

**CHAPTER 3 CLEARING PARTICIPANTS AND REGISTERED PERSONS**

**PART A CLASSES AND RIGHTS OF CLEARING PARTICIPANTS**

**3.01 Participantship Classes**

The classes of participantship are:

- (a) General Clearing Participants;
- (b) Direct Clearing Participants; and
- (c) such other class of participants as the Clearing House may specify.

**3.02 Rights of General Clearing Participants**

A General Clearing Participant may, subject to these Rules or unless otherwise notified by the Clearing House:

- (a) clear its own Open Contracts and Open Contracts of third parties; and
- (b) participate in the services provided through the Clearing facilities of the Clearing House.

**3.03 Rights of Direct Clearing Participants**

A Direct Clearing Participant may, subject to these Rules or unless otherwise notified by the Clearing House:

- (a) clear only its own Open Contracts and the Open Contracts of its Related Corporations entered into on a proprietary basis; and
- (b) participate in the services provided through the Clearing facilities of the Clearing House.

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**PART B          ADMISSION OF CLEARING PARTICIPANTS**

**3.04    Eligibility - General Clearing Participant**

To be eligible for admission as a General Clearing Participant, an applicant must:

- (a) be a corporation with the requisite financial and business standing and repute;
- (b) have a minimum issued and paid-up capital and shareholders' funds unimpaired by losses of RM10 million ("**the Minimum Capital Requirements**") or where applicable, the following, if the requirements are higher than the Minimum Capital Requirements:
  - (i) for an entity licensed by the Central Bank, as determined by the Central Bank;
  - (ii) for an entity which is a Participating Organisation of the Stock Exchange, as determined by the Stock Exchange;
- (c) have sufficient resources and adequate systems for the proper performance of the business of Clearing, including maintaining adequate staff and facilities and in particular:
  - (i) ensuring orderly and expeditious accounting of its business of Clearing and timely reporting and reconciliation of all transactions;
  - (ii) preserving a sound liquidity and financial position at all times;
  - (iii) maintaining sufficient liquidity for its day to day operations; and
  - (iv) ensuring an adequate risk management framework;
- (d) meet the minimum financial requirements pursuant to Rule 3.18;
- (e) hold a valid Capital Markets Services Licence for carrying on the business of Clearing;
- (f) lodge a Security Deposit in accordance with Rule 3.15;
- (g) lodge a Clearing Fund Contribution in accordance with Rule 3.17;
- (h) make payment to the Clearing House of such admission fee as may be determined by the Clearing House; and
- (i) meet such other criteria as may be determined by the Clearing House.

**3.05    Eligibility - Direct Clearing Participant**

To be eligible for admission as a Direct Clearing Participant, an applicant must:

- (a) be a corporation with the requisite financial and business standing and repute;
- (b) have a minimum issued and paid-up capital of RM2 million and shareholders' funds unimpaired by losses of at least RM2 million or such other amounts as the Clearing House may prescribe;
- (c) have sufficient resources and adequate systems for the proper performance of the business of Clearing, including maintaining adequate staff and facilities and in particular:
  - (i) ensuring orderly and expeditious accounting of its business of Clearing and timely reporting and reconciliation of all transactions;

- (ii) preserving a sound liquidity and financial position at all times;
- (iii) maintaining sufficient liquidity for its day to day operations; and
- (iv) ensuring an adequate risk management framework;
- (d) meet the minimum financial requirements pursuant to Rule 3.19;
- (e) lodge a Security Deposit in accordance with Rule 3.15;
- (f) lodge a Clearing Fund Contribution in accordance with Rule 3.17;
- (g) lodge a Direct Clearing Participant Deposit in accordance with Rule 3.16;
- (h) make payment to the Clearing House of such admission fee as may be determined by the Clearing House; and
- (i) meet such other criteria as may be determined by the Clearing House.

### **3.06 Considerations for suitability as a Clearing Participant**

In addition to the eligibility criteria specified in Rule 3.04 or 3.05, as the case may be, the Clearing House may take account of all such considerations as it deems fit in determining the suitability of the applicant for admission including the following:

- (a) financial integrity;
- (b) competence;
- (c) good reputation and character; and
- (d) efficiency and honesty.

### **3.07 Application Procedure**

- (1) To become a Clearing Participant, an applicant must:
  - (a) apply to the Clearing House in accordance with the Clearing House's requirements; and  
*[Refer to Directive 3-001 and Admission Guidelines]*
  - (b) satisfy the eligibility criteria stated in Rule 3.04 or 3.05, as the case may be.
- (2) Admission as a Clearing Participant is at the Clearing House's absolute discretion.
- (3) Even if the applicant meets the eligibility criteria under Rule 3.04 or 3.05, as the case may be, the Clearing House may reject the applicant's application for Partnership if:
  - (a) the applicant does not provide information relating to the application as the Clearing House requires;
  - (b) any information or document that is furnished by the applicant to the Clearing House is false or misleading;
  - (c) the applicant has failed to comply with any other requirement of the Securities Laws or these Rules;

- (d) the applicant is the subject of an investigation or proceeding involving an allegation of fraud or dishonesty, whether in or out of Malaysia;
- (e) the admission of the applicant is not in the interest of an orderly or fair market; or
- (f) the Clearing House is of the opinion that the admission of the applicant may affect the optimum utilisation of the Clearing House's facilities, taking into account risk management and any other considerations.

### **3.08 Admission**

Once approved, the applicant will be admitted as a Clearing Participant and the applicant's name will be entered into the Register of CPs and RPs.

### **3.09 Right of appeal**

- (1) If the Clearing House rejects an application to be a Clearing Participant, the applicant may appeal in writing to the Clearing House within 14 days after the applicant is notified of the Clearing House's decision.
- (2) The Clearing House's decision on appeal is final and binding on the appellant.

### **3.10 Conditions precedent**

An applicant approved to be a Clearing Participant must comply with the following requirements before it can utilise the services or facilities of the Clearing House:

- (a) enter into such agreement with the Clearing House or such other third party as the Clearing House deems necessary;
- (b) pay to the Clearing House all the relevant application fees, admission fees and other charges imposed by the Clearing House;
- (c) register its proposed Registered Persons under these Rules; and
- (d) comply with such other conditions that the Clearing House may have imposed when approving the application.

### **3.11 Investment Bank**

In relation to a General Clearing Participant that acquires the status of an Investment Bank after its admission under Chapter 3 of these Rules, the said General Clearing Participant must notify the Clearing House in writing of the same at least 7 days (or such other time as may be determined by the Clearing House) prior to the commencement of its business as an Investment Bank, which notification must be accompanied with such information or Documents as may be required by the Clearing House.

**PART C OBLIGATIONS OF CLEARING PARTICIPANTS**

**3.12 Continuing Obligations**

Throughout a Clearing Participant's Participantsip, it must:

- (a) continuously satisfy the eligibility criteria stated in Rule 3.04 or 3.05, as the case may be;
- (b) comply with and give effect to the Act and the Commission's requirements;
- (c) comply with and give effect to these Rules whether or not the provisions are directed at the Clearing Participant specifically, any agreement the Clearing Participant enters into with the Clearing House and any undertaking given to the Clearing House whether before or after admission as a Clearing Participant;
- (d) comply with any condition of admission imposed by the Clearing House and such further conditions as the Clearing House may impose;
- (e) register its business address with the Clearing House and not change the business address without the Clearing House's prior approval;
- (f) notify the Clearing House in writing of any changes in the name of the Clearing Participant, contact person and contact details contained in the records of the Clearing House within such time as determined by the Clearing House;  
  
[Refer to Directive 3-001]
- (g) not go into voluntary liquidation or apply for any order under Section 366 of the Companies Act 2016 without the Clearing House's prior written approval;
- (h) if it is also a Trading Participant, comply with the Exchange Rules and with the decisions of the Exchange;
- (i) cooperate with the Clearing House to the best of its abilities to facilitate the Clearing House in carrying out its functions; and
- (j) comply with any reasonable requests of the Clearing House.

**3.13 Confidentiality**

If a finding or result of any inspection or investigation, or testimony or documentation in connection with a disciplinary proceeding or appeal under these Rules is disclosed to a Clearing Participant or Relevant Person, the Clearing Participant and Relevant Person must keep such findings or results confidential and must not disclose the findings or results to any person except:

- (a) the Commission, any authorised officer of the Commission or any investigating governmental authority or agency; or
- (b) where necessary, for the procurement of legal or expert advice in relation to the inspection, investigation, disciplinary proceeding or appeal, provided that the disclosure is restricted to the relevant persons and strictest confidentiality is maintained.

**3.14 Fees**

- (1) A Clearing Participant must pay such fees, charges, expenses, disbursements or any other amount due to the Clearing House in the manner and within the period the Clearing House specifies.
- (2) Where a Clearing Participant omits to pay the Clearing House any fees, charges, expenses, disbursements or any other amount due within the period the Clearing House has specified in accordance with Rule 3.14(1), the Clearing House will issue a written demand for payment stipulating the period for the outstanding payment to be made. If the amount due is not paid within the period stipulated in the written demand, the Clearing House may summarily suspend, terminate or take any other action the Clearing House thinks fit against the Clearing Participant and will notify the Clearing Participant concerned in writing.
- (3) All fees or charges which are due and unpaid by a Clearing Participant who has ceased to be a Clearing Participant or whose participation has been suspended will remain due and payable by the Participant regardless of the suspension.

**3.15 Security Deposit**

- (1) Each Clearing Participant must lodge a Security Deposit of at least RM1 million in the form of cash and/or Approved Collateral.
- (2) The Clearing House may, having regard to the following factors, request that Clearing Participant to increase the amount of the Security Deposit lodged by the Clearing Participant:
  - (a) the obligations of and performance risk undertaken by the Clearing House in respect of the Open Contracts to which a Clearing Participant is a party;
  - (b) market volume;
  - (c) price volatility; or
  - (d) such other matters as the Clearing House may consider relevant.
- (3) If the Clearing House makes such a request to a Clearing Participant, the Clearing Participant must lodge the additional amount in the form of cash and/or Approved Collateral within such time as the Clearing House specifies.
- (4) A Clearing Participant's Security Deposit is at all times available to the Clearing House to apply towards the satisfaction of that Clearing Participant's obligations to the Clearing House.
- (5) The Security Deposit is in addition to and independent of any other sums payable to the Clearing House by the Clearing Participant.
- (6) The Clearing House will revalue any Approved Collateral lodged with it pursuant to Rule 3.15(1) at such frequency as the Clearing House may specify or at such other times as may be determined by the Clearing House.
- (7) If the value of a Clearing Participant's Security Deposit falls below RM1 million or such higher amount as the Clearing House may have required from that Clearing Participant under Rule 3.15(1), the Clearing Participant must provide the deficit in the form of cash and/or Approved Collateral within such time as the Clearing House specifies.
- (8) Any cash or Approved Collateral lodged in accordance with Rule 3.15(1) which is in excess of the amount required by the Clearing House may be withdrawn by the Clearing Participant upon notice being given to the Clearing House in such manner as the Clearing House specifies.
- (9) The Clearing House may invest, manage and mobilise all cash received in respect of Security Deposits in such manner as the Clearing House deems fit or expedient.

**3.16 Direct Clearing Participant Deposit**

- (1) Each Direct Clearing Participant must lodge a Direct Clearing Participant Deposit in cash and/or Approved Collateral, the amount to be maintained at all times which is the higher of:
  - (a) RM500,000; or
  - (b) 10% or such other percentage as may be determined by the Clearing House of the total amount paid by the Direct Clearing Participant to the Clearing House in respect of all or any of the Margins payable under these Rules or such other amount the Clearing House deems fit having regard to the Direct Clearing Participant's exposure to other clearing house organisations.
- (2) The Clearing House may, having regard to the following factors, request that a Direct Clearing Participant increase the amount of the Direct Clearing Participant Deposit lodged by the Direct Clearing Participant:
  - (a) the obligations of and performance risk undertaken by the Clearing House in respect of the Open Contracts to which a Direct Clearing Participant is a party;
  - (b) market volume;
  - (c) price volatility; or
  - (d) such other matters as the Clearing House may consider relevant.
- (3) If the Clearing House makes such a request to a Direct Clearing Participant, the Direct Clearing Participant must lodge the additional amount in the form of cash and/or Approved Collateral within such time as the Clearing House determines.
- (4) A Direct Clearing Participant's Direct Clearing Participant Deposit is at all times available to the Clearing House to apply towards the satisfaction of that Direct Clearing Participant's obligations to the Clearing House.
- (5) The Direct Clearing Participant Deposit is in addition to and independent of any other sums payable to the Clearing House by the Direct Clearing Participant.
- (6) If the value of a Direct Clearing Participant's Direct Clearing Participant Deposit falls below RM500,000 or such higher amount as the Clearing House may have required from that Clearing Participant under Rule 3.16(1), the Direct Clearing Participant must provide the deficit in the form of cash and/or Approved Collateral within such time as the Clearing House specifies.
- (7) Any cash or Approved Collateral lodged in accordance with Rule 3.16(1), which is in excess of the amount required by the Clearing House may be withdrawn by the Direct Clearing Participant upon notice being given to the Clearing House in such manner as the Clearing House determines.
- (8) The Clearing House may invest, manage and mobilise all cash received in respect of Direct Clearing Participant Deposits in such manner as the Clearing House deems fit or expedient.

**3.17 Contribution to Clearing Fund**

Every Clearing Participant must maintain its Clearing Fund Contribution in accordance with Chapter 9.

**3.18 Minimum financial requirements for General Clearing Participants**

- (1) Each General Clearing Participant must at all times:

- (a) comply with the accounting, reporting, book-keeping and other financial and operational requirements which the Clearing House may specify;

*[Refer to Directive 3-001]*

- (b) where it is a Participating Organisation which is not an Investment Bank, maintain the capital adequacy requirements imposed by the Stock Exchange;
- (c) where it is a Bank Clearing Participant, maintain the capital adequacy requirements imposed by the Central Bank; and
- (d) in any other case, maintain its Adjusted Net Capital at the higher of:
  - (i) RM500,000; or
  - (ii) 10% or such other percentage as may be determined by the Clearing House of the total amount paid by the Clearing Participant to the Clearing House in respect of all or any of the Margins payable under these Rules or such other amount the Clearing House deems fit having regard to the General Clearing Participant's exposure to other clearing house organisations.

- (2) Notwithstanding the provisions of Rule 3.18(1), the Clearing House may establish higher minimum financial requirements for one or more Clearing Participants on the basis of volume, open positions carried, nature of business conducted or to be conducted or such other criteria as the Clearing House may consider relevant.

### **3.19 Minimum financial requirements for Direct Clearing Participants**

- (1) Each Direct Clearing Participant must at all times:

- (a) comply with the accounting, reporting, book-keeping and other financial and operational requirements which the Clearing House may specify;

*[Refer to Directive 3-001]*

- (b) maintain Net Tangible Assets of not less than RM5 million, or a corporate guarantee of not less than RM5 million; and
- (c) lodge a Direct Clearing Participant Deposit in accordance with Rule 3.16.

- (2) Notwithstanding the provisions of Rules 3.19(1), the Clearing House may establish higher minimum financial requirements for one or more Direct Clearing Participants on the basis of volume, open positions carried, nature of business conducted or to be conducted or such other criteria as the Clearing House may consider relevant.

### **3.20 Notice of failure by General Clearing Participants**

A General Clearing Participant must immediately notify the Clearing House and provide such information as may be required by the Clearing House if:

- (a) the Adjusted Net Capital of the General Clearing Participant is reduced below the minimum level prescribed under these Rules; or
- (b) the General Clearing Participant fails to meet any other financial requirements which the Clearing House may specify.



**3.21 Notice of failure by Direct Clearing Participant**

A Direct Clearing Participant must immediately notify the Clearing House and provide such information as may be required by the Clearing House if it fails to meet any financial requirements which the Clearing House may specify, including if its:

- (a) Net Tangible Assets; or
- (b) Direct Clearing Participant Deposit;

is reduced below the minimum level prescribed under these Rules.

**3.22 Other notice**

A Clearing Participant must immediately notify the Clearing House of any event or state of affairs which has or may have a material adverse impact on its financial position or its ability to perform any of its obligations under these Rules or which may interfere with its ability to conduct its business in a normal manner.

*[Refer to Directive 3-001]*

**3.23 Early warning financial requirements**

A Clearing Participant must comply with such early warning financial requirements that the Clearing House may prescribe.

*[Refer to Directive 3-001]*

**3.24 Audited reports**

A Clearing Participant must furnish a copy of its Audited Accounts to the Clearing House within 3 Months of the end of its Financial Year or within such longer period as may be permitted in writing by the Clearing House.

**3.25 Banking arrangements**

- (1) Each Clearing Participant must maintain such arrangements, including alternative arrangements, with such bank(s) as may be prescribed by the Clearing House to permit the transfer of funds between the Clearing Participant and the Clearing House.
- (2) The transfer of funds between the Clearing Participant and the Clearing House will be irrevocable upon the crediting of the Clearing House's or the Clearing Participant's bank account, whichever applicable.

**3.26 Clearing Participant to include other persons**

A Clearing Participant is responsible to the Clearing House for all acts or omissions of its owners, principals, directors, officers, employees, trainees, agents, service providers and sub-contractors.

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**PART D            TRANSFER, SUSPENSION & CESSATION OF PARTICIPANTSHIP**

**3.27    Transfer of Clearing Participantship**

A Clearing Participant is not permitted to transfer its Participantship in the Clearing House to any other person.

**3.28    Circumstances for suspension**

The Clearing House may summarily suspend the Clearing Participant's Participantship or its participation in any one or more or all of its services and facilities, if:

- (a) the Clearing Participant ceases its business or a material part of its business as determined by the Clearing House;
- (b) the Clearing Participant is the subject of an adverse finding by any regulatory body or competent authority to which it is subject;
- (c) any licence, authority, permission, exemption, authorisation or other similar grant to the Clearing Participant to conduct its business has been withdrawn, suspended or revoked by any competent authority or regulatory body to which it is subject;
- (d) winding-up, liquidation or any such proceedings is commenced in relation to the Clearing Participant or if the Clearing House considers that the occurrence of such an event is imminent or likely;
- (e) a receiver or manager is appointed over the assets or property of the Clearing Participant or if the Clearing Participant suffers a composition with its creditors or if a scheme of arrangement is approved by the courts or if the Clearing House considers that the occurrence of such an event is imminent or likely; or
- (f) any distress, execution or other process being levied or enforced or served upon or against the Clearing Participant.

**3.29    Notification of suspension of Participantship or participation**

The Clearing House will inform the Clearing Participant of the suspension of the Clearing Participants' Participantship or participation in one or more of the services and such suspension will take effect as prescribed in the notice and will continue until the suspension period expires or such earlier time as the Clearing House deems fit to lift the suspension.

**3.30    Continuing Liability**

The suspension of its Participantship or participation in one or more of the services will not in any way diminish any liability which the Clearing Participant may have to the Clearing House or any other Clearing Participant or any Client of the Clearing Participant where such liability arises from the Participantship up to the date of the suspension and such liability shall continue to subsist until it is fully satisfied or discharged.

**3.31    Resignation**

- (1) A Clearing Participant may resign by giving at least 30 days written notice to the Clearing House and the resignation takes effect at the later of either the expiration of that period or:
  - (a) when the Clearing Participant is no longer a counterparty to any Open Contract;

- (b) there are no further obligations or liabilities owed by the Clearing Participant to the Clearing House and its Clients; and
  - (c) the Clearing Participant has presented to the Clearing House such indemnities and guarantees as the Clearing House in its sole discretion may require.
- (2) The acceptance of the resignation is at the absolute discretion of the Clearing House.
  - (3) A Clearing Participant who has served a notice referred to in Rule 3.31(1) is only entitled to submit to the Clearing House for registration of Market Contracts which have the effect of reducing the Clearing Participant's Open Position.
  - (4) If the resignation is accepted, the Clearing House will notify each Exchange of the effective date of resignation.
  - (5) The resigning Clearing Participant's name will be removed from the Register of CPs and RPs on the effective date of resignation.
  - (6) The resignation of a Clearing Participant does not in any way affect any pre-existing liability which that Clearing Participant may have incurred to the Clearing House.

**3.32 Continuing Liability**

- (1) A former Clearing Participant remains liable to disciplinary action for any breach of these Rules issued by the Clearing House committed during the period while it was a Clearing Participant.
- (2) A former Clearing Participant must retain all its records for at least 7 years from the date of cessation and produce such record in a legible form to the Clearing House upon demand.
- (3) All provisions in these Rules continue to apply in respect of the former Clearing Participant to the extent required to give effect to Rules 3.32(1) and (2).

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**PART E REGISTERED PERSONS**

**3.33 Obligation to appoint and register specific persons**

A General Clearing Participant must register the following persons with the Clearing House:

- (a) the person who is responsible for the overall clearing business as the Responsible Person for Overall Clearing Business;
- (b) the person who is responsible for risk management as the Responsible Person for Risk Management; and
- (c) the person who is responsible for compliance functions as the Compliance Officer.

**3.34 Registration procedures**

- (1) To register a proposed Registered Person under Rule 3.33, a General Clearing Participant must:
  - (a) submit the relevant documents to the Clearing House in accordance with the Clearing House's requirements; and
  - (b) make the application only in respect of a person that satisfies the relevant eligibility criteria applicable for the relevant category of Registered Person as stated in these Rules.
- (2) Registration as a Registered Persons is at the Clearing House's absolute discretion.
- (3) Even if the proposed Registered Person meets the relevant criteria under these Rules, the Clearing House may reject an application for registration as a Registered Person if:
  - (a) the information relating to the application as the Clearing House requires is not provided;
  - (b) any information or document that is furnished to the Clearing House is false or misleading;
  - (c) the proposed Registered Person has failed to comply with any other requirement of the Securities Laws or these Rules;
  - (d) the proposed Registered Person is the subject of an investigation or proceeding involving an allegation of fraud or dishonesty, whether in or out of Malaysia; or
  - (e) the conduct of the proposed Registered Person is not in the interest of an orderly and fair market.

*[Refer to Directive 3-001 and Admission Guidelines]*

**3.35 Right of appeal**

- (1) If the Clearing House rejects an application for registration under Rule 3.34, the General Clearing Participant may appeal in writing to the Clearing House within 14 days after the General Clearing Participant is notified of the Clearing House's decision.
- (2) The Clearing House's decision on appeal is final and binding on the appellant.

**3.36 Prohibition on performing functions until registered**

No person may perform the functions of a Registered Person of a General Clearing Participant unless registered with the Clearing House as such.

**3.37 Obligations of Registered Persons**

Throughout a Registered Person's registration, a Registered Person must:

- (a) continuously satisfy the eligibility criteria applicable to that Registered Person;
- (b) comply with and give effect to the Securities Laws and the Commission's requirements;
- (c) comply with and give effect to these Rules and to any undertaking given to the Clearing House whether before or after registration as a Registered Person and must not:
  - (i) cause, aid or abet a breach of these Rules by a General Clearing Participant; or
  - (ii) permit, either knowingly or where the Registered Person had reasonable means of obtaining such knowledge, a General Clearing Participant to commit a breach by these Rules;
- (d) act honestly and in the best interest of the Client and the General Clearing Participant;
- (e) carry out the Registered Person's duties in a manner that contributes to the maintenance of an orderly and fair market;
- (f) effectively discharge the Registered Person's duties while in office;
- (g) not act in a manner that may compromise the Registered Person's function and position;
- (h) comply with the Rules of the Exchange, where the same is relevant to that Registered Person;
- (i) comply with and give effect to the structures, policies, procedures and internal controls implemented by the General Clearing Participant pursuant to Rule 4.02;
- (j) exercise all such diligence to prevent the commission of a breach of these Rules by the General Clearing Participant, having regard to the nature of the Registered Person's functions in the General Clearing Participant and to all relevant circumstances; and
- (k) identify and manage any potential or actual conflict of interests in relation to the discharge of obligations and functions under the Act and these Rules.

**3.38 Notice of cessation**

A General Clearing Participant must notify the Clearing House within 14 days after the effective date of a Registered Person ceasing to hold the relevant office.

**3.39 Vacancy of Registered Person**

- (1) The General Clearing Participant must fill a vacancy in the Registered Person's office within 6 months from the date the vacancy occurs.

- (2) In the interim, the General Clearing Participant must identify a person and require that person to temporarily assume the responsibility for the functions of the vacated office. The General Clearing Participant must ensure that the person:
- (a) has the relevant experience and seniority to undertake the relevant functions;
  - (b) complies with these Rules except for the requirement for the Commission's approval to be appointed to the relevant vacated office or registration with the Commission; and
  - (c) undertakes such functions only for a period not exceeding 6 months.
- (3) The General Clearing Participant must notify the Clearing House of the person assuming responsibility for the functions of the vacated office.

*[Refer to Admission Guidelines]*

### **3.40 Summary de-registration**

- (1) The Clearing House may summarily strike off a Registered Person from the Register of CPs and RPs if the Registered Person:
- (a) becomes of unsound mind;
  - (b) is made bankrupt, whether in or out of Malaysia;
  - (c) is convicted, whether within or outside Malaysia, of an offence involving fraud or other dishonesty or violence or the conviction of which involved a finding that he acted fraudulently or dishonestly; or
  - (d) is convicted of an offence under the Securities Laws.
- (2) A General Clearing Participant and Registered Person must immediately notify the Clearing House in writing upon becoming aware of any of the above circumstances.

### **3.41 Continuing Liability**

A former Registered Person remains subject to disciplinary action for any breach of these Rules committed during the period while the person was a Registered Person and all provisions in these Rules continue to apply in respect of the former Registered Person to the extent required to give effect to this Rule 3.41.

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**PART F RESPONSIBLE PERSON FOR OVERALL CLEARING BUSINESS**

**3.42 Requirement**

- (1) A General Clearing Participant must appoint at least 1 Responsible Person for Overall Clearing Business.
- (2) A General Clearing Participant that appoints more than 1 Responsible Person for Overall Clearing Business must:
  - (a) clearly delineate and document the area and scope of responsibility of each person at the time of appointment and if there is any change in the area and scope of responsibility, the Clearing Participant must update the relevant documentation accordingly; and
  - (b) have all activities of the Clearing Participant's business relating to clearing Market Contracts fall under the responsibility of at least 1 Responsible Person for Overall Clearing Business.
- (3) All Responsible Persons for Overall Clearing Business are jointly responsible for any area of activities relating to clearing Market Contracts that has not been assigned by the General Clearing Participant to be within the responsibility of any Responsible Person for Overall Clearing Business.
- (4) Where a General Clearing Participant outsources its Clearing functions to the Group under Rule 4.19, the General Clearing Participant must ensure that:
  - (a) the Group designates at least 1 dedicated Responsible Person for Overall Clearing Business to ensure that the relevant functions as stated in Rule 3.44 are carried out; and
  - (b) the dedicated Responsible Person for Overall Clearing Business is registered with the Clearing House in accordance with Part E of this Chapter 3.

**3.43 Eligibility criteria**

A Responsible Person for Overall Clearing Business appointed by the General Clearing Participant must fulfil the following requirements:

- (a) is registered by the Commission as a Responsible Person for Overall Clearing Business; and
- (b) is registered with the Clearing House as a Responsible Person for Overall Clearing Business in accordance with these Rules.

**3.44 Obligations**

Throughout the Responsible Person for Overall Clearing Business' registration, the Responsible Person for Overall Clearing Business must continuously satisfy the eligibility criteria stated in Rule 3.43 and be responsible for:

- (a) all the activities of the General Clearing Participant in relation to the business of clearing Market Contracts;
- (b) the compliance by the General Clearing Participant with these Rules; and
- (c) submitting to the Clearing House such reports and information as may be required by the Clearing House.

**PART G RESPONSIBLE PERSON FOR RISK MANAGEMENT**

**3.45 Requirement**

- (1) A General Clearing Participant must appoint at least 1 Responsible Person for Risk Management.
- (2) A General Clearing Participant that appoints more than 1 Responsible Person for Risk Management must:
  - (a) clearly delineate and document the area and scope of responsibility of each Responsible Person for Risk Management at the time of appointment and if there is any change in the area and scope of responsibility, the Clearing Participant must update the relevant documentation accordingly; and
  - (b) have every area relating to the risk management functions of the General Clearing Participant fall under the responsibility of at least 1 Responsible Person for Risk Management.
- (3) All Responsible Persons for Risk Management are jointly responsible for any area relating to the risk management function of the General Clearing Participant that has not been assigned by the General Clearing Participant to be within the responsibility of any Responsible Person for Risk Management.
- (4) Where a General Clearing Participant outsources its risk management functions to the Group under Rule 4.19, the General Clearing Participant must ensure that:
  - (a) the Group designates at least 1 dedicated Responsible Person for Risk Management to ensure that the relevant functions as stated in Rule 3.47 are carried out; and
  - (b) the dedicated Responsible Person for Risk Management is registered with the Clearing House in accordance with Part E of this Chapter 3.

**3.46 Eligibility criteria**

A Responsible Person for Risk Management appointed by the General Clearing Participant must fulfil the following requirements:

- (a) is registered by the Commission as a Responsible Person for Risk Management; and
- (b) is registered with the Clearing House as a Responsible Person for Risk Management in accordance with the Rules.

**3.47 Obligations**

Throughout the Responsible Person for Risk Management's registration, the Responsible Person for Risk Management must continuously satisfy the eligibility criteria stated in Rule 3.46 and be responsible for:

- (a) the risk management functions of the General Clearing Participant in relation to the business of clearing Market Contracts;
- (b) the compliance by the General Clearing Participant with the Rules on matters relating to risk management; and
- (c) submitting to the Clearing House such reports and information as may be required by the Clearing House.



**PART H      COMPLIANCE OFFICER**

**3.48 Requirement**

- (1) A General Clearing Participant must appoint at least 1 Compliance Officer.
- (2) A General Clearing Participant that appoints more than 1 Compliance Officer must:
  - (a) clearly delineate and document the area and scope of responsibility of each person at the time of appointment and if there is any change in the area and scope of responsibility, update the relevant documentation accordingly; and
  - (b) have every area relating to the compliance functions fall under the responsibility of at least 1 Compliance Officer.
- (3) All Compliance Officers of a General Clearing Participant are jointly responsible for any area relating to the compliance function that has not been assigned by the General Clearing Participant to be within the responsibility of any Compliance Officer.
- (4) Where a General Clearing Participant outsources its compliance functions to the Group under Rule 4.19, the General Clearing Participant must ensure that:
  - (a) the Group designates at least 1 dedicated Compliance Officer to ensure that the relevant functions as stated in Rule 3.50 are carried out; and
  - (b) the dedicated Compliance Officer is registered with the Clearing House in accordance with this Part E of this Chapter 3.

**3.49 Eligibility criteria**

A Compliance Officer appointed by a General Clearing Participant must fulfill the following requirements:

- (a) is approved by the Commission as a Compliance Officer; and
- (b) is registered with the Clearing House as a Compliance Officer in accordance with the Rules.

**3.50 Obligations**

Throughout the Compliance Officer's registration, the Compliance Officer must be responsible for:

- (a) ensuring that the supervisory responsibilities in relation to compliance of these Rules are carried out and matters pertaining to compliance are highlighted to the General Clearing Participant's board of directors or in the case of an Investment Bank, to the board of directors or committee to whom the head of compliance is required to report under the Guidelines on Investment Bank;

*[Refer to Directive 3-001]*

- (b) reporting to the Clearing House or any other person, such breaches of these Rules or laws as may be required by the Clearing House; and
- (c) submitting to the Clearing House such reports and information as may be required by the Clearing House.

[End of Chapter]