

RULES OF



Revised

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CHAPTER 1:

APPLICATION AND PRELIMINARY PROVISIONS

1. Citation and Commencement

- 1.1 These Rules shall be known as the Commodities Exchange Rules for AHL Commodities Exchange Limited, hereinafter referred to as “the Rules”.
- 1.2 These Rules shall come into force with effect from such date as the Board of AHL Commodities Exchange Limited may appoint and notify in that behalf.
- 1.3 These Rules shall be subject to the provisions of Laws of Malawi or any relevant Regulations and the rules made thereunder.
- 1.4 In case of inconsistency between any provision of these Rules and the provisions of the Laws of Malawi or any the Regulations, the provisions of the Laws of Malawi or the Regulations shall prevail.
- 1.5 The Exchange may, from time to time, issue clarifications or directives, as may be required from time to time, to remove any difficulty or ambiguity in implementing the provisions of any of these Rules, and the clarifications or directives shall have the same effect as these Rules.
- 1.6 These Rules shall be applicable to all the stakeholders of the Exchange, clients and all entities involved in trading, clearing and settlement of transactions, to the extent specified herein.

1.7 Contracts entered between the members of the Exchange shall be governed by the Laws of Malawi.

1.8 These Rules shall be subject to the jurisdiction of the courts in Malawi.

2. Definitions

With regard to these Rules, if not inconsistent with or repugnant to the subject or context hereof, the following words and expressions shall have the meanings given hereunder:

2.1 **“Articles of Association”** means the Articles of Association of AHL Commodities Exchange Limited and includes any modification or alteration thereof for the time being in force;

2.2 **“Authorised representative of a member”** means a person authorised by a member to represent and act on behalf of that member and registered as such under the Articles of Association, and Regulations of the Exchange;

2.3 **“Board”** means the Board of Directors of the AHL Commodities Exchange Limited;

2.4 **“Books of Accounts, Records and Documents”** include books of accounts, records and documents which are required to be maintained in accordance with these Rules or the Regulations and includes the records maintained in a computer or in any electronic or other form of the member of the Exchange;

2.5 **“Buy Order”** means an order to buy a commodity permitted for trading on the Exchange;

- 2.6 **“Buyer”** means and includes, unless the context indicates otherwise, the buying client or the buying Exchange member acting either as an agent on behalf of the buying client or buying on his own account;
- 2.7 **“Chairman”** means the Chairman of the Board of Directors of AHL Commodities Exchange Limited;
- 2.8 **“Clearing House”** means the division of the Exchange, or an entity designated as such by the Exchange, providing the services of settlement of transactions to the Exchange members, and guaranteeing settlement by delivery or otherwise of the obligations to the clearing members, on behalf of the Exchange;
- 2.9 **“Clearing member”** means a person who is admitted by the Exchange as a clearing member and is permitted to clear and settle deals for trading members of the Exchange;
- 2.10 **“Client”** means a person who has executed an agreement with a member of the Exchange for dealing through such member in commodities permitted on the Exchange;
- 2.11 **“Company”** means AHL Commodities Exchange Limited and shall also herein be referred to as the Exchange;
- 2.12 **“Corporate clearing member”** (Repealed in 2015);
- 2.13 **“Corporate trading - cum - clearing member”** (Repealed in 2015);

- 2.14 **“Daily Official List”** means the publication in whatever mode, including an electronic mode, issued by or under the authority of the Exchange, which contains details of prices and quantities of the commodities traded on any given day, and any other relevant information;
- 2.15 **“Daily position limit”** means a limit that a client shall be allowed to trade in per day;
- 2.16 **“Delivery”** means the tender and receipt of Commodity Handover Acknowledgement or any other document of title to goods in settlement of a transaction;
- 2.17 **“Director”** means Director of AHL Commodities Exchange Limited for the time being;
- 2.18 **“Exchange”** means AHL Commodities Exchange Limited and the premises or the system for executing transactions in commodities that are permitted to be traded;
- 2.19 **“Exchange Member – Client Agreement”** means an agreement, which is executed between an Exchange member and his client, in the form and manner prescribed by the Exchange from time to time;
- 2.20 **“Financial year”** means year commencing on 1st April and ending on 31st March of the following year;
- 2.21 **“Market Order”** means an order for a specified quantity of a commodity to be bought or sold at the best available order or quote prevailing on the trading system of the Exchange at the time of entry of the order on the trading system of the Exchange;

- 2.22 **“Market type”** means and refers to different markets in which trading is allowed on the trading system or any other trading system allowed by the Exchange;
- 2.23 **“Member of the Exchange”** or **“Exchange Member”** means a person, a sole proprietary firm, a partnership firm, a company, a co-operative society, a body corporate or public sector organisation or statutory corporation or a government department or non-government entity or any other entity admitted as such by the Exchange for trading, clearing or settlement in a commodity permitted by the Exchange. Membership of the Exchange in this context shall not mean or require or entitle shareholding in the Company;
- 2.24 **“Order”** means an offer to buy or sell any commodity through the trading system or any other trading system permitted by the Exchange for specific commodities;
- 2.25 **“Pay-in”**, in respect of transactions done on the Exchange, means making available funds to the Clearing House by the Exchange members in accordance with the applicable settlement schedule notified by the Clearing House from time to time;
- 2.26 **“Pay-in date”** means the date and time prescribed by the Exchange or its clearing house for each settlement by which date and time, Exchange members are required to perform their obligations by way of payment of funds or commodities as applicable, to the clearing house;
- 2.27 **“Quote”** means a bid price or an offer price given by an Exchange member for a commodity on the trading

system or any other trading system allowed by the Exchange;

- 2.28 **“Rate”** means the price of unit of quote specified in the contract specifications for a commodity transacted on the trading system or any other trading system allowed by the Exchange;
- 2.29 **“Relative”** means a person who is a relative within the meaning assigned under the Companies Act, in force from time to time or within the meaning assigned by any other rules of the Exchange;
- 2.30 **“Relevant Authority”** means any institutions or officer appointed to oversee and implement compliance with any written law or any relevant Regulations;
- 2.31 **“Sale Order”** means an order to sell a commodity permitted for trading on the Exchange;
- 2.32 **“Secretary”** means a Company Secretary of the Exchange appointed in accordance with the Memorandum and Articles of Association for the Exchange;
- 2.33 **“Seller”** means and includes, unless the context indicates otherwise, the selling client, and the selling Exchange member acting as an agent on behalf of such selling client and denotes the selling Exchange member when he is dealing on his own account;
- 2.34 **“Short Position”** means the net outstanding sell obligations of a person, whether a member or his client, in respect of his transactions in a commodity or its

price index, at any given point of time, whose settlement is yet to be effected;

2.35 **“Structured deals”** mean and are similar to cross deals except that the Exchange members on the buy and sale sides of the trade are different;

2.36 **“To input”** means to transmit an order to buy or sell a commodity or any other information as may be required by the trading system;

2.37 **“To match”** means an order to sell or a part of an order to sell which matches with an order to buy or a part of an order to buy, or vice versa, in terms of price and quantity, either in part or full, and resulting into a trade;

2.38 **“Trade”** means a transaction for purchase or sale of a commodity resulting from the matching of a bid to buy or a part of a bid to buy with an offer to sell or a part of an offer to sell, or vice versa on the trading system or any other trading system permitted by the Exchange;

2.39 **“Trading member”** means a member of the Exchange who has the right to trade for himself or for his registered client and requires the service of a Clearing Member for clearing and settlement of his trades;

2.40 **“Trading-cum-clearing member”** (Repealed in 2015);

2.41 **“Trade finance”** means the mechanism implemented by the Exchange for trade finance against pledge of warehouse receipts through the Clearing House of the Exchange;

- 2.42 **“Trading period”** means the duration of trading prescribed by the Exchange during which a commodity will be available for trading;
- 2.43 **“Trading segment(s)”** means different segments or divisions into which the commodities and centres of trading are admitted to dealings on the Exchange, as classified by the Exchange for admission of members to the Exchange and for the purpose of trading on the trading system of the Exchange;
- 2.44 **“Trading session”** of a working day means the hours of that day during which the sale and purchase of commodities are permitted by the Exchange;
- 2.45 **“Trading system”** means such space, systems and networks as the Company may from time to time determine and which shall be notified by the Board as reserved for trading in specific commodities permitted on the Exchange;
- 2.46 **“Warehouse”** means and includes any designated structure where the commodities traded on the Exchange are stored;
- 2.47 **“Warehouse Receipt”** means a document issued under the authority of the Exchange, whether in physical or electronic form evidencing proof of deposit in the approved warehouse and of ownership of a commodity of a stated quantity, grade and quality by the beneficial owner or the holder of the warehouse receipt; and

- 2.48 “**Working day**” means any day from Monday through Friday except on public holidays on which the sale and purchase of commodities is permitted by the Exchange.

3. Power to make and amend Rules

- 3.1 Subject to the provisions of these Rules, the Board of Directors shall have powers to make directives, orders or other business rules from time to time for efficient functioning and operations of the Exchange and to regulate the functioning and activities of the members of the Exchange, their authorised representatives, Clearing House, Settlement Banks, and all other persons operating under or through them or dealing with them both *inter-se* and in relation to the Exchange and, determine trading and delivery specifications for commodities and price indices permitted for trading on the Exchange, including method of trading, clearing, settlement and other operations related thereto.
- 3.2 The Board may, from time to time, amend, add to, alter, modify, delete or repeal any of the provisions of these Rules as may be deemed necessary or appropriate.

CHAPTER 2:

MEMBERSHIP

4. Membership of the Exchange

Every person desirous of becoming a member of the Exchange shall apply to the Exchange for admission as a member of the Exchange, in the prescribed form which shall be provided by the Exchange at such fee as the Exchange may decide from time to time and the membership shall be subject to compliance with these Rules.

5. Qualification for Membership

Any person shall be eligible to become a member of the Exchange if:

- (a) he 18 years of age and above;
- (b) a partnership or body corporate, is duly incorporated under the Laws of Malawi;
- (c) he complies with the capital adequacy norms as may be prescribed by the Exchange, from time to time;
- (d) he complies with the registration and other provisions as may be prescribed by the Exchange from time to time;
- (e) he is not an employee of the Exchange;
- (f) he is not a Board member of the Exchange; and
- (g) he pays such fee, charges, deposits and other monies, as may be specified by the Exchange.

6. Disqualification of Membership

6.1 A person shall not be qualified as a member of the Exchange, if such person-

- (a) does not have a minimum net worth as the Exchange may from time to time determine and consider acceptable;
- (b) is of unsound mind;
- (c) has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) has, within the last seven years, been convicted by a competent court of an offence involving dishonesty or moral turpitude;
- (e) has applied to be adjudicated as an insolvent and the application is pending;
- (f) has been declared bankrupt under the Laws of Malawi;
- (g) has been punished for contravention of any of the provisions of any relevant written law, Regulations or any directives or orders made thereunder and a period of two years or any longer period, as may have been specified, has not elapsed from the date of order of such punishment; or
- (h) does not meet such other conditions as may be specified by the Exchange or the Relevant Authority from time to time.

- 6.2 On application for membership the applicant may apply for any class of membership, subject to his fulfilling the eligibility criteria.

7. Rights and privileges of Members

- 7.1 The membership of the Exchange shall entitle a member to exercise such rights and privileges attached to such class of membership as he specifically applies for dealing on the Exchange, subject to these Rules and the Regulations as applicable from time to time.

- 7.2 The provisions of these Rules and of the Regulations applying to individuals shall apply *mutatis mutandis* to firms, banks, other financial institutions and bodies corporate who are registered as a member of the Exchange.

7.3 -

- (a) A member of the Exchange shall not assign, mortgage, pledge, hypothecate, or charge his right of membership or any rights or privileges attached thereto, or novate his obligations as a member and any such attempt shall not be effective.

- (b) The Exchange shall expel any Member of the Exchange who acts or attempts to act in violation of this sub-rule.

- 7.4 The membership rights of the Exchange are transferable subject to the Rule 14 and also subject to prior approval of the Exchange.

8. Classes of Membership (Amended in 2015)

8.1 The Exchange may classify the membership of the Exchange into different categories and provide for different rights and privileges for trading, clearing and settlement of contracts in any commodity or group of commodities, securities, instruments and derivatives thereon to the members of different categories.

8.2 Notwithstanding the generality of Rule 8.1 above, membership of the Exchange may be in the following classes:

- (a) trading member;
- (b) clearing member; and
- (c) limited member.

9. Trading Member to be affiliated to clearing member

Every trading member shall be affiliated with another member who has clearing rights on the Exchange.

10. Restriction on Trading Member (Amended in 2015)

10.1 A Trading member of the Exchange shall not enter into an agreement to clear, register and settle transactions in commodities permitted for trading on the Exchange on behalf of any other Exchange member but may trade on behalf of clients.

10.2 Every other clearing member shall have the right to clear transactions in commodities that are executed in the trading system of the Exchange.

11. Sub-broker (Repealed in 2015)

12. Limited Member (Amended in 2015)

- 12.1 The Exchange may designate and register temporary membership on such conditions and for such period as the Exchange may deem fit.
- 12.2 A Limited member shall conduct transactions on the Exchange on his own behalf only

13. Rights of Exchange in altering classes of Membership

The Exchange retains the right to:-

- (a) designate new classes of membership; and
- (b) suspend, remove or strike off any class of membership.

14. Transferability of Membership

- 14.1 Memberships of the Exchange other than Limited membership shall be transferable to any eligible person upon approval by the Exchange after a lock-in period of three years.
- 14.2 Any merger of two or more members, shall be exempted from the requirement of the lock-in period.
- 14.3 Membership may be surrendered either by resignation from the membership of the Exchange or transfer of the membership by nomination in accordance with these Rules.
- 14.4 A member of the Exchange shall, on resignation from the membership, be entitled to receive back his deposit, if any, after the Exchange and the Clearing House have recovered all outstanding dues from the member who

has tendered his resignation, but any money paid to cover admission fee shall not be refunded.

15. Registration under misrepresentation

The Exchange may expel a member if such member has in or at the time of his application for registration to membership of the Exchange or during the course of the inquiry made by the Exchange preceding his registration-

- (a) made any wilful misrepresentation;
- (b) suppressed or concealed any material information required of him as to his financial position, including financial liabilities, character and antecedents; or
- (c) has directly or indirectly given false particulars or information or made a false declaration.

16. Procedure subsequent to admission

16.1 When a person is registered as a member of the Exchange, intimation of his registration shall be sent to him by the Exchange.

16.2 On due payment of requisite fees, subscription, deposits including the initial security deposit if any and such other amounts and requirements as may be prescribed in these Rules and on compliance with all the requirements necessary before commencement of trading or clearing and settlement activity, a certificate of membership, under the Common Seal of the Exchange and signed in such manner as the Exchange may decide from time to time, shall be issued to the newly registered member.

16.3 If any such certificate be lost, destroyed, defaced or worn out, the Exchange may issue a new certificate provided, however, that such certificate shall not be granted except upon the return of the worn out or defaced certificate

to the Exchange or upon proof of destruction or loss of the original certificate and on such indemnity and at such fee as the Exchange may require before the issue of any such duplicate certificate.

- 16.4 When a member of the Exchange is admitted and a certificate of membership as provided above is issued to the member of the Exchange, notice of such admission shall be published on the notice board of the Exchange or by way of any other system of the Exchange.

17. Register of members

- 17.1 The Exchange shall maintain a register and index of members of the Exchange in which the style, constitution and such other information as may be considered appropriate by Exchange may be collected and recorded for the use of the Exchange.
- 17.2 In case of any change in the records registered under sub-rule 17.1 above, the members shall be liable to intimate to the Exchange and take permission prior to carrying out such changes.
- 17.3 The Company shall keep details of every member of the Exchange in the forms as it shall deem appropriate from time to time.
- 17.4 Every member of the Exchange shall promptly notify the Exchange in writing of any change in the information provided by the member of the Exchange at the time of admission or at a later stage to the Exchange.
- 17.5 The Exchange shall indicate the changes in respect of which the member of the Exchange should take prior

approval from the Exchange; and every member who fails to do as stipulated in this provision, shall be liable and charged penalty or further disciplinary action, may be instituted, as may be required.

18. Subscription fee

18.1 Every member of the Exchange shall pay a subscription, fee, deposit or any other charges as may be fixed by the Exchange, from time to time.

18.2 If a member of the Exchange fails or neglects to pay subscription, fee, deposit or any other levies as required by the Exchange for a continuous period of one (1) month, the Exchange may declare such member a defaulter within the meaning of these Rules:

Provided that such defaulting member of the Exchange shall be at liberty to apply for re-admission as a member of the Exchange after complying with the provisions of these Rules as applicable to re-admission of defaulters.

19. Security deposit

19.1 The Exchange may prescribe payment of initial security deposit from a member payable at the time of registration.

19.2 A new member of the Exchange shall, not later than such number of days as may be specified by the Exchange, from the date of intimation in writing by the Exchange conveying its decision on registration, provide security deposit of a sum and in such mode as may be decided by the Exchange from time to time and shall maintain such base minimum capital with the Exchange at all times.

19.3 The Exchange may also decide to bifurcate such security deposit into refundable and non refundable security deposits and may allow trading and exposure limit only on such part of the security deposit, as it may deem fit.

19.4 A member of the Exchange shall be entitled to provide additional deposits in order to get higher limits to trade and settlement.

20. Lien of deposits or funds

20.1 The security deposit, contribution to settlement guarantee fund or any other fund of a member of the Exchange arising under these Rules shall be charged with the due repayment of all debts and obligations of such member of the Exchange to the Exchange, other members of the Exchange, the Clearing House of the Exchange and any person arising out of contracts entered into or transacted under these Rules.

20.2 All such debts and obligations to the Exchange shall rank in priority to all other claims; the debts to other members of the Exchange shall rank *pari passu* and be entitled to have a charge on the residue thereof, if any, subject to such first charge; after payment thereof, the residue, if any, shall be charged with all dues to any person under any award made in any arbitration proceedings held under the provisions of these Rules and, after the above said appropriations, the residue thereof, if any, shall vest unconditionally with the Exchange.

20.3 On the termination of his membership of the Exchange or on death or liquidation of the member of the Exchange, all deposits, if any, not applied under these

Rules, shall, at the cost of the member, be repaid either to him or as directed or in the absence of such direction to the nominees or the legal representatives.

21. Partnerships as members of the Exchange

A partnership firm shall be eligible for admission as a member of the Exchange provided that-

- (a) it fulfils the following:
 - i. the firm is duly registered in accordance with the laws of Malawi;
 - ii. the deed of partnership is approved by the Exchange;
 - iii. the deed of partnership contains a provision to the effect that the business of the firm shall at all times be carried out so as to comply with these Rules;
 - iv. the partners of the firm are acceptable to the Exchange; and
 - v. the deed of partnership permits individual partners of the firm from carrying on business of commodities trading or clearing in their individual capacity or as partners in other firms.
- (b) the firm has undertaken to do the following:
 - i. the Exchange shall be informed of any change in the partnership deed or of partners one (1) month before such change and if any such change is unacceptable to the Exchange, the firm shall upon receipt of such written communication desist from such action and if the firm fails to comply, the Exchange shall have the right to suspend the rights and privileges of such

- member for a period as may be decided by the Exchange, or expel such member of the Exchange;
- ii. the deed of partnership shall include such provisions as the Exchange may from time to time require;
 - iii. the firm and its partners have undertaken unconditionally to fulfil any condition or requirement which the Exchange may insist upon for admission and continuance as a member of the Exchange, from time to time; and
 - iv. no new partner shall be admitted without the prior approval of the Exchange.
- (c) No change in the name of an existing partnership shall be effected without prior intimation to the Exchange and its approval; and if it is so approved, it shall be posted on the notice board of the Exchange.
- (d) None of the partners shall assign or in any way encumber his interest in the firm.
- (e) No person shall at the same time be a partner in more than one partnership firm carrying on the business of commodities trading or clearing.
- (f) Notice of every change of partners shall, upon approval, be posted on the notice board of the Exchange.
- (g) Upon dissolution of the partnership firm, the firm shall cease to be a member of the Exchange.

- (h) The erstwhile partners of a dissolved firm, other than those who are members of the Exchange in their personal capacity, shall have absolutely no right, privilege, entitlement or concession of a member of the Exchange, or any claim against the Exchange in connection with his partnership business, by virtue of having been a partner in the erstwhile partnership firm.
- (i) Any partnership that violates any of the provisions herein above, after being afforded an opportunity of being heard, shall be liable to be suspended by the Exchange for such period as may be decided by the Exchange or expelled from the membership of the Exchange.

22. Partnerships by or between members of the Exchange

22.1 A member of the Exchange desirous of carrying on business in partnership or admitting any person or persons as new partner or partners shall take approval of the Exchange in advance by giving the names and particulars of the partners and the name of the partnership firm in the form prescribed by the Exchange.

22.2 Where the provisions of section sub-rule 22.1 above have been fulfilled, the existing membership of the desirous member of the Exchange shall then be transferred to the partnership firm on admission of such firm as a member of the Exchange and all regulatory compliances shall thereafter be in the name of the firm.

22.3 An application for carrying on business as a firm in sub-rule 22.1 above shall be accompanied by such

information and a copy of the draft deed of partnership, initially in connection therewith as may be required by the Exchange.

- 22.4 The Exchange shall, after giving permission, record the partnership, and on receiving a signed copy of the deed of partnership, shall be delivered to the Exchange for the purpose of record within one month of its execution.
- 22.5 Any change in the name of an existing partnership shall not be effected without prior intimation to the Exchange and its approval.
- 22.6 Any person, being a partner to the firm shall not assign or in any way encumber his interest in the firm.
- 22.7 Any member of the Exchange shall not at the same time be a partner in more than one such partnership firm.
- 22.8 Notice of the formation of partnership, the names of partners and every change therein shall be posted on the notice board of the Exchange.
- 22.9 When the firm so constituted is dissolved, the firm shall cease to be a member of the Exchange and thereupon only the original members of the Exchange holding membership in their individual capacity, and who was a partner or were partners thereof may carry on business in own individual names, but subject to the payment of the admission fee or deposit, if any, that shall be payable by him in accordance with these Rules.
- 22.10 The members of the Exchange which is a partnership firm must communicate to the Exchange in

writing under the signatures of all the partners or surviving partners of any change in such partnership either by dissolution, retirement, death, reconstitution or otherwise.

- 22.11 A partner of a firm, who is not a member of the Exchange shall have absolutely no right, privilege, entitlement or concession of a member of the Exchange, or any claim against the Exchange in connection with his partnership business, by virtue of his being a partner in the partnership with a member of the Exchange:

Provided that he shall be jointly and severally responsible for all dues, claims or demands pending, if any, against the partnership firm.

- 22.12 Any notice to the Exchange intimating dissolution of a partnership shall contain a statement as to which partner of the member of the Exchange undertakes the responsibility of settling all outstanding liabilities, but that shall not deem to absolve the other partner or partners of his or their responsibility from such liabilities.

- 22.13 Any member of the Exchange entering into partnership with any person who is not a member of the Exchange without the previous approval of the Exchange, shall, on proof thereof be liable to be expelled from the membership of the Exchange.

- 22.14 Any partnership or member of the Exchange who is a partner of such partnership that violates any of the provisions herein above, after being afforded an opportunity to be heard, shall be liable to be suspended by the Exchange for such period as may be decided by the

Exchange or to be expelled from the membership of the Exchange.

23. Register of partnerships

23.1 The Exchange shall maintain a register of partnerships in which there shall be entered the names of partnerships recognized by the Exchange in accordance with these Rules and the partners thereof together with their respective addresses, the date of recognition and any changes in the partnerships and names together with the relevant dates.

23.2 So long as the name of the firm is included in the register of partnership, the individual partners thereof shall not carry on the business of clearing, registering and settling any transaction or contract in their individual names.

24. Company, body corporate as members of the Exchange

24.1 A company or body corporate shall not be eligible for admission as a member of the Exchange unless:-

- (a) it is duly incorporated as such under the laws of Malawi; and
- (b) the objects for which the company is established allows the company to carry on business in commodities or to clear and settle transactions or contracts in commodities.

24.2 In addition to the requirements in 24.1 above, the company shall undertake the following:

- (a) that it has, unconditionally, fulfilled any condition or requirement which the Exchange may insist upon for admission as a member of the Exchange;
- (b) that its director, if the company is admitted as member of Exchange, shall not carry on business in commodities trading and clearing, either, as a

- proprietor, partner of a firm or director of any other company which is a member of the Exchange, except with the prior approval of the Exchange; and
- (c) if there is any change in the shareholding pattern of the company, which is not acceptable to the Exchange, the Exchange may take such action as it may deem appropriate.

25. Other forms of organisation

In respect of other forms of organisation, the Exchange may decide the eligibility requirement, terms and conditions of the membership of the Exchange.

26. Business names

- 26.1 A member of the Exchange desirous of carrying on their business under a particular business or firm or trade name or style which he duly registered in accordance with the law shall intimate such name to the Exchange in writing.
- 26.2 The Exchange may refuse to allow a member of the Exchange to carry on business under a name which it considers misleading, if such name varies from the name of the body corporate or firm, and in such cases the member of the Exchange shall be at liberty to choose any other name with the approval of the Exchange.
- 26.3 Where any member of the Exchange has obtained the permission or approval or ratification of the Exchange to carry on business under a business or trade or firm name, the particulars thereof shall be entered in the register of business names.

27. Authorized representative

- 27.1 Subject to prior approval by the Exchange a member may be allowed to be represented by more than one Authorised Representative during a trading session.
- 27.2 The Exchange shall from time to time make directives for the appointment, operations and cessation of Authorized Representatives.
- 27.3 A member of the Exchange desirous of appointing an Authorized Representative shall apply for the permission of the Exchange in such form as the Exchange may from time to time prescribe.
- 27.4 A member shall be allowed to be represented by only one Authorized Representative during a trading session.
- 27.5 The Exchange may register independent Authorised Representatives who may be engaged by members who may need their services subject to Rule 38 hereof.

28. Power to appoint attorneys

- 28.1 A member of the Exchange may give a power of attorney to any person to carry on or supervise his business in the Exchange or to clear and sign contracts, reports and statements or other documents on his behalf in respect of transactions on the Exchange:
Provided that the person so appointed is at least eighteen years of age, is in all other respects eligible for election as a member of the Exchange and the Exchange has no objections to his appointment.

28.2 Any power of attorney granted by the member of the Exchange or any change thereof shall be intimated by the Exchange by posting a notice of the fact on the notice board of the Exchange.

28.3 A register of constituted attorneys shall be maintained by the Exchange in which shall be entered the names of the constituted attorneys, the names of the appointing members of the Exchange, the express terms of the appointment and any changes thereof, together with the dates on which the authority is granted or rescinded, which shall be open for inspection by the members of the Exchange.

28.4 Nothing contained in these presents shall absolve the member of the Exchange granting the power of attorney from responsibility for the acts or omissions of his attorney.

28.5 Any person shall not be entitled to admission to the offices of the Exchange or offices of the Exchange by reason only that he holds a power of attorney from a member of the Exchange.

29. Termination of membership

29.1 Any Member of the Exchange shall cease to be a Member of the Exchange by:

- (a) transfer or nomination;
- (b) death;
- (c) dissolution;
- (d) expulsion in accordance with these Rules;
- (e) resignation in writing;
- (f) being declared as a defaulter in accordance with these Rules;

- (g) becoming ineligible for membership under Rule 24 hereof; or
- (h) expiry of the validity period ascribed to a particular class of membership that the member subscribed to.

29.2 Notwithstanding anything contained in these Rules, the expulsion of Member from the membership Exchange, whether bodies corporate, partnerships, individuals or such other persons as are admitted as Member of the Exchange, shall be final and conclusive.

30. Legal representatives may request to carry on business on behalf of deceased

In case an individual, who is a member of the Exchange in his own name or is the sole proprietor of the membership of the Exchange dies, his legal representatives or the authorised representatives or approved users, if any, on behalf of such deceased member shall not continue to carry on any business in the name of membership of the deceased except for the purposes of winding up of the outstanding business of the deceased.

31. Membership on death of member

After the death of an individual who is the member of the Exchange in his own name or is the sole proprietor of the membership of the Exchange, his heirs, or his legal representatives may request the Exchange to transmit the membership of the deceased to his heir who is otherwise eligible for the membership of the Exchange and the Exchange may in their absolute discretion transmit the membership in the name of such heir; and this person in whose name the membership is transmitted shall not be charged any fresh admission fee.

32. Member entitled to surrender membership

32.1 A member shall be entitled to apply to the Exchange to surrender his membership; and where this has been approved, the membership so surrendered shall lapse and vest with the Exchange; and such surrender of membership shall be valid, only after approval thereof by the Exchange and also subject to compliance with such procedure, terms and conditions, as may be laid down by the Exchange.

32.2 The application for surrender of membership, once filed, is irrevocable and irreversible and after approval by the Exchange, the erstwhile member shall be entitled to get his refundable security deposit, subject to settlement of all pending dues and claims, if any and also subject to minimum lock in period specified by the Exchange.

33. Nomination on death of member

33.1 Every member of the Exchange shall be entitled to nominate another person as his successor to the membership of the Exchange subject to the conditions and restrictions set forth hereinafter or in the Regulations.

33.2 Where, however, the legal heir of a deceased member of the Exchange nominate a person eligible for registration as a member of the Exchange under these Rules to succeed the established business of the deceased member of the Exchange, who is his father, uncle, brother or son or such other person who in the opinion of the Exchange, is a close relative, such nominee shall be registered as a member of the Exchange provided he is otherwise qualified and eligible for membership of the Exchange under these Rules.

33.3 A notice of the proposed nomination shall be posted on the notice board of the Exchange or through any other system the Exchange may devise.

33.4 Any person or member of the Exchange may, within fifteen (15) calendar days of the posting or notifying, as the case may be, of such notice, file claims against the member of the Exchange or person in respect of whom the nomination has been made and any claim not so filed, within the said period, shall be rendered liable for summary rejection and may not be considered by the Exchange.

34. Nomination to be approved only after full payment of liabilities

34.1 The Exchange shall not approve a nomination unless the nominating member of the Exchange, and in the case of a deceased member, his legal heir or legal representative or the person in whose favour the nomination has been made, shall have paid and satisfied in full:

(a) **Dues of the Exchange:** Such subscriptions, debts, fines, fees, charges and other monies due to the Exchange or the Clearing House payable by the nominating member of the Exchange or by the legal heir legal representatives on behalf of the deceased member of the Exchange:

(b) **Liabilities Relating to Contracts:** Such debts, liabilities, obligations and claims arising out of any contract made by the nominating or deceased member of the Exchange, subject to these Rules as shall have been admitted by the Exchange and all amounts due or payable by the nominating or deceased member of the Exchange to the Settlement Guarantee Fund or any other fund of the Exchange.

34.2 If a nominee is not eligible under these Rules or the Regulations or if a nominee has been rejected by the Exchange, a fresh nomination or nominations may be submitted to the Exchange, until a nominee is admitted as a member of the Exchange.

35. Default by Member

35.1 A member of the Exchange shall be declared by the Exchange or the Relevant Authority as a defaulter where money, commodities, securities and bank guarantees deposited with the Exchange are not adequate to discharge the Member's obligations and liabilities.

35.2 A member of the Exchange shall also be declared a defaulter by direction of the Exchange on the happening of any one or more of the following instances: –

- (a) If he is unable to fulfil his engagements or obligations;
- (b) If there is inadequate balance in his designated bank account and as a consequence an instruction issued by the Exchange for debiting his account towards recovery of pay in any other dues fails;
- (c) If he admits or discloses his inability to fulfil or discharge his engagements, obligations or liabilities;
- (d) If he fails or is unable to pay within the specified time the damages and the money difference due on a closing out effected against him under these Rules;
- (e) If he fails to pay any sum due to the Clearing House or to deliver to the Clearing House any commodity or instrument on the due date;
- (f) If he fails to pay or reimburse to the Settlement Guarantee Fund of the Exchange in respect of the amount used from it for the purpose of fulfilling settlement obligations on his behalf;

- (g) If he fails to pay or deliver such money, commodities or instruments arising out of an award given by the Arbitrator under the Arbitration proceedings provided in these Rules;
- (h) If he fails to pay or deliver such money, commodities or instruments arising out of a transaction executed on the Exchange, provided such obligation is not disputed by the trading member;
- (i) If he fails to or deliver to the Exchange or the Relevant Authority all monies, delivery commitments and other assets due to a member of the Exchange who has been declared a defaulter within such time as directed by the Exchange; or
- (j) If he fails or neglects to pay subscription, security deposit or any other levies as required by the Exchange for a continuous period of one (1) month.

35.3 In case of death of a member, if the legal heir or legal representative of a deceased member of the Exchange or any other person on his behalf do not or is unable to pay and satisfy his dues, debts, liabilities, obligations and claims as provided in these Rules, such deceased member shall be declared a deemed defaulter by direction of the Exchange.

35.4 In case a member does not clear his liability on the Exchange and such liability is more than his available security deposits and other assets available with the Exchange, then the Exchange may declare the person a deemed defaulter until the member clears his liabilities: provided that the Exchange shall have the right to declare such deemed defaulter as defaulter any time, as it may decide.

35.5 On a member of the Exchange being declared a defaulter, a notice to that effect shall be posted forthwith on the notice board of the Exchange.

35.6 The defaulter shall submit to the Exchange such statement of accounts, information and particulars of his affairs as the Exchange may from time to time require and if the Exchange so desires, he shall appear before the Exchange at its meeting in connection with his default.

35.7 The Exchange may file with the Relevant Authority, within such time of the declaration of the default as the Relevant Authority may direct, a written statement containing a complete list of the defaulter's debtors and creditors and the sum owing by and to each of them.

35.8 *Ipsa facto* on declaration of a defaulter or deemed defaulter automatically as provided hereinabove, all monies, commodities, securities, bank guarantees lying with the Exchange in respect of a defaulter shall vest with the Exchange for the benefit and on account of the creditors who may have a tenable claim and the Exchange shall deal with such monies, securities or bank guarantees and claims, as provided in these Rule.

36. Consequences of default

Declaration of defaulter shall have the following consequences:

- (a) **Cessation of membership of the Exchange at once:** A member of the Exchange who is declared a defaulter or deemed defaulter shall at once cease to be a Member of the Exchange and as such ceases to enjoy any of the rights and privileges of membership of the Exchange but the rights of his creditors, arising out of or incidental to the

transactions, against him shall remain unimpaired as provided herein.

- (b) **Lapse of right of membership** of the Exchange: The right of member of the Exchange shall lapse or forfeit to and vest in the Exchange if so facto upon such member of the Exchange being declared a defaulter or deemed defaulter.
- (c) **Prohibition to re-admission:** No person who was a member of the Exchange and declared a defaulter or expelled by the Exchange shall be readmitted to the membership of the Exchange for a minimum period of three years from the date of such declaration.
- (d) The right of nomination of the interest in the Exchange held by a member of the Exchange who has been declared a defaulter shall vest with the Exchange and shall be exercised by the Exchange as detailed in these Rules.
- (e) The Exchange shall-
 - i. sell the interests and the membership in the Exchange of the defaulting member of the Exchange within a reasonable period through auction or such other process as fixed by the Exchange and nominate to membership of the Exchange in the place of the defaulting member of the Exchange any person who offers the highest bid, provided such successful bidder is otherwise eligible to become a member of the Exchange as per these Rules;
 - ii. issue a notice of the auction or disposal on the notice board of the Exchange detailing the terms and conditions, at least fourteen (14) calendar days before the day fixed for the auction or disposal;

- iii. In the case of default by a partnership firm, the individual memberships of the Exchange, if any, of the partners of the defaulting firm shall also lapse and the provisions of defaulters shall apply to the interest of all the members of the Exchange who are partners of the defaulting firm.

37. Procedure for re-registration of defaulters

The following shall be the procedure for re-registration of defaulters:

- (a) Subject to Sub Rule 36 (c), the Exchange may, upon an application by the defaulter for re-registration, re-admit a defaulter to the membership of the Exchange.
- (b) The Exchange shall cause a notice of every such application to be posted on the notice board of the Exchange for at least twenty one (21) days prior to such re-registration.
- (c) Any person intending to object to the re-admission of the defaulter shall communicate the grounds of his objection to the Exchange within fourteen (14) days from the date of posting of the notice of the application; and the Exchange shall keep the grounds of objection confidential.
- (d) The Exchange shall not re-register a defaulter unless it is satisfied of his conduct and statement of accounts.
- (e) The Exchange may re-admit only such defaulter who in its opinion:
 - i. has defaulted owing to the default of principals whom he might have reasonably expected to be good for their commitments;

- ii. has not been guilty of bad faith or breach of these Rules;
 - iii. has kept his business within a reasonable proportion of his means or resources; and
 - iv. has been irreproachable in his general conduct.
- (f) A defaulter shall not be eligible for re-admission unless he had made out of his own resources, a bona fide money payment of the amount of loss, dues and other arrears in the manner and to the extent, as may be prescribed by the Exchange and to its satisfaction.
- (g) Any defaulter so re-admitted shall not be required to pay the admission fee as prescribed in these Rules provided the Exchange has not nominated any other person in exercise of its rights to nominate a successor to the defaulting member of the Exchange. But if such nomination has been made and the nominee admitted to the membership of the Exchange, then the defaulter shall be re-admitted only on meeting all the admission criteria and payment of a fresh admission fee as may be prescribed in these Rules.

38. Vicarious liability

38.1 A member of the Exchange shall be fully responsible for the acts and omissions of his partnership firm and of his partners, attorneys, Authorized Representatives, and employees, by whatever name called.

38.2 If any such act or omission be held by the Exchange to be done by any such representative, which if done or omitted to be done by the Member of the Exchange would subject him to any of the penalties as provided in these Rules, then such Member of the Exchange shall be liable

thereof to the same penalty and to the same extent as if such act or omission had been done or omitted to be done by him personally.

39. Attachment order against any member of the exchange by court etc. and the consequences

Where any security deposit or other payments made by any member of the Exchange with the Exchange under these Rules or the Regulation, has been attached by an order of any Court or on behalf of any Income Tax authority or by any authority or officer of the Government under any law, for the time in force and if the member of the Exchange whose deposit or other payments has been so attached or encumbered fails to have such attachment cancelled or removed within three (3) days of a notice by the Exchange, notifying him of the service on the Exchange of such order of attachment and calling upon the member of the Exchange to have the said attachment removed or cancelled, the Exchange shall suspend the said member of the Exchange:

Provided that any member of the Exchange whose deposit as aforesaid has been attached in the manner aforesaid pays into the hands of the Exchange within the such period as may be specified by the Exchange a sum equal to the amount so attached, the Exchange shall not exercise its powers to suspend him under this clause so long as the said additional deposit so made is free of any attachment; and the provisions of this Rule shall apply to any attachment against the said additional deposit made in the like manner as to the original payment or security deposit.

40. Members of the Exchange required to make personal appearance

A member of the Exchange shall appear and testify before and cause his partners, Authorized Representatives, and employees

to appear and testify before the Exchange or the Relevant Authority and shall produce and cause to be produced before the Exchange such books correspondence, documents, papers and records or any part thereof which may be in his or their possession and which may be deemed relevant or material to any matter under inquiry or investigation or which the Exchange or the Relevant Authority in its absolute discretion deems necessary in the interest of just and equitable principles of trade or in public interest and welfare of the Exchange and the members of the Exchange.

41. Exchange's discretion in lieu of suspension or expulsion

41.1 The Exchange in its absolute discretion may in any case suspend a Member of the Exchange in lieu of the expulsion warranted or may withdraw one or any of the membership rights or impose a fine in lieu of suspension or expulsion warranted and may direct that the guilty member of the Exchange be censured or warned or may reduce or remit any such penalty on such terms and conditions as it deems fair and equitable.

41.2 The Exchange may of its own motion or on appeal by the member of the Exchange concerned reconsider and may rescind, revoke or modify its resolution withdrawing all or any of the membership rights or fining, censuring or warning any member of the Exchange; and in a like manner the Exchange may rescind, revoke or modify its resolution suspending any Member of the Exchange:

Provided that where any expulsion, suspension or other penalty as aforesaid is imposed in accordance with the directions of other authority issued in exercise of any powers conferred on them by any Act of Parliament or the Rules

framed thereunder, then the Exchange shall not exercise the power to rescind or revoke or modify the same, except with the previous sanction of the authorities concerned.

42. Effect of suspension of Member of the Exchange

The suspension of a member of the Exchange shall have the following consequences:

- (a) the suspended member of the Exchange shall, during the term of his suspension, be deprived of and excluded from all the rights and privileges of membership of the Exchange but he may be proceeded against by the Exchange or the Relevant Authority for any offence committed by him either before or after his suspension and the Exchange shall not be debarred from taking cognisance of and adjudicating on or dealing with any claim made against him under these Rules;
- (b) the suspension shall not affect the rights of the Exchange or other members of the Exchange who are creditors of the suspended member of the Exchange;
- (c) the suspension shall create a vacancy in any office or position held by the suspended member of the Exchange;
- (d) the suspended member of the Exchange shall be bound to fulfil contracts outstanding at the time of his suspension; and
- (e) the suspended member of the Exchange shall not, during the term of his suspension, clear and register any contracts at the Exchange, provided that he may with the permission of the Exchange close out through other members of the Exchange the transactions outstanding at the time of his suspension.

43. Effect of expulsion of a member of the Exchange

The expulsion of a member of the Exchange shall have the following consequences:

- (a) the expelled member of the Exchange shall forfeit to the Exchange his rights of membership of the Exchange and all his rights and privileges as a Member of the Exchange including any right to the use of or any claim upon or any interest in any property or funds with the Exchange including guarantee fund; but any liability of any such Member of the Exchange to the Exchange shall continue and remain unaffected by his expulsion;
- (b) the right of nomination shall vest in the Exchange and shall not be exercised by the expelled Member of the Exchange;
- (c) the expulsion shall create a vacancy in any office or position held by the expelled member of the Exchange;
- (d) the expulsion shall not affect the rights of the Exchange and members of the Exchange who are creditors of the expelled member of the Exchange; and
- (e) the expelled member of the Exchange shall be bound to fulfil transactions outstanding at the time of his expulsion and he may, with the permission of the Exchange or the relevant authority, close such outstanding transactions with or through another member of the Exchange.

CHAPTER 3:

CODE OF CONDUCT

44. Conduct of Members

- 44.1 Every member of the Exchange shall be bound to promote to the best of his ability the objects and interests of the Exchange and to protect and safeguard the interests of his clients.
- 44.2 A member shall be liable to expulsion, suspension or to payment of a fine for any violation of good business practices.
- 44.3 Members of the Exchange shall furnish a Risk Disclosure statement or any such statement, as may be prescribed by the Exchange, to all the clients willing to trade through them, the statement of which shall contain all the risks relating trading. Members of the Exchange shall insist that all such clients must read this statement before participating in trading.
- 44.4 Members of the Exchange shall not accept any order from any client unless the Risk Disclosure statement is read by such client.
- 44.5 Every member shall access Rules, Regulations and notices, circulars, orders and instructions issued by the Exchange from time to time and shall also provide all relevant information to his clients, before executing any order on behalf of such client.
- 44.6 Members of the Exchange shall not encourage, abet nor allow their clients to evade any financial and non

financial compliance requirement in respect of trading on the Exchange.

44.7 A member shall furnish to his clients all information pertinent to trade as notified by the Exchange.

44.8 Members shall explain the role of the Clearing House of the Exchange and the scope and benefits of the same to his clients.

45. Member to abide by decisions of the Exchange

45.1 Every member of the Exchange shall abide by the decisions or resolutions of Exchange and shall abide by these Rules and Regulations of the Exchange as well as notices, circulars, orders and instructions issued by the Exchange from time to time.

45.2 A member shall be liable to expulsion, suspension or to payment of a fine for any of the following acts or omissions:

- (a) *refusal to abide by awards*: for neglecting or refusing to submit to, abide by and carry out any award or decision or order of any arbitrators, Exchange or Relevant Authority, made in conformity with these Rules or the Regulations;
- (b) *unbecoming conduct*: for acting in any manner detrimental to the interest of the Exchange or unbecoming of a member;
- (c) *Misconduct*: for any misconduct in his dealing with or in relation to the Exchange or any member or members thereof or for any disreputable or fraudulent transactions

with any person whether a member or not of which complaint is made to the General Manager or Relevant Authority, Management or the Board by one or more members or clients and is found to be valid by the Relevant Authority;

- (d) *disobedience*: for violating, disobeying or disregarding any Act of Parliament, Regulations, order, ordinance or notification issued by the Government of Malawi in respect of trading in any commodities;
- (e) *misinformation*: for publishing or permitting to be published in any newspapers, circulars, or otherwise, any misrepresentation relating to the trade in any commodities, calculated to mislead members of the Exchange or the public;
- (f) *indifference and wilful negligence*: for not complying with any notice or request made to him by or on behalf of the Exchange or the Relevant Authority requiring him to attend any meeting of the Board or of Management or to produce any books, documents, correspondence or other papers in his possession, power or control, or for refusing or neglecting to answer any question put to him by the Exchange or the Relevant Authority, as the case may be, relevant to any business at any such meeting;
- (g) *failure to pay any dues*: for failure to pay any amount due under these Rules or Regulations or arbitration award or any other fees when due or for non-payment of any fine imposed on him pursuant to these Rules or for failure to pay any other amount due by him under these Rules or under any order of the Exchange or the

Relevant Authority within ten days after the same is communicated shall become payable; and

(h) *action detrimental to the Exchange*: for any misconduct, in the sense of sub-rules referred to above inclusive as below, in his dealing with or relations to the Exchange:

- i. wilful or intentional non-fulfilment of contractual or fraudulent or flagrant breach of contract;
- ii. frivolous repudiation of contract;
- iii. refusal to refer any question in dispute to arbitration;
- iv. communicating secretly or indirectly with any arbitrator to which the dispute has been referred to under these Rules;
- v. for any conduct, act or omission knowingly carried out to subvert the object and purposes of the company and the Exchange, or which is subversive of these Rules, or the Regulations or which defy the agreements entered into by the Exchange with other organisations, agencies or entities for promoting the interests and activities of the Exchange;
- vi. for any conduct, act, omission or negligence which renders the member liable to be declared a defaulter by the Exchange or the Relevant Authority under any of the provisions of these Rules, the Regulations or orders, circulars, notices and instructions issued by the Exchange; and
- vii. disclosure of one client's daily position limit to other clients or members.

46. Exchange may give notice to Member for him to appear for an inquiry

Whenever the Exchange shall consider either by reason of complaint made it in writing by one or more members of the Exchange or by reason of any knowledge or information that there is sufficient reason for inquiring as to whether there has been any act or omission on the part of a member of the Exchange rendering him liable to expulsion, suspension or payment of a fine, the Exchange may give notice in writing to such member or to any other member requiring him to appear before the Exchange within such time as stated in the notice.

47. Exchange to give member right to be heard during inquiry

47.1 The Exchange shall hear the member with regard to whom it is proposed to recommend any resolution for expulsion, suspension or imposition of a fine under these Rules, and hear the evidence or statements of himself or any witnesses present on his behalf at any such meeting.

47.2 The Exchange may also require the member to produce for inspection any books, documents, correspondence or papers in his possession or under his control or that of his firm or company.

48. Procedure for disciplinary hearings

The disciplinary measures shall be administered in the following manner:

- (a) whenever the Exchange is of the opinion that a member has become liable to expulsion, the Exchange may expel such member permanently from all rights of membership, except the right to go for arbitration in respect of matters prior to such expulsion;

- (b) whenever the Exchange shall be of opinion that a member has become liable to suspension or payment of a fine, the Exchange may suspend him for any term not exceeding six (6) calendar months from all rights of membership except the right to go to arbitration for matters in dispute prior to such suspension;
- (c) any decision of the Exchange under Rule 48 (a) and (b) above, shall be final and binding; and
- (d) in addition to suspension or in lieu thereof or otherwise as recommended by the Relevant Authority, the Exchange may at its discretion fine such member up to maximum of 50% of membership fees, and failure to pay such fine within a period specified by the Exchange shall render a member liable to suspension, if he has not been suspended already, or expulsion, if he has been suspended already.

49. Rules of natural justice to be observed during hearings

Before making any decision under Rule 48 (a) and (b) above, the Exchange shall invite the member for a hearing and give the member concerned a notice in writing stating the allegation or matter against the member and requiring him to attend a meeting of the Exchange called for the purpose at which the said member may produce whatever evidence or statements he wishes to present in his defence.

50. Effect of suspension and expulsion on Member

50.1 A suspended member shall, during the period of suspension, be deprived of and excluded from all the rights and privileges of membership, except in respect of transactions outstanding at the time of suspension, fines, calls, subscriptions, and other moneys which he shall be bound to fulfil and in regard to which he shall be subjected to

all the obligations and have all the rights thereof and of these Rules including the right to go to arbitration.

50.2 A member expelled by the Exchange shall forfeit all the rights and privileges of membership including those conferred on him by these Rules or Regulations and he shall as from the date of the expulsion cease to be a member, but he shall continue to be liable for and fulfil his obligations to the Exchange or to any other member outstanding at the date of his expulsion and, for these purposes, shall have the right and be under obligation to go to arbitration under these Rules.

50.3 In case a member of the Exchange has been suspended, expelled or declared deemed defaulter or defaulter, no other member of the Exchange shall do business for or on behalf of such member.

CHAPTER 4:

WAREHOUSING AND WAREHOUSE RECEIPTS

51. Exchange to specify warehouses

The Exchange shall specify designated warehouses at which commodities to be traded on the Exchange shall be delivered and stored and which shall facilitate storage of commodities in the manner as prescribed by the Exchange from time to time.

52. Conditions for warehouses for the Exchange

The Exchange shall not designate any structure as a warehouse for the Exchange unless the structure satisfies the following conditions:

- (a) that the Exchange or the person managing or in possession of the warehouse is a legitimate tenant or owner;
- (b) that the warehouse is suitable for warehousing of respective goods in accordance with regulations made under any applicable law; and
- (c) that the warehouse and the goods which are or may be kept therein are fully insured in respect of fire, theft and burglary.

53. Deposit of Commodity at the warehouse

53.1 Any member or client who wants to sell commodities on the Exchange shall deposit such commodity at warehouses designated by the Exchange during the business hours of the warehouse.

53.2 The Warehouse shall, before initiating the procedure for receiving commodity, verify the eligibility of the commodity and identity of the depositor.

53.2A A depositor shall appoint a member to execute the trade on his behalf.

53.2B The Exchange may transfer the commodity from the warehouse in which it was deposited at the request of the depositor or on its own discretion and, in case where the commodity concerned is collateralised commodity, with the written consent of a financial institution concerned.

54. Process and procedure for designated warehouse

The Exchange shall specify from time to time the processes, procedures, and operations that every designated shall observe; the processes, procedures, and operations of which shall be deemed to form part of any settlement process so provided.

55. Responsibilities of a depositor

The depositor shall ensure that:-

- (a) goods delivered to the Exchange's designated warehouse are of minimum quantity and quality as per the contract specification; and
- (b) goods are packed in standards as laid down in contract specifications.

56. Responsibilities of warehouse

56.1 The warehouse shall:-be used for storage of commodities to be traded on the Exchange only;

- (a) be used for storage of commodities to be traded on the Exchange only;
- (b) ensure proper sampling and grading of the goods;
- (c) accept deposit of the goods into the warehouse after a grading certificate has been issued;

- (d) confirm the weight, grade, quality and other conditions of the goods;
- (e) not accept for warehouse depositing, any commodities that do not meet the standards set by the Exchange;
- (f) store the commodities in line with their grade specifications;
- (g) maintain quality control and inventory management according to procedures prescribed by the Exchange and other relevant warehouse guidelines and to ensure that the quantity and the grade of the commodity are maintained during the storage period;
- (h) use uniform and standard description of commodities and units of measurement approved by the Exchange in respect of the commodities stored;
- (i) strictly adhere to the warehousing norms stipulated for a commodity in particular or group of commodities in general by the Exchange from time to time;
- (j) maintain the records for the commodities deposited with it in the manner and in the system as prescribed by the Exchange; and
- (k) be assigned any other duty or responsibility as may be specified by the Exchange from time to time.

56.2 The Exchange shall make complete settlement to all depositors having commodities stored in any warehouse, damaged or destroyed, within fourteen days after damage or destruction.

57. Inspection of Commodities stored in a warehouse

The Exchange reserves the right to physically inspect itself or through any third parties, at any time, the commodities deposited in the warehouse for compliance of the warehousing standards stipulated by the Exchange.

58. Grading of Commodities

58.1 The Exchange shall grade the commodities deposited in the warehouse in accordance with the grading procedure approved by the Exchange and shall be based on a representative sample and under conditions that permit the determination of the true grade of the commodities.

58.2 The Exchange may from time to time develop and amend standards for the grading and sampling of commodities.

58.3 An Exchange Grade Certificate issued shall contain such information as name and location of the warehouse in which the commodities are stored, grade of the commodity, date of certification, and the signature of the grader.

59. Grading equipment

All sampling, weighing and grading equipment shall be calibrated and maintained in line with the manufacturer's recommendations and warranty conditions.

60. Allowable tolerance on lot weight

The maximum allowable tolerance limit on weight loss or gain shall be determined by the Exchange and stipulated on specific contract specifications.

61. Expiration period for storage

- 61.1 Subject to the contrary provision in the Regulations, the Exchange shall determine and may amend from time to time the appropriate warehouse receipt expiration period of each type of commodity.
- 61.2 The expiration period shall be indicated on the Commodity Deposit Acknowledgement document.
- 61.3 Every depositor shall be expected to sell, revalidate or otherwise withdraw the commodity within this specified period of time.
- 61.4 Subject to the Regulations, where the deposited commodity is not sold or withdrawn by the expiration date and the period is not revalidated, the Exchange shall impose an expiration penalty, as prescribed by the Exchange.

62. Withdrawals of commodities from warehouse

- 62.1 Unless withdrawal is prohibited by applicable law, stored commodities may be withdrawn without sale on the Exchange.
- 62.2 Withdrawal of commodities without sale on the Exchange shall be subject to payment of a penalty prescribed by the Exchange from time to time and all liabilities on the deposit.

63. Inventory management

- 63.1 Every commodity in a warehouse shall not be stored by identity of the depositor but, only on the basis of grades and date of deposit.

63.2 Every warehouse shall create and maintain in an orderly manner the appropriate operational records of the commodity inventory in approved space, which includes:

- (a) daily position record;
- (b) copies of all scale tickets and Grade Certificate;
- (c) records documenting pest control and fumigation events;
- (d) records of visual inspection of commodities in storage; and
- (e) any other information or detail as may be directed by the Exchange from time to time.

63.3 The records specified above, shall be accessible at all times to the Exchange and to the Relevant Authority.

63.4 Every warehouse shall display in a conspicuous place and accessible to the public a copy of its most current rules and schedule of charges for the storage of commodities.

64. Warehouse receipt

64.1 Upon receipt of goods deposited in a designated warehouse for trading at and by the Exchange a Commodity Deposit Acknowledgement shall be issued by the Warehouse.

64.2 The Exchange shall issue an electronic warehouse receipt in favour of a depositor upon receipt of his commodity:

Provided that a new electronic warehouse receipt shall be generated for a buyer of commodity on the Exchange platform who has filed an intention to resale the commodity through the Exchange platform.

64.3 Any electronic warehouse receipt issued by the Exchange in accordance with Rule 64.2 hereof shall be that the holder has proprietary rights in the goods in respect of which such warehouse receipt was issued.

64.4 In relation to warehouse receipts a person acquires proprietary rights in the goods if that person is entitled to ownership of the goods:

- (a) in return for a binding commitment to extend credit or extension of an immediately available credit , whether or not drawn; and
- (b) as security for or in total or partial satisfaction of a pre-existing contract for a purchase; or in return for any consideration sufficient to support a pre-existing contract.

64.4A Subject to an agreement between the Exchange and a financial institution that has granted a warehouse receipt finance facility to a depositor the financial institution may pledge the depositor's electronic warehouse receipt.

64.5 An electronic Warehouse Receipt shall contain the following information:

- (a) the location of the warehouse where the goods are stored;
- (b) the date of issue of the receipt;
- (c) the serial number of the receipt;
- (d) the quality and quantity of the goods;
- (e) a statement indicating whether the goods received will be delivered to the bearer, to a specified person or on that specified person's order;
- (f) the nature and fact of ownership of the goods, whether solely or jointly or commonly owned with others; and

(g) a statement as to the amount of advances made and liabilities incurred.

64.6 The Exchange may insert on the electronic warehouse receipt any other terms and conditions which are not contrary to the provisions of these Rules and which do not impair obligations of delivery or duty of care.

64.7 Any provision appearing on a warehouse receipt, purporting to contain any condition which is contrary to these Rules shall not be capable of enforcement.

65. Obligation of a warehouse in-charge to deliver

Except as provided in these Rules, a warehouse in-charge shall deliver goods upon demand made by the buyer or upon demand of the depositor in accordance with the specifications on the delivery instructions given by the Exchange:

Provided that the Exchange shall not approve withdrawal of and the warehouse in-charge shall not deliver collateralised commodity through withdrawal without written consent of the financial institution concerned.

CHAPTER 5:

DEALINGS IN COMMODITIES

66. Authority of the Exchange

66.1 The Exchange shall have the authority to finalise contract specifications and modifications.

66.2 The Exchange shall have the right to determine, specify or modify the varieties of the commodity or group of commodities to be traded on its platform from time to time.

66.3 The Exchange shall have the right to determine, specify or modify the position limits with respect to the commodities permitted on the Exchange, and such position limits may be outlined in the contract specifications for each commodity.

66.4 The Exchange shall have the right to determine, specify or modify the terms of contract specifications.

67. Government Authority

Notwithstanding anything contained in these Rules, the dealings in agricultural produce or any other commodities shall be subject to relevant regulations, directives, or orders of organs of Government with competent and relevant jurisdiction and to the extent of any inconsistency with the general provisions of these Rules the conditions provided by in the relevant regulations shall prevail.

68. Contracts and other agreements

68.1 Members of the Exchange shall execute and clear transactions in only contracts as shall be specified by the Exchange from time to time.

- 68.2 Before executing a trade for a client, the member shall either through himself, his Authorised Representative or agent sign a written agreement with the client, as per the procedure and in the format, as may be specified by the Exchange.
- 68.3 Either the member or the client may terminate the agreement specified in sub-rule 68.2 by giving two day written notice to the other and a copy of the notice to the Exchange.
- 68.4 Every member shall-
- (a) enter into contracts only on the terms and conditions prescribed under these Rules and the circulars and notices issued thereunder; and
 - (b) not enter into a contract before trading therein has been commenced or after trading therein has ended in accordance with these Rules.
- 68.5 Any member of the Exchange entering into a contract for commodities or and varieties that are not specified by the exchange shall be liable to disciplinary action in accordance with these Rules.
- 68.6 The death of any party to a contract made subject to these Rules shall not discharge the legal representatives of the deceased from fulfilling the obligations or enjoying the benefits of a transaction.

CHAPTER 6:

TRADING ON THE EXCHANGE

69. Trading, trading days and related transactions (Amended in 2015)

69.1 The Exchange shall provide its trading platform for trading in multiple commodities in multiple varieties, which shall be consisting of different types of graded, unprocessed, semi processed or processed commodities.

69.1A Trade may be conducted manually in exceptional circumstances where the trading system of the Exchange may not be used to conduct a trade:

Provided that members or their Authorised Representatives and the Exchange shall manually record all the details of the trade and the members or Authorised Representatives shall sign off the record of the details

69.2 The Exchange shall be open on all working days.

69.3 In exceptional circumstances and for reasons to be recorded in writing, the Exchange may close the trading in any one or more or all commodities on the trading system of the Exchange for more than one trading day:

Provided that such trading on the trading system of the Exchange shall not be so closed by the Exchange at any time continuously for a period exceeding three trading days.

- 69.4 Trading shall take place competitively by open outcry on the Trading Floor, at the initial start of trading operations.
- 69.5 Only a member or his Authorized Representative shall execute any open outcry transaction on the Trading Floor of the Exchange.
- 69.6 All transactions in commodities permitted on the Exchange shall be made only in the manner approved by the Exchange.
- 69.7 All transactions in commodities permitted on the Exchange shall be cleared, registered and settled by the Clearing House and shall be subject to these Rules and the Regulations and members with clearing rights shall alone be eligible and qualified to obtain directly the clearing and settlement services of the Clearing House.
- 69.8 The Exchange shall issue contract notes outlining summary of the details of a transaction to the respective clients for each of the trading transactions conducted on the Exchange.
- 69.9 Only transactions in commodities permitted for trading on the Exchange will be recognised as valid.
- 69.10 Rates or prices of the commodities permitted for trading on the exchange shall be quote in accordance with the contract specifications for that commodity and they shall be for the grade variety of the commodity and for the base centre or place prescribed in the clauses of contract specification of that commodity.

- 69.11 Price limits may include floor and ceiling price for a day or for a specific period.
- 69.12 The Exchange shall have the right to specify and charge transaction fee, clearing fee or any other fee from the member of the Exchange.
- 69.13 The Exchange shall maintain a record of all the transactions in all commodities conducted on its platform.
- 69.14 Members shall have separate records of their own account transactions and those of registered clients.
- 69.15 Members shall preserve the records of registered clients' orders for transactions separately with the time and date of receipt of order, details of executed transactions for each client and books of accounts relating to the same, for a period of three years for production whenever required by the Exchange.
- 69.16 Transactions in commodities that are not permitted by the Exchange are outside the purview of these Rules.
- 69.17 Any member who infringes or attempts to breach or who assists any breach or attempted breach of these Rules in respect of such trades shall be liable to suspension or expulsion from membership of the Exchange or any other action that the Exchange may take under Rules or the Regulations.

70. Opening Call for Trading Sessions

There shall be one (1) opening call at the start of each trading session according to the session schedule announced publicly by the Exchange.

71. Closing Calls for Trading Sessions

71.1 The three (3) minute period prior to the closing of trading shall be deemed the closing period for each trading session.

71.2 A first closing call shall be given by the Trading Floor Supervisor at commencement of the closing period and a final closing call at the close of the trading session.

72. Daily Price Limit

72.1 There shall be an allowed price fluctuation limit higher or lower than the last Closing Price of the previous day, specified for each contract.

72.2 If no trades have been executed during the trading session, the closing price shall be the last recorded price:

provided that, if the last recorded price is five or more days older, the Exchange may reset the price limit as it deems appropriate.

72.3 In exceptional circumstances and for reasons to be recorded in writing, the Exchange may modify the daily price limits for a contract.

73. Opening Price

73.1 All posted bids or offers of each contract shall be within the allowed daily price limit, as specified in each contract.

73.2 Subsequent bids or offers that would establish or change the market price for the current contract shall be made in price increments not to exceed the daily price limit.

74. Closing Price

74.1 The closing price for all contracts shall be the average of all prices traded during the last three (3) minutes trading session.

74.2 Where the average is a fraction, the Closing Price shall be rounded to the nearest minimum permissible price fluctuation above or below the fractional average depending on which is nearer to the last price recorded for such contract.

74.3 If no trades have been executed during the closing period, the Closing Price shall be the average of the prices in the preceding minute, and subsequently to the last traded price.

75. Daily Position Limits

75.1 The daily position limit is the maximum amount, specified in each contract, that a Member is allowed to buy or sell during a trading session.

75.2 In exceptional circumstances and for reasons to be recorded in writing, the Exchange may modify the daily position limits within a trading session.

76. Trading and floor practices

Each bid and offer for contracts shall be:

- (a) made competitively, openly and audibly, by public outcry and in such a manner as to be available to all members or Authorised Representatives in the Trading Floor during the authorized hours of trading;
- (b) open to the first (1st) member or Authorised Representative accepting such bid or offer or part of

such bid or offer at the price named by the bidding or offering Floor Representative;

(c) binding upon the first member making and his counterpart Member accepting such bid or offer or part of such bid or offer at the price named by the bidding or offering member;

(d) deemed withdrawn if not immediately accepted; and

(e) made in the English language.

77. Presence of members

A member or his Authorized Representatives shall personally be present on the trading floor of the Exchange at least fifteen (15) minutes before the opening of the trading session in which the Floor Representative intends to trade.

78. Execution of trades

78.1 When the commodity price is determined the trading system of the Exchange shall capture the execution price, quantity and the concerned members' identification number.

78.2 The Exchange shall ensure that each transaction that it concludes is recorded, executed and properly assigned for clearing and settlement in accordance with these Rules.

78.3 The Clearing House shall furnish the Exchange with a reconciliation report at the end of each commodity class trading session.

78.4 Each Member shall be furnished with a copy of the record of his transaction.

78.5 If any member discovers that a properly executed transaction in which he has participated on the Exchange Floor has not been reported by the Exchange, or has been reported incorrectly, he shall as soon as practicable notify the Trading Floor Supervisor about the anomaly.

78.6 The Trading Session Supervisor or a designated employee of the Exchange has the authority to approve an insert or a correction as soon as possible during the trading session or after on the basis of evidence confirming the error or omission.

78.7 The Exchange will keep a log of all insert or correction requests including the details of the insert or correction requested and the name of the member making the request and the Trading Session Supervisor authorizing the insert or correction.

78.8 Except as otherwise provided in this Rule, the Exchange shall not change the terms of a trade to correct an error or omission.

78.9 Nothing shall preclude the resolution of a dispute arising from or in connection with an error or out-trade by means of arbitration in accordance with Chapter 11 of these Rules.

79. Prices

Prices of the commodities dealt with on the trading system of the Exchange shall be recorded in the manner, as may be prescribed in these Rules or the Regulations from time to time. No prices shall be recorded for any transaction done on the Exchange, unless it is made in the regular course of trading on the trading system of the Exchange.

80. Daily official list of prices

80.1 A daily official list of prices shall be issued by or under the authority of the Exchange.

80.2 Such daily official list of prices may be published or provided in such media, as may be decided by the Exchange from time to time, or be made available on the official website of the Exchange

81. Admission to the trading floor

81.1 The only persons who may be admitted to the Trading Floor are the Exchange members, Authorised Representatives, sub-brokers or permitted guests under this Rule and authorized employees of the Exchange.

81.2 A Floor Representative shall not be admitted to the Trading Floor if the member whom he represents is suspended.

81.3 There shall be no mobile telecommunication devices allowed on the Trading Floor.

81.4 Only persons wearing identification badge issued by the Exchange in a prominent position, shall be admitted to the Trading Floor.

81.5 The Exchange may, upon application of a member, or upon its own initiative pursuant to Exchange policies, issue a guest badge to a guest permitting access to the Trading Floor.

81.6 Any guest of a Member shall be accompanied by a Member while on the Trading Floor and shall obey all Rules respecting floor conduct established herein for members.

81.7 Every member shall be responsible for all violation of these Rules committed by its guest and for resulting fines.

81.8 Any authorized officer of Government shall be admitted to the Trading Floor of the Exchange at any time if such visitations are in furtherance of the performance of his official duties under the Regulations and shall be accompanied by an Exchange staff while on the Trading Floor.

81.9 Accredited representatives of the press shall be admitted to the Trading Floor with the written authorization of the Exchange and shall be accompanied by an Exchange staff while on the Trading Floor.

82. Divisions

The Exchange may constitute different divisions for every group of agricultural commodities, metals and other commodities or instruments, as well as for different centres of trading as may be decided by the Board of Directors and as may be specified in these Rules from time to time.

83. Restrictions on trading

The Exchange may, from time to time, impose such restrictions on trading in such contracts, or on such Exchange members relating to risk management and trading on the Exchange.

84. Trading sessions

84.1 The Exchange may prescribe different trading sessions for different trading segments on the trading system of the Exchange and may also decide on the

timings and operational requirements for the same as may be necessary from time to time.

84.2 The Exchange may reduce, extend or otherwise alter the timings of such trading sessions for any particular trading day.

84.3 Where the Exchange has reduced, extended or otherwise altered the timing of any trading session or sessions, on the trading system of the Exchange, on any particular trading day, the reasons for the same shall be required to be recorded in writing.

85. Who may be permitted to trade

85.1 Any member of the Exchange or their authorised representatives to trade through the trading system of the Exchange who has a relevant licence to either buy or sell or both to buy and to sell a particular commodity available for trading at the trading system may trade on the Exchange.

85.2 The members of the Exchange shall be solely responsible for all the transactions done by them or through their respective representatives on the system of the Exchange.

85.3 Exchange members shall furnish their clients in writing such reports at such intervals as may be specified by the Exchange.

85.4 An exchange member, who has been de-activated or suspended by the Exchange, or any authorized representative, who is not approved by the Exchange or whose approval has been rejected or refused or withdrawn or cancelled, shall not be allowed to trade on the Exchange

either indefinitely or for such period as may be decided by the Exchange or the relevant authority concerned.

86. Permission to trade through the system

A person shall not be permitted to trade through or on the trading system, unless such person complies with the requirements of membership prescribed in these Rules or with such other requirements as the Exchange may, from time to time, prescribe.

87. Trading with good decorum

87.1 Any person allowed to trade on the trading system of the Exchange shall be bound to observe the provisions contained in the Rules and the Regulations of the Exchange, and maintain proper decorum in his behaviour.

87.2 The Exchange may, in its absolute discretion, refuse any person to trade on the trading system and may, at any time, withdraw or terminate the right of trading of any person who breaches this Rule:

Provided that the Exchange shall communicate such a decision to the concerned person in writing and shall state the reasons for its decision.

88. Management of the trading system

The management of the trading system of the Exchange shall be under the charge of the employees of the Exchange or such other agency authorized or engaged by the Exchange in this behalf.

89. Trading facility

89.1 The Exchange shall provide access to the system to its members and their authorised persons subject to their respective rights.

89.2 The provision of access to the trading system of the Exchange may be given to an exchange member, subject to compliance with such terms and conditions as the Exchange may prescribe from time to time, which may inter alia include, payment of such deposits or charges, as may be provided in the relevant circulars and notices issued there under from time to time.

89.3 A member of the Exchange shall not by himself or through any other person on his behalf, publish, supply, show or make available to any other person, or reprocess, retransmit, store or use the facilities of the Exchange or the information provided thereof, except with the prior approval of the Exchange.

90. Registration and de-registration of Authorized Representatives

Members of the Exchange shall allow only their Authorized Representatives to operate or trade in any other trading system approved by the Exchange, subject to the following conditions:

- (a) The appointment shall be subject to such terms and conditions and submission of application in such form as the Exchange may prescribe from time to time;
- (b) The Exchange may, at its discretion, deregister any Authorized Representative of a member of the Exchange for failure to comply with the applicable provisions of these Rules and or circulars and notices issued thereunder; but the member concerned shall continue to be liable for acts of commission or omission of the authorised representative prior to de-registration by the Exchange and or loss or damage consequent to the de-registration;

- (c) The Relevant Authority shall have the right to disallow any person from being registered as an authorized representative or may allow registration with such conditions, as may be deemed necessary by such Authority; and
- (d) Any person shall not be appointed at any time as an authorised representative by more than one Member of the Exchange.

91. Operational parameters for trading

91.1 The Exchange may prescribe from time to time the operational parameters regarding transactions in commodities traded on the system or any other trading system of the Exchange; and such operational parameters may include:

- (a) determination of the procedure and norms for trading on any other approved trading system of the Exchange;
- (b) fixation of units of trading, minimum or maximum quantity of commodities or order which may be offered to be bought or sold or the limits on price fluctuations permitted in a day or period;
- (c) fixation of tick sizes and levels for providing alerts;
- (d) determination of the types of trades permitted for an exchange member and for a commodity;
- (e) specifications of different order books, types of orders, order conditions and other details related to orders and trades;
- (f) maintenance of record of transactions executed and the manner of reporting transactions in the prescribed form to the Exchange; and

(g) other matters, which may affect smooth operation of trading in commodities permitted on the exchange.

91.2 All such parameters shall be strictly adhered to by any member of the Exchange.

91.3 The parameters, however, may vary for commodities and for different centres of trading.

92. Closing-out Exchange member's responsibility

Every member of the Exchange shall be fully accountable for the closing out of transactions effected by the Exchange on his behalf and shall indemnify the Exchange against any loss or cost arising out of or incidental to such close-out of transactions either directly or indirectly.

93. Order management

93.1 All the orders for purchase or sale of commodities by an Exchange member shall be required to be entered only through the trading system approved by the Exchange.

93.2 The conditions and procedures to be followed by an Exchange member or his authorised representatives for entering, amending or cancelling orders on the trading system shall be as may be specified by the Exchange and the Exchange may, inter-alia, specify details to be entered compulsorily at the time of order entry, such as, client code, type of order, symbol or commodity code, etc.

93.3 An order shall not be cancelled during a trading session.

- 93.4 The Exchange member shall maintain in the relevant records for the orders received from his client in a manner as shall be specified by the Exchange from time to time.

94. Trade management

- 94.1 Trading shall be allowed on the trading system of the Exchange in such commodities as may be admitted to dealings on the Exchange and for such categories of members of the Exchange, trade types, market types, settlement periods and for such trading hours as the Exchange may specify from time to time or as may be provided in these Rules, Circulars and Notices issued there under, from time to time.

- 94.2 Every member of the Exchange shall be liable for all the trades executed on the trading system of the Exchange, arising out of orders entered into the system by him.

- 94.3 Every member shall be solely responsible for all the acts of commission or omission of authorised representatives, employees and other persons deployed by such member, in relation to performance of obligations arising therefrom, connected therewith and incidental to such acts of commission or omission:

Provided that if the member satisfies the Exchange that the action or the trade took place due to fraud or misrepresentation by any person other than himself or his authorised representative, the Exchange may issue such directions as it considers just and reasonable and the same shall be final and binding on the member; and such directions may include referring the matter to arbitration or annulment of trades so effected, after providing an opportunity of being heard to the member.

- 94.4 Trades executed on the trading system approved by the Exchange are irrevocable and locked-in and shall be cleared and settled in accordance with these Rules.
- 94.5 The Exchange may however, by a notice annul the trades on an application by the exchange member or his clearing member in that behalf if the Exchange is satisfied, after hearing the other exchange members and clearing members to the trades, that the trades are required to be annulled on account of fraud or wilful misrepresentation or material mistake in the trade.
- 94.6 Notwithstanding anything contained in these Rules, Circulars and Notices issued there under, the Exchange may, to protect the interest of clients and public and for proper regulation of the market, *suo moto* annul trades at any time, if it is satisfied for reasons to be recorded in writing that such trades are vitiated by fraud, material mistake, misrepresentation or market or price manipulation, or designing artificial or false market, trades with a design to recover monies or dues or to defraud or misuse the trading system.
- 94.7 Annulment as provided herein may be for the full quantity or part quantity of a trade.
- 94.8 Any annulment of the trades made pursuant to these Rules or Circulars and Notices issued thereunder shall be final and binding upon the members of the Exchange; and in such an event, the related contracts issued by the exchange members to their clients shall *ipso facto* stand cancelled and the clients shall be bound by such annulment without any right of recourse between the clearing members and

constituent members and members of the Exchange and their clients, as the case may be.

95. Order validation

Any order on the trading system approved by the Exchange shall be subject to such validation checks relating to quantity, price, value and location, as may be prescribed in these Rules or Circulars and Notices issued thereunder from time to time.

96. Matching rules

The Exchange may from time to time specify the rules or principles to be applied for matching orders on the trading system of the Exchange, which may vary for different order books.

97. Transaction where the Exchange to act as a legal counter party

The Exchange may specify from time to time the types of transactions in specific commodity or commodities with regard to which the Exchange shall act as a legal counter party and the transactions that may be excluded for this purpose:

Provided that if on an investigation by the Exchange, the Exchange concludes that either all the transactions or part thereof in any commodity are found to have been executed on the trading system of the Exchange in a fraudulent manner or are done as financial transactions or structured deals with a design to defraud the Settlement Guarantee Fund, the Exchange shall have absolute authority and discretion to withdraw itself as a legal counter party to any transaction:

Provided further that where the Exchange decides to exercise its discretion to withdraw itself as a legal counter party to the transactions, either in full or in part, or either from both sides or single side of the transaction, it shall afford an opportunity of

being heard to all the parties affected or likely to be affected by such decision. The decision taken by the Exchange thereafter shall come into force forthwith and shall be final and binding on all the parties concerned, including the clients.

98. Appropriation of the client's order

98.1 Any member of the Exchange shall not, in respect of any commodity permitted for trading on the Exchange, enter into any contract on his own account with his client, whether a member of the Exchange or not, unless he has secured the consent or authority of such client in writing and disclosed in the note, memorandum, agreement or any other form of contract for sale or purchase that he has bought or sold the commodity as the case may be, on his own account and in accordance with the norms and operational procedures and parameters as laid down by the Exchange in these Rules or Orders and Notices issued from time to time.

98.2 Any contract entered in violation of these Rules shall entail disciplinary action by the Exchange; and for any such contract, the Exchange shall not act as a legal counter party under these Rules even if the contract is settled through the Clearing House.

99. Fiduciary relationship

99.1 All members shall be in fiduciary position in relation to all transactions undertaken on behalf of their clients and shall be bound by principles of fiduciary relationship.

99.2 For purposes of dispelling doubt, a Member shall not be allowed to benefit from the client's money or proceeds in any way other than his commission and shall account for all client's money or proceeds or benefits therefrom.

CHAPTER 6A:

FORWARD CONTRACTS

100A. Forward contracts

The Exchange may introduce forward contracts which shall be transacted over the counter on such terms as the Exchange may determine from time to time.

100B. Tradability of forward contracts

Where a forward contract holder wishes to sell his contract the Exchange may facilitate such sell on such terms as the Exchange may determine from time to time:

Provided that no such sale shall be allowed after the maturity date.

CHAPTER 7:

TRADING SYSTEM

100. Access to trading system

100.1 The Exchange shall provide a trading system to the Exchange members to access and carry on trading in the commodities admitted to dealings on the Exchange which shall be called the Trading System.

100.2 The trading system shall be available for facilitating trading in commodities permitted by the Exchange for trading from time to time.

100.3 The Exchange may provide an architecture and the infrastructure related thereto, to the extent possible, to facilitate the members of the Exchange to establish connectivity with the trading system of the Exchange.

100.4 The Exchange shall have absolute right to specify the maximum system access period that may be allotted to an exchange member who has trading rights in the exchange and the conditions for such allotment.

100.5 The Exchange may prescribe procedures or code of conduct which an exchange member shall be required to strictly adhere to during his participation on or use of the trading system of the Exchange.

101. Management of the trading system

The Exchange shall have the power to provide for:

- (a) the procedure for registration and cancellation of the provision of access to the trading system to members, their Authorized Representatives of or client;
- (b) the conditions required to be fulfilled before a person can be registered as an authorized representative;
- (c) the conditions required to be fulfilled before an authorised representative may have access to the trading system of the Exchange;
- (d) the maximum number of persons who may be allowed to have access to the trading system on behalf of an Exchange member;
- (e) the procedure for provision and modification of user name and a password used by an authorised representative to access the trading system; and
- (f) the circumstances in which the Exchange may refuse, withdraw, or cancel the permission to an authorised representative to have access to the trading system of the Exchange, either indefinitely or for a specified period or until the fulfilment of conditions, as may be specified by the Exchange from time to time.

102. Specification of codes and operational parameters

The Exchange may provide for an appropriate mechanism for specification, alteration and rescission of the unique codes for trades, exchange members, authorised representatives, participants and clients, and operational parameters, for tick sizes, trading units, order types, order attributes, market view

contents, and participation norms for trading through the Trading System.

103. Surveillance, market watch system, investigation and exchange members database

103.1 The Exchange may, at its discretion, decide to look after the functions relating to surveillance, investigation and any other market related activities, either by itself or by a separate entity through outsourcing or by a separate and distinct entity established by it, either jointly or in collaboration with any other institution.

103.2 The provisions relating to surveillance, market watch system, investigation, any other market related activities and exchange member's database shall be specified in the related Circulars and Notices issued hereunder.

CHAPTER 8:

CLEARING AND SETTLEMENT

104. Clearing house of the Exchange (Amended in 2015)

- 104.1 The operations of Clearing House of the Exchange shall be managed by the Management of the Exchange.
- 104.2 The Exchange may from time to time delegate such additional authority and responsibility to any Clearing House as deemed fit by the Board.
- 104.3 All transactions in the Exchange shall be cleared and settled by the Clearing House of the Exchange and whenever required closed out in accordance with these Rules.
- 104.4 The Clearing House of the Exchange shall, in the manner specified by Exchange have the responsibility of receiving and maintaining payments, monitoring daily position limits, and transmission of documents, payments and certified warehouse receipts amongst the members of the Exchange.

105. Participation of clearing and other members (Amended in 2015)

- 105.1 All Clearing members and such other category of members as may be decided by the Exchange from time to time shall be the clearing members of the Exchange.
- 105.2 All members who have been given clearing rights, shall alone be eligible and qualified to obtain directly the

clearing, settlement, closing out and guaranteeing services of the Clearing House of the Exchange.

105.3 All transactions in the Exchange shall be informed by the Exchange to the Clearing members for settlement in the manner specified in these Rules, or Circulars and Notices issued hereunder.

105.4 A trading cum-clearing member shall be entitled to self-clearing; and such a member may have an agreement with a Clearing member for clearing the executed transactions:

Provided that in such case a copy of the agreement shall be given to the Exchange and that until the termination of the agreement, such trading member shall be the constituent member of the clearing member for the purpose of clearing, settling and closing out of their open position.

105.5 Subject to sub-rule 105.4 hereof a member shall not simultaneously be a constituent member of more than one clearing member.

105.6 Every clearing member shall forthwith notify the Exchange of any addition to or deletion from the list of its constituent members.

106. Procedures to be followed by clearing member on discontinuance of service

106.1 Every clearing member shall follow the following procedures before discontinuing service-

(a) A clearing member may at its discretion seek approval to discontinue clearing or settling services of any constituent member with whom the clearing member has

an agreement to provide clearing and settlement services.

- (b) The clearing member shall communicate the reasons for discontinuing the services in writing to the constituent member and to the Exchange:

Provided that the discontinuation of such services shall become effective as soon as the clearing member notifies the Exchange and obtains the approval of the Exchange and after the outstanding positions are settled.

106.2 Pursuant to the above, the Clearing House may, after examining the reasons for the discontinuation and upon the receipt of a written application from the member, facilitate the provision of clearing and settlement services to the member by another clearing member who has no objection to provide such services.

106.3 Where there is no other clearing member available or willing to provide the services in 106.2 above, the Clearing House of the Exchange shall clear and settle transactions of the member concerned provided the reasons for the discontinuation are such that they do not pertain to violation of these Rules, Circulars, or Notices issued hereunder or to written law or the Regulations for the Exchange.

107. Guarantee of the Exchange

107.1 The Exchange shall be deemed to guarantee the net outstanding financial obligations to clearing members in respect of commodities, or price indices, as may be determined by the Exchange from time to time, and traded and cleared by the Exchange in the manner specified in these Rules.

107.2 Unless the context requires otherwise, for the purposes of this Chapter the following terms have the following meaning:

- (a) Clearing means the preparation through matching, recording and processing of instructions of a transaction for settlement;
- (b) Settlement means the mutual exchange of cash or assets in consideration for the warehouse receipt and the process in concluded by transfer of the ownership of the commodities or assets;
- (c) Settlement bank means a bank that is designated by the Exchange to assist the Exchange in conducting settlement of transactions executed on the Exchange.

108. Clearing and settlement

108.1 The Clearing House of the Exchange shall function in respect of trading in commodities permitted on the Exchange so as to provide clearing and settlement services for the transactions.

108.2 Where the Exchange is of the opinion that there is a need to facilitate a smooth and timely clearing and settlement of the transactions, a buying client shall be required to open such a number of settlement bank accounts with designated settlement banks as may be advised by the Exchange.

108.3 Subject to sub-rule 108.2 hereof every buying client of the Exchange shall be required to-

- (a) strictly follow instructions of the Exchange in respect of operation of such bank accounts, minimum balance, segregation of clients' fund and own fund and any other instructions the Exchange may deem proper;

- (b) submit an irrevocable mandate in writing enabling the Exchange to debit and credit their accounts electronically; and
- (c) to keep the accounts adequately funded, so as to enable the Exchange to recover its dues by debiting their respective bank accounts.

108.4 Each clearing member shall submit or cause to be submitted all trades executed by constituent members or clients with whom he has an agreement to provide clearing and settlement services for their transactions and assist the Clearing House in the form and manner that is specified and prescribed by Management to enable the Clearing House to provide clearing facility to the clearing members.

108.5 The Clearing House shall process all transactions submitted to the Clearing House and shall accept for substitution of the Exchange only the net liability of the Clearing member to the Clearing House.

108.6 An order to buy or sell shall become a matched transaction only when it is matched in the Trading system and the Clearing House does not find the order to be invalid on any other consideration and further after verifying that the following, as the case may be, are in agreement and in order:

- (a) commodity;
- (b) price indices;
- (c) quantity;
- (d) transaction quote; and
- (e) location.

- 108.7 Once a trade is matched and marked to market by the Clearing House, the Exchange shall be substituted as counter party for all net financial liabilities of the clearing members in specified commodities in which the Exchange has decided to accept the responsibility of guaranteeing the financial obligations.
- 108.8 All outstanding transactions shall be binding upon the original contracting parties, that is, the members of the Exchange until issue of delivery notice or delivery order or payment for delivery, as the case may be.
- 108.9 The following provisions shall apply in respect of transactions taking place in the Exchange and then cleared, settled and closed out by the Clearing House of the Exchange in the manner specified by the Clearing House:
- (a) Every member of the Exchange shall be fully responsible for all his commitments to the Exchange, his clearing member and clients irrespective of whether one or more clients with whom he has dealings have defaulted.
 - (b) Default of any one or more clients shall not affect the rights of the clearing member or the rights of other clients with whom the Exchange member has dealings but who are not in default;
 - (c) The Exchange shall be responsible for its commitments to each clearing member whether the remaining clearing members with whom it has dealings have defaulted except under circumstances where improper trades not covered under the Settlement Guarantee Fund are the cause for default; and default of

any one or more clearing members shall not affect the rights of the remaining clearing members who are not in default.

- (d) The Exchange shall apply these Rules and the Regulations in the determination of and in the fulfilling of such responsibility of the Exchange;
- (e) Any clearing member shall not fail to effect clearance or settlement in the manner specified by the Clearing House or fail to pay damages to the Clearing House of the Exchange or fail to effect delivery merely on the ground of default of others including his constituent members or clients; and
- (f) A client or constituent member shall not fail to effect clearance or settlement in the manner specified by the Clearing House or fail to pay damages to his respective clearing member with whom he has an agreement as per these Rules or fail to effect delivery merely on the ground of default of others including his clients.

109. Requirements for buying commodities

109.1 Every member wishing to buy commodities through the Exchange may be required to open two bank accounts as follows:

- (a) a settlement account which shall be a blocked account to be used by the settlement bank to execute debit and credit instructions from the Exchange under which the settlement bank shall be required to specify the clearing limit of this account; and
- (b) a trade account which the member shall use to pool the balances from different clients or members and transfer the funds to the settlement account.

109.2 The Exchange shall have a lien on funds in settlement accounts.

109.3 The settlement of trades on the Exchange is based on T+1 system under which a transaction shall have to be settled the following business day following the transaction.

110. Settlement process

110.1 Each clearing member of the Exchange may participate in the process of clearing and settlement of trades on the Exchange.

110.2 Each trading day shall be a settlement day, unless it is declared otherwise by the Exchange at its discretion.

110.3 Any transaction in commodities permitted on the Exchange shall be subject to clearing and settlement through the Clearing House, at intervals specified by the Exchange except on public holidays or the days when there is no trading and clearing.

110.4 The Exchange shall have the right to effect marking to market and settlements through the Clearing House more than once during the course of a working day, if deemed fit on account of the market risk and other parameters.

110.5 Settlement price shall be determined by the Exchange based contract prices of transactions executed in accordance with these Rules and other information available on the daily official list or in such other manner, as may be determined by the Exchange.

111. Timelines for activities

The following shall be the timelines for clearing and settlement related activities-

- (a) **T-1 Evening (16:30 Hours):**
By 16:30 hours of any working day the settlement bank shall send to the Exchange a file specifying the clearing limits of all the members that have a settlement account with it. The Exchange shall use this data to update the concerned member's balances for trade.
- (b) **T-Morning (08:45 Hours):**
By 08:45 hours of any working day the Exchange shall upload the member's clearing limits into the validation system.
- (c) **T-Trading Session (09:30 to 12:00 Hours):**
Trading sessions of the Exchange shall be conducted between 09:30 and 12:00 hours each working day and participation of a member shall be based on the member's clearing limits.
- (d) **T-Afternoon (14:00 Hours):**
The Exchange through the Clearing House shall clear all the transaction of a given day and determine the pay in and pay outs of each member by 14:00 hours.
- (e) **T-Evening (15:00 Hours):**
By 15:00 hours the Exchange shall send pay in instructions to the settlement banks.
- (f) **T-Evening (15:30 hours):**

The settlement banks shall confirm the executed and failed instructions to the Exchange by 15:30 hours.

- (g) T-Evening (16:00 Hours):
By 16:00 hours the settlement banks shall prepare a file specifying the clearing limits of all the members that have settlement accounts with it for the next day's trade.
- (h) T+1 Morning (08:00 Hours):
By 08:00 hours of the following day the Exchange shall send pay out instructions to settlement banks and the settlement banks shall process the debits and credits and confirm the transactions with the Exchange.
- (i) T+1 Morning (08:30 Hours):
By 08:30 hours of the following day the settlement bank shall inform the Exchange of any changes in the clearing limit of any member.

112. Trading, clearing and settlements orders

Subject to these Rules, the Exchange may issue orders for:-

- (a) Trading on the exchange which orders may include-
 - i. Determination of trading sessions and proceedings in such trading sessions to be used in the trading system or any other system allowed by the Exchange, for specified commodities or price indices permitted by the Exchange.
 - ii. Determination of units of quotation and trading and variations in bids and offers and minimum and maximum size of orders.

- iii. Determination of the transaction and clearing fees payable by the members of the Exchange for trading in different commodities and other charges that may be collected by the Exchange from members, clients participants, or any other user.
 - iv. Suspension of trading in one or more commodities permitted for trading on the Exchange.
 - v. Procedure for settlement of disputes relating to quality, weight, price, payment and delivery.
 - vi. Manner of operations and interface with the Clearing House and the Settlement banks of the Exchange
- (b) Transactions on the Exchange subject to risk management and surveillance which order may include an order for Exchange member's responsibility to maintain proper books of accounts.
- (c) Clearing and settlement of transactions which orders may include-
- i. Procedure for determination of settlement prices.
 - ii. Clearing and other settlement forms and returns, delivery and receive orders, statement of accounts and balance sheet, norms and procedures for clearing and settlement of transactions and delivery and payment.

- iii. Norms and procedures for establishment and functioning of Clearing House for clearing and settlement of trades.
- iv. Supervision of Clearing House and supervision of clearing and settlement activities of the members of the Exchange.
- v. Norms and procedures for availing of banking services from settlement banks for clearing and settlement of trades.
- vi. Norms and procedures for availing services from warehouses and warehouse keepers for physical delivery of commodities and from quality certification agencies or laboratories for quality certification of commodities deposited with warehouse keepers and of commodities tendered for delivery against commodities traded on the Exchange.
- vii. Any other matter relating to clearing and settlement of transactions and deliveries thereto, including surveys and sampling for quality testing.
- viii. Appointment of surveyors, quality testing laboratories and other appropriate authorities and agencies for settling quality disputes arising out of deliveries.
- ix. Procedure for dissemination of information and announcements to be broadcasted by the Exchange on the trading system or its computer system or internet.

- x. Issue of guidelines for advertisements, booklets or circulars to be published by the members of the Exchange in connection with their business activities.
 - xi. Appointment of monitoring, surveillance and intelligence agencies for monitoring of trading at the Exchange in different commodities.
 - xii. Any other matter, as may be decided by the Board of Directors or the Exchange from time to time.
- (d) Setting-up of settlement guarantee fund and other funds-
- i. Norms, procedures, terms and conditions for contribution by members of the Exchange and others to Settlement Guarantee Fund or any other fund that may be established by the Exchange or Clearing House of the exchange or any clearing corporation set up or approved by the Exchange.
 - ii. Administration, utilization, maintenance and utilization, maintenance and investment of the corpus of the Settlement Guarantee Fund or any other fund established by the Exchange or Clearing house or clearing corporation, set up or approved by it.
 - iii. Norms, procedures, terms and conditions for guaranteeing of settlement obligations of the members of the Exchange through the Settlement Guarantee Fund.
- (e) Any other matter relating to trading on the Exchange

CHAPTER 9:

SETTLEMENT GUARANTEE FUND

113. The Exchange to maintain Settlement Guarantee Fund

113.1 The Exchange shall maintain the Settlement Guarantee Fund in respect of different commodity segments of the Exchange for such purposes, as may be prescribed by the Exchange or the Relevant Authority from time to time.

113.2 The Exchange or the Relevant Authority may prescribe from time to time the norms, procedures, terms and conditions governing Settlement Guarantee Fund which may, *inter-alia*, specify the amount of deposit or contribution to be made by each member to the relevant Settlement Guarantee Fund, the terms, manner and mode of deposit or contributions, conditions of repayment of deposit or withdrawal of contribution from the Settlement Guarantee Fund, coverage and exclusion of Settlement Guarantee Fund, charges for utilisation, penalties and disciplinary actions for non-performance thereof.

113.3 The minimum corpus of the Settlement Guarantee Fund to be ensured before commencement of trading shall be the amount set by the Exchange which will be suitably increased from time to time, as the Exchange may decide.

114. Contribution to and deposits with Settlement Guarantee Fund

114.1 Each member shall be required to contribute to and provide a minimum security deposit, as may be determined by the Exchange from time to time, to the relevant Settlement Guarantee Fund.

114.2 The Exchange or the Relevant Authority may specify the amount of additional contribution or deposit to be made by each member or category of clearing members, which may, inter alia, include the minimum amount to be provided by each clearing member.

114.3 The Exchange shall guarantee financial settlement of such transactions to the extent it has acted as a legal counter party, as may be provided in these Rules or the Regulations from time to time.

114.4 The total amount of security deposit and additional deposit, maintained by a clearing member with the Clearing House of the Exchange, in any form as specified herein, shall form part of the Settlement Guarantee Fund.

114.5 The amount deposited by any clearing member towards the security deposit shall be refundable, subject to such terms and conditions as may be specified by the Relevant Authority from time to time.

114.6 Any amount deposited or paid by the clearing member may be refunded provided further that such amount is in surplus and there is no actual, crystallized or contingent liability or a claim from any client or settlement bank to be discharged by the clearing member.

115. Form of contribution or deposit

The Exchange may, in its discretion, permit a member to contribute to or provide the deposit to be maintained with the Settlement Guarantee Fund, in the form of either cash, fixed deposit receipts, bank guarantees or in such other form or

method and subject to such terms and conditions, as may be specified by the Exchange from time to time.

116. Replacement of deposit

By giving a suitable notice to the Exchange and subject to such conditions, as may be specified by the Exchange from time to time, a member may withdraw fixed deposit receipts or bank guarantees given to the Exchange, representing the member's contribution or deposit towards the Settlement Guarantee Fund, provided that the member has, simultaneously with such withdrawal, deposited cash, fixed deposit receipts, or bank guarantees with the Clearing House or made contribution through such other mode, as may be approved by the Clearing House or the Exchange from time to time, to meet his required contribution or deposit, except as provided in these Rules.

117. Investment of settlement guarantee fund

Funds in the Settlement Guarantee Fund may be invested in such approved securities or other avenues of investments.

118. Administration and utilization of settlement guarantee fund

118.1 The Settlement Guarantee Fund may be utilised for such purposes, as may be provided in these Rules and subject to such conditions as the Relevant Authority may prescribe from time to time, which may include:

- (a) defraying the expenses of creation and maintenance of Settlement Guarantee Fund;
- (b) temporary application of Settlement Guarantee Fund to meet shortfalls and deficiencies arising out of the clearing and settlement obligations of clearing members in respect of such transactions, as may be provided in these Rules;
- (c) payment of premium on insurance cover which the Exchange may take from time to time and for creating a

Default Reserve Fund by transferring a specified amount every year, as may be decided by the Exchange from time to time;

- (d) meeting any loss or liability of the Exchange arising out of clearing and settlement operations of such transactions, as may be provided in these Rules;
- (e) repayment of the balance amount to the member pursuant to the provisions regarding the repayment of deposit after meeting all obligations under these Rules when such member ceases to be a member; and
- (f) other purpose, as may be specified by the Relevant Authority from time to time.

118.2 The Exchange shall have full power and authority to pledge, re-pledge, hypothecate, transfer, create an interest in, or assign any or all of the cash or fixed deposit receipts of the Settlement Guarantee Fund, securities or other instruments in which the cash corpus of Settlement Guarantee Fund is invested or bank guarantees or any other instrument issued on behalf of a clearing member in favour of the Exchange towards deposit to the Settlement Guarantee Fund.

119. Utilization for failure to meet obligations

Whenever a member fails to meet his settlement obligations to the Exchange arising out of his clearing and settlement operations in respect of his transactions, as may be provided in these Rules the Exchange may utilise the Settlement Guarantee Fund and other moneys lying to the credit of the said member to the extent necessary to fulfil his obligations under such terms and conditions, as the Exchange may specify from time to time.

120. Utilization in case of failure to meet settlement obligations or on declaration of defaulter

120.1 Whenever a member fails to meet his settlement obligations to the Exchange arising out of the transactions as may be required under these Rules or the Regulations or whenever a member is declared a defaulter, the Exchange may utilise the Settlement Guarantee Fund and other moneys of the member to the extent necessary to fulfil his obligations in the following order:

- (a) any amount that may have been paid by the defaulter member other than bank guarantees or, deposited with or retained by the Exchange for the purpose of meeting the clearing and settlement obligations;
- (b) the proceeds, if any, recovered from disposal of any security deposited by the defaulter member, other than those deposited towards security deposit or additional deposit by the member with the Clearing House or the Exchange;
- (c) any contribution or deposit made by the defaulter member towards additional deposit to the Settlement Guarantee Fund, in the form of cash or fixed deposit receipts or bank guarantee;
- (d) any amount that may have been paid by the defaulter member towards margin in the form of bank guarantees and deposited with the Exchange;
- (e) any amount that may have been deposited by the defaulter member towards additional deposit in the form of bank guarantees with the Exchange;
- (f) any amount that may have been deposited by the defaulter member towards security deposit in the form, other than bank guarantees, with the Exchange;

- (g) any amount that may have been deposited by the defaulter member towards security deposit in the form of bank guarantees with the Exchange;
- (h) the amount lying to the credit of the defaulter with the Exchange to the extent not the proceeds, if any, appropriated by the Exchange towards the obligations of the defaulter to it recovered from auctioning or disposing of the exchange membership right vested in the Exchange, subject to deduction of the expenses relating or incidental to the auction or disposal, as the case may be;
- (i) the fines, penalties, penal charges, interest on delayed payments, interest or other income, if any, earned by investment or disinvestments of the Settlement Guarantee Fund or interest earned on margin moneys that form part of the Settlement Guarantee Fund to the extent, as may be decided by the Clearing House or the Exchange;
- (j) the profits available for appropriation in the Settlement Guarantee Fund in the year in which the member is declared a defaulter; and the amount of contribution or deposit by all categories of clearing members to the Settlement Guarantee Fund in proportion to the total contribution or deposit made by each clearing member.

120.2 The Exchange may, at its discretion, alter the order of utilization of the Settlement Guarantee Fund from time to time.

120.3 If the cumulative amount under all the above heads is not sufficient, the balance obligations shall be assessed against all the clearing members in the same proportion as their total contribution and deposit towards security deposit,

and the clearing members shall be required to contribute or deposit the deficient amount in the Settlement Guarantee Fund within such time, as the Exchange or the Relevant Authority may specify in this behalf from time to time.

121. Obligation to bring in additional contribution or deposit

121.1 If a pro-rata charge is made as stipulated under sub-rule 120.3 against a member's actual contribution or deposit, and as a consequence, the clearing member's remaining contribution and deposit towards the Settlement Guarantee Fund falls below his required contribution and deposit, the clearing member shall contribute or deposit towards the shortfall in the Settlement Guarantee Fund within such time as the Exchange may specify.

121.2 Where any clearing member, who is required to contribute or deposit, as specified under sub-rule 121.1, fails to do so, the Exchange may charge such rate of interest on the shortfall, as it may determine from time to time and also take suitable disciplinary action, including imposition of fines and penalties against the clearing member.

121.3 Any disciplinary action which the Exchange may take pursuant to the above provisions or the clearing member ceasing to be an exchange member, for whatever reasons, shall not affect the obligations of the clearing member to the Clearing House or the Exchange or any remedy to which the Exchange or Clearing House may be entitled to under these Rules, the Regulations or the applicable laws.

122. Allocation of the contribution or deposit

122.1 Each clearing member's contribution and deposit towards the Settlement Guarantee Fund shall be allocated by the Exchange among the various segments of trading, which are designated as such by the Exchange and in which the member may participate, in such proportion as the Exchange may decide from time to time.

122.2 The Exchange shall retain the right to utilise the fund allocated to a particular segment of trading to match the losses or liabilities of the Exchange, incidental to the operation of that segment or for any other segment, as may be decided by the Exchange at its discretion.

123. Repayment to the clearing member on his cessation

123.1 A member shall be entitled to repayment of the actual amount of deposit, if any, made by him to the Settlement Guarantee Fund provided it is not part of the admission fee after-

- (a) the member ceases to be an exchange member on account of any reason whatsoever;
- (b) all pending transactions at the time the member ceases to be an exchange member, which may result in a charge to the Settlement Guarantee Fund, have been closed and settled;
- (c) all obligations to the Exchange for which the member was responsible while he was an exchange member have been satisfied, or at the discretion of the Exchange, have been deducted by the Exchange from the member's actual deposit; provided, the member has

presented to the Exchange such indemnities or guarantees as the Exchange may deem necessary or another clearing member has been substituted owning liability for all the transactions and obligations of the clearing member, who had ceased to be a member;

- (d) a suitable amount, as may be determined by the Exchange at its discretion, has been set aside for taking care of any loss, liability, or obligation arising out of his past transactions; and
- (e) a suitable amount, as may be determined by the Exchange at its discretion, has been set aside by the Exchange towards such other obligations, as may be perceived by the Exchange to exist or be perceived by the Exchange to arise in future.

123.2 The Exchange may specify norms for repayment of deposit including the manner, amount and period within which it may be paid. The repayment amount, at no point of time, will exceed the actual deposit available to the credit of the clearing member after deducting the necessary dues or charges payable by such clearing member from time to time, including the initial deposit.

123.3 Any obligation of a member to the Exchange, remaining unsatisfied at the time he ceases to be a clearing member, shall not be affected by his cessation of Exchange membership, and the Exchange shall have a remedy as provided under sub-rule 121.2 hereof.

124. Recovery of loss and re-distribution

If a loss charged pro-rata is afterwards recovered from the assets of the defaulter or the expelled member, whether directly

or otherwise, by the Exchange or the Clearing House, in whole or in part, other than through insurance, the net amount of recovery shall first be credited to the clearing members from whom the loss was charged in proportion to the amounts actually charged; and such amount of recovery made through insurance shall be dealt with in accordance with the terms and conditions of the insurance cover obtained by the Exchange or the Clearing House from time to time.

125. Limitation of liability

125.1 The liability of the Exchange resulting from the deemed contracts of members with the Exchange and to losses in connection therefrom shall be limited to the extent of contributions made to the Settlement Guarantee Fund.

125.2 The Settlement Guarantee Fund of the Exchange shall not be available for obligations of a non-clearing member, obligations of a member to a non-clearing member, obligations of a member to another member of the Exchange towards transactions to which the Exchange is not a counter party or where the Exchange withdraws as a counter party on account of fraud or fraudulent transactions or obligations to a client by an exchange member, and to losses arising therefrom or in connection therewith or incidental thereto.

CHAPTER 10:

DELIVERY

126. Release of commodities stored in a warehouse

126.1 The Exchange shall immediately after conclusion of a trade issue a Delivery Intention Notice of commodities traded on the Exchange to the concerned warehouse.

126.2 The Delivery Intention Notice shall specify the commodity to be collected, preferable pickup date, time, buyer's or his representative's name, phone number, identity number and type of identity, driver name, driving license, and vehicle plate number or other information according to a form to be developed by the Exchange.

126.3 The Delivery Intention Notice shall then be signed and submitted by the Member or the representative to the Exchange:

Provided that if the mentioned driver on the Delivery Intention Notice cannot be available for the pickup, the Member can change the driver information and vehicle plate number by correcting the existing Delivery Intention Notice at the Exchange.

126.4 The Exchange shall issue the Handover Instruction to the warehouse which shall have the details provided by the buyer on the Delivery Intention Notice.

126.5 The buyer or his representative shall within the period specified in the contract specifications take physical delivery of the commodities purchased by him on the Exchange from the warehouse upon producing identity

documents recorded on the Delivery Intention Notice and shall sign a Commodity Handover Acknowledgement document.

126.6 The Exchange may extend the period of delivery or provide for a longer period of delivery in the Handover Instruction on the terms that the Exchange may deem fit.

126.7 The signing of the Commodity Handover Acknowledgement document by the buyer or his representative shall be evidence that the buyer confirmed the contract specifications of the commodity.

126.8 The Warehouse shall transmit the transaction conducted (the Daily Position Record) to the Exchange Central Depository on a daily basis for updating of its database regarding the beginning inventory, day's deposits and withdrawals and day's final inventory on hand.

127. Partial delivery

127.1 Partial pick-up shall result in issuance of a Commodity Handover Voucher for each partial pick-up and the Commodity Handover Acknowledgement document shall only be issued to the buyer or his representative when complete delivery is effected.

127.2 The buyer shall ensure that the whole consignment is collected within the period specified in the contract specification.

127A. Retrades

A buyer may file intention to retrade his commodity in which case the Exchange shall not deliver the commodity and a new electronic warehouse receipt in favour of the buyer shall be issued

and the commodity shall be subject to the same terms as a new deposit'.

127B. Delivered contracts

The Exchange may enter into a separate delivered contract with a buyer and shall deliver the commodity purchased by the buyer to a place of the buyer's choice subject to fulfillment of the buyer fulfilling all his obligations under the delivered contract.

128. Penalties for late or no pick-up

128.1 If the buyer or his representative does not take delivery within the period specified in the contract specifications the Exchange shall impose a late pick-up penalty that shall determine from time to time.

128.2 The late pick-up penalty shall accrue on a daily basis.

128.3 If the aggregate of the accumulated late pick up charges and all other liabilities equals the value of the deposited commodity, the Exchange shall liquidate the deposit.

128.4 For the purpose of this Rule the value of the commodity shall be the consideration that the member paid for the commodity on the transaction day.

128.5 The Exchange shall give two notices of late pick up to the Buyer as follows:

- (a) at start of the late period; and
- (b) five days prior to liquidation.

128.6 The Buyer or his agent will only take receipt of the late pick-up after settling accumulated penalty charges to the

Exchange in accordance with the prescribed procedures of the Exchange, if any.

CHAPTER 11:

CONCILIATION AND ARBITRATION

129. Definitions

Unless the context requires otherwise, the following words or phrases shall have the following meaning under this Chapter:-

- (a) **“Arbitral Tribunal”** means one or more arbitrators constituting a tribunal to adjudicate a reference to arbitration;
- (b) **“Arbitrator”** means an arbitrator selected from the panel of arbitrators to determine a particular issue;
- (c) **“Act”** means Arbitration Act Chapter 6:03 of the Laws of Malawi and any amendments thereto in force;
- (d) **“Applicant”** means a person who makes a reference to arbitration by filing an application as prescribed by the Exchange;
- (e) **“Conciliator”** means either sole conciliator or a bench of three conciliators as agreed between the parties;
- (f) **“Panel of Arbitrators”** means a body of arbitrators, constituted by the Exchange from time to time;
- (g) **“Panel of Conciliators”** means a body of conciliator, constituted by the Exchange from time to time under these Rules;
- (h) **“Reference”** means reference to arbitration under these Rules; and
- (i) **“Respondent”** means a person against whom the applicant makes a reference to arbitration whether or not there exists a transaction or is a claim against such person.

130. Conciliation and arbitration

- 130.1 In all claims, differences and disputes, irrespective of whether the Exchange is a party or not, arising out of or in

relation to transactions on the Exchange including any agreements and contracts, made subject to these Rules or with reference to anything incidental thereto or in pursuance thereof or relating to their validity, construction, interpretation, fulfilment of the rights, obligations and liabilities of the parties thereof and including any question of whether such agreements, contracts and transactions have been entered into or not, the parties shall, within seven (7) days from the date the difference or dispute arose, adopt conciliation proceedings subject to the provisions of these Rules.

130.2 An officer of the Exchange may preside over all conciliation proceedings in which the Exchange is not a party.

130.3 All conciliation proceedings to which the Exchange is a party shall be presided over by an independent conciliator.

130.4 In case the conciliation proceedings do not result in any settlement, the dispute shall be referred to and decided by arbitration, as provided in these Rules for that purpose.

130.5 The Exchange may provide for:

- (a) Norms, procedures, forms, jurisdiction, terms, conditions and scale of arbitration fees and other charges for reference to arbitration;
- (b) Appointment of conciliation officers, arbitrators, substitute arbitrators and umpires;

- (c) Procedure for serving notice of hearing and adjournment of hearings and communications to the parties and witnesses;
- (d) Procedure for appearance, hearing, filing of claims and counter claims and taking witnesses and evidence of assessors and experts;
- (e) Procedure for issue of arbitration awards; and
- (f) Procedure for implementation of arbitration awards.

131. Panel of conciliators

The Exchange may constitute a panel of conciliators consisting of persons who shall be drawn from people possessing expertise in the areas related to the commodities market and other relevant fields like industry, commerce, economics, finance, accounts, law, etc.

132. Representation and assistance

Each party may appoint a representative and shall advise the other party and the conciliator, in writing, of the name and address of any person who will represent or assist it.

133. Appointment of conciliators

133.1 There shall be a single conciliator mutually appointed by the parties from among the panel of conciliators as provided under Rule 131.

133.2 Where the parties do not agree on the appointment of the conciliator the Exchange shall appoint a conciliator and its decision shall be final.

134. Submission of statements to conciliator

134.1 The Conciliator shall, upon his appointment, require each party to submit to him a brief statement in writing describing the general nature of the dispute, the issues and the amount of the claim, if any within the time stipulated by the conciliator; and each party shall forthwith serve the other party with a copy of such statement.

134.2 At any stage of the conciliation proceedings, the conciliator may require a party to submit to him such additional information, as he may deem appropriate.

134.3 Any information submitted to the conciliator hereunder shall be confidential and the conciliator shall not disclose such information to a third party.

135. Communication between conciliator and parties

135.1 The conciliator may invite the parties to meet him or may communicate with them in writing and may meet or communicate with the parties together or with each of them separately.

135.2 The Exchange shall, in consultation with the conciliator, determine the place where the conciliation meetings shall be held.

136. Conciliation proceedings not to commence

If no reply is received by the conciliator to the invitation for initiating conciliation within ten (10) days from the date of communication inviting conciliation or the period specified in the invitation, whichever is earlier, conciliation proceedings in such an event shall not proceed and the party shall then be free to refer the dispute, difference or claim to arbitration as provided under these Rules.

137. Co-operation of parties with conciliator

The parties shall in good faith co-operate with the conciliator and in particular shall endeavour to comply with the requirements specified by the conciliator for submitting written materials, providing evidence and attending meetings, if any.

138. Suggestions by parties for settlement of disputes

Each party may, on his own initiative or at the invitation of the conciliator, submit to the Conciliator, suggestions for the settlement of the dispute.

139. Admissibility of evidence in arbitral proceedings

The parties shall not rely on or introduce as evidence in arbitral proceedings, whether or not such proceedings relate to the dispute which is the subject of the conciliation proceedings, and more particularly with respect to the following:

- (a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
- (b) admissions made by the other party in the course of the conciliation proceedings;
- (c) proposals made by the conciliator for a settlement; and
- (d) the fact that the other party had indicated his willingness to accept a proposal for settlement by the conciliator.

140. Role of conciliator in other proceedings

140.1 Unless otherwise agreed upon by the parties, the conciliator shall not act as an arbitrator or as a representative or as a counsel or as an attorney or advocate of a party in any arbitral or judicial proceedings in respect of

a dispute, which is the subject of the conciliation proceedings.

140.2 The conciliator shall not be presented by the parties, as a witness in any arbitral or judicial proceedings.

141. Deposits

141.1 Where the conciliator is not an officer of the Exchange the Conciliator may through the Exchange direct each party to deposit with the Exchange an equal amount, as an advance for the costs, which the Exchange expects to be incurred.

141.2 If the required deposits are not paid in full by both parties within seven calendars days from the date of direction by the conciliator, the conciliator may, at his discretion, suspend the proceedings or may, at his discretion, make a written declaration of termination of the proceedings to the parties and the Exchange, effective from the date of that declaration.

141.3 Upon termination of the conciliation proceedings, the Exchange shall render an account to the parties of the deposits received and expenses incurred and shall return the balance amount, if any, to the parties in the ratio of their deposits, within a reasonable period of time.

142. Completion of conciliation proceedings

The conciliation proceedings for the settlement of any dispute shall be deemed to have commenced on the date of appointment of the conciliator as provided in these Rules and shall be completed within a period of twenty one (21) days from the date of commencement of such proceedings.

143. Settlement agreement

143.1 When it appears to the conciliator that there exists a possibility of settlement, which may be acceptable to the concerned parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the conciliator may reformulate the terms of a possible settlement in the light of such observations.

143.2 If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the conciliator may draw up, or assist the parties in drawing up, the settlement agreement.

143.3 When the parties sign the settlement agreement, it shall be final and binding on the parties or persons claiming under them respectively.

143.4 The conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties and to the Exchange.

144. Status and effect of settlement agreement

The settlement agreement shall have the same status and effect as if it is an arbitral award.

145. Costs

Upon termination of the conciliation proceedings, the Exchange shall, in consultation with the Conciliator, and on the basis of Schedule of Fees as may be provided in the relevant notice, fix the costs of the conciliation and give written notice thereof to the parties.

146. Termination of conciliation proceedings

146.1 The conciliation shall be terminated-

- (a) by the signing of the settlement agreement by the parties, on the date of agreement;
- (b) by a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts in conciliation are no longer justified on the date of the declaration;
- (c) by a written declaration of the parties addressed to the conciliator, stating reasons, to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- (d) by a written declaration of a party to the other party and the conciliator, stating reasons, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

146.2 The conciliator shall, upon termination of the proceedings, send an intimation thereof in writing to the Exchange.

147. Confidentiality

The conciliator and the parties shall keep confidential all matters relating to the conciliation proceedings, except where their disclosure is necessary for the purposes of implementation and enforcement of the settlement agreement.

148. Reference to arbitration

Where conciliation under these Rules has failed or has been terminated either party may refer the dispute or claim to arbitration within seven (7) days from the date of declaration of termination of conciliation proceedings:

Provided that this Rule shall not in any way affect the jurisdiction of the Exchange on the clearing member through whom such

member has dealt with or traded in regard thereto and such clearing member shall continue to remain responsible, accountable and liable to the Exchange in this behalf.

149. Arbitration subject to the Arbitration Act

149.1 The rules relating to arbitration shall be consistent with the provisions of the Arbitration Act.

149.2 The provisions not included in these Rules but included in the Arbitration Act shall be applicable as if they were included in these Rules.

149.3 The Exchange may constitute a panel of not less than ten arbitrators all of whom shall be drawn from professionals conversant with these Rules and the Regulations, or having expertise in such areas like law or commodity economics, finance, commodity services and appraisal, commodity physical trade, commodity quality etc.

150. Deliveries and transactions subject to arbitration

In all deliveries and transactions, which are made or deemed to be made subject to these Rules, the provisions relating to arbitration as provided in these Rules shall form part of the contract relating to deliveries and transactions and the parties shall be deemed to have entered into an arbitration agreement in writing by which all claims, differences or disputes of the nature referred to under Rule 148 above shall be submitted to arbitration in accordance with the provisions of these Rules.

151. Jurisdiction

All parties to arbitration under these Rules, and the persons, if any, submitting claims under them, shall be deemed to have submitted to the exclusive jurisdiction of the court of competent jurisdiction in Malawi for the purpose of giving effect to the arbitral award.

152. Construction of references

For the purpose of the arbitration, all claims, differences or disputes which are required to be submitted to arbitration in accordance with the provisions of these Rules, wherever the Arbitration Act leaves the parties free to determine a certain issue, the parties shall be deemed to have authorized the Exchange to determine that issue.

153. Administrative assistance

153.1 For the purpose of arbitration, all claims, differences or disputes which are required to be submitted to arbitration in accordance with the provisions of these Rules, or the Regulations, the parties shall be deemed to have agreed for administrative assistance of the Exchange in order to facilitate the conduct of the arbitral proceedings.

153.2 The Exchange may provide a list of approved surveyors and quality certification agencies and laboratories, which may be used by the arbitrators to arrive at a solution to the disputes relating to quality or quantity of goods deposited at the Exchange's designated warehouse or delivered against an outstanding open position.

154. Members of the exchange liable for transactions executed on the trading system of exchange

The provisions of these Rules shall become applicable to all claims, difference, disputes between the parties to the arbitration process for all transactions made subject to these Rules provided that such transactions had been entered into between the parties mentioned therein up to and including the date on which the member was either declared a defaulter or expelled or has surrendered his exchange membership.

155. Procedure for appointment of arbitrators

The procedure for appointment of a sole arbitrator or arbitration tribunal, in each case, by the applicant and the respondent, or the Exchange shall be as may be provided by the Exchange from time to time in these Rules.

156. Disclosure by person to be appointed as arbitrators

156.1 Every person who is approached in connection with his possible appointment as an arbitrator, shall disclose to the Exchange in writing any circumstances likely to give rise to justifiable doubts as to his independence and impartiality.

156.2 If the person discloses any circumstances, which, in the opinion of the Exchange are likely to give rise to justifiable doubts as to his independence and impartiality, then he shall not be appointed as an arbitrator in respect of such case.

157. Failure to discharge duty

157.1 At any time before the making of the arbitral award if the arbitrator or arbitrators as the case may be, fails to discharge the duties of arbitration for any reason whatsoever, including illness or death of the arbitrator or termination of the mandate of the arbitrator by the Exchange for any other reason, the Exchange shall replace the arbitrator concerned by following the same procedure as specified by the Exchange for appointment of an arbitrator.

157.2 Unless otherwise agreed upon by the parties, any arbitrator who has been appointed by the Exchange to fill the vacancy of the office of the arbitrator may rely on the

proceedings and evidence recorded earlier or may conduct any hearing afresh for any hearing previously held.

157.3 Unless otherwise directed by the Exchange, the arbitrator appointed under sub-rule 157.2 hereof shall be confined to the same time limits as his predecessor.

157.4 An order or ruling of the arbitrator made prior to the termination of his mandate shall not be invalid solely because his mandate has been terminated.

158. Termination of mandate of the arbitrator

158.1 The mandate of the arbitrator shall be terminated if-

- (a) the arbitrator withdraws from office for any reason;
- (b) in the opinion of the Exchange, which shall be final and binding on the parties, the arbitrator becomes de jure or de facto unable to perform his functions or for other reasons, fails to act without undue delay, including failure to make the arbitral award within the time period prescribed;
- (c) the mandate of the arbitrator is terminated by the Exchange upon receipt of a valid written request for the termination of the mandate of the arbitrator from both the parties to arbitration;
- (d) the arbitrator discloses any circumstances referred to in Rule 156 which in the opinion of the Exchange are likely to give rise to justifiable doubts as to his independence and impartiality; or
- (e) the arbitration proceedings are terminated as provided for herein.

158.2 The arbitrator shall not cease to be a member of the Exchange, in case he was appointed as an arbitrator by virtue of his membership.

159. Place of arbitration

The place of arbitration shall be any office of the Exchange, as may be notified by the Exchange from time to time, or any such other place, as may be designated by the Exchange from time to time.

160. Fees and charges

160.1 The fees for arbitration and the charges for submitting to and for regulating the proceedings of the reference prescribed by the Exchange shall be payable in advance and when there is a failure, neglect or refusal on the part of a party or parties to pay accordingly, the other party may be responsible for making such payment in advance without prejudice, however, to its right, if any, to recover the same from such party or parties failing, neglecting or refusing to pay.

160.2 It shall be a condition precedent to the hearing of any reference that the prescribed fees and charges shall have been paid in advance to the Exchange by the party or parties to the reference:

Provided that the fees and charges shall not be collected from a client, who may lodge a claim against an Exchange member, who has been declared a defaulter or expelled from the Exchange membership if there are adequate assets vested in the Exchange.

160.3 The Exchange may exempt a client from making an advance payment of arbitration fees upon a written request to that effect by the client.

161. Appearance by counsel, attorney or advocate not permitted

In arbitral proceedings, the parties to the dispute shall not be permitted to appear or be represented by counsel, attorney or advocate.

162. Set-off and counter claim

On a reference to arbitration by one party, the other party or parties shall be entitled to claim a set-off or make a counter claim against the former party:

Provided that such set-off or counter claim arises out of or relates to transactions made subject to these Rules and subject to arbitration as provided herein, and provided further that such set-off or counter claim is presented, together with full particulars, at or before the first hearing of the reference but not afterwards unless specifically permitted by the arbitral tribunal.

163. Proceedings

The arbitral tribunal, may proceed with the reference, notwithstanding any failure to file a written statement by the applicant or respondent or both within the time, as may be prescribed for this purpose by the Exchange from time to time and may also proceed with the reference in the absence of any or all the parties who after due notice fail or neglect or refuse to attend at the appointed time and place.

164. Adjournment of hearings

The arbitral tribunal may adjourn the hearing from time to time upon the application of any party to the reference or *suo moto*, provided, however, that when the adjournment is granted at the request of one of the parties to the reference, the arbitral tribunal may, if deemed fit, require such party to pay the fees and costs in respect of the adjourned hearing borne by the other party and in the event of such party failing to do so,

may refuse to hear him further or dismiss his case or otherwise deal with the matter in any way the arbitral tribunal may think just.

165. Written statements by parties and hearing

165.1 A reference may be decided by the arbitral tribunal on the written statements of the parties and the documents produced by them.

165.2 Any party may require the arbitral tribunal to give him hearing; and in such event, the party shall be heard and the other party or parties shall have a similar privilege of being heard.

166. Permission necessary for witness or evidence

No party shall be entitled to bring witness or evidence for the arbitral tribunal to hear or examine other than what is deemed necessary by the arbitral tribunal without the permission of the Arbitral tribunal.

167. Ex parte decision and summary disposal

If the party against whom the reference is filed is not present at the appointed time and place, the arbitral tribunal may hear and decide the reference *ex parte*, and if the party filing the reference be not present, the arbitral tribunal may dismiss the reference summarily.

168. Disputed matter to be arbitrated only once

If after duly informing the arbitral tribunal, the parties to the arbitration themselves enter into any arrangement to completely settle the matter so submitted for arbitration, then such parties or any other person claiming through them shall not be entitled to initiate the arbitration proceedings for a second time with regard to the same matter and the Exchange shall have the power to reject such reference to arbitration.

169. Settlement

169.1 The arbitral tribunal may, with the agreement of the parties, use mediation, conciliation or any other procedure at any time during the arbitral proceedings to encourage settlement.

169.2 If, during the proceedings, parties settle the dispute, the arbitral tribunal shall terminate the proceedings and record the settlement in the form of an arbitral award on agreed terms, which shall have the same status and effect as any other arbitral award on the substance of the dispute.

170. Interim arbitral award and interim measures

170.1 An arbitrator shall have power to make an interim arbitral award or to provide interim measures of protection.

170.2 The arbitrator may require a party to provide appropriate security in connection with an interim award or the protection measures.

171. Arbitral award

171.1 The arbitral tribunal shall make the arbitral award within twenty one (21) days from the date of entering upon the reference.

171.2 The time to make the award may, however be extended from time to time by the Exchange on an application by either of the parties or the arbitral tribunal as the case may be.

171.3 For the purpose of this Rule, the arbitral tribunal shall be deemed to have entered upon a reference on the date on which the arbitral tribunal has held the first hearing.

171.4 Every award shall be made in writing and shall be signed by the arbitral tribunal.

171.5 The award shall state the reasons upon which it is based.

171.6 The award shall state its date and the place of arbitration and the award shall be deemed to have been made on that date and at that place.

171.7 The award shall be final and binding on the parties.

172. Award to classify award amount

Whether the award is interim or otherwise, the Arbitral Tribunal shall clearly specify as to whether the amount awarded, if any, relate to a transaction executed on the trading system or to any contract, order or instruction to buy or sell a commodity or to the money paid or deposited with the Exchange member in respect of any order or instruction to buy or sell the commodity or for any reason other than those specified herein.

173. Award to adjudge interest

173.1 Where an award is for the payment of money, the arbitral tribunal may adjudge in the award the interest to be paid on the principal sum adjudged for any period prior to the institution of the arbitration proceedings and may also adjudge the additional interest on such principal sum for the period from the date of the institution of the arbitration proceedings to the date of the award and also the interest on the aggregate sum so adjudged at such rate from the date of the award to the date of payment.

173.2 The rate of interest that may be stipulated in the award shall be the Bank Rate, as may be fixed by the

Reserve Bank of Malawi, from time to time, plus penal interest not exceeding four percentum per annum (4% p.a).

174. Intimation of award

After the award is made, a signed copy of the award shall be delivered to each party and the Exchange.

175. Award binding on parties and their representatives

The parties to the reference shall in all matters abide by and forthwith carry into effect the award of the arbitral tribunal which shall be final and binding on the parties and their respective representatives, notwithstanding the death of or legal disability occurring to any party before or after the making of the award and such death or legal disability shall not operate as a revocation of the reference or award and shall not affect the rights under the award of the awardee in any manner whatsoever.

176. Correction and clarification on award

176.1 Within seven (7) days from the receipt of the arbitral award –

- (a) any party to an arbitration agreement, with notice to the other party, may request the arbitral tribunal to correct any computational error, arithmetical error, clerical or typographical error or any other error of a similar nature occurring in the award;
- (b) a party, with notice to the other party, may request the arbitral tribunal to give a clarification on any specific point or part of the award; or
- (c) a party, with notice to the other party, may request the arbitral tribunal to make an additional award as to the claims presented in the arbitral proceedings, but omitted from the arbitral award.

176.2 The arbitral award shall be deemed to have been received on the day it is served on the party or after seven (7) days from the date it was sent to the party.

176.3 If the arbitral tribunal finds the above request to be justified, it shall make the correction or provide the required correction and clarification to the parties concerned and such correction and clarification provided shall form part of the award.

176.4 The arbitral tribunal may, on its own, correct the errors within seven (7) days from the date of the award and inform the parties accordingly.

177. Honouring of arbitral awards

The Exchange shall on receipt of an arbitral award against an Exchange member follow such procedure as may be directed therein.

178. Penalty on failure to submit to or abide by award in arbitration

A member, who fails or refuses to submit to or abide by or comply with any award in arbitration between members of the Exchange or between an exchange member and a non-trading member or client, shall be declared a defaulter and may be expelled by the Exchange at its sole discretion and thereupon the other party shall be entitled to institute legal proceedings to enforce the award in a court of competent jurisdiction in Malawi.

179. Setting aside of award and fresh reference

179.1 An arbitral award may be set aside or modified by the court on an application made under the Arbitration Act.

179.2 Whenever an award made under these Rules is set aside or modified by the court, the matter shall be disposed of in accordance with the direction of the Court.

180. Costs

181.1 The Exchange shall specify the fee and expenses payable by the parties to the arbitration.

181.2 The arbitral tribunal shall specify the party entitled to receive reasonable costs, the party who shall pay the cost, and the manner in which the costs shall be paid.

181. Service of notices and communication

181.1 Notices and communication to an Exchange member or a client or an affected person shall be served in any one or more of the following ways and any such notice or communication hereunder shall be served at his ordinary business address or at his ordinary place of residence or his last known address:

- (a) by delivering it by hand;
- (b) by sending it by registered post;
- (c) by sending it under certificate of posting;
- (d) by sending it by express delivery post;
- (e) by sending it by electronic mail;
- (f) by sending it by telegram;
- (g) by sending it by fax;
- (h) by affixing it on the door at the last known business or residential address;
- (i) by advertising it at least once in any daily newspaper published at the place where the parties are located; or
- (j) if no address is known, by a notice posted on the notice board of the Exchange or displayed on trading floor of the Exchange.

181.2 A notice or communication served by hand shall be deemed to have been received by the party if there is a written or endorsement or acknowledgement of receipt by or on behalf of the receiving party or on the production of a certificate or an affidavit to that effect signed by the person delivering the notice or communication and the same shall constitute due and proper service of notice.

181.3 A notice or communication served by post or telegram shall be deemed to have been received by the party at the time when the same, in the ordinary course of post or telegram, has been delivered and production of a letter of confirmation from the post office or of the post office receipt for the registered letter or telegram or of a certificate of posting shall in all cases be conclusive proof of the posting or despatch of such notice or communication and shall constitute due and proper service of notice.

181.4 A notice or communication published in a newspaper or posted on the notice board of the Exchange or displayed on the electronic trading system of the Exchange or on the Website of the Exchange shall be deemed to have been served on the party on the day on which it is published or posted or so displayed.

181.5 Any refusal to take delivery of the notice or communication shall, in no case affect the validity of its service.

182. Indemnity for exchange, tribunal or employee

In relation to arbitration under these Rules no party shall bring or file any suit or proceeding whatever against the Exchange, or any employee of the Exchange acting under its authority or against the arbitral tribunal for or in respect of any matter or thing

purported to be done under these Rules or Regulations, save and except any suit or proceeding for the enforcement of the award against the other party or parties to the reference.

183. Secretarial duties

The Secretary or the officer designated by the Exchange in this behalf and the employees of the Exchange acting under his authority shall:

- (a) receive all applications for arbitration, reference and copies of communication addressed by the parties before or during the course of arbitration or otherwise in relation thereto;
- (b) maintain a register of references;
- (c) maintain register of references rejected by the Secretary or a designated officer;
- (d) receive payment of all costs, charges, fees and other expenses;
- (e) give notices of hearing and all other notices to be given to the parties before or during the course of the arbitration or otherwise in relation thereto;
- (f) communicate to parties all orders and directions of the arbitral tribunal;
- (g) receive and record all documents and papers relating to the reference and keep in custody all such documents, papers, and stamp duties except those the parties are allowed to retain, for such period as may be prescribed by the Exchange from time to time;

- (h) publish the award on behalf of the arbitral tribunal;
- (i) enter the award and any changes therein in the register of reference;
- (j) generally do all such things and take all such steps as may be necessary to assist the arbitral tribunal in the discharge of its functions; and
- (k) maintain a register of applications to set aside arbitral awards and make necessary entries therein and generally to do all such things and take all such steps as may be necessary to implement the award of the arbitral tribunal, as may be specified by the Exchange or any court of competent jurisdiction or a regulatory authority having jurisdiction on such matters from time to time.

CHAPTER 12:

MISCELLANEOUS

184. Governing language

All notices, writings, reports and documents, which shall be issued by the Exchange, in relation to the working and functions of the Exchange, shall be in English language, which shall be the governing language of the Exchange.

185. Locality

All transactions entered into or executed through the trading system of the Exchange shall unless otherwise expressly stated by the Exchange be deemed to have taken place in the city of Lilongwe only and the place of contracting as between the members of the Exchange shall be at Malawi, irrespective of the locations of the trader workstations of the members connected thereto.

186. Records and evidence

186.1 The records of the Exchange, as maintained by a central processing unit or a cluster of processing units or computer processing units or on the trading system or any other trading system of the Exchange, whether maintained in any register, magnetic storage units, electronic storage units, optical storage units or computer storage units or in any other manner or on any other accepted media, shall constitute the agreed and authenticated record in relation to any transaction entered into or executed through the trading system or any other trading system of the Exchange.

186.2 The records as maintained by the Exchange shall, for the purpose of any dispute or claim between the members of the Exchange inter-se or between any

exchange member and his clients or between the members of the Exchange and the Exchange or the Clearing House regarding trading, clearing or settlement of any deal or transaction carried out on the trading system or any other trading system of the Exchange and reported to the Exchange, constitute valid and binding evidence between and among the parties.

187. Limitation of liability

187.1 The Exchange shall not be liable for any activities of its members or of any other person, authorised or unauthorised, acting in the name of any member, for any act of commission or omission by any one of them, either singly or jointly, at any time and shall not be in any way construed to be an act of commission or omission by any one of them, as an agent of the Exchange.

187.2 Save as otherwise specifically provided in these Rules and the Regulations, the Exchange shall not incur or shall not be deemed to have incurred any liability and accordingly, no claim or recourse shall lie against the Exchange, any member of the Board or any other authorised person acting for and on behalf of the Exchange, in respect of or in relation to any transaction entered into through the Exchange made by its members and any other matters connected therewith or related thereto, which are undertaken for promoting, facilitating, assisting, regulating, or otherwise managing the affairs of the Exchange to achieve its objects as defined in the Memorandum and Articles of Association of the Exchange.

188. Protection for acts done in good faith

No claim, suit, prosecution or any other legal proceedings shall lie against the Exchange or any member of the Board or any other duly authorised person acting for and on behalf of the

Exchange, in respect of anything which is done or intended to be done or omitted or intended to be omitted in good faith in exercise of any power under these Rules or the Regulations or in pursuance of any order or any other kind of communication received by the Exchange, in writing, from any court, tribunal, Government or any other competent regulatory or revenue authority empowered under any law or delegated legislation for the time being in force in that behalf.

189. Secrecy and confidentiality

189.1 The Exchange shall take necessary steps to preserve and protect the details, particulars, data or information available in the trading system and its computer system.

189.2 The Exchange shall cause its employees who, in the normal course of discharge of their duties, are likely to have access to details, particulars, data or information relating to any business transactions of the members of the Exchange to maintain complete confidentiality in respect of all such details, particulars, data and information by those employees at all times.

189.3 The Exchange may provide or disclose such details, particulars, data or information relating to any business transactions of its members or in respect of any commodity admitted to dealings on the Exchange as may be required or directed in writing by any court, tribunal, the Relevant Authority or any other competent regulatory or revenue authority empowered under any law or delegated legislation for the time being in force in that behalf.

189.4 No Exchange member, approved user, authorised person or any of their employee shall be entitled to visit or

inspect any premises of the Exchange, access where to is restricted, without the prior written permission of the Exchange or to require discovery of any information with respect to any activities of the Exchange or any matter which is or may be in the nature of a trade secret, mystery of trade, secret process or any other matter which may relate to the conduct of the business and which in the opinion of the Exchange may not be expedient in the interest of the Exchange to disclose.

190. Indemnity

Every member of the Exchange shall indemnify and keep indemnified the Exchange from and against all harm, loss, damages, injury and penalty suffered or incurred and all costs, charges and expenses incurred in instituting or carrying on or defending any suits, action, litigation, arbitration, disciplinary action, prosecution or any other legal proceedings suffered or incurred by the Exchange on account of or as a result of any act of commission or omission or default in complying with any of the provisions or the authorities regulating commodity trading in the area where such trading takes place, and the Rules framed there under or these Rules of the Exchange or Regulations or due to any agreement, contract or transaction executed or made in pursuance thereof or on account of negligence or fraud on the part of any member of the Exchange or the Clearing House and their employees, servants and agents.

191. Disclaimer

Where any loss or damage is caused to or incurred by any party or person on account of or as a result of any act of commission or omission or default in complying with any of the provisions of any statute or the condition imposed by the Relevant Authority or these Rules or the Regulations of the Exchange or any agreement, transaction or contract executed or made in pursuance thereof on account of negligence or fraud on the part

of any member of the Exchange or the Clearing House that is not a part of the Exchange but is an independent entity or their employees, servants or agents, and in the event of the Exchange making good or being required to make good such loss or damages (or any part thereof) to such party or person, the Exchange shall be entitled to recover the amount so made good by it from the member of the Exchange in default.

192. Severability

If any provision of these Rules is rendered unlawful, void or unenforceable by reason of any statutory amendment, re-enactment, notification or any judicial decision or pronouncement by any competent court, such provision shall, to the extent required, be severed and rendered ineffective without in any way affecting the validity or enforceability of the rest of the provisions of these Rules, which shall continue to apply with full force and effect, provided further that the action already taken earlier under such provision shall remain unaffected.

193. Force majeure

193.1 The Exchange shall provide its services on best effort basis and it shall not be liable for any harm, loss, damage and injury caused to any person arising in any way out of causes beyond its control.

193.2 Without prejudice and notwithstanding anything contained hereinabove, any failure on the part of the Exchange out of causes beyond its control shall not in any way reduce, alter, limit or affect the liability of a member of the Exchange in respect of any transaction entered into or executed through the trading system or any other trading system of the Exchange by such member.

193.3 Any delay or failure to observe or comply with any requirement, either in full or in part under these Rules may be dealt with by the Exchange as a violation of the Rules.

194. Reports

194.1 In respect of all trades done by the members of the Exchange, the Exchange shall forward reports to the respective members, including settlement obligations relating thereto; and such reports and obligations shall be binding on the members of the Exchange.

194.2 Every member of the Exchange shall provide the Exchange with such reports that the Exchange or the Relevant Authority may seek from the members from time to time and such reports shall be in the form as the Exchange may from time to time provide.

194.3 Every member shall notify the Exchange of any incident, which may endanger the clearing member's financial strength or interfere with the clearing member's ability to conduct its business in the best interests of the Exchange.

194.4 Every member of the Exchange shall be required to maintain such Books of Accounts, Registers, Statements and other Records, either in physical or electronic form, as may be specified by the Exchange and such documents and records shall be-

- (a) kept in good order and preserved at least for such period, as may be specified by the Exchange; and
- (b) made available to the Exchange by the member for inspection, whenever required.

194.5 Every member of the Exchange shall submit itself to audit and investigation and furnish all books, records, files and such other information as required upon the direction of the Exchange or the Relevant Authority.

194.6 The audit and investigation shall be restricted to the affairs of the Exchange member as a provider of trading, clearing and settlement services to their client as also in respect of his trading, either directly or through another Clearing member.

194.7 In case of any dispute or difference of opinion originating from or pertaining to orders or trades due to a mismatch between the member's report and the Exchange's report, the report as per records of the Exchange shall be final, conclusive and binding on the members.

195. Emergencies and powers to handle emergencies

195.1 Whenever it appears to the Exchange or to the Relevant Authority that the commodities are transacted for the purpose of inducing a false or artificial appearance of activity or upsetting the price equilibrium or that the business is being conducted in a manner prejudicial to the interest of the trade or the interest and welfare of the Exchange, the Clearing House may effect special clearance of outstanding positions that have been registered or impose additional or special margins or take such other measures that the Exchange or the Relevant Authority may deem necessary.

195.2 The Relevant Authority shall have power at any time and from time to time to call upon all or any member to submit detailed statement giving information relating to commodities traded by a member in such form and in such manner as may be prescribed.

195.3 In particular and without prejudice to the generality of sub-rule 195.2, such information may relate to the following matters:

- (a) transactions entered into by a member with another member on his own account and transactions entered into by a member on behalf of others;
- (b) open positions of a member and of others on whose behalf the member has entered into transactions;
- (c) stocks of commodities held by a member or his clients;
- (d) export and import commitments, and export and import orders on hand in respect of a member or his clients; and
- (e) physical purchases and or sale of a member or his clients.

195.4 The Exchange or Relevant Authority shall have power for the purpose of verifying or checking any statement submitted by a member of the Exchange under these Rules, to call for the production of the books of any member or call for explanation from any member.

195.5 A member failing or neglecting to submit any such statement or to produce any such books to give any such explanation shall be liable to be dealt with in accordance with Rule 24 hereof.

195.6 If, in the opinion of the Exchange or the Relevant Authority, an emergency has arisen or exists, or it is expedient in the general interest of the trade so to do, the Exchange or Relevant Authority may prohibit-

(a) all transactions in commodities at a rate or rates above a maximum or below a minimum as may be specified; or

(b) all transactions in one or more commodities,

until further notice as may be specified.

196. Trade finance

196.1 The Exchange may notify the procedure regarding the facility for availing finance by financial institutions to the Exchange Members and or their clients against pledge of warehouse receipts.

196.2 Such procedure may specify the rate of interest, haircut deductions, maximum permissible limit per commodity, maximum permissible limit per member, maximum tenure of loan, consequences of non repayment in time and all other applicable conditions.

196.3 A financial institution willing to avail such loan shall submit a written undertaking to abide by the conditions specified and also specifying its conditions and terms for availing such trade finance.

196.4 In order to facilitate such trade finance, the Exchange may enter into financial arrangements with the financial institutions on behalf of the Exchange members or their clients for availing line of credit or cash credit or any other mode of finance.

197. Confidentiality of information

197.1 No officer of the Exchange shall directly or indirectly make unauthorised disclosure or improper use of any information that may come into his possession as a result of his official position or former official position in the

Exchange, which if generally known might reasonably be expected to affect materially the price of commodities traded in the Exchange; and failure to comply with this Rule shall be considered to be a major violation and shall be dealt with by the Exchange in the manner as it considers appropriate.

197.2 No officer of the Exchange shall directly or indirectly make unauthorised disclosure or improper use of any information that may come into his possession as a result of his official position or former official position in the Exchange, to derive direct or indirect advantage for himself or any other person; and failure to comply with this rule shall be considered to be a major violation and shall be dealt with by the Exchange in the manner it considers appropriate.

197.3 No employee of the designated settlement bank shall directly or indirectly make unauthorised disclosure of any information that may come into his possession as a result of the function of the bank as the settlement bank.

197.4 The designated settlement bank shall be responsible for the activities of all its employees and any violation by its employees shall be subject to such action, as the Exchange may deem fit.