability and indemnity clauses in the SGX-DC Rules to cover related companies of SGX-DC. Necessary regulatory actions taken by SGX-DC can have a corollary impact on the activities of related companies. The amendment is thus necessary so that legitimate actions taken by a related company in the discharge of its functions will not expose it to legal liability.

- (b) Disciplinary Committee and Appeals Committee—The SGX-DC Rules provide for the establishment of a Disciplinary Committee and an Appeals Committee. The SGX-DC Rules also set out the powers of these committees, and the rules of procedure for hearings before them.

SGX-DC is amending the SGX-DC Rules in three areas: (a) the eligibility criteria for members of the Disciplinary Committee and Appeals Committee, (b) the maximum fine that the Disciplinary Committee may impose and (c) to migrate procedures for hearings before the Disciplinary Committee and Appeals Committee to a separate handbook. This will streamline the SGX-DC Rules and provide a single point of reference for participants with respect to the procedures of the committees. The new handbook will be legally binding and will be available publicly.

4 Description of Amendments

- 4.1 SGX-DC Clearing Rules 1.01, 2.34, 2.35, 4.12, 4.13 and 4.15 will be amended to reflect the amendments set out in paragraph 3.1(a) of this letter.
- 4.2 SGX-DC Clearing Rules 3.01, 3.02, 4.03A 4.04, 4.06A, 4.07A, 4.08A and 4.09B will be amended to reflect the amendments set out in paragraph 3.1(b) of this letter.
- 4.3 The text of the Amendments with the changes indicated is attached as Appendix A.

5 Certification of Compliance with Core Principles

- 5.1 The Amendments in relation to paragraph 3.1(a) is in furtherance with Core Principle D on risk management.
- 5.2 The Amendments in relation to paragraph 3.1(b) is in furtherance with Core Principle C on participant and product eligibility.
- 5.3 SGX-DC hereby certifies to the Commission that the Amendments comply with the Commodity Exchange Act, as amended, and the regulations promulgated thereunder.

6 Public Notification of Pending Certification

- 6.1 SGX-DC has made publicly available a notice of the Amendments' pending certification with the Commission, together with a copy of this submission on its website at the following

address: <https://www2.sgx.com/regulation/about-sgx-regco#Meeting%20International%20Standards>

7 Opposing Views

7.1 There were no opposing views expressed to SGX-DC by its board committee members, SGX-DC Clearing Members or market participants that were not incorporated into the Amendments. If any opposing views are received by SGX-DC during the Commission's review period, such views will be communicated to the Commission accordingly.

8 Contact Details

8.1 Please do not hesitate to contact the undersigned at nicodemus.tan@sgx.com or +65 6713 6515 should you require any clarification.

Yours sincerely,



Nicodemus Tan
Assistant Vice President
Regulation Development and Policy (Regulation)

Amendments to the SGX-DC Clearing Rules

Rule amendments are marked in blue.

Sample: Rule insertion

~~Sample~~: Rule deletion

Amendments to SGX-DC Clearing Rules
Chapter 1 Application of Rules
1.01 Application of Rules
...
<p>1.01.2</p> <p>Except where the Clearing House, or <u>SGX RegCo, or any person or entity referred to under Rule 1.01.8</u> otherwise expressly agrees with or expressly commit to any party, the benefit of any performance of obligations under:</p> <p>1.01.2.1 this Rules, or</p> <p>1.01.2.2 Directives, Practice Notes or Circulars issued by the Clearing House,</p> <p>is restricted to only Clearing Members. The Clearing House, <u>its related corporations, SGX RegCo, any person or entity referred to under Rule 1.01.8,</u> and their respective directors, officers, employees, representatives or agents (the "Relevant Persons") shall have no liability to any other party. In particular, the Relevant Persons shall have no liability to any party affected or aggrieved by any alleged action or omission.</p>
<p>1.01.3</p> <p>Without prejudice to Rule 1.01.2 or the benefit of any exclusion of liability in any contract or undertaking in favour of the Clearing House, the Relevant Persons accept no duty to and therefore shall have no liability whatsoever to any Clearing Member or any Third Party in contract, tort, trust, as a fiduciary or under any other cause of action in respect of any damage, loss, cost or expense of whatsoever nature suffered or incurred by a Clearing Member or any Third Party, as the case may be, arising out of or in connection with <u>the following, or any thing done or not done as a direct or indirect consequence of the following:</u></p> <p>1.01.3.1 any suspension, restriction or closure of any market whose contracts are cleared by or novated to the Clearing House (each a "Relevant Market"), whether for a temporary period or otherwise or as a result of a decision taken on the occurrence of a market emergency;</p>

Amendments to SGX-DC Clearing Rules
<p>1.01.3.2 any failure by the Clearing House or any Relevant Market to supply each other with data or information in accordance with arrangements from time to time established between and/or amongst any or all such persons;</p> <p>1.01.3.3 the failure of any systems, communications facilities or technology supplied, operated or used by the Relevant Persons;</p> <p>1.01.3.4 the failure of any systems, communications facilities or technology supplied, operated or used by any Relevant Market;</p> <p>1.01.3.5 the inaccuracy of any information supplied to and relied on by the Relevant Persons (including but not limited to any error in the establishment of a settlement price made by a Relevant Market) or a Relevant Market;</p> <p>1.01.3.6 any event which is outside the reasonable control of the Relevant Persons;</p> <p>1.01.3.7 the Clearing House's clearing and settlement of Contracts, and all other matters as contemplated in this Rules; and</p> <p>1.01.3.8 the exercise or non-exercise of any discretion or decision making power under this Rules.</p>
...
Chapter 2 Clearing Membership
...
2.34 Market Disorders, Impossibility of Performance, Emergency Situations and Powers
...
<p>2.34.1B</p> <p>If the Clearing House determines that an emergency exists which threatens the financial integrity of the Clearing House or any of the Clearing Members, it may take any of the actions referred to at Rules 2.34.1A.1 to 2.34.1A.6 and/or order special or advance margins or funds to be deposited with the Clearing House from all or any Clearing Member(s) or from Clearing Members having cleared particular long, and/or short contracts which remain open.</p> <p>As soon as practicable, the Authority shall be notified of such actions. Nothing in this Rule 2.34 shall in any way limit the authority of the Clearing House, SGX RegCo or any other committee <u>or person or entity referred to under Rule 1.01.8</u> to act in an emergency situation in accordance with this Rules.</p>
...
2.34.3

Amendments to SGX-DC Clearing Rules

Without prejudice to the generality of Chapter 1, the Clearing House, its related corporations, SGX RegCo, any person or entity referred to under Rule 1.01.8, and their respective directors, officers, employees, representatives, and agents shall not be liable to any Clearing Member or any Third Party in respect of any damage, loss, cost or expense of whatsoever nature (whether direct, indirect, special or consequential, including without limitation any loss of business, revenue, goodwill, bargain or profit), suffered or incurred by such Clearing Member or Third Party, arising out of or in connection with, or arising out of or in connection with any thing done or not done as a direct or indirect consequence of, the exercise or non-exercise of powers under Rule 2.34 or the determination of the satisfaction or non-satisfaction of any condition for the exercise of such powers.

2.35 Force Majeure

2.35.1

Without prejudice to Rule 1.01.2, none of the Clearing House, its related corporations, SGX RegCo, any person or entity referred to under Rule 1.01.8, and their respective directors, officers, employees, representatives, or agents ("Relevant Persons") shall be liable for, or for any thing done or not done as a direct or indirect consequence of, any failure, hindrance or delay in performance in whole or in part of the Clearing House's obligations under the terms of this Rules or of any Contract if such failure, hindrance or delay arises out of events or circumstances beyond the Relevant Person's control. Such events or circumstances may include, but are not limited to, acts of God or the public enemy, acts of a civil or military authority other than the acts referred in Rule 2.34 above, embargoes, fire, flood, labour dispute, unavailability or restriction of computer or data processing facilities, energy supplies, or of bank transfer systems or wires, and any other causes beyond the Relevant Person's reasonable control.

....

2.35.4

Without prejudice to the generality of the foregoing, the Clearing House Relevant Persons shall not be liable for, or for any thing done or not done as a direct or indirect consequence of, any failure, hindrance or delay in the performance (in whole or in part) of any of ~~its~~ the Clearing House's obligations to Clearing Members with regard to any securities or instruments accepted as margin where such failure, hindrance or delay arises from causes beyond the Clearing House's control, such as but not limited to the failure whether partial or total, interruption or suspension of any depository or custodian or other service ("depository", which expression shall include banks or financial institutions with which cash, securities or instruments are placed with) the Clearing House is using, the termination or suspension of the Clearing House's membership or use of the depository or any variation of the depository's operational timetable, whether or not occasioned by action of the depository operator or other party, or any embargo, unavailability or restriction of bank transfer systems or wires, malfunction or overload of the depository or other emergency.

...

Amendments to SGX-DC Clearing Rules
Chapter 3 Committees
3.01 Disciplinary Committee
...
<p>3.01.2</p> <p>The Disciplinary Committee comprises persons appointed by the SGX RegCo Board. No and shall not have a member, who is, or who within three years of the proposed appointment date was, a director, officer or employee of:</p> <p style="padding-left: 40px;"><u>3.01.2.1</u> SGX; or</p> <p style="padding-left: 40px;"><u>3.01.2.2</u> any of its <u>SGX's</u> related corporations may be appointed.</p>
<p>3.01.3</p> <p>The SGX RegCo Board determines shall appoint the chairman and deputy chairman of the Disciplinary Committee. In the absence of the chairman, the deputy chairman will have all the powers of the chairman.</p>
<p>3.01.4</p> <p>[Rule has been deleted.]The Disciplinary Committee has a quorum of three (3) (including the chairman) when the meeting proceeds to business but may complete any business of a meeting with two (2) Disciplinary Committee Members. In the case of an equality of votes, the chairman of the meeting will be entitled to a casting vote.</p>
<p>3.01.5</p> <p>[Rule has been deleted.]The chairman will appoint a date, time and place for the hearing. The Clearing House and the Clearing Member charged must be given reasonable notice of the hearing.</p>
<p>3.01.6</p> <p>[Rule has been deleted.]Members of the Disciplinary Committee must notify the chairman before, or during, the hearing of any possible conflict of interest in relation to a charge. The chairman will decide whether the Disciplinary Committee Member concerned should attend the hearing of that charge. The chairman must abstain from hearing a charge in which he may have a conflict of interest.</p>
<p>3.01.7</p> <p>[Rule has been deleted.]The Disciplinary Committee may adjourn and reconvene its proceedings as it thinks fit.</p>
3.01.8

Amendments to SGX-DC Clearing Rules

~~Except where it is expressly provided in this Rules,~~Procedures may be issued in relation to Disciplinary Committee proceedings. The procedures are binding on all the parties to the proceedings and may be varied by the Disciplinary Committee as provided in the procedures or this Rules. Where any matter is not dealt with by the procedures or this Rules, the Disciplinary Committee may establish its own procedures.

Refer to the [Disciplinary Committee and Appeals Committee Handbook].

3.02 Appeals Committee

...

3.02.2

The Appeals Committee shall comprises persons appointed by the SGX RegCo Board and approved by the Authority provided that:—

3.02.2.1 ~~the Appeals Committee shall not have a member who is, or who within three years of the proposed appointment date was, a~~ Director, Officer or employee of:

(a) SGX; or

(b) any of its SGX's related companies may be appointed corporations

3.02.2.2 a majority ~~are of the Appeals Committee shall~~ not be directors, officers or employees of the members of SGX or ~~its SGX's~~ subsidiaries; and

3.02.2.3 a majority ~~are of the Appeals Committee shall~~ not be substantial shareholders of SGX or directors, officers or employees of any substantial shareholder of SGX.

3.02.3

The powers of the Appeals Committee include:—

3.02.3.1 all the powers of the Disciplinary Committee;

3.02.3.2 ~~increasing or reducing penalties~~varying the sanctions imposed by the Disciplinary Committee, and overturning, varying or upholding any decision or specific findings of the Disciplinary Committee;

3.02.3.3 hearing and deciding appeals in accordance with this Rules; and

3.02.3.4 dealing with such other matters as the SGX RegCo Board gives it (either generally or in a particular case).

3.02.3A

Amendments to SGX-DC Clearing Rules

A failure to comply with any sanction imposed by the Appeals Committee constitutes a breach of this Rules.

3.02.4

~~The Appeals Committee SGX RegCo Board elects a~~ shall appoint the chairman and the deputy chairman from among of the Appeals Committee Members. In the absence of the chairman, the deputy chairman will have all the powers of the chairman.

3.02.5

~~[Rule has been deleted.]The Appeals Committee has a quorum of three (3) (including the chairman) when the meeting proceeds to business but may complete any business of a meeting with two (2) Appeals Committee Members. In the case of an equality of votes, the chairman will be entitled to a casting vote.~~

3.02.6

~~[Rule has been deleted.]The chairman will appoint a date, time and place for the hearing. The appellant and the respondent must be given reasonable notice of the hearing.~~

3.02.7

~~[Rule has been deleted.]Members of the Appeals Committee must notify the chairman before, or during, the hearing of any possible conflict of interest in relation to an appeal. The chairman will decide whether the Appeal Committee Members concerned should attend the hearing of that appeal. The chairman must abstain from hearing an appeal in which he may have a conflict of interest.~~

3.02.8

~~[Rule has been deleted.]The Appeals Committee may adjourn and reconvene its proceedings as it thinks fit. If the parties to an appeal are not attending the hearing, the Appeals Committee may hear the appeal by way of a resolution in writing.~~

3.02.9

~~Except where it is expressly provided in this Rules, Procedures may be issued in relation to Appeals Committee proceeding. The procedures are binding on all the parties to the proceedings and may be varied by the Appeals Committee as provided in the procedures or this Rules. Where any matter is not dealt with by the procedures or this Rules, the Appeals Committee may establish its own procedures.~~

~~Refer to the [Disciplinary Committee and Appeals Committee Handbook].~~

Chapter 4 Enforcement of Rules

Amendments to SGX-DC Clearing Rules

...

4.03A Disciplinary Committee Powers

4.03A.1

~~The Disciplinary Committee may exercise its powers against a Clearing Member who~~
The Clearing House may initiate disciplinary proceedings and charge a Clearing Member before the Disciplinary Committee if the Clearing House is of the opinion that the Clearing Member has committed any of the following:—

- 4.03A.1.1 breaches the SFA ~~or SFR~~;
- 4.03A.1.2 subject to Rules 4.02B.2 and 4.02B.7, breaches this Rules;
- 4.03A.1.3 breaches d any relevant laws or regulations ~~which that~~ governs that the Clearing Member's other business activities;
- 4.03A.1.4 breaches d the rules of any other exchange;
- 4.03A.1.5 ~~breaches any provisions involving~~ engaged in fraud or dishonesty, whether in or out of Singapore;
- 4.03A.1.6 breaches d director's' duties;
- 4.03A.1.7 engages d in conduct that has the effect of circumventing the SFA, SFR, this Rules and/or any other applicable laws or regulations; or
- 4.03A.1.8 engages d in conduct detrimental to the financial integrity, reputation, interests or operation of the Clearing House.

4.03A.1A

The Disciplinary Committee shall, as a tribunal of first instance hear and determine charges brought by the Clearing House against a Clearing Member pursuant to Rule 4.03A.1. The Disciplinary Committee may exercise its powers against a Clearing Member if it is satisfied, on a balance of probabilities, that the Clearing Member has committed any of the matters set out in Rule 4.03A.1.

...

4.03A.4

The powers of the Disciplinary Committee include:—

- 4.03A.4.1 expelling a Clearing Member. The Disciplinary Committee may order a Clearing Member to be expelled notwithstanding that he has resigned;

Amendments to SGX-DC Clearing Rules

- 4.03A.4.2 suspending a Clearing Member;
- 4.03A.4.3 imposing a fine not exceeding S\$250,000 per charge, or in the case of multiple charges, not exceeding S\$1,000,000 per hearing, or, in the case of a delivery contract, any other amount as specified in the relevant contract specifications on a Clearing Member;
- 4.03A.4.4 reprimanding (publicly or privately) a Clearing Member;
- 4.03A.4.5 requiring an education program to be undertaken;
- 4.03A.4.6 requiring a compliance program to be undertaken;
- 4.03A.4.7 imposing any restrictions or conditions on activities that a Clearing Member undertakes or in the case of a Bank Clearing Member, its business governed by this Rules;
- 4.03A.4.8 requiring reimbursement or compensation to be paid;
- 4.03A.4.9 ordering payment of fines by instalments, which shall not exceed 12 months from the date of imposition of the fine, unless otherwise permitted by the Disciplinary Committee;
- 4.03A.4.10 ordering a stay of the penalty imposed, pending an appeal to the Appeals Committee;
- 4.03A.4.11 requiring any director or in the case of a Bank Clearing Member, any director or person in a senior management position who is responsible for its business governed by this Rules, to step down from day-to-day conduct of the business affairs of the Clearing Member; and
- 4.03A.4.12 appointing, confirming, changing, or discharging the appointment of a manager to manage the business of the Clearing Member or in the case of a Bank Clearing Member, its business governed by this Rules. The Disciplinary Committee will fix the remuneration of the manager, which must be paid by the Clearing Member. The Clearing Member is solely responsible for the manager's acts and defaults. The manager must carry out directions given by the Disciplinary Committee in relation to the business of the Clearing Member, including carrying on the business of the Clearing Member in accordance with instructions.

4.03A.5

Mandatory Minimum Penalties to be Imposed by Disciplinary Committee for certain Rule Violations.

Amendments to SGX-DC Clearing Rules

~~4.03A.5.1 Minimum penalties imposable by the Disciplinary Committee have been stipulated in respect of certain Rule violations, as set out in the seventh column of Schedule A.~~

~~4.03A.5.2 Where a mandatory minimum penalty has been stipulated in respect of for a particular Rule violation in the seventh column of Schedule A, if the Disciplinary Committee is satisfied that the Clearing House has proved on a balance of probabilities that the Clearing Member has committed the conduct described in the charge, the Disciplinary Committee:~~

- ~~a. shall impose a penalty, pursuant to its power under Rule 4.03A.4.3, not lower than the such minimum amount as stated in the seventh column of Schedule A, for that particular Rule violation; and~~
- ~~b. may choose to impose, in addition to the penalty in subsection (i) Rule 4.03A.5(a), any one or more of the sanction{s) as set out in Rule 4.03A.4.~~

4.03A.6

A failure to comply with any sanction imposed by the Disciplinary Committee constitutes a breach of this Rules.

4.04A Disciplinary Committee Proceedings

4.04A.1

~~[Rule has been deleted.]The Clearing House will give a Clearing Member charged a written notice setting out particulars of the charge.~~

4.04A.2 [Rule has been deleted.]Response to Charge

~~4.04A.2.1 The following procedures apply:—~~

- ~~a.—The Clearing Member charged may submit a Defence. It must be given to the Secretary of the Disciplinary Committee within fourteen (14) days from the date of the Notice of Charge.~~
- ~~b.—The Clearing House may respond to the Defence. It must be given to the Clearing Member charged and the Secretary within fourteen (14) days of receipt of the Defence.~~
- ~~c.—The Clearing Member charged may reply to the Response. It must be given to the Secretary within fourteen (14) days of receipt of the Response.~~

~~4.04A.2.2 Time to comply with the deadlines may be extended by the chairman of the Disciplinary Committee or his nominee. A written request for extension must be~~

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~~submitted within the deadline and must set out the grounds. The decision of the chairman or his nominee is final and binding.~~

~~4.04A.2.3 The Disciplinary Committee may hear a charge and exercise all its powers even if the Clearing Member charged does not file a Defence or a Reply to the Response, or its corporate representative is not present at the hearing or any adjourned hearing.~~

4.04A.3 ~~[Rule has been deleted.]~~ **Legal Representation Before Disciplinary Committee**

~~4.04A.3.1 The Clearing House and the Clearing Member charged may be represented by an advocate and solicitor.~~

~~4.04A.3.2 The Clearing Member charged must tell the Secretary of the Disciplinary Committee in writing of the name of his legal representative at least fourteen (14) days before the hearing of the charge.~~

~~4.04A.3.3 The Disciplinary Committee may seek the advice of an advocate and solicitor.~~

4.04A.4 ~~[Rule has been deleted.]~~ **Evidence**

~~4.04A.4.1 The Clearing House and the Clearing Member charged may examine, and take copies of, the evidence which each of them intends to rely on at the hearing.~~

~~4.04A.4.2 The Clearing Member charged must give the Clearing House a written undertaking not to disclose information received in relation to the charge to any person, except the legal representative of the Clearing Member charged for the purpose of the hearing or any appeal.~~

~~4.04A.4.3 A breach of the undertaking constitutes a breach of this Rules.~~

4.04A.5 ~~[Rule has been deleted.]~~ **Witnesses, Examination and Cross Examination**

~~4.04A.5.1 The Clearing House and the Clearing Member charged may:—~~

- ~~a. examine and cross-examine witnesses; and~~
- ~~b. request the attendance of a witness.~~

~~4.04A.5.2 The Disciplinary Committee may, in its absolute discretion:—~~

- ~~a. call for the attendance of any witness; and~~
- ~~b. allow or disallow a request for the attendance of a witness.~~

~~4.04A.5.3 The Disciplinary Committee cannot compel the attendance of a witness.~~

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4.04A.6 ~~[Rule has been deleted.]~~ **Disciplinary Committee's Deliberation**

~~4.04A.6.1 Unless expressly permitted by the chairman of the Disciplinary Committee, the Clearing House and the corporate representative of the Clearing Member charged must not be present during the deliberation of a charge by the Disciplinary Committee. Failure to observe this Rule does not vitiate any decision.~~

4.04A.7 Decision of Disciplinary Committee

4.04A.7.1 ~~[deleted]~~ ~~The Clearing House and the corporate representative of the Clearing Member charged may be present when the Disciplinary Committee announces its decision.~~

4.04A.7.2 The Disciplinary Committee ~~will record short~~ shall provide written grounds of its decision, which shall include any sanctions imposed against the Clearing Member, within a reasonable period after the conclusion of the hearing.

4.04A.7.3 ~~The Disciplinary Committee will give its written decision to the Clearing House and the Clearing Member charged.~~ The Disciplinary Committee shall cause its written grounds of decision to be published, unless the sanction imposed involves the issuance of a private reprimand. Where a private reprimand is issued by the Disciplinary Committee, the Disciplinary Committee shall determine whether the written grounds of decision are to be published in part or in whole.

4.04A.7.4 Each Clearing Member irrevocably consents to the publication of the Disciplinary Committee's written grounds of decision pursuant to Rule 4.04A.7.3. The consent will remain valid and effective notwithstanding that the Clearing Member ceases to be a Clearing Member. A Clearing Member cannot initiate any action or proceeding against the Clearing House or the Disciplinary Committee for such publication.

4.05A Appeals

4.05A.2 The decision of the Appeals Committee is final and binding.

4.06A Appeals Proceedings

4.06A.1 ~~[Rule has been deleted.]~~ **Notice of Appeal And Reply**

~~4.06A.1.1 The following procedures apply:—~~

- ~~a. The appellant must give a Notice of Appeal (setting out the full grounds of appeal) to the respondent and the Secretary of the Appeals Committee within fourteen (14) days of receipt of the Disciplinary Committee's written decision.~~

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~~b. The respondent may respond. It must be given to the appellant and the Secretary within fourteen (14) days of receipt of the Notice of Appeal.~~

~~c. The appellant may reply to the response. It must be given to the respondent and the Secretary within fourteen (14) days of receipt of the response.~~

~~4.06A.1.2 Time to comply with the deadlines may be extended by the chairman of the Appeals Committee or his nominee. A written request for extension must be submitted within the deadline and must set out the grounds. The decision of the chairman or his nominee is final and binding.~~

~~4.06A.1.3 The Appeals Committee may hear an appeal and exercise all its powers even if the respondent does not file a response or either party is not present at the hearing or any adjourned hearing.~~

4.06A.2 [Rule has been deleted.] Administrative Fee For Appeal

~~4.06A.2.1 An appellant (other than the Clearing House) must pay an administrative fee of \$1,500 when submitting a Notice of Appeal.~~

~~4.06A.2.2 The administrative fee is not refundable unless:—~~

~~a. the appellant tells the Secretary of the Appeals Committee in writing of withdrawal of the appeal at least seven (7) days before the hearing of the appeal;~~

~~b. the appeal is successful; or~~

~~c. the chairman of the Appeals Committee agrees to a refund, whether in full or in part.~~

4.06A.3 Appeals by Rehearing

~~4.06A.3.1 The Appeals Committee will determine the appeal by way of rehearing. It will only rehear that part of the decision of the Disciplinary Committee appealed against.~~

~~4.06A.3.2 The Appeals Committee may receive evidence that was not presented to the Disciplinary Committee. In exercising its discretion, the Appeals Committee will consider whether the evidence was available at the time of the hearing by the Disciplinary Committee and why it was not introduced at that time.~~

4.06A.4 [Rule has been deleted.] Legal Representation Before Appeals Committee

~~4.06A.4.1 An appellant and a respondent may be represented by an advocate and solicitor.~~

Amendments to SGX-DC Clearing Rules

~~4.06A.4.2 The Secretary of the Appeals Committee must be informed in writing of the name of the legal representative at least fourteen (14) days before the hearing of the appeal.~~

~~4.06A.4.3 The Appeals Committee may seek the advice of an advocate and solicitor.~~

4.06A.5 ~~[Rule has been deleted.]~~**Evidence**

~~4.06A.5.1 The parties to an appeal may examine, and take copies of, the evidence which each of them intends to rely on at the hearing.~~

~~4.06A.5.2 The undertaking under Rule 4.04A.4.2 applies.~~

4.06A.6 ~~[Rule has been deleted.]~~**Witnesses, Examination and Cross Examination**

~~4.06A.6.1 The parties to an appeal may:—~~

~~a. examine and cross-examine witnesses; and~~

~~b. request the attendance of a witness.~~

~~4.06A.6.2 The Appeals Committee may, in its absolute discretion:—~~

~~a. call for the attendance of any witness; and~~

~~b. allow or disallow a request for the attendance of a witness.~~

~~4.06A.6.3 The Appeals Committee cannot compel the attendance of a witness.~~

4.06A.7 ~~[Rule has been deleted.]~~**Appeals Committee's Deliberation**

~~4.06A.7.1 Unless expressly permitted by the chairman of the Appeals Committee, the parties to an appeal must not be present during the deliberation of an appeal by the Appeals Committee. Failure to observe this Rule does not vitiate the decision.~~

4.06A.8 **Decision of Appeals Committee**

4.06A.8.1 ~~[Deleted]~~The parties to an appeal may be present when the Appeals Committee announces its decision.

4.06A.8.2 The Appeals Committee ~~will record short~~ shall provide written grounds of decision, which shall include any sanctions imposed against the Clearing Member, within a reasonable period after the conclusion of the hearing.

4.06A.8.3 ~~The Appeals Committee will give its written decision to all parties to an appeal.~~The Appeals Committee shall cause its written grounds of decision to be published, unless the sanction imposed involves the issuance of a private

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reprimand. Where a private reprimand is issued by the Appeals Committee, the Appeals Committee shall determine whether the written grounds of decision are to be published in part or in whole.

4.06A.8.4 Each Clearing Member irrevocably consents to the publication of the Disciplinary Committee's written grounds of decision pursuant to Rule 4.06A.8.3. The consent will remain valid and effective notwithstanding that the Clearing Member ceases to be a Clearing Member. A Clearing Member cannot initiate any action or proceeding against the Clearing House or the Appeals Committee for such publication.

...

4.07A Payment of Costs

....

4.07A.3

Where an order for costs of the proceedings has been imposed against a Clearing Member and the Clearing Member does not make payment within the specified period, the outstanding sum shall be a debt payable to the Clearing House. The Clearing House may commence legal action to recover that debt, subject to any subsequent payments made by the Clearing Member. The Clearing House shall be entitled to claim reasonable interest, a month after the payment is due, based on the sum outstanding.

4.08A Fine

....

4.08A.3

Where a fine has been imposed against a Clearing Member and the Clearing Member does not make payment within the specified period, the outstanding sum shall be a debt payable to the Clearing House. The Clearing House may commence legal action to recover that debt, subject to any subsequent payments made by the Clearing Member. The Clearing House shall be entitled to claim reasonable interest, a month after the payment is due, based on the sum outstanding.

4.09B Limitation of Liability

4.09B.1

No liability (whether in contract, tort or otherwise) shall be incurred by the Disciplinary Committee, Appeals Committee, the Clearing House, or a manager appointed under Rule 4.03A.4.12 for anything done or omitted to be done with reasonable care and in good faith in the course of or in connection with:

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(1) the exercise or purported exercise of any power under the Rules;

(2) the performance or purported performance of any function or duty under the Rules; or

(3) the compliance or purported compliance with the Rules.

4.12 Major Offences

4.12.1

It shall be a major offence for a Clearing Member charged to:—

4.12.1.1 be guilty of fraud or any act of bad faith or of any dishonest conduct;

4.12.1.2 make a material mis-statement to the Clearing House, SGX RegCo, any committee, any person or entity referred to under Rule 1.01.8, or their respective employees and members;

....

4.13 Minor Offences

~~4.13~~

Without prejudice to this Rules, it shall be an minor offence for a Clearing Member to:—

4.13.1 be guilty of dishonourable or uncommercial conduct;

4.13.2 make a false entry on a clearing sheet;

4.13.3 fail to answer Customers' complaints promptly;

4.13.4 violate any rule, the violation of which is not a major offence; and

4.13.5 make a mis-statement to the Clearing House, SGX RegCo, any committee, any person or entity referred to under Rule 1.01.8, or their respective employees and members.

...

4.15 Clearing Member's Indemnity

4.15.1

Each Clearing Member indemnifies each of the Clearing House, its related corporations, SGX RegCo, any person or entity referred to under Rule 1.01.8, and their respective directors, officers, employees, representatives and agents ("Indemnified Persons") against any loss or liability

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reasonably incurred or suffered by an Indemnified Person where such loss or liability arose out of or in connection with:--	
4.15.1.1 any breach by the Clearing Member of its obligations under this Rules; or	
4.15.1.2 any wilful, unlawful, reckless or negligent act or omission by the Clearing Member.	
...	
Chapter 7B Payments	
...	
7B.5 Deposit and Return of Book-Entry Securities	
7B.5.1	
Any deposit of book-entry securities (as defined in section 130A of the Companies Act section 81SF of the Securities and Futures Act) by a Clearing Member with the Clearing House pursuant to or in connection with this Rules shall not be considered to have been made until the charge over such securities becomes effective in accordance with section 130N of the Companies Act section 81SS of the Securities and Futures Act .	
7B.5.2 Any return of book-entry securities (as defined in section 130A of the Companies Act Section 81SF of the Securities and Futures Act) by the Clearing House to a Clearing Member pursuant to or in connection with this Rules shall not be considered to have been made until the charge over such securities is discharged in accordance with section 130N of the Companies Act section 81SS of the Securities and Futures Act .	
...	
Chapter 9 Definitions and Interpretation	
9.01 Definitions	
9.01.1	
"SFA" or "Securities and Futures Act"	means the Securities and Futures Act 2005, Chapter 289 , or any subsidiary legislation promulgated under it or any statutory modification, amendment or re-enactment thereof for the time being in force, or any act or subsidiary legislation which may replace the SFA, and any reference to any provision of the SFA is to that provision as so modified, amended or re-enacted (or as contained in any subsequent act or legislation which that may replace the SFA).

