New Zealand Clearing Limited

Clearing and Settlement Rules

[]~~16 April 2015~~]

CONTENTS

SECTION 1: INTRODUCTION AND GENERAL PROVISIONS 9

1.1 The Clearing House 9
1.2 Status of Rules 10
1.3 Amendment of Rules 12
1.4 Procedures 13
1.5 Effect of Amendment 14
1.6 Definitions 14
1.7 Interpretation 49

SECTION 2: CLEARING PARTICIPANTS 53

2.1 Access to Clearing House 53
2.2 Clearing Participants 53
2.3 Lending Clearing Participants 58
2.4 Buy In Procurement Agreement 59
2.5 Application Procedures 59
2.6 Clearing Participants and Lending Clearing Participants act as Principals 60
2.7 Clearing Participants' and Lending Clearing Participants' Obligations 60
2.8 Overseas Activities and Overseas Participants 63
2.9 Notification and Provision of Information 65
2.10 Settlement Banks 69
2.11 Clearing Participants' and Lending Clearing Participants' Warranties 69
2.12 Scope of Obligations and Responsibility for Personnel and other Persons 73
2.13 Responsible Persons 74
2.14 C&S Agreements 78
2.15 Unencumbered Funds and Products 85
2.16 Segregation 85

SECTION 3: CLEARING 88

3.1 Transactions for Clearing 88
3.2 Position Limits 89
3.3 Novation of Terms 90
3.4 Terms of Settlement Transactions 93
3.5 Exercise of Options 93
3.6 Give-up & Take-up Transactions 95
3.7 Match-Out or Set-Off of Settlement Transactions 95
3.8 Calculation of Variation Margin on Futures Contracts 96
3.9 Netting 97
3.10 Cancellation of Settlement Transaction 98

3.11 Margin Requirements 99
3.12 Provision of Eligible Collateral 101
3.13 Eligible Collateral, Haircuts and Concentration Limits 104
3.14 Recording Delivery of Collateral 105
3.15 Withdrawal, Return or Substitution of Eligible Collateral 106
3.16 Intra-day Margin Calls 107
3.17 Liquidation of CHO and Collateral 108
3.18 Relationship between Clearing Participants and Customers in respect of Derivatives Contracts 108

SECTION 4: SETTLEMENT 110
4.1 Settlement 110
4.2 Settlement Process for Commodity Transactions 111
4.3 Consequences of Settlement Failure 118
4.4 Compensation for Settlement Failure 121

SECTION 5: REPORTING 125
5.1 Access 125
5.2 Reports 125
5.3 Errors 125

SECTION 6: CHO POWERS AND RELATIONSHIP WITH OPERATORS OF NZX MARKETS 127
6.1 Additional Powers 127
6.2 Approval of Products 127
6.3 Clearing Banks 128
6.4 Complaints and Investigations 128
6.5 Investigation Powers 129
6.6 Disclosure of Information from Inspection 131
6.7 Power of Waiver and Rulings 132
6.8 Referral to NZ Markets Disciplinary Tribunal 133
6.9 Fee Setting Power 133
6.10 Currency Conversions 134
6.11 Emergency Powers 134
6.12 General Powers 135
6.13 Delegation of Powers 136
6.14 Relationship with Operators of NZX Markets 136
6.15 Use of Data 137

SECTION 7: DEFAULT AND TERMINATION 138
7.1 Clearing Participant Credit Event 138
7.2 Lending Clearing Participant Credit Event 142

7.3 Declared Default and Application of Rules 7.4 to 7.10 145
7.4 Default Remedies 146
7.5 Buy in 148
7.6 Close out 148
7.7 Close Out Calculation for Payment Obligations 149
7.8 Set off 149
7.9 Enforcement of Collateral and Sale of Withheld Approved Product 150
7.10 Miscellaneous Provisions 151
7.11 Suspension 152
7.12 Resignation 153
7.13 Termination 154
7.14 General Provisions Relating to Resignation, Suspension and Termination 154

SECTION 8: MISCELLANEOUS 157
8.1 Liability of Affected Persons 157
8.2 Limitation on Action 160
8.3 Indemnity 160
8.4 Definition of Affected Person 161
8.5 Notices 162
8.6 General Provisions 163
8.7 Confidentiality of Information and Intellectual Property 166

SECTION 9: CAPITAL ADEQUACY 170
9.1 Capital Adequacy 170
9.2 Capital Adequacy Requirements 171
9.3 Capital Adequacy Reporting 171
9.4 NTCA Calculation 172
9.5 Total Risk Requirement Calculation 174
9.6 Operation Risk Requirement Calculation 174
9.7 Counterparty Risk Requirement 174
9.8 Large Position Risk Requirement 175
9.9 Position Risk Requirement Calculation 176
9.10 Currency Risk Requirement 178
9.11 Primary Market Risk Requirement 178
9.12 Market Risk Requirement 178
9.13 Valuation and Foreign Currencies 179

~~**SECTION 1: INTRODUCTION AND GENERAL PROVISIONS 6**~~
~~1.1 The Clearing House 6~~
~~1.2 Status of Rules 7~~

1.3 Amendment of Rules 9
1.4 Procedures 10
1.5 Effect of Amendment 11
1.6 Definitions 11
1.7 Interpretation 41

SECTION 2: CLEARING PARTICIPANTS 45
2.1 Access to Clearing House 45
2.2 Clearing Participants 45
2.3 Lending Clearing Participants 50
2.4 Buy In Procurement Agreement 51
2.5 Application Procedures 51
2.6 Clearing Participants and Lending Clearing Participants act as Principals 52
2.7 Clearing Participants' and Lending Clearing Participants' Obligations 52
2.8 Overseas Activities and Overseas Participants 55
2.9 Notification and Provision of Information 57
2.10 Settlement Banks 61
2.11 Clearing Participants' and Lending Clearing Participants' Warranties 61
2.12 Scope of Obligations and Responsibility for Personnel and other Persons 65
2.13 Responsible Persons 66
2.14 C&S Agreements 70
2.15 Capital Adequacy 74
2.16 Capital Adequacy Requirements 75
2.17 Capital Adequacy Reporting 75
2.18 NTCA Calculation 76
2.19 Total Risk Requirement Calculation 76
2.20 Unencumbered Funds and Products 77
2.21 Segregation 77

SECTION 3: CLEARING 80
3.1 Transactions for Clearing 80
3.2 Position Limits 81
3.3 Novation of Terms 82
3.4 Terms of Settlement Transactions 85
3.5 Exercise of Options 85
3.6 Give-up & Take-up Transactions 87
3.7 Match-Out or Set-Off of Settlement Transactions 87
3.8 Calculation of Variation Margin on Futures Contracts 88
3.9 Netting 89
3.10 Cancellation of Settlement Transaction 90

3.11 Margin Requirements 91
3.12 Provision of Eligible Collateral 93
3.13 Eligible Collateral, Haircuts and Concentration Limits 96
3.14 Recording Delivery of Collateral 97
3.15 Withdrawal, Return or Substitution of Eligible Collateral 98
3.16 Intra-day Margin Calls 99
3.17 Liquidation of CHO and Collateral 100
3.18 Relationship between Clearing Participants and Customers in respect of Derivatives Contracts 100

SECTION 4: SETTLEMENT 102
4.1 Settlement 102
4.2 Settlement Process for Commodity Transactions 103
4.3 Consequences of Settlement Failure 110
4.4 Compensation for Settlement Failure 113

SECTION 5: REPORTING 117
5.1 Access 117
5.2 Reports 117
5.3 Errors 117

SECTION 6: CHO POWERS AND RELATIONSHIP WITH OPERATORS OF NZX MARKETS 119
6.1 Additional Powers 119
6.2 Approval of Products 119
6.3 Clearing Banks 120
6.4 Complaints and Investigations 120
6.5 Investigation Powers 121
6.6 Disclosure of Information from Inspection 123
6.7 Power of Waiver and Rulings 124
6.8 Referral to NZ Markets Disciplinary Tribunal 125
6.9 Fee Setting Power 125
6.10 Currency Conversions 126
6.11 Emergency Powers 126
6.12 General Powers 127
6.13 Delegation of Powers 128
6.14 Relationship with Operators of NZX Markets 128
6.15 Use of Data 129

SECTION 7: DEFAULT AND TERMINATION 130
7.1 Clearing Participant Credit Event 130
7.2 Lending Clearing Participant Credit Event 134

7.3 Declared Default and Application of Rules 7.4 to 7.10 137
7.4 Default Remedies 138
7.5 Buy in 140
7.6 Close out 140
7.7 Close Out Calculation for Payment Obligations 141
7.8 Set off 141
7.9 Enforcement of Collateral and Sale of Withheld Approved Product 142
7.10 Miscellaneous Provisions 143
7.11 Suspension 144
7.12 Resignation 145
7.13 Termination 146
7.14 General Provisions Relating to Resignation, Suspension and Termination 146

SECTION 8: MISCELLANEOUS 149
8.1 Liability of Affected Persons 149
8.2 Limitation on Action 152
8.3 Indemnity 152
8.4 Definition of Affected Person 153
8.5 Notices 154
8.6 General Provisions 155
8.7 Confidentiality of Information and Intellectual Property 158

APPENDIX: CAPITAL ADEQUACY 161

Clearing and Settlement Rule Book

Section 1: Introduction and General Provisions

1.1 The Clearing House

1.1.1 The Clearing House and the Depository together form part of the Settlement System. CHO is the operator of the Clearing House and makes the Clearing House available for the following purposes:

(a) to enable Clearing Participants to provide clearing and settlement services in relation to Transactions in Approved Products by assuming the obligations in relation to those Transactions;

(b) to remove direct transaction counterparty risk for Transactions in Approved Products by the assumption, through novation, of those counterparty obligations by CHO;

(c) to manage counterparty risk exposure, including by use of its own financial resources, rules governing capital adequacy and prudential practice, as well as imposing appropriate risk management techniques, including the requirement for calculation of Margin and provision of Collateral;

(d) to enable Clearing Participants and Lending Clearing Participants to meet obligations in relation to delivery of Approved Products and to exercise rights in relation to receipt of Approved Products;

(e) to enable Clearing Participants and Lending Clearing Participants to meet obligations in relation to payment of moneys and exercise rights in relation to receipt of moneys; and

(f) to provide any other services not inconsistent with these Rules.

1.1.2 CHO provides or makes available to Clearing Participants and Lending Clearing Participants, for a fee, services and facilities in the Clearing House, including:

(a) electronic clearing and settlement of Transactions in Approved Products;

(b) information and reports in relation to Settlement

Transactions to Clearing Participants, Lending Clearing Participants and other Persons;

(c) statistical and other information in relation to the operation of the Clearing House; and

(d) such other services or facilities as specified from time to time in accordance with these Rules.

1.1.3 Nothing in these Rules limits in any way the services or facilities that are or may be provided or made available by CHO, whether through the Clearing House or otherwise.

1.2 Status of Rules

1.2.1 These Rules provide for:

(a) the basis on which settlement instructions are given to Clearing Participants, Lending Clearing Participants and CHO;

(b) the basis on which settlement obligations of CHO, Clearing Participants and Lending Clearing Participants are determined and calculated;

(c) the basis on which settlements between Clearing Participants and CHO are effected (using netting);

(d) the basis on which settlements between Lending Clearing Participants and CHO are effected; and

(e) any action to be taken if a Clearing Participant or a Lending Clearing Participant is unable, or is likely to become unable, to meet that Clearing Participant's or Lending Clearing Participant's obligations to any or all of the following:

(i) CHO; and/or

(ii) any other party to these Rules; and/or

(iii) any other Person.

1.2.2 These Rules and any Procedure made in accordance with Rule 1.4 constitute a binding contract between CHO, each Clearing Participant, each Lending Clearing Participant and each Responsible Person. In agreeing to be bound by these Rules, CHO and each Clearing Participant (and its Responsible Person) and each Lending Clearing Participant (and its Responsible Person) agrees to be bound by the NZ Markets Disciplinary Tribunal Rules in the manner provided for in these

Rules with the effect that:

(a) Clearing Participants and their Responsible Persons are bound by, and have the benefit of, all applicable NZ Markets Disciplinary Tribunal Rules; and

(b) Lending Clearing Participants shall be bound by, and have the benefit of, NZ Markets Disciplinary Tribunal Rule 4.5 and all provisions of the NZ Markets Disciplinary Tribunal Rules necessary to give effect to that rule.

1.2.3 Any agreement entered into between Clearing Participants, Lending Clearing Participants or any of them pursuant to these Rules or the Procedures constitutes a binding contract between those Clearing Participants and/or Lending Clearing Participants, as the case may be, and is enforceable by CHO.

1.2.4 Nothing in these Rules or any Procedure, or in the status of Clearing Participants or Lending Clearing Participants, shall:

(a) entitle a Clearing Participant, a Lending Clearing Participant or any other Person to take action (except as provided by Rule 1.2.4(e) and Rule 1.2.5) against any of CHO, CDO, Nominee, NZX, the operator of an NZX Market or the NZ Markets Disciplinary Tribunal, whether to challenge the right of CHO, CDO, Nominee, NZX, the operator of an NZX Market or the NZ Markets Disciplinary Tribunal to exercise or not exercise any of their respective powers under the Rules in such manner as it thinks fit, or for the consequences of any such exercise or non-exercise other than as expressly provided for in these Rules or the Procedures; or

(b) limit or affect the rights of CHO or the NZ Markets Disciplinary Tribunal in respect of the Rules and in particular (but without limitation) the absolute discretion to make rulings and waivers and the right of CHO to amend (including replace, vary, remove or otherwise substitute) all or any of the Rules or the Procedures in the manner expressly provided for in these Rules and the Procedures; or

(c) entitle any Person to prior notice (or any notice) of any exercise by CHO, CDO, Nominee, NZX, any operator of an NZX Market or the NZ Markets Disciplinary Tribunal of any power under, or in relation to these Rules or the Procedures, including in respect of CHO, notice of any ruling under these Rules in the manner provided for in these Rules or the Procedures (except as expressly required by these Rules or the Procedures); or

(d) entitle any Person to pursue any proceedings to enforce any provision of the Rules which is the subject of a current ruling, other than on the basis of, and in accordance with, such ruling; or

(e) confer or purport to confer, on any Person (other than CDO, Nominee, NZX, the operator of an NZX Market and the NZ Markets Disciplinary Tribunal) who is not a party to those Rules, a benefit under the Rules enforceable under the Contracts (Privity) Act 1982, or create an obligation enforceable at the suit of the Person.

1.2.5 Those provisions in these Rules and any Procedures which specifically refer to any one or more of CDO, Nominee, NZX (including with respect to NZX, Rules 1.3, 1.4, 6.2, 6.14, 6.15, 8.4, and 8.7), the operator of any NZX Market or the NZ Markets Disciplinary Tribunal confer a benefit on such of those Persons referred to in those provisions and, subject to this Rule 1.2.5, are intended to be enforceable by each such Person by virtue of the Contracts (Privity) Act 1982. Notwithstanding the foregoing, these Rules and any Procedures may be revoked, deleted or amended in any way and at any time in accordance with these Rules without consent of CDO (except as provided in Rule 1.3.3), Nominee, the operator of an NZX Market (other than, for the avoidance of doubt, NZX) or the NZ Markets Disciplinary Tribunal.

1.2.6 Each Clearing Participant and each Lending Clearing Participant acknowledges that in agreeing to be bound by the Rules and the Procedures pursuant to Rule 1.2, it is not relying upon any Pre-Contractual Statement that is not set out in the Rules or the Depository Rules. No Clearing Participant or Lending Clearing Participant shall have any right of action against CHO arising out of or in connection with any Pre-Contractual Statement except in the case of fraud or to the extent repeated in the Rules and the Depository Rules. For the purposes of this Rule 1.2.6, a "**Pre-Contractual Statement**" means any prior drafts, agreements, undertakings, representations, warranties, promises, assurances and arrangements of any nature whatsoever, whether or not in writing, relating to the Rules, the Procedures and the Depository Rules and Depository Operating Procedures.

1.2.7 CHO is not acting as a fiduciary for or adviser to any Clearing Participant or Lending Clearing Participant in respect of the Rules, the Procedures and/or any Settlement Transactions or Transactions.

1.3 Amendment of Rules

1.3.1 Subject to Rule 1.3.2 and Rule 1.3.3, CHO may, from time to

Procedure 1.1

time, amend these Rules in accordance with the Procedures. NZX may request that CHO amend the Rules by providing CHO with written notice of proposed amendments. CHO must amend the Rules as proposed by NZX from time to time in accordance with the Procedures except if such amendment would, in CHO's reasonable opinion, materially increase the risk to the Settlement System in respect of the clearing and settlement of Settlement Transactions. Amendments to these Rules come into effect and are binding on CHO, Clearing Participants and Lending Clearing Participants on the date specified by CHO by Notice, provided that:

(a) the date specified is no less than 20 Business Days after CHO has sent Notice of the amendment to Clearing Participants and Lending Clearing Participants; and

(b) the proposed amendment is not disallowed under the RBNZ Act.

1.3.2 CHO may not amend this Rule 1.3 nor any of Rules 1.4, 6.2, 6.14, 6.15, 8.4 and 8.7 without the prior written consent of NZX. CHO must give NZX notice of any proposed amendments to the Rules. CHO may not make any amendments to any of the other Rules without the prior written consent of NZX, such consent not to be withheld by NZX if, in CHO's reasonable opinion, failure to make such amendments would materially increase the risk to the Settlement System in respect of the clearing and settlement of Settlement Transactions.

1.3.3 CHO may not amend this Rule 1.3, nor any of Rules 4.2.7(c), 4.2.12(a), or 4.2.21(a) without the prior written consent of CDO.

1.4 Procedures

1.4.1 CHO may, from time to time, with the prior written approval of NZX, prepare and approve written Procedures under these Rules relating to the operation of the Clearing House and the activities of CHO, Clearing Participants and Lending Clearing Participants. CHO may not amend Procedures 1.1, 6.1 and 6.2 without the prior written consent of NZX. NZX may not withhold its consent to amendments to any other Procedure if, in CHO's reasonable opinion, failure to make those amendments would materially increase the risk to the Settlement System in respect of the clearing and settlement of Settlement Transactions.

1.4.2 NZX may at any time request that CHO amend the Procedures by providing CHO with written notice of proposed amendments. CHO must amend the Procedures as proposed by NZX from time to time, except if such amendments would, in CHO's reasonable opinion, materially increase the risk to the Settlement System in respect of the clearing and settlement of Settlement

Transactions.

1.4.3 If there is any inconsistency between any Rule and any Procedure, the Rules will prevail.

1.4.4 The Procedures do not form part of the Rules. However, if a Rule requires a Person to comply with any part of the Procedures, failure by the Person to comply with that part of the Procedures is a contravention of that Rule.

1.5 Effect of Amendment

1.5.1 Unless expressly stated otherwise, where a Rule or Procedure is amended, deleted or lapses or otherwise ceases to have effect, that circumstance does not:

(a) revive anything not in force or existing at the time at which that circumstance takes effect;

(b) affect the previous operation of that Rule or Procedure or anything done under that Rule or Procedure;

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Rule or Procedure;

(d) affect any penalty, forfeiture, suspension, termination or disciplinary action taken or incurred in respect of that Rule or Procedure (including in respect of any contravention of that Rule or Procedure); or

(e) affect any investigation, disciplinary proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, suspension, termination or disciplinary action, in respect of that Rule or Procedure (including in respect of any contravention of that Rule or Procedure),

and any such investigation, disciplinary proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture, suspension, termination or disciplinary action may be imposed as if the circumstance had not taken effect.

1.6 Definitions

1.6.1 In these Rules the following terms bear the following meanings:

Account	has the meaning given to that term in the Depository Rules;
Acting in Concert	means a group of Persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-

	operate through the acquisition (directly or indirectly) of Securities in another Person by any of them either directly or indirectly to obtain or consolidate Control of that Person;
Additional Margin	means the amount of Margin calculated by CHO in respect of a particular Clearing Participant in accordance with Rule 3.11.2(c) or Rule 3.11.3;
Affected Person	has the meaning given to it by Rule 8.4.1;
AFSL	means an Australian Financial Services Licence issued to financial planners and financial services industry corporations by the Australian Securities and Investments Commission;
Alternative Regulator	means a regulatory body, other than CHO, that is established under the law of New Zealand or another jurisdiction, and whose function is, or includes, prudential supervision;
~~**Appendix**~~	~~means the appendix to the Rules;~~
Approved Product	means a Commodity or a Derivatives Contract, traded on a NZX Market or approved by NZX for clearing and settlement on the Clearing House in accordance with Rule 6.2;
AU$ or **AUD**	means the lawful currency of Australia from time to time;
Bank	means: (a) a bank registered under the RBNZ Act; (b) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by Standard & Poor's Rating Services or Fitch Ratings Limited or A3 or higher by Moody's Investor Services Limited or a comparable rating from an

	internationally recognised credit rating agency; or
	(c) any other bank or financial institution approved by CHO from time to time;
Base Currency	means NZ$;
Board	means the Directors of a Clearing Participant or a Lending Clearing Participant from time to time, acting together as a board of Directors;
Borrower	has the meaning given to that term in the Depository Rules;
Business Day	means a day on which the Clearing House is open for clearing and settlement and includes every day on which an NZX Market is open for trading;
Buy In Procurement Agreement	means an agreement between a Clearing Participant or Lending Clearing Participant and a Trading Participant under which CHO is entitled to procure the Trading Participant to enter into a Transaction on behalf of the Clearing Participant or Lending Clearing Participant for the purpose of Rules 4.3.1(b), 4.3.3(a) or 7.4.1(i);
C&S Agreement	means a clearing and settlement agreement between a General Clearing Participant, or a Default Clearing Participant (as the case may be), and a Customer for provision of clearing and settlement services;
Call or **Call Option**	means an Option or a Settlement Transaction that arises from an Option, where the buyer has the right (but not the obligation) to acquire or notionally acquire a Commodity or a Futures Contract;
Capital Adequacy Calculations	has the meaning given to that term in Rule ~~2.17.1~~ 9.3.1;

Cash Equivalent Investments means:

(a) certificates of deposit maturing within one year after delivery to CHO under Rule 3.12 and issued by a Bank;

(b) any investment in marketable debt obligations issued or guaranteed by the government of New Zealand, the United States of America, the United Kingdom, Australia or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after delivery to CHO under Rule 3.12 and not convertible or exchangeable into any other Security;

(c) commercial paper not convertible or exchangeable to any other Security:

(i) for which a recognised trading market exists;

(ii) issued by an issuer incorporated in New Zealand, the United States of America, the United Kingdom, or Australia;

(iii) which matures within one year after delivery to CHO under Rule 3.12; and

(iv) which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or Fitch Ratings Limited or P-1 or higher by Moody's Investor Services Limited, or, if no rating is available in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

(d) any investment accessible within 30 days in money market funds which have a credit rating of either A-1 or higher by Standard & Poor's Rating Services or Fitch Rating Ltd or P-1 or higher by Moody's Investor Services Limited and which invest substantially all their assets in securities of the types described in paragraphs (a) to (c) above; or

(e) any other debt security approved by CHO;

CDO	means New Zealand Depository Limited;
CHO	means New Zealand Clearing Limited;
CHO's Confidential Information	has the meaning given to that term in Rule 8.7.2;
CHO's Settlement Account	means an account, in the name of CHO, held by CHO in the Depository for the purpose of effecting settlement;
CHO's Spot Rate of Exchange	has the meaning given in the Procedures; Procedure A1.2
Clearing and Settlement Terms	means the rights and obligations of a party to a Transaction as principal;
Clearing Bank	means a Bank appointed by CHO under Rule 6.3;
Clearing House	means the central counterparty clearing house operated by CHO in accordance with the Rules, including its functions, facilities and systems;
Clearing House System	means the electronic system for accessing the Clearing House, including any software contained within or used in connection with that system;
Clearing Participant	means a Person whom CHO has allowed to be a participant in the Clearing House in accordance with Rule 2.1.1, and includes a General Clearing Participant, a Default Clearing Participant and an Individual Clearing Participant but does not include a Lending Clearing

Participant;

Close Out Currency means the currency determined by CHO under Rule 7.7.1 as the currency in which a close out under Rule 7.6.1 will be calculated;

Close Out Date means the date upon which a Settlement Transaction is cancelled by CHO under these Rules;

Collateral means, in respect of a Clearing Participant or Lending Clearing Participant, the assets, class of Commodity or Derivatives Contract or other credit support provided by that Clearing Participant or Lending Clearing Participant (whether by absolute transfer or the grant of a Security Interest) or in respect of that Clearing Participant's or Lending Clearing Participant's obligations as credit support for that Clearing Participant's or Lending Clearing Participant's obligations to CHO and includes all Proceeds of Collateral, but excludes any such asset, class of Commodity or Derivatives Contract or other credit support:

(a) that has been returned to the Clearing Participant or Lending Clearing Participant by CHO in accordance with these Rules; and

(b) that has been released by CHO, in accordance with these Rules, from any Security Interest granted over it in favour of CHO; and

(c) in respect of which the Clearing Participant or Lending Clearing Participant has received a transfer of property from CHO in accordance with Rule 3.15.3;

Commencement Date means the date upon which a class of Commodity or Derivatives Contract becomes an Approved Product, as specified in a Notice in accordance with Rule 6.2.4;

Commodity	means any property, right (present or future or of any description) or asset and includes a financial product, a Security, an Emission Unit, electricity and Money in any currency but excludes any property or right in a Derivatives Contract;
Commodity Transaction	means a Transaction for the purchase and delivery of any Commodity and includes a Securities Transaction and an Emissions Transaction;
Company	means a "company" or an "overseas company" within the meaning of the Companies Act 1993, or an entity which CHO determines has a comparable status under the laws of any other jurisdiction nominated from time to time by CHO;
Confidential Information	has the meaning given to that term in Rule 8.7.1;
Contingent Liabilities	has the meaning determined in accordance with Generally Accepted Accounting Practice;
Control	means the ability of one Person or group of Persons Acting in Concert (Person A) (whether or not exercised and whether or not exercisable with or without the consent or concurrence of any other Person) to: (a) control, including control the appointment or removal of, 25% or more of the Persons who have the capacity to determine the outcome of decisions concerning the financial and operating policies of another Person (Person B), and where Person B is a Company, includes the ability of Person A to control, including control the appointment and removal of, 25% or more of the Directors of Person B; and/or

(b) exercise, or control the exercise of, 50% or more of the legal or beneficial ownership rights in respect of that Person (Person B), and where that Person is a Company, includes the ability of Person A to directly or indirectly control Persons who hold or control 50% or more equity securities or voting rights in Person B;

Corporate Action means any action taken or Notice given in respect of Approved Product by or on behalf of the Issuer of Approved Product or the Product Registry or any third party including, a distribution, interest or other payment of income, rights issue, bonus issue, Corporate Offer or exercise of voting rights, rights relating to conversion, subdivision, consolidation, pre-emption, redemption, repurchase or other rights or obligations, including those requiring election or action (including the payment of any call) by the holder for the time being of such Approved Product;

Corporate Offer means a takeover, scheme of arrangement, amalgamation or other offer, acceptance of which would result in disposition or replacement of all or part of a holder's interest in the Approved Product;

Counterparty means in respect of a transaction to which a Clearing Participant is a party, another party to that transaction;

Counterparty Risk Requirement ~~has the meaning ascribed in the Appendix;~~means the amount calculated under Rule 9.7; ~~Appendix Clause 8~~

Credit Event means:

(a) in relation to a Clearing Participant, an event or circumstance referred to in Rule 7.1.1; and

(b) in relation to a Lending Clearing Participant, an event or

	circumstance referred to in Rule 7.2.1;
Credit Provider	means, in relation to a Clearing Participant or Lending Clearing Participant, any Person who provides credit support to CHO under any Third Party Collateral in respect of the obligations of that Clearing Participant or Lending Clearing Participant in accordance with the Rules;
Currency Risk Requirement	~~has the meaning ascribed in the Appendix;~~means the amount calculated under Rule 9.10;
Customer	means a Person to whom a Clearing Participant provides clearing and settlement services;
Customer Account	means a Clearing Participant's Settlement Account held for the purpose of effecting the settlement of Settlement Transactions arising from Transactions of a Customer of that Clearing Participant and includes a Settlement Account held for recording the Settlement Transactions arising from Transactions of a Market Maker;
Debt Security	has the meaning given to that term in the NZDX Listing Rules;
Debtor	has the meaning given to that term in the PPSA and includes any analogous Person as prescribed by analogous laws in any other jurisdiction as CHO may determine;
Declared Default	means a Credit Event that CHO has determined it will treat as a "Declared Default" in accordance with Rule 7.3.1;
Default Clearing Participant	means a Clearing Participant accepted by CHO to enter into C&S Agreements with Persons to clear and settle those Persons' Transactions on the Clearing House, but who may not also clear and settle Transactions on the Clearing Participant's own behalf;

~~Appendix Clause 11~~

Default Declaration Date	means the date and time determined and described as such by CHO in accordance with Rule 7.3.1;
Defaulting Clearing Participant	means a Clearing Participant or Lending Clearing Participant in respect of whom CHO has declared a default in accordance with Rule 7.3.1;
Delivery Time	means in respect of a Settlement Transaction arising from a Lending Transaction, the time that delivery is required of the Borrower under Rule 5.4.1(d) of the Depository Rules (or such earlier time that delivery may be made) or the time delivery is made by the Borrower under Rule 5.4.1(e) of the Depository Rules;
Depository	means the depository operated by CDO in accordance with the Depository Rules;
Depository Rules	means the New Zealand Depository Limited Depository Operating Rules;
Derivatives Contract	means a Futures Contract and/or an Option;
Director	means: (a) in relation to a company as defined in the Companies Act 1993, any Person occupying the position of director of the company, by whatever name called; (b) in relation to any other entity, any Person occupying a position of management and control in that entity that is comparable with that of a director, by whatever name called, and in relation to a Clearing Participant or a Lending Clearing Participant, includes a Person in accordance with the directions or instructions of whom that Clearing Participant, or that Lending Clearing Participant, or any Person referred to in (a) or (b) is accustomed or required to act;

Discretionary Transaction	means a Transaction that is neither a Mandatory Transaction nor a Lending Transaction;	
Eligible Collateral	means Money, Eligible Securities, Third Party Collateral, and other assets which CHO will accept from Clearing Participants and Lending Clearing Participants as Collateral, as prescribed by the Procedures;	Procedure 3.18
Eligible Securities	means Securities and/or Cash Equivalent Investments that CHO will accept from Clearing Participants and Lending Clearing Participants as Collateral, as prescribed by the Procedures;	Procedure 3.19
Emission Transaction	means an agreement to acquire or dispose of an Emission Unit;	
Emission Unit	means: (a) a unit as defined in section 4(1) of the Climate Change Response Act 2002; and (b) personal property that: (i) is created by, or in accordance with, any enactment (whether of New Zealand, another country, or any jurisdiction of any country), rule of law, contractual provision, or international treaty or protocol as: - one of a fixed number of units issued by reference to a specified amount of greenhouse gas; or - evidence of a specified amount of reductions, removals, avoidance, storage, sequestration, or any other form of mitigation of greenhouse gas emissions; and	

	(ii) can be surrendered, retired, cancelled, or otherwise used to: - offset greenhouse gas emissions under, or otherwise comply with, any enactment (whether of New Zealand, another country, or any jurisdiction of any country), rule of law, contractual provision or international treaty or protocol; or - enable a Person who surrenders, retires, cancels, or otherwise uses it to claim an environmental benefit;
Equity Security	has the meaning given to that term in the NZSX Listing Rules;
ESAS Account	means, in respect of CHO, CDO, Nominee or a Settlement Bank, an exchange settlement account maintained for that Person in the ESAS System;
ESAS System	means the Exchange Settlement Account System operated by the Reserve Bank of New Zealand (or any successor thereof) ;
Final Settlement Amount	means the amount payable (if any) on the expiry of a Futures Contract (to the extent it is cash settled), or on exercise of a cash settled Option;
Financial Asset and **Financial Liability**	have the meaning determined in accordance with Generally Accepted Accounting Practice;
Financial Instrument	means: (a) a Commodity, including a Security and an Emission Unit; (b) a Derivatives Contract; and

	(c) any other instrument prescribed as such by CHO from time to time by Notice;
"Financial Reporting Legislation"	means, as applicable, the Financial Reporting Act 1993, Financial Reporting Act 2013, and Part 7 of the FMC Act;
FMC Act	means the Financial Markets Conduct Act 2013
Forward Rate Agreement	means an agreement in which two parties agree that: (a) one party will make payments to the other party of an amount of interest for a specified period in respect of an agreed principal amount; (b) no commitment is made to lend or borrow the principal amount; and (c) the exposure is limited to the difference between the agreed and actual market interest rates at settlement;
Futures Contract	means a "derivative" as defined in section 8(4) of the FMC Act and also includes:
~~**Futures Contract**~~	~~means a "derivative" as defined in section 8(4) of the FMC Act and also includes:~~ (a) any other agreement or transaction entered into in connection with protection against or a benefit from fluctuation in any rate, price, index or volume; and (b) any other financial product or agreement declared by NZX to be a futures contract that is approved for clearing and settlement on the Clearing House as an Approved Product, but excludes an Option;

Futures Option	means an Option in respect of a Futures Contract;
Generally Accepted Accounting Practice	has the meaning given to that term in the Financial Reporting Legislation;
General Clearing Participant	means a Clearing Participant accepted by CHO to enter into C&S Agreements with Persons to clear and settle those Persons' Transactions on the Clearing House, and who may also clear and settle Transactions on the Clearing Participant's own behalf;
Guidance Note	means the guidance notes for these Rules as issued from time to time by CHO;
Haircut	means the difference between the market value of Eligible Collateral and the value ascribed to that Eligible Collateral by CHO, expressed as a percentage of the market value of the Eligible Collateral;
House Account	means a Clearing Participant's Settlement Account held for the purpose of effecting the settlement of Settlement Transactions arising from Transactions undertaken by a Clearing Participant on its own account;
Individual Clearing Participant	means a Clearing Participant, accepted by CHO to clear and settle Transactions only on its own behalf;
Initial Margin Capital Requirement	means (with all terms used in this definition bearing the same meaning as in the NZX Derivatives Market Rules): (a) in relation to a Contract which has arisen from an Order by a Trading Participant, such initial margin amount as determined by CHO; (b) in relation to a Derivatives Contract which has arisen from a F&O Order placed with a F&O Executing Participant, such initial

margin amount (howsoever described) as determined by the rules and regulations of the relevant F&O Exchange with whom the F&O Order was placed; or

(c) in relation to a Derivatives Contract not captured under (a) or (b), such initial margin as determined by NZX or CHO in any Guidance Note.

Initial Margin means the amount of Margin calculated by CHO in respect of a Clearing Participant or Lending Clearing Participant in accordance with Rule 3.11.2(a) or Rule 3.11.3(a) or Rule 3.11.4;

Insolvent means, in respect of a Person, the occurrence of any of the following:

(a) an application or order is made, or a resolution is passed or proposed for the appointment of an administrator in respect of the liquidation, dissolution or winding up of the Person or the removal from the relevant register of the Person or any corporate action, legal proceedings or other step is taken in relation to the same;

(b) a liquidator, receiver, manager, statutory manager, trustee, administrator, inspector, or similar official is appointed in respect of a Person or any of its assets, whether by a court, by the Person, by its creditors or otherwise or the Person is declared to be at risk in accordance with section 30 of the Corporations (Investigation and Management) Act 1989 or any corporate action, legal proceedings or other step is taken in relation to the same;

(c) a direction is given to the Person under section 113 of the RBNZ Act, or a recommendation is made by the Reserve Bank of New Zealand, in respect of the Person, in accordance with section 117 of the RBNZ Act;

(d) any corporate action, legal proceedings or other procedure or step is taken in relation to:

(i) the suspension of payments, a stay or moratorium on payment or recovery of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Person;

(ii) a composition, assignment or arrangement for the benefit of or with any creditor or class of creditors of the Person;

(iii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Person or any of its assets; or

(iv) enforcement of any Security Interest over any assets of the Person;

(e) any procedure or step analogous to any procedure or step referred to in paragraphs (a), (b), (c) or (d) above is taken in respect of the Person in any jurisdiction;

(f) a moratorium or administration is proposed, ordered or arranged;

(g) a Person is unable to or admits inability to pay its debts as they fall

due or is deemed, declared or presumed by law, to be unable to pay its debts as they fall due;

(h) a Person suspends, stops or threatens to suspend or stop making payments on any indebtedness;

(i) a Person ceases, or threatens to cease, to carry on all or a material part of its business;

(j) the value of the assets of a Person is less than its liabilities (taking into account contingent and prospective assets and liabilities);

(k) any holder of a Security Interest in any asset of a Person enters into or takes possession of that asset or takes any other step to realise or enforce that Security Interest;

(l) a distress execution, attachment or other legal process is claimed or issued against any of the assets of a Person;

(m) any of the Person's assets, or shares in the Person, are compulsorily acquired, or ordered sold, vested or divested, by or by order of any governmental authority or by law, or any steps are taken to effect any of the same; or

(n) in respect of a Clearing Participant or a Lending Clearing Participant, in the opinion of CHO:

(i) any Collateral provided in respect of the obligations of that Clearing Participant or Lending Clearing Participant is at risk, is affected by any process of law, or is jeopardised in any way; or

(ii) any Person takes or purports

to take any action to take possession of or takes any steps to realise or enforce any interest in any Collateral provided in respect of the obligations of that Clearing Participant or Lending Clearing Participant;

and the term **"Insolvency"** shall be interpreted accordingly.

Intangible Assets	has the meaning determined in accordance with Generally Accepted Accounting Practice;
Intellectual Property	means all intellectual property rights and interests (including common law rights and interests) in any jurisdiction including: (a) patents, trade marks, trade names, service marks, registered designs and all goodwill rights associated with such works, copyright, domain names, symbols and logos; (b) patent applications and applications to register trade marks, service marks and designs; and (c) know-how, ideas, concepts, tools, techniques, computer program code, data, inventions, discoveries, developments, trade secrets, information and logical sequences (whether or not reduced to writing or other machine or human readable form);
In the Money	means: (a) in relation to Call Options or rights, that the current market price of the underlying instrument is greater than the exercise price; and

	(b) in relation to Put Options, that the current market price of the underlying instrument is less than the exercise price;	
In the Money Amount	means, in relation to an Option or right that is In the Money, the absolute value of the difference between the current market price of the underlying instrument and the exercise price;	
Investment Grade	means a Security with a credit rating that is BBB- or higher by Standard & Poor's or Baa3 or higher by Moody's or BBB (low) or higher by DBRS;	
Investment Securities	has the meaning given to that term in the PPSA;	
Issuer	means the Person who is the issuer of a Security for the purposes of the FMC Act, and includes any Person who, in respect of the Security, has entered into a listing agreement with an exchange;	
Large Position Counterparty Risk Requirement	means the amount calculated under Rule 9.8.2;	
Large Position Issuer Risk Requirement	~~has the meaning ascribed in the Appendix;~~means the amount calculated under Rule 9.8.3;	~~Appendix Clause 1.1~~
Large Position Risk Requirement	means the amount calculated under Rule 9.8.1;	
Lender	has the meaning given to that term in the Depository Rules;	
Lending Clearing Participant	means a Depository Participant allowed by CHO in accordance with Rule 2.1.2 to clear and settle only Lending Transactions on the Clearing House;	
Lending Transaction	means a transaction for the delivery and re-delivery of Approved Product in accordance with Section 5 of the Depository Rules;	
Liquidation of CHO	means in respect of CHO, the occurrence of any of the following:	

	(a) an order is made, or a resolution is passed for the appointment of an administrator in respect of the liquidation, dissolution or winding up of CHO or the removal of CHO from the register of companies kept pursuant to section 360(1)(a) of the Companies Act 1993;
	(b) a liquidator, receiver, manager, statutory manager, trustee, administrator, inspector, or similar official is appointed in respect of CHO or any of its assets, whether by a court, by CHO, by its creditors or otherwise, or CHO is declared to be subject to statutory management in accordance with section 38 of the Corporations (Investigation and Management) Act 1989;
~~**Listed**~~	~~means, in relation to Securities of an Issuer, those Securities of the Issuer that are approved for trading on a market operated or provided by the relevant Recognised Securities Exchange (and for the avoidance of doubt, Securities do not cease to be Listed merely because trading in those Securities is suspended);~~
Lock or **Locked**	means, in relation to a Settlement Account, Approved Product or entitlement recorded in that Settlement Account, an action by CHO (including a direction from CHO to CDO to execute such action) to prevent a transfer, creation of a Security Interest over, a change in status or other dealing in respect of that Settlement Account, Approved Product or entitlement;
Losses	means all direct and indirect and consequential losses, costs, damages, expenses and liabilities whatsoever;

Major Transaction	means a "major transaction" as defined in the Companies Act 1993;
Mandatory Transaction	means a Transaction resulting from the matching of orders in the trading system of an NZX Market or that is reported or confirmed to the operator of an NZX Market but only if the applicable rules of that NZX Market require that Transaction to be cleared and settled on the Clearing House;
Margin	means the amount calculated by CHO, in accordance with Rule 3.11, as the margin obligation or entitlement in respect of a Settlement Transaction or Settlement Transactions;
Market	means a market, exchange or facility for the trading of financial products, Derivatives Contracts and/or Commodities;
Market Maker	means a Trading Participant acting as a market maker in accordance with the rules of an NZX Market;
Market Risk Requirement	~~has the meaning ascribed in the Appendix;~~means the amount calculated under Rule 9.12.1; ~~Appendix Clause 13~~
Material Adverse Effect	means: (a) in relation to a Clearing Participant, a material adverse effect as defined in Rule 7.1.1; and (b) in relation to a Lending Clearing Participant, a material adverse effect as defined in Rule 7.2.1;
Minimum NTCA	means the minimum levels of Net Tangible Current Assets prescribed in Rule 9.2~~2.16~~;
Money	includes money within the meaning given to that term in the PPSA, and also includes amounts deposited in a Payment Account, a Money Collateral Account, a Settlement Account or other

	Account, and includes the relevant Clearing Participant's or Lending Clearing Participant's rights (if any) and CHO's rights in those amounts;
Money Collateral	means Collateral in the form of Money;
Money Collateral Account	means an account in a particular currency, in the name of CDO, held by CDO on behalf of, and for the benefit of, CHO within a Bank for the receipt, holding and payment of Money Collateral;
Net Open Position	(a) means in respect of Settlement Transactions arising from Commodity Transactions, the netted obligation or right of a Clearing Participant to deliver or receive delivery of Approved Product or to pay or receive Money in a particular currency in respect of a Settlement Account calculated under Rule 3.9.1 and netted under Rule 3.9.2, and includes, where applicable, a Net Open Position recalculated under Rule 4.2.4(b) , a Shortfall Net Open Position and a Net Open Position or a Shortfall Net Open Position recalculated under Rule 3.10.4 or Rule 5.3.3(b); and (b) means in respect of Settlement Transactions arising from Derivatives Transactions, the netted obligation or right of a Clearing Participant to pay or receive Money in a particular currency in respect of a Settlement Account calculated under Rule 3.9.4(b) as may be recalculated under Rule 3.10.4 or Rule 5.3.3(b);
Net Tangible Current Assets or **NTCA**	means, in respect of a Clearing Participant, the amount calculated in accordance with Rule 9.4~~2.18~~;
Net Underwriting	~~has the meaning ascribed in the~~

Commitment	~~Appendix;~~means the aggregate of underwriting, sub-underwriting and firm allocation commitments of the Clearing Participant in respect of a particular Security less any sub-underwriting commitment, firm allocation commitment or legally binding applications from clients or other third parties in relation to that commitment;
Nominee	means New Zealand Depository Nominee Limited and any other Person appointed as a nominee by CDO from time to time;
Non-Performing Clearing Participant	has the meaning given to it by Rule 7.3.2;
Notice	means a notice given in accordance with Rule 8.5;
NZ$** or **$ or **NZD**	means the lawful currency of New Zealand from time to time;
NZ Markets Disciplinary Tribunal	means the body constituted by NZX under the NZ Markets Disciplinary Tribunal Rules, and being the body which has jurisdiction pursuant to Rule 6.8.1 for the determination of disciplinary matters relating to the Clearing House, and where the context permits includes the chairperson, deputy chairperson, any division or duly authorised delegate of the NZ Markets Disciplinary Tribunal, and shall include any successor body to the NZ Markets Disciplinary Tribunal from time to time;
NZ Markets Disciplinary Tribunal Rules	means the rules of the NZ Markets Disciplinary Tribunal applicable to the Settlement System;
NZCDC	means New Zealand Clearing and Depository Corporation Limited;
NZX	means NZX Limited;
NZX Market	means a Market operated by NZX or a subsidiary of NZX, the rules of which require Transactions to be cleared and settled on the Clearing House;

OECD	means the Organisation for Economic Co-operation and Development;
Operational Risk Requirement	~~has the meaning ascribed in the Appendix;~~means the amount calculated under Rule 9.6.1;
Option	means an agreement that confers on the holder the right (but not the obligation) to: (a) acquire or dispose of a Commodity or an interest in a Commodity; or (b) require the other party to the Option to enter into a Futures Contract; or (c) require the other party to pay a Final Settlement Amount;
Overdue	means where an unconditional obligation of a Counterparty remains unpaid after the date on which the obligation was due for payment under the terms of the transaction, except that: (a) for trades in Financial Instruments, the transaction shall be considered overdue if unsettled 10 Business Days after the date on which Settlement was due; and (b) for a written Option, the transaction shall be considered overdue if the Counterparty has not paid the premium on the due date; and (c) a transaction where the Clearing Participant holds on trust as security for the amount outstanding, Securities with a current market value of at least 140% of the amount payable, shall not be considered overdue;
Overseas Activity	means any of the activities of: (a) any part of a Clearing Participant's or a Lending

Clearing Participant's business as a Clearing Participant or a Lending Clearing Participant, as the case may be, that is located outside New Zealand; or

(b) any of a Clearing Participant's or Lending Clearing Participant's Personnel located outside New Zealand who are engaged in, and to the extent it relates to, the Clearing Participant's or the Lending Clearing Participant's business as a Clearing Participant or a Lending Clearing Participant, as the context requires;

Payment Account means an ESAS Account or an account at a Clearing Bank, in a particular currency, in the name of CDO or Nominee held by CDO or Nominee for the purposes of receiving and paying Money for the purposes of effecting Settlement Transactions in accordance with the Rules;

Payment Obligation in relation to a Clearing Participant means an obligation of the Clearing Participant to pay an amount under a Settlement Transaction arising under a Derivatives Contract and includes:

(a) an amount payable as buyer by way of Premium;

(b) where the Settlement Transaction arises from a Futures Contract, an amount in respect of Variation Margin payable by a Clearing Participant under Rule 3.8.2(b); and

(c) any Final Settlement Amount;

Payment Right in relation to a Clearing Participant means a right of the Clearing Participant to receive an amount under a Settlement Transaction arising from a Derivatives Contract and includes:

(a) an amount payable to the seller by

	way of Premium; (b) where the Settlement Transaction arises from a Futures Contract, an amount in respect of Variation Margin payable by CHO under Rule 3.8.2(a); and (c) any Final Settlement Amount;	
Person	includes any individual natural person, Company, corporation, corporation sole, partnership, joint venture, association (whether corporate or unincorporated), trust, Government department or other instrument of Government, Minister of the Crown, state or agency of a state (in each case, whether or not having separate legal personality);	
Personnel	means, in relation to a particular Person, an employee of that Person, as defined under the Employment Relations Act 2000 (or in the case of a Person who is not subject to the Employment Relations Act 2000, applied as if the Person was subject to the Employment Relations Act 2000), and includes any individual employed by, contracted, seconded or providing consulting services to, the Person whether it be on a permanent, part-time, casual or temporary basis;	
Position Risk Requirement	~~has the meaning ascribed in the Appendix;~~means the amount calculated under Rule 9.9.1;	~~Appendix Clause 10~~
Positive Credit Exposure	means an exposure to a Counterparty where, if the Counterparty were to default, the Clearing Participant would suffer financial loss and includes a Counterparty's aggregate gross liabilities to deliver Securities and cash;	
Potential Credit Event	means any event or circumstance that, with the giving of notice or the lapse of time or both, would constitute a Credit Event;	

Practice Note	means the practice notes as issued from time to time by CHO;
PPSA	means the Personal Property Securities Act 1999;
PPSR	means the personal property securities register maintained under section 139 of the PPSA;
Prescribed Minimum Capital Adequacy	has the meaning given to that term in Rule 9.1.1~~2.15.1~~;
Premium	means the amount payable on entry into an Option under the terms of that Option;
Primary Market Risk Requirement	~~has the meaning ascribed in the Appendix;~~means the amount calculated under Rule 9.11.1;
Procedure	means a procedure relating to the operation of the Clearing House and the activities of CHO and Clearing Participants and Lending Clearing Participants under these Rules, as approved and amended from time to time by CHO in accordance with Rule 1.4;
Proceeds	has the meaning given to that term in the PPSA;
Product Collateral Account	means an account, in the name of CHO, held by CHO in the Depository for the receipt, holding and payment of Eligible Securities;
Product Register	means a register that records the legal and/or beneficial owner of Approved Product and includes: (a) a register maintained by or on behalf of an Issuer as required by section 87 of the Companies Act 1993, section 51 of the Securities Act 1978 or section 215 of the FMC Act; (b) a register established for the purpose set out in section 10 of the

	Climate Change Response Act 2002; and (c) a register that records the legal or beneficial owner of Approved Product which is established or maintained in a jurisdiction outside of New Zealand;
Product Registry	means a Person who operates or maintains a Product Register;
Property, Plant and Equipment	has the meaning determined in accordance with Generally Accepted Accounting Practice;
Put or **Put Option**	means an Option or a Settlement Transaction that arises from an Option, where the buyer has the right (but not the obligation) to dispose of or notionally dispose of a Commodity or Futures Contract;
Quoted	means, in relation to Securities of an Issuer, those Securities of the Issuer that are approved for trading on a market operated or provided by the relevant Recognised Securities Exchange (and for the avoidance of doubt, Securities do not cease to be Quoted merely because trading in those Securities is suspended);
RBNZ Act	means the Reserve Bank of New Zealand Act 1989;
Reciprocal Arrangement	means any agreement or arrangement between CHO or CDO (as the case may be) and any government agency or regulatory authority (including a securities exchange, NZX or an operator of an NZX Market) in New Zealand or elsewhere whose functions include prudential supervision and/or the regulation of trading in Securities, Derivatives Contracts or Commodities (in New Zealand or elsewhere), which provides for the disclosure of information between

	CHO or CDO (as the case may be) and the other party in relation to dealings in Securities, Derivatives Contracts or Commodities or any aspect of prudential supervision (in New Zealand or elsewhere);
Recognised Market	means a market specified in the Procedures;
Recognised Market Index	means an index specified in the Procedures;
Recognised Securities Exchange	means a person who is: (a) a Securities exchange recognised and approved by the World Federation of Exchanges; (b) a licensed market operator within the meaning of section 6 of the FMC Act; (c) an existing exchange within the meaning of clause 42, Part 3 of Schedule 4 to the FMC Act; or (d) an entity with comparable status under the laws of any other jurisdiction as CHO may approve; and includes NZX;
Related Company	means a related company as defined in the Companies Act 1993 provided that the definition of "company" for this purpose includes a company wherever incorporated;
Related Person	means a Person who Controls or is Controlled by another Person or under common Control with another Person;
Relevant Clearing Participant	has the meaning given to that term in Rule 8.3.3;
Relevant Payment Date	has the meaning given to that term in the Depository Rules;

Responsible Person	means an individual appointed by a Clearing Participant or as the case may be, a Lending Clearing Participant to represent that Clearing Participant or that Lending Clearing Participant, as the case may be and perform the functions of a Responsible Person in accordance with these Rules;
Risk Management Purposes	has the meaning given in Rule 6.12.1;
Rules	means these New Zealand Clearing Limited Clearing and Settlement Rules ~~and includes the Appendix~~;
Secured Party	has the meaning given to that term in the PPSA;
Security or Securities	means a "financial product" within the meaning of section 7(1) of the FMC Act and includes any right or option to acquire any Security or benefit of any kind, whether conditional or not and whether renounceable or not;
Security Interest	has the meaning given to that term in the PPSA;
Securities Collateral	means Collateral in the form of Eligible Securities;
Securities Legislation	means the Securities Act 1978, the FMC Act and any Regulations made under those Acts, the Financial Transactions Reporting Act 1996, the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, the Financial Reporting Legislation, the Companies Act 1993 and the RBNZ Act and includes any equivalent or analogous law, regulation or directive in any other jurisdiction binding on or applicable to the Clearing Participant or Lending Clearing Participant as the context requires;
Securities Transaction	means a Transaction resulting from an agreement to acquire or dispose of a Security;

Settlement Account	means a Clearing Participant's account in the Depository held for the purpose of effecting settlements between a Clearing Participant and CHO in accordance with the Rules;	
Settlement Bank	has the meaning given to that term in the Depository Rules;	
Settlement Closing	means in respect of a Net Open Position or a Settlement Transaction (other than a Settlement Transaction arising from a Lending Transaction) and in respect of a Settlement Time, the time specified in the Procedures;	Procedure 4.2
Settlement Date	in relation to a Net Open Position or a Settlement Transaction (other than a Settlement Transaction arising from a Lending Transaction) and an obligation arising in respect of that Net Open Position or Settlement Transaction, the Settlement Day for the settlement of that obligation;	
Settlement Day	means a Business Day on which settlements of obligations in respect of Settlement Transactions (or a particular class of Settlement Transactions) on the Clearing House will occur other than a day that CHO determines not to be a Settlement Day under the Procedures;	Procedure 4.1
Settlement System	means the Clearing House, the Depository and the facilities and systems used by CHO and CDO to effect the clearing and settlement of transactions, including the Clearing House System and the Depository System;	
Settlement Time	means the time or times during a Settlement Day, specified in the Procedures in accordance with Rule 4.1.1, for settlement of obligations arising in respect of Net Open Positions or Settlement Transactions in each class or category of Approved Products and/or each class or category of Net Open Position or Settlement Transaction;	Procedure 4.2

Settlement Transaction	means a contract between a Clearing Participant or a Lending Clearing Participant, as the case may be, and CHO arising in respect of novation of a Transaction under Rule 3.3;
Shortfall Amount	has the meaning given to it by Rule 4.2.5, Rule 4.2.10 or Rule 4.2.19 as the context requires;
Shortfall Net Open Position	has the meaning given to it by Rule 4.2.4(c);
State of Emergency	means any of the following events, if in the opinion of CHO the occurrence of the event threatens the financial stability or integrity of the Clearing House, the Depository, CHO or CDO or prevents or significantly hinders the operation of the Clearing House or the Clearing House System, CHO or CDO or creates unacceptable risks for the Clearing House, the Clearing House System or Clearing Participants or Lending Clearing Participants or the Settlement System generally: (a) a fire, power failure or restriction, communication breakdown, accident, flood or other weather event, embargo, boycott, labour dispute, unavailability of data processing or any other computer system or facility; (b) an act of God; (c) act of war (whether declared or undeclared) or an outbreak or escalation of hostilities in any region of the world; (d) an act of terrorism; or (e) any other event, situation or circumstances in the nature of an emergency in relation to CHO, an NZX Market or the operator thereof, the Clearing House, the Clearing House System, CDO, the Depository, the Depository System

	or the Nominee;
State of Emergency Rule	means a Rule made pursuant to Rule 6.11.1(a);
Structured Finance Product	means a Security that has been issued in respect of an asset pool or as part of any asset-backed or mortgage-backed Securities transaction and includes residential mortgage-backed Securities, collateralised or credit enhanced debt obligations (including synthetic and hybrid collateralised or credit enhanced debt obligations), collateralised loan or fund obligations, credit derivatives, perpetual debt obligations and any other Security or class of Security specified in the Procedures from time to time;
Subordinated Debt	means, in respect of a Person, any indebtedness of that Person that, in terms of priority for payment and otherwise, would, on a winding up, dissolution or liquidation of that Person, rank behind claims in respect of general unsecured unsubordinated indebtedness of the Person and the terms "**Subordinated**" and "**Unsubordinated**" shall be interpreted accordingly;
Subsidiary	means a subsidiary as defined in the Companies Act 1993 and includes an "in substance subsidiary" and any other company treated as a subsidiary of a company in accordance with Generally Accepted Accounting Practice, provided that the definition of "company" in this case includes a company wherever incorporated;
Substitute Payment	has the meaning given to that term in the Depository Rules;
Suspension	means suspension from the Clearing House System in accordance with Rule 7.11, and the terms "**Suspend**" and "**Suspended**" shall be interpreted

	accordingly;	
Swap	means a transaction in which two parties agree to exchange streams of payments over time on a pre-determined basis.	
Third Party Collateral	means a guarantee, letter of credit or other third party obligation in a form acceptable to CHO, issued by a Person acceptable to CHO which CHO will accept as Collateral in respect of the obligations of a Clearing Participant or Lending Clearing Participant, as prescribed in the Procedures;	Procedure 3.16
Total Risk Requirement	means the amount calculated in accordance with Rule 9.5.1~~2.19.1~~;	
Trading Participant	means a Person authorised under relevant rules to enter into Transactions on an NZX Market;	
Transaction	means any contract or agreement to acquire or dispose of an Approved Product and includes: (a) a Commodity Transaction; (b) a Derivatives Contract; (c) a Lending Transaction; and (d) a Commodity Transaction or a Derivatives Contract arising upon the maturity of or upon the exercise of rights under a Derivatives Contract;	
Transferee	means a Clearing Participant to whom the rights and obligations of another Clearing Participant under a Settlement Transaction are novated in full in accordance with Rule 3.6.2;	
Transferor	means a Clearing Participant whose rights and obligations under a Settlement Transaction are novated to another Clearing Participant in accordance with Rule 3.6.2;	

Transferred Collateral	means Collateral that has been transferred absolutely to CHO in accordance with Rules 3.12.3 and 3.12.5, and includes Third Party Collateral;
Unprofessional Conduct	includes: (a) conduct which amounts to dishonesty or impropriety affecting professional character and which is indicative of a failure to either understand or practice the precepts of honesty or fair dealing; and/or (b) unsatisfactory professional conduct, where the conduct involves a substantial or consistent failure to reach and/or maintain reasonable standards of competence and diligence, by a Clearing Participant or a Lending Clearing Participant or its respective Directors, any Personnel, agent or any other Person who acts (or purports to act) on behalf of that Clearing Participant or as context requires, that Lending Clearing Participant, whether in the conduct of the Clearing Participant's or as the context requires, Lending Clearing Participant's business or in the conduct of any other business in which the Clearing Participant or the Lending Clearing Participant as the case may be or any of its respective Directors, Personnel, agents or other Person is involved;
US$ or **USD**	means the lawful currency of the United States of America from time to time; and
Variation Margin	means: (a) in relation to Settlement Transactions arising from Commodity Transactions an amount calculated in accordance

with Rule 3.11.2(b);

(b) in relation to Settlement Transactions arising from Options, an amount calculated in accordance with Rule 3.11.3(b); and

(c) in relation to Settlement Transactions arising from Futures Contracts, an amount calculated in accordance with Rule 3.8.1.

1.7 Interpretation

1.7.1 In these Rules:

(a) headings to Sections, Rules and clauses are for reference only and are not an aid in interpretation;

(b) references to a statutory provision of law will be construed as references to that statutory provision of law as amended or re-enacted or as is modified by other statutory provisions from time to time;

(c) references to a Person are to that Person and that Person's successors, permitted assigns, executors and administrators as the context requires;

(d) references to periods of time include the day on which the period commences and also the day on which the period ends;

(e) any day that is not a Business Day, upon or by which anything is due to be done by any Person, will be deemed to be a reference to the next Business Day except where otherwise stated;

(f) words importing the plural include the singular and vice versa and words importing gender import all genders;

(g) a reference to conduct or engaging in conduct includes a reference to doing, refusing to do or omitting to do, any act, including the making of, or the giving effect to a provision of, an agreement. Unless the contrary intention appears, a reference to doing, refusing or omitting to do any act or thing includes a reference to causing, permitting, suffering or authorising the act or thing to be done or the refusal or omission to occur;

(h) all warranties, representations, indemnities, covenants,

agreements and obligations given or entered into by more than one Person (other than by CHO, CDO, NZX or Nominee) will be deemed to have been given or entered into jointly and severally;

(i) any statement in these Rules stated to be to the best of a Person's knowledge or to be so far as a Person is aware (or any similar expression) will be deemed to include an additional statement that it has been made after due and careful enquiry by that Person;

(j) if a word or expression is given a particular meaning, another part of speech or grammatical form of that word or expression has a corresponding meaning;

(k) a reference to a Rule (e.g. Rule 2.3) includes a reference to all sub-Rules included under that Rule (e.g. Rule 2.3.3) and a reference to a Section (e.g. Section 2) includes a reference to all Rules and sub-Rules within that Section;

(l) a reference to time is a reference to Wellington, New Zealand time; and

(m) if the name of a body is changed in accordance with the law (whether or not the body is incorporated) or the name of an office is changed by law, then a reference in these Rules to the body or office under any former name, except in relation to matters that occurred before the change took effect, is taken as a reference to the body or office under the new name.

1.7.2 In these Rules a reference to:

(a) an "**agreement**" includes a contract, deed, licence, franchise, undertaking or other document (in each case, oral and written) and includes that agreement as modified, supplemented, novated or substituted from time to time;

(b) "**assets**" or "**property**" includes present and future properties, reviews and rights of every description and the whole or any part of the relevant Person's business, undertaking, property, revenues and rights (in each case, present and future) and reference to an asset includes any legal or equitable interest in it;

(c) a "**consent**" includes an approval, authorisation, exemption, filing, licence, order, permit, recording or registration (and references to obtaining consents are to be construed accordingly);

(d) "**CHO**", "**NZX**", **"CDO**", "**NZCDC**" or "**Nominee**" includes its

successors, permitted assigns, permitted transferees and delegates;

(e) a **"Clearing Bank"**, **"Clearing Participant"**, a **"Default Clearing Participant"**, a **"General Clearing Participant"**, an **"Individual Clearing Participant"**, a **"Lending Clearing Participant"**, a "**Settlement Bank**" or a **"Trading Participant"** includes its successors, permitted assigns and permitted transferees;

(f) a "**directive**" includes any present or future directive, regulation, request, requirement, externally imposed voluntary credit restraint programme or notification by whatsoever means, or a change in interpretation or application of any law by any agency of any state or any self-regulating organisation or any Person or body charged with the administration of any law (in each case, whether or not having the force of law but, if not having the force of law, compliance with which is in accordance with the general practice of Persons to whom the directive is addressed);

(g) a "**guarantee**" includes any indemnity and also includes any other obligation (whatever called) of any Person to pay, purchase, provide funds (whether by the advance of Money, the purchase or subscription of shares or other securities, the purchase of assets or services, or otherwise) for the payment of, or to indemnify against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of any other Person;

(h) "**including**" and "**includes**" means including, or includes, without limitation;

(i) "**indebtedness**" includes an obligation (whether present or future, actual or contingent, secured or unsecured, joint or several, as principal, surety or otherwise) relating to the payment of Money;

(j) a "**law**" or **"regulation"** includes a constitutional provision, treaty or other legislative measure, decree, official directive, convention, statute, regulation, ordinance, by-law, judgement, rule of common law or equity or a rule of an exchange in each case of any relevant jurisdiction and is a reference to that law or regulation or any provisions thereof as amended, re-enacted, consolidated, replaced or modified by other provisions of law from time to time and "**lawful**" and "**unlawful**" shall be construed accordingly;

(k) "**rights**" includes authorities, discretions, remedies, powers and causes of action;

(l) the **"Rules"**, ~~the **"Appendix",**~~ the **"Procedures"**, the **"Depository Rules"** or the **"NZ Markets Disciplinary Tribunal Rules"**, is a reference to any such rules or procedures ~~or appendix~~, as the context requires, as amended, varied, supplemented, consolidated, replaced or novated from time to time;

(m) "**tax**" includes any present or future tax, levy, impost, duty, rate, charge, fee, deduction or withholding imposed, assessed or levied by any governmental agency (whether state or local), and any interest, penalties, fines, costs, charges, and other liabilities arising from or payable in respect of such tax; and

(n) "**in writing**" includes representing or reproducing words, figures or symbols:

(i) in a visible and tangible form by any means and in any medium; and

(ii) in a visible form in any medium by electronic means that enables them to be stored in permanent form and to be retrieved and read.

1.7.3 An interpretation or construction that would promote the purpose or object underlying the Rules (whether that purpose or object is expressly stated in the Rules or not) is to be preferred to an interpretation or construction which would not promote that purpose or object.

1.7.4 A Potential Credit Event (other than a Credit Event) is **"continuing"** if it has not been remedied or waived and a Credit Event is **"continuing"** if it has not been waived by CHO.

1.7.5 A term used in these Rules that is not defined in these Rules but is defined in the Depository Rules has the meaning given to that term in the Depository Rules.

Section 2: Clearing Participants

2.1 Access to Clearing House

2.1.1 **Clearing Participant**: CHO may allow a Person that CHO considers satisfies the requirements of Rules 2.1.6, 2.2 and 2.5 to be a participant in the Clearing House and to access the Clearing House System. CHO will allow a Clearing Participant to access the Clearing House System as any of a General Clearing Participant, an Individual Clearing Participant, or a Default Clearing Participant.

2.1.2 **Lending Clearing Participant**: CHO may allow a Depository Participant that CHO considers satisfies the requirements of Rules 2.1.6, 2.2.2, 2.3 and 2.5 to be a participant in the Clearing House to clear and settle on the Clearing House Lending Transactions.

2.1.3 CHO will in all circumstances impose a standard condition specifying the categories of Approved Products a Clearing Participant is authorised to clear and settle on the Clearing House.

2.1.4 CHO may, either at the time of admission to participation in the Clearing House or any time thereafter, impose any condition on a Clearing Participant's or Lending Clearing Participant's participation in the Clearing House or access to the Clearing House System which it considers appropriate. CHO will notify the Clearing Participant or Lending Clearing Participant in writing of any condition imposed.

2.1.5 A Clearing Participant may at any time make application to CHO for amendment of the conditions specifying the categories of Approved Products the Clearing Participant is authorised to clear and settle on the Clearing House, in order to change the categories of Approved Products that Clearing Participant is authorised to clear and settle on the Clearing House.

2.1.6 Access to the Clearing House System is at the absolute discretion of CHO. CHO may determine in its absolute discretion, whether to approve or decline an application for participation in the Clearing House System provided that, at all times, CHO shall have regard to the integrity, stability, reliability and efficiency of the Clearing House System.

2.2 Clearing Participants

2.2.1 An applicant to be a Clearing Participant will not be allowed to participate in the Clearing House and will not be provided access to the Clearing House System unless the applicant:

(a) is a Company; and

(b) is a Depository Participant in the Depository; and

(c) holds all licences, consents and approvals and has completed all registrations as are necessary to enable the applicant to carry on the business it proposes to carry on; and

(d) satisfies CHO that it is of high integrity and a suitable Person to be a Clearing Participant and that all Directors or other Persons having control of the applicant are of good reputation, character and high business integrity and have the training, skills, knowledge, expertise and experience to enable the applicant to carry on the business it proposes to carry on; and

(e) satisfies CHO that it has in place management structures, facilities, procedures, Personnel and financial resources as are necessary to enable the applicant to carry on the business it proposes to carry on and that are adequate for the performance of its obligations as a Clearing Participant under these Rules; and

(f) satisfies CHO that the applicant has in place appropriate systems and controls which will ensure continuous compliance with all requirements imposed by or pursuant to the Securities Legislation relevant to its business as a Clearing Participant and these Rules; and

Procedure 2.4 - 2.5.

(g) satisfies CHO as to the applicant's technical capacity to be connected to the Clearing House System, including satisfaction of such systems testing as may be prescribed by the Procedures; and

(h) satisfies CHO that it complies with the requirements of Rule 9.1.1~~2.15.1~~ applicable to the category of Clearing Participant the applicant wishes to become; and

(i) satisfies CHO that the applicant does and will continue to meet the requirements of Rule 2.7; and

(j) appoints a Bank to act as the Clearing Participant's Settlement Bank and notifies CHO of the name of its Settlement Bank; and

(k) pays to CHO the admission fee prescribed under Rule 6.9; and

(l) has entered into a Buy In Procurement Agreement with a Trading Participant for each NZX Market Transactions on

which that Clearing Participant clears and settles (and for each NZX Market on which Approved Product to be borrowed by the Clearing Participant can be traded) and has delivered to CHO a copy of each duly executed Buy In Procurement Agreement to which it is a party; and

(m) has nominated a Responsible Person who has been approved by CHO under Rule 2.13; and

(n) has provided details of all Directors, Personnel, agents and other Persons whom the applicant proposes to give access to the Clearing House System on its behalf; and

Procedure 2.1

(o) has provided contact details of the applicant, the Responsible Person and its Directors; and

(p) where the applicant is an "overseas company" (as defined in the Companies Act 1993), provides CHO with details and evidence of its incorporation, including a certificate of good standing from the appropriate authority in its home jurisdiction; and

(q) has provided to CHO such information as CHO believes is necessary to enable CHO to comply with its obligations under the Financial Transactions Reporting Act 1996, the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 or any other law or regulation applicable to CHO in any jurisdiction; and

(r) has provided to CHO the address of the location at which the Clearing Participant will store or maintain records required to be stored or maintained under these Rules; and

(s) has provided any additional information prescribed by Procedure, including a completed and signed application form; and

Procedure 2.1 - 2.2

(t) if application is being made for participation as a General Clearing Participant, has in place with each other Person for whom it proposes to provide clearing and settlement services, a C&S Agreement that complies with the requirements of Rule 2.14; and

(u) if application is being made for participation as a Default Clearing Participant:

(i) is a separate Company from any Trading Participant and does not clear and settle on its own account;

(ii) provides a written undertaking to CHO

(enforceable by CHO) that the applicant will:

(A) accept any request to provide clearing and settlement services for any Trading Participant that makes a genuine and reasonable request for such services and do so irrespective of the identity of the Trading Participant, and that it will provide such services on a reasonable timetable;

(B) agree to provide such clearing and settlement services to Trading Participants on substantially equivalent commercial rates irrespective of the identity of the Trading Participant that wishes to engage such services;

(C) ensure that information received from Trading Participants in the course of providing clearing and settlement services is kept secure and confidential; and

(D) use best endeavours to remain technologically current and accordingly able to clear and settle all Approved Products as they are introduced for trading;

(E) acknowledge that any breach of the material terms of the undertaking to CHO under Rule 2.2.1(u)(ii)(A), (B), (C) and/or (D) by the applicant once approved as a Default Clearing Participant, will, unless CHO determines otherwise, result in that entity ceasing to be a Default Clearing Participant and becoming a General Clearing Participant. In such a situation, the entity will no longer market or promote or advertise itself as a Default Clearing Participant;

(iii) satisfies CHO that it has the systems and operations in place to comply with the undertaking to CHO under Rule 2.2.1(u)(ii); and

(iv) has in place with each Person for whom it provides clearing and settlement services, a C&S Agreement that complies with the undertaking in Rule 2.2.1(u)(ii) and the requirements of Rule 2.14.

2.2.2 Where an applicant is incorporated outside of New Zealand, CHO may require the applicant to do or provide any or all of the following:

(a) give additional undertakings or assurances (governed by New Zealand law and subject to the jurisdiction of the New Zealand courts) in respect of any matter which CHO considers reasonable or in the interests of CHO, the Clearing House or other Clearing Participants and Lending Clearing Participants including, undertakings as to:

(i) the amount of resources and number of Personnel to be located in New Zealand (if any);

(ii) access by CHO and the NZ Markets Disciplinary Tribunal to records required to be kept by the Clearing Participant or Lending Clearing Participant under the Securities Legislation relevant to its business as a Clearing Participant or Lending Clearing Participant or these Rules;

(iii) foreign taxes that might be payable;

(iv) recognition by the applicant's law of incorporation of protections which are substantially equivalent to those afforded by New Zealand law to Money and property on Insolvency of the applicant;

(v) recognition of the rights of CHO under the Rules and that the Rules are, and will be, enforceable in the foreign jurisdiction including on the Insolvency of the applicant; and/or

(vi) the ranking of creditors on Insolvency of the applicant and the enforceability of these Rules, including the Security Interest created by Rule 3.12.6 and each Clearing Participant's or as the case may be, Lending Clearing Participant's application form;

(b) deliver to CHO evidence that the applicant (or a Related Person of the applicant) currently conducts clearing and settlement operations which are conducted in compliance with the regulatory requirements of the jurisdiction in which the applicant is incorporated and is regulated in that jurisdiction by a foreign regulatory authority acceptable to CHO;

(c) irrevocably appoint one or more Persons resident or incorporated in New Zealand who are authorised to accept service in New Zealand of documents on behalf of the Clearing Participant or Lending Clearing Participant and

provide a physical address for each such Person and agree that failure by an agent for service to notify the Clearing Participant or Lending Clearing Participant of the service of documents will not invalidate the proceedings concerned;

(d) immediately appoint another Person for the purpose of paragraph (c) if, for any reason, the Person is unable to act, and failing this, authorise CHO to appoint another Person for this purpose; and

(e) provide a legal opinion at the expense of the applicant, from independent lawyers acceptable to, and for the benefit of, CHO which deals with matters required by CHO and which is acceptable to CHO. Without limiting the foregoing, CHO may require a legal opinion that the Rules and the Procedures (including the NZ Markets Disciplinary Tribunal Rules) would be recognised as contractually valid, binding and enforceable against the applicant in the jurisdiction in which the applicant is incorporated, and confirming that CHO's rights in respect of all Collateral, whether provided by way of absolute transfer or by grant of a Security Interest, would be enforceable in such jurisdiction.

2.3 Lending Clearing Participants

2.3.1 An applicant to be a Lending Clearing Participant as a Borrower will not be allowed to clear and settle Lending Transactions on the Clearing House unless the applicant:

(a) appoints a Bank to act as the Lending Clearing Participant's Settlement Bank; and

(b) has satisfied any requirements of Rule 2.2.2 as CHO may require; and

(c) has entered into a Buy In Procurement Agreement with a Trading Participant for each NZX Market on which Approved Product to be borrowed by the Lending Clearing Participant can be traded and has delivered to CHO a copy of each duly executed Buy In Procurement Agreement;

(d) has nominated a Responsible Person who has been approved by CHO under Rule 2.13; and

(e) has duly completed an application form in accordance with Rule 2.5.1.

2.4 Buy In Procurement Agreement

2.4.1 A Buy In Procurement Agreement must contain provisions to the effect that:

(a) on receipt of instructions from CHO in accordance with these Rules and the Procedures the Trading Participant must make an offer or offers on the relevant NZX Market in accordance with CHO's instructions;

(b) any Transactions resulting from an offer made by the Trading Participants shall be deemed to have been entered into by the Trading Participant as agent for the Clearing Participant or Lending Clearing Participant; and

(c) CHO may enforce the provisions of the Buy In Procurement Agreement and procure that the Trading Participant complies with its obligations referred to in paragraph (a) and (b) of this Rule.

2.5 Application Procedures

2.5.1 Applications for participation in the Clearing House must be made in the manner prescribed by Procedure. An application constitutes an offer by the applicant to be bound by the Rules and acceptance of the application by CHO constitutes a binding contract between CHO and the applicant to be bound by the Rules.

Procedure 2.3

2.5.2 Notwithstanding Rule 2.5.1, in determining an application for participation in the Clearing House, CHO may have regard to any information available to CHO in whatever form and from whatever source. For the avoidance of doubt, CHO may satisfy itself that one or more of the requirements of Rule 2.2.1 or 2.3 has been met by virtue of an applicant's membership of, or participation in, any other market, clearing house or settlement system, or the applicant holding any other status, licence, permission or entitlement which CHO in its discretion considers relevant.

2.5.3 CHO will use all reasonable endeavours to make its decision whether to accept or reject an application for participation in the Clearing House within a reasonable time of application. CHO may request an applicant to provide further information, undertake such investigations and seek such information from such other Persons, as CHO considers necessary to establish whether the applicant satisfies the requirements of Rule 2.2.1 or Rule 2.3 (as the case may be).

2.5.4 CHO will notify the applicant of the outcome of its application and may provide such additional evidence or record of the Clearing Participant's or Lending Clearing Participant's status as

it considers fit.

2.6 Clearing Participants and Lending Clearing Participants act as Principals

2.6.1 Each Clearing Participant and each Lending Clearing Participant must act as principal in all of its activities with CHO and is in all cases responsible and liable to CHO as principal and not as agent.

2.7 Clearing Participants' and Lending Clearing Participants' Obligations

2.7.1 Each Clearing Participant and each Lending Clearing Participant must at all times:

(a) comply with, and procure that its Directors, Personnel, agents and other Persons acting on its behalf comply with:

(i) the Rules and the Procedures and the NZ Markets Disciplinary Tribunal Rules;

(ii) any decisions, directions and requirements of CHO or NZ Markets Disciplinary Tribunal under the Rules or the Procedures or under the NZ Markets Disciplinary Tribunal Rules;

(iii) every other undertaking and agreement between the Clearing Participant or Lending Clearing Participant (as the context requires) and CHO; and

(iv) every other agreement, document, instrument or other obligation created in accordance with the Rules or the Procedures;

(b) if a Clearing Participant, continue to satisfy the requirements of Rule 2.2.1 and 2.2.2;

(c) if a Lending Clearing Participant, continue to satisfy the requirements of Rule 2.3;

(d) comply with operational, procedural and technical requirements of the Clearing House System and networks, as specified by CHO by Procedure;

Procedure 2.4 – 2.5

(e) comply with and procure that each of its Directors, Personnel, agents and any other Person acting on its behalf complies with, all laws and regulations applicable to it and if a Clearing Participant, maintain in full effect and comply with all consents which may be necessary or desirable to enable the Clearing Participant to carry on the

business it proposes to carry on or to enable the performance of its obligations as a Clearing Participant under these Rules;

(f) pay such fees, levies and charges imposed by CHO under Rule 6.9 or imposed under the NZ Markets Disciplinary Tribunal Rules; and

(g) refrain from any act, omission or course of conduct which is likely to harm the reputation of the Clearing House, threaten the integrity or security of the Clearing House or constitute Unprofessional Conduct.

2.7.2 Without limiting Rule 2.7.1, a Clearing Participant must at all times:

(a) for the purpose of ensuring compliance with Rule 2.7.1, have in place a compliance plan that will ensure continuous compliance with all requirements imposed by or pursuant to these Rules and all requirements prescribed by Procedure; Procedure 2.6

(b) maintain satisfactory systems for the execution, recording, reporting, clearing and settlement of Transactions and Settlement Transactions as are necessary to enable it to perform its obligations as a Clearing Participant under these Rules, and for that purpose have in place a business continuity plan that meets all requirements prescribed by Procedure; Procedure 2.7

(c) maintain sufficient Personnel with adequate knowledge, experience, training and competence to ensure the Clearing Participant's compliance with the Rules, and performance of its obligations as a Clearing Participant under these Rules, and for these purposes have in place a training plan that meets all requirements prescribed by Procedure; Procedure 2.8

(d) have a Settlement Bank;

(e) comply with the Minimum NTCA requirements applicable to the Clearing Participant prescribed by Rule 9.1~~2.15~~;

(f) maintain any records that may be prescribed by Procedure for the period prescribed by Procedure; Procedures 2.9-2.16

(g) provide financial statements and other information as prescribed by Procedure; Procedures 2.17-2.25

(h) appoint and maintain the appointment of an auditor in accordance with the requirements prescribed by Procedure 2.24

Procedure;

(i) take out and maintain insurance of a kind and for an amount that that Clearing Participant reasonably determines to be appropriate, having regard to its business as a Clearing Participant and the operations carried out by that Clearing Participant and the risks associated with that Clearing Participant's business as a Clearing Participant, including those risks associated with the Directors and Personnel of that Clearing Participant and as prescribed by Procedure; Procedure 2.26

(j) except as disclosed to and accepted in writing by CHO, not create, purport to create or permit to subsist any Security Interest in Collateral, and not either by one transaction or a series of transactions, whether related or not and whether at one time or over a period of time, sell, lease, transfer or otherwise dispose of or create any interest in (including on terms whereby they are or may be leased to or re-acquired by the Clearing Participant), or purport to do any of those things in respect of Collateral except as required or permitted by these Rules or the Depository Rules;

(k) give such notice or do such other thing as may be necessary to make known to the attention of any of its present or future creditors the Security Interest in Collateral (other than Transferred Collateral) created by these Rules and the Clearing Participant's application form or any other document;

(l) co-operate with CHO in exercise of the powers set out in Rule 6.5 on such periodic or other systematic basis as may be prescribed by Procedure. Procedures 2.27-2.31

2.7.3 Without limiting Rule 2.7.1, a Lending Clearing Participant (not being a Lending Clearing Participant who will only be a Lender) must at all times:

(a) have a Settlement Bank;

(b) except as disclosed to and accepted in writing by CHO, not create, purport to create or permit to subsist any Security Interest in Collateral, and not either by one transaction or a series of transactions, whether related or not and whether at one time or over a period of time, sell, lease, transfer or otherwise dispose of or create any interest in (including on terms whereby they are or may be leased to or re-acquired by the Lending Clearing Participant), or purport to do any of those things in respect of Collateral except as required or permitted by these

Rules or the Depository Rules;

(c) give such notice or do such other thing as may be necessary to make known to the attention of any of its present or future creditors the Security Interest in Collateral (other than Transferred Collateral) created by these Rules and the Lending Clearing Participant's application form or any other document; and

(d) co-operate with CHO in exercise of the powers set out in Rule 6.5 on such periodic or other systematic basis as may be prescribed by Procedure.

Procedures 2.27-2.31

2.8 Overseas Activities and Overseas Participants

2.8.1 A Clearing Participant or a Lending Clearing Participant who proposes to locate any part of its business as a Clearing Participant or Lending Clearing Participant outside New Zealand or locate any of its Personnel engaged in its business as a Clearing Participant or Lending Clearing Participant outside New Zealand must:

(a) give CHO prior written Notice of the Overseas Activity;

(b) obtain all necessary regulatory consents and approvals from any relevant government agency or regulatory authority in New Zealand or elsewhere, for the Overseas Activity;

(c) comply with the directions of CHO and of any relevant government agency or regulatory authority in New Zealand or elsewhere concerning supervision of the Overseas Activity;

(d) satisfy CHO it has sufficient arrangements in place to ensure that the Clearing Participant or Lending Clearing Participant as the case may be, and CHO can communicate with each other promptly on a day to day operational basis and so that the Clearing Participant or Lending Clearing Participant can comply promptly with the Rules or Procedures and any decisions, directions and requirements of CHO under the Rules or the Procedures or the NZ Markets Disciplinary Tribunal Rules;

(e) comply with any request by CHO requiring any part of the Clearing Participant's business as a Clearing Participant or as the case may be, a Lending Clearing Participant's business as a Lending Clearing Participant (or any records or copies of records relating to that business) to be located in New Zealand.

2.8.2 If any of the records a Clearing Participant or Lending Clearing Participant is required to maintain under these Rules, or are otherwise maintained in relation to its business as a Clearing Participant or Lending Clearing Participant, are at any time located outside New Zealand:

(a) the Clearing Participant or Lending Clearing Participant must notify CHO of the details of the location of any such records located outside New Zealand, and the means of storage;

(b) the Clearing Participant or Lending Clearing Participant must satisfy CHO that CHO will be able to promptly and effectively exercise its powers conferred by these Rules (including Rule 6.5 and Rule 7.4) in relation to those records; and

(c) CHO may at any time direct the Clearing Participant or Lending Clearing Participant as the case may be to deliver to CHO in New Zealand, at the Clearing Participant's or Lending Clearing Participant's (as the case may be) expense and by the time specified by CHO, any such records that are located outside New Zealand.

2.8.3 If a Clearing Participant or Lending Clearing Participant as the case may be, is incorporated outside of New Zealand, or conducts all or part of its business outside New Zealand and:

(a) any tax or duty of any kind may be liable to be paid by CHO or any other Clearing Participant or Lending Clearing Participant as the case may be;

(b) the Clearing Participant or Lending Clearing Participant as the case may be, may be required by any law or regulation to withhold payment of an amount or deduct tax or duty of any kind from an amount payable to CHO or any other Clearing Participant or Lending Clearing Participant as the case may be; or

(c) CHO or any other Clearing Participant or Lending Clearing Participant as the case may be, may be required by any law or regulation to withhold payment of an amount or deduct tax or duty of any kind from an amount payable by CHO or any other Clearing Participant or Lending Clearing Participant as the case may be,

in respect of any transaction or agreement between the Clearing Participant or Lending Clearing Participant as the case may be, and CHO or any other Clearing Participant or Lending Clearing Participant as the case may be, (including a Transaction or a Settlement Transaction) and that duty or tax would not be liable

to be paid or would not be required to be withheld or deducted if the Clearing Participant or Lending Clearing Participant as the case may be, were incorporated in New Zealand and conducting its business as a Clearing Participant or Lending Clearing Participant as the case may be, wholly in New Zealand, then the Clearing Participant or Lending Clearing Participant as the case may be, must, prior to entry into that transaction or agreement, disclose in writing to CHO, CDO and every other affected Clearing Participant or Lending Clearing Participant as the case may be, that the duty or tax may be payable, or a withholding or deduction may have to be made, and the nature and amount or rate of the duty, tax, withholding or deduction.

2.8.4 Subject to these Rules or the Depository Rules, all payments made under these Rules by a Clearing Participant or a Lending Clearing Participant or in respect of a Settlement Transaction must be made without any deduction or withholding on account of any taxes. If any deduction or withholding is required by law, then the payer must pay such additional amount to ensure the other party receives the full amount that the other party would have received had no such deduction or withholding been required.

2.9 Notification and Provision of Information

2.9.1 Each Clearing Participant must give CHO Notice of the following promptly after becoming aware of the same:

(a) any breach by the Clearing Participant of these Rules or occurrence of a Potential Credit Event or Credit Event in respect of the Clearing Participant (and the steps, if any, being taken to remedy it);

(b) the resignation of a Director, Responsible Person or auditor;

(c) any change in the Control of the Clearing Participant;

(d) the details of any litigation, arbitration or administrative proceedings, claim or action (including disciplinary or enforcement actions) taken, threatened or pending against the Clearing Participant or any Director, Personnel, agent or Person acting on the Clearing Participant's behalf by any regulatory authority, Alternative Regulator, exchange, market operator, clearing and settlement facility or any other Person which, if adversely determined, would reasonably be likely to have a material adverse effect on:

(i) the business, operations, property, condition (financial or otherwise) or prospects of the Clearing Participant, or taken as a whole, the

Clearing Participant and its Related Companies; or

(ii) the ability of the Clearing Participant to comply with the Rules; or

(iii) the validity or enforceability of, or the effectiveness or ranking of any Security Interest in any Collateral if granted or purported to be granted in favour of CHO or the rights and remedies of CHO under the Rules;

(e) any breach by another Clearing Participant of these Rules or occurrence of a Credit Event in respect of another Clearing Participant;

(f) any material change in information concerning the Clearing Participant or the Clearing Participant's business from that previously provided to CHO including any change in the Clearing Participant's Settlement Bank;

(g) any change that results in the information provided to CHO for the purpose of registration of a financing statement against the Clearing Participant on the PPSR is no longer complete or accurate;

(h) any information necessary for CHO to register a financing change statement in respect of the Clearing Participant on the PPSR, including to renew any financing statement prior to its scheduled expiry date;

(i) any event or emergency, whether or not within the Clearing Participant's control, which impairs the Clearing Participant's ability to comply with the Rules, or to properly and effectively conduct its business as a Clearing Participant, or which may otherwise have a material adverse effect on the Clearing Participant; and

(j) the creation of any Security Interest in Collateral other than by or in favour of CHO, or any claim made or notice received in relation to the existence of such a Security Interest.

2.9.2 Each Clearing Participant must give CHO not less than 5 Business Days prior written notice of:

(a) the proposed appointment of a Director, Responsible Person or auditor;

(b) the proposed change in its management structure from that which the Clearing Participant has previously provided

to CHO;

(c) any proposed Major Transaction, (or analogous transaction under the law of another jurisdiction) or material change in the nature or scope of its business or any proposed cessation of its business as a Clearing Participant;

(d) any change in any of the Directors, any Personnel, agents or other Persons who the Clearing Participant allows, or proposes to allow, to access the Clearing House System on its behalf;

(e) the change of its name or the name in which it carries on business, or any change in the address at which the Clearing Participant carries on business or stores or maintains records or other information required to be stored or maintained by these Rules;

(f) the change to the contact details for the Clearing Participant, the Responsible Person or any Director, Personnel, agent or other Person acting on behalf of the Clearing Participant, which the Clearing Participant has previously provided to CHO;

(g) any proposed issue, re-purchase or redemption of securities issued by the Clearing Participant (including the purchase of all or any of the shares of a shareholder following receipt by the Clearing Participant of a notice by that shareholder pursuant to section 111(1) of the Companies Act 1993), any proposed amalgamation or reconstruction of the Clearing Participant, any proposed provision of financial assistance for the acquisition of securities issued by the Clearing Participant or its holding company, or any release of its security holders from liability to the Clearing Participant, including the obligation to pay uncalled consideration on securities;

(h) any proposed change in its legal or corporate structure, change to its constitution or place, jurisdiction or nature of incorporation; or

(i) If CHO has approved a guarantee for the purposes of ~~Clause 3.1(b)~~Rule 9.4.2(b) ~~of the Appendix~~ in respect of the Clearing Participant, any proposed Net Underwriting Commitment, but only if the Clearing Participant would need to include that guarantee in its Capital Adequacy Calculations in order to meet the minimum requirements of Rule 9.1~~2.15~~.

2.9.3 Each Lending Clearing Participant must give CHO Notice of the following promptly after becoming aware of the same;

(a) any breach by the Lending Clearing Participant of these Rules or occurrence of a Potential Credit Event or Credit Event in respect of the Lending Clearing Participant (and the steps, if any, being taken to remedy it);

(b) the details of any litigation, arbitration or administrative proceedings, claim or action (including disciplinary or enforcement actions) taken, threatened or pending against the Lending Clearing Participant or any Director, Personnel, agent or Person acting on the Lending Clearing Participant's behalf by any regulatory authority, Alternative Regulator, exchange, market operator, clearing and settlement facility or any other Person which, if adversely determined, would reasonably be likely to have a material adverse effect on:

(i) the business, operations, property, condition (financial or otherwise) or prospects of the Lending Clearing Participant, or taken as a whole, the Lending Clearing Participant and its Related Companies; or

(ii) the ability of the Lending Clearing Participant to comply with the Rules; or

(iii) the validity or enforceability of, or the effectiveness or ranking of any Security Interest in any Collateral if granted or purported to be granted in favour of CHO or the rights and remedies of CHO under the Rules;

(c) any event or emergency, whether or not within the Lending Clearing Participant's control, which impairs the Lending Clearing Participant's ability to comply with the Rules; and

(d) the creation of any Security Interest in Collateral other than by or in favour of CHO, or any claim made or notice received in relation to the existence of such a Security Interest.

2.9.4 Each Lending Clearing Participant must give CHO Notice of the following as soon as reasonably practicable after becoming aware of the same;

(a) any change that results in the information provided to CHO for the purpose of registration of a financing statement against the Lending Clearing Participant on the PPSR is no longer complete or accurate; and

(b) any information necessary for CHO to register a financing

change statement in respect of the Lending Clearing Participant on the PPSR, including to renew any financing statement prior to its scheduled expiry date.

2.9.5 CHO may, at any time and in its complete discretion, request in writing any information from a Clearing Participant or a Lending Clearing Participant to enable CHO to determine whether that Clearing Participant or Lending Clearing Participant is complying with all applicable Rules, Procedures and other Notices or directives given from time to time by CDO or applicable laws and regulations and/or to ensure CHO can carry out its functions and/or comply with any obligations it may have, including under the Rules, a Reciprocal Arrangement or as required by law, regulation or directive.

2.9.6 Upon receipt of a request for information from CHO pursuant to Rule 2.9.5, a Clearing Participant or Lending Clearing Participant may apply in writing to CHO for that information not to be disclosed to any specific Persons. CHO will consider such request but is not obliged to accept such request if CHO considers that such request would cause it to be in breach of any obligations it may have, including to disclose information to any Person under any Reciprocal Arrangement, the Rules or otherwise.

2.10 Settlement Banks

2.10.1 Each Clearing Participant and each Lending Clearing Participant who is a Borrower must at all times have a Settlement Bank, and must notify CHO of the name of its Settlement Bank.

2.10.2 CHO may direct a Clearing Participant or a Lending Clearing Participant to cease using a particular Bank as its Settlement Bank, and to appoint another Bank as its Clearing Bank if CHO is of the view that such is necessary for the financial stability of the Clearing House.

2.11 Clearing Participants' and Lending Clearing Participants' Warranties

2.11.1 Each Clearing Participant and each Lending Clearing Participant represents, warrants and undertakes to CHO that:

(a) the Clearing Participant or Lending Clearing Participant, as the case may be, is duly incorporated and validly existing under the laws of the jurisdiction of its incorporation, has the power to own its assets, to enter into, and to exercise its rights, and observe, perform and comply with its obligations under, the Rules and each Settlement Transaction, and to carry on its business as a Clearing Participant or Lending Clearing Participant;

(b) everything required to be done (including the obtaining of any necessary consents and authorisations, the declaration of any interests, and the passing of all necessary resolutions) to:

(i) enable the Clearing Participant or Lending Clearing Participant, as the case may be, to lawfully enter into perform and deliver, and to exercise its rights, and observe, perform and comply with its obligations under, the Rules and each Settlement Transaction (including obtaining consent to the novation of Clearing and Settlement Terms to that Clearing Participant from its Customer (and where applicable, its Customer's client)); and

(ii) ensure that those obligations are legal, valid, binding and enforceable in accordance with their terms,

has been duly done and remains in full force and effect;

(c) the Clearing Participant or Lending Clearing Participant, as the case may be, is in compliance in all material respects with all laws, regulations, by-laws, directives and consents relevant to its clearing and settlement business or lending or to which any Collateral is subject;

(d) no circumstances exist which would constitute a Potential Credit Event and no circumstances exist which would require notification to CHO under Rule 2.9 that have not been notified;

(e) all information provided by the Clearing Participant or Lending Clearing Participant, as the case may be, to CHO under the Rules or the Procedures is correct, accurate, complete, true and not misleading in any material way (whether by omission or otherwise), and is compliant with any applicable law, regulation or reporting standard as at the date when that information was provided to CHO, and remains so, and there are no facts or circumstances that have not been disclosed to CHO that would make that information incorrect, inaccurate, incomplete, untrue or misleading in any material respect;

(f) no event has occurred as a result of which the Clearing Participant or Lending Clearing Participant, as the case may be, has become Insolvent.

2.11.2 Each Clearing Participant and Lending Clearing Participant,

represents, warrants and undertakes that:

(a) it has sufficient rights in any Collateral (other than Transferred Collateral) to grant a Security Interest in that Collateral in favour of CHO and, immediately prior to granting a Security Interest in that Collateral in favour of CHO, it had the full, sole and equitable, legal and beneficial title to that Collateral;

(b) the Security Interest granted to CHO in Collateral (other than Transferred Collateral) is valid and enforceable in accordance with its purported terms and the Clearing Participant or Lending Clearing Participant, as the case may be, has no notice or knowledge of any defect, invalidity or unenforceability of its purported rights in respect of or under that Collateral;

(c) in respect of all Transferred Collateral (other than Third Party Collateral):

(i) immediately prior to delivering the Transferred Collateral to CHO, it had good legal and beneficial title to the Transferred Collateral, and was entitled to transfer good legal and beneficial title to CHO absolutely in accordance with the Rules, free and clear of any Security Interest, lien, encumbrance or other restriction;

(ii) it has not received any Notice of, and is otherwise not aware of any proprietary or equitable interest or other Security Interest or right in or to Transferred Collateral that is or may be held or asserted by any other Person in a manner that may prevent or impede CHO from dealing with the Transferred Collateral free from that proprietary or equitable interest or otherwise in accordance with the Rules;

(iii) the Transferred Collateral is what it purports to be and that it is not aware of any fact which renders (or may render) the Transferred Collateral valueless, defective, cancelled, void, or subject to a lien, Security Interest or other claim;

(d) to the extent that any Investment Securities or rights in any Investment Securities constitute Collateral, those Investment Securities are fully paid;

(e) no Collateral is subject to any right of set off, netting or combination of accounts, any flawed asset arrangement or

any other defence or claim in favour of any Person other than CHO;

(f) no Security Interest exists over or affects any Collateral (other than in favour of CHO, in the case of Collateral that is not Transferred Collateral), nor is there any agreement to give or permit to exist a Security Interest in or affecting any Collateral;

(g) it is not in default, and will not as a result of entry into any Settlement Transaction become in default, under any agreement relating to indebtedness, any guarantee or any other agreement to an extent or in a manner that has or could have a material adverse effect on the Clearing House, Clearing Participant or Lending Clearing Participant, as the case may be, or any other Clearing Participant or Lending Clearing Participant.

2.11.3 The representations and warranties of the Clearing Participant or Lending Clearing Participant, as the case may be, contained in Rules 2.11.1 and 2.11.2 will be deemed to be repeated by the Clearing Participant or Lending Clearing Participant, as the case may be, on each Business Day, immediately prior to the creation of each Settlement Transaction, immediately prior to the settlement of any obligation in respect of a Settlement Transaction, and immediately prior to the delivery of Eligible Collateral, by reference to the facts and circumstances existing at each such time.

2.11.4 Each Clearing Participant or Lending Clearing Participant, as the case may be, acknowledges that CHO has been induced to accept the Clearing Participant as a Clearing Participant or Lending Clearing Participant as a Lending Clearing Participant, as the case may be, and enter into each Settlement Transaction in reliance upon the representations, warranties and undertakings contained in Rules 2.11.1 and 2.11.2 and that CHO continues to rely on those representations, warranties and undertakings until all obligations of the Clearing Participant or Lending Clearing Participant, as the case may be, under these Rules have been discharged in full.

2.11.5 Without prejudice to any of CHO's rights, including the rights arising under Rules 7.3 or 7.4, if a Clearing Participant or Lending Clearing Participant, as the case may be, becomes aware that any representation, warranty or undertaking of the Clearing Participant contained in Rules 2.11.1 and 2.11.2 and/or repeated pursuant to Rule 2.11.3 is untrue or inaccurate or any of the information which it has previously given to CHO was incorrect, inaccurate, incomplete, untrue or misleading in any material respect, it must promptly notify CHO in writing and

submit the correct information together with an explanation.

2.12 Scope of Obligations and Responsibility for Personnel and other Persons

2.12.1 A reference to a Clearing Participant in these Rules extends to and includes:

(a) in relation to the obligations of a Clearing Participant under the Rules, all Subsidiaries of the Clearing Participant, to the extent necessary to ensure that the object of any applicable Rules, Procedures or any direction given from time to time by CHO is not frustrated or avoided by reason of the separate legal personality of the members of a group comprising the Clearing Participant and its Subsidiaries;

(b) for the purposes of Rule 9.12~~.15~~, all Related Companies of the Clearing Participant which guarantee or otherwise assume or may assume liability for the obligations of the Clearing Participant or any of its Subsidiaries for the purpose of enabling that Clearing Participant to meet its obligations under Rules 9.12~~.15~~;

(c) any Related Company of a Clearing Participant who CHO declares to be included by notice in writing to the Clearing Participant (for the purpose of all the Rules or only such Rules as are specified by CHO in the notice), where CHO believes that it is necessary or desirable to ensure that the object of any applicable Rules, Procedure or any direction given from time to time by CHO is not frustrated or avoided by reason of the separate legal personality of the members of the group of which the Clearing Participant forms part.

2.12.2 Each Clearing Participant must provide to CHO, in writing, details of all entities to which Rule 2.12.1(a) and (b) applies and of any changes to any of those entities no later than 5 Business Days after the Rule begins or ceases to apply to that entity. In addition each Clearing Participant must provide to CHO within 5 Business Days of being requested to do so, all details in respect of any Related Company of the Clearing Participant that CHO believes are necessary to enable it to make a determination pursuant to Rule 2.12.1(c).

2.12.3 If requested by CHO, each Clearing Participant must procure any Subsidiary or Related Company to which Rule 2.12.1 applies to deliver to CHO a duly executed written acknowledgement and undertaking that the Subsidiary or Related Company (as the case may be) agrees to be jointly and severally liable to CHO for any breach of the Rules by the relevant Clearing Participant.

2.12.4 A Clearing Participant and Lending Clearing Participant is responsible to CHO for the conduct of the Clearing Participant's Personnel, Responsible Person, agents and other Persons acting on its behalf for the purposes of and in the course of its activities as a Clearing Participant. Such conduct will be treated for the purposes of these Rules as conduct of the Clearing Participant.

2.12.5 A Clearing Participant and Lending Clearing Participant must ensure that all Directors, Personnel, agents or other Persons acting on its behalf in relation to its business as a Clearing Participant are employed, contracted or engaged on such term and conditions as are necessary for the purposes of Rule 6.5.1(b).

2.12.6 A Clearing Participant and Lending Clearing Participant must ensure that all Persons that are directly involved in the operation of its business as a Clearing Participant or Lending Clearing Participant or are provided with access to the Clearing House System on behalf of the Clearing Participant or Lending Clearing Participant are:

(a) under the supervision and control of the Responsible Person; and

(b) have and continue to have, the appropriate training, skills, knowledge, expertise and experience required to perform their respective functions; and

(c) are of good reputation and character and high business integrity.

2.13 Responsible Persons

2.13.1 Each Clearing Participant and each Lending Clearing Participant must nominate for approval by CHO an individual to be the Responsible Person for that Clearing Participant or Lending Clearing Participant. An application shall be made by submitting to CHO a duly completed application form, together with any other information required by this Rule 2.13 and the Procedures. CHO will not approve the nominated individual to be the Responsible Person for a Clearing Participant or Lending Clearing Participant unless CHO is satisfied (at CHO's absolute discretion) that the individual satisfies the requirements set out in Rule 2.13.2.

2.13.2 Each Responsible Person must:

(a) be of, and continue to be of, good reputation and character and high business integrity;

(b) have, and continue to have, skills, knowledge, expertise and experience and have completed qualifications or training, of a type specified by Procedure; Procedure 2.32.1

(c) have, and continue to have, sufficient power and authority within the Clearing Participant or Lending Clearing Participant to fulfil the functions of a Responsible Person;

(d) have not engaged in, and must not engage in, Unprofessional Conduct;

(e) where that Responsible Person is not resident in New Zealand, irrevocably appoint one or more Persons resident or incorporated in New Zealand who are authorised to accept service in New Zealand of documents on behalf of the Responsible Person and provide a physical address for each such Person and agree that failure by an agent for service to notify the Responsible Person of the service of documents will not invalidate the proceedings;

(f) immediately appoint another Person for the purpose of paragraph (e) if, for any reason, the Person is unable to act, and failing this authorise CHO to appoint another Person for this purpose; and

(g) provide to CHO a written undertaking:

(i) to comply with and be bound by the Rules and the Procedures and any decisions, directions and requirements of the Rules or the Procedures as they apply to a Responsible Person;

(ii) to procure the Clearing Participant or Lending Clearing Participant to comply with the Rules, the Procedures and any decisions, directions and requirements of CHO under the Rules or the Procedures; and

(iii) submitting to the exclusive jurisdiction of the courts of New Zealand and waiving any objection arising at any time to the undertaking of proceedings in relation to the Rules and Procedures or, in respect of Responsible Persons of Clearing Participants only, the NZ Markets Disciplinary Tribunal Rules applicable to him or her, in New Zealand, any claim that such proceedings have been brought in an inconvenient forum and the right to object to such proceedings on the basis that the courts of New Zealand or NZ Markets Disciplinary

Tribunal do not have jurisdiction over him or her.

2.13.3 In determining an application to be approved as a Responsible Person:

(a) CHO may have regard to any information available to CHO in whatever form and from whatever source;

(b) CHO will use all reasonable endeavours to make its decision whether to accept or reject an application for an individual to be a Responsible Person within a reasonable time of application;

(c) CHO may request an applicant to provide further information, undertake such investigations and seek such information from such other Persons, as CHO considers necessary to establish whether the applicant satisfies the requirements of Rule 2.13.2; and

(d) CHO will notify the applicant of the outcome of its application.

2.13.4 A Responsible Person must:

(a) if requested by CHO, represent the Clearing Participant or Lending Clearing Participant in any dealing with CHO, and have full power to bind the Clearing Participant or Lending Clearing Participant;

(b) procure that the Clearing Participant or Lending Clearing Participant complies at all times with the Rules and the NZ Markets Disciplinary Tribunal Rules and any directions issued from time to time by CHO or the NZ Markets Disciplinary Tribunal;

(c) be responsible for the control, leadership, influence and supervision of the Clearing Participant's clearing and settlement business and, if applicable, its Securities lending activities;

(d) be responsible for the control, leadership, influence and supervision of the Lending Clearing Participant's Securities lending activities;

(e) submit to CHO such reports or certifications in relation to the Clearing Participant's business as a Clearing Participant or its Securities lending activities and/or its compliance with these Rules as prescribed by Procedure or Lending Clearing Participant's Securities lending activities and/or its compliance with these Rules as

Procedures 2.33 - 2.34

prescribed by Procedure;

(f) submit to CHO, as prescribed by Procedure, details of any natural Persons who are authorised to sign documents in connection with the Clearing Participant's business as a Clearing Participant and its Securities lending activities or Lending Clearing Participant's Securities lending activities and these Rules on behalf of the Clearing Participant or Lending Clearing Participant and/or the Responsible Person, and promptly notify CHO in writing of any changes to those details; Procedure 2.35

(g) procure that all information which the Responsible Person gives to CHO is correct, accurate, complete, true and not misleading and if the Responsible Person becomes aware that information which he or she has previously given to CHO was incorrect, inaccurate, incomplete, untrue or misleading, promptly notify CHO in writing and submit the amended information together with an explanation; and

(h) complete any training or continuing education requirements prescribed by the Procedures. Procedure 2.36

2.13.5 For the purposes of Rule 2.13.7 or for any disciplinary proceedings taken in accordance with Rule 6.8.1, CHO or the NZ Markets Disciplinary Tribunal may deem any Person who:

(a) is entitled to exercise powers of control over the Responsible Person of a Clearing Participant; or

(b) in accordance with whose directions or instructions the Responsible Person of a Clearing Participant is required or is accustomed to act; or

(c) is otherwise entitled to exercise a degree of control over a Clearing Participant which effectively confers upon that Person the powers and responsibilities of a Responsible Person,

to be a Responsible Person.

2.13.6 CHO may (in its absolute discretion) withdraw its approval for an individual to be the Responsible Person for a Clearing Participant or Lending Clearing Participant, by Notice to the Clearing Participant or Lending Clearing Participant, for any reason whatsoever, including if:

(a) CHO considers that:

(i) the Responsible Person no longer satisfies any of the requirements set out in Rule 2.13.2;

(ii) the Responsible Person fails to comply with the obligations set out in the Rules, including Rule 2.13.4; or

(iii) the continuation of that individual as the Responsible Person for the Clearing Participant or Lending Clearing Participant will be detrimental, or reasonably likely to be detrimental, to the wellbeing, proper conduct, stability or integrity of the Clearing House or the clearing and settlement of Settlement Transactions; or

(b) the Clearing Participant or Lending Clearing Participant is, or is to be, Suspended under Rule 7.11 or terminated under Rule 7.13.

2.13.7 Where a Responsible Person of a Clearing Participant or Lending Clearing Participant fails to comply with the obligations set out in the Rules or Procedures, that Clearing Participant or Lending Clearing Participant will also have contravened the Rules.

2.14 C&S Agreements

2.14.1 Each General Clearing Participant and Default Clearing Participant must enter into and maintain a C&S Agreement with each Person for whom it will provide clearing and settlement services. Each General Clearing Participant, and each Default Clearing Participant, must notify CHO in writing of:

(a) each C&S Agreement it enters into and the terms and conditions of that agreement; and/or

(b) each C&S Agreement it terminates or does not renew on expiry.

2.14.2 A C&S Agreement must provide for the matters prescribed by Procedure. A C&S Agreement may include such other terms and conditions that are not inconsistent with the Rules or the matters prescribed by Procedure. If any such inconsistency exists, the Rules and the matters prescribed by Procedure will prevail.

Procedure 2.37

2.14.3 A C&S Agreement must contain provisions to the effect that:

(a) The Customer and the Clearing Participant agree that the terms of their relationship in respect of Transactions and any dealings between them concerning Approved Products are subject to, and that they are bound by, the Securities Legislation and the Rules in so far as they apply

to Transactions.

(b) The Customer and the Clearing Participant:

(i) acknowledge that at the time specified by Rule 3.3.2, every Transaction subject to clearing on the Clearing House will be novated in accordance with Rule 3.3 and the Clearing Participant will become principal in the resulting Settlement Transaction and take on all of the delivery and settlement obligations for that Settlement Transaction; and

(ii) agree to the novation to the full extent required by law.

(c) The Customer acknowledges and agrees that:

(i) any benefit or right obtained by a Clearing Participant or any other legal result, upon novation of Transactions in accordance with Rule 3.3, is personal to the Clearing Participant and the benefit of that benefit, right or legal results does not pass to the Customer. The Customer has no rights, whether by way of subrogation, or otherwise, against CHO in relation to any Transaction novated in accordance with Rule 3.3;

(ii) the liability of CHO and/or any Affected Persons to any Person (including the Customer) is limited or excluded by, and subject to, the provisions of Rule 8.1;

(iii) the liability of any Affected Persons (as defined pursuant to Rule 9.5 of the Depository Rules) to any Person (including the Customer) is limited by, and subject to, the provisions of Rule 9.1 of the Depository Rules;

(iv) the Customer shall ensure that each client agreement entered into between the Customer and its clients includes such disclosures, statements and other provisions as are required by the rules of the NZX Market to be included in the client agreement in relation to clearing and settlement of Transactions for the client, including a statement that the client acknowledges and agrees that the liability of CHO and/or any Affected Persons to any Person (including the client) is limited or

excluded by, and subject to, the provisions of Rule 8.1 and a statement that the client acknowledges and agrees that every Transaction subject to clearing on the Clearing House will be novated in accordance with the Rules; and

(v) it shall provide the Clearing Participant with such information as CHO may request in writing to the Clearing Participant.

(d) In respect of a Transaction to be cleared and settled in accordance with the Rules, the Clearing Participant has and shall have, at all times, the full and exclusive rights, power and authority to act in all of its activities with CHO to the exclusion of any other Person (including any client or other Person on behalf of whom the Customer is acting), including full authority to bind the original party to the Transaction to these Rules and authorise the dealing of that Person's Admitted Product in the Depository in accordance with these Rules.

(e) The Clearing Participant and the Customer irrevocably and severally appoint CHO, and every Director or Personnel for the time being of CHO, at the option of CHO to do all acts and execute all documents on the Clearing Participant's or the Customer's behalf for the purpose of exercising the powers conferred on CHO under the Rules including the power to sell or buy Approved Products, or to give-up, take-up, dispose of, close out or otherwise acquire Settlement Transactions.

(f) The Customer and the Clearing Participant acknowledge that to the extent that there are any inconsistencies between the C&S Agreement and the Rules, (whether arising because of amendment to the Rules or otherwise) the Rules will prevail and apply as if the Customer and the Clearing Participant had agreed and entered into an agreement consistent with the Rules.

(g) Other than amendments that are not material (e.g. pricing changes, minor typographical errors, etc) a Clearing Participant must notify CHO in writing of any proposed amendments to a C&S Agreement to which they are a party at least 10 Business Days before the amendment becomes effective.

(h) The Customer and the Clearing Participant agree that they will make (at their own cost) any amendments to the C&S Agreement as may reasonably be required from time to

time by CHO.

(i) The Clearing Participant remains responsible for discharging its obligations under Settlement Transactions resulting from Transactions entered into by the Customer notwithstanding the termination of its C&S Agreement.

(j) If a Clearing Participant intends to terminate its C&S Agreement with a Trading Participant, the Clearing Participant must notify CHO in writing of the time and date when this will occur.

(k) The effect of any purported termination of a C&S Agreement shall be subject to the rules of any NZX Market in respect of which the Clearing Participant provides clearing and settlement services under the C&S Agreement.

(l) The termination of a C&S Agreement is not effective until CHO accepts the termination in writing. In deciding whether to accept a termination, CHO may have regard to whether:

(i) the operator of any relevant NZX Market has been informed of the proposed termination;

(ii) the Customer is suspended by the operator of any relevant NZX Market and all orders of the Customer are removed from the NZX Market;

(iii) the Customer has become a Clearing Participant;

(iv) the Customer has entered into a C&S Agreement with another Clearing Participant; and

(v) appropriate arrangements have been made for the settlement, close out or give-up take-up of any Settlement Transactions of the Clearing Participant in relation to the Customer.

(m) Unless alternative arrangements have been made for the settlement, close out or give-up take-up of any Settlement Transactions of the Clearing Participant in relation to the Customer, the Clearing Participant continues to have the obligation for Settlement Transactions resulting from Transactions entered into by the Customer prior to the termination of the C&S Agreement.

(n) The Customer must, by the time specified in the C&S Agreement (which may be no later than 48 hours after the

request for payment), or, if the C&S Agreement does not specify the time, within 24 hours after the request for payment:

(i) pay to the Clearing Participant any amounts which the Clearing Participant asks the Customer to pay under Rule 3.18.1; or

(ii) provide security for those amounts which is acceptable to the Clearing Participant.

2.14.4 In relation to a Clearing Participant providing clearing and settlement services to a Customer, the Clearing Participant and Customer are bound by each term set out in Rule 2.14.3, whether or not that term is actually incorporated in a C&S Agreement with that Customer.

2.14.5 CHO may request that a Clearing Participant who enters into a C&S Agreement in accordance with this Rule 2.14 provide a legal opinion, from lawyers acceptable to CHO and at the Clearing Participant's expense, that a C&S Agreement complies with the requirements of Rules 2.14.2 and 2.14.3.

2.14.6 CHO may publish to any other Clearing Participant such details provided to it under Rule 2.14.1 as it believes necessary to ensure all Clearing Participants are aware of the Persons for whom each Clearing Participant provides clearing and settlement services.

~~**2.15 Capital Adequacy**~~

~~2.15.1 **Minimum Capital Required:** Subject to Rule 2.15.2, a Clearing Participant must at all times maintain its Net Tangible Current Assets at a level equal to, or greater than, its Prescribed Minimum Capital Adequacy, which shall be the higher of:~~

~~(a) the Minimum NTCA of the Clearing Participant, as prescribed for its category of Clearing Participant by Rule 2.16; and~~

~~(b) the Total Risk Requirement of the Clearing Participant, as calculated in accordance with Rule 2.19.~~

~~2.15.2 **Other Prudential Supervision Regime**: A Clearing Participant may be exempted from the requirements of Rule 2.15.1, if CHO is satisfied that the Clearing Participant is subject to, and is complying with, an equivalent level of prudential supervision by an Alternative Regulator, in accordance with the laws of the applicable jurisdiction.~~

~~2.15.3 A Clearing Participant holding an exemption under Rule 2.15.2~~

must:

(a) comply with all obligations to, or requirements of, the Alternative Regulator;

(b) provide CHO with copies of any filings or communication with the Alternative Regulator at the same time this information is provided to the Alternative Regulator;

(c) provide CHO with copies of any reports from the Alternative Regulator relating to the compliance or non-compliance with the requirements of the Alternative Regulator's prudential supervision regime;

(d) ensure that a Reciprocal Arrangement is in place with the Alternative Regulator to provide information to CHO in respect of the Clearing Participant at the request of CHO and without notification to the Clearing Participant; and

(e) notify CHO if the Clearing Participant ceases to be subject to regulation by the Alternative Regulator as soon as reasonably practicable after becoming aware of the same.

2.15.4 An exemption under Rule 2.15.2 may be revoked at any time by CHO and will be deemed to be revoked immediately if:

(a) the Clearing Participant ceases to be subject to regulation by the Alternative Regulator; or

(b) the Clearing Participant's standing, authorisation or approval conferred by the Alterative Regulator is suspended or terminated or otherwise materially adversely impaired.

2.16 Capital Adequacy Requirements

2.16.1 The Minimum Net Tangible Current Asset levels are:

(a) $1,000,000 for an Individual Clearing Participant;

(b) $5,000,000 for a General Clearing Participant; and

(c) $5,000,000 for a Default Clearing Participant.

2.17 Capital Adequacy Reporting

2.17.1 A Clearing Participant must calculate and record, as at the end of each Business Day:

(a) the Clearing Participant's Net Tangible Current Assets;

(b) the Clearing Participant's Total Risk Requirement; and

(c) the percentage that the Clearing Participant's Net Tangible

Current Assets and Total Risk Requirement amounts form of its Prescribed Minimum Capital Adequacy,

(together, the "**Capital Adequacy Calculations**").

Procedure 2.19

2.17.2 A Clearing Participant must provide to CHO a monthly report of its daily Capital Adequacy Calculations during that month at the time and in the manner prescribed by Procedure.

Procedure 2.20

2.17.3 CHO may by Notice require a Clearing Participant to provide to CHO a report of its daily Capital Adequacy Calculations on a more regular basis as and when CHO considers necessary or desirable.

2.17.4 A Clearing Participant must notify CHO if the Clearing Participant's Net Tangible Current Assets are at any time less than 120% of its Prescribed Minimum Capital Adequacy as soon as reasonably practicable after becoming aware of the same.

2.17.5 Following notification under Rule 2.17.4, a Clearing Participant must provide to CHO a daily report of its Capital Adequacy Calculations for that day until its Net Tangible Current Assets exceed 120% of its Prescribed Minimum Capital Adequacy.

2.17.6 A Clearing Participant must notify CHO if the Clearing Participant's Net Tangible Current Assets as a percentage of its Prescribed Minimum Capital Adequacy changes by more than 50 percentage points between two consecutive Business Days as soon as reasonably practicable after becoming aware of the same.

2.18 NTCA Calculation

Appendix 2.3

2.18.1 A Clearing Participant's Net Tangible Current Assets are calculated as the sum of its tangible assets less the sum of its liabilities, as calculated in accordance with the Appendix.

2.18.2 In the event of any inconsistency between the Appendix and Generally Accepted Accounting Practice, the Appendix will prevail.

2.19 Total Risk Requirement Calculation

Appendix 2.3

2.19.1 A Clearing Participant's Total Risk Requirement is calculated as being the aggregate of its:

(a) Operational Risk Requirement;

(b) Counterparty Risk Requirement;

(c) Large Position Risk Requirement;

~~(d) Position Risk Requirement;~~

~~(e) Currency Risk Requirement;~~

~~(f) Primary Market Risk Requirement; and~~

~~(g) Market Risk Requirement (if any),~~

~~calculated in the manner determined by the Appendix.~~

~~2.20~~2.15 Unencumbered Funds and Products

~~2.20.1~~2.15.1 All:

(a) amounts transferred to a Payment Account, Account (including a Settlement Account) or Money Collateral Account; or

(b) Approved Product transferred to an Account (including a Settlement Account) or a Product Collateral Account,

by or on behalf of a Clearing Participant or Lending Clearing Participant must be transferred free and clear of any interest (including any Security Interest) whatsoever.

~~2.20.2~~2.15.2 Any obligation on the part of a Clearing Participant or Lending Clearing Participant to make provision for or to protect the interests of, any other Person, including Customers of the Clearing Participant or Persons on whose behalf Customers of the Clearing Participant may be acting, must be satisfied by or against other assets of the Clearing Participant.

~~2.21~~2.16 Segregation

~~2.21.1~~2.16.1 A Clearing Participant may, by Notice to CHO, apply to CHO for approval to segregate Transactions being cleared and settled by the Clearing Participant on the Clearing House into two or more Settlement Accounts.

~~2.21.2~~2.16.2 An operator of an NZX Market may, by Notice to CHO, apply to CHO for approval to segregate Transactions to be cleared and settled on the Clearing House into two or more Settlement Accounts for each Clearing Participant.

~~2.21.3~~2.16.3 CHO may, in its absolute discretion, and without giving any reason, make a decision to either accept or decline an application for segregation under Rule 2.~~21~~16.1 or Rule 2.~~21~~16.2, and may accept an application subject to any terms and conditions as CHO in its absolute discretion determines. Acceptance or otherwise of the application for segregation will be notified to the Clearing Participant or the operator of an NZX

Market (as the case may be) by Notice.

~~2.21.4~~2.16.4 CHO may, by Notice, require any Clearing Participant to segregate Transactions cleared and settled by the Clearing Participant on the Clearing House into two or more Settlement Accounts.

~~2.21.5~~2.16.5 A Clearing Participant must open and maintain in the Depository such number of Settlement Accounts as are necessary in order to enable recording and settlement of Settlement Transactions on a segregated basis.

~~2.21.6~~2.16.6 CHO must record Settlement Transactions against Settlement Accounts in accordance with instructions received in respect of the relevant Transaction.

~~2.21.7~~2.16.7 A Clearing Participant may apply to CHO to have the record of a Settlement Transaction transferred from one of its Settlement Accounts to another of its Settlement Accounts. CHO may in its absolute discretion, and without giving any reason, either accept or decline an application for transfer of a Settlement Transaction under this Rule.

~~2.21.8~~2.16.8 A Clearing Participant remains, in accordance with the terms and conditions of these Rules, responsible for, and liable to CHO in respect of, all Transactions in respect of which that Clearing Participant is the Clearing Participant which are cleared and settled on the Clearing House, notwithstanding the segregation of such Transactions into two or more Settlement Accounts of the Clearing Participant.

~~2.21.9~~2.16.9 Except where Rule 2.~~21~~16.10 applies, CHO may not apply or set-off any Collateral or proceeds thereof recorded against a Customer Account towards payment for or in satisfaction of a Clearing Participant's obligations to CHO in respect of any Settlement Transactions recorded against that Clearing Participant's House Account.

~~2.21.10~~2.16.10 If a Clearing Participant becomes Insolvent, CHO may only apply or set-off any Collateral (or proceeds thereof) recorded against a Customer Account in or towards payment or satisfaction of a Clearing Participant's obligations to CHO in respect of any Settlement Transactions recorded against that Clearing Participant's House Account if (and only to the extent that) the liquidator confirms in writing in terms satisfactory to CHO that;

(a) the liquidator will pay an amount equal to the amount that is to be applied or set-off into an account held for Customers of the Clearing Participant; and

(b) the liquidator will either distribute that amount to Customers of the Clearing Participant or apply that amount to discharge liabilities that Customers owe to the Clearing Participant.

Section 3: Clearing

3.1 Transactions for Clearing

3.1.1 **Mandatory Transactions**: Subject to Rule 3.2, all Mandatory Transactions are automatically subject to clearing and settlement on the Clearing House in accordance with these Rules.

3.1.2 **Discretionary Transactions:** Subject to Rule 3.2, a Discretionary Transaction may be submitted for clearing and settlement on the Clearing House in accordance with these Rules by:

(a) both Trading Participants reporting or confirming the Transaction to the operator of an NZX Market in accordance with arrangements for the reporting or confirmation of Discretionary Transactions; or

(b) the Clearing Participants providing clearing and settlement services to both parties to the Transaction assenting (in accordance with the relevant Procedure) to clearing and settlement of the Discretionary Transaction on the Clearing House, and

Procedure 3.1

a Discretionary Transaction will become subject to clearing and settlement on the Clearing House if and when CHO gives notice of acceptance in accordance with Procedure. The submission of a Discretionary Transaction in accordance with this Rule 3.1.2 for clearing and settlement on the Clearing House is irrevocable and a Clearing Participant may not withdraw a Discretionary Transaction from the Clearing House after acceptance by CHO, except by cancellation in accordance with Rule 3.10.2.

Procedure 3.2

3.1.3 CHO will ensure that it makes and maintains arrangements with the operator of each NZX Market so that, immediately upon the creation of a Mandatory Transaction or the reporting or confirmation of a Discretionary Transaction, the operator of that NZX Market will notify CHO of the Transaction and the Clearing Participants to whom the Transaction will be novated pursuant to Rule 3.3.

3.1.4 **Lending Transactions:** Subject to Rule 3.2, all Lending Transactions are automatically subject to clearing and settlement on the Clearing House in accordance with the Rules. CHO will ensure that it makes and maintains arrangements with CDO so that, immediately upon the creation of a Lending Transaction under the Depository Rules, CDO will notify CHO of the Lending Transaction and the Clearing Participants or Lending Clearing Participant to whom the Transaction will be

novated pursuant to Rule 3.3.

3.1.5 **Instruction to clear and settle:** Any Mandatory Transaction, Discretionary Transaction or Lending Transaction that is subject to clearing and settlement on the Clearing House in accordance with these Rules constitutes an irrevocable instruction by each Clearing Participant and each Lending Clearing Participant to CHO to clear and settle the Transaction in accordance with the Rules and (except in the case of a Lending Transaction), without reference to the original parties to the Transaction.

3.1.6 **Recording of Transactions:** Transactions to be cleared and settled on the Clearing House (other than Lending Transactions) shall be recorded against the Settlement Account of each of the Clearing Participants providing clearing and settlement services to the parties to the Transaction. Where CHO has approved or required the segregation of Transactions being cleared and settled by a Clearing Participant under Rule2.16 ~~2.21~~, Transactions shall be recorded against the Settlement Accounts established by the Clearing Participant for the purposes of the settlement of the Transactions of that type. A Settlement Transaction arising from a Lending Transaction will be recorded against the Account of the Borrower against which a Borrowing Request is made (or if CHO is the Borrower, against CHO's Settlement Account) and against the Account of the Lender or Accounts of the Lenders in which Admitted Product available to lend is held.

3.1.7 CHO will notify each Clearing Participant in accordance with Procedure of each Settlement Transaction recorded against a Settlement Account or Account of that Clearing Participant. Procedure 3.1.3

3.2 Position Limits

3.2.1 CHO may prescribe by Procedure or by Notice limits on Transactions which will be accepted for clearing and settlement on the Clearing House. Procedure 3.2

3.2.2 CHO may prescribe limits under Rule 3.2.1:

(a) that apply to a Clearing Participant or Clearing Participants or class of Clearing Participant generally; and/or

(b) that apply to a Lending Clearing Participant or Lending Clearing Participants or a class of Lending Clearing Participants generally; and/or

(c) that apply to a specified Settlement Account or Account; and/or

(d) on the number of Transactions, the number of

Transactions in a particular class or classes of Transactions to be accepted for clearing and settlement on the Clearing House as determined by CHO.

Procedure 3.2

3.2.3 **Initial Margin Limits**: CHO may prescribe by Procedure or by Notice a limit on the amount of exposure a Clearing Participant or Lending Clearing Participant may have by limiting the total aggregate amount of Initial Margin liability that the Clearing Participant or Lending Clearing Participant is permitted to have, including, in the case of a Clearing Participant, in respect of one or more NZX Markets. A limit may be imposed in respect of a Clearing Participant, Lending Clearing Participant or Clearing Participants or a class of Clearing Participants or Lending Clearing Participants generally.

3.2.4 **Positions in Excess of Limits**: If CHO determines that a Clearing Participant or Lending Clearing Participant has exceeded or is likely to exceed a limit imposed under Rule 3.2.2 or 3.2.3, CHO may:

(a) direct the Clearing Participant to make application under Rule 3.6.1 to novate a Settlement Transaction other than a Settlement Transaction arising from a Lending Transaction to another Clearing Participant; and or

(b) direct the Clearing Participant to make application under Rule 3.7.1 to set-off Settlement Transactions; and/or

(c) terminate any Settlement Transaction; and/or

(d) refuse to accept any Transaction for clearing and settlement on the Clearing House; and/or

(e) recalculate any amount of Additional Margin; and/or

(f) take or refrain from taking any action CHO considers is appropriate in the circumstances.

3.3 Novation of Terms

3.3.1 CHO will act as the central counterparty to a Transaction subject to clearing on the Clearing House and will undertake settlement of that Transaction.

3.3.2 Rule 3.3.3 will take effect in respect of a Transaction (other than a Lending Transaction):

(a) in the case of a Mandatory Transaction, immediately upon entry into the Transaction under the rules of the relevant NZX Market; and

(b) in the case of a Discretionary Transaction, immediately

upon notice of acceptance of the Transaction for clearing and settlement on the Clearing House by CHO in accordance with Rule 3.1.2.

3.3.3 Upon this Rule 3.3.3 becoming effective in respect of a Transaction, the Clearing and Settlement Terms of the Transaction are cancelled and replaced by two separate and independent Settlement Transactions comprising:

(a) a Settlement Transaction between the buyer's Clearing Participant in substitution for the buyer in respect of the Transaction and CHO in substitution for the seller in respect of the Transaction; and

(b) a Settlement Transaction between the seller's Clearing Participant in substitution for the seller in respect of the Transaction and CHO in substitution for the buyer in respect of the Transaction.

3.3.4 The terms of a Settlement Transaction arising in respect of a Transaction (other than a Settlement Transaction arising from a Lending Transaction) will be identical to the Clearing and Settlement Terms of that Transaction except:

(a) the parties thereto will be substituted for the new parties identified in Rule 3.3.3;

(b) the new parties identified in Rule 3.3.3 will, for the purpose of the Rules and the Procedures, be deemed to be acting as principal and not as agent (notwithstanding an original buyer or seller under the relevant Transaction may have been acting as agent); and

(c) CHO may terminate the Settlement Transaction as provided in Rule 3.2.4(c); and

(d) as provided in Rule 3.4.

3.3.5 Upon entry into a Mandatory Transaction or submission of a Discretionary Transaction for clearing and settlement on the Clearing House:

(a) the buyer and seller in respect of the Transaction, the buyer and seller in respect of the Settlement Transactions that replace that Transaction and CHO are deemed to have agreed to effect the novation of terms referred to, and in the manner described, in this Rule 3.3;

(b) each of the parties referred to in Rule 3.3.5(a), other than CHO, are deemed to have agreed to the provisions required to be included in a C&S Agreement set out in

Rule 2.14.3.

3.3.6 Where Rule 3.3.3 would result in the obligations of both parties to a Transaction being novated to one Clearing Participant because either:

(a) the Clearing Participant is the Clearing Participant for the buyer and the seller; or

(b) the Clearing Participant is a buyer or seller in respect of the Transaction,

no form of merger or extinguishment will occur and the obligations under the respective Settlement Transactions will continue to subsist in such a way as to be regarded for the purposes of the Rules as separately existing obligations of the Clearing Participant.

3.3.7 **Novation of Lending Transactions:** Rule 3.3.8 will take effect in respect of a Lending Transaction immediately upon creation of that Lending Transaction under the Depository Rules, provided that Rule 3.3.8 will not apply in respect of a Lending Transaction to which CHO is a party as a result of it exercising its powers under Rule 4.3.1(c), Rule 4.3.3(b) or Rule 7.4.1(h), which will instead be deemed to be a Settlement Transaction upon creation of that Lending Transaction under the Depository Rules.

3.3.8 Upon this Rule becoming effective in respect of a Lending Transaction, the Clearing and Settlement Terms of the Transaction are cancelled and replaced by two separate and independent Settlement Transactions comprising:

(a) a Settlement Transaction between the Lending Clearing Participant or Clearing Participant who is the Borrower and CHO, in substitution for the Lender or Lenders in respect of the Lending Transaction; and

(b) a Settlement Transaction between every Lending Clearing Participant or Clearing Participant who is a Lender in respect of the Lending Transaction and CHO, in substitution for the Borrower.

3.3.9 Each separate Settlement Transaction arising from a Lending Transaction will be identical to the Clearing and Settlement Terms of the original Lending Transaction (including the terms set out in Depository Rules 5.6 and 5.7) except that:

(a) the parties thereto will be substituted for the new parties identified in Rule 3.3.8;

(b) CHO may terminate the Settlement Transaction and call

for redelivery of Equivalent Product or redeliver Equivalent Product at any time in its absolute discretion (including as provided in Rule 3.2.4(c)); and

(c) as provided in Rule 3.4.

3.4 Terms of Settlement Transactions

3.4.1 In addition to the terms described in Rule 3.3.4, Rule 3.3.9, and this Rule 3.4 and notwithstanding any other provision in the relevant Settlement Transaction, each Settlement Transaction will incorporate the provisions set out in Rules 8.1, 8.2, 8.3 and 8.4 and will be subject to the Rules as they apply to that Settlement Transaction.

3.4.2 Without limiting Rule 3.4.1, the rights and obligations of a Clearing Participant under a Settlement Transaction arising from a Futures Contract will include an obligation to pay Variation Margin to CHO calculated under Rule 3.8.2(b), and a right to receive Variation Margin from CHO under Rule 3.8.2(a).

3.4.3 Each Settlement Transaction has effect and is valid and enforceable in accordance with its terms as established by these Rules, regardless of the efficacy, validity or enforceability of the Transaction from which the Settlement Transaction results or any other cause whatsoever.

3.4.4 A Clearing Participant or Lending Clearing Participant may not bring any claim or proceedings to invalidate or render void, or that has the effect or intent, either partial or otherwise of invalidating or avoiding, any Settlement Transaction, or its obligations in connection with a Settlement Transaction.

3.4.5 CHO is entitled to rely conclusively upon the accuracy of the particulars of Transactions transmitted to it by any NZX Market or provided to it by parties to a Transaction and is not bound to recognise or act on any actual or alleged error or omission in relation to such particulars.

3.5 Exercise of Options

3.5.1 The exercise by a Clearing Participant of its rights under a Settlement Transaction that arises from an Option must be notified to CHO in the manner prescribed by Procedure. If a Clearing Participant submits a notice of exercise under this Rule, the Clearing Participant may only amend or withdraw that exercise notice prior to the time, and in the manner, prescribed by Procedure. A Procedure may provide that in the absence of instructions from the Clearing Participant to the contrary, CHO may, on behalf of the Clearing Participant, exercise any rights of the Clearing Participant under the Settlement Transaction that

Procedures 3.3-3.4

arises from an Option prior to expiry of the Option. The method for final exercise of a Settlement Transaction that arises from an Option shall be specified by Procedure.

3.5.2 For each Settlement Transaction arising from an Option exercised by or on behalf of a Clearing Participant under this Rule 3.5, CHO may exercise its rights as buyer under one or more Settlement Transactions arising from Options, which are (when aggregated) identical in all aspects (but for price and contract date) to the Option exercised by or on behalf of the Clearing Participant. Such Settlement Transactions will be selected by CHO at random, or in such other manner as determined by CHO. CHO must notify the Clearing Participant who is the seller of an Option if CHO exercises its rights under that Option.

3.5.3 The rights of a Clearing Participant or CHO under a Settlement Transaction that arises from an Option, which have not been exercised in accordance with Rule 3.5.1 or Rule 3.5.2 by the last time permitted in accordance with the terms of such Option are deemed to have expired.

3.5.4 If CHO or a Clearing Participant who is a party to a Settlement Transaction that arises from an Option, exercises its rights in accordance with Rules 3.5.1 or 3.5.2 then, subject to Rule 3.5.6, a new Settlement Transaction comes into existence on terms determined in accordance with the Settlement Transaction exercised under Rule 3.5.1 or Rule 3.5.2 and:

(a) in the case of a Call exercised by the Clearing Participant, the buyer to that Settlement Transaction will be the Clearing Participant and the seller will be CHO;

(b) in the case of a Put exercised by the Clearing Participant, the seller to that Settlement Transaction will be the Clearing Participant and the buyer will be CHO;

(c) in the case of a Call exercised by CHO, the buyer to that Settlement Transaction will be CHO and the seller will be the Clearing Participant; and

(d) in the case of a Put exercised by CHO, the seller to that Settlement Transaction will be CHO and the buyer will be the Clearing Participant.

3.5.5 All of the Rules apply to a Settlement Transaction created under Rule 3.5.4 and without limitation, a Clearing Participant who is party to a Settlement Transaction created in accordance with Rule 3.5.4 must immediately provide, in accordance with the terms of that Settlement Transaction, Eligible Collateral in respect of Initial Margin calculated under Rule 3.11 and

Additional Margin (if any) calculated under Rule 3.16 in relation to the Settlement Transaction, and thereafter the terms of rights and obligations in respect of that Settlement Transaction determined in accordance with Rule 3.3 and Rule 3.4 in the same manner as if the Settlement Transaction arose directly from novation of a Transaction under Rule 3.3.

3.5.6 **Cash Settled Options**: If CHO or a Clearing Participant who is party to a Settlement Transaction arising from a cash-settled Option exercises its rights in accordance with Rules 3.5.1 or 3.5.2, settlement will be effected by payment of the Final Settlement Amount.

3.6 Give-up & Take-up Transactions

Procedure 3.5

3.6.1 A Clearing Participant may apply to CHO for the rights and obligations of that Clearing Participant under a Settlement Transaction arising from a Derivatives Contract to be novated in full to another Clearing Participant by notification to CHO in the form and in the manner prescribed by Procedure.

Procedure 3.5 and 3.6

3.6.2 CHO may, after receipt of confirmation of acceptance from the proposed Transferee given in accordance with Procedure, in its absolute discretion, and without giving any reason, either accept or decline an application for novation of a Settlement Transaction under Rule 3.6.1, and may accept the application subject to any terms and conditions as CHO in its absolute discretion determines. Acceptance or otherwise of the application for novation will be notified to the Transferor and Transferee in the manner prescribed by Procedure. Upon notification of acceptance of an application for novation in accordance with the Procedure, the Settlement Transaction is cancelled and replaced by a separate and independent Settlement Transaction on identical terms between the Transferee and CHO. Subject to Rule 3.6.3, the rights and obligations of the Transferee will entirely supersede and replace the rights and obligations of the Transferor with respect to the relevant Settlement Transaction.

3.6.3 No novation may be made in accordance with Rule 3.6.2 if a Credit Event has occurred in relation to the Transferee, or will occur as a result of the novation, regardless of whether CHO has accepted the application for novation. In those circumstances the purported novation will be ineffective, and the rights and obligations of the Transferor under a Settlement Transaction will remain in full force and effect.

3.7 Match-Out or Set-Off of Settlement Transactions

Procedure 3.7

3.7.1 A Clearing Participant who is buyer to one or more Settlement Transactions that result from Derivatives Contracts and a

Clearing Participant that is a seller (who may be the same Clearing Participant as the buyer) to one or more other Settlement Transactions that result from Derivatives Contracts the terms of which, when aggregated, are identical in all respects other than price and contract date, may apply to CHO in the form and in the manner prescribed by Procedure and for its rights and obligations under those Settlement Transactions to be set-off.

3.7.2 CHO may in its absolute discretion, and without giving any reason, make a decision to either accept or decline an application for set-off of Settlement Transactions under Rule 3.7.1.

3.7.3 CHO may accept the application subject to any terms and conditions as CHO in its absolute discretion determines.

Procedure 3.8

3.7.4 Acceptance or otherwise of an application for set-off will be notified to the Clearing Participant in the manner prescribed by Procedure.

3.7.5 Upon acceptance of an application for set-off, CHO will adjust the record of the Settlement Transactions against the Accounts of the Clearing Participant or Clearing Participants.

3.7.6 If a buyer or seller in respect of a Derivatives Contract marks that Derivatives Contract for match-out with a Settlement Transaction or Settlement Transactions arising from Derivatives Contracts with identical terms (except for price and contract date) to which the buyer's or seller's Clearing Participant is, respectively, a seller or buyer, and if the Settlement Transactions are all recorded against the same Settlement Account then, upon novation of that Derivatives Contract to CHO, CHO will set-off the resulting Settlement Transaction against the other Settlement Transaction(s) and adjust the record of the relevant Settlement Transactions against the Accounts of the relevant Clearing Participants accordingly.

3.8 Calculation of Variation Margin on Futures Contracts

Procedure 3.11.10.

3.8.1 At the close of each Business Day CHO will calculate Variation Margin in respect of each Settlement Transaction arising from Futures Contracts in accordance with the Procedures.

3.8.2 Upon calculation of Variation Margin in accordance with Rule 3.8.1, CHO will attribute the daily profit and loss amounts as follows:

(a) any profit attributable to a Settlement Transaction will be an amount payable by CHO to a Clearing Participant; and

(b) any loss attributable to a Settlement Transaction will be an amount payable by a Clearing Participant to CHO.

3.8.3 Daily profit and loss amounts calculated under Rule 3.8.2 are netted under Rule 3.9.4(b) and settled under Rule 4.1.2(b).

3.9 Netting

3.9.1 **Settlement Transactions arising from Commodity Transactions:** Continuously on each Business Day, CHO will net the gross obligations and entitlements of each Clearing Participant in respect of Settlement Transactions arising from Commodity Transactions recorded against each Settlement Account. For each Settlement Account of every Clearing Participant and each Settlement Day a Net Open Position will be continuously calculated by CHO in accordance with this Rule; and

(a) the total of all amounts in a particular currency that a Clearing Participant is required to pay CHO on a Settlement Day will be set-off against the total of all amounts in a particular currency that the Clearing Participant is entitled to receive from CHO on that Settlement Day; and

(b) the total quantity of Approved Product of a particular class to be delivered by the Clearing Participant to CHO on a Settlement Day will be set-off against the total quantity of Approved Product of a particular class to be delivered by CHO to that Clearing Participant on that Settlement Day.

3.9.2 Each Clearing Participant and CHO agree that the payment and delivery obligations of the Clearing Participant and CHO under each Settlement Transaction arising from Securities Transactions recorded against a Settlement Account for each Settlement Day are cancelled and replaced with the obligation to pay or deliver, and right to receive payment or delivery of, each Net Open Position for each Approved Product and each currency, for each Settlement Time on each Settlement Day for each Settlement Account.

3.9.3 In the case of an Approved Product, the Net Open Position of a Clearing Participant will be an obligation of the Clearing Participant to deliver to CHO or a right of the Clearing Participant to receive from CHO the netted quantity of the relevant Approved Product calculated in accordance with Rule 3.9.1(b). In the case of amounts in each currency, the Net Open Position of a Clearing Participant will be an obligation of the Clearing Participant to make payment or a right of the Clearing Participant to receive a payment of the net amount in

that currency calculated in accordance with Rule 3.9.1(a).

3.9.4 **Settlement Transactions arising from Derivatives Contracts:**

(a) Continuously on each Business Day CHO will calculate each Clearing Participant's positions in Settlement Transactions arising from Derivatives Contracts recorded against each Settlement Account. CHO will continuously calculate a Clearing Participant's aggregated total long or total short and net position in Settlement Transactions arising from each particular class of Derivatives Contracts; and

(b) At the close of business on each Business Day, CHO will net the gross Payment Obligations and gross Payment Rights in respect of each Clearing Participant's positions in respect of Settlement Transactions arising from Derivatives Contracts recorded against each Settlement Account. For each Settlement Account of every Clearing Participant and in respect of each Settlement Day, a Net Open Position will be calculated in each currency and (in respect of that Settlement Account) the total Payment Obligations of the Clearing Participant in a currency payable on a Settlement Day will be set off against the total Payment Rights of the Clearing Participant in that currency payable on that Settlement Day; and

(c) each Clearing Participant and CHO agree that the Payment Obligations and Payment Rights of the Clearing Participant under each Settlement Transaction arising from Derivatives Contracts recorded against a Settlement Account for each Settlement Day are cancelled and replaced with the obligation to pay or deliver, and right to receive payment of, each Net Open Position for each currency, for that Settlement Day.

3.9.5 Where a Settlement Transaction requires payment in a currency for which there is no Payment Account, the payment obligation will be converted into NZ$ in accordance with Rule 6.10 and the amount netted with the Clearing Participant's NZ$ Net Open Position.

3.10 Cancellation of Settlement Transaction

3.10.1 The cancellation of a Mandatory Transaction by the operator of an NZX Market in accordance with the rules of that NZX Market will result in the cancellation of the Settlement Transactions of the Clearing Participants recorded with CHO as buyer and seller in respect of the cancelled Transaction (including by CHO creating and processing such additional Settlement

Transactions as may be necessary).

3.10.2 The cancellation of a Discretionary Transaction:

(a) by the operator of an NZX Market in accordance with rules or other arrangement of that NZX Market; or

(b) by agreement between both parties in accordance with the relevant Procedure, Procedure 3.9

will result in the cancellation of the relevant Settlement Transactions of the Clearing Participants recorded with CHO as buyer and seller in respect of the cancelled Transaction (including by CHO creating and processing such additional Settlement Transactions as may be necessary).

3.10.3 CHO will ensure that it makes and maintains arrangements with the operator of each NZX Market so that, immediately upon the cancellation of a Transaction in accordance with the applicable rules or arrangement, the operator of that NZX Market will notify CHO of the cancellation of that Transaction.

3.10.4 The cancellation of Settlement Transactions will be recorded against the relevant Settlement Accounts of the Clearing Participants party to those Settlement Transactions and CHO must recalculate Net Open Positions to reflect the cancellation of a Settlement Transaction.

3.11 Margin Requirements

3.11.1 CHO will calculate at such times on each Business Day as it may determine (or more frequently if Rule 3.16 applies) the Margin obligations (other than Variation Margin in respect of Futures Contracts calculated and attributed in accordance with Rule 3.8.1) of each Clearing Participant and Lending Clearing Participant in relation to all Settlement Transactions to which that Clearing Participant or Lending Clearing Participant is a party. The total Margin obligation of a Clearing Participant or a Lending Clearing Participant, as the case may be, shall be the aggregate of:

(a) for Settlement Transactions that arise from Commodity Transactions, the amount calculated in accordance with Rule 3.11.2 on the basis of the Clearing Participant's Net Open Positions in respect of all Settlement Transactions arising from Commodity Transactions recorded against each Settlement Account of that Clearing Participant;

(b) for Settlement Transactions that arise from Derivatives Contracts, the amount calculated in accordance with Rule 3.11.3 on the basis of all Settlement Transactions

that arise from Derivatives Contracts recorded against each Settlement Account of that Clearing Participant; and

(c) for Settlement Transactions that arise from Lending Transactions, the amount calculated in accordance with Rule 3.11.4 on a gross basis in respect of that Clearing Participant's or Lending Clearing Participant's, as the case may be, delivery obligations and payment obligations under each Lending Transaction for which the Clearing Participant or Lending Clearing Participant, as the case may be, is a Borrower.

3.11.2 The Margin obligation of a Clearing Participant in relation to Settlement Transactions arising from Commodity Transactions in a particular currency to which the Clearing Participant is a party will be the sum of the following Margin components, each calculated on the basis of each of the Clearing Participant's Net Open Positions in each Approved Product and currency recorded against each Settlement Account:

(a) Initial Margin, being an obligation reflecting the net risk of all the payment and/or delivery obligations of the Clearing Participant in respect of each Net Open Position;

(b) Variation Margin, being an obligation reflecting any unrealised loss in respect of Approved Product that is to be delivered or received under Settlement Transactions since the immediately preceding calculation of Variation Margin in respect of those Settlement Transactions; and

(c) Additional Margin, being an obligation reflecting risks particular to the subject of the Settlement Transactions, the currency in which the Settlement Transactions are denominated, the Clearing Participant or such other factors as CHO determines in its absolute discretion should be taken into account.

3.11.3 The Margin obligations (other than Variation Margin in respect of Futures Contracts calculated and attributed in accordance with Rule 3.8.1) of a Clearing Participant in relation to all Settlement Transactions arising from Derivatives Contracts in a particular currency to which the Clearing Participant is a party will be the sum of the following Margin components, each calculated on the basis of all of the Settlement Transactions arising from Derivatives Contracts to which the Clearing Participant is a party recorded against each Settlement Account and in each currency:

(a) Initial Margin, being an obligation reflecting the risk of the Clearing Participant's positions in those Settlement Transactions and all payment and/or delivery obligations in

respect thereof;

(b) if the Settlement Transactions arise from Options, Variation Margin, being an obligation reflecting any unrealised loss in respect of Settlement Transactions arising from Options since the immediately preceding calculation of Variation Margin in respect of those Settlement Transactions; and

(c) Additional Margin, being an obligation reflecting risks particular to the subject of the Settlement Transactions, the currency in which the Settlement Transactions are denominated, the Clearing Participant, or such other factors as CHO determines in its absolute discretion shall be taken into account.

3.11.4 The Margin obligation of a Clearing Participant or Lending Clearing Participant in relation to all Settlement Transactions arising from Lending Transactions will be Initial Margin, being an amount calculated each Business Day (or more frequently if Rule 3.16 applies) reflecting the aggregate risk of all the obligations of the Clearing Participant or Lending Clearing Participant to deliver Equivalent Product and make Substitute Payments under all Settlement Transactions which arise from Lending Transactions for which that Clearing Participant or Lending Clearing Participant is a Borrower.

3.11.5 Immediately following calculation, in accordance with Rules 3.11.2, 3.11.3 and 3.11.4, of the Margin obligations of each Clearing Participant or Lending Clearing Participant, CHO will, by aggregating those amounts in particular currencies, calculate the total Margin obligation of each Clearing Participant or Lending Clearing Participant in each currency in respect of each Settlement Account or Accounts.

3.11.6 The methods for calculating each Margin component will be determined using a risk-based algorithm and/or such other method as may be provided by Procedure. Procedure 3.11

3.11.7 CHO must notify Clearing Participants and Lending Clearing Participants of their Margin positions and obligations as provided by Procedure. Procedure 3.12

3.12 Provision of Eligible Collateral

3.12.1 Each Clearing Participant and Lending Clearing Participant must deliver Eligible Collateral in accordance with Rule 3.12.3 in the proportions as determined by CHO under Rule 3.13.3 in respect of each Settlement Account or Accounts and to a value (as determined by CHO in accordance with Rule 3.13.2 to ensure that, at all times, CHO holds Collateral equal to at least that

Clearing Participant's or that Lending Clearing Participant's total Margin obligation in respect of each Settlement Account or Account as calculated by CHO in accordance with Rule 3.11.5 and notified by CHO under Rule 3.11.7.

3.12.2 A Clearing Participant or Lending Clearing Participant may deliver Eligible Collateral to CHO at any time, and must deliver Eligible Collateral to, or at the direction of CHO, when required to do so by CHO. The methods of notifying CHO of the delivery by the Clearing Participant or Lending Clearing Participant of Eligible Collateral, or notifying Clearing Participants or Lending Clearing Participants of a requirement to deliver Eligible Collateral, will be provided for by Procedure.

Procedure 3.13 - 3.18

3.12.3 Subject to Rule 3.12.4, Eligible Collateral shall be delivered by a Clearing Participant or Lending Clearing Participant in the following manner:

(a) Money Collateral must be transferred by the Clearing Participant's or Lending Clearing Participant's Settlement Bank to CHO's Money Collateral Account in the manner described by Procedure. Money Collateral in NZ$ must be transferred to CHO's Money Collateral Account by a Clearing Participant or Lending Clearing Participant instructing its Settlement Bank to pay Money to CDO's ESAS Account. Money Collateral in currencies other than NZ$ must be transferred by a Clearing Participant or Lending Clearing Participant instructing its Settlement Bank to pay Money to CDO's account in the Clearing Bank in cleared funds. Money Collateral may only be provided in currencies for which CHO holds a Money Collateral Account;

Procedure 3.14

(b) Eligible Securities must be delivered to CHO by transfer to CHO's Product Collateral Account in the manner described by Procedure; and

Procedures 3.14 and 3.18

(c) Third Party Collateral must be delivered by the Clearing Participant or Lending Clearing Participant to CHO and must be in a form prescribed by Procedure.

Procedure 3.16

3.12.4 CHO may specify other methods of providing Collateral by Procedure.

Procedure 3.18

3.12.5 Unless otherwise agreed in writing by CHO prior to delivery, all Money Collateral and Eligible Securities delivered as Collateral under Rule 3.12.3 shall constitute Transferred Collateral.

3.12.6 Eligible Collateral delivered by a Clearing Participant or Lending Clearing Participant to, or at the direction of, CHO (other than Transferred Collateral or Third Party Collateral) is automatically

and without further action charged to and made subject to a Security Interest in favour of CHO as security for discharge of all obligations of the Clearing Participant or Lending Clearing Participant to CHO, including, but not limited to the obligation to pay or deliver the Net Open Positions.

3.12.7 Upon delivery of Eligible Collateral that is Transferred Collateral (other than Third Party Collateral) to CHO:

(a) all of the Clearing Participant's or Lending Clearing Participant's right, title and interest to or in respect of that Eligible Collateral is transferred absolutely (and not by way of security) to CHO, and the Clearing Participant or Lending Clearing Participant ceases to have any rights in respect of that Eligible Collateral;

(b) the relevant Clearing Participant or Lending Clearing Participant shall be deemed, in respect of any such Eligible Collateral that are Eligible Securities Lodged in the Depository, to have:

(i) notified CDO that such Eligible Securities has been absolutely transferred to CHO; and

(ii) irrevocably instructed CDO to debit the Eligible Securities from the Account of the Clearing Participant or Lending Clearing Participant, and credit the Eligible Securities to the Product Collateral Account; and

(c) CHO shall have full rights and powers, and may in its absolute discretion deal with the Transferred Collateral in any manner, including instructing the Nominee to give effect to the instructions in Rule 3.12.7(b).

3.12.8 All Collateral provided by, or on behalf of, a Clearing Participant or Lending Clearing Participant will be identified against an Account of the Clearing Participant or Lending Clearing Participant in accordance with Rule 3.14.1 and, subject to Rule 2.~~21~~16.9, may be applied by CHO towards discharging all of the Clearing Participant's or Lending Clearing Participant's obligations to CHO (if any) in the manner set out in Rule 7.9.

3.12.9 A Clearing Participant's or Lending Clearing Participant's written agreement to be bound by these Rules on becoming a Clearing Participant or a Lending Clearing Participant shall constitute the written agreement of that Clearing Participant or Lending Clearing Participant to the creation of a charge and Security Interest in all Collateral (other than Transferred Collateral or Third Party Collateral) delivered in respect of it.

3.12.10 CHO must invest, or direct the investment of, Money Collateral transferred to it in an account with a Bank selected, and on terms to be determined, at CHO's discretion. CHO will prescribe the principles for investment of Money Collateral by Procedure. Procedure 3.15

3.12.11 A Clearing Participant or Lending Clearing Participant shall, subject at all times to CHO's Security Interest in Collateral (other than Transferred Collateral) and Rules 7.4 and 7.9.1, be entitled to all rights incidental to beneficial ownership of the Collateral (other than Transferred Collateral) delivered to, or at the direction of, CHO in accordance with Rules 3.11 and 3.12.1, including, without limitation, receipt of interest and dividend payments and exercise of voting and other rights. Any such benefit, interest, gain or other Proceeds received or accrued on any Securities Collateral (other than any Proceeds of enforcement of a charge or Security Interest in the Collateral or application of the Collateral) belongs to the Clearing Participant or Lending Clearing Participant that provided the Collateral and will be credited to the relevant Account of the Clearing Participant or Lending Clearing Participant subject to any deduction or withholding required by law.

3.12.12 In respect of any Transferred Collateral transferred to CHO by a Clearing Participant or Lending Clearing Participant in respect of which CHO has not made a transfer of property or assets to the Clearing Participant or Lending Clearing Participant under Rule 3.15.2(b), then provided that Clearing Participant or Lending Clearing Participant is not a Non-Performing Clearing Participant:

(a) CHO will transfer to the Clearing Participant or Lending Clearing Participant Money, Securities or other property or assets of the same type, nominal value (if any), description and quantity as CHO has received in respect of principal, interest, dividends and other payments and distributions of Money or securities, as a result of CHO owning the Transferred Collateral; and

(b) CHO will not exercise any voting or other discretionary rights CHO is entitled to exercise in respect of Transferred Collateral.

3.12.13 For the avoidance of doubt, CHO shall have no obligations to a Non-Performing Clearing Participant under Rule 3.12.12, and Rule 3.12.12 shall cease to operate in respect of a Non-Performing Clearing Participant.

3.13 Eligible Collateral, Haircuts and Concentration Limits

3.13.1 CHO may in its sole discretion specify by Procedure the Money, Procedures 3.16-

Eligible Securities, Third Party Collateral and other property or assets that will be accepted by CHO as Eligible Collateral. 3.18

3.13.2 CHO will have sole discretion to determine the valuation of Eligible Collateral, including the Haircut to be applied to each type of Eligible Collateral and will publish such details by Procedure. Procedure 3.19

3.13.3 CHO will have sole discretion, by Procedure or otherwise to: Procedure 3.20

(a) determine the quantity or proportion of each type of individual Eligible Securities, Money, Third Party Collateral or other property or assets which any or all Clearing Participants or Lending Clearing Participants may or must deliver and/or maintain as Collateral;

(b) impose a minimum requirement by proportion and/or value for Money Collateral; or

(c) refuse to accept or reject any Third Party Collateral provided by a Clearing Participant or Lending Clearing Participant.

3.13.4 If CHO notifies a Clearing Participant or Lending Clearing Participant that:

(a) the issuer of any Third Party Collateral held by CHO in respect of that Clearing Participant's or Lending Clearing Participant's obligations is no longer acceptable to CHO; or

(b) following a change of law or regulation, the form of any Third Party Collateral held by CHO in respect of that Clearing Participant's or Lending Clearing Participant's obligations is no longer acceptable to CHO,

then that Clearing Participant or Lending Clearing Participant shall promptly, and in any event within 2 Business Days, replace that Third Party Collateral with other Eligible Collateral in all respects acceptable to CHO.

3.14 Recording Delivery of Collateral

3.14.1 CHO must record Collateral delivered by a Clearing Participant or Lending Clearing Participant against a Settlement Account or Account of that Clearing Participant or Lending Clearing Participant in accordance with Procedure and any directions given by that Clearing Participant or Lending Clearing Participant. If a Clearing Participant or Lending Clearing Participant does not direct which of its Settlement Accounts or Accounts Collateral must be recorded against, CHO may record collateral delivered by that Clearing Participant or Lending Procedure 3.14

Clearing Participant against any Settlement Account or Account of that Clearing Participant or Lending Clearing Participant as determined by CHO in its sole discretion.

3.14.2 A Clearing Participant or Lending Clearing Participant may transfer Eligible Collateral recorded against one Settlement Account or Account to another Settlement Account or Account by requesting a withdrawal of Eligible Collateral or the transfer of property or assets under Rule 3.15.2 and delivering that Eligible Collateral under Rule 3.12, except where, as a result of such transfer, the amount of Collateral recorded against a Settlement Account or Account would be less than the total Margin obligations in respect of that Account or Settlement Account calculated by CHO in accordance with Rule 3.11.5 or where the requirements imposed by CHO under Rule 3.13.3 are not met.

3.15 Withdrawal, Return or Substitution of Eligible Collateral

3.15.1 Clearing Participants and Lending Clearing Participants may elect to deliver to CHO Eligible Collateral in excess of the amount required by CHO.

3.15.2 A Clearing Participant or Lending Clearing Participant who is not a Non-Performing Clearing Participant may:

(a) request the withdrawal of Collateral and the release of CHO's Security Interests in that Collateral (other than Transferred Collateral) or return of Third Party Collateral; and

(b) require CHO to transfer to it property or assets of the same type, nominal value (if any), description and quantity as Transferred Collateral (other than Third Party Collateral) that the Clearing Participant or Lending Clearing Participant has previously transferred to CHO, to the extent that CHO has not previously transferred property or assets to the Clearing Participant or Lending Clearing Participant in respect of that Transferred Collateral.

3.15.3 CHO must, in accordance with Procedure, comply with a request made under Rule 3.15.2 but only if after doing so: Procedure 3.21

(a) the value of Eligible Collateral held by CHO will exceed the Clearing Participant's or Lending Clearing Participant's current Margin obligation calculated under Rule 3.11.5; or

(b) due to substitution or exchange of Eligible Collateral with other Eligible Collateral of at least equal value to the Margin calculated in accordance with Rule 3.11, the value of Eligible Collateral held by CHO will exceed the Clearing

Participant's or Lending Clearing Participant's current Margin obligation calculated under Rule 3.11.5.

3.15.4 The procedure for withdrawal of Collateral (other than Transferred Collateral), return of Third Party Collateral, and transfers of property or assets under Rule 3.15.2(b) will be prescribed by Procedure. Procedure 3.21

3.15.5 Where a Clearing Participant or Lending Clearing Participant desires to withdraw or have returned or receive a transfer in respect of particular Collateral or types of Collateral in accordance with Rule 3.15.2 and, as a result would no longer comply with Rule 3.12.1, it must first provide other Eligible Collateral which satisfies its Margin obligation calculated under Rule 3.11.5 and subsequently request withdrawal or return of the desired Collateral or a transfer of property or assets under Rule 3.15.2.

3.15.6 The value of Eligible Collateral held by CHO in respect of a Clearing Participant or Lending Clearing Participant shall be reduced by the value of any property or assets transferred to that Clearing Participant or Lending Clearing Participant pursuant to Rule 3.15.2(b).

3.15.7 If Collateral provided by a Clearing Participant or a Lending Clearing Participant ceases to be Eligible Collateral or ceases to comply with any requirement imposed by CHO under Rule 3.13.3, then that Clearing Participant or that Lending Clearing Participant must deliver additional Eligible Collateral, and/or withdraw Collateral to ensure that Collateral held by CHO in respect of that Clearing Participant or that Lending Clearing Participant from time to time meets the requirements of Rule 3.12.1 and any requirements imposed under Rule 3.13.3.

3.15.8 CHO must record the withdrawal of Collateral by or the transfer of property or assets to a Clearing Participant or Lending Clearing Participant in accordance with this Rule against the relevant Settlement Account or Account of that Clearing Participant or Lending Clearing Participant.

3.16 Intra-day Margin Calls

3.16.1 CHO may at any time recalculate in accordance with Rule 3.11 the Margin obligation or entitlement of any Clearing Participant or Lending Clearing Participant and require any Clearing Participant or Lending Clearing Participant to provide Eligible Collateral in accordance with Rule 3.12. The timing for complying with such further Eligible Collateral requirements will be notified to the Clearing Participant or Lending Clearing Participant at the time a request for further Eligible Collateral is notified.

3.16.2 Without limiting the circumstances when CHO may exercise its powers under Rule 3.16.1, CHO may exercise its powers under Rule 3.16.1:

(a) in relation to a Clearing Participant or Lending Clearing Participant who has an unusually large number of Net Open Positions or Settlement Transactions, or who has unusually large Net Open Positions or Settlement Transactions;

(b) if there has been an unusual movement in the price of an Approved Product or Approved Products generally; and

(c) in unusual market conditions.

3.17 Liquidation of CHO and Collateral

3.17.1 On the Liquidation of CHO, then, subject to Rule 2.~~21~~16.9, after all of the obligations of a Clearing Participant or Lending Clearing Participant to CHO have been discharged in full, including any fees, charges or levies payable by that Clearing Participant or Lending Clearing Participant to CHO and any penalties, fines or other amounts determined by the NZ Markets Disciplinary Tribunal:

(a) any charge and Security Interest granted in favour of CHO in respect of any remaining Collateral provided by that Clearing Participant or Lending Clearing Participant will be released, subject to law, and any Third Party Collateral will be returned to the relevant third party; and

(b) CHO will be obliged to transfer to that Clearing Participant or Lending Clearing Participant property or assets of the same type, nominal value, description and amount as Transferred Collateral (other than Third Party Collateral) that the Clearing Participant or Lending Clearing Participant has previously transferred to CHO, to the extent CHO has not previously transferred property or assets to the Clearing Participant or Lending Clearing Participant in respect of that Transferred Collateral.

3.18 Relationship between Clearing Participants and Customers in respect of Derivatives Contracts

3.18.1 Where a Settlement Transaction arising from a Derivatives Contract to which a Clearing Participant is a party relates to a Customer of that Clearing Participant, that Clearing Participant:

(a) must call for cash or collateral from that Customer which the Clearing Participant considers sufficient security to ensure that the Clearing Participant is able to satisfy its

obligations to CHO for all Settlement Transactions arising from Derivative Contracts to which that Clearing Participant is a party and that relate to that Customer;

(b) may call additional cash or collateral from that Customer which the Clearing Participant considers appropriate to be held as security in connection with the clearing and settlement of Settlement Transactions arising from Derivative Contracts to which that Clearing Participant is a party and that relate to that Customer; and

(c) may call from a Customer funds sufficient to cover amounts which the Clearing Participant is required to pay from time to time in respect of Settlement Transactions arising out of Derivative Contracts that relate to that Customer.

3.18.2 A Clearing Participant is not required to make a call under Rule 3.18.1 if:

(a) the Customer has already paid that amount or collateral to the Clearing Participant; or

(b) the Customer has provided security for that amount to the Clearing Participant which is acceptable to the Clearing Participant.

Section 4: Settlement

4.1 Settlement

4.1.1 **Time for Settlement:** The time for settlement of obligations arising under Net Open Positions will be specified in the Procedures. Such Procedures will prescribe for each class or category of Net Open Position a time or times during each Settlement Day at which settlement of Net Open Positions is required. Settlement of obligations in respect of Transactions arising in respect of Lending Transactions, Shortfall Amounts or Withheld Approved Product may occur at any time during a Settlement Day.

Procedure 4.2

4.1.2 **Settlement of Commodity Transactions and Derivatives Contracts:** Settlement of obligations arising under Net Open Positions will be effected at the time determined in accordance with Rule 4.1.1 by:

(a) the transfer of Approved Products to or from a Settlement Account, in satisfaction of each Clearing Participant's Net Open Position for each Approved Product in respect of that Settlement Account and in satisfaction of CHO's obligations in respect thereof (including an obligation to deliver Withheld Approved Product) pursuant to Rule 4.2.6 or Rule 4.2.7; and/or

(b) the transfer of amounts of Money to or from a Settlement Account in satisfaction of each Clearing Participant's Net Open Positions in each currency in respect of that Settlement Account (including an obligation to pay a Shortfall Amount) and in satisfaction of CHO's obligations in respect thereof pursuant to Rule 4.2.6, Rule 4.2.7, Rule 4.2.11 or Rule 4.2.12.

4.1.3 Settlements effected in accordance with Rule 4.1.2 are valid and final and may not in any circumstances be reversed or avoided when:

(a) in the case of Money, Money is credited to or debited from a Settlement Account; or

(b) in the case of Approved Products, when Approved Products are credited to or debited from a Settlement Account,

in each case by CHO for the purposes of effecting settlement under this Section 4.

4.1.4 **Settlement of Lending Transactions**: Settlement of obligations arising from a Settlement Transaction arising from a Lending

Transaction will be effected by:

(a) immediately after novation of a Lending Transaction (or if CHO is the Borrower, immediately after the creation of the Lending Transaction), by the transfer of Approved Products from the Accounts or Settlement Accounts of the Lender or Lenders (as the case may be) to the Account or Settlement Account of the Borrower (or if CHO is the Borrower, CHO's Settlement Account) in accordance with the terms of the Settlement Transaction and Rule 4.2.14;

(b) upon redelivery of Equivalent Product by the transfer of Approved Products from the Account or Settlement Account of the Borrower (or if CHO is the Borrower, CHO's Settlement Account) to the Account or Settlement Account of the Lender or Lenders (as the case may be) pursuant to Rule 4.2.16 or Rule 4.2.17; and

(c) the transfer of amounts of Money to or from Accounts in respect of Substitute Payments in accordance with the terms of the Settlement Transaction and Rule 4.2.20 or Rule 4.2.21.

4.1.5 Settlements effected under Rule 4.1.4 are valid and final and may not in any circumstances be reversed or avoided when Approved Products and/or or Money is credited or debited from an Account, Settlement Account or CHO's Settlement Account.

4.2 Settlement Process for Commodity Transactions

4.2.1 Prior to Settlement Closing in respect of a Settlement Time, each Clearing Participant must ensure that the quantities of Approved Products required for settlement of their Net Open Positions for each specific Approved Product for that Settlement Time in respect of each of its Settlement Accounts are held in that Clearing Participant's Settlement Accounts.

4.2.2 At each Settlement Closing in respect of Net Open Positions in respect of Commodity Transactions, CHO must Lock the Approved Products in each Clearing Participant's Settlement Accounts available for settlement of that Clearing Participant's Net Open Positions for each Approved Product due for settlement at that Settlement Time.

4.2.3 Prior to each Settlement Closing, each Clearing Participant must ensure that its Settlement Accounts hold sufficient clear and available funds required for settlement of their Net Open Positions for that Settlement Time by instructing its Settlement Bank to pay Money to the Payment Account by depositing Money to CDO's ESAS Account (in the case of NZ$) or in the case of a currency other than NZ$ by depositing Money in

cleared funds to CHO's account at a Clearing Bank. A Clearing Participant must not fund its Settlement Accounts for settlement of Net Open Positions in respect of Settlement Transactions arising from Commodity Transactions otherwise than in accordance with this Rule.

4.2.4 If at a Settlement Closing there is insufficient Approved Product to settle each Net Open Position of all Clearing Participants at that Settlement Time, then:

(a) CHO must allocate the available Approved Product (if any) to the Net Open Positions of Clearing Participants in respect of that Settlement Time. Where a Clearing Participant has more than one Shortfall Net Open Position in respect of a particular class of Approved Product, CHO must allocate available Approved Product to the Shortfall Net Open Position with the earliest original Settlement Date and there will be no netting of or set-off between Shortfall Net Open Positions at that Settlement Time. Where two or more Clearing Participants' entitlements to receive delivery of Approved Product first arose on the same Settlement Date, identification of the Clearing Participants who will receive Approved Products will be by a ballot conducted in the manner prescribed by the Procedures; and

Procedure 4.3

(b) in respect of each Net Open Position for which there was insufficient available Approved Product at that Settlement Closing, CHO must recalculate Net Open Positions for settlement at that Settlement Time by determining the delivery obligations of Clearing Participants in respect of Approved Product allocated under Rule 4.2.4(a), and by determining the payment obligations of Clearing Participants in respect of the delivery of that Approved Product, such recalculated Net Open Positions replacing the Net Open Positions due for settlement at that Settlement Time, and then CHO must settle those recalculated Net Open Positions under Rule 4.2.6 at that Settlement Time; and

(c) in respect of each Net Open Position for which there was insufficient available Approved Product at that Settlement Closing, CHO must calculate Net Open Positions for the settlement of Approved Product that Clearing Participants failed to deliver by determining the delivery obligations in respect of that Approved Product and by determining the payment obligations of Clearing Participants in respect of the delivery of that Approved Product (each Net Open Position calculated under this paragraph being a separate "**Shortfall Net Open Position**") and

(i) carry forward those Shortfall Net Open Positions to the Settlement Time on that

Settlement Day (if any) for Settlement of Shortfall Net Open Positions for that particular class of Approved Product , and Rules 4.2.1 to 4.2.5 will apply in respect of Shortfall Net Open Positions carried forward under this Rule 4.2.4(c)(i) and that later Settlement Time on that Settlement Day; or

(ii) if there is no Settlement Time for settlement of Shortfall Net Open Positions for that particular class of Approved Product on that Settlement Day, Rule 4.3.1 will apply.

4.2.5 Immediately before each Settlement Time on each Settlement Day for settlement of Net Open Positions in respect of Commodity Transactions CHO must check to see if there are sufficient clear and available funds in all Clearing Participants' Settlement Accounts for settlement of their Net Open Positions at that Settlement Time. If there are insufficient clear and available funds in all Clearing Participants' Settlement Accounts (each amount by which a Settlement Account is short being a "**Shortfall Amount**"), then CHO will deposit Money in CDO's ESAS Account (in the case of NZ$) or in the case of a currency other than NZ$ by depositing Money in cleared funds to CHO's account at a Clearing Bank equal to the aggregate of all Shortfall Amounts and CDO will record that deposit by crediting CHO's Settlement Account.

4.2.6 At each Settlement Time on each Settlement Day CHO must simultaneously:

(a) debit each Settlement Account of each Clearing Participant by the quantities of Approved Product equal to the Net Open Positions for the delivery of Approved Product to CHO at that Settlement Time and credit that Approved Product to CHO's Settlement Account; and

(b) debit each Settlement Account of each Clearing Participant by the amounts of Money equal to the Net Open Positions to pay Money to CHO at that Settlement Time and credit those amounts to CHO's Settlement Account; and

(c) debit CHO's Settlement Account and credit the Settlement Account of each Clearing Participant whose Settlement Account holds sufficient clear and available funds required for settlement of all their Net Open Positions in each currency for that Settlement Time), with the quantities of Approved Product and/or amounts of Money equal to the Net Open Positions to receive delivery of Approved Product and/or receive payment from CHO at that

Settlement Time.

4.2.7 If there are insufficient clear and available funds in a Clearing Participant's Settlement Account for settlement of its Net Open Positions at that Settlement Time, then Rule 4.3.2 applies, and:

(a) CHO may debit CHO's Settlement Account and credit the Settlement Account of the Clearing Participant with the quantities of Approved Product having a value closest to but not exceeding the amount of clear and available funds held in the Clearing Participant's Settlement Account (if any) for settlement at that Settlement Time (the difference between the Net Open Position and the amount of Approved Product credited being "**Withheld Approved Product**"); and;

(b) CHO may retain Withheld Approved Product in an Account in the Depository in CHO's name pending payment of the Shortfall Amount and settlement under Rule 4.2.7(e) or sale of the Withheld Approved Product under Rule 7.4; and

(c) CHO will advance the Shortfall Amount to the Clearing Participant by debiting CHO's Settlement Account and crediting the Settlement Account of the Clearing Participant by the Shortfall Amount and this Rule constitutes an irrevocable instruction to CDO to debit CHO's Settlement Account and credit the Settlement Account of the Clearing Participant;

(d) the Shortfall Amount will be an amount due and owing by the Clearing Participant to CHO and the unperformed obligation of CHO in respect of the Net Open Position will be replaced by an obligation to deliver the Withheld Approved Product against payment of the Shortfall Amount by the Clearing Participant;

(e) CHO may at any time debit a balance of Money in a Clearing Participant's Settlement Account and credit CHO's Settlement Account with the Shortfall Amount, and debit CHO's Account and credit a Clearing Participant's Settlement Account with Approved Product to meet its obligations to deliver Withheld Approved Product to a Clearing Participant; and

(f) this Rule does not limit any other power or right CHO might have, including its powers or rights in Section 7.

4.2.8 Every Clearing Participant must at all times ensure that CHO's right to debit its Settlement Accounts set out in Depository Rule 3.2.1 remains valid, effective and in full force and effect.

4.2.9 **Settlement Process for Settlement Transactions arising**

from Derivatives Contracts: Prior to each Settlement Closing, each Clearing Participant must ensure that its Settlement Accounts hold sufficient clear and available funds required for settlement of their Net Open Positions in respect of Derivative Contracts by instructing its Settlement Bank to pay Money to the Payment Account by depositing Money to CDO's ESAS Account (in the case of NZ$) or in the case of a currency other than NZ$ by depositing Money in cleared funds to CHO's account at a Clearing Bank. A Clearing Participant must not fund its Settlement Accounts for settlement of Net Open Positions in respect of Derivative Contracts otherwise than in accordance with this Rule.

4.2.10 Immediately before each Settlement Time on each Settlement Day for settlement of Net Open Positions in respect of Derivative Contracts CHO must check to see if there is sufficient clear and available funds in all Clearing Participants' Settlement Accounts for settlement of their Net Open Positions at that Settlement Time. If there are insufficient clear and available funds in all Clearing Participants' Settlement Accounts (each amount by which a Settlement Account is short being a "**Shortfall Amount**"), then CHO will deposit Money in CDO's ESAS Account (in the case of NZ$) or in the case of a currency other than NZ$ by depositing Money in cleared funds to CHO's account at a Clearing Bank equal to the aggregate of all Shortfall Amounts and CDO will record that deposit by crediting CHO's Settlement Account.

4.2.11 At each Settlement Time on each Settlement Day for settlement of Net Open Positions in respect of Derivatives Contracts CHO must:

(a) debit the Settlement Accounts of each Clearing Participant by the amounts of Money equal to the Net Open Positions to pay Money to CHO at that Settlement Time and credit those amounts to CHO's Settlement Account; and

(b) debit CHO's Settlement Account and credit the Settlement Accounts of each Clearing Participant with the amounts of Money equal to the Net Open Positions to receive Money from CHO at that Settlement Time.

4.2.12 If there are insufficient clear and available funds in a Clearing Participant's Settlement Account for settlement of its Net Open Positions at that Settlement Time, then Rule 4.3.2 applies, and:

(a) CHO will advance the Shortfall Amount to the Clearing Participant by debiting CHO's Settlement Account and crediting the Settlement Account of the Clearing Participant by the Shortfall Amount and this Rule constitutes an irrevocable instruction to CDO to debit CHO's Settlement

Account and credit the Settlement Account of the Clearing Participant;

(b) the Shortfall Amount will be an amount due and owing by the Clearing Participant to CHO;

(c) CHO may at any time debit a balance of Money in a Clearing Participant's Settlement Account and credit CHO's Settlement Account with the Shortfall Amount; and

(d) this Rule does not limit any other power or right CHO might have, including its powers or rights in Section 7.

4.2.13 Every Clearing Participant must at all times ensure that CHO's right to debit its Settlement Accounts set out in Depository Rule 3.2.1 remains valid, effective and in full force and effect.

4.2.14 **Settlement Process for Settlement Transactions arising from Lending Transactions**: Immediately after novation of a Lending Transaction under Rule 3.3.8, or, if CHO is the Borrower, immediately after creation of a Lending Transaction under Rule 5.3 of the Depository Rules, CHO will debit the relevant Account or Settlement Account of the Lender or Lenders (as the case may be) by the quantity of Approved Product to be lent by that Lender or each of the Lenders (as the case may be) and credit the Account or Settlement Account of the Borrower (or, if CHO is the Borrower, CHO's Settlement Account) by the quantity of Approved Product to be borrowed by the Borrower.

4.2.15 A Borrower must ensure that the quantities of Approved Product required for settlement of delivery obligations under a Settlement Transaction arising from a Lending Transaction are held in the relevant Settlement Account or Account, (or, in the case of CHO, CHO's Settlement Account) at Delivery Time.

4.2.16 If sufficient Approved Product is available in the Borrower's Account (or, if CHO is the Borrower, in CHO's Settlement Account) for settlement of that Borrower's delivery obligations in respect of a Settlement Transaction arising from a Lending Transaction at a Delivery Time, then CHO must:

(a) debit the relevant Account of the Borrower, (or, if CHO is the Borrower, CHO's Settlement Account) by the quantity of Approved Product available in the Borrower's Account or CHO's Settlement Account, as the case may be, for settlement of that Borrower's or CHO's delivery obligations in respect of the Settlement Transaction and that Delivery Time; and

(b) credit the Account of the Lender or the Accounts of the

Lenders in each case as identified under Rule 5.6 or Rule 5.7 of the Depository Rules with the Approved Product debited from the Borrower's or CHO's account in accordance with Rule 4.2.16(a).

4.2.17 If there is insufficient Approved Product available in the Borrower's Account (or if CHO is the Borrower in CHO's Settlement Account) for settlement of that Borrower's or CHO's delivery obligations in respect of a Settlement Transaction arising from a Lending Transaction at a Delivery Time, then Rule 4.3.3 will apply (except where CHO is the Borrower) and:

(a) CHO may debit the relevant Account of the Borrower, or if CHO is the Borrower, CHO's Settlement Account, by the quantity of Approved Product in the Borrower's Account or CHO's Settlement Account, as the case may be, that is available at Delivery Time, or may from time to time become available after Delivery Time for settlement of that Borrower's or CHO's outstanding delivery obligations in respect of the Settlement Transaction; and

(b) credit the Account of the Lender or the Accounts of the Lenders in each case as identified under Rule 5.6 or Rule 5.7 of the Depository Rules with the Approved Product debited from the Borrower's or CHO's account in accordance with Rule 4.2.17(a),

and CHO may exercise its powers under this Rule from time to time as Approved Product comes available for settlement of the Borrower's obligations in respect of a Settlement Transaction under a Lending Transaction until settlement of all outstanding obligations to deliver Approved Product in respect of the Settlement Transaction has been completed, or until the Settlement Transaction has been cancelled under Rule 7.6, Rule 4.3.3(d) or Rule 4.3.3(e).

4.2.18 On a Relevant Payment Date, in respect of a Settlement Transaction arising from a Lending Transaction, the Clearing Participant or Lending Clearing Participant who is the Borrower must ensure there is sufficient Money in the relevant Account to meet its obligations to make Substitute Payments.

4.2.19 On a Relevant Payment Date, CHO must check to see if there are sufficient clear and available funds in all Clearing Participants' and Lending Clearing Participants' Accounts for settlement of their obligations to make Substitute Payments. If there are insufficient clear and available funds in all Clearing Participants' and Lending Clearing Participants' Settlement Accounts (each amount by which an Account is short being a "**Shortfall Amount**"), then CHO will deposit Money in CDO's ESAS Account (in the case of NZ$) or in the case of a currency

other than NZ$ by depositing Money in cleared funds to CHO's account at a Clearing Bank equal to the aggregate of all Shortfall Amounts and CDO will record that deposit by crediting CHO's Settlement Account.

4.2.20 On a Relevant Payment Date in respect of a Settlement Transaction arising from a Lending Transaction, CHO will debit the Borrower's relevant Account, or if CHO is the Borrower, CHO's Settlement Account, and credit the Lender's or Lenders' relevant Account or Accounts with the Money required to meet the Borrower's obligation to make a Substitute Payment and, if there is more than one Lender, then CHO must allocate Money to the Accounts of the Lenders in accordance with Rule 5.8 of the Depository Rules.

4.2.21 If there are insufficient clear and available funds in a Clearing Participant's or Lending Clearing Participant's Account to meet the Borrower's obligation to make a Substitute Payment , then Rule 4.3.2 applies and:

(a) CHO will advance the Shortfall Amount to the Clearing Participant or Lending Clearing Participant by debiting CHO's Settlement Account and crediting the Account of the Clearing Participant or Lending Clearing Participant by the Shortfall Amount and this Rule constitutes an irrevocable instruction to CDO to debit CHO's Settlement Account and credit the Account of the Clearing Participant or Lending Clearing Participant;

(b) the Shortfall Amount will be an amount due and payable by the Clearing Participant or Lending Clearing Participant to CHO;

(c) CHO may at any time debit a balance of Money in a Clearing Participant's or Lending Clearing Participant's Account and credit CHO's Settlement Account with the Shortfall Amount;

(d) this Rule does not limit any other power or right CHO might have, including its powers or rights in Section 7.

4.2.22 The Borrower must at all times ensure that CHO's right to debit its Accounts set out in Depository Rule 3.2.1 remains valid, effective and in full force and effect.

4.3 Consequences of Settlement Failure

4.3.1 **Failure to Deliver Approved Product in Respect of Settlement Transactions arising from Commodity Transactions:** If Rule 4.2.4(c)(ii) applies, then, without prejudice to CHO's rights under Section 7, CHO will be entitled at its sole

discretion to undertake all or any of the following actions (and CHO will endeavour to exercise its powers in the sequence set out in this Rule unless it believes there is good reason to do otherwise):

(a) carry forward Shortfall Net Open Positions for settlement at a Settlement Time on the next Settlement Day for settlement of Shortfall Net Open Positions of Clearing Participants and settle Shortfall Net Open Positions under Rules 4.2.1 to 4.2.5 and/or carry forward Shortfall Net Open Positions under Rule 4.2.4(c);

(b) buy in Approved Products in accordance with Rule 7.5 for the purpose of effecting settlement, and settle Shortfall Net Open Positions under Rules 4.2.1 to 4.2.5;

(c) buy Approved Product or borrow Approved Product in accordance with Depository Rule 5.2.1 to meet CHO's delivery obligations in respect of Shortfall Net Open Positions in respect of Clearing Participants other than the Non-Performing Clearing Participant;

(d) liquidate and apply Collateral or other assets of a Non-Performing Clearing Participant who failed to have sufficient Approved Product in its Settlement Account at Settlement Closing in accordance with Rule 7.9;

(e) cancel in accordance with Rule 7.6, Shortfall Net Open Positions of a Non-Performing Clearing Participant;

(f) cancel Shortfall Net Open Positions of any Clearing Participant (not being a Non-Performing Clearing Participant), and any Shortfall Net Open Position cancelled under this paragraph will be replaced by an obligation of CHO's to pay the compensation amount under Rule 4.4;

(g) exercise any of the powers set out in Rule 7.4;

(h) refer a Non-Performing Clearing Participant who failed to have sufficient Approved Product in its Settlement Account at Settlement Closing to the NZ Markets Disciplinary Tribunal;

(i) recover from the Non-Performing Clearing Participant who failed to have sufficient Approved Product in its Settlement Account at a Settlement Closing any compensation amount payable by CHO under Rule 4.4 arising in respect of that failure; and

(j) charge the costs incurred in remedying a shortfall (whether by borrowing, cancellation, buy-in, buying or carrying

forward, and with CHO having absolute discretion as to the option or options it shall take to remedy the shortfall) to the Non-Performing Clearing Participant failing to have the Approved Product in its Settlement Account at a Settlement Closing.

4.3.2 **Failure to Pay Money:** If a Clearing Participant or a Lending Clearing Participant fails to have sufficient clear and available funds in its Settlement Account or Account at a Settlement Time or on a Relevant Payment Date, then, without prejudice to CHO's rights under Section 7, CHO will be entitled at its sole discretion to undertake all or any of the following actions:

(a) liquidate and apply Collateral or other assets of the Clearing Participant or Lending Clearing Participant in accordance with Rule 7.9;

(b) exercise the powers set out in Rule 7.4;

(c) in the case of a Clearing Participant (but not a Lending Clearing Participant) refer the Clearing Participant to the NZ Markets Disciplinary Tribunal; and

(d) charge the costs or losses incurred in remedying the shortfall (including in respect of the sale of Withheld Approved Product) to the Clearing Participant or Lending Clearing Participant which failed to have sufficient clear and available funds in its Settlement Account or Account at a Settlement Time or on a Relevant Payment Date.

4.3.3 **Failure to Deliver Approved Product in Respect of Settlement Transactions arising from Lending Transactions:** If a Clearing Participant or Lending Clearing Participant fails to have all or any part of the required quantity of an Approved Product required to be in its Account at a Delivery Time in respect of a Settlement Transaction arising from a Lending Transaction, then, without prejudice to CHO's rights under Section 7, CHO will be entitled at its sole discretion to undertake all or any of the following actions (and CHO will endeavour to exercise its powers in the sequence set out in this Rule unless it believes there is good reason to do otherwise):

(a) buy in Approved Products in accordance with Rule 7.5 for the purpose of effecting settlement, and settle the obligations of the Clearing Participant or Lending Clearing Participant under Rule 4.2.17;

(b) buy Approved Product or borrow Approved Product in accordance with Depository Rule 5.2.1 to meet CHO's delivery obligations in respect of Clearing Participants or Lending Clearing Participants other than the Non-

Performing Clearing Participant;

(c) liquidate and apply Collateral or other assets of the Clearing Participant or Lending Clearing Participant in accordance with Rule 7.9;

(d) cancel in accordance with Rule 7.6 the Settlement Transaction between the Borrower and CHO;

(e) cancel the Settlement Transaction between CHO and the Lender or Lenders and the obligation of CHO to deliver Approved Product to a Clearing Participant or Lending Clearing Participant will be replaced by an obligation of CHO's to pay the compensation amount under Rule 4.4;

(f) exercise any of the powers set out in Rule 7.4;

(g) in the case of a Clearing Participant only, refer the Clearing Participant to the NZ Markets Disciplinary Tribunal;

(h) recover from the Non-Performing Clearing Participant who failed to have sufficient Approved Product in its Account at a Delivery Time any compensation amount payable by CHO under Rule 4.4 arising in respect of that failure; and

(i) charge the costs incurred in remedying a shortfall (whether by borrowing, cancellation, buy-in, buying or carrying forward, and with CHO having absolute discretion as to the option or options it shall take to remedy the shortfall) to the Non-Performing Clearing Participant failing to have the Approved Product in its Account at a Delivery Time.

4.4 Compensation for Settlement Failure

4.4.1 If CHO fails to deliver any or all of the required quantity of an Approved Product (other than Withheld Approved Product) required to be delivered at a Delivery Time or at a Settlement Time (including where the obligation to deliver Approved Product has been replaced under Rule 4.3.1(f) or Rule 4.3.3(e) by an obligation to pay compensation (if any) in accordance with this Rule 4.4), or CHO fails to pay all or any part of the amount required to be paid by CHO at a Settlement Time or on a Relevant Payment Date then, subject to Rule 4.4.8, affected Clearing Participants and Lending Clearing Participants may seek compensation from CHO in accordance with this Rule 4.4, for direct losses resulting from that failed delivery or payment, which CHO will be entitled to recover from any Clearing Participant or Lending Clearing Participant responsible for the failure. Nothing in this Rule 4.4.1 will limit or otherwise affect any other rights of CHO under these Rules in relation to any

Clearing Participant or Lending Clearing Participant responsible for the settlement failure.

4.4.2 A Clearing Participant or Lending Clearing Participant who wishes to seek compensation from CHO in accordance with Rule 4.4.1, must lodge with CHO within the time specified in Rule 4.4.3 a claim specifying:

(a) the amount of compensation claimed;

(b) the time, Delivery Time, Settlement Time or Relevant Payment Date at which the delivery or payment (as the case may be) was due;

(c) the quantity and identity of the Approved Product which was not delivered ("**Product Shortfall**"), or the amount which was not paid ("**Payment Shortfall**") as the case may be;

(d) the amount that was required to be paid by the Clearing Participant at Settlement Time (if any) in respect of the Product Shortfall ("**Settlement Price**") or the quantity and identity of the Approved Product required to be delivered by the Clearing Participant at Settlement Time (if any) in respect of the Product Shortfall or the Payment Shortfall; and

(e) the amount of compensation (if any) the Clearing Participant has been required to pay to its Customer.

4.4.3 A Clearing Participant or Lending Clearing Participant must lodge a claim for compensation under Rule 4.4.2:

(a) in respect of a failure to make payment, within 5 Business Days after the Settlement Date or Relevant Payment Date on which payment was due; and

(b) in respect of a failure to deliver Approved Product, within 5 Business Days after the Settlement Date or Delivery Time on which the Net Open Position or Settlement Transaction in respect of the shortfall of Approved Product is cancelled under Rule 4.3.1(f) or 4.3.3(e).

4.4.4 CHO shall determine a claim for compensation lodged in accordance with Rule 4.4.2 within 10 Business Days of receipt. In doing so, CHO must determine in good faith the amount of compensation which reflects the direct losses referred to in Rule 4.4.1. CHO must pay the amount of compensation (if any) which CHO so determines is payable, within 5 Business Days of that determination unless CHO is required to re-calculate the compensation amount payable in accordance with Rule 4.4.7(a).

Subject to Rule 4.4.7, CHO's determination will be final and will not be able to be further disputed or challenged by the Clearing Participant or Lending Clearing Participant.

4.4.5 If CHO determines to pay less than the amount of compensation claimed, it will, when notifying the Clearing Participant or Lending Clearing Participant of its determination, provide reasons for its determination and a calculation showing how the amount of compensation paid (if any) was calculated.

4.4.6 The compensation available from CHO under this Rule 4.4 (if any):

(a) will not in any circumstances include any measure of, or compensation for, indirect or consequential losses; and

(b) in the case of a Product Shortfall (other than in respect of a Lending Transaction), will not in any circumstances exceed a total of 100% of the Settlement Price for that Product Shortfall;

(c) in the case of Product Shortfall in respect of a Lending Transaction, will not in any circumstances exceed a total of 100% of the value of that Product Shortfall at the Delivery Time; and

(d) in the case of a Payment Shortfall, will not in any circumstances exceed the amount of that Payment Shortfall.

4.4.7 If the Clearing Participant or Lending Clearing Participant who lodged a claim under Rule 4.4.2:

(a) can demonstrate in writing to CHO within 3 Business Days of the date of the determination of that claim by CHO under Rule 4.4.4 that CHO's determination or calculations provided under Rule 4.4.5 contain a manifest error in the calculations provided in respect of such claim, CHO must re-calculate and re-determine such claim taking into account any such manifest error within 10 Business Days of the date of receiving Notice of such error (if properly lodged within the required time period). CHO must pay the amount of compensation (if any) which CHO so determines is payable, within 5 Business Days of re-determining that claim; or

(b) alleges that CHO has failed to determine its claim in good faith as required by Rule 4.4.4 (that is, that CHO has acted in bad faith), it may apply to the NZ Markets Disciplinary Tribunal under the NZ Markets Disciplinary Tribunal Rules for a determination as to whether CHO has failed to

determine its claim in good faith. Without prejudice to the rights of the NZ Markets Disciplinary Tribunal under the NZ Markets Disciplinary Tribunal Rules or the rights of any party to appeal such decision under the NZ Markets Disciplinary Tribunal Rules, if the Tribunal finds that CHO:

(i) did not fail to determine its claim in good faith, the determination made by CHO pursuant to Rule 4.4.4 shall remain in full force and effect; or

(ii) did fail to determine its claim in good faith, CHO shall recalculate and re-determine the claim for compensation and Rules 4.4.4 and 4.4.5 and 4.4.6 shall apply in respect of any such re-determination.

4.4.8 CHO will not be liable to pay compensation in respect of any settlement failure if such failure arises out of causes beyond the reasonable control of CHO or NZCDC and such causes may include, but will not be limited to, acts of God, war, terrorism, civil disturbance, riots, acts of civil or military authority, embargos, fires, floods, explosions, accidents, labour disputes, mechanical breakdowns, computer system failures or other failures of equipment, failures of or defects in computer or system software, unavailability of or any restriction on any online communications system or communications media or facilities, interruptions (whether in whole or in part) of power supplies or other utilities or services, any suspension, restriction or closure of any market, any market emergency, failure, interruption or suspension of any depository, Depository Participant (not being the Clearing Participant or Lending Clearing Participant referred to in Rule 4.4.1 as being responsible for the settlement failure), custodian, registry, bank or financial institution (not being the Clearing Participant or Lending Clearing Participant referred to in Rule 4.4.1 as being responsible for the settlement failure), any law, decree, regulation, or order or directive of any government, competent authority or any court or tribunal, and any other causes in all cases which are beyond CHO's or NZCDC's reasonable control.

Section 5: Reporting

5.1 Access

5.1.1 Clearing Participants and Lending Clearing Participants may view information and download reports in respect of their clearing and settlement obligations.

5.2 Reports

5.2.1 CHO will make reports available to Clearing Participants and Lending Clearing Participants in accordance with Procedures. Procedure 5.1

5.3 Errors

5.3.1 Clearing Participants and Lending Clearing Participants will be responsible for checking reports and must notify CHO in the event of any error by no later than 5:00pm on the Business Day following the day on which the report was received.

5.3.2 CHO will specify, in a Notice to the Clearing Participant or Lending Clearing Participant, the steps that will be taken by CHO (in its absolute discretion) or that must be taken by the Clearing Participant or Lending Clearing Participant, in relation to the error. If CHO specifies steps that must be taken by the Clearing Participant or Lending Clearing Participant, the Clearing Participant or Lending Clearing Participant shall take the steps specified in the Notice on the day on which the demand is made, or if the demand is made after 3:30pm, by 11:00am the next Business Day or at such later time as may be specified in the Notice.

5.3.3 Without limiting the steps that CHO may take in relation to an error identified by CHO or notified by CHO pursuant to Rule 5.3.2, CHO may in its absolute discretion, and without giving any reason:

(a) transfer a Settlement Transaction from one Settlement Account or Account to another Settlement Account or Account as specified in the Notice by CHO pursuant to Rule 5.3.2 (including by CHO creating and processing such additional Settlement Transactions as may be necessary); and/or

(b) recalculate Net Open Positions in Settlement Transactions arising from Commodity Transactions and recalculate positions in and Net Open Positions in respect of Settlement Transactions arising under Derivatives Contracts of a Clearing Participant; and/or

(c) recalculate under Rule 3.11 the Margin requirements of

the Clearing Participant or Lending Clearing Participant; and/or

(d) transfer the allocation of Eligible Collateral from a Clearing Participant's Settlement Account or Account to another Settlement Account or Account of that Clearing Participant; and

(e) transfer the allocation of Eligible Collateral from a Lending Clearing Participant's Account to another Account of that Lending Clearing Participant; and

(f) take such other steps as CHO considers appropriate in the circumstances to ensure the wellbeing, proper conduct, stability or integrity of the Clearing House or the clearing and settlement of Settlement Transactions.

5.3.4 Nothing in this Rule 5.3 shall derogate from, and neither CHO nor any Clearing Participant or Lending Clearing Participant shall take any steps that derogate from, the irrevocable settlement of a Settlement Transaction.

Section 6: CHO Powers and Relationship with Operators of NZX Markets

6.1 Additional Powers

6.1.1 The powers set out in this Section are in addition to and without limitation of the rights and powers of CHO set out elsewhere in these Rules, in CHO's constitution and at law.

6.2 Approval of Products

6.2.1 Any Person may apply to NZX, in the form prescribed by Procedure, to have a class of Commodity or Derivatives Contract approved as an Approved Product. Procedure 6.1

6.2.2 NZX may approve any Commodity or Derivatives Contract that is Admitted Product and is capable of being cleared and settled on the Clearing House as an Approved Product whether or not the class is quoted or traded on an NZX Market.

6.2.3 Upon receipt of an application or on its own initiative, NZX may at its absolute discretion approve a class of Commodity or Derivatives Contract as an Approved Product which CHO must then prescribe in Procedure. CHO may attach to an approval granted by NZX any conditions of approval CHO considers necessary for the integrity, reliability and efficiency of the Clearing House. Procedure 6.2

6.2.4 Where NZX approves a class of Commodity or Derivatives Contract under Rule 6.2.3, CHO must notify the applicant, the Issuer of the Approved Product (if any), the operator of any NZX Market upon which the Approved Product is traded and each Clearing Participant and Lending Clearing Participant. Notice given under this Rule 6.2.4 will specify:

(a) the Commencement Date for that Approved Product; and

(b) any conditions attached to approval of the Approved Product.

6.2.5 CHO may with NZX's prior written consent at any time, at its discretion, either:

(a) suspend approval of an Approved Product until further Notice, provided that any period of suspension does not exceed 60 Business Days; and

(b) revoke approval of an Approved Product, whether or not approval of the Approved Product is already suspended.

6.2.6 If CHO suspends or revokes approval of an Approved Product in

accordance with Rule 6.2.5, CHO must promptly give Notice of the suspension or revocation to NZX, the Issuer of the Approved Product (if any), the operator of any NZX Market upon which the Approved Product is traded and each Clearing Participant and Lending Clearing Participant. The Notice must specify the time and date on which the suspension or revocation is effective and in the case of a suspension, the period of the suspension.

6.2.7 Withdrawal of approval of an Approved Product will not affect a Clearing Participant's, Lending Clearing Participant's or CHO's rights or obligations under a Settlement Transaction entered into prior to notification of the withdrawal of approval.

6.2.8 CHO may, at any time, with NZX's prior written consent, remove any suspension, and give Notice accordingly to NZX, the Issuer of the Approved Product (if any), any NZX Market upon which the Approved Product is traded and each Clearing Participant and Lending Clearing Participant.

6.3 Clearing Banks

6.3.1 CHO must appoint at least one Bank as a Clearing Bank for the purpose of making and receiving of payments in each relevant currency other than NZ$. In order to be appointed by CHO as a Clearing Bank, a Bank must:

(a) have adequate capacity for receiving and making payments in currencies other than NZ$; and

(b) hold a rating of not less than A- from Standard & Poor's Ratings Services or Fitch Ratings Limited or A3 from Moody's Investor Services Limited.

6.3.2 CHO may revoke a Clearing Bank's appointment and appoint another Bank in its place at its discretion. CHO will endeavour to give Clearing Participants and Lending Clearing Participants not less than 15 Business Days Notice of a change in the status of a Clearing Bank, but may make a change with shorter or no notice if the Clearing Bank ceases to satisfy the requirements of Rule 6.3.1(a) or (b) and a change is, in the opinion of CHO, required to ensure a Clearing Bank that satisfies those requirements is available.

6.4 Complaints and Investigations

6.4.1 CHO may receive and consider complaints from any Person about CHO, CHO's operation of the Clearing House, a Clearing Participant, a Lending Clearing Participant, a Clearing Participant's or a Lending Clearing Participant's Directors, Responsible Person, Personnel, agents or other Person within the control of the Clearing Participant or Lending Clearing

Participant as the case may be, or CHO's clearing and settlement activities. On receipt of a complaint CHO may, at its absolute discretion and without giving any reason:

(a) reject summarily any complaint which appears to be insubstantial, immaterial, vexatious and/or frivolous; or

(b) investigate the complaint in accordance with Rule 6.4.3; or

(c) refer the complaint to any other Person that has jurisdiction in relation to the subject matter of the complaint or whom CHO believes is better qualified to deal with the matter including under a Reciprocal Arrangement.

6.4.2 CHO will maintain a record of complaints detailing each complaint received by it, any investigation or other action taken and the outcome of the complaint.

6.4.3 CHO may, either as a result of receiving a complaint in accordance with Rule 6.4.1 or on its own initiative, investigate a complaint and make such enquiries as it thinks fit. As a result of its investigations, CHO may exercise such powers as are conferred on it under these Rules as it thinks fit.

6.4.4 Where CHO has received and considered a complaint concerning CHO and/or its operation of the Clearing House, and has been unable to resolve that complaint to the satisfaction of the complainant, it must notify the complainant of that fact.

6.5 Investigation Powers

6.5.1 CHO may (either on its own initiative or in accordance with a request made to it by the NZ Markets Disciplinary Tribunal, the operator of an NZX Market, or any Person with whom CHO has a Reciprocal Arrangement) for the purposes of ascertaining whether a Clearing Participant or Lending Clearing Participant is complying or has complied with these Rules or any rules or requirements of an NZX Market or any Person with whom CHO has a Reciprocal Arrangement, or ascertaining whether to exercise any rights or powers under these Rules:

(a) require any Clearing Participant or Lending Clearing Participant to produce for inspection any documents or records (whether in physical or electronic form) in that Clearing Participant's or Lending Clearing Participant's possession or control;

(b) require any Clearing Participant or Lending Clearing Participant to procure any Director of the Clearing Participant or Lending Clearing Participant, or any Personnel, agent or other Person within the control of the

Clearing Participant or Lending Clearing Participant, to produce for inspection any documents or records (whether in physical or electronic form) in that Person's possession or control;

(c) require any Clearing Participant or Lending Clearing Participant to reproduce, or assist in reproducing in usable form, any document or record produced, or required to be produced to CHO;

(d) inspect and make records or copies of any document or record produced to CHO;

(e) require the Clearing Participant or Lending Clearing Participant to, or require the Clearing Participant or Lending Clearing Participant to procure (subject to law) any Director, Personnel, agent or other Person within the control of the Clearing Participant or Lending Clearing Participant to answer questions, provide explanations and/or give evidence as may be required by CHO, and if required by CHO, in the form of a statutory declaration in accordance with the Oaths and Declarations Act 1957;

(f) require the Clearing Participant or Lending Clearing Participant to procure any Director, Personnel, agent or other Person within the control of the Clearing Participant or Lending Clearing Participant to appear before CHO at a specified date, time and place to answer questions, provide explanations and/or give evidence as may be required by CHO, and if required by CHO under an oath or affirmation in accordance with the Oaths and Declarations Act 1957;

(g) require the Clearing Participant or Lending Clearing Participant to provide a written explanation of any circumstances in relation to its business that are relevant or material to its business as a Clearing Participant or Lending Clearing Participant;

(h) send any representative of CHO to any Clearing Participant's or Lending Clearing Participant's offices for the purpose of exercising any powers and discretions of CHO;

(i) require the Clearing Participant or Lending Clearing Participant to supply, within the time specified by CHO, an audit certificate from the Clearing Participant's or Lending Clearing Participant's auditor or such other practicing chartered accountant specified by CHO. The audit certificate must have the content prescribed by CHO by Procedure; and/or

Procedure 2.24

(j) appoint, at the cost of the Clearing Participant or Lending Clearing Participant, a suitably qualified Person to review any information available to CHO and report to CHO in relation to the Clearing Participant's or Lending Clearing Participant's compliance with these Rules, the Depository Rules or any obligations arising thereunder, ascertain the future ability of the Clearing Participant or Lending Clearing Participant to meet its obligations under these Rules or the Depository Rules or otherwise advise CHO in relation to the exercise or prospective exercise of any rights or powers under these Rules or the Depository Rules.

6.5.2 Documents, records or information to be provided to CHO pursuant to Rule 6.5.1 must be provided in such format, electronic or otherwise, and by the time, specified by CHO.

6.6 Disclosure of Information from Inspection

6.6.1 Information obtained pursuant to Rule 6.5 may be disclosed:

(a) as required by CHO, to the NZ Markets Disciplinary Tribunal, the operator of an NZX Market or any Person with whom CHO has a Reciprocal Arrangement, to perform its functions and to exercise its powers under these Rules;

(b) as required by law;

(c) to a solicitor, accountant or other professional adviser of CHO, the NZ Markets Disciplinary Tribunal, the operator of an NZX Market or any Person with whom CHO has a Reciprocal Arrangement;

(d) to any Person that has jurisdiction in relation to the Clearing Participant or Lending Clearing Participant or the subject matter or the investigation; and/or

(e) with consent of the relevant Clearing Participant or Lending Clearing Participant.

6.6.2 CHO must take all reasonable measures to protect any information obtained by CHO pursuant to Rule 6.5 from any unauthorised use or disclosure.

6.6.3 Upon receipt of a request from CHO pursuant to Rule 6.5, a Clearing Participant or Lending Clearing Participant may make submissions in writing to CHO that information obtained by CHO not be disclosed to specified Person(s). CHO will reasonably consider such submissions but is not obliged to accept such request if CHO considers that access to that information by the

specified Persons is appropriate for CHO, CDO or the operator of an NZX Market to fulfil their respective functions, including, but not limited to, fulfilling any obligations it has under a Reciprocal Arrangement or at law.

6.7 Power of Waiver and Rulings

Procedures 6.3 – 6.7

6.7.1 CHO has sole discretion to waive all or any part of these Rules or the Procedures in respect of a Clearing Participant, a Lending Clearing Participant or any class or classes thereof and CHO may make rulings as to the interpretation of these Rules or the Procedures. CHO may make rulings and grant waivers from these Rules or the Procedures, on such terms and conditions as CHO, in its complete discretion, thinks fit. CHO may by Procedure specify the procedures and practices it will adopt in relation to consideration of applications for rulings or waivers.

6.7.2 Any waiver or ruling granted by CHO may be revoked at any time by CHO by Notice to the Clearing Participant or Lending Clearing Participant concerned. Any such revocation shall have effect from the date stated in the Notice (which may be before the date of the Notice if CHO considers that the waiver or ruling was granted on the basis of information which was incorrect, incomplete or misleading in any material respect or if the conditions specified in the waiver or ruling have not been satisfied or complied with in full).

6.7.3 Any waiver or ruling granted by CHO will be valid and have effect in accordance with the terms of and for the period specified in the decision for that waiver or ruling. Any waiver or ruling is granted by CHO on the basis that the information provided is complete, true and up-to-date in all material respects. Any waiver or ruling granted by CHO will be void from the outset if CHO has made the decision in relation to the application on the basis of information which CHO determines was incorrect, incomplete or misleading in any material respect. Waivers and rulings granted by CHO subject to conditions are only valid if those conditions are satisfied or complied with. A waiver or ruling will be void from the outset if any such conditions are not satisfied or complied with in full.

6.7.4 The power and discretions of CHO set out in this Rule 6.7 are subject to sections 156ZB and 156ZC of the RBNZ Act such that CHO may not make any ruling or grant any waiver of any provision of the Rules or the Procedures that provides for any of the matters set out in section 156Q of the RBNZ Act.

6.7.5 Clearing Participants and Lending Clearing Participants may seek review of the decision of CHO in respect of waivers and rulings under this Rule 6.7 pursuant to NZ Markets Disciplinary Tribunal Rule 4.5.

6.8 Referral to NZ Markets Disciplinary Tribunal

6.8.1 CHO may, after undertaking an investigation in accordance with Rule 6.4.3, in its complete discretion submit proceedings against a Clearing Participant or the Responsible Person for that Clearing Participant to the NZ Markets Disciplinary Tribunal if, in the opinion of CHO, the Clearing Participant may have:

(a) breached these Rules;

(b) been guilty of any act, matter or thing detrimental, or reasonably likely to be detrimental, to the wellbeing, proper conduct, stability of an NZX Market or integrity of CHO, the Clearing House, the Clearing House System, CDO, or the Depository; or

(c) engaged a Person as an Employee or been, or be, in association or contractual relationship with a Person who has been guilty of conduct which, if committed by that Clearing Participant, would justify the NZ Markets Disciplinary Tribunal imposing on that Clearing Participant any of the penalties available to it under the NZ Markets Disciplinary Tribunal Rules,

and the Clearing Participant and its Responsible Person agrees to be bound by the NZ Markets Disciplinary Tribunal Rules, and shall comply with any decision of the NZ Markets Disciplinary Tribunal, including paying any penalty, fine or other costs imposed on the Clearing Participant or Responsible Person by the NZ Markets Disciplinary Tribunal.

6.8.2 The NZ Markets Disciplinary Tribunal will hear such proceedings in accordance with the NZ Markets Disciplinary Tribunal Rules.

6.9 Fee Setting Power

6.9.1 CHO may impose on any or all Clearing Participants and Lending Clearing Participants and on applicants for admission as Clearing Participants and Lending Clearing Participants such fees, levies and other charges in relation to participation in the

Procedure 6.8-6.10

Clearing House and the provision of services by CHO as it sees fit, including any fees, levies, other charges imposed as a condition of participation as a Clearing Participant and Lending Clearing Participants. CHO may differentiate between Clearing Participants and Lending Clearing Participants as regards the amount of such fees, levies and other charges at its complete discretion. All fees, levies and other charges will be payable in the manner and at the times specified by Procedure.

6.9.2 CHO will publish in accordance with Procedure the fees, levies and other charges imposed by CHO under Rule 6.9.1. Procedure 6.9 – 6.11

6.9.3 CHO may not impose on the operator of an NZX Market any fees or charges or seek to recover any costs in respect of:

(a) the clearing and settlement on the Clearing House of Transactions matched in the trading system of that NZX Market; or

(b) the approval of or introduction of a class of Commodity or Derivatives Contract as an Approved Product.

6.10 Currency Conversions

6.10.1 **Currency Calculations**: For the purposes of any currency conversion calculations under these Rules, CHO will convert amounts denominated in one currency to any other currency in the manner prescribed by the Procedures. Procedure 6.11

6.11 Emergency Powers

6.11.1 If CHO determines that a State of Emergency exists or is developing, CHO may take or authorise any action it considers necessary for the purpose of dealing with the State of Emergency, including:

(a) making State of Emergency Rules (which may be inconsistent with these Rules) for the Risk Management Purposes. In the event of any inconsistency between any State of Emergency Rules and these Rules, the State of Emergency Rules will prevail;

(b) suspending provision of any Clearing House facilities or services to one or more Persons;

(c) taking, or refraining from taking, or directing a Clearing Participant or Lending Clearing Participant as the context requires, to take or refrain from taking any action which CHO considers appropriate;

(d) taking any action in the name of and at the expense of a

Clearing Participant or Lending Clearing Participant; and

(e) taking any action that is inconsistent with these Rules.

6.11.2 No Person bound by the Rules or Procedures is liable for failure to comply with a Rule or Procedure (other than Rule 2.11 or a State of Emergency Rule) if, and to the extent which, compliance has been delayed, interfered with, curtailed or prevented by any action of CHO under Rule 6.11.1.

6.11.3 CHO may specify the period for which a State of Emergency may persist but the period must not exceed 30 Business Days. If CHO does not specify a period, the State of Emergency will persist for 30 Business Days.

6.11.4 CHO must promptly notify Clearing Participants and Lending Clearing Participants of its determination that a State of Emergency exists or is developing and the exercise of any powers under Rule 6.11.1. Upon cessation of the State of Emergency, CHO must promptly notify Clearing Participants and Lending Clearing Participants that the State of Emergency has ceased to exist.

6.11.5 Upon cessation of a State of Emergency, any State of Emergency Rules made by CHO under Rule 6.11.1(a) shall cease to have effect, without prejudice to any rights or obligations of CHO or a Clearing Participant or a Lending Clearing Participant arising from acts or omissions while the State of Emergency Rules were in effect and for the avoidance of doubt, the provisions of Rules 1.2 and 1.5 apply to the State of Emergency Rules.

6.12 General Powers

6.12.1 CHO may take action or not take action, as the case may be, if in its opinion, such action (including restricting access to the Clearing House System) or inaction is or may be necessary or desirable for the protection of CHO, CDO, Nominee, Clearing Participants, Lending Clearing Participants generally or as a class (or in particular), the Clearing House, the Depository, the Settlement System or for the operation of sound, orderly, stable and secure Clearing House, Depository and/or Settlement System or to prevent any material risk to CHO, the Clearing House or the Settlement System (the "**Risk Management Purposes**") and/or to secure compliance with these Rules provided that CHO's exercise of its powers under this Rule must be consistent with its obligations in respect of Settlement Transactions (including obligations to pay Money, deliver Approved Product or pay compensation under Rule 4.4.

6.12.2 At the request of a Clearing Participant or Lending Clearing

Participant, CHO may take any action on behalf of, including in the name of, a Clearing Participant or Lending Clearing Participant, provided that any such action taken by CHO:

(a) must not be inconsistent with the Rules, including the purpose and objects underlying the Rules;

(b) is subject to the limitation of liability of CHO under Rule 8.1.

6.12.3 Notwithstanding any other provision of these Rules to the contrary, CHO is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or directive.

6.13 Delegation of Powers

6.13.1 CHO may delegate to any Person any of the rights, powers and discretions of CHO, including the power of delegation on such terms and conditions, if any, as CHO from time to time thinks fit.

6.14 Relationship with Operators of NZX Markets

6.14.1 **Introduction of New Markets and Approved Products and Development:** NZX may at any time give CHO notice that:

(a) transactions on a Market operated by NZX or a subsidiary of NZX are to be cleared and settled on the Clearing House; or

(b) NZX proposes to approve a Commodity or Derivatives Contract for clearing and settlement on the Clearing House; or

(c) the operator of an NZX Market proposes that a Commodity or Derivatives Contract be traded on an NZX Market.

6.14.2 **CHO Actions:** If CHO receives a notice from NZX under Rule 6.14.1, then CHO must take all actions at its own cost that are necessary or desirable and within its reasonable control and within a reasonable time to procure that any such Commodity or Derivatives Contract traded on an NZX Market or approved by NZX for clearing and settlement on the Clearing House can be cleared and settled on the Clearing House.

6.14.3 **Changes to Markets**: If the operator of an NZX Market makes any changes to the operation of an NZX Market, then CHO must take all actions at its own cost that are necessary or desirable to ensure that Approved Product traded on that NZX Market can continue to be cleared and settled on the Clearing House and CHO must comply with all reasonable requests made by the

operator of an NZX Market for this purpose.

6.14.4 **CHO Costs**: CHO may not impose any fees or charges on NZX or an operator of an NZX Market or seek to recover from NZX or an operator of an NZX Market any costs incurred by CHO in respect of:

(a) the implementation of clearing and settlement on the Clearing House for any NZX Market;

(b) the clearing and settling on the Clearing House for any NZX Market or of any Approved Product, or the cessation of the same; or

(c) the implementation of any changes to the Clearing House System.

6.14.5 **Operation of Clearing House**: CHO must operate the Clearing System on such days and for such periods of time on such days as an operator of an NZX Market reasonably requests as being necessary or desirable for the orderly operation of an NZX Market.

6.15 Use of Data

6.15.1 CHO will do all things requested by NZX or the operator of an NZX Market that is necessary or desirable for the purposes of the redistribution by NZX or the operator of an NZX Market of NZX Data including (at its own cost) the provision of electronic feed of NZX Data as requested by NZX or the operator of an NZX Market. For the purposes of this Rule 6.15.1, "**NZX Data**" means data provided by NZX or an operator of an NZX Market relating to Transactions entered into on that NZX Market, including data relating to Approved Product, an underlying Commodity of an Approved Product, a Commodity or relating to Issuers of Approved Product.

6.15.2 **Provision of Information**: CHO must provide NZX and/or the operator of an NZX Market with any information it may request including information concerning CHO, the Clearing House (including its operations, financial position and business), any Clearing Participant, Lending Clearing Participant, any Related Person thereof and any Settlement Transactions.

Section 7: Default and Termination

7.1 Clearing Participant Credit Event

7.1.1 The occurrence of any of the following events or circumstances with respect to a Clearing Participant will constitute a Credit Event:

(a) that Clearing Participant fails to have sufficient clear and available funds in its Settlement Account at a Settlement Time or fails to have sufficient clear and available funds in its Account on a Relevant Payment Date or otherwise fails to pay an amount due and payable under the Rules at the place and in the currency in which it is expressed to be payable (including any Money Collateral obligation, whether or not arising from an intra-day Margin call under Rule 3.16, or obligation under these Rules to pay fees, levies or other charges to CHO, and any obligation imposed by the NZ Markets Disciplinary Tribunal to pay any fine or penalty imposed under the NZ Markets Disciplinary Tribunal Rules);

(b) that a Clearing Participant fails to have sufficient Approved Product in its Settlement Account at a Settlement Closing or fails to have sufficient Approved Product in its Account at a Delivery Time or otherwise fails to make, when due, any delivery of Approved Product required to be made by the Clearing Participant under these Rules (including in respect of any Collateral obligation, whether or not arising from an intra-day Margin call under Rule 3.16);

(c) that Clearing Participant fails to comply with any of the requirements set out in Rules 2.2.1(j), (l) and (m), Rule 2.8, Rules 2.9.1 (a) to (d) and (i) and (j), Rule 2.9.2 and Rule 9.1~~2.15~~;

(d) that Clearing Participant:

(i) fails to comply with an obligation under these Rules (other than an obligation to which Rule 7.1.1 (a), (b) or (c) relates);

(ii) fails to comply with any condition or directive imposed on the Clearing Participant by CHO; and/or

(iii) breaches any agreement between the Clearing Participant and CHO in any material respect or breaches any undertaking in favour of CHO,

and which, if the failure to comply is capable of remedy, is

not remedied within 3 Business Days (or such later time as CHO may in its sole discretion allow) of the earlier of (A) CHO giving Notice to the Clearing Participant, and (B) the Clearing Participant becoming aware of the failure to comply;

(e) that Clearing Participant, a Related Person of that Clearing Participant or a Person Controlled by a Related Person of that Clearing Participant is suspended, expelled or terminated (howsoever described) as a member or participant of, or subject to any sanction imposed by, the Depository (or CDO), any NZX Market (or operator thereof), any other derivatives, securities, commodity or stock exchange or market or other clearing and settlement facility or is subject to any sanction imposed by any New Zealand or overseas regulatory authority or ceases to be entitled to carry on business;

(f) a Default Event occurs for the purposes of the Depository Rules, in respect of that Clearing Participant in its capacity as a Depository Participant;

(g) any representation or warranty made or deemed to be made by that Clearing Participant under or pursuant to the Rules or the Procedures, or in any other agreement or document delivered by or on behalf of the Clearing Participant under or in connection with the Rules or the Procedures, (including in respect of an application to be a Clearing Participant) is, or proves to have been, incorrect or misleading when made or deemed to be made;

(h) a Clearing Participant creates or attempts to create any Security Interest or other interest in any Collateral, which ranks or CHO believes may rank, or any Person claims ranks, in priority to or equally with CHO's interest in that Collateral (either as transferee or Secured Party);

(i) that Clearing Participant no longer satisfies any requirements for admission as a Clearing Participant or fails to comply with any condition of admission;

(j) an Insolvency occurs in respect of that Clearing Participant or any Credit Provider of that Clearing Participant;

(k) CHO withdraws approval for its Responsible Person pursuant to Rule 2.13.6;

(l) CHO restricts that Clearing Participant from accessing the Clearing House System under Rule 6.12.1 or CHO is of the opinion that the acts, omissions or proposed conduct of that Clearing Participant may adversely affect the soundness, stability, security, operation or integrity of the

Clearing House System or the Depository System;

(m) a Clearing Participant's ownership of, title to, or other rights in respect of, all or any of the Collateral (other than Transferred Collateral) provided by the Clearing Participant is disputed or becomes the subject of a dispute or any other Person registers, claims or otherwise asserts a Security Interest in that Collateral in priority to or ranking equally with the charge and Security Interest in that Collateral granted in favour of CHO;

(n) any Person asserts a proprietary or equitable interest or other Security Interest or right in or to Transferred Collateral that has been transferred to CHO to secure an obligation of the Clearing Participant in a manner that may prevent or impede CHO from dealing with the Transferred Collateral free from that proprietary or equitable interest or Security Interest or right;

(o) any Third Party Collateral provided in respect of the Clearing Participant's obligations becomes invalid or unenforceable or is held, declared or claimed by any Person other than CHO, to be void, voidable or unenforceable;

(p) the Board or members of that Clearing Participant pass a resolution or make a proposal to consider a resolution for or in contemplation of any amalgamation or merger (howsoever described) of the Clearing Participant with any other Person;

(q) that Clearing Participant or its Responsible Person is found to be in breach of, or guilty of an offence under, the provisions of the Securities Legislation or a crime involving dishonesty (as defined in Section 2 of the Crimes Act 1961);

(r) if, in the opinion of CHO, there is a material adverse change in the creditworthiness of a Clearing Participant;

(s) a change of Control of the Clearing Participant which, in the opinion of CHO, would or would be likely to have a Material Adverse Effect;

(t) any consent at any time necessary in connection with these Rules, expires or is revoked, cancelled, withdrawn or modified in a manner unacceptable to CHO, or otherwise ceases to maintain in full force and effect, and is not replaced by a consent acceptable to CHO;

(u) it is or will become unlawful for that Clearing Participant to

comply with its obligations to CHO or any obligation of that Clearing Participant to CHO or any Security Interest securing its obligations to CHO, becomes invalid or unenforceable or is held, declared or claimed by any Person other than CHO, to be void, voidable or unenforceable;

(v) a duty, tax, withholding or deduction of the nature referred to in Rule 2.8.3 is or will be required to be paid or made;

(w) a Clearing Participant ceases to be a Depository Participant;

(x) CHO is informed by CDO, an operator of an NZX Market or other market operator, clearing and settlement facility or depository facility that the Clearing Participant or a Related Person of that Clearing Participant or a Person Controlled by a Related Person of that Clearing Participant is not, or may not be, complying with its obligations under the rules and procedures of, or any terms of agreement with, CHO, CDO, an operator of an NZX Market or any other Market operator, clearing and settlement facility or other depository facility and such event or circumstance would have a Material Adverse Effect; or

(y) CHO is informed by any other Alternative Regulator or other regulatory body that the Clearing Participant or a Related Person of the Clearing Participant or a Person Controlled by a Related Person of that Clearing Participant is not, or may not be, complying with any law, directive or regulatory requirement and such event or circumstance has or may have a Material Adverse Effect,

where, for the purposes of Section 7 of these Rules in respect of a Clearing Participant:

"**Material Adverse Effect"** means, in the opinion of CHO, a material adverse effect on:

(a) the capacity of the Clearing Participant to meet all its obligations to CHO, the Clearing House, an operator of an NZX Market, CDO, Nominee and the Depository or other Clearing Participants and Lending Clearing Participants;

(b) the financial position, reputation, security, integrity or stability of the Clearing House, CHO or that Clearing Participant; or

(c) an NZX Market or in respect of any Approved Product, any underlying market for or in respect of that Approved Product.

7.2 Lending Clearing Participant Credit Event

7.2.1 The occurrence of any of the following events or circumstances with respect to a Lending Clearing Participant will constitute a Credit Event:

(a) that Lending Clearing Participant fails to have sufficient clear and available funds in its Account on a Relevant Payment Date or otherwise fails to pay an amount due and payable under the Rules at the place and in the currency in which it is expressed to be payable; (including any Money Collateral obligation, whether or not arising from an intra-day Margin call under Rule 3.16, or any obligation under these Rules to pay fees, levies or other charges to CHO);

(b) that Lending Clearing Participant fails to have sufficient Approved Product in its Account at a Delivery Time or otherwise fails to make, when due, any delivery of Approved Product required to be made by the Lending Clearing Participant under these Rules (including any Collateral obligation, whether or not arising from an intra-day Margin call under Rule 3.16);

(c) that Lending Clearing Participant fails to comply with any of the requirements set out in Rules 2.3.1(a), (c) and (d), Rules 2.8 and 2.9.3;

(d) that Lending Clearing Participant:

(i) fails to comply with an obligation under these Rules (other than an obligation to which Rule 7.2.1(a), (b) or (c) relates);

(ii) fails to comply with any condition or directive imposed on the Lending Clearing Participant by CHO; and/or

(iii) breaches any agreement between the Lending Clearing Participant and CHO in any material respect or breaches any undertaking in favour of CHO,

and which, if the failure to comply is capable of remedy, is not remedied within 3 Business Days (or such later time as CHO may in its sole discretion allow) of the earlier of (A) CHO giving Notice to the Lending Clearing Participant, and (B) the Lending Clearing Participant becoming aware of the failure to comply;

(e) that Lending Clearing Participant, a Related Person of that Lending Clearing Participant or a Person Controlled by a Related Person of that Lending Clearing Participant is

suspended, expelled or terminated (howsoever described) as a member or participant of, or subject to any sanction imposed by, the Depository (or CDO), any NZX Market (or the operator thereof), any other derivatives, securities, commodity or stock exchange or market or other clearing and settlement facility or is subject to any sanction imposed by any New Zealand or overseas regulatory authority or ceases to be entitled to carry on business;

(f) a Default Event occurs for the purposes of the Depository Rules, in respect of that Lending Clearing Participant in its capacity as a Depository Participant;

(g) any representation or warranty made or deemed to be made by that Lending Clearing Participant under or pursuant to the Rules or the Procedures, or in any other agreement or document delivered by or on behalf of the Lending Clearing Participant under or in connection with the Rules or the Procedures (including in respect of an application to be a Lending Clearing Participant) is, or proves to have been, incorrect or misleading when made or deemed to be made;

(h) that Lending Clearing Participant creates or attempts to create any Security Interest or other interest in any Collateral, which ranks or CHO believes may rank, or any Person claims ranks, in priority to or equally with CHO's interest in that Collateral (either as transferee or Secured Party);

(i) that Lending Clearing Participant no longer satisfies any requirements for admission as a Lending Clearing Participant or fails to comply with any condition of admission;

(j) an Insolvency occurs in respect of that Lending Clearing Participant or any Credit Provider of that Lending Clearing Participant;

(k) CHO withdraws approval for its Responsible Person pursuant to Rule 2.13.6;

(l) CHO restricts that Lending Clearing Participant from accessing the Clearing House System under Rule 6.12.1 or CHO is of the opinion that the acts, omissions or proposed conduct of that Lending Clearing Participant may adversely affect the soundness, stability, security, operation or integrity of the Clearing House System or the Depository System;

(m) that Lending Clearing Participant's ownership of, title to, or

other rights in respect of, all or any of the Collateral (other than Transferred Collateral) provided by the Lending Clearing Participant is disputed or becomes the subject of a dispute or any other Person registers, claims or otherwise asserts a Security Interest in that Collateral in priority to or ranking equally with the charge and Security Interest in that Collateral granted in favour of CHO;

(n) any Person asserts a proprietary or equitable interest or other Security Interest or right in or to Transferred Collateral that has been transferred to CHO to secure an obligation of the Lending Clearing Participant in a manner that may prevent or impede CHO from dealing with the Transferred Collateral free from that proprietary or equitable interest or Security Interest or right;

(o) any Third Party Collateral provided in respect of that Lending Clearing Participant's obligations becomes invalid or unenforceable or is held, declared or claimed by any Person other than CHO, to be void, voidable or unenforceable;

(p) the Board or members of that Lending Clearing Participant pass a resolution or make a proposal to consider a resolution for or in contemplation of any amalgamation or merger (howsoever described) of that Lending Clearing Participant with any other Person;

(q) that Lending Clearing Participant or its Responsible Person is found to be in breach of, or guilty of an offence under, the provisions of the Securities Legislation or a crime involving dishonesty (as defined in Section 2 of the Crimes Act 1961);

(r) if, in the opinion of CHO, there is a material adverse change in the creditworthiness of that Lending Clearing Participant;

(s) any consent at any time necessary in connection with these Rules, expires or is revoked, cancelled, withdrawn or modified in a manner unacceptable to CHO, or otherwise ceases to maintain in full force and effect, and is not replaced by a consent acceptable to CHO;

(t) it is or will become unlawful for that Lending Clearing Participant to comply with its obligations to CHO or any obligation of a Lending Clearing Participant to CHO or any Security Interest securing its obligations to CHO, becomes invalid or unenforceable or is held, declared or claimed by any Person other than CHO, to be void, voidable or unenforceable;

(u) a duty, tax, withholding or deduction of the nature referred to in Rule 2.8.3 is or will be required to be paid or made;

(v) that Lending Clearing Participant ceases to be a Depository Participant;

(w) CHO is informed by CDO, an operator of an NZX Market or other market operator, clearing and settlement facility or depository facility that the Lending Clearing Participant or a Related Person of that Lending Clearing Participant or a Person Controlled by a Related Person of that Lending Clearing Participant is not, or may not be, complying with its obligations under the rules and procedures of, or any terms of agreement with, CHO, CDO, an operator of an NZX Market or any other Market operator, clearing and settlement facility or other depository facility and such event or circumstance would have a Material Adverse Effect; or

(x) CHO is informed by any other Alternative Regulator or other regulatory body that the Lending Clearing Participant or a Related Person of the Lending Clearing Participant or a Person Controlled by a Related Person of that Lending Clearing Participant is not, or may not be, complying with any law, directive or regulatory requirement and such event or circumstance has or may have a Material Adverse Effect,

where, for the purpose of Section 7 of these Rules in respect of a Lending Clearing Participant:

"**Material Adverse Effect"** means, in the opinion of CHO, a material adverse effect on:

(a) the capacity of the Lending Clearing Participant to meet all its obligations to CHO, the Clearing House, an operator of an NZX Market, CDO, Nominee and the Depository or other Lending Clearing Participants and Clearing Participants;

(b) the financial position, reputation, security, integrity or stability of the Clearing House, CHO or that Lending Clearing Participant; or

(c) an NZX Market or in respect of any Approved Product, any underlying market for or in respect of that Approved Product.

7.3 Declared Default and Application of Rules 7.4 to 7.10

7.3.1 CHO may, in its absolute discretion, determine whether it will treat a Credit Event as a Declared Default and may determine

the Default Declaration Date, being the date and time from which the Clearing Participant or Lending Clearing Participant is deemed to be in default.

7.3.2 If CHO has determined to treat a Credit Event as a Declared Default in respect of a Clearing Participant or Lending Clearing Participant, or if a Clearing Participant or Lending Clearing Participant has been Suspended or has failed to have sufficient Approved Product in its Account at a Settlement Time or at a Delivery Time or has failed to have sufficient clear and available funds in its Account at a Settlement Time or on a Relevant Payment Date, then CHO may exercise any of the powers in Rules 7.4 to 7.10. For the purposes of the Rules, a "**Non-Performing Clearing Participant**" is a Defaulting Clearing Participant or a Clearing Participant or a Lending Clearing Participant who has been Suspended or who has failed to have sufficient Approved Product in its Account at a Settlement Time or at a Delivery Time or has failed to have sufficient clear and available funds in its Account at a Settlement Time or on a Relevant payment Date.

7.3.3 CHO must notify the Non-Performing Clearing Participant and the operator of an NZX Market for which the Non-Performing Clearing Participant provides clearing and settlement services that it has taken action under Rules 7.4 to 7.10 as soon as reasonably practicable. CHO may give other Clearing Participants and Lending Clearing Participants Notice of a Declared Default and Default Declaration Date.

7.4 Default Remedies

7.4.1 If this Rule applies, CHO may, without limitation, take such action as CHO deems necessary, expedient or desirable for Risk Management Purposes. Without limiting Rule 7.9, this action may include all or any of the following:

(a) suspending the Non-Performing Clearing Participant's connection or restricting the Non-Performing Clearing Participant's access to the Clearing House System and/or the Depository System;

(b) cancelling any or all of the Net Open Positions and/or Settlement Transactions of the Non-Performing Clearing Participant recorded against any or all of the Non-Performing Clearing Participant's Settlement Accounts or Accounts in accordance with Rule 7.6;

(c) settling, recalculating or carrying forward obligations under Section 4;

(d) exercising its powers under Rules 4.2.7, 4.2.17, 4.3 and

paying compensation under Rule 4.4;

(e) refusing to release Collateral (other than Transferred Collateral), return Third Party Collateral or make a transfer in respect of Transferred Collateral (other than Third Party Collateral) if requested to do so under Rule 3.15;

(f) agreeing with one or more Clearing Participants or Lending Clearing Participants to transfer some or all Settlement Transactions and associated Collateral from the Non-Performing Clearing Participant (or CHO, in the case of Transferred Collateral) to such other Clearing Participant(s) or Lending Clearing Participant(s);

(g) declaring one or more obligations of the Non-Performing Clearing Participant to be immediately due and payable and/or immediately due and deliverable;

(h) borrowing Approved Products to meet the delivery obligations of the Non-Performing Clearing Participant in accordance with Depository Rule 5.2.1;

(i) buying in Approved Products to meet the delivery obligations of the Non-Performing Clearing Participant in accordance with Rule 7.5;

(j) setting off amounts under Rule 7.8;

(k) subject always to Rule 2.~~21~~16.9, applying the Non-Performing Clearing Participant's Collateral in accordance with Rule 7.9;

(l) subject always to Rule 2.~~21~~16.9, re-allocating Collateral that has been recorded against a particular Settlement Account or Account of a Non-Performing Clearing Participant to another Settlement Account or Account of the Non-Performing Clearing Participant, and applying that Collateral in accordance with Rule 7.9;

(m) entering into one or more Transactions, whether or not for accelerated delivery, to reduce or eliminate the Non-Performing Clearing Participant's Net Open Positions or the Non-Performing Clearing Participant's positions in Derivatives Contracts or to hedge all or part of the Net Open Position or positions in Derivatives Contracts of the Non-Performing Clearing Participant;

(n) sell or agree to sell any Withheld Approved Product by sale on the relevant market, by private agreement or otherwise as CHO in its discretion determines and apply the proceeds of sale in accordance with Rule 7.9.3

(o) obtaining advice or assistance in connection with any action required to address the default at the expense of the Non-Performing Clearing Participant;

(p) making demand under any Third Party Collateral lodged with CHO in respect of the Non-Performing Clearing Participant's obligations to CHO as Collateral; and

(q) imposing costs and charges on the Non-Performing Clearing Participant.

7.5 Buy in

7.5.1 Where for the purposes of Rules 4.3.1(b), 4.3.3(a) or 7.4.1(i) CHO elects to buy in Approved Product, that buy in will be conducted pursuant to a Buy In Procurement Agreement and in accordance with the Procedures. Procedure 7.1

7.6 Close out

7.6.1 Upon cancellation of one or more Net Open Positions and/or Settlement Transactions, neither CHO nor the Non-Performing Clearing Participant will be obliged to make any further payment or delivery of Approved Product in respect of a Net Open Position or under a Settlement Transaction which, but for cancellation under the Rules was due for payment or delivery at the time of cancellation or, would have fallen due for payment or delivery after the date of cancellation. Upon the cancellation of a Net Open Position and/or a Settlement Transaction, the unperformed obligations of CHO and the Non-Performing Clearing Participant under that Net Open Position and/or Settlement Transaction will be replaced by:

(a) if a Non-Performing Clearing Participant had an obligation to deliver Approved Product, an obligation of the Non-Performing Clearing Participant to pay (whether by payment, set off or otherwise) to CHO an amount equal to the compensation amount payable by CHO in accordance with Rule 4.4 and any amount payable to CHO under Rule 4.3.1(j); and

(b) if a Non-Performing Clearing Participant had an obligation to pay an amount, an obligation of the Non-Performing Clearing Participant or CHO (as the case may be) to pay (whether by payment, set off or otherwise) the amount calculated, in accordance with Rule 7.7;

and CHO will notify the Non-Performing Clearing Participant of the amount payable under this provision, such amount to be payable within 24 hours after Notice is given.

7.7 Close Out Calculation for Payment Obligations

7.7.1 Where an obligation to pay an amount is replaced under Rule 7.6.1(b), CHO will calculate in the currency selected by CHO as the Close Out Currency, (on or as soon as is reasonably practicable following the Close Out Date) its loss or gain as the case may be that CHO has incurred, suffered or made in respect of the cancelled Net Open Positions or Settlement Transactions. When calculating the loss or gain, CHO may take into account (without limitation) any costs, loss of bargain, cost of funding or, cost, loss or as the case may be gain arising as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position.

7.7.2 If the amount calculated under Rule 7.7.1 is:

(a) a net loss, the Non-Performing Clearing Participant must pay such amount plus any amount calculated in accordance with Rule 7.7.3, to CHO;

(b) a net gain, CHO must pay such amount to the Non-Performing Clearing Participant, provided that CHO will not be required to pay such amount to a Non-Performing Clearing Participant unless and until all of the obligations of the Non-Performing Clearing Participant (howsoever arising) to CHO have been satisfied in full and CHO will, without limitation, be entitled to exercise its right of set off under Rule 7.8.

7.7.3 Where CHO undertakes a currency conversion calculation under Rule 7.7.1 to convert amounts to the Close Out Currency, the Non-Performing Clearing Participant must indemnify and hold CHO harmless against all costs, losses, expenses, claims, actions, suits, judgments, damages, penalties, obligations or liabilities which CHO may sustain or incur directly or indirectly as a result of the amount receivable by CHO at the time it is received being in a different currency to any corresponding obligation CHO is required to meet at that or any other time. Any such amount must be paid on demand to CHO and may be deducted from any amount payable to the Non-Performing Clearing Participant on close out under Rule 7.7, or added to any amount payable by the Non-Performing Clearing Participant on close out under Rule 7.7.

7.7.4 CHO will notify a Non-Performing Clearing Participant of any action it takes under this Rule 7.7.

7.8 Set off

7.8.1 Without prejudice to any other rights CHO may have, whether

under these Rules, by agreement, by operation of law or otherwise, CHO may at any time and without notice to a Non-Performing Clearing Participant set off any amount (whether actual, contingent, present or future) payable or owing by CHO to the Non-Performing Clearing Participant against any amount (whether actual, contingent, present or future) payable or owing by the Non-Performing Clearing Participant to CHO. CHO must notify the Non-Performing Clearing Participant of any set off effected under these Rules. If any obligation is unascertained, CHO may make an estimation of that obligation in good faith and effect set off in respect of that obligation, subject to CHO adjusting its accounting, and requiring additional payment, or making additional payment, once the obligation is ascertained.

7.9 Enforcement of Collateral and Sale of Withheld Approved Product

7.9.1 CHO may (immediately and without notice), but subject always to Rule 2.~~21~~16.9:

(a) to the extent that it does not have possession of Collateral that has been provided in respect of the obligations of a Non-Performing Clearing Participant (**"Relevant Collateral"**), take possession of the Relevant Collateral (whether or not the Secured Party has priority over all other Secured Parties);

(b) receive and apply in accordance with Rule 7.9.3 all dividends, bonuses, income, or other entitlements or Proceeds arising in relation to the Relevant Collateral;

(c) sell or agree to sell any Relevant Collateral by sale on the relevant securities market, by private agreement or otherwise as CHO in its discretion determines and apply the proceeds of sale in accordance with Rule 7.9.3;

(d) apply any Relevant Collateral to satisfaction of the Non-Performing Clearing Participant's obligations to CHO in accordance with Rule 7.9.3;

(e) exercise all the powers, rights and remedies conferred on Secured Parties by law;

(f) do all things and exercise any power that the Non-Performing Clearing Participant could do or exercise in relation to any Collateral; and/or

(g) execute or arrange execution of all documentation or things which CHO deems fit to give effect to the preceding powers.

7.9.2 No purchaser of Collateral is obliged to enquire as to the propriety or regularity of the sale or be affected by express knowledge or notice that it is improper or irregular nor need any such purchaser see to the application of the purchase Money.

7.9.3 The proceeds of exercise of any enforcement power pursuant to Rule 7.9.1 or Rule 7.4.1(n) will be applied:

(a) first in payment of all costs and expenses (including taxes and legal fees) incurred by CHO in connection with or as a result of exercise of its rights;

(b) subject to Rule 2.~~21~~16.9, secondly in discharge of all obligations of the Non-Performing Clearing Participant to CHO, in such order as may be determined by CHO including by application of the proceeds for the purposes of Rule 4.3.1(c) or Rule 4.3.3(b); and

(c) thirdly in payment of any residue to any Person entitled to any surplus.

7.9.4 **PPSA not to apply**: Each Clearing Participant, Lending Clearing Participant and CHO contracts out of sections 114(1), 133 and 134 of the PPSA. Each Clearing Participant, Lending Clearing Participant and CHO contracts out of the Clearing Participant's or Lending Clearing Participant's (as the case may be) rights under sections 116, 120(2) and 121 of the PPSA.

7.10 Miscellaneous Provisions

7.10.1 **Currency Calculations**: For the purposes of any calculations under this Section 7, CHO will convert amounts denominated in any other currency to NZ$ or any other currency in accordance with Rule 6.10.

7.10.2 **Overdue Interest:** Any amount to be paid by a Clearing Participant or Lending Clearing Participant and not paid by its due date for payment will be treated as an unpaid amount and will bear interest at the rate prescribed by CHO by Procedure. Interest will accrue and compound on a daily basis and must be paid as a separate debt to CHO.

Procedure 7.2

7.10.3 **Rights in Addition**: CHO's rights under these Rules are in addition to, and not in limitation or exclusion of, any rights CHO may have whether by agreement, by operation of law or otherwise.

7.10.4 **Discharge of Obligations**: Following the exercise by CHO of its rights under these Rules (including but not limited to Rule 7.9) and under any other agreement with the Non-Performing Clearing Participant and at law, CHO must return any surplus

proceeds to the Non-Performing Clearing Participant (or its liquidator or other insolvency trustee as the case may be) and (at CHO's discretion) only after CHO has received a written acknowledgement (or such other undertaking as CHO may require) that the returned surplus proceeds are accepted by the Non-Performing Clearing Participant (or its liquidator or insolvency practitioner as the case may be) in full and final settlement of all claims which the Non-Performing Clearing Participant may have against CHO.

7.10.5 **Non-Performing Clearing Participant's Further Obligations**: Without prejudice to CHO's right to be indemnified under Rule 8.3, if the proceeds realised pursuant to this Section 7 are insufficient for the payment of all the Non-Performing Clearing Participant's liabilities to CHO then the deficit, together with overdue interest accrued thereon is a debt immediately due to CHO and payable without further demand.

7.10.6 Each Security Interest created in favour of CHO in respect of Collateral by these Rules will attach immediately upon the grant of the Security Interest, and no agreement is made for attachment of any Security Interest to be delayed.

7.10.7 **Flawed asset**: Any obligation of CHO to make any payment, deliver, release or return any asset, property or Collateral under the Rules to a Non-Performing Clearing Participant or any Clearing Participant or Lending Clearing Participant who has resigned or been terminated under the Rules (each an "**Affected Party**") is subject to the condition precedent that all monies payable or owing by that Affected Party under the Rules, the Depository Rules or the NZ Markets Disciplinary Tribunal Rules to the NZ Markets Disciplinary Tribunal, CDO, Nominee and CHO have been paid. This Rule 7.10.7 does not apply to any obligations of CHO in respect of Settlement Transactions (including obligations to pay Money, deliver Approved Product or pay compensation under Rule 4.4).

7.11 Suspension

7.11.1 **Suspension by NZ Markets Disciplinary Tribunal:** A Clearing Participant's participation in the Clearing House may be Suspended by the NZ Markets Disciplinary Tribunal in accordance with the NZ Markets Disciplinary Tribunal Rules and with the consent of CHO.

7.11.2 **Suspension by CHO:** CHO will be entitled to suspend a Clearing Participant or Lending Clearing Participant in any of the following circumstances:

(a) on the occurrence of a Credit Event in respect of that Clearing Participant or Lending Clearing Participant; or

(b) any Potential Credit Event which is continuing; or

(c) any alleged breach of these Rules or Procedures where such breach, if proven, could have a Material Adverse Effect and for the purposes of Rule 7.1.1(d) and Rule 7.2.1(d) must be a breach which is either not capable of remedy or has not been remedied within 3 Business Days of the earlier of (A) CHO giving Notice to the Clearing Participant or Lending Clearing Participant and (B) the Clearing Participant or Lending Clearing Participant becoming aware of the failure to comply.

7.11.3 A Suspension may be for a fixed period or for an indefinite period, as determined by CHO in its sole discretion.

7.11.4 A Suspension will remain in force for any period notified to the Clearing Participant or Lending Clearing Participant or until CHO determines that the Suspension will be extended or participation is terminated under Rule 7.12 or Rule 7.13.

7.11.5 A Clearing Participant or Lending Clearing Participant will not be entitled to appeal against CHO's decision to Suspend its participation in the Clearing House by making an appeal to the NZ Markets Disciplinary Tribunal or to any other court or tribunal.

7.12 Resignation

7.12.1 An Individual Clearing Participant may cease to be a Clearing Participant and a Lending Clearing Participant may cease to be a Lending Clearing Participant by providing written notification of resignation to CHO. The resignation will take effect 3 months from receipt of notification unless CHO and the Clearing Participant or Lending Clearing Participant agree an earlier date.

7.12.2 A General Clearing Participant or a Default Clearing Participant may cease to be a Clearing Participant of CHO by providing written notification of resignation to CHO. The resignation will take effect 12 months from receipt of the notification unless CHO and the General Clearing Participant or the Default Clearing Participant (as the case may be) agree an earlier date. A General Clearing Participant or Default Clearing Participant who has given written notice of resignation must also promptly submit to CHO a programme setting out the manner and timing of the winding down and/or the transfer of the General Clearing Participant's or Default Clearing Participant's business as a Clearing Participant.

7.12.3 A resigning Clearing Participant or Lending Clearing Participant must not become a party to any Settlement Transaction with Settlement Dates after the Business Day on which the Clearing

Participant's or Lending Clearing Participant's participation in the Clearing House terminates.

7.13 Termination

7.13.1 A Clearing Participant's participation in the Clearing House may be terminated by the NZ Markets Disciplinary Tribunal in accordance with the NZ Markets Disciplinary Tribunal Rules and with the consent of CHO.

7.13.2 CHO will be entitled to terminate, either with immediate effect or by specifying a future date, the participation of a Clearing Participant or Lending Clearing Participant in the Clearing House if:

(a) there is a Declared Default in respect of that Clearing Participant or Lending Clearing Participant as a result of which, in CHO's opinion, it is necessary for Risk Management Purposes that the participation of the Clearing Participant or Lending Clearing Participant in the Clearing House should be terminated;

(b) the Clearing Participant or Lending Clearing Participant ceases to carry on the business of clearing and settlement of Transactions in Approved Products for a period of 6 months; or

(c) the Clearing Participant or Lending Clearing Participant is Suspended under Rule 7.11.1 or Rule 7.11.2 and CHO, in its sole discretion, determines that the Clearing Participant or Lending Clearing Participant has not or is unlikely to remedy to the satisfaction of CHO the matters giving rise to the Suspension.

7.13.3 A Clearing Participant or Lending Clearing Participant will not be entitled to appeal against CHO's decision to terminate its participation in the Clearing House by making an appeal to the NZ Markets Disciplinary Tribunal or to any other court or Tribunal.

7.14 General Provisions Relating to Resignation, Suspension and Termination

7.14.1 A resigning, Suspended or terminated Clearing Participant or Lending Clearing Participant must perform and complete all Transactions and/or Settlement Transactions entered into prior to the effective date of resignation, Suspension or termination of the Clearing Participant's or Lending Clearing Participant's participation in the Clearing House unless CHO, in its sole discretion, decides otherwise.

7.14.2 On the effective date of resignation, Suspension or termination of a Clearing Participant's or Lending Clearing Participant's participation in the Clearing House, the Clearing Participant's or Lending Clearing Participant's access to the Clearing House System shall cease.

7.14.3 CHO may publish the resignation, Suspension or termination of a Clearing Participant or Lending Clearing Participant in any manner CHO deems appropriate. CHO will notify its regulators, the Securities Commission and the Reserve Bank of New Zealand and the operators of the NZX Markets on which the Clearing Participant provides clearing and settlement services and may notify all other Clearing Participants and Lending Clearing Participants and other relevant regulatory authorities of the resignation, Suspension and termination as it sees fit.

7.14.4 A resigning, Suspended or terminated Clearing Participant or Lending Clearing Participant must act in good faith and take such actions as may be necessary, convenient or desirable to assist CHO in all matters arising out of such resignation, Suspension or termination. In particular, and without limitation, a General Clearing Participant or a Default Clearing Participant must agree with CHO a programme for transferring its clients to other General Clearing Participants or a Default Clearing Participant.

7.14.5 A resigning or terminated Clearing Participant or Lending Clearing Participant will not be entitled to the repayment of any fees, dues, assessments, fines or charges paid by such Clearing Participant or Lending Clearing Participant to CHO, nor will the resigning Clearing Participant or Lending Clearing Participant be discharged from the obligation to pay any fees, dues, assessments, fines or charges in respect of the period preceding the effective date of resignation or termination.

7.14.6 Subject to any legal or regulatory requirement to retain such information, a resigning or terminated Clearing Participant or Lending Clearing Participant must return to CHO all software, equipment and documentation provided by CHO.

7.14.7 A former Clearing Participant or Lending Clearing Participant shall:

(a) continue to be liable to CHO for all obligations and liabilities incurred by the former Clearing Participant or Lending Clearing Participant under these Rules during the period of its participation in the Clearing House; and

(b) remain subject to disciplinary action for any act or omission committed by it during the period of the former Clearing Participant's participation in the Clearing House, until the

later of:

(i) 7 years following the date on which a Clearing Participant has ceased to be a Clearing Participant; and

(ii) if CHO has instituted proceedings or taken any action against the former Clearing Participant during the 7 year period, then in relation to the obligation and liabilities that were the subject of such proceedings, the date on which all of CHO's remedies against the former Clearing Participant have been exhausted.

7.14.8 Rule 8.3 and Rule 8.7.2 will continue to apply to a former Clearing Participant or Lending Clearing Participant after the time on which the former Clearing Participant or Lending Clearing Participant ceased to be a Clearing Participant or Lending Clearing Participant.

7.14.9 The Rules and the Procedures will continue to bind a Clearing Participant or Lending Clearing Participant notwithstanding their Suspension. Without limiting any other Rule, the Rules and the Procedures will bind a Clearing Participant or Lending Clearing Participant until the time at which their participation in the Clearing House is terminated under Rule 7.12 or 7.13.

Section 8: Miscellaneous

8.1 Liability of Affected Persons

8.1.1 CHO and each Clearing Participant and each Lending Clearing Participant agree and acknowledge that:

(a) the sole and exclusive remedy for settlement failure by CHO is payment of compensation under, and subject to the terms of, Rule 4.4; and

(b) in order to balance the importance of appropriate compensation being paid to a Clearing Participant or Lending Clearing Participant in the event of settlement failure, with the desirability of maintaining the stability of the Clearing House, the liability of each Affected Person in respect of any other breaches, acts or omissions by each Affected Person shall be limited or excluded on the basis set out in this Rule 8.1.

8.1.2 Each Affected Person's liability to any Person for any breach, act or omission whatsoever (including under these Rules and/or the Depository Rules) is limited to:

(a) Losses resulting from fraud that is directly attributable to that Affected Person or Losses resulting from fraud that is indirectly attributable to that Affected Person through general principles of law (such as vicarious liability or agency), provided that notwithstanding any fraud, no Affected Person will be liable for any indirect or consequential damages, nor any loss of profits, goodwill, reputation or opportunity, whether direct or indirect, even when notified of the possibility of such damages and provided further that each Affected Person's liability for such is subject to Rule 8.1.7; and

(b) in respect only of CHO, compensation payable to Clearing Participants or Lending Clearing Participants under, and subject to the terms of, Rule 4.4 in relation to a settlement failure.

8.1.3 The total aggregate limit of an Affected Person's liability in respect of or arising out of or in connection with any one event for which that Affected Person is liable under Rule 8.1.2 shall be as follows:

(a) in the case of Losses resulting from fraud that is directly attributable to an Affected Person, that Affected Person's liability shall not be subject to a monetary cap. For the purpose of this Rule 8.1.3(a), all inter-related events which give rise to liability for that Affected Person will be treated

as one event;

(b) in the case of Losses resulting from fraud that is indirectly attributable to an Affected Person through general principles of law (such as vicarious liability or agency), the total aggregate liability of that Affected Person and all other Affected Persons for those Loses shall not exceed NZ$5 million. For the purpose of this Rule 8.1.3 (b):

(i) all inter-related events which give rise to liability for an Affected Person will be treated as one event. If any two or more Clearing Participants and/or any two or more Lending Clearing Participants suffer Losses resulting from fraud that is indirectly attributable to an Affected Person through general principles of law (such as vicarious liability or agency) and which exceed the total aggregate limit of NZ$5 million, the liability of that Affected Person to each of those Clearing Participants and/or Lending Clearing Participants shall be proportional to the total of those Losses suffered by each of those Clearing Participants and/or Lending Clearing Participants respectively up to the total of NZ$5 million; and

(ii) all claims against any two or more Affected Persons which arise out of the same event or inter-related events shall be aggregated for the purpose of determining whether the NZ$5 million limit in this Rule 8.1.3(b) has been reached, to the intent that the aggregate liability of all Affected Persons in respect of that event or those inter-related events shall not exceed that NZ$5 million limit, and to the extent that the aggregate liability of all Affected Persons would (but for this Rule 8.1.3(b)) otherwise exceed that NZ$5 million limit, each Affected Person shall be severally liable for its proportional share of that NZ$5million aggregate liability (such proportion to be calculated by reference to what would otherwise be the liability of that Affected Person as a proportion of what would otherwise be the total liability of all Affected Persons); and

(c) in the case of compensation payable by CHO to a Clearing Participant or Lending Clearing Participant under Rule 4.4, the compensation payable by CHO shall be subject to such limitations, conditions and exclusions as set out in

Rule 4.4.

8.1.4 Except as expressly set out in Rule 8.1.2, no Affected Person will have any obligation or liability to any Person, whether a claim is made in contract, tort (including negligence), equity or otherwise, and whether under statute, warranty, indemnity, or any other obligation to pay, including in the event of:

(a) any Losses (including direct, indirect or consequential loss or damage) which may be suffered or incurred, or which may directly or indirectly arise, out of or in connection with that or any other Affected Person's activities;

(b) a Clearing Participant's or Lending Clearing Participant's inability to use the Clearing House System or any other CHO system;

(c) a failure, error or omission on the part of that or any other Affected Person including any loss or damage in respect of:

(i) the result of clearing and settling on the Clearing House;

(ii) any inoperability or malfunction of equipment, software or any other product supplied to a Clearing Participant or Lending Clearing Participant, or in respect of its installation, maintenance or removal; or

(iii) the exercise by that or any other Affected Person of a decision making power;

(d) CHO accepting a Clearing Participant's or Lending Clearing Participant's resignation, or CHO's decision to suspend or terminate a Clearing Participant's or Lending Clearing Participant's participation in the Clearing House or to declare a Clearing Participant or Lending Clearing Participant to be a Defaulting Clearing Participant or CHO's exercise of any power in respect of a Non-Performing Clearing Participant.

8.1.5 If for any reason any Affected Person is liable to any one or more Persons under or in connection with these Rules, all Affected Persons' total aggregate liability in respect of all those Persons together, and all Affected Persons' breaches, acts and omissions combined, will not in any circumstances exceed an aggregate total of $100 (or if this amount is not enforceable at law, then the minimum amount that is enforceable at law), provided that this limitation will not apply to liability permitted under Rule 8.1.2.

8.1.6 An Affected Person may require a Clearing Participant or Lending Clearing Participant to pay that Affected Person's reasonable cost of producing (pursuant to court order, regulatory request, or other legal process) records relating to the business or affairs of a Clearing Participant or Lending Clearing Participant, or any Director, Personnel, agent or other Person acting on behalf of the Clearing Participant or Lending Clearing Participant. This applies regardless of who requires the production.

8.1.7 An Affected Person will not be required to make payment pursuant to Rule 8.1.2(a) unless the Clearing Participant or Lending Clearing Participant has provided written details of the claim to that Affected Person no later than 18 calendar months following the date on which the Clearing Participant or Lending Clearing Participant became or should reasonably become aware of the specific act, fact, circumstance or event which gave rise to the claim.

8.1.8 The limitations and exclusions in this Rule 8.1 are cumulative and independent, and will apply whether a claim is made in contract, tort (including negligence), equity or otherwise, and whether under statute, warranty, indemnity, or any other obligation to pay, but will not apply to compensation payable under Rule 4.4.

8.2 Limitation on Action

8.2.1 No Clearing Participant or Lending Clearing Participant will be entitled to take (and to the maximum extent permitted by law each Clearing Participant and each Lending Clearing Participant waives and abandons its right to take) any legal proceedings, arbitration or other proceedings (including in relation to negligence) against any Affected Person seeking to impose any liability on any Affected Person for the alleged failure on that or any other Affected Person's part to prevent or require action by a Clearing Participant, a Lending Clearing Participant or any of a Clearing Participant's or Lending Clearing Participant's Directors, Personnel, agents or any other Person acting on behalf of the Clearing Participant or Lending Clearing Participant, other than legal proceedings relating to fraud.

8.3 Indemnity

8.3.1 A Clearing Participant or Lending Clearing Participant will not be required to indemnify an Affected Person under this Rule 8.3 against Losses incurred by that Affected person arising out of or in connection with the fraud, wilful default or gross negligence of that Affected Person, but only to the extent that such fraud, wilful default or gross negligence of that Affected Person

contributed directly to the Losses.

8.3.2 Subject only to Rule 8.3.1, each Clearing Participant and each Lending Clearing Participant undertakes and agrees to indemnify each Affected Person against all Losses incurred or suffered by that Affected Person where such Losses arose out of or in connection with:

(a) any breach by that Clearing Participant or that Lending Clearing Participant of its obligations under the Rules;

(b) any wilful, unlawful, reckless or negligent act or omission by that Clearing Participant or that Lending Clearing Participant; or

(c) any action taken by CHO on behalf of, and at the request of, a Clearing Participant or a Lending Clearing Participant under Rule 6.12.2.

8.3.3 Without limitation to Rule 8.3.2 above, if any legal proceedings, arbitration or other proceedings are brought to impose any liability on any Affected Person for the alleged failure on that or any other Affected Person's part to prevent or require action by a Clearing Participant or Lending Clearing Participant (the "**Relevant Clearing Participant**") or any of the Relevant Clearing Participant's Directors, Personnel or agents, or other Person acting on behalf of the Relevant Clearing Participant, such Relevant Clearing Participant hereby undertakes to indemnify each Affected Person against:

(a) all expenses and reasonable legal fees reasonably incurred by that Affected Person arising from or in connection with the proceedings;

(b) any payment made by that Affected Person (in its absolute and sole discretion) arising from or in connection with settlement of the proceedings; and

(c) any payment made by that Affected Person as a result of any order or award made in the proceedings.

8.4 Definition of Affected Person

8.4.1 For the purposes of Rules 8.1, 8.2 and 8.3, an "**Affected Person**" means each of CHO, NZCDC, a Director, Personnel or agent of CHO or NZCDC and any other Person acting on behalf of CHO (including NZX), and "**Affected Persons**" means any two or more of those Persons.

8.4.2 The provisions of Rules 8.1, 8.2 and 8.3 and this Rule 8.4 are for the benefit of each Affected Person and are intended to be enforceable by each Affected Person.

8.5 Notices

8.5.1 In these Rules and the Procedures, a reference to notifying a Person or giving a Person notice includes a reference to:

(a) giving notice of those matters to the Person; or

(b) transmitting a message containing those matters to the Person.

8.5.2 For the purposes of the Rules and Procedures, a message which is transmitted by CHO or a Clearing Participant or Lending Clearing Participant will be deemed to be received when the message is made available for collection in the Clearing House facility for passing messages between CHO and Clearing Participants and Lending Clearing Participants.

8.5.3 If any Rule or Procedure requires or permits giving of notice of matters to a Person, the Rule or Procedure requires or permits the giving to that Person of a written document containing those matters.

8.5.4 For the purposes of any Rule or Procedure that requires or permits a document or notice to be given to a Person, whether the expression "serve", "give", or "send" or any other expression is used, the document may be given, and will be deemed to have been received, in the manner set out in the relevant Procedure. Nothing in this Rule or the Procedures prevents documents being sent, given to or served on a Person in any other manner permitted by law. Any document or notice shall be deemed to have been received by the recipient of the document or notice if the recipient has effectively received the document or notice, notwithstanding any non-compliance with this Rule or the Procedures.

Procedure 8.1.

8.5.5 If under these Rules CHO is to give any notice to some or all Clearing Participants or some or all Lending Clearing Participants, accidental omission by CHO to give notice to one or more Clearing Participants or Lending Clearing Participants does not affect the validity and enforceability of any resolution, decision, proceeding or act in connection with which the notice was to have been given.

8.5.6 Without limiting any other provision of this Rule 8.5, any notice to be given by a Clearing Participant or Lending Clearing Participant to CHO under Rule 2.9 must be given to the Head of Operations of CHO, in the manner prescribed by the Procedures.

Procedure 8.2

8.5.7 A Clearing Participant or Lending Clearing Participant must acquire and maintain an operating e-mail system for the

purposes of receiving notices under Rule 8.5.4.

8.6 General Provisions

8.6.1 **Transfer by a Clearing Participant or Lending Clearing Participant**: A Clearing Participant or Lending Clearing Participant may not transfer, assign or otherwise dispose of any of its rights and entitlements or obligations arising under these Rules.

8.6.2 **Transfer by CHO**: Subject to receipt of all regulatory approvals, CHO may transfer or assign its rights, entitlements and obligations under these Rules, the Procedures, the NZ Markets Disciplinary Tribunal Rules and related Procedures and/or under any Settlement Transaction to any Person. Each Clearing Participant and each Lending Clearing Participant is deemed to have consented to any transfer in accordance with this Rule of CHO's rights, entitlements and obligations under these Rules, the Procedures, the NZ Markets Disciplinary Tribunal Rules and related Procedures and/or any Settlement Transaction.

8.6.3 **Governing Law**: These Rules, and any other agreements entered into, or deemed to have been entered into, under these Rules, will be governed and construed in accordance with the laws of New Zealand and each Clearing Participant and each Lending Clearing Participant irrevocably submits to the exclusive jurisdiction of the courts of New Zealand. Each Clearing Participant and each Lending Clearing Participant irrevocably waives;

(a) any objection arising at any time to the undertaking of proceedings in New Zealand;

(b) any claim that such proceedings have been brought in an inconvenient forum; and

(c) the right to object to such proceedings on the grounds that the courts of New Zealand do not have jurisdiction over it.

8.6.4 **Interim Injunctions**: CHO and the NZ Markets Disciplinary Tribunal (and for the avoidance of doubt no Clearing Participant or Lending Clearing Participant) shall be entitled to apply to a court in a jurisdiction other than New Zealand for provisional or interim relief measures, whether or not such relief is sought before the initiation of any proceedings in New Zealand.

8.6.5 **Language**: Every document required to be provided to CHO under or in connection with these Rules and Procedures, and the NZ Markets Disciplinary Tribunal Rules must be in the English language or, if not in English, and if so required by CHO, be accompanied by a certified English translation and, in

such case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

8.6.6 **Waiver**: No indulgence or concession granted by CHO (except as expressly granted by CHO pursuant to Rule 6.7), and no omission or delay in exercising any rights or powers or privileges of CHO under these Rules, will operate as a waiver thereof, nor will any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

8.6.7 **Voice Recording**: CHO may record telephone conversations with CHO without the use of warning tones. The records will be sole property of CHO and may be adduced as evidence in any court, regulatory, disciplinary or other proceedings of the matters discussed.

8.6.8 **Conclusive Evidence**: Any written advice, statement or report by CHO which relates to clearing and settlement will, in the absence of manifest error, be final and conclusive unless disputed by the recipient within 5 Business Days of its deemed receipt by the Clearing Participant or Lending Clearing Participant. Except as otherwise agreed by CHO, the failure of a Clearing Participant or Lending Clearing Participant to inform CHO of any error or omission in any written advice, statement or report promptly within 5 Business Days of its deemed receipt by the Clearing Participant or Lending Clearing Participant will constitute a waiver in favour of CHO by such Clearing Participant or Lending Clearing Participant of any right to require rectification of that written advice, statement or report.

8.6.9 **Invalidity**: The invalidity, illegality and unenforceability in whole or in part of any of the provisions of these Rules in respect of any Clearing Participant or Lending Clearing Participant will not affect the validity, legality and enforceability of those Rules in respect of any other Clearing Participant or Lending Clearing Participant or the validity, legality and enforceability of the remaining part or provisions of these Rules.

8.6.10 **No Set-off**: Subject to these Rules, all payments to be made by a Clearing Participant or Lending Clearing Participant to CHO for its own account (including any fees levies and charges imposed by CHO) under or in respect of these Rules, the Procedures or any Settlement Transactions shall be made without (and free and clear of any deduction for) set-off or counterclaim.

8.6.11 **Validity of Action:** An action or inaction by CHO under the Rules or any Procedure may not be challenged on the ground that a Rule, Procedure, direction, decision, resolution or requirement of CHO or any agreement made by CHO is ultra

vires or otherwise invalid.

8.6.12 **Notices or Time:** A decision, resolution, proceeding or act of CHO under these Rules is not invalidated by defect, irregularity or deficiency of notice or time unless:

(a) a Clearing Participant or Lending Clearing Participant concerned by the defect, irregularity or deficiency requests, within 5 Business Days of the date that the Clearing Participant or Lending Clearing Participant knew or should reasonably have known of the defect, irregularity or deficiency, that CHO resolve that the decision, resolution, proceeding or act is invalid;

(b) CHO believes that the defect, irregularity or deficiency has caused or may cause substantial injustice which cannot reasonably be avoided; and

(c) CHO accordingly resolves that the decision, resolution, proceeding or act is invalid.

8.6.13 **Service of process:**

(a) Without prejudice to any other mode of service allowed under any relevant law, a Clearing Participant or a Lending Clearing Participant in each case who is not incorporated in New Zealand, shall, if so required by CHO, promptly (and in any event within 5 Business Days of Notice of such requirement), irrevocably appoint an agent for service of process in relation to any proceedings before the New Zealand courts in connection with these Rules. Such Clearing Participant, or Lending Clearing Participant, as the case may be, agrees that failure by an agent for service of process to notify that Clearing Participant or Lending Clearing Participant, as the case may be, of the process will not invalidate the proceedings concerned. If such Clearing Participant or Lending Clearing Participant, as the case may be, fails to appoint an agent under this Rule, CHO may appoint another agent for this purpose.

(b) If any Person appointed as agent for service of process is unable for any reason to act as agent for service of process, that Clearing Participant or Lending Clearing Participant, as the case may be, shall promptly (and in any event within 10 Business Days of such event taking place) appoint another agent on terms acceptable to CHO. Failing this, CHO may appoint another agent for this purpose.

8.7 Confidentiality of Information and Intellectual Property

8.7.1 **Confidentiality of Information Provided to CHO**: Unless otherwise provided under these Rules, or in any other agreement between CHO and the Clearing Participant or Lending Clearing Participant, CHO must treat all information and documents received by CHO from or on behalf of a Clearing Participant or Lending Clearing Participant or relating to that Clearing Participant or Lending Clearing Participant or any applicant to be a Clearing Participant or a Lending Clearing Participant under or in connection with these Rules ("**Confidential Information**") as confidential. CHO will however be entitled to disclose Confidential Information in all or any of the following circumstances:

(a) CHO may disclose any Confidential Information to its Related Persons, CDO, Nominee, the NZ Markets Disciplinary Tribunal or the operator of an NZX Market;

(b) CHO may disclose any Confidential Information to any Person with whom CHO has a Reciprocal Arrangement, in connection with the performance by CHO of its functions and exercise of CHO's powers under the Rules;

(c) for the purposes of enabling CHO to institute, carry on or defend any proceedings including any court proceedings;

(d) as required by law, or as required or requested by an operator of an NZX Market in accordance with any listing rule or market conduct rule of that market, or in accordance with a Reciprocal Arrangement;

(e) for the purpose of enabling CHO to discharge its functions and obligations under these Rules, having regard to the Risk Management Purposes;

(f) in relation to enforcement of a Clearing Participant's or Lending Clearing Participant's obligations under these Rules;

(g) to enable CHO or any Person approved by CHO to publish or distribute aggregated information and reports, or other information and reports in relation to Settlement Transactions and the operation of the Clearing House generally;

(h) for any other purpose with the consent of the Clearing Participant, or Lending Clearing Participant or applicant as the context requires; or

(i) where the Confidential Information is already in the public domain or becomes public, other than as a result of breach

by CHO of this Rule.

8.7.2 **Confidentiality of Information provided to Clearing Participants and Lending Clearing Participants**: Unless otherwise provided under these Rules, or in any other agreement between CHO and the Clearing Participant or Lending Clearing Participant, as the case may be, the Clearing Participant or Lending Clearing Participant, as the case may be, must treat all information and documents received by the Clearing Participant or Lending Clearing Participant, as the case maybe, from or on behalf of CHO under or in connection with these Rules ("**CHO's Confidential Information**") as confidential. The Clearing Participant or Lending Clearing Participant as the case may be, will, however, be entitled to disclose CHO's Confidential Information in all or any of the following circumstances:

(a) as required by law or by any listing rule or market conduct rule of an NZX Market or any other exchange on which it or its Related Persons are listed;

(b) as requested or required by any Alternative Regulator to whose jurisdiction the Clearing Participant or Lending Clearing Participant or any of their respective Related Persons are subject; or

(c) where CHO's Confidential Information is already in the public domain or becomes public, other than as a result of breach by the Clearing Participant or Lending Clearing Participant of this Rule; or

(d) for any other purpose with the prior consent of CHO.

8.7.3 **Intellectual Property**: Subject to payment of fees, levies and charges in accordance with these Rules, CHO grants (and is authorised to grant) to each Clearing Participant and each Lending Clearing Participant a non-exclusive, non-transferable licence to use and communicate with the Clearing House System only to the extent, and in the manner, required or permitted by these Rules and the Procedures.

8.7.4 CHO reserves (and is authorised to reserve) all Intellectual Property rights that CHO, CDO or NZX have or may have in relation to the Settlement System and the information passing into or out of, or held within, the Settlement System (including any right CHO, CDO or NZX may have to the confidentiality of that information). No Clearing Participant or Lending Clearing Participant may have or obtain any ownership, copyright or other Intellectual Property in any of CHO's, CDO's or NZX's Confidential Information or in any aspect of the Settlement System.

8.7.5 No Clearing Participant or Lending Clearing Participant may:

(a) copy, alter, or modify or attempt to copy, alter or modify all or any part of the Settlement System;

(b) attempt to recreate, reverse engineer or in any other way derive the source code or object code for all or any part of the Settlement System;

(c) use or communicate with, or about, the Settlement System otherwise than as required or permitted by these Rules; or

(d) allow a Person that is not a Director, Personnel, agent or other Person acting on behalf of, the Clearing Participant or Lending Clearing Participant and authorised by the Clearing Participant or Lending Clearing Participant for that purpose to access the Settlement System.

8.7.6 **Reciprocal Arrangement**: CHO shall use reasonable endeavours to enter into, and maintain, a Reciprocal Arrangement with each of NZX and CDO.

Section 9: Capital Adequacy

9.1 Capital Adequacy

9.1.1 **Minimum Capital Required:** Subject to Rule 9.1.2, a Clearing Participant must at all times maintain its Net Tangible Current Assets at a level equal to, or greater than, its Prescribed Minimum Capital Adequacy, which shall be the higher of:

(a) the Minimum NTCA of the Clearing Participant, as prescribed for its category of Clearing Participant by Rule 9.2; and

(b) the Total Risk Requirement of the Clearing Participant, as calculated in accordance with Rule 9.5.

9.1.2 **Other Prudential Supervision Regime**: A Clearing Participant may be exempted from the requirements of Rule 9.1.1, if CHO is satisfied that the Clearing Participant is subject to, and is complying with, an equivalent level of prudential supervision by an Alternative Regulator, in accordance with the laws of the applicable jurisdiction.

9.1.3 A Clearing Participant holding an exemption under Rule 9.1.2 must:

(a) comply with all obligations to, or requirements of, the Alternative Regulator;

(b) provide CHO with copies of any filings or communication with the Alternative Regulator at the same time this information is provided to the Alternative Regulator;

(c) provide CHO with copies of any reports from the Alternative Regulator relating to the compliance or non-compliance with the requirements of the Alternative Regulator's prudential supervision regime;

(d) ensure that a Reciprocal Arrangement is in place with the Alternative Regulator to provide information to CHO in respect of the Clearing Participant at the request of CHO and without notification to the Clearing Participant; and

(e) notify CHO if the Clearing Participant ceases to be subject to regulation by the Alternative Regulator as soon as reasonably practicable after becoming aware of the same.

9.1.4 An exemption under Rule 9.1.2 may be revoked at any time by CHO and will be deemed to be revoked immediately if:

(a) the Clearing Participant ceases to be subject to regulation

by the Alternative Regulator; or

(b) the Clearing Participant's standing, authorisation or approval conferred by the Alterative Regulator is suspended or terminated or otherwise materially adversely impaired.

9.2 Capital Adequacy Requirements

9.2.1 The Minimum Net Tangible Current Asset levels are:

(a) $1,000,000 for an Individual Clearing Participant;

(b) $5,000,000 for a General Clearing Participant; and

(c) $5,000,000 for a Default Clearing Participant.

9.3 Capital Adequacy Reporting

9.3.1 A Clearing Participant must calculate:

(a) the Clearing Participant's Net Tangible Current Assets;

(b) the Clearing Participant's Total Risk Requirement; and

(c) the percentage that the Clearing Participant's Net Tangible Current Assets and Total Risk Requirement amounts form of its Prescribed Minimum Capital Adequacy,

as at the end of each Business Day (together, the "**Capital Adequacy Calculations**") with such calculation to be completed and recorded by the end of the next Business Day.

9.3.2 A Clearing Participant must provide to CHO a monthly report of its daily Capital Adequacy Calculations during that month at the time and in the manner prescribed by Procedure. Procedure 2.19

9.3.3 CHO may by Notice require a Clearing Participant to provide to CHO a report of its daily Capital Adequacy Calculations on a more regular basis as and when CHO considers necessary or desirable. Procedure 2.20

9.3.4 A Clearing Participant must notify CHO as soon as reasonably practicable after becoming aware that, between two consecutive Business Days the Clearing Participant's Net Tangible Current Assets as a percentage of its Prescribed Minimum Capital Adequacy:

(a) having been above any of the percentage thresholds specified below, changes so that it is below that threshold; or

(b) having been below any of the percentage thresholds

specified below, changes so that it is above that threshold;

and such notice must include the figures calculated under Rules 9.3.1(a), 9.3.1(b) and 9.3.1(c) and such further information as CHO requires.

The percentage thresholds referred to above are: 100%, 120%, 150%, 200%, 300%, 500% and 1000%.

9.3.5 Following notification under Rule 9.3.4 in relation to a Clearing Participant's Net Tangible Current Assets being less than 120% of its Prescribed Minimum Capital Adequacy, the Clearing Participant must provide to CHO a daily report of its Capital Adequacy Calculations (as soon as such calculations are available), including such further information as CHO requires, until its Net Tangible Current Assets exceed 120% of its Prescribed Minimum Capital Adequacy.

9.4 NTCA Calculation

9.4.1 A Clearing Participant's Net Tangible Current Assets are calculated as the sum of its tangible assets less the sum of its liabilities, as calculated in accordance with Generally Accepted Accounting Practice, this Rule 9.4 and Rule 9.13. In the event of any inconsistency between these Rules and Generally Accepted Accounting Practice, these Rules will prevail.

9.4.2 The following items must be excluded from the calculation of Net Tangible Current Assets:

(a) all Intangible Assets (but liabilities including Contingent Liabilities associated with Intangible Assets must be included in the calculation);

(b) guarantees, except guarantees approved by CHO where and to the extent to which the Clearing Participant has a Net Underwriting Commitment for the purposes of the calculation of the Primary Market Risk Requirement;

(c) any Subordinated Debt approved by CHO in accordance with Rule 9.4.5

(d) Property, Plant and Equipment;

(e) any asset which, in the normal course of business is not capable of being realised within 12 months (having regard to any relevant Guidance Note or Procedure); and

(f) any item excluded under Rule 9.4.3.

9.4.3 CHO may, from time to time, notify a Clearing Participant that it must exclude any item that otherwise would be included in its NTCA calculation on such conditions and for such period

notified by CHO. Where CHO has made a determination under this Rule, it will advise the Clearing Participant in writing, specifying the reasons for its determination.

9.4.4 The following items must be included in the calculation of Net Tangible Current Assets:

(a) all Contingent Liabilities; and

(b) assets and liabilities in respect of segregated client monies held on the Clearing Participant's balance sheet.

9.4.5 A Clearing Participant may only exclude a Subordinated Debt from calculation of its liabilities, for the purposes of these Rules, with the prior approval of CHO.

9.4.6 CHO will not approve the exclusion of Subordinated Debt from calculation of the Clearing Participant's liabilities unless the Subordinated Debt is issued on terms that include that:

(a) the terms of issue of the Subordinated Debt are subject to these Rules;

(b) the terms of issue of the Subordinated Debt cannot be amended without the prior approval of CHO;

(c) any repayment of the Subordinated Debt is subject to the Clearing Participant holding Net Tangible Current Assets above 120% of its Minimum NTCA after repayment;

(d) no repayments of the Subordinated Debt can be made without the prior approval of CHO;

(e) the obligation to pay any amount owing in respect of the Subordinated Debt, including interest or distributions, is suspended during any period in which the Clearing Participant fails to comply with its obligations under Rule 9.1.1; or

(f) any other provision CHO considers necessary to protect the viability of the Clearing Participant's business and ensure Subordinated Debt is validly and effectively subordinated to the general unsecured creditors of the Clearing Participant.

9.4.7 CHO will not withhold approval to repayment of any Subordinated Debt if in the opinion of CHO, the Clearing Participant’s Net Tangible Current Assets will continue, immediately following repayment, to be greater than 120% of its Prescribed Minimum Capital Adequacy.

9.5 Total Risk Requirement Calculation

9.5.1 A Clearing Participant's Total Risk Requirement is calculated as being the aggregate of its:

(a) Operational Risk Requirement;

(b) Counterparty Risk Requirement;

(c) Large Position Risk Requirement;

(d) Position Risk Requirement;

(e) Currency Risk Requirement;

(f) Primary Market Risk Requirement; and

(g) Market Risk Requirement (if any),

calculated in the manner determined by Rules 9.6 to Rule 9.13.

9.6 Operation Risk Requirement Calculation

9.6.1 A Clearing Participant's Operational Risk Requirement is equal to 1% of the higher of:

(a) the Clearing Participant's budgeted total revenue for the month in which the calculation is made; and

(b) the Clearing Participant's average actual monthly total revenue of the three complete consecutive calendar months preceding the date on which the calculation is made.

9.7 Counterparty Risk Requirement

9.7.1 A Clearing Participant may calculate the Positive Credit Exposure under Rule 9.7.3 and Rule 9.7.4 for an individual Counterparty on a net basis across all currencies only where and to the extent that netting is permissible on a "first in first out" basis under Generally Accepted Accounting Practice.

9.7.2 Liability of a Counterparty to a Clearing Participant may be netted against:

(a) assets held by that Clearing Participant pending settlement of that liability; and/or

(b) assets of that Counterparty under the control of that Clearing Participant in respect of which that Clearing Participant has a right or lien that may be exercised in order to satisfy that liability.

9.7.3 A Clearing Participant's Counterparty Risk Requirement shall be calculated in respect of each of its Positive Credit Exposures for

each Counterparty. In calculating Positive Credit Exposures, the Clearing Participant shall, having regard to any relevant Guidance Note or Procedure:

(a) include all trade and intragroup debtors;

(b) include all transactions in Financial Instruments; and

(c) exclude all transactions with CHO and all Net Underwriting Commitments.

9.7.4 The Positive Credit Exposure for an individual Counterparty shall be calculated as the sum of:

(a) 4% of the value of all transactions with that Counterparty remaining unsettled, but that are not Overdue;

(b) 10% of the Initial Margin Capital Requirement for all clients in respect of margined transactions with that Counterparty;

(c) 50% of the value of all transactions with that Counterparty that are Overdue if the Counterparty is an AFSL holder, a financial market participant that is regulated in the United States of America, the United Kingdom, or other OECD country, a Bank or a Market Participant Requiring Capital, a Clearing Participant or a Participant Requiring Capital (as defined in the applicable rules of the NZX Market in which they participate); and

(d) 100% of all other transactions with that Counterparty.

9.7.5 Where a right of set-off exists and a single Counterparty has outstanding balances in more than one category specified in Rule 9.7.4, the debit or credit balance is first applied to the Positive Credit Exposure with the greatest Counterparty Risk Requirement.

9.8 Large Position Risk Requirement

9.8.1 The Large Position Risk Requirement is calculated as being the aggregate of the:

(a) Large Position Counterparty Risk Requirement; and

(b) Large Position Issuer Risk Requirement,

but must exclude any Net Underwriting Commitment.

9.8.2 The Large Position Counterparty Risk Requirement applies when a Clearing Participant's Positive Credit Exposure to an individual Counterparty exceeds 19% of that Clearing Participant's total liabilities and will be the sum of:

(a) 2% of the value of transactions with that Counterparty that are not Overdue; and

(b) 10% of the value of transactions with that Counterparty that are Overdue.

9.8.3 The Large Position Issuer Risk Requirement applies when a Clearing Participant has a principal position in a class of an individual Issuer's Securities that is more than 10% of all the securities in that class or that has a value that exceeds 19% of that Clearing Participant's total liabilities and will be an additional 5% of the total of the value of the relevant Securities.

9.9 Position Risk Requirement Calculation

9.9.1 The Position Risk Requirement represents the aggregate of a Clearing Participant's individual absolute net position risk amounts in particular Financial Instruments or transactions. The Position Risk Requirement for a Clearing Participant's net position in a particular Financial Instrument or transaction is:

(a) For debt and equity Securities:

(i) 3% of the value of Securities issued by central government Issuers, senior ranking Unsubordinated Debt Securities issued by Bank Issuers and Investment Grade Securities issued by local government Issuers;

(ii) 6% of the value of fully paid Quoted Equity Securities within the NZX50 index or any Recognised Market Index and fully paid senior ranking Investment Grade Debt Securities;

(iii) 8% of the value of other fully paid New Zealand or Australian Quoted Securities (excluding Structured Finance Products), unrated Securities issued by local government Issuers and Subordinated Debt Securities issued by Bank Issuers (excluding Structured Finance Products);

(iv) 15% of the value of all other Securities (including Structured Finance Products) Quoted on a Recognised Market or issued by Bank Issuers;

(v) 50% of the value of all other Securities issued by New Zealand and Australian Issuers; and

(vi) 100% of the value of all other Securities.

(b) For derivative products:

(i) in respect of margined transactions that are bought Options, the amount of any unpaid premium;

(ii) in respect of margined transactions that are sold Options, the aggregate of twice the Initial Margin Capital Requirement and all unrealised losses (including any unpaid margins);

(iii) in respect of all other margined transactions, twice the Initial Margin Capital Requirement; and

(iv) in respect of non-margined transactions, an amount calculated on a basis from time to time approved by CHO.

9.9.2 In calculating the absolute net position in a particular Financial Instrument or transaction under Rule 9.9.1:

(a) the value of each debt or equity Security position under Rule 9.9.1(a) may be off-set by a derivative product over the same underlying debt or equity Security, to the extent that the exposure to that debt or equity Security is reduced by that derivative product;

(b) a derivative product over an underlying debt or equity Security need not be taken into account in the calculation under Rule 9.9.1(b) to the extent that the exposure to that debt or equity Security from the derivative product has been off-set as permitted under Rule 9.9.2(a); and

(c) if Rule 9.9.2(a) does not apply, but a particular debt or equity Security position is off-set in full or part by a derivative product where there is a demonstrable correlation between the exposure to that debt or equity Security position and the derivative product, the value of the debt or equity Security position under Rule 9.9.1(a) may be reduced to the extent expressly permitted and approved in writing by CHO.

9.9.3 CHO may determine the Position Risk Requirement for a particular Financial Instrument or transaction or class of Financial Instrument or transaction or a particular Issuer or class of Issuer ~~by~~in the Procedures or in a Guidance Note.

9.10 Currency Risk Requirement

9.10.1 The Currency Risk Requirement is calculated as the sum of the following adjustment factors:

(a) 3% of the net of that Clearing Participant's unhedged Financial Assets and Financial Liabilities denominated in AUD; and

(b) 6% of the net of the Clearing Participant's unhedged Financial Assets and Financial Liabilities denominated in a currency other than the Base Currency or AUD.

9.11 Primary Market Risk Requirement

9.11.1 The Primary Market Risk Requirement is calculated in respect of all Net Underwriting Commitments and in relation to each Net Underwriting Commitment is the particular percentage applicable to the Securities the subject of the commitment under Rule 9.9.1(a).

9.12 Market Risk Requirement

9.12.1 From time to time CHO may by written Notice, require any Clearing Participant or all Clearing Participants to include a Market Risk Requirement in its or their Total Risk Requirement. In determining whether a Market Risk Requirement is necessary and in determining the amount or method of calculating a Market Risk Requirement, CHO will have regard to:

(a) the risk profile of the Clearing Participant;

(b) domestic and global market volatility; and

(c) any other factor that CHO considers to be relevant.

9.12.2 A Clearing Participant will be required to calculate and include the Market Risk Requirement in its Total Risk Requirement in accordance with any Notice given by CHO from time to time.

9.13 Valuation and Foreign Currencies

9.13.1 In calculating its NTCA or Total Risk Requirement, a Clearing Participant must mark to market each of its principal positions in Financial Instruments on each Business Day. Except where provided for in the Rules, all assets and liabilities are to be valued in accordance with Generally Accepted Accounting Practice.

9.13.2 An Option or right may be valued using an option pricing model approved by CHO from time to time. The model used must be specified in all relevant reporting to CHO.

9.13.3 In arriving at a mark to market value for an Option or rights position with no published market price, or that cannot otherwise be valued under Rule 9.13.2, the position must be valued as follows:

(a) for a purchased Option or right that is In the Money, the In the Money Amount multiplied by the quantity underlying the Option or right; and

(b) for a written Option, the sum of:

(i) the In the Money Amount multiplied by the quantity underlying the Option; and

(ii) the initial premium received for the Option.

9.13.4 In arriving at a mark to market value for a Swap or Forward Rate Agreement, the position must be valued as follows:

(a) having regard to the net present value of the future cash flows of the contracts; and

(b) using current interest rates relevant to the period in which the cash flows will arise.

9.13.5 In calculating its NTCA, a Clearing Participant must apply such discount or haircut to any item that may be included in the calculation as notified to that Clearing Participant by CHO on such conditions and for such periods notified by CHO.

9.13.6 Where CHO has made a determination under Rule 9.13.5, it will advise the Clearing Participant in writing, specifying the reasons for its determination.

~~8.7.7~~9.13.7 In calculating NTCA or any component of the Total Risk Requirement, in respect of a Business Day, a Clearing Participant must convert any amounts in foreign currency other than the Base Currency to the Base Currency at the prevailing spot rate ~~CHO's Spot Rate of Exchange (or such other rate of exchange as may be agreed with CHO)~~ on or about ~~the~~ close of business on that Business Day from a readily available market source and the Clearing Participant must specify the rate and source in all relevant reporting to CHO.

9.13.8 For the purpose of Rule 9.13.7 CHO may, from time to time, stipulate that a specific source cannot be used as a source for currency conversion or may stipulate the source that must be used by the Clearing Participant.

Appendix: Capital Adequacy

A Clearing Participant must calculate its Net Tangible Current Assets and Total Risk Requirement in accordance with this Appendix.

1 Definitions

1.1 In this Appendix and in the Rules, the following terms bear the following meanings:

AFSL means an Australian Financial Services Licence issued to financial planners and financial services industry corporations by the Australian Securities and Investment Commission;

AUD means the lawful currency of Australia from time to time;

Base Currency means NZ$;

CHO's Spot Rate of Exchange has the meaning given to that term in the Procedures;

Clause means a clause in this Appendix;

Contingent Liabilities has the meaning determined in accordance with Generally Accepted Accounting Practice;

Counterparty means in respect of a transaction to which a Clearing Participant is a party, another party to that transaction;

Counterparty Risk Requirement means the amount calculated under Clause 8.1;

Currency Risk Requirement means the amount calculated under Clause 11.1;

Financial Asset and **Financial Liability** have the meaning determined in accordance with Generally Accepted Accounting Practice;

Financial Instrument means:

(i) a Commodity, including a Security and an Emission Unit;

(ii) a Derivatives Contract; and

(iii) any other instrument prescribed as such by CHO from time to time by Notice;

Forward Rate Agreement means an agreement in which two

parties agree that:

(i) one party will make payments to the other party of an amount of interest for a specified period in respect of an agreed principal amount;

(ii) no commitment is made to lend or borrow the principal amount; and

(iii) the exposure is limited to the difference between the agreed and actual market interest rates at settlement;

Intangible Assets has the meaning determined in accordance with Generally Accepted Accounting Practice;

Investment Grade means a Security with a credit rating that is BBB- or higher by Standard & Poor's or Baa3 or higher by Moody's or BBB (low) or higher by DBRS;

In the Money means:

(i) in relation to Call Options or rights, that the current market price of the underlying instrument is greater than the exercise price; and

(ii) in relation to Put Options, that the current market price of the underlying instrument is less than the exercise price;

In the Money Amount means, in relation to an Option or right that is In the Money, the absolute value of the difference between the current market price of the underlying instrument and the exercise price;

Large Position Counterparty Risk Requirement means the amount calculated under Clause 9.2;

Large Position Issuer Risk Requirement means the amount calculated under Clause 9.3;

Large Position Risk Requirement means the amount calculated under Clause 9.1;

Listed means, in relation to Securities of an Issuer, those Securities of the Issuer that are approved for trading on the relevant Registered Exchange's Securities Market (and, for the avoidance of doubt, Securities do not cease to be Listed merely because trading in those Securities is suspended);

Market Risk Requirement means the amount calculated under Clause 13.1;

Net Underwriting Commitment means the aggregate of underwriting, sub-underwriting and firm allocation commitments of the Clearing Participant in respect of a particular Security less any sub-underwriting commitment, firm allocation commitment or legally binding applications from clients or other third parties in relation to that commitment;

OECD means the Organisation for Economic Co-operation and Development;

Operational Risk Requirement means the amount calculated under Clause 6.1;

Overdue means where an unconditional obligation of a Counterparty remains unpaid after the date on which the obligation was due for payment under the terms of the transaction, except that:

(i) for trades in Financial Instruments, the transaction shall be considered overdue if unsettled 10 Business Days after the date on which Settlement was due; and

(ii) for a written Option, the transaction shall be considered overdue if the Counterparty has not paid the premium on the due date; and

(iii) a transaction where the Clearing Participant holds on trust as security for the amount outstanding, Securities with a current market value of at least 140% of the amount payable, shall not be considered overdue;

Position Risk Requirement means the amount calculated under Clause 10.1;

Positive Credit Exposure means an exposure to a Counterparty where, if the Counterparty were to default, the Clearing Participant would suffer financial loss and includes a Counterparty's aggregate gross liabilities to deliver Securities and cash;

Primary Market Risk Requirement means the amount calculated under Clause 12.1;

Property, Plant and Equipment has the meaning determined in accordance with Generally Accepted Accounting Practice;

Recognised Market means a market specified in the Procedures for the Appendix;

Recognised Market Index means an index specified in the Procedures for the Appendix;

Registered Exchange means a Person who is:

(i) a licensed market operator within the meaning of section 6 of the FMC Act; or

(ii) an existing exchange within the meaning of clause 42, Part 3 of Schedule 4 to the FMC Act; or

(iii) an entity with comparable status under the laws of any other jurisdiction as CHO may approve.

Securities Market means a market, exchange, or other facility for trading Securities;

Structured Finance Product means a Security that has been issued in respect of an asset pool or as part of any asset-backed or mortgage-backed Securities transaction and includes residential mortgage-backed Securities, collateralised or credit enhanced debt obligations (including synthetic and hybrid collateralised or credit enhanced debt obligations), collateralised loan or fund obligations, credit derivatives, perpetual debt obligations and any other Security or class of Security specified in the Procedures for the Appendix from time to time;

Subordinated Debt means, in respect of a Person, any indebtedness of that Person that, in terms of priority for payment and otherwise, would, on a winding up, dissolution or liquidation of that Person, rank behind claims in respect of general unsecured unsubordinated indebtedness of the Person and the terms "**Subordinated**" and "**Unsubordinated**" shall be interpreted accordingly;

Swap means a transaction in which two parties agree to exchange streams of payments over time on a pre-determined basis.

2 Valuation and Foreign Currencies

2.1 In calculating its NTCA or Total Risk Requirement, a Clearing Participant must mark to market each of its principal positions in Financial Instruments on each Business Day. Except where provided for in the Appendix, all assets and liabilities are to be valued in accordance with Generally Accepted Accounting Practice.

2.2 An Option or right may be valued using an Option pricing model approved by CHO from time to time. The model used must be specified in all relevant reporting to CHO.

2.3 In arriving at a mark to market value for an Option or rights position with no published market price, or that cannot otherwise be

valued under Clause 2.2, the position must be valued as follows:

(a) for a purchased Option or right that is In the Money, the In the Money Amount multiplied by the quantity underlying the Option or right; and

(b) for a written Option, the sum of:

(i) the In the Money Amount multiplied by the quantity underlying the Option; and

(ii) the initial premium received for the Option.

2.4 In arriving at a mark to market value for a Swap or Forward Rate Agreement, the position must be valued as follows:

(a) having regard to the net present value of the future cash flows of the contracts; and

(b) using current interest rates relevant to the period in which the cash flows will arise.

2.5 In calculating its NTCA, a Clearing Participant must apply such discount or haircut to any item that may be included in the calculation as notified to that Clearing Participant by CHO on such conditions and for such periods notified by CHO.

2.6 Where CHO has made a determination under Clause 2.5, it will advise the Clearing Participant in writing, specifying the reasons for its determination.

2.7 In calculating NTCA or any component of the Total Risk Requirement, in respect of a Business Day, a Clearing Participant must convert any amounts in foreign currency other than the Base Currency to the Base Currency at CHO's Spot Rate of Exchange (or such other rate of exchange as may be agreed with CHO) on that Business Day and the Clearing Participant must specify the rate and source in all reporting to CHO.

2.8 For the purposes of Clause 2.7, CHO may, from time to time, stipulate that a particular source cannot be used as a source for currency conversion or may stipulate the source that must be used by a Clearing Participant.

3 Items excluded from NTCA

3.1 The following items must be excluded from the calculation of Net Tangible Current Assets:

(a) all Intangible Assets (but liabilities including Contingent Liabilities associated with Intangible Assets must be included in the calculation);

(b) guarantees, except guarantees approved by CHO where and to the extent to which the Clearing Participant has a Net Underwriting Commitment for the purposes of the calculation of the Primary Market Risk Requirement;

(c) any Subordinated Debt approved by CHO in accordance with Clause 5;

(d) Property, Plant and Equipment;

(e) any asset which, in the normal course of business is not capable of being realised within 12 months; and

(f) any item excluded under Clause 3.2.

3.2 CHO may, from time to time, notify a Clearing Participant that it must exclude any item that otherwise would be included in its NTCA calculation on such conditions and for such period notified by CHO.

3.3 Where CHO has made a determination under Clause 3.2, it will advise the Clearing Participant in writing, specifying the reasons for its determination.

4 Items included in NTCA

4.1 The following items must be included in the calculation of Net Tangible Current Assets:

(a) all Contingent Liabilities; and

(b) assets and liabilities in respect of segregated client monies held on the Clearing Participant's balance sheet.

5 Subordinated Debt

5.1 A Clearing Participant may only exclude a Subordinated Debt from calculation of its liabilities, for the purposes of these Rules, with the prior approval of CHO.

5.2 CHO will not approve the exclusion of Subordinated Debt from calculation of the Clearing Participant's liabilities unless the Subordinated Debt is issued on terms that include that:

(a) the terms of issue of the Subordinated Debt are subject to these Rules;

(b) the terms of issue of the Subordinated Debt cannot be amended without the prior approval of CHO;

(c) any repayment of the Subordinated Debt is subject to the Clearing Participant holding Net Tangible Current Assets above 120% of its

Minimum NTCA after repayment;

(d) no repayments of the Subordinated Debt can be made without the prior approval of CHO;

(e) the obligation to pay any amount owing in respect of the Subordinated Debt, including interest or distributions, is suspended during any period in which the Clearing Participant fails to comply with its obligations under Rule 2.15.1; or

(f) any other provision CHO considers necessary to protect the viability of the Clearing Participant's business and ensure Subordinated Debt is validly and effectively subordinated to the general unsecured creditors of the Clearing Participant.

5.3 CHO will not withhold approval to repayment of any Subordinated Debt if in the opinion of CHO, the Clearing Participant's Net Tangible Current Assets will continue, immediately following repayment, to be greater than 120% of its Prescribed Minimum Capital Adequacy.

6 Operational Risk Requirement

6.1 A Clearing Participant's Operational Risk Requirement is equal to 1% of the higher of:

(a) the Clearing Participant's budgeted total revenue for the month in which the calculation is made; and

(b) the Clearing Participant's average actual monthly total revenue of the three complete consecutive calendar months preceding the date on which the calculation is made.

7 Netting

7.1 A Clearing Participant may calculate the Positive Credit Exposure under Clause 8 and Clause 9 for an individual Counterparty on a net basis across all currencies only where and to the extent that netting is permissible on a "first in first out" basis under Generally Accepted Accounting Practice.

7.2 Liability of a Counterparty to a Clearing Participant may be netted against:

(a) assets held by that Clearing Participant pending settlement of that liability; and/or

(b) assets of that Counterparty under the control of that Clearing Participant in respect of which that Clearing Participant has a right or lien that may be exercised in order to satisfy that liability.

8 Counterparty Risk Requirement

8.1 A Clearing Participant's Counterparty Risk Requirement shall be calculated in respect of each of its Positive Credit Exposures for each Counterparty. In calculating Positive Credit Exposures, the Clearing Participant shall:

(a) include all trade and intragroup debtors and all transactions in Financial Instruments; and

(b) exclude all transactions with CHO and all Net Underwriting Commitments.

8.2 The Positive Credit Exposure for an individual Counterparty shall be calculated as the sum of:

(a) 4% of the value of all transactions with that Counterparty remaining unsettled, but that are not Overdue;

(b) 10% of the initial margin requirement for all clients in respect of margined transactions with that Counterparty;

(c) 50% of the value of all transactions with that Counterparty that are Overdue if the Counterparty is an AFSL holder, a financial market participant that is regulated in the United States of America, the United Kingdom, or other OECD country, a Bank, a Clearing Participant, a Market Participant Requiring Capital, or a Participant Requiring Capital (each as defined in the applicable rules of the NZX Market in which they participate); and

(d) 100% of all other transactions with that Counterparty.

8.3 Where a right of set-off exists and a single Counterparty has outstanding balances in more than one category specified in Clause 8.2, the debit or credit balance is first applied to the Positive Credit Exposure with the greatest Counterparty Risk Requirement.

9 Large Position Risk Requirement

9.1 The Large Position Risk Requirement is calculated as being the aggregate of the:

(a) Large Position Counterparty Risk Requirement; and

(b) Large Position Issuer Risk Requirement,

but must exclude any Net Underwriting Commitment.

9.2 The Large Position Counterparty Risk Requirement applies when a Clearing Participant's Positive Credit Exposure to an individual Counterparty exceeds 19% of that Clearing Participant's total liabilities and will be the sum of:

(a) 2% of the value of transactions with that Counterparty that are not Overdue; and

(b) 10% of the value of transactions with that Counterparty that are Overdue.

9.3 The Large Position Issuer Risk Requirement applies when a Clearing Participant has a principal position in a class of an individual Issuer's Securities that is more than 10% of all the Securities in that class or that has a value that exceeds 19% of that Clearing Participant's total liabilities and will be an additional 5% of the total of the value of the relevant Securities.

10 Position Risk Requirement Calculation

10.1 The Position Risk Requirement represents the aggregate of a Clearing Participant's individual absolute net position risk amounts in particular Financial Instruments or transactions. The Position Risk Requirement for a Clearing Participant's net position in a particular Financial Instrument or transaction is:

(a) For debt and equity Securities:

(i) 3% of the value of Securities issued by central government Issuers, senior ranking Unsubordinated debt Securities issued by Bank Issuers and Investment Grade Securities issued by local government Issuers;

(ii) 6% of the value of fully paid Listed equity Securities within the NZX50 index or any Recognised Market Index and fully paid senior ranking Investment Grade debt Securities;

(iii) 8% of the value of other fully paid New Zealand or Australian Listed Securities (excluding Structured Finance Products) and unrated Securities issued by

local government Issuers and Subordinated Debt Securities issued by Bank Issuers (excluding Structured Finance Products);

(iv) 15% of the value of all other Securities (including Structured Finance Products) Listed on a Recognised Market or issued by Bank Issuers;

(v) 50% of the value of all other Securities issued by New Zealand and Australian Issuers; and

(vi) 100% of the value of all other Securities.

(b) For derivative products:

(i) in respect of margined transactions that are bought Options, the amount of any unpaid premium;

(ii) in respect of margined transactions that are sold Options, the aggregate of twice the initial margin requirement and all unrealised losses (including any unpaid margins);

(iii) in respect of all other margined transactions, twice the initial margin requirement; and

(iv) in respect of non-margined transactions, an amount calculated on a basis from time to time approved by CHO.

10.2 CHO may determine the Position Risk Requirement for a particular Financial Instrument or transaction or class of Financial Instrument or transaction or a particular Issuer or class of Issuer by Procedure.

11 **Currency Risk Requirement**

11.1 The Currency Risk Requirement is calculated as the sum of the following adjustment factors:

(a) 3% of the net of a Clearing Participant's unhedged Financial Assets and Financial Liabilities denominated in AUD; and

(b) 6% of the net of the Clearing Participant's unhedged Financial Assets and Financial Liabilities denominated in a currency other than the Base Currency or AUD.

12 **Primary Market Risk Requirement**

12.1 The Primary Market Risk Requirement is calculated in respect

of all Net Underwriting Commitments and in relation to each Net Underwriting Commitment is the particular percentage applicable to the Securities the subject of the commitment under Clause 10.1(a).

13 Market Risk Requirement

13.1 From time to time CHO may by written Notice, require any Clearing Participant or all Clearing Participants to include a Market Risk Requirement in its or their Total Risk Requirement. In determining whether a Market Risk Requirement is necessary and in determining the amount or method of calculating a Market Risk Requirement, CHO will have regard to:

(a) the risk profile of the Clearing Participant;

(b) domestic and global market volatility; and

(c) any other factor that CHO considers to be relevant.

13.2 A Clearing Participant will be required to calculate and include the Market Risk Requirement in its Total Risk Requirement in accordance with any Notice given by CHO from time to time.