



ICE Clear Singaporesm

Delivery Procedures

DELIVERY PROCEDURES

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1. **GENERAL**

- 1.1 These Delivery Procedures are 'Procedures' as defined in the ICE Clear Singapore rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule 102. These Delivery Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with Singapore law and any Dispute arising under these Delivery Procedures will be subject to arbitration under Rule 117 save as provided in Market Rules.
- 1.2 With regard to all open Contracts, which, pursuant to the Contract Terms, give rise to delivery obligations:
- (a) Clearing Members with Open Contract Positions at cessation of trading or auctioning are obliged to make or take delivery (as applicable);
 - (b) Clearing Members must make themselves fully aware of their delivery obligations under each relevant Contract; and
 - (c) these Delivery Procedures form part of the terms of the relevant Contract if such Contract becomes deliverable and should be read in conjunction with the Rules, particularly Part 7, and the relevant Market Rules.
- 1.3 Any enquiries concerning these Delivery Procedures should be directed to the clearing operations department of the Clearing House.
- 1.4 The following definitions apply to these Delivery Procedures:
- (a) The term "**Clearing Day**" means a day on which the Clearing House is open for business.
 - (b) The term "**Business Day**" means a Clearing Day that is not a public holiday in Singapore.
 - (c) The term "**Delivery Period**" means a period during which delivery and settlement occurs in accordance with these Delivery Procedures and applicable Market Rules.
 - (d) The term "**Non-Clearing Day**" means each Saturday and Sunday where the Clearing House and the relevant Exchange are closed and any other day that is not a Clearing Day, as determined by the Clearing House from time to time.
 - (e) The term "**Tender**" means a notice given pursuant to these Delivery Procedures and/or Market Rules, of an intention to make or take delivery of a Deliverable.
- 1.5 Subject to paragraph 1.6 to 1.11 below, these Delivery Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with the laws of Singapore and any Dispute under these Delivery Procedures will be subject to arbitration under Rule 117.
- 1.6 Solely as between a FCM Clearing Member and the Clearing House, those provisions of these Delivery Procedures inasmuch as they relate solely to an issue or matter concerning:
- (a) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by a FCM Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by a FCM Clearing Member); and/or
 - (b) the application of any net sum owed in favour of the FCM Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided,

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in paragraph 1 of these Delivery Procedures (such provisions, together or separately "**Pledged Collateral Matters**") shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

- 1.7 For the avoidance of doubt, paragraph 1.6 is an exception to paragraph 1.5 and Rule 102(s) which provide that the Delivery Procedures and Rules respectively shall be governed by and construed in accordance with the laws of Singapore. For the avoidance of doubt, without limitation and notwithstanding paragraph 1.6, the following are governed by and shall be construed in accordance with the laws of Singapore in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:
- (a) all of the provisions of these Delivery Procedures relating to the Assured Payment System;
 - (b) any Dispute or issue arising as between a Non-FCM Clearing Member on the one hand and the Clearing House on the other hand;
 - (c) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided; and
 - (d) the Contract Terms of all Contracts.
- 1.8 Where a dispute between a FCM Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, "**New York Courts**"). Consistent with the preceding sentence, the Clearing House and each FCM Clearing Member hereby:
- (a) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
 - (b) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.
- 1.9 All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between a FCM Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to paragraph 1.8 does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or claims in relation to which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 heard in the New York Courts.
- 1.10 Nothing in paragraphs 1.5 to 1.11 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.
- 1.11 EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT

MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE DELIVERY PROCEDURES OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:

- (a) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
- (b) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN PARAGRAPHS 1.5 to 1.11.

2. DELIVERY OF DOCUMENTATION

Clearing Members must submit the required delivery documentation to the Clearing House by email to iceclearsingaporeoperations@theice.com marked "URGENT: for the attention of the Deliveries Department" or by courier to the Clearing House's registered office.

3. AUTHORISED SIGNATORIES

Clearing Members, or their Transferor(s) or Transferee(s), must ensure that all delivery documents are signed by a director or officer who is properly authorised to sign such documentation on behalf of the Clearing Member. The Clearing House is entitled to rely upon the information specified in all forms and documents submitted by Buyers, Sellers, Transferors and Transferees without making any enquiry, investigation or check as to the accuracy of the information or whether the signatory is authorised to sign or submit the form or document to the Clearing House.

4. CLEARING MEMBER ACCOUNTS

No offset is allowed for either physical delivery or financial settlement between Clearing Members' Proprietary Account and Customer Account. Separate delivery documentation is required for each such Account.

5. TRANSFERORS AND TRANSFEREES

- 5.1 Each Contract, of a kind specified by the Clearing House from time to time, subject to delivery obligations may allow Sellers and Buyers to nominate Transferors and Transferees respectively. A Transferor or Transferee may be a Seller or Buyer, respectively, itself. Transferors and Transferees are permitted to make or take delivery to or from the Clearing House by the prescribed delivery method. The Clearing House permits the nomination of Transferors or Transferees for reasons of convenience of Clearing Members only. Notwithstanding the appointment of a Transferor or Transferee, the relevant Clearing Member remains at all times fully responsible for meeting all of its obligations and liabilities to the Clearing House.
- 5.2 A Clearing Member may appoint a Representative (which may be another Clearing Member) to undertake delivery administration or obligations.
- 5.3 A person who is not the Buyer, Seller or the Clearing House shall have no right under the Contracts (Rights of Third Parties) Act 2001 to enforce any provision of a Contract (including any requirement of these Delivery Procedures). As further described in Rule 111, the Clearing House is not liable to or for Transferors or Transferees.
- 5.4 Where separate procedures apply to a Transferor/Transferee who is not the Seller/Buyer, this is indicated in these Delivery Procedures. Any form to be completed and submitted to the Clearing House by a Transferor/Transferee shall be signed by an authorised signatory of the

Transferor/Transferee. The Clearing House is entitled to rely upon the information specified in the form without making any enquiry, investigation or checks as to the accuracy of such information or whether the signatory on the form has been authorised by the Transferor/Transferee. Each Clearing Member acknowledges and agrees that it is responsible for ensuring the accuracy of the information on each form submitted by a Transferor/Transferee and that the form is signed by an authorised signatory of such Transferor/Transferee.

6. [NOT IN USE.]

7. [NOT IN USE.]

8. [NOT IN USE.]

9. **ALTERNATIVE DELIVERY PROCEDURES**

Clearing Members may not agree alternative delivery procedures for any Contract subject to a delivery from time to time for which no specific alternative delivery procedure applies, save where a Governmental Authority of competent jurisdiction orders or requires or Applicable Law so requires or the Clearing House provides its consent in writing.

10. [NOT IN USE.]

11. [NOT IN USE.]

12. **SIMILAR OBLIGATIONS UNDER DIFFERENT CONTRACTS**

Where a Seller or a Buyer has delivery obligations under one or more Contracts that are not of the same Set but which result in a delivery obligation in respect of the same Deliverable at the same time, the Clearing House may notify the Seller (and its Transferor, if applicable) and the Buyer (and its Transferee, if applicable) of their aggregated delivery obligations under the affected Contracts and, upon such notification, the Seller and Buyer shall be required to make and take delivery in respect of such aggregated delivery obligations instead of such other obligations as may otherwise have been required.

13. **INTERPRETATION**

Words and phrases defined in the Rules or these Delivery Procedures bear the same meanings when used in any form or other document delivered pursuant to these Delivery Procedures.

The Clearing House may, from time to time, enter into clearing services arrangements with ICE Futures Singapore in respect of Contracts, pursuant to which the functions of the Clearing House (as designated in these Delivery Procedures) may be performed by ICE Futures Singapore, and *vice versa*. Accordingly, references in these Delivery Procedures to the Clearing House may be interpreted as references to ICE Futures Singapore in respect of such Contracts, and *vice versa*, as circumstances require.

14. **REPORTS AND NOTIFICATIONS**

Unless otherwise specified, the Clearing House will make the reports and confirmations it issues as part of the delivery processes available to the Clearing Members electronically, both via email and via the Clearing House Web Reporting Service (described in the Clearing House User Guide).

15. **LIABILITY, MARGIN, DEFAULT AND DISCIPLINARY**

15.1 The requirements relating to liability set out in the Rules apply equally in relation to deliveries. Without prejudice to the generality of, and subject to, the provisions of the Rules relating to liability:

- (a) it is the responsibility of Clearing Members to ensure that all forms are in place at the relevant time, and any failure or omission to ensure that they are in place that causes or contributes to the failure of any delivery may itself constitute a failure to deliver by the Clearing Member; and
 - (b) upon any such failure or omission, the Clearing Member will be liable to the Clearing House for any cost, loss or expense of the Clearing House arising as a result of such failure or omission, which may include any delivery failure costs.
- 15.2 The Clearing House may at any time make an additional Margin call as a result of any event or circumstance occurring in relation to a delivery.
- 15.3 Notwithstanding the availability of any possible alternative or late delivery procedure, failure to comply with any requirement of these Delivery Procedures may constitute an Event of Default.
- 15.4 Nothing in these Delivery Procedures shall preclude the Clearing House, in its discretion, from bringing disciplinary proceedings or levying a fine against a Clearing Member, including (without limitation) in respect of late or failed delivery.
- 15.5 Clearing Members are referred to Rules I.19 to I.21 of the ICE Futures Singapore Rules which provisions are, to the extent relevant to the Rules, incorporated herein.
- 15.6 Nothing in these Delivery Procedures shall exclude any liability for fraud, death, personal injury or any liability which under Applicable Laws may not be excluded.

16. **PAYMENTS**

All payments to and from Clearing Members pursuant to these Delivery Procedures shall take place to and from relevant Nominated Accounts as described in the Finance Procedures. Amounts due in respect of delivery obligations may be set off against or aggregated with other amounts due under the Rules, as described in the Finance Procedures.