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## Clearing Member Rules

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**Approved by the SEC –  
April 12, 2021**

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## PART A: DEFINITIONS AND GENERAL PROVISIONS

### 1. DEFINITIONS

The following terms and expressions shall, unless the context otherwise requires, have the following meanings in these Clearing Member Rules:

Term	Definition
<b>“Additional Margin”</b>	means the Collateral posted to the CCP by the Clearing Member and/or its Clients over and above that required by the CCP;
<b>“Applicable Laws”</b>	means any law, statute, code, ordinance, decree, rule, or regulation of Regulatory Authorities as may be revised, updated, and/or amended from time to time;
<b>“Applicant”</b>	means a legal entity which has formally expressed interest in becoming a Clearing Member, having submitted relevant documentation and disclosures to FMDQ Clear;
<b>“Authorised Representatives”</b>	means employees authorised by the Clearing Member to perform activities on its behalf;
<b>“Base Contribution”</b>	means the initial amount to be contributed by each Clearing Member as part of admission criteria, sum of which will be equal to the required Minimum Default Fund;
<b>“Business Day”</b>	means a day (other than a Saturday, Sunday or Federal Government of Nigeria declared public holiday) on which banks are open for business in Nigeria.
<b>“CBN”</b>	means the Central Bank of Nigeria;
<b>“Central Counterparty” or “CCP”</b>	means FMDQ Clear Limited; or any other entity designated and appointed by the Exchange for the purposes of centrally clearing (through the process of novation) Derivatives traded and/or reported to the Exchange, in accordance with these Derivative Market Rules;
<b>“Clearing Agreement”</b>	means a duly executed legal agreement between the FMDQ Clear and a Clearing Member, defining, inter alia, the rights, and obligations related to the entity’s capacity as a Clearing Member;
<b>“Clearing Member” or “Member”</b>	means a member of FMDQ Clear who is authorised to clear and settle trades through FMDQ Clear;
<b>“Clearing System” or “System”</b>	means the system managed and administered by FMDQ Clear for the clearing and settlements of trades;
<b>“Client”</b>	means any person, entity or agent thereof to which a Clearing Member provides clearing and settlement services;
<b>“Close-Out”</b>	means the offsetting of an open position and/or liquidation of assets of a Defaulting Clearing Member;
<b>“Collateral”</b>	means the securities or cash pledged to the CCP in order to secure the performance of the Clearing Member’s obligations;
<b>“Default”</b>	means a failure by a Clearing Member to make delivery or payment(s) in fulfilment of its trade or margin obligations or Default Fund contributions as prescribed by FMDQ Clear from time to time; a default by a Clearing Member as contemplated in FMDQ Clear’s Default Management Framework;
<b>“Default Auction Process”</b>	means a process by which open positions are made available for potential buyers to place competitive bids and the open positions are then allocated to the potential buyer with the most attractive rates;

<b>“Default Fund”</b>	means a fund managed by the CCP, contributed to by Clearing Members to protect against exposures resulting from default of Clearing Members;
<b>“Defaulting Clearing Member”</b>	means a Clearing Member who is considered to be in default either due to its failure to fulfil its obligations on open contracts or any other condition as prescribed by FMDQ Clear from time to time;
<b>“Derivatives”</b>	means any financial instrument or Contract that creates a right and/or obligation and whose value depends on or is derived from the price/value of one or more underlying product, rate, index or measure of economic value or event;
<b>“Directives”</b>	means Agreements, Market Bulletins, Market Notices made pursuant to the Rules and such other regulation as may be prescribed by FMDQ Clear from time to time;
<b>“Flexible Contribution”</b>	means subsequent contributions to the FMDQ Clear’s Default Fund based on the Clearing Members’ actual respective exposures to the CCP;
<b>“FMDQ Clear” or the “CCP”</b>	means FMDQ Clear Limited;
<b>“FMDQ Exchange” or the “Exchange”</b>	means FMDQ Securities Exchange Limited;
<b>“Gross Negligence”</b>	means heedless and palpable violation of legal duty;
<b>“Inactive”</b>	means a Clearing Member is absent from clearing activities for a period of six (6) months or such other period as may be determined by the CCP from time to time;
<b>“Initial Margin”</b>	means Collateral deposited by Clearing Members on open positions, typically representing a deposit against price movement;
<b>“Margin”</b>	means either Initial Margin, Variation Margin, Additional Margin as the context requires;
<b>“Mark-to-Market”</b>	means the practice of revaluing Positions in securities and financial instruments using their current market rates/prices or prices as determined by FMDQ Clear;
<b>“Minimum Default Fund”</b>	means the minimum amount that must be available in the Default Fund at any point in time as determined by FMDQ Clear from time to time;
<b>“Non-Clearing Member”</b>	means a Trading Member of FMDQ Exchange who is not authorised to clear and settle trades through FMDQ Clear;
<b>“Participant”</b>	A Clearing Member or such other legal entity or natural person on whose behalf or for whom a Clearing Member acts in relation to effecting clearing and settlement of transactions in the CCP;
<b>“Position”</b>	means a number of traded contracts registered with FMDQ Clear by a Clearing Member for clearing and settlement purposes;
<b>“Regulatory Authority”</b>	means the Securities and Exchange Commission, CBN, or any other authority established by an Act within the Federal Republic of Nigeria with responsibility for the regulated activities of Clearing Members;
<b>“Rules”</b>	means the rules of the CCP as set out in this document in relation to all activities conducted in the CCP, and as amended from time to time;
<b>“SEC” or the “Commission”</b>	means the Securities and Exchange Commission;
<b>“SEC Rules”</b>	means the SEC Consolidated Rules and Regulations 2013 (as amended);
<b>“Variation Margin”</b>	means cash provided or received by a Clearing Member to or from the CCP in respect of the changes in the market values of a Clearing Member’s open Contract Positions.

## **2. GENERAL RULES**

- 2.1 These Rules shall regulate the activities of all FMDQ Clear Members.
- 2.2 The interpretation and enforcement of these Rules and Directives shall vest in FMDQ Clear.
- 2.3 The Rules shall be read in conjunction with the Applicable Laws, the other FMDQ Clear Rules, Frameworks, Policies, Processes and Directives made pursuant to the Rules and such other regulation as may be prescribed from time to time.
- 2.4 In the event of conflict between these Rules and any other CBN or SEC-related document, such document shall supersede these Rules to the extent of the inconsistency.
- 2.5 FMDQ Clear shall prescribe and specify the basic terms and formal requirements of the agreements for participating as a Clearing Member, including but not limited to the Clearing Agreement.
- 2.6 The provisions of these Rules shall be binding on all Members of FMDQ Clear.
- 2.7 Complaints by Clearing Members regarding the conduct of another Clearing Member as it relates to their activities on the FMDQ Clear's platform or any other forms of complaints shall be handled in line with the CCP's Complaints Management Framework.
- 2.8 The FMDQ Clear's Disciplinary Procedure shall apply to a Clearing Member where, in the opinion of the CCP, there has been a misrepresentation in any required documentation in relation to its Clearing Membership, including the Clearing Agreement or where there has been a breach by a Clearing Member of its obligations under such documentation thereof.
- 2.9 Members shall be responsible for the clearing and settlement obligations of all transactions.
- 2.10 These Rules may be subject to reviews and amendments from time to time in line with market dynamics or other circumstances as may be determined by FMDQ Clear.
- 2.11 Clearing Members shall be notified by FMDQ Clear of any decision or determinations made on these Rules.
- 2.12 FMDQ Clear shall notify Clearing Members on amendments and updates to the Rules, Regulations and such other applicable Directives.

## **PART B: CLEARING MEMBERSHIP**

### **3. GENERAL**

- 3.1 Rights, privileges, duties and responsibilities of a Clearing Member shall be subject to and in accordance with these Rules. FMDQ Clear may define and admit a Clearing Member for any of the defined Clearing Membership categories and may specify different standards including eligibility, admission, continuation and cessation of Clearing Membership and fees thereof for each membership category.
- 3.2 FMDQ Clear shall specify pre-requisites, conditions, formats and procedures for application for admission, continuation, termination or re-admission of a Clearing Member to any of the defined Clearing Membership categories. The CCP may, at its discretion, for the reasons outlined in the Clearing Membership Requirements (“**CMR**”), refuse permission to any applicant to be admitted as Clearing Member to any of the categories and provide reasons for such refusal as applicable.
- 3.3 Fee(s), collateral(s), contribution(s) and other money(ies) as specified by FMDQ Clear shall be payable as prescribed, on or before admission as a Clearing Member and for the continued Clearing Membership thereof.
- 3.4 A Clearing Member shall at all times during its Clearing Membership status of FMDQ Clear, satisfy the requirements for Clearing membership in addition to the contents of the Clearing Agreement which shall be executed between FMDQ Clear and the Clearing Member.
- 3.5 The Clearing membership of FMDQ Clear is a non-transferable right to clear transactions through the CCP; it does not in any manner constitute the grant or creation of any beneficial or ownership interest in FMDQ Clear.
- 3.6 A Clearing Member shall not assign, mortgage, pledge, hypothecate or charge its right of membership or any rights or privileges attached thereto, nor shall it have the right to give licence or grant power of attorney in respect of such rights and privileges. No such attempted assignment, mortgage, pledge, hypothecation or charge or licence or power of attorney shall be recognised as effective, against FMDQ Clear for any purpose, nor shall any right or interest in the Clearing Membership other than the right or interest of the Clearing Member therein be recognised by FMDQ Clear. The CCP may suspend any Clearing Member who acts or attempts to act in violation of the provisions of this Rule or take any other disciplinary action as it may deem fit.

### **4. FEES AND RIGHTS OF SET-OFF**

- 4.1 Clearing Members shall be liable to pay such fees and charges as shall be prescribed by FMDQ Clear.
- 4.2 FMDQ Clear shall notify the Commission of all relevant fees and charges payable by Clearing Members and any amendments thereof.
- 4.3 FMDQ Clear may set off any unfulfilled obligation due to it from a Clearing Member against any obligation owed by the CCP to the Clearing Member, regardless of the place of payment or account of either obligation.

4.4 All fees and obligations payable to a Clearing Member or the CCP must be paid in Nigerian Naira or its equivalent in any currency acceptable by the CCP converted at the prevailing exchange rate based on relevant and publicly observable benchmark communicated by the CCP.

4.5 Nothing in this section of these Rules shall be construed to create a charge or other security interest.

## **5. LIMITATIONS OF LIABILITY AND INDEMNITY**

5.1 Subject to the provisions of the Act, FMDQ Clear shall not be liable to any Participant for loss or damage resulting from:

(i) Any act or omission on the part of FMDQ Clear or on the part of any employee or agent of FMDQ Clear except for the case of fraud, willful misconduct or Gross Negligence.

(ii) Any act or omission on the part of any independent third party contracted by the CCP.

(iii) The termination of any license or other agreement to which FMDQ Clear is party, except for cases due to willful misconduct or Gross Negligence.

However, FMDQ Clear shall only be liable to the extent of any direct loss caused by any fraud, Gross Negligence or willful misconduct on its part and excludes any liability for indirect or consequential losses.

5.2 Such employee or agent of FMDQ Clear shall not be regarded as having been grossly negligent or having acted in willful breach of duty or trust if the act or omission results from incorrect information supplied to such employee or agent by a source from which information is normally accepted as correct and which can be expected to provide the correct information.

5.3 Each Clearing Member shall indemnify FMDQ Clear, any employee or agent of FMDQ Clear against any losses, liabilities, damages, claims, costs or expenses suffered or incurred by the aforementioned parties arising out of or in connection with the Clearing Member's conduct or its breach of these Rules and its accompanying Directives.

## **6. MEMBERSHIP CATEGORIES**

6.1 There are two (2) categories of Membership: General Clearing Member ("**GCM**") and Direct Clearing Member ("**DCM**").

6.2 GCMs are Clearing Members that in addition to the clearing of their own transactions and those of their Clients, have the right to clear transactions of Non-Clearing Members and their Clients.

6.3 DCMs are Clearing Members that have the right to clear only their own transactions and those of their Clients.

## **7. MEMBERSHIP CRITERIA**

In assessing the eligibility of an entity to become a Clearing Member, FMDQ Clear shall take the following requirements into consideration:

### **7.1 Essential Requirements**

These are obligatory conditions which must be met by an entity seeking to be a Clearing Member:

- (i) A Clearing Member must be a Deposit Money Bank licensed by the CBN.
- (ii) A Clearing Member must execute a Clearing Agreement with FMDQ Clear.
- (iii) A Clearing Member shall be required to contribute to the CCP Default Fund, an amount prescribed by FMDQ Clear from time to time.

## 7.2 **Additional Requirements**

These are additional conditions determined by FMDQ Clear to be met by entities desiring its membership. These shall be subject to further assessment by FMDQ Clear in order to ascertain the sufficiency, suitability and/or acceptability of the condition for individual entities:

- (i) Good standing with FMDQ Clear and its affiliated entities.
- (ii) Level of compliance with regulatory requirements in its day-to-day activities as stipulated by relevant Regulatory Authorities.
- (iii) Directors, officers and other relevant persons being fit and proper persons in line with CBN's Assessment Criteria for Approved Persons' Regime for Financial Institutions as may be revised and updated from time to time.
- (iv) A Clearing Member shall demonstrate capacity to engage in the conduct of the business of a Clearing Member. The Clearing Member shall demonstrate it has adequate resources and well-established processes to undertake the clearing business. Resources for the purpose of this application shall include financial, technology, human resources, while processes shall include management supervision, training, compliance, risk management, business continuity and disaster recovery processes.
- (v) A Clearing Member shall deploy and maintain relevant Information Technology (IT) equipment and applications (collectively termed "Clearing Member System") to allow the CM conduct their margining and collateral management activities and connect with the CCP System, and ensure data can be safely and securely transmitted to and from the CCP System as may be so required by FMDQ Clear from time to time.
- (vi) A Clearing Member shall nominate an Authorised Representative at a minimum of Senior Management level to represent the Clearing Member before FMDQ Clear.

## 8. **ADMISSION**

- 8.1 Any entity that seeks to become a Clearing Member shall apply to FMDQ Clear for admission to the relevant category of Clearing Membership in the manner prescribed by FMDQ Clear from time to time.
- 8.2 The application shall be submitted along with such fees, collateral deposit and other financial resources in such form and manner as may be specified by the CCP from time to time.
- 8.3 The applicant shall also provide such declarations, undertakings, certificates, confirmations and such other documents or papers as may be specified from time to time.
- 8.4 Any entity whose request for Clearing Membership has been rejected may appeal the decision in writing to the CCP within twenty (20) Business Days of receipt of the rejection advice.



- 8.5 FMDQ Clear shall have the authority to call for any information at such periodical intervals as it considers necessary, to evaluate the admissibility or continuance of a membership.
- 8.6 FMDQ Clear may at any time from the date of admission of a Clearing Member withdraw or cancel the admission or order the expulsion of a Clearing Member, if the Clearing Member is found to have made any misrepresentation or suppressed any material information or has directly or indirectly given false particulars or information or given a false declaration.

## **9. TERMINATION OF MEMBERSHIP**

### **9.1 Voluntary Termination of Membership**

- (i) A Clearing Member may apply to voluntarily terminate its membership by giving FMDQ Clear thirty (30) days written notice.
- (ii) FMDQ Clear shall accept the voluntary termination of the Clearing Member's membership subject to the CCP's determination that the Clearing Member has no outstanding obligation.

### **9.2 Involuntary Termination of Membership**

- (i) A membership shall involuntarily terminate if:
  - (a) the Clearing Member ceases to exist by operation of law;
  - (b) in the event that a Clearing Member's business or infrastructure relating to clearing and settlement of transactions is transferred to another legal entity in any manner, including but not limited to a merger, take-over, transfer of business or corporate restructuring. The Clearing Member shall inform FMDQ Clear of the change at least one (1) month before it takes effect;
  - (c) a Clearing Member, who is a corporate entity, is liquidated or placed under administration or statutory management, temporarily or finally;
  - (d) the Clearing Member enters into an arrangement with its creditors;
  - (e) the Clearing Member fails to satisfy or to initiate steps to set aside the judgement, award or determination against it within the time period provided for in the rules of the relevant body;
  - (f) the CCP has decided in accordance with its procedures that the membership should be terminated;
  - (g) the Clearing Member Defaults as contemplated in the FMDQ Clear's Default Management Framework.
- (ii) FMDQ Clear shall notify Members and the Commission of the termination or change in membership of a Clearing Member. Termination of a Clearing Member shall become effective on the date and time of the CCP's notice, unless otherwise stated in the notice.

## **PART C: RESPONSIBILITIES AND OBLIGATIONS OF A CLEARING MEMBER**

### **10. GENERAL**

- 10.1 Clearing Members agree at all times not only to abide by the Rules, but also acknowledge hereby to be conversant with such Rules.
- 10.2 Clearing Members shall comply with the reporting obligations and disclosure requirements as prescribed by FMDQ Clear from time to time.
- 10.3 Clearing Members shall keep records of all transactions cleared and settled via the FMDQ Clear-advised system, whether cleared for their own accounts or for the accounts of their Clients for a period of at least seven (7) years.
- 10.4 Clearing Members shall provide complete and accurate data and statistics relating to their activities on the Clearing System as may be required by FMDQ Clear from time to time.
- 10.5 Clearing Members shall assume full financial and performance responsibility for all transactions cleared through them and cleared by the CCP. Clearing Members are responsible and accountable for every position they carry, whether it is for the account of its Clients or its own proprietary account.
- 10.6 Clearing Members shall comply with the corporate governance, risk management, compliance, anti-money laundering, counter-terrorism financing, know-your-customer (KYC), reporting, training, and certification, and, such other standards as may be required by the SEC, CBN and FMDQ Exchange or any Applicable Laws.
- 10.7 Clearing Members shall establish measures which ensure that they do not, directly, or indirectly, through a third party commit any fraudulent activity, make any untrue or misleading statement, or engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any Participant, in connection with clearing activities.
- 10.8 Clearing Members shall develop policies and establish processes to ensure their institutions are not used as vehicles for fraudulent activities in the CCP. Such policies and procedures shall be subject to reviews and inspection by FMDQ Clear from time to time.
- 10.9 Clearing Members shall establish robust business continuity plans which outline structures put in place to enable the Members conduct their activities on the Clearing Systems from an alternate location or remotely in the event of a disaster. Furthermore, the disaster recovery capabilities of the Clearing Members shall be reflected in their business continuity plans and routinely tested to ensure continuous participation in market operations (including transaction execution, clearing, and settlement) in the event of a wide-scale disruption in the Clearing Members' primary places of business.
- 10.10 Clearing Members shall maintain robust compliance programmes, including procedures to identify and mitigate legal, regulatory, financial, and reputational risks. Such programmes should include compliance officers dedicated to the business lines relevant to the Clearing Member's markets operations.

### **11. OBLIGATIONS RELATING TO AUTHORISED REPRESENTATIVES**

- 11.1 Clearing Members shall be responsible for the activities conducted by their Authorised Representatives or other personnel on the Clearing Systems.

- 11.2 Clearing Members shall monitor the activities of their Authorised Representatives and take reasonable steps to ensure that their Authorised Representatives do not participate in any form of insider trading, fraudulent activity or assist any legal entity to participate in any such insider trading or fraud.
- 11.3 Clearing Members shall diligently supervise their Authorised Representatives in the conduct of their activities on the Clearing System.
- 11.4 Clearing Members shall ensure that their Authorised Representatives have sufficient knowledge of these Rules, other FMDQ Clear Rules and Applicable Laws relevant to their activities in the market they play.
- 11.5 Clearing Members shall ensure their Authorised Representatives comply with the competency standards prescribed by FMDQ Clear from time to time.

## **12. CONTINUOUS COMPLIANCE REQUIREMENTS**

- 12.1 Members seeking to maintain their participation as Clearing Members of FMDQ Clear must always comply with the continuous compliance requirements as may be prescribed by the CCP from time to time. These include *inter alia*:
  - (i) Notifying the CCP within ten (10) Business Days of becoming aware of any change in the information provided to the CCP at the point of application. Such information shall include, *inter alia*:
    - (a) Change in the management and/or board of directors of the Clearing Member.
    - (b) Change in the place of business of the Clearing Member.
    - (c) Change in the registered name of the Clearing Member; the relevant certificate of name change shall be filed with the CCP within two (2) Business Days of receipt of the Clearing Member;
    - (d) Change of key contact personnel/Authorised Representatives of the Clearing Members including dealers, treasurers, compliance officers, risk managers, technology officers, etc.
    - (e) Any change that will disqualify the Clearing Members under sections 7 & 8.
    - (f) Such other information as may be prescribed by the CCP from time to time.
  - (ii) Complying with the code of conduct and other standards as may be prescribed by the CCP from time to time.
  - (iii) Ensuring its offices are available for inspection at such time and at such frequencies as may be prescribed by the CCP from time to time.
  - (iv) Complying with the provisions of the Clearing Agreement executed with a Client (as applicable).
  - (v) Ensuring the Authorised Representatives duly appointed maintain compliance with these Rules and such other regulation as may be prescribed by FMDQ Clear, the SEC and the CBN.
  - (vi) Ensuring its Authorised Representatives meet the competency standards as may be prescribed by the CCP from time to time.
  - (vii) Such other continuous compliance requirements as may be required by the CCP from time to time.

- 12.2 The licence granted to a Member to participate as a Clearing Member may be terminated by the CCP under any of the following circumstances:
- (i) Where a Member is inactive without providing valid justification, for such a period as the CCP may prescribe from time to time.
  - (ii) Where the Member is in violation of these Rules, the Agreements or such other regulation as may be prescribed by the CCP from time to time.
  - (iii) Where the Member fails to satisfy the capacity requirements and such other market standards as may be prescribed by the CCP from time to time having been given time to remedy such deficiencies.
  - (iv) Actions which have been reasonably assessed to have been carried out with malicious intent to expose the CCP and other Clearing Members to significant losses or risk, as well as disrupting the market.
  - (v) Such other action or circumstance which have been reasonably assessed by the CCP to be a ground for termination.
- 12.3 Where the licence of a Clearing Member is terminated by the CCP, should such an institution wish to regain membership privileges, it would be required to satisfy all outstanding issues which led to the termination.
- 12.4 Clearing Members who cease to be Clearing Members of the CCP remain liable to disciplinary action for any breach of these Rules committed during the period of their membership of the CCP.

### **13. ACCOUNT STRUCTURE**

- 13.1 FMDQ Clear shall by default use Individual Segregated Accounts for Participants, consequently, a Clearing Member shall keep separate and easily distinguishable records and accounts with FMDQ Clear, for itself and for its respective Clients. Nonetheless, Participants shall have the ability to opt out of the Individual Segregated Account structure and select to use an Omnibus Segregated Account subject to the execution of a declaration that they are aware of the attendant risks and liabilities.
- 13.2 Clearing Members shall only open or include Clients in an Omnibus Segregated Account where they have obtained the duly executed declaration of acceptance of risk.
- 13.3 For the purpose of settlement and collateralisation of its transactions, a Clearing Member shall maintain cash accounts and securities accounts as may be prescribed by the CCP. In addition, a Clearing Member shall maintain a record of all positions at individual client level.
- 13.4 Upon request, FMDQ Clear shall offer its Clearing Members the possibility to open more accounts in their own name or for the account of their clients.

### **14. EXAMINATIONS AND INSPECTIONS**

- 14.1 Clearing Members shall make available for examination or review howsoever required, any document or record relating to their Products traded by means of paper copy, disk, flash, or electronic copy in its possession or subject to its possession, as and when required by the CCP.

- 14.2 FMDQ Clear shall carry out periodic on-site examinations and investigations, in any place of business of every Clearing Member and every Clearing Member shall be required to provide any information or document which the CCP considers appropriate for purposes of such examinations and investigations.
- 14.3 Prior to the examination or inspection, FMDQ Clear shall give a minimum of a ten (10) Business Days written notice to the Clearing Member of its intention to conduct an inspection of the Member.
- 14.4 The information gathered during the inspection of records of Clearing Members shall be used as prescribed by FMDQ Clear.
- 14.5 The Chief Executive Officer, Chief Compliance Officer and the Executive in charge of the Clearing function of the Clearing Member institution shall be present during the inspection and/or the close-out meeting of the inspection. Where any of the aforementioned officers of a Clearing Member cannot be present during the inspection and/or the close-out meeting of the inspection, the Clearing Member shall inform FMDQ Clear a written notice of such absence not less than three (3) Business Days prior to the inspection stating the reasons for such absence and providing a suitable representative.

## **PART D: RISK MANAGEMENT**

### **15. GENERAL RISK MANAGEMENT RULES**

- 15.1 Clearing Members shall agree to post Initial and Variation Margins where and when applicable by way of eligible securities or other assets as may be prescribed and requested by FMDQ Clear. The margins shall be computed in line with FMDQ Clear's Margin Calculation Methodology ("MCM") and may be amended from time to time by FMDQ Clear to establish Margin levels commensurate with the risks and particular attributes of each product, portfolio, and market. Such margins shall be sufficient to cover potential exposures that the CCP estimates will occur until the liquidation of the relevant contracts executed and positions held by the Clearing Member itself, and/or on behalf of its Clients.
- 15.2 The MCM shall be made available in related notifications issued by FMDQ Clear. Clearing Members shall internally assess the Margin requirements on their outstanding trades and make appropriate Margin contributions as and when necessary.
- 15.3 FMDQ Clear shall compute and prescribe Margins per contract and shall call for and collect Margins in respect of any transaction either before the clearing thereof or on an intraday basis or at such other intervals as required depending on market volatility, and when pre-defined Margin thresholds are exceeded.
- 15.4 FMDQ Clear shall call and collect Margins that are adequate to cover the risk stemming from the Positions registered in each account kept in accordance with Section 12 of these Rules with respect to specific financial instruments or products.
- 15.5 Clearing Members may be required to pay Additional Margins to address factors which may not have been immediately addressed by Margin models including illiquidity and concentrated Positions or sudden unforeseen changes in the market.
- 15.6 Following a Clearing Member's individual assessment of its Clients' risk profile, all Margins collected by the Clearing Member from a Client in excess of the Margins prescribed by FMDQ Clear shall be posted by the Clearing Member to the CCP.
- 15.7 FMDQ Clear shall verify the adequacy of Margins posted by Clearing Members against the exposures for their outstanding trades. FMDQ Clear shall also periodically re-assess Margin requirements of Clearing Members. In either case and where necessary, the Clearing Members will be required by FMDQ Clear to bring in Additional Margins.
- 15.8 For non-cash Margins or securities posted by a Clearing Member, FMDQ Clear may through a Mark-to-Market process as contained in the CCP's Collateral Valuation Methodology determine the sufficiency of Margins posted by Clearing Members for their various Positions.
- 15.9 Haircuts based on the CCP's Collateral Haircut Methodology shall be communicated to the Clearing Members on a regular basis and may be applied to non-cash Margins or securities which in the discretion of FMDQ Clear, are considered illiquid.

### **16. DEFAULT FUND**

- 16.1 Clearing Members shall agree to contribute towards a Default Fund with FMDQ Clear in line with FMDQ Clear's Default Fund Sizing Methodology. Such fund shall be managed by FMDQ Clear and

shall form part of the protection against the exposures resulting from events of default. The contribution towards the fund shall comprise of a Base Contribution and a Flexible Contribution as described in the FMDQ Clear Default Fund Sizing Methodology.

- 16.2 FMDQ Clear shall be entitled to use the Default Fund only in the event of the default by a Clearing Member in line with the documented FMDQ Clear Default Management Process (“DMP”). FMDQ Clear may prescribe, from time to time, the mode and manner of contribution to the Default Fund.
- 16.3 Clearing Members shall make contributions to the Default Fund in line with the composition and class of securities or other acceptable assets as prescribed by FMDQ Clear from time to time, in its Policy on Eligible Collaterals.
- 16.4 Securities offered to FMDQ Clear as collateral shall be valued periodically in the manner prescribed in the CCP’s Collateral Valuation Methodology. Clearing Members shall be advised of the impact of such valuation on the value of securities held and shortfalls, if any, upon such valuation shall be replenished by Clearing Members as per guidelines prescribed in the Rules.
- 16.5 Non-defaulting Clearing Members have an obligation to replenish the Default Fund in a manner that shall be prescribed by the CCP, should a portion of it or its entirety be used for managing an event of default.

## **17. DEFAULT MANAGEMENT**

### **17.1 Declaration of Default**

- (i) Further to the provisions of the FMDQ Clear’s Default Management Framework, failure by a Clearing Member to make delivery or payment(s) in fulfilment of its trade obligations or fulfill its margin obligations or Default Fund contributions as prescribed by FMDQ Clear from time to time may lead to a default.
- (ii) FMDQ Clear may prescribe after notice in writing has been served upon a Clearing Member, suspension of the said Clearing Member until payment is received. If within a further period of time as may be specified by FMDQ Clear, the concerned Clearing Member fails to make such payment, it may be declared a Defaulting Clearing Member or may be barred from further participation in its category or may be expelled by FMDQ Clear until the payment is made.

### **17.2 Close-out of Default**

- (i) In the event of Default by a Clearing Member in making delivery or payment(s) in fulfilment of its Trade obligations or other such circumstance as stated in the FMDQ Clear’s Default Management Framework that may precipitate a Close-out, FMDQ Clear in line with the DMP, shall settle the obligation through a specified Default Auction Process (“DAP”).
- (ii) FMDQ Clear shall be irrevocably authorised to close out the trades of a defaulted Clearing Member through the said DAP or otherwise as prescribed, and/or to dispose of the security(ies) or other assets, due to the Defaulting Clearing Member and/or contributed to its Default Fund by the Defaulting Clearing Member by way of sale or otherwise towards the settlement of its claim.

- (iii) FMDQ Clear shall initiate follow-up actions as per the procedure set forth in the Default Management Process and shall also be at liberty to appropriate the funds due to the Defaulting Clearing Member and / or the Defaulting Clearing Member's contribution to the Default Fund.
- (iv) Clearing Members must actively collaborate in the execution of the applicable procedures and actions in the event of default, including those related to the transfer of open Positions and collateral posted as Margins or contribution to the Default Fund as envisaged in these Rules and other related documentations of the CCP.

### 17.3 Recovery of Default

- (i) Without any further reference to the defaulted Clearing Member, its financial resources shall be used for the settlement of associated costs of default management such as the market risk cost<sup>1</sup>, Close-out fee and penalty charge. Should the defaulted party's financial resources not be sufficient in covering the associated costs of default, FMDQ Clear shall deploy additional financial resources in line with its Default Waterfall<sup>2</sup> arrangement to cover the outstanding costs.

## 18. RE-ADMISSION OF DEFAULTING CLEARING MEMBERS

A Clearing Member's Membership right shall lapse and vest with the CCP immediately after it is declared a Defaulting Clearing Member. The Defaulting Clearing Member shall forfeit all its rights and privileges as a Clearing Member of FMDQ Clear, including any right to use of or any claim upon or any interest in any property or funds of the Clearing Member with FMDQ Clear until such Defaulting Clearing Member is re-admitted or a determination of the CCP post the resolution of the default via the FMDQ Clear's Default Management Process.

## 19. TREATMENT OF COLLATERAL

- 19.1 The Collateral (cash and securities) posted as margin or default fund will remain the property of the applicable market participants and will only be used to satisfy losses as detailed in these Rules.
- 19.2 Participants' cash Collateral shall be invested in sovereign risk-free securities which shall be held with designated custodians in favour of FMDQ Clear.
- 19.3 Participants' securities Collateral shall be subject to a securities handling fee.
- 19.4 FMDQ Clear and the Clearing Members may agree from time to time on an interest rate payable on the cash collateral received by the CCP.

<sup>1</sup> Market risk cost could result from trade cancellation or transfer of position to a Preferred Partner. A Preferred Partner is selected from a list of Close-out Partners  
<sup>2</sup> The Default Waterfall as described in the FMDQ Default Fund Policy shows the sequence of financial resources that FMDQ Clear can draw upon to cover the unsatisfied financial obligations of a defaulted Clearing Participants. The Policy stipulates the guidelines for replenishing financial resources maintained by the CCP over an appropriate time horizon following a default of a Clearing Member to enable the CCP continue operating in a safe and sound manner



## **PART E: COMPLAINTS MANAGEMENT & DISPUTE RESOLUTION**

### **20. COMPLAINTS MANAGEMENT**

- 20.1 In accordance with the CCP's Complaints Management Framework, Participants shall report all complaints emanating from activities conducted within or connected to the CCP.
- 20.2 Declaration of a Dispute
- (i) In line with the Complaints Management Framework, a report on the unresolved complaint shall be submitted to the Management of the CCP to provide further direction with respect to the effective resolution of the complaint.
  - (ii) If, after considering the report and reply and any other information at its disposal, FMDQ Clear is of the opinion that there is a dispute, it shall declare a dispute by notifying both parties in writing and refer the matter to an expert selected.
- 20.3 FMDQ Clear to retain a list of experts for dispute resolution
- (i) FMDQ Clear will maintain a list of experts from which any disputants will select at least one (1) for purposes of determination of their dispute.
  - (ii) The disputants will select expert(s) from the list retained by FMDQ Clear within five (5) Business Days, failing which FMDQ Clear shall make the selection of the expert(s) on their behalf.
- 20.4 Dispute Resolution Proceedings
- (i) The expert shall make its award within thirty (30) days of the conclusion of the dispute resolution proceedings.
  - (ii) The expert shall give due weight to the customs and practices at FMDQ Clear and shall have the right to request the FMDQ Clear legal department or the division responsible for market oversight to carry out investigations on its behalf.
  - (iii) The expert may ask FMDQ Clear or the Exchange for any information relevant to the dispute and shall not be bound but may endeavour to give reasons for its decision or award.
  - (iv) The dispute resolution proceedings shall be conducted without legal representation by any of the parties, unless the expert, in its sole discretion, decides otherwise.
  - (v) The expert may at its discretion decide that a number of disputes involving a particular party based on similar occurrences or similar facts shall be consolidated and treated as a single dispute.
  - (vi) Unless the FMDQ Clear, the expert and the parties to the dispute agree otherwise, the identities of the parties, the nature of the evidence and the details of the expert's deliberations and findings, and all other information pertaining to the dispute resolution proceedings shall be kept confidential by all parties.
  - (vii) The expert will report its decision to FMDQ Clear and the disputants. The expert's determination will be final subject to the right of an aggrieved party to appeal to the Commission within ten (10) Business Days of the expert's determination.
- 20.5 Costs of the Proceedings

- (i) The parties to any dispute resolution proceeding may be required to pay to FMDQ Clear before the proceedings commence, such amount as FMDQ Clear may determine as a deposit to cover a portion of the costs of the proceedings.
- (ii) The expert may, as part of its award and as it deems appropriate in the circumstances, make an order on costs which may include an order against the unsuccessful party for payment of all the costs of the proceedings.

## **PART F: CODE OF CONDUCT**

Clearing Members shall comply with the code of conduct set out below:

### **21. INTEGRITY AND RESPONSIBILITY**

Clearing Members shall:

- 21.1 observe the highest standard of professional conduct with respect to their clearing activities and shall at all times act with due care and skill with respect to their conduct.
- 21.2 be responsible for having full knowledge and strictly abiding at all times to the Rules of FMDQ Clear, the SEC Rules and such other operational parameters, rulings, notices, guidelines and instructions of any relevant regulatory authority as may be applicable.
- 21.3 fulfil Clearing Member obligations and take responsibility for their actions when using associated facilities provided by FMDQ Clear.
- 21.4 refrain from any act or conduct which is likely to mar the reputation of FMDQ Clear.
- 21.5 ensure that their Authorised Representatives act in an honest, cooperative manner and not mislead or conceal any material matter which may be detrimental to the CCP operations.
- 21.6 comply with such requirements as may be specified by any relevant regulatory authority from time to time with regard to advertisements and issuance of notices in connection with their activities as Clearing Members.
- 21.7 extend full cooperation and provide such information and explanation as may be required by any relevant regulatory authority or authorised person of the CCP for inspection or audit or in regard to any dealings, settlement, accounting and/or other related matters.

### **22. CONFIDENTIAL INFORMATION**

FMDQ Clear Members shall:

- 22.1 ensure that information provided which may be deemed confidential, competitively valuable, restricted, and proprietary information, are kept with the utmost confidentiality.
- 22.2 not disclose to a third party any information relating to their Clients without the explicit/written permission of the Clients; except as required by Applicable Law.
- 22.3 ensure that limited access is given to Confidential Information and that appropriate measures are in place to safeguard such information.
- 22.4 ensure that where information is shared, there is strict adherence to adequate security standards.
- 22.5 ensure that in the measuring, processing and handling of Client related data, there is strict compliance to relevant data protection laws.

## **23. REPORTING**

With respect to all transactions processed, Clearing Members shall:

- 23.1 ensure that books and records are reported accurately and fairly to reflect and describe all transactions.
- 23.2 have a duty to report in writing to FMDQ Clear within one (1) Business Day of becoming aware of any actual or suspected breach or infringement or non-compliance with any of the regulations of FMDQ Clear.
- 23.3 communicate to FMDQ Clear the names of staff responsible for clearing activities, who have been dismissed for any fraudulent act, dishonesty, misbehavior or, any other acts of misconduct.
- 23.4 provide full and prompt responses to all requests for information by FMDQ Clear in respect of clearing related activities.
- 23.5 provide access to all relevant books, records, audio logs and other forms of documentation requested by FMDQ Clear, in accordance with the provisions of any applicable law and/or regulation.
- 23.6 report the following to FMDQ Clear within one (1) Business Day of becoming aware:
  - (i) the passing of any resolutions, the initiation of any proceedings, or the making of any order which may result in the appointment of a receiver, provisional liquidator, liquidator or administrator or the winding-up, re-organisation, reconstruction, amalgamation, dissolution or bankruptcy of the Clearing Member, or any of their substantial shareholders or the making of any receiving order or arrangement or composition with creditors.
  - (ii) the exercise of any disciplinary measure against the Clearing Member by any regulatory or other professional or trade body or the refusal, suspension or revocation of any regulatory licence, consent or approval required in connection with their business.
  - (iii) any material failure, error or defect in the operation or functioning of their accounting, clearing and settlement systems or equipment.
  - (iv) any material breach, infringement or non-compliance to market conduct, relevant to the FMDQ Clear markets, that has been committed by their Client.

## **24. CLIENT RELATIONSHIPS**

With respect to the Clearing Members' relationship with its Client, the Clearing Member shall:

- 24.1 enter into a written agreement with each Client before services are provided to the Client.
- 24.2 ensure that all agreements entered into shall be in accordance with and subject to Rules and Regulations of FMDQ Clear.
- 24.3 be committed to perform their functions professionally, reliably and in the best interest of their Clients.
- 24.4 take all reasonable steps to execute promptly, Client orders in accordance with Clients' instructions.
- 24.5 transact their business in a just and equitable manner and ensure every instruction, whether for their own account or for their Clients' accounts are fulfilled according to Applicable Law.

- 24.6 ensure that during the general course of dealing with or advising Clients, the provision of margin lending, and the charges, mark-ups, or fees affecting Clients should be fair and reasonable in the circumstances and be characterised by good faith.
- 24.7 ensure that transactions processed on behalf of Clients are promptly and fairly allocated to the accounts of the Clients on whose behalf the transactions were processed.
- 24.8 conduct adequate due diligence and product suitability assessments on Clients prior to processing transactions on their behalf.
- 24.9 have the duty to inform their Clients of their rights and obligations.
- 24.10 be diligent and careful in providing advice and ensure that advice and recommendations are based on thorough analysis and consideration of available alternatives.
- 24.11 take suggestions and complaints made by Clients seriously, investigate them accurately and endeavour to resolve them within a short period.
- 24.12 maintain and operate effective organisational and administrative arrangements with a view to manage any conflict of interests in a manner that ensures that all their Clients receive fair treatment and that they are not exposed to any adverse procedures, behavior, or treatment due to such conflict of interests.
- 24.13 not discriminate or give preferential treatment to any Client, including members of the general public, in the conduct of their professional business.
- 24.14 ensure that the knowledge of Client data, instructions and orders is not utilised to achieve benefits or gains for the Member firm, or any of their employees, or other third parties.
- 24.15 ensure that in promoting services to a Client, no gift other than a discount of fees or charges is offered.