



Gelephu Mindfulness City

MARKET INFRASTRUCTURE RULEBOOK (“MIR”) 2026 (Version 1.0)

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1 INTRODUCTION

1.1.1 The Rules and guidance in this Rulebook apply to Licensed Bodies and External Bodies that carry on, or intend to carry on, business in or from GMC, and to Applicants for recognition as a Licensed Body.

1.1.2 [Deleted]

1.1.3 In determining whether a Licensed Body satisfies the licensing requirements, the Regulator will have regard to any relevant factor, including, but not limited to, the factors specifically discussed in this Rulebook. Chapters 1 – 6 only apply to Licensed Bodies.

1.1.4 Table 1.1.4 below sets out further requirements that may be applicable to Licensed Bodies contained in other GFSO Rulebooks.

| No. | Rule title | Rule Reference | All GMC Licensed Bodies |
|-----|---|-----------------------------|-------------------------|
| 1 | Interpreting the Rulebook | GEN Rule 4.2 | √ |
| 2 | Emergency | GEN Rule 4.3 | √ |
| 3 | Disclosure of regulatory status | GEN Rule 4.4.1 | √ |
| 4 | Location of offices | GEN Rule 4.5 | √ |
| 5 | Close links | GEN Rule 4.6 | √ |
| 6 | Communications with the Regulator | GEN Rule 4.8 | √ |
| 7 | Financial statements and financial reporting standards | GEN Rule 6.2 | √ |
| 8 | Accounting records and Regulatory Returns | GEN Rule 6.3 | √ |
| 9 | Appointment and termination of Auditors | GEN Rule 6.4 | √ |
| 10 | Co-operation with Auditors | GEN Rule 6.5 | √ |
| 11 | Audit Reports | GEN Rule 6.6 | √ |
| 12 | Information gathering and the Regulator's access to information | GEN Rule 8.1 | √ |
| 13 | Waivers or Modifications | GEN Rule 8.2 | √ |
| 14 | Controllers | GEN Rule 8.8 | √ |
| 15 | Regulatory Impact | GEN Rule 8.10.6 | √ |
| 16 | Fraud and errors | GEN Rule 8.10.7 | √ |
| 17 | Other Regulators | GEN Rule 8.10.8 | √ |
| 18 | Accuracy of information | GEN Rules 8.10.11 – 8.10.12 | √ |
| 19 | Skilled persons | GEN Rule 8.12.2 – 8.12.5 | √ |
| 20 | Imposing restrictions on Licensed Body's business and Licensed Body's dealing with property | GEN Rule 8.13 | √ |
| 21 | Whistleblowing | GEN Rule 3.4 | √ |
| 22 | Cyber Risk Management | GEN Rule 3.5 | √ |

- 1.1.5 Chapter 7 of this Rulebook applies only to External Bodies who are granted a Recognition Order, or entities seeking a Recognition Order as an External Body.
- 1.1.6 Chapter 8 of this Rulebook applies to External Members who are admitted, or intend to be admitted, as Members of a Licensed Body.
- 1.1.7 For the purposes of chapter 2 of this Rulebook, any reference to the “rules” of a Licensed Body, is a reference to its:
- (a) Business Rules, in the case of a Licensed Investment Exchange;
 - (b) Clearing Rules, in the case of a Licensed Clearing House; and
 - (c) Default Rules, as applicable.

2 RULES APPLICABLE TO ALL LICENSED BODIES

2.1 Introduction

2.1.1 This chapter contains the Licensing Requirements for Licensed Bodies.

2.1.2 A Licensed Body must at all times comply with the requirements of this chapter to the satisfaction of the Regulator. The same standards apply on initial recognition and throughout the period Licensed Body status is held. The term Licensed Body in this Rule and the guidance should be taken to refer also to an Applicant when appropriate.

2.1.3 A Licensed Body must provide all relevant information to the Regulator concerning:

- (a) the constitution, Regulatory Provisions and practices of the Licensed Body;
- (b) the nature (including complexity, diversity and risk) and scale of the Licensed Body's business;
- (c) the size and nature of the market which is supported by the Licensed Body's facilities;
- (d) the nature and status of the types of investor who use the Licensed Body's facilities or have an interest in the market supported by the Licensed Body's facilities;
- (e) competition in the markets for services provided, or proposed to be provided, by the Licensed Body in its capacity as such; and
- (f) the nature and scale of the risks to the Regulator's objectives associated with the matters described in (a) to (e).

2.2 Suitability

2.2.1 A Licensed Body must be a fit and proper Person to perform the Regulatory Functions of a Licensed Body.

Guidance

When determining whether it is a fit and proper Person, a Licensed Body should have regard to all relevant factors including, but not limited to:

- (a) the commitment shown by the Licensed Body's Governing Body to satisfying the Licensing Requirements and to complying with any other applicable obligations;
- (b) its arrangements, policies and resources for fulfilling its obligations in relation to its activities as a Licensed Body, including in relation to the control of conflicts of interest;
- (c) the extent to which its constitution and organisation provide for effective governance and effective oversight by the Governing Body of its relevant Regulatory Functions;

- (d) breaches of any relevant law, regulation or code of practice by the Recognised Body or its Key Individuals;
- (e) its arrangements for ensuring that it employs individuals who are honest and demonstrate high standards of integrity;
- (f) the access that the persons responsible for the performance of supervisory functions have to the Governing Body;
- (g) the independence of the persons responsible for the performance of supervisory functions from its commercial and marketing arms;
- (h) its connections with any undertaking under its control or in its Group, and any Person with a position of influence over, or who effectively runs the business of, the Licensed Body, having regard to:
 - (i) the reputation and standing of that other Person, including its standing with the Regulator or any Non-GMC Regulator;
 - (ii) breaches of any law or regulation by that other Person;
 - (iii) the roles of any of the Licensed Body's Key Individuals who have a position within organisations under the control or influence of that other Person, including their responsibilities in that organisation and the extent and type of their access to its Senior Management or Governing Body;
 - (iv) the extent to which the Licensed Body operates as a distinct entity notwithstanding its connection with that other Person; and
 - (v) the extent to which the Licensed Body's Governing Body is responsible for its day-to-day management and operations,

noting that nothing in this paragraph should be taken to imply any restriction on the ability of a Licensed Body to outsource any function to any Person in a manner consistent with the rules on outsourcing set out in Rule 2.14.4.

2.2.2 [Deleted]

2.3 Governance and Key Individuals

Governance

2.3.1 A Licensed Body's Governing Body must comply with the requirements set out in GEN Rules 3.3.41 and 3.3.42.

Key Individuals

2.3.2 A Licensed Body must, for the purposes of the proper discharge of its Regulatory Functions, appoint the following Key Individuals, where deemed necessary and required by the Regulator, ensuring that they are held by one or more individuals at all times:

- (a) Members of the Governing Body;
- (b) Senior Executive Officer;
- (c) Finance Officer;
- (d) Chief Operating Officer;
- (e) Chief Technology Officer;
- (f) Chief Information Security Officer;
- (g) Head of Market Supervision;
- (h) Chief Compliance Officer
- (i) Money Laundering Reporting Officer; and
- (j) Chief Risk Officer.

2.3.3 The Licensed Body must appropriately consider, and make a reasonable determination, as to what other functions within its business are deemed Regulatory Functions, requiring the appointment of a Key Individual to head such function. The Regulator may also make its own determination as to whether any other function in the Licensed Body should be deemed a Regulatory Function, requiring the appointment of a Key Individual to head such function.

2.3.4 Any appointment of a Key Individual by a Licensed Body is subject to approval by the Regulator.

Determination of application to act as a Key Individual

2.3.5 The Regulator may approve an application for appointment as a Key Individual only if it is satisfied that the person in respect of whom the application is made is a fit and proper person to act as a Key Individual for the Regulatory Function to which the application relates.

In order to be considered fit and proper, a Key Individual must adhere to the six Principles for Approved Persons set out in GEN 2.4 in respect of every Regulatory Function.

For the purposes of this Rule and Rule 2.3.8, all references in GEN 2.4 to “Approved Persons” and “Controlled Functions” shall be read as references to “Key Individuals” and “Regulatory Functions” respectively.

2.3.6 The Regulator may approve the Application:

- (a) subject to any conditions that it considers appropriate; and
- (b) for a limited period only;

if it appears to the Regulator that it is desirable to do so in order to further one or more of its objectives.

2.3.7 A Recognised Body that makes an application for approval of a Key Individual may withdraw the application by giving written notice to the Regulator at any time before the Regulator determines it.

Withdrawal of Key Individual approval

2.3.8 The Regulator may withdraw an approval given in respect of a Key Individual if it considers that the person is not a fit and proper person to act as a Key Individual.

Variation of approval at request of Licensed Body

2.3.9 Where an application for approval of a Key Individual is granted subject to one or both of the conditions under Rule 2.3.6, the Recognised Body concerned may apply to the Regulator to vary the approval. The Regulator may then:

- (a) vary a condition;
- (b) remove a condition; or
- (c) impose a new condition.

2.3.10 The Regulator may refuse an application under this section if it appears to the Regulator that it is desirable to do so in order to further one or more of its objectives.

Variation of approval on initiative of Regulator

2.3.11 The Regulator may vary an approval given in relation to a Key Individual if the Regulator considers that it is desirable to do so in order to further one or more of its objectives.

2.3.12 The Regulator may vary a Key Individual approval by:

- (a) imposing a condition;
- (b) varying a condition;
- (c) removing a condition; or
- (d) limiting the period for which the approval is to have effect.

2.3.13 A condition may, in particular, be imposed so as to require any person to take, or refrain from taking, specified action.

Change of Key Individual

- 2.3.14 In circumstances where an individual who has been approved as a Key Individual pursuant to Rule 2.3.5 will no longer act as a Key Individual, whether by resignation, withdrawal or variation, the Licensed Body must notify the Regulator in writing within ten Business Days of such resignation, withdrawal or variation, and ensure it continues to satisfy Rule 2.3.2.

2.4 Financial resources

- 2.4.1 A Licensed Body must have financial resources sufficient for the proper performance of its Regulatory Functions.

- 2.4.2 [Deleted]

Guidance

When determining whether it has financial resources sufficient for the proper performance of its Regulatory Functions, a Licensed Body must take into account all relevant factors, including but not limited to:

- (a) its connection with any Person;
- (b) any activity carried on by it, whether or not is a Regulated Activity conducted by it in its capacity as an Exempt Person;
- (c) the operational and other risks to which it is exposed, including the extent to which, after allowing for the financial resources necessary to cover counterparty and market risks, its financial resources are sufficient and sufficiently liquid to:
 - (i) enable the Licensed Body to continue to properly carry on the Regulated Functions that it expects to carry on; and
 - (ii) ensure that it would be able to complete an orderly closure or transfer of its Regulated Functions without being prevented from doing so by insolvency or lack of available funds;
- (d) if it guarantees the performance of transactions in Financial Instruments, the counterparty and market risks to which it is exposed in that capacity, including the nature and scale of its exposure and, where relevant, the counterparties to which it is exposed;
- (e) the amount and composition of its capital and liquid financial assets;
 - (i) the amount and composition of its other financial resources (such as insurance policies and guarantees, where appropriate); and
 - (ii) the financial benefits, liabilities, risks and exposures arising from its connection with any Person, including but not limited to, its connection with:

- (i) any undertaking in the same Group as the Licensed Body;
 - (ii) any other Person with a significant shareholding or stake in the Licensed Body;
 - (iii) any other Person with whom it has made a significant investment, whether in the form of equity, debt, or by means of any guarantee or other form of commitment; and
 - (iv) any Person with whom it has a significant contractual relationship;
- (f) the likely availability of liquid financial resources to the Licensed Body during periods of major market turbulence or other periods of major stress for the GMC Financial System; and
- (g) in relation to a Licensed Investment Exchange, the nature and extent of the transactions concluded on the Licensed Investment Exchange.

Capital requirements

- 2.4.3 A Licensed Investment Exchange must, at all times, hold Capital in accordance with Rule 3.2.
- 2.4.4 A Licensed Clearing House must, at all times, hold Capital in accordance with Rule 4.2.
- 2.4.5 "Capital" means Tier 1 capital, as defined in PRU 3.9.
- 2.4.6 The Regulator may require a Licensed Body to hold an additional Capital buffer, which may be used only in times of market stress or financial difficulty.

Accounting information and standards

- 2.4.7 A Recognised Body must prepare and maintain its financial statements in accordance with chapter 6 of GEN.
- 2.4.8 [Deleted]
- 2.4.9 [Deleted]

2.5 Systems, controls and conflicts

- 2.5.1 A Licensed Body must ensure that the systems and controls used in the performance of its Regulatory Functions are adequate, and appropriate for the scale and nature of its business. In particular, this applies to systems and controls concerning:
- (a) the transmission of information;

- (b) the assessment, mitigation and management of risks to the performance of the Licensed Body's Regulatory Functions, including conflicts of interest;
- (c) the effecting and monitoring of transactions on the Licensed Body;
- (d) the technical operation of the Licensed Body, including contingency arrangements for disruption to its facilities;
- (e) the operation of its functions relating to the safeguards and protections to investors;
- (f) (where relevant) the safeguarding and administration of assets belonging to users of the Licensed Body's facilities; and
- (g) outsourcing.

Guidance

General

1. When assessing whether its systems and controls in the performance of its Regulatory Functions are adequate and appropriate for the scale and nature of its business, a Licensed Body should have regard to its:
 - (a) arrangements for managing, controlling and carrying out its Regulatory Functions, including the:
 - (i) distribution of duties and responsibilities among its Key Individuals and the departments of the Licensed Body responsible for performing its Regulatory Functions;
 - (ii) staffing and resources of the departments of the Licensed Body responsible for performing its Regulatory Functions;
 - (iii) arrangements made to enable Key Individuals to supervise the departments for which they are responsible;
 - (iv) arrangements for appointing and supervising the performance of Key Individuals (and their departments); and
 - (v) arrangements by which the Governing Body is able to keep the allocation of responsibilities between, and the appointment, supervision and remuneration of, Key Individuals under review;
 - (b) arrangements for the identification and management of conflicts of interest;
 - (c) arrangements for internal and external audit; and
 - (d) information technology systems.

Conflicts of interest

2. When assessing its systems and controls in relation to conflicts of interest, a Licensed Body should have regard to the following:
 - (a) A conflict of interest arises in a situation where a Person with responsibility to act in the interests of one Person may be influenced in his action by an interest or association of his own, whether Personal or business or employment related. Conflicts of interest can arise both for the Employees of Licensed Bodies and for the members (or other Persons) who may be involved in the decision-making process, for example where they belong to committees or to the Governing Body. Conflicts of interest may also arise for the Licensed Body itself as a result of its connection with another Person.
 - (b) The Regulator recognises that a Licensed Body has legitimate interests of its own and that its general business policy may properly be influenced by other Persons (such as its owners). Such a connection does not necessarily imply the existence of a conflict of interest nor is it necessary to exclude individuals closely connected with other Persons (for example, those responsible for the stewardship of the owner's interests) from all decision-making processes in a Licensed Body. However, there may be decisions, primarily regulatory decisions, from which it may be appropriate to exclude an individual in certain circumstances where an interest, position or connection of his conflicts with the interest of the Licensed Body.
 - (c) A Licensed Body should make arrangements to structure itself and to allocate responsibility for decisions so that it can continue to take proper regulatory decisions notwithstanding any conflicts of interest, including the:
 - (i) systems and controls intended to ensure that confidential information is only used for proper purposes;
 - (ii) size and composition of the Governing Body and relevant committees;
 - (iii) roles and responsibilities of Key Individuals, especially where they also have responsibilities in other organisations;
 - (iv) arrangements for transferring decisions or responsibilities to alternates in individual cases; and
 - (v) arrangements to ensure that individuals who may have a permanent conflict of interest in certain circumstances are excluded from the process of taking decisions (or receiving

information) about matters in which that conflict of interest would be relevant.

3. A Licensed Body should take into consideration contracts of employment, staff rules, letters of appointment for members of the Governing Body, members of relevant committees and other Key Individuals and other guidance given to individuals on handling conflicts of interest, covering:
 - (a) the need for prompt disclosure of a conflict of interest to enable others, who are not affected by the conflict, to assist in deciding how it should be managed;
 - (b) the circumstances in which a general disclosure of a conflict of interest, in advance of any particular instance in which that conflict of interest arises, may be sufficient;
 - (c) the circumstances in which a general advance disclosure may not be adequate;
 - (d) the circumstances in which it would be appropriate for a conflicted individual to withdraw from involvement in the matter concerned, without disclosing the interest; and
 - (e) the circumstances in which safeguards, in addition to disclosure, would be required, such as the withdrawal of the individual from the decision-making process, or from access to relevant information.
4. A Licensed Body should have arrangements:
 - (a) for enforcing rules or other provisions applicable to staff and other Persons involved in regulatory decisions; and
 - (b) to keep records of disclosures of conflicts of interest and the steps taken to handle them.
5. A Licensed Body should ensure that appropriate arrangements are made to:
 - (a) identify conflicts between the interests of the Recognised Body, its shareholders, owners and operators and the interests of the Persons who make use of its facilities or the interests of the facilities operated by it; and
 - (b) manage or disclose such conflicts so as to avoid adverse consequences for the sound functioning and operation of the facilities operated by the Licensed Body and for the Persons who make use of its facilities.
6. A Licensed Body should establish and maintain adequate policies and procedures to ensure that its Employees do not undertake personal account transactions in Financial Instruments in a manner that creates or has the potential to create conflicts of interest.

7. A Licensed Body should establish a code of conduct that sets out the expected standards of behaviour for its Employees, including clear procedures for addressing conflicts of interest. Such a code must be:
 - (a) binding on Employees; and
 - (b) to the extent appropriate and practicable, made publicly available.

Information transmission

8. When assessing its systems and controls in relation to transmission of information, a Licensed Body should ensure that information is transmitted promptly and accurately:
 - (a) within the Licensed Body itself;
 - (b) to its Members; and
 - (c) (where appropriate) to other market participants or other relevant Persons.

Risk management

9. When assessing its systems and controls for assessing and managing risk, a Licensed Body should ensure that is able to:
 - (a) identify, measure and control all the general, operational, legal and market risks wherever they arise in its activities;
 - (b) allocate responsibility for risk management to Persons with appropriate knowledge and expertise; and
 - (c) provide sufficient, reliable information to Key Individuals and, where relevant, the Governing Body of the Licensed Body.

Internal and external audit

10. When assessing whether it has appropriate internal and external audit arrangements in place, a Licensed Body should consider the:
 - (a) size, composition and terms of reference of any audit committee of the Licensed Body's Governing Body;
 - (b) frequency and scope of external audit;
 - (c) provision and scope of internal audit;
 - (d) staffing and resources of the Licensed Body's internal audit department;
 - (e) internal audit department's access to the Licensed Body's records and

- (f) other relevant information; and position, responsibilities and reporting lines of the internal audit department and its relationship with other departments of the Licensed Body.

Information technology systems

11. When assessing the adequacy of its information technology systems, a Licensed Body should:
 - (a) consider the organisation, management and resources of its information technology department;
 - (b) consider its arrangements for controlling and documenting the design, development, implementation and use of information technology systems;
 - (c) consider the performance, capacity and reliability of information technology systems; and
 - (d) have arrangements for maintaining, recording and enforcing technical and operational standards and specifications for information technology systems, including:
 - (i) procedures for the evaluation, selection and testing of information technology systems;
 - (ii) procedures for problem management and system change;
 - (iii) arrangements to monitor and report system performance, availability and integrity;
 - (iv) arrangements (including spare capacity and access to back-up facilities) made to ensure information technology systems are resilient and not prone to failure;
 - (v) arrangements made to ensure business continuity in the event that an information technology system does fail;
 - (vi) arrangements made to protect information technology systems from damage, tampering, misuse or unauthorised access; and
 - (vii) arrangements made to ensure the integrity of data forming part of, or being processed through, information technology systems; and
 - (viii) arrangements to keep clear and complete audit trails of all uses of information technology systems and to reconcile (where appropriate) the audit trails with equivalent information held by system users and other interested parties

Effecting and monitoring of transactions and operation of settlement arrangements

12. When assessing its systems and controls for the effecting and monitoring of transactions, and for the operation of settlement arrangements, a Licensed Body should have regard to the totality of the arrangements and processes through which its transactions are effected, cleared and settled, including:
- (a) its arrangements under which orders are received and matched, its arrangements for trade and transaction reporting, and (if relevant) its arrangements with another Person under which any rights or liabilities arising from transactions are discharged including arrangements for transmission to a settlement system or Licensed Clearing House;
 - (b) if relevant, its arrangements under which instructions relating to a transaction to be cleared by another person by means of a Clearing Service are entered into its systems by the relevant person providing the Clearing Service and transmitted to the Licensed Body; and
 - (c) its arrangements for monitoring and reviewing the operation of these systems and controls.

Safeguarding and administration of assets

13. When assessing its systems and controls for the safeguarding and administration of assets belonging to users of its facilities, a Licensed Body should have regard to the totality of the arrangements and processes by which it:
- (a) records the assets held and the identity of the owners of (and other persons with relevant rights over) those assets;
 - (b) records any instructions given in relation to those assets;
 - (c) records the carrying out of those instructions;
 - (d) records any movement in those assets (or any corporate actions or other events in relation to those assets); and
 - (e) reconciles its records of assets held with the records of any custodian or sub-custodian (or Person Acting as a Central Securities Depository) used to hold these assets, and with the records of beneficial or legal ownership of those assets.

General safeguards for investors

- 2.5.2 A Licensed Body must have rules, procedures and appropriate surveillance practices in place to ensure that its facilities are such as to afford proper protection to investors.

Guidance

When assessing whether it has appropriate rules, procedures and surveillance practices in place, a Licensed Body should consider the extent to which its rules, procedures and arrangements for monitoring and overseeing the use of its facilities:

- (a) include appropriate measures to prevent the use of its facilities for abusive or improper purposes;
- (b) provide appropriate safeguards for investors against fraud or misconduct, recklessness, negligence or incompetence by users of its facilities;
- (c) provide appropriate information to enable users of its facilities to monitor their use of the facilities;
- (d) include appropriate arrangements to enable users of its facilities to raise queries about any use of those facilities which they are reported to have made;
- (e) include appropriate arrangements to enable users of its facilities to comply with any relevant regulatory or legal requirements; and
- (f) include appropriate arrangements to reduce the risk that those facilities will be used in ways which are incompatible with relevant regulatory or legal requirements,

and in this paragraph "appropriate" should be taken to mean appropriate having regard to the nature and scale of the Licensed Body's facilities, the types of Persons who will use the facilities and the use which they will make of those facilities.

Promotion and maintenance of standards

2.5.3 A Licensed Body's rules, practices and procedures must promote and maintain high standards of integrity and fair dealing in the carrying on of business on or through its facilities. These rules, practices and procedures are to be consistent with the Code of Market Conduct and with any other Rules, codes or principles relating to behaviour in Regulated Activities within the GMC Financial System.

2.5.4 A Licensed Body must be able and willing to cooperate, by the sharing of information or otherwise, with the Regulator, with any other authority, body or Person having responsibility in GMC for the supervision or regulation of any Regulated Activity or other financial service, or with a Non-GMC Regulator. Its constitution, rules and its agreements with its Members must enable it to obtain information from Members and to disclose otherwise confidential information to the Regulator and other appropriate bodies, including:

- (a) the extent to which the Licensed Body is willing to provide information about it and its activities to assist the Regulator in the exercise of its functions;
- (b) the extent to which the Licensed Body is open with the Regulator or other appropriate bodies in regulatory matters;
- (c) how diligently the Licensed Body investigates or pursues enquiries from the Regulator or other appropriate bodies; and
- (d) whether the Licensed Body participates in appropriate international fora.

Guidance

For the purpose of this section, "information" includes information held about large positions held by Members of a Licensed Body.

Performance of Regulatory Functions

- 2.5.5 A Licensed Body must take all reasonable steps to ensure that the performance of its Regulatory Functions is not adversely affected by its commercial interests.
- 2.5.6 For the purposes of Rule 2.5.5, a Licensed Body must have adequate systems and controls, including policies and procedures, to ensure that the pursuit of its commercial interests (including its profitability) does not adversely impact on the performance of its Regulatory Functions.

Guidance

A Licensed Body should have systems for identifying, and drawing to the attention of its Senior Management and Governing Body, situations where its commercial interests conflict, or may potentially conflict, with the proper performance of its Regulatory Functions. This would enable the Licensed Body to take appropriate steps to ensure that such conflicts do not adversely affect the proper performance by the Licensed Body of its Regulatory Functions. In particular, the Licensed Body should ensure that adequate human, financial and other resources (both in terms of quantity and quality) are provided for risk management, regulatory supervision, compliance and other similar functions.

2.6 Operational systems and controls

- 2.6.1 A Licensed Body must establish a robust operational risk management framework with appropriate systems and controls to identify, monitor and manage operational risks that key participants, other Licensed Bodies, group and external service providers and utility providers might pose to itself.
- 2.6.2 A Licensed Body must have a business continuity plan, which is subjected to periodic review and scenario testing, that addresses events posing a significant risk of disrupting operations, including events that could cause a widespread or major disruption. The plan should:
- (a) outline objectives, policies, procedures and responsibilities to deal with internal and external business disruptions and measures to ensure timely resumption of service levels;
 - (b) include policies and procedures for event and crisis management;
 - (c) incorporate the use of a secondary site;
 - (d) contain appropriate emergency rules for force majeure events;
 - (e) be designed to ensure that critical information technology systems can resume operations within two hours following disruptive events;
 - (f) outline business continuity procedures in respect of its Members and other users

of its facilities following disruptive or force majeure events; and

- (g) in the case of a Licensed Clearing House, be designed to enable the Licensed Clearing House to complete settlement by the end of the day of disruption, even in case of extreme circumstances.

2.6.3 A Licensed Body must have an incident management procedure in place to record, report, analyse and resolve all operational incidents.

2.6.4 A Licensed Body must have clearly defined operational reliability objectives and policies to achieve these objectives, as well as a scalable operational capacity adequate to handle increasing stress volumes, service-level objectives and historical data.

2.6.5 A Licensed Body must have a comprehensive physical and information security policy, standards, practices and controls to identify, assess and manage security threats and vulnerabilities and to protect data from loss and leakage, unauthorised access and other processing risks.

2.7 Transaction recording

2.7.1 The Licensed Body must ensure that satisfactory arrangements are made for recording transactions effected on or cleared (or to be cleared) by the Licensed Body by means of its facilities.

2.7.2 [Deleted]

Guidance

When determining whether it has satisfactory arrangements for recording the transactions effected on, or cleared, or to be cleared, by means of, its facilities, a Licensed Body should have regard to:

(a) its arrangements for creating, maintaining and safeguarding an audit trail of transactions for at least 7 years; and

(b) the type of information recorded and the extent to which the record includes details for each transaction of:

- (i) the name of the Financial Instrument (and, if relevant, the underlying asset) and the price, quantity and date of the transaction;

- (ii) the identities and, where appropriate, the roles of the counterparties to the transaction;

- (iii) if its rules make provision for transactions to be effected, cleared or to be cleared in more than one type of facility, or under more than one part of its rules, the type of facility in which, or the part of its rules under which, the transaction was effected, cleared or to be cleared; and

- (iv) the date and manner of settlement of the transaction.

2.7.3 Where transactions are effected on a Licensed Investment Exchange and cleared through

a Licensed Clearing House, the Licensed Bodies concerned may agree which information is to be recorded by each Recognised Body and need not duplicate each other's records.

2.8 Membership criteria and access

2.8.1 A Licensed Body must ensure that access to its facilities is subject to criteria designed to protect the orderly functioning of the market and the interests of investors.

2.8.2 The Licensed Body must make transparent and non-discriminatory rules, based on objective criteria, governing access to, or membership of, its facilities. In particular, those rules must specify the obligations for users or Members of its facilities arising from:

- (a) the constitution and administration of the Licensed Body;
- (b) rules relating to transactions on a Licensed Body's market;
- (c) its professional standards for staff of any Licensed Firm, or Remote Member, having access to or membership of a financial market operated by the Licensed Body;
- (d) conditions established for access to or membership of a financial market operated by the Licensed Body by Persons other than Authorised Persons, including Remote Members; and
- (e) the rules and procedures for Clearing and settlement of transactions.

2.8.3 The Licensed Body shall only give access to or admit to membership a Person who:

- (a) is fit and proper and of sufficient good repute;
- (b) has a sufficient level of ability, competence and experience, including appropriate standards of conduct for its staff;
- (c) where applicable, has adequate organisational arrangements, including financial and technological resources; and
- (d) where that Person is a Remote Member, they have been granted a Recognition Order by the Regulator under section 138A of FSA.

2.8.4 A Licensed Body must immediately notify the Regulator of the:

- (a) receipt of a Member application from a Remote Member;
- (b) approval by the Licensed Body of a Remote Member application; and
- (c) imposition of disciplinary measures or sanctions on a Remote Member by the Licensed Body.

2.8.5 [Deleted]

Guidance

When assessing whether access to its facilities is subject to criteria designed to protect the orderly functioning of the market, or of those facilities, and the interests of investors, a Licensed Body should consider whether:

- (a) it limits access as a Member to such Persons:
 - (i) over whom it can with reasonable certainty enforce its rules contractually;
 - (ii) who have sufficient technical competence to use its facilities;
 - (iii) whom it is appropriate to admit to membership having regard to the size and sophistication of users of its facilities and the nature of the business effected by means of, or cleared through, its facilities; and
 - (iv) (if appropriate) who have adequate financial resources in relation to their exposure to the Licensed Body;
- (b) indirect access to its facilities is subject to suitable criteria, remains the responsibility of a Member of the Licensed Body and is subject to its rules;
- (c) where access is granted to Remote Members, there are adequate safeguards against Market Abuse and Financial Crime; and
- (d) its rules:
 - (i) set out the design and operation of the Licensed Body's relevant Systems;
 - (ii) set out the risk for Members and other participants when accessing and participating on the Licensed Body's facilities;
 - (iii) contain provisions for the resolution of Members' and other participants' disputes and an appeal process for the decisions of the Licensed Body;
 - (iv) contain disciplinary proceedings, including any sanctions that may be imposed by the Licensed Body against its Members and other participants; and
 - (v) any other matters necessary for the proper functioning of the Licensed Body and the facilities operated by it.

2.8.6 The Licensed Body must make arrangements regularly to provide the Regulator with a list of users or Members of its facilities.

Direct Electronic access

2.8.7 A Licensed Body may only permit a Member to provide its Clients Direct Electronic Access to the Licensed Body's facilities where:

- (a) the Clients meet the suitability criteria established by the Member in order to

meet the requirements in Rule 2.8.8;

- (b) the Member retains responsibility for the orders and trades executed by the Clients who are using Direct Electronic Access; and
- (c) the Member has adequate mechanisms to prevent the Clients placing or executing orders using Direct Electronic Access in a manner that would result in the Member exceeding its position or margin limits.

2.8.8 A Licensed Body which permits its Members to allow their Clients to have Direct Electronic Access to its trading facilities must:

- (a) set appropriate standards regarding risk controls and thresholds on trading through Direct Electronic Access;
- (b) be able to identify orders and trades made through Direct Electronic Access; and
- (c) if necessary, be able to stop orders or trades made by a Client using Direct Electronic Access provided by the Member without affecting the other orders or trades made or executed by that Member.

2.8.9 [Deleted.]

2.8.10 A Person who is permitted to have Direct Electronic Access to a Licensed Body's facilities through a Member is not, by virtue of such permission, a Member of the Licensed Body.

Guidance

The arrangements made to permit Direct Electronic Access to the Licensed Body's facilities and to prevent and resolve problems likely to arise from the use of electronic systems to provide indirect access to its facilities by Persons other than its Members, should include:

- (a) the rules and guidance governing Members' procedures, controls and security arrangements for inputting instructions into the system;
- (b) the rules and guidance governing the facilities Members provide to Clients to input instructions into the system and the restrictions placed on the use of those systems;
- (c) the rules and practices to detect, identify, and halt or remove instructions breaching any relevant restrictions;
- (d) the quality and completeness of the audit trail of any transaction processed through an electronic connection system; and
- (e) procedures to determine whether to suspend trading by those systems or access to them by or through individual Members.

2.9 Financial Crime and Market Abuse

2.9.1 A Licensed Body must:

(a) operate an effective market surveillance program and have in place appropriate measures to identify, monitor, deter and prevent conduct which may amount to Market Abuse, Financial Crime and money laundering on and through the Licensed Body's facilities; and

(b) immediately report, along with full details of that information in writing, to:

(i) the Regulator, any suspected or actual Market Abuse; and

(ii) the Regulator and/or any other relevant authority, as required, Financial Crime or money laundering.

2.9.2 A Licensed Body must have appropriate procedures and protections for enabling Employees to disclose any information to the Regulator or to other appropriate bodies involved in the prevention of Market Abuse, money laundering or other Financial Crime or any other breaches of relevant legislation.

Guidance

When determining whether its measures are appropriate to reduce the extent to which its facilities can be used for a purpose connected with Market Abuse or Financial Crime, to facilitate their detection and to monitor their incidence, a Licensed Body should have regard to:

- a) whether its rules enable it to disclose any information to the Regulator or other appropriate bodies involved in the detection, prevention or pursuit of Market Abuse or Financial Crime inside or outside GMC; and
- b) whether its arrangements, resources, systems, and procedures enable it to:
 - i) monitor the use made of its facilities so as to obtain information regarding possible patterns of normal, abnormal or improper use of those facilities;
 - ii) detect possible instances of Market Abuse or Financial Crime, for example, by detecting suspicious patterns in the use of its facilities;
 - iii) communicate information about Market Abuse or Financial Crime promptly and accurately to appropriate organisations; and
 - iv) cooperate with all relevant bodies in the prevention, investigation and pursuit of Market Abuse or Financial Crime.

2.10 Custody

2.10.1 A Licensed Body must ensure that, where its facilities include making provision for the safeguarding and administration of assets belonging to users of those facilities, satisfactory arrangements are made for that purpose with an appropriate custodian or settlement facility.

Guidance

When determining whether it has made satisfactory arrangements for the safeguarding and administration of assets belonging to the users of its facilities, a Licensed Body should have regard to:

- (a) the level of protection which the arrangements provide against the risk of theft or other types or causes of loss;
- (b) whether the arrangements ensure that assets are only used or transferred in accordance with the instructions of the owner of those assets or in accordance with the terms of the agreement by which the Licensed Body undertook to safeguard and administer those assets;
- (c) whether the arrangements ensure that the assets are not transferred to the Licensed Body or to any other Person to settle the debts of the owner (or other Person with the appropriate rights over the assets) except in accordance with valid instructions from a Person entitled to give those instructions, or in accordance with the terms of the agreement by which the Licensed Body undertook to safeguard and administer those assets;
- (d) whether the arrangements include satisfactory procedures to ensure that any rights arising in relation to the assets held as a result of any actions by the issuers of those assets (or other relevant Persons) are held, transferred or acted upon in a timely and accurate manner in accordance with the instructions of the owner of those assets or in accordance with the terms of the agreement by which the Licensed Body undertook to safeguard and administer those assets;
- (e) whether there are adequate arrangements to ensure the proper segregation of assets belonging to the Licensed Body (or to undertakings in the same Group) from those belonging to the users of its facilities for the safeguarding and administration of assets;
- (f) whether its arrangements include satisfactory procedures for the selection, oversight and review of custodians or sub-custodians used to hold the assets;
- (g) whether the agreements by which the Licensed Body undertakes to safeguard and administer assets belonging to users of its facilities include appropriate information regarding the terms and conditions of that service and the obligations of the Licensed Body to the user of the service and of the user of the service to the Licensed Body;
- (h) whether the records kept of those assets and the operation of the safeguarding services provide sufficient accurate and timely information to:
 - (i) identify the legal and beneficial owners of the assets and of any Persons who have charges over, or other interests in, the assets;
 - (ii) record separately any additions, reductions and transfers in each account of assets held for safeguarding or administration; and
 - (iii) identify separately the assets owned by (or, where appropriate, on behalf of) different Persons, including, where appropriate, the assets owned by Members of the Licensed Body and their Clients;
- (i) the frequency of reconciliation of the assets held by (or on behalf of) the Licensed Body with the accounts held with the Licensed Body by the users of its

safeguarding and administration services and the extent of the arrangements for resolving a shortfall identified in any reconciliation; and

- (j) the frequency with which statements of their holdings are provided to the users of the safeguarding and administration services, to the owners of the assets held and to other appropriate Persons in accordance with the terms of the agreement by which the Recognised Body undertook to safeguard and administer those assets.

2.10.2 Rule 2.10.1 does not apply to collateral taken under title transfer arrangements.

2.11 Rules and consultation

2.11.1 A Licensed Body must ensure that appropriate procedures are adopted for it to make rules, for keeping its rules under review and for amending them. The procedures must include the arrangements for:

- (a) taking decisions about making and amending Business Rules, Clearing Rules and Default Rules, including the level at which decisions are taken and any provision for the delegation of decisions by the Governing Body;
- (b) consulting users of the Licensed Body's facilities and having proper regard to any public comments received;
- (c) considering the impact the proposed amendment has on the interests of its Members and other stakeholders; and
- (d) notifying Members and other stakeholders of rule amendments.

2.11.2 Any amendment to a Licensed Body's Business Rules, Clearing Rules or Default Rules must, prior to the amendment being effective, be

- (a) made available for public consultation; and
- (b) approved by the Regulator.

2.11.2 Any amendment to a Licensed Body's guidance to its Business Rules, Clearing Rules or Default Rules must, prior to the amendment being effective, be notified to the Regulator.

2.11.3 The Regulator may dispense with the requirement in Rule 2.11.2(a) in cases of emergency, force majeure, typographical errors, minor administrative matters, or to comply with applicable laws.

2.11.4 [Deleted]

Public consultation

2.11.5 [Deleted]

2.11.6 For the purposes of Rule 2.11.2A, a Licensed Body must publish a consultation paper setting out:

- (a) the text of both the proposed amendment and the Business Rules, Clearing Rules

or Default Rules that are to be amended;

- (b) the reasons for proposing the amendment; and
- (c) a reasonable consultation period, which must not be less than ten Business Days from the date of publication, within which Members and other stakeholders may provide comments. The Licensed Body must lodge with the Regulator the consultation paper no later than the time at which it is released for public consultation.

2.11.7 The Regulator may, where it considers on reasonable grounds that it is appropriate to do so, require the Licensed Body to extend its proposed period of public consultation specified in the consultation paper.

2.11.8 [Deleted]

2.11.9 Following public consultation, a Licensed Body must, to the extent it considers appropriate, discuss the comments received and any amendments made prior to publication with its Members and other stakeholders, and publish the final rules.

Review of rules

Guidance

1. When determining whether its procedures for consulting Members and other users of its facilities are appropriate, a Licensed Body should have regard to the range of Persons to be consulted by it under those procedures. Consultation with a smaller range of Persons may be appropriate where limited, technical changes to a Licensed Body's rules are proposed. A Licensed Body's procedures may include provision to restrict consultation where it is essential to make a change to the rules without delay in order to ensure continued compliance with the Recognition Requirements or other legal obligations.
2. When determining whether its procedures for consulting Members and other users of its facilities are appropriate, a Licensed Body should have regard to the extent to which the procedures include:
 - (a) informal discussions at an early stage with users of its facilities or appropriate representative bodies;
 - (b) publication to users of its facilities of a formal consultation paper which includes clearly expressed reasons for the proposed changes and an appropriately detailed assessment of the likely costs and benefits;
 - (c) adequate time for users of its facilities to respond to the consultation paper and for the Licensed Body to take their responses properly into account;
 - (d) adequate arrangements for making responses to consultation available for inspection by users of its facilities, unless the respondent requests otherwise;

- (e) adequate arrangements for ensuring that the Licensed Body has proper regard to the representations received; and
- (f) publication, no later than the publication of the amended rules, of a reasoned account of the Licensed Body's decision to amend its rules.

2.12 Discipline

2.12.1 A Licensed Body must have effective arrangements for monitoring and enforcing compliance with its rules, including in the case of a Licensed Investment Exchange effective arrangements for monitoring transactions in order to identify disorderly trading conditions or Market Abuse.

2.12.2 The arrangements for Rule 2.12.1 must include procedures for:

- (a) investigating complaints made to the Licensed Body about the conduct of Persons in the course of using the Licensed Body's facilities; and
- (b) fair, independent and impartial resolution of appeals against decisions of the Recognised Body.

Guidance

1. Where a Licensed Body's arrangements include provision for requiring the payment of financial penalties, its arrangements should also ensure that any amount so paid is applied only in one or more of the following ways:
 - (a) towards meeting expenses incurred by the Licensed Body in the course of the investigation of the breach in respect of which the penalty is paid, or in the course of any appeal against the decision of the Recognised Body in relation to that breach;
 - (b) for the benefit of users of the Licensed Body's facilities; or
 - (c) for charitable purposes.
2. When determining whether it has effective arrangements for monitoring and enforcing compliance with its rules (including its settlement arrangements), a Licensed Body should have regard to:
 - (a) its ability to:
 - (i) monitor and oversee the use of its facilities;
 - (ii) assess its Members' compliance with its rules (and settlement arrangements, where appropriate);
 - (iii) assess the significance of any non-compliance;
 - (iv) take appropriate disciplinary action against Members in breach of its rules (and settlement arrangements, where appropriate);

- (v) suspend a Member's access to its facilities;
 - (vi) refer Members' or others' conduct to other appropriate authorities for possible action or further investigation;
 - (vii) retain authority over a Member for at least one year after he has ceased to be a Member;
 - (viii) where appropriate, enforce its rules (and settlement arrangements, where appropriate) against users (other than Members) of its facilities; and
 - (ix) take action against suppliers of services to Members (for example, warehouses) whose performance or conduct may be critical to ensuring compliance with its rules (and settlement arrangements, where appropriate).
- (b) the position, management and resources of the departments responsible for monitoring and overseeing the use of its facilities and for enforcing compliance with its rules (and settlement arrangements, where appropriate); and
 - (c) its arrangements for the determination of disciplinary matters including the arrangements for disciplinary hearings and the arrangements made for appeals from the Recognised Body's decisions in those matters.
3. When assessing whether its procedures to investigate complaints about the users of its facilities are satisfactory, a Licensed Body should have regard to:
- (a) whether its procedures include arrangements which enable the Licensed Body to:
 - (i) acknowledge complaints promptly;
 - (ii) consider and investigate complaints objectively, promptly and thoroughly;
 - (iii) provide a timely reply to the complainant; and
 - (iv) keep adequate records of complaints and investigations;
 - (b) its arrangements enable a Person who is the subject of a complaint to respond in an appropriate manner to that complaint; and
 - (c) the documentation of these procedures and its arrangements to ensure that the existence of these procedures is brought to the attention of Persons who might wish to make a complaint.
4. When assessing whether its arrangements include procedures for the fair, independent and impartial resolution of appeals against its decisions a Licensed Body should have regard to the following factors (at least):
- (a) its appeal procedures, including the composition and roles of any appeal committees or tribunals, and their relationship to the Governing Body;

- (b) its arrangements to ensure prompt hearings of appeals from decisions made by it;
 - (c) the format, organisation and rules of procedure of those hearings;
 - (d) its arrangements to select the Persons to preside over those hearings and to serve as members of any appeal tribunal;
 - (e) the provision for determining whether or not such hearings should be in public;
 - (f) the provision made to enable an appellant to be aware of the procedure at any appeal hearing and to have the opportunity to prepare and present his case at that hearing;
 - (g) the provision made for an appeal tribunal to give an explanation of its decision; and
 - (h) the provision for publicity for any appeals or for determining whether or not publicity should be given to the outcome of any appeal.
5. When assessing whether its arrangements include appropriate provision for ensuring the application of any financial penalties as described in the Recognition Requirements, a Licensed Body should have regard to:
- (a) its policy regarding the application of financial penalties; and
 - (b) its arrangements for applying that policy in individual cases.

2.13 Complaints

- 2.13.1 A Licensed Body must have effective arrangements for the investigation and resolution of complaints arising in connection with the performance of, or failure to perform, any of its Regulatory Functions.
- 2.13.2 The arrangements must include arrangements for a complaint to be fairly and impartially investigated by a Person independent of the Licensed Body, and for such person to report on the result of his investigation to the Licensed Body and to the complainant.
- 2.13.3 The arrangements must confer on the Person mentioned in Rule 2.13.2 the power to recommend, if he thinks appropriate, that the Licensed Body:
- (a) makes a compensatory payment to the complainant;
 - (b) remedies the matter complained of; or
 - (c) takes both of the steps set out in (a) and (b).

Guidance

1. Rule 2.13 is not intended to prevent a Licensed Body from making arrangements for the initial investigation of a complaint to be conducted by the Licensed Body.
2. When determining whether it has effective arrangements for the investigation and resolution of complaints arising in connection with the performance of, or failure to perform, any of its Regulatory Functions, a Licensed Body should have regard to the extent to which its resources and procedures enable it to:
 - (a) acknowledge complaints promptly;
 - (b) make an objective, prompt and thorough initial investigation of complaints;
 - (c) provide a timely reply to the complainant after that initial investigation;
 - (d) inform the complainant of his right to apply to the Licensed Body's complaints investigator; and
 - (e) keep adequate records of complaints and investigations.
3. When determining whether its arrangements for the investigation of complaints include appropriate arrangements for the complaint to be fairly and impartially investigated by an independent Person (a "complaints investigator"), a Licensed Body should have regard to:
 - (a) its arrangements for appointing (and removing) a complaints investigator, including the terms and conditions of such an appointment and the provision for remuneration of a complaints investigator;
 - (b) the complaints investigator's access to, and relationship with, the Licensed Body's Governing Body and Key Individuals;
 - (c) its arrangements for giving complainants access to the complaints investigator;
 - (d) the facilities made available to the complaints investigator to enable him to pursue his investigation and prepare his report and recommendations, including access to the Licensed Body's records, Key Individuals and other staff (including, where appropriate, suppliers, contractors or other Persons to whom any functions have been outsourced and their staff); and
 - (e) arrangements for the Licensed Body to consider the complaints investigator's report and recommendations.

4. If a Licensed Body considers that another Licensed Body or Licensed Firm is entirely or partly responsible for the subject matter of a complaint, it may refer the complaint, or the relevant part of it, to the other Licensed Body or Licensed Firm in accordance with the process set out in GEN 7.2.10.

2.14 Outsourcing

- 2.14.1 A Licensed Body may satisfy a Recognition Requirement applicable to it by making arrangements for a particular function to be performed on its behalf by any other Person.
- 2.14.2 A Licensed Body must ensure that any Person who performs (or is to perform) the function(s) on behalf of the Licensed Body, is a fit and proper Person who is able and willing to perform them.
- 2.14.3 A Licensed Body must, before entering into any material outsourcing arrangements with a service provider, obtain the Regulator's prior approval to do so.
- 2.14.4 A Licensed Body that outsources any functions must comply with the outsourcing requirements in GEN 3.3.31 and 3.3.32.

Guidance

1. If a Person who performs a function on behalf of a Licensed Body is himself carrying on a Regulated Activity in GMC, he will, unless he is a Person to whom the General Prohibition does not apply, need to be either a Licensed Firm or exempted from licensing. The Person to whom a function is delegated is not covered by the Licensed Body's exemption.
2. Where a Licensed Body makes arrangements under Rule 2.14, these arrangements do not alter the responsibility of the Licensed Body to meet and satisfy the Recognition Requirements.

2.15 Applications for recognition

Application Process

- 2.15.1 An Applicant for Licensed Body status must demonstrate to the Regulator that it is able to meet the Recognition Requirements before a Recognition Order can be made. Once it has been recognised, a Licensed Body must comply with the Recognition Requirements at all times.
- 2.15.2 The Regulator must refuse to make a Recognition Order in relation to a body applying for recognition as a Licensed Body if it appears to the Regulator that an existing or proposed Regulatory Provision of the Applicant in connection with the Applicant's business as a Licensed Investment Exchange or Licensed Clearing House, or will impose, an excessive requirement on Persons directly or indirectly affected by it. A requirement is excessive if it is not required by any GMC law and either:

- (a) it is not justified as pursuing a reasonable regulatory objective; or
- (b) it is disproportionate to the end to be achieved,

in either case, having regard to the effect of existing legal and other requirements, the global character of financial services and markets and the international mobility of activity, the desirability of facilitating innovation and the impact of the proposed Regulatory Provision on market confidence.

2.15.3 [Deleted.]

Guidance

There is no standard application form. A prospective Applicant should contact the Regulator at an early stage for advice on the preparation, scheduling and practical aspects of its application. It is very important that an application is comprehensively prepared, demonstrates satisfaction of all Recognition Requirements and is based on a well-developed and clear proposal.

2.15.4 An application should include the following information:

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| (a) | Details of the Applicant's constitution including copies of its memorandum and articles of association (or similar or analogous documents) and any agreements between the Applicant, its owners or other Persons relating to its constitution or governance. |
| (b) | Details of the Applicant's structure and ownership, including the identity and scale of interests of the Persons who are in a position to exercise significant influence over the management of the proposed Recognised Body, whether directly or indirectly in a structure chart. |
| (c) | A full organisation chart and a list of the posts to be held by Key Individuals (with details of the duties and responsibilities) and the names of the Persons proposed for these appointments when these names are available. |
| (d) | Copies of the Applicant's proposed Regulatory Provisions. |
| (e) | Information, evidence and explanatory material (including supporting documentation) necessary to demonstrate to the Regulator that the Recognition Requirements will be met. |
| (f) | Details of all business to be conducted by the Applicant, whether or not a Regulated Activity. |
| (g) | Details of the facilities which the Applicant plans to operate, including details of the trading platform, settlement arrangements, Clearing Services and custody services which it plans to supply. |
| (h) | Copies of the last three annual reports and accounts and, for the current financial year, quarterly management accounts. |
| (i) | Its business plan for the first three years of operation as a Recognised Body. |
| (j) | Details of its auditors, bankers, solicitors and any Persons providing corporate finance advice or similar services (such as reporting accountants) to the Applicant. |

| | |
|------|---|
| (k) | Details of any Regulatory Functions to be outsourced or delegated, with copies of relevant agreements. |
| (l) | Details of information technology systems and of arrangements for their supply, management, maintenance and upgrading, and security. |
| (m) | Details of all plans to minimise disruption to operation of its facilities in the event of the failure of its information technology systems. |
| (n) | Details of internal systems for financial control, arrangements for risk management and insurance arrangements to cover operational and other risks. |
| (o) | Details of its arrangements for managing any counterparty risks, including details of margining systems, guarantee funds and insurance arrangements. |
| (p) | Details of internal arrangements to safeguard confidential or privileged information and for handling conflicts of interest. |
| (q) | Details of arrangements for complying with the notification rules and other requirements to supply information to the Regulator. |
| (r) | Details of the arrangements to be made for monitoring and enforcing compliance with its rules and with its Clearing, settlement and default arrangements. |
| (s) | A summary of the legal due diligence carried out in relation to ascertaining the enforceability of its rules (including Default Rules) and arrangements for margin against any of its Members based outside GMC, and the results and conclusions reached. |
| (t) | Details of the procedures to be followed for declaring a Member in default, and for taking action after that event to close out positions, protect the interests of other Members and enforce its Default Rules. |
| (u) | Details of membership selection criteria, rules and procedures. |
| (v) | Details of arrangements for recording transactions effected by, or cleared through, its facilities. |
| (w) | Details of arrangements for detecting Market Abuse or Financial Crime, including arrangements for complying with money laundering law. |
| (x) | Details of criteria, rules and arrangements for selecting Financial Instruments to be admitted to trading on a Licensed Investment Exchange, or to be cleared by a Licensed Clearing House and, where relevant, details of how information regarding Financial Instruments will be disseminated to users of its facilities. |
| (y) | Details of arrangements for cooperating with the Regulator and other appropriate authorities, including draft memoranda of understanding or letters. |
| (z) | Details of the procedures and arrangements for making and amending rules, including arrangements for consulting on rule changes. |
| (aa) | Details of disciplinary and appeal procedures, and of the arrangements for investigating complaints. |
| (bb) | Any information required in accordance with directions issued by the Regulator. |

| | |
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| (cc) | The appropriate fee. |
|------|----------------------|

2.15.5 The Regulator may require the Applicant to provide additional information, and may require the Applicant to verify any information in any manner. In view of their likely importance for any application, the Regulator will normally wish to arrange for its own inspection of an Applicant's information technology systems.

Timing

2.15.6 The application must be determined by the Regulator before the end of the period of six months beginning with the date on which it receives the completed application.

2.15.7 At any time after making a formal application, the Applicant may make amendments to its rules, guidance or any other part of its application submitted to the Regulator, provided that it updates its application accordingly.

2.15.8 Deleted.

Guidance

The Regulator will keep the Applicant informed of the progress of the application. It may be necessary to ask the Applicant to clarify or amplify or discuss some aspects of its proposals, and the Regulator may invite the Applicant to attend meetings for that purpose.

2.15.9 The Regulator will follow the procedure set out in Rule 6.9.6 if it does not give its approval.

3 RULES APPLICABLE TO LICENSED INVESTMENT EXCHANGES

3.1 Introduction

3.1.1 This chapter contains additional Recognition Requirements applicable to Licensed Investment Exchanges.

3.2 Capital requirements

3.2.1 A Recognised Investment Exchange shall hold the following capital:

- (a) an amount equal to 6 months' operational expenses; plus
- (b) unless the Regulator directs otherwise, an additional buffer amount of up to a further 6 months' operating expenses.

3.2.2 For the purposes of Rule 3.2.1, operating expenses shall be considered in accordance with the International Financial Reporting Standards (IFRS).

3.2.3 Licensed Investment Exchanges shall use the most recent audited information from their annual financial statement.

3.3 Fair and orderly trading

Guidance

In this section, where a reference is made to a Derivative, it should be interpreted as a single Derivative or class of Derivative, as applicable.

3.3.1 A Licensed Investment Exchange must ensure that it has transparent and non-discretionary Business Rules and procedures to provide for fair and orderly trading, and to establish objective criteria for the efficient execution of orders.

Guidance

When determining, for the purposes of Rule 3.3.1, whether it has clear and transparent Business Rules concerning the admission of Financial Instruments to trading on any Multilateral Trading Facility operated by it, a Licensed Investment Exchange should have regard to:

- (a) whether there is a sufficient range of Persons already holding the Financial Instrument (or, where relevant, the underlying asset) or interested in dealing in it to bring about adequate forces of supply and demand;
- (b) the extent to which there are any limitations on the Persons who may hold or deal in the Financial Instrument, or the amounts of the Financial Instrument which may be held; and
- (c) whether it has adequate procedures for obtaining information relevant for determining whether or not to suspend or discontinue trading in that Financial Instrument.

3.3.2 In order to ensure that business conducted by means of its facilities is conducted in an

orderly manner (and so as to afford proper protection to investors), a Licensed Investment Exchange's Business Rules and procedures are to:

- (a) be consistent with the Code of Market Conduct;
- (b) prohibit abusive trading practices or the deliberate reporting or publication of false information about trades;
- (c) prohibit or prevent:
 - i. trades in which a party is improperly indemnified against losses;
 - ii. trades intended to create a false appearance of trading activity ("wash trades");
 - iii. cross trades executed for improper purposes;
 - iv. improperly prearranged or pre-negotiated trades;
 - v. trades intended to assist or conceal any potentially identifiable trading abuse ("accommodation trades");
 - vi. and trades which one party does not intend to close out or settle.

3.3.3 A Licensed Investment Exchange's arrangements and practices must:

- (a) enable Members and Clients for whom they act to obtain the best price available at the time for their size and type of trade;
- (b) include procedures which enable the Licensed Investment Exchange to influence trading conditions or suspend trading promptly when necessary to maintain an orderly market; and
- (c) if they include arrangements to support or encourage liquidity:
 - i. be transparent;
 - ii. not encourage any Person to enter into transactions other than for proper trading purposes (which may include hedging, investment, speculation, price determination, arbitrage and filling orders from any Client for whom he acts);
 - iii. be consistent with a reliable, undistorted price-formation process; and
 - iv. alleviate dealing or other identified costs associated with trading on the Licensed Investment Exchange's markets and do not subsidise a market position of a user of its facilities.

3.3.4 The Business Rules of a Licensed Investment Exchange must provide that the Licensed Investment Exchange must not exercise its power to suspend or remove from trading on a market operated by it any Financial Instrument which no longer complies with its Business Rules, where such step would be likely to cause significant damage to the

interests of investors or the orderly functioning of the GMC Financial System.

Price and Position Limits in Respect of Derivatives

- 3.3.5 A Licensed Investment Exchange must ensure that the risks to fair and orderly trading, arising from sharp price movements, are mitigated for Derivatives.

Price Limits

- 3.3.6 A Licensed Investment Exchange may impose price limits in relation to a Derivative to mitigate the risks to fair and orderly trading arising from sharp movements in the price of the Derivative.

Position Limits

- 3.3.7 A Licensed Investment Exchange must, in respect of a Commodity Derivative, or other relevant Derivative that is physically settled:

- (a) implement position limits for the purposes of mitigating the risk of Market Abuse in the market on which:
 - (i) the Derivative is admitted to trading; and
 - (ii) the underlying asset(s) of the Derivative is traded;

Guidance

A Licensed Investment Exchange should consider the impact on its Derivative market from changes in the underlying market, and set its position limits accordingly. Considerations of the physical market characteristics may also be relevant, including deliverable supply, delivery locations, substitutes, etc.

- (b) ensure that its position limits are not exceeded by any Member or other participant trading in the Derivative, including through the acquisition of additional positions;
- (c) require that its Members and other participants report their positions on a regular basis and upon the occurrence of certain relevant events;
- (d) include provisions in its Business Rules which impose appropriate obligations on Members and other participants, to ensure their compliance with its position limit obligations;
- (e) immediately notify the Regulator when a position limit threshold is exceeded, detailing:
 - (i) the reason why such a large position is being held;
 - (ii) how the holding of the position furthers the participant's or Member's trading strategy; and
 - (iii) whether the position is being used for hedging and details of the

relevant contracts being hedged against (where applicable);

- (f) upon request by the Regulator, make available the information collected by the Recognised Investment Exchange for the purposes of monitoring and enforcing the position limit obligations of its Members and other participants; and
- (g) have in place appropriate internal governance arrangements to ensure its position limits are effective in mitigating relevant risks, including the risks relating to Market Abuse.
- (h) have in place appropriate quantitative and qualitative trigger levels to support (a)-(g) above.

3.3.7 A Where a Licensed Investment Exchange is part of the same Group as another investment exchange and the Regulator determines that that investment exchange complies with legally binding requirements regarding position reporting in another jurisdiction which are broadly equivalent to the requirements set out in Rules 3.3.12 to 3.3.15, the Licensed Investment Exchange may submit position reporting complying with the requirements of the other jurisdiction for purposes of complying with its obligations under Rules 3.3.12 to 3.3.15.

3.3.8 A Licensed Investment Exchange must demonstrate to the Regulator, at least annually and otherwise upon request, how its position limits are effective in mitigating Market Abuse including considerations of, amongst other factors, whether its position limits materially reduce the likelihood of:

- (a) the accumulation of an open interest in any Derivative by one or more participants to the Derivative;
- (b) one or more participants, or Members, trading in any Derivative, whether individually or collectively, being able to influence the price of the Derivative; and
- (c) one or more participants, or Members, trading in any Derivative, whether individually or collectively, influencing the price or value of one or more underlying assets of the Derivative.

3.3.9 When determining whether a position limit imposed in respect of a Derivative has been exceeded by a participant or Member trading in the Derivative, a Licensed Investment Exchange must take into account:

- (a) any position held by any other Person directly, or indirectly, controlled by the participant or Member;
- (b) any position held by any other Person acting, pursuant to an express or implied agreement or understanding, as if such position were held by the participant or Member; and
- (c) any position held in respect of an Option on the Derivative contract, calculated on a Derivative equivalent basis.

3.3.10 A Licensed Investment Exchange must have the capabilities to determine whether a

participant or Member has exceeded any position limit set in respect of any Derivative or class of Derivatives in accordance with Rule 3.3.9.

- 3.3.11 Where a Licensed Investment Exchange determines that a participant or Member has exceeded any position limit, the Licensed Investment Exchange must subject the participant or Member to one or more of the following conditions so as to correct the participant's or Member's position;
- (a) a restriction on any further increase in the participant's or Member's positions;
 - (b) a requirement to liquidate the participant's or Member's positions to comply with the position limit, within such time as the Recognised Investment Exchange may determine; or
 - (c) such other trading conditions and restrictions as the Licensed Investment Exchange may consider necessary to ensure compliance with the relevant position limit.

Guidance

A Licensed Investment Exchange should also consider engaging with the entity providing settlement and clearing services under MIR 3.8 for the purposes of the margin arrangements utilised by such entities in relation to positions.

Position Reports

- 3.3.12 A Licensed Investment Exchange must make public, and provide to the Regulator, a weekly report detailing the aggregate positions held by each category of participant for each Derivative that is admitted to trading on the Licensed Investment Exchange, specifying:
- (a) the number of long and short positions by such categories;
 - (b) any changes in positions since the previous report;
 - (c) the percentage of the total open interest represented by each category of participant; and
 - (d) the number of persons holding a position in each category of participant.
- 3.3.13 Upon request by the Regulator, the Licensed Investment Exchange must provide the Regulator with a detailed overview of the positions held by all Members, other participants, and their clients, in relation to each Derivative admitted to trading on the Licensed Investment Exchange.
- 3.3.14 For the weekly report referred to under Rule 3.3.12, the Licensed Investment Exchange must:
- (a) categorise persons in accordance with Rule 3.3.15; and
 - (b) differentiate, to the extent possible, between positions identified as:

- (i) positions which in an objectively measurable way reduce risks directly relating to commercial activities; and
- (ii) other positions.

3.3.15 A Licensed Investment Exchange should, to the extent possible, classify all persons holding positions in Derivatives according to the nature of their main business, taking into account any applicable authorisation or registration, including as:

- (a) a financial intermediary including those Dealing in Investments as Agent, Dealing in Investments as Principal or Arranging Credit, or those treated as a financial intermediary under an equivalent term in a jurisdiction outside GMC;
- (b) an investment fund, including those Managing Assets or Managing a Collective Investment Fund, or those treated similarly in a jurisdiction outside GMC;
- (c) another Financial Institution, including insurance management; or
- (d) a commercial undertaking.

3.4 Rules Applicable to Recognised Investment Exchanges that are also MTF or OTF Operators, and rules on Trade Repositories, Accepted Spot Commodities and Specified Benchmarks

3.4.1 A Licensed Investment Exchange may carry on the Regulated Activity of operating an MTF or OTF provided that its Recognition Order includes a stipulation permitting it to do so. If it does include such a stipulation, the specific rules on MTFs and OTFs in COBS will apply to that function, but that function only.

3.4.2 A Licensed Investment Exchange operating an MTF or an OTF, must also operate a market that complies with the Recognition Requirements.

3.4.3 A Licensed Investment Exchange may also act as a Trade Repository if its Recognition Order includes a stipulation permitting it to do so. Acting as a Trade Repository will result in it being subject to the additional conduct requirements in Appendix 2 of GEN.

3.4.4 A Licensed Investment Exchange may also conduct activities in relation to Accepted Spot Commodities if its Recognition Order includes a stipulation permitting it to do so. If it does include such a stipulation, the additional rules on Spot Commodities in COBS chapter 22 will apply to that function, but that function only.

3.4.5 A Licensed Investment Exchange may also conduct the activities of Administering a Specified Benchmark or of Providing Information in relation to a Specified Benchmark if its Recognition Order includes a stipulation permitting it to do so. If it does include such a stipulation, the additional rules on Benchmarks in COBS chapter 22 will apply to that function, but that function only.

3.5 Pre-trade transparency obligations

3.5.1 A Licensed Investment Exchanges shall, in relation to Financial Instruments traded on its systems, make public continuously throughout its normal trading hours, and submit to the Regulator, in accordance with the type of trading system they operate:

- (a) the information specified in Rule 3.5.5; and
- (b) current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems.

3.5.2 [Deleted]

3.5.3 [Deleted]

3.5.4 [Deleted]

3.5.5 Information to be made public

| Type of Trading System | Description of Trading System | Summary of information to be made public for each Financial Instrument |
|--|--|--|
| Continuous auction order book trading system | A system that by means of an order book and a trading algorithm operated without human intervention matches sell orders with matching buy orders on the basis of the best available price on a continuous basis. | The aggregate number of orders and the Financial Instruments those orders represent, at each price level, for at least the five best bid and offer price levels. |
| Quote-driven trading system | A system where transactions are concluded on the basis of firm quotes that are continuously made available to participants, which requires the market makers to maintain quotes in a size that balances the needs of Members and | The best bid and offer by price of each market maker in that Financial Instrument, together with the |

| Type of Trading System | Description of Trading System | Summary of information to be made public for each Financial Instrument |
|--|---|---|
| | <p>participants to deal in a commercial size and the risk to which the market maker exposes itself.</p> | <p>volumes attaching to those prices.</p> <p>The quotes made public shall be those that represent binding commitments to buy and sell the Financial Instruments and which indicate the price and volume of Financial Instruments in which the registered market makers are prepared to buy or sell.</p> <p>In exceptional market conditions, however, indicative or one-way prices may be allowed for a limited time.</p> |
| <p>Periodic auction trading system</p> | <p>A system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention.</p> | <p>The price that would best satisfy the system's trading algorithm and the volume that would potentially be executable at that price by participants in the system.</p> |
| <p>Trading system not covered by first three trading systems</p> | <p>A hybrid system falling into two or more of the first three trading systems or a system where the price determination process is of a different nature than that applicable to the types of system covered by the first three trading systems.</p> | <p>Adequate information as to the price level of orders or quotes for each Financial Instrument, and of the trading interest in that Financial Instrument.</p> <p>In particular, the five best bid and offer price levels and/or two way quotes of each market maker in the Financial</p> |

| Type of Trading System | Description of Trading System | Summary of information to be made public for each Financial Instrument |
|------------------------|-------------------------------|--|
| | | Instrument, if the characteristics of the price discovery mechanism so permit. |

3.5.6 [Deleted]

Waivers based on market model and type of order or transaction

3.5.7 Waivers from Rule 3.5.1 based on market model and transaction may be granted by the Regulator in respect of Financial Instruments, for any of the following:

- (a) systems matching orders based on a trading methodology by which the price of the Financial Instrument is derived from a reference price generated by another trading venue or the most relevant market in terms of liquidity, where that reference price is widely published and is regarded by Members as a reliable reference price;
- (b) systems that formalise negotiated transactions, which are:
 - (i) made at, or within, the current volume weighted spread reflected on the order book or the quotes of the market makers, subject to a volume cap to be determined by the Regulator to ensure that the use of this waiver does not unduly harm price formation;
 - (ii) where the Financial Instrument does not fall within the meaning of a liquid market, and are dealt within a percentage of a suitable reference price, being a percentage and a reference price set in advance by the Recognised Investment Exchange; or
 - (iii) subject to conditions other than the current market price of that Financial Instrument, being:
 - i. a transaction related to an individual Financial Instrument in a portfolio trade; or
 - ii. a volume weighted average price transaction.
- (c) orders that are large in scale compared with normal market size, as set out in Rule 3.5.11; or
- (d) orders held in an order management facility of the Licensed Investment Exchange pending disclosure.

3.5.8 For Financial Instruments not covered by Rule 3.5.7, waivers may be granted by the Regulator for any of the following:

- (a) orders that are large in scale compared with normal market size;
- (b) orders held in an order management facility of the Recognised Investment Exchange pending disclosure; or
- (c) Financial Instruments for which there is not a liquid market.

References to negotiated transaction

3.5.G For the purpose of Rule 3.5.7(b), a negotiated transaction shall mean a transaction involving Members or participants of a Licensed Investment Exchange which is negotiated privately but executed within the Licensed Investment Exchange and where that Member or participant in doing so undertakes one of the following tasks:

- (a) dealing on own account with another Member or participant who acts for the account of a Client;
- (b) dealing with another Member or participant, where both are executing orders on own account;
- (c) acting for the account of both the buyer and seller;
- (d) acting for the account of the buyer, where another Member or participant acts for the account of the seller; or
- (e) trading for own account against a Client order.

3.5.10 [Deleted]

3.5.11 Waivers in relation to transactions which are large in scale

For the purpose of Rule 3.5.7(c), an order shall be considered to be large in scale compared with normal market size if it is equal to or larger than the minimum size of order specified in Rule 3.5.12. For the purposes of determining whether an order is large in scale compared to normal market size, all Financial Instruments admitted to trading on a Recognised Investment Exchange market shall be classified in accordance with their average daily turnover, in accordance with Rule 3.5.12.

3.5.12 Orders large in scale compared with normal market size

| Class in terms of average daily turnover (ADT, in USD) | ADT <= 500,000 | 500 000 < ADT <= 1,000,000 | 1 000 000 < ADT <= 25,000,000 | 25 000 000 < ADT <= 50,000,000 | ADT > 50,000,000 |
|---|--------------------------|---|--|---|----------------------------|
| Minimum size of order qualifying as large in scale compared with normal market size | 50,000 | 100,000 | 250,000 | 400,000 | 500,000 |

3.6 Post-trade transparency obligation

3.6.1 A Licensed Investment Exchange must make arrangements for the price, volume and time of transactions executed in Financial Instruments to be made available to the public and the Regulator as close to real-time as technically possible assuming a reasonable level of efficiency and of expenditure on systems on the part of the Licensed Investment Exchange, provided that:

- (a) information relating to a portfolio trade shall be made available with respect to each constituent transaction as close to real time as possible, having regard to the need to allocate prices to particular Financial Instruments; and
- (b) post-trade information referring to transactions taking place on a Licensed Investment Exchange but outside its normal trading hours shall be made public before the opening of the next trading day of the Licensed Investment Exchange.

3.6.2 A Licensed Investment Exchange shall, with regard to Transactions in respect of Financial Instruments admitted to trading on or concluded within their systems, make public the following details:

- (a) those specified in Rule 3.6.7;
- (b) an indication that the exchange of Financial Instruments is determined by factors other than the current market valuation of the Financial Instrument, where the Transaction:
 - (i) related to an individual Financial Instrument in a portfolio trade; or
 - (ii) is a volume weighted average price Transaction.
- (c) an indication that the trade was a negotiated trade, where applicable; and
- (d) any amendments to previously disclosed information, where applicable.

These details shall be made public either by reference to each Transaction or in a form aggregating the volume and price of all Transactions in the same Financial Instrument taking place at the same price at the same time.

Deferrals

3.6.3 The Regulator may authorise a Licensed Investment Exchange to provide for deferred publication of the details of transactions based on the size or type of the transaction. In particular, the Regulator may authorise the deferred publication in respect of transactions that:

- (a) are large in scale compared with the normal market size for that Financial Instrument;
- (b) are related to Financial Instrument traded on a trading venue for which there is not a liquid market; or
- (c) are above a size specific to that Financial Instrument which would expose liquidity providers to undue risk and takes into account whether the relevant market participants are retail or wholesale investors.

3.6.4 A Licensed Investment Exchange shall obtain the Regulator's prior approval of proposed arrangements for deferred trade-publication, and shall clearly disclose those arrangements to market participants and the public.

3.6.5 If a Licensed Investment Exchange decides to provide Members, and if applicable, Licensed Firms, details of transactions in Financial Instruments, it must do so on reasonable commercial terms and on a non-discriminatory basis.

3.6.6 The Regulator may permit the requirements of Rule 3.6.1 to be deferred in respect of large volume or for certain types of trades, as specified in Rule 3.6.8, in which case the Licensed Investment Exchange must ensure that the existence of and the terms of the deferral are disclosed to Members and users of their facilities, and to investors.

3.6.7 Post Trade Information

| Detail | Information |
|------------------|---|
| (a) Trading Day | The trading day on which the transaction was executed. |
| (b) Trading Time | The time in UTC (Universal Time Coordinated) or a time zone clearly identified to the user at which the transaction was executed. |

| | |
|-------------------------------|--|
| (c) Instrument Identification | This shall consist of a unique code to be decided by the Regulator identifying the Financial Instrument which is the subject of the transaction; or, if the Financial Instrument in question does not have a unique identification code, the report must include the name of the Financial Instrument. |
| (d) Unit Price | The price per Financial Instrument excluding commission and (where relevant) accrued interest. |
| (e) Price Notation | The currency in which the price is expressed. |
| (f) Quantity | The number of units of the Financial Instruments. |
| (g) Venue identification | Identification, if applicable, of the venue where the transaction was executed. |

3.6.8 Deferred publication of large transactions

The deferred publication of information in respect of transactions may be authorised, for a period no longer than the period specified in Rule 3.6.10 for the class of Financial Instrument and transaction concerned, provided the following criteria are satisfied:

- (a) the transaction is between a Member or if applicable, Licensed Firm, dealing on own account and a Client of that firm; and
- (b) the size of that transaction is equal to or exceeds the relevant minimum qualifying size, as specified in Rule 3.6.10. In order to determine the relevant minimum qualifying size, all Financial Instruments admitted to trading on a Licensed Investment Exchange shall be classified in accordance with their average daily turnover to be calculated in accordance with Rule 3.6.10.

3.6.9 Each constituent transaction of a portfolio trade shall be assessed separately for the purposes of determining whether deferred publication in respect of that transaction is available.

3.6.10 Deferred publication thresholds and delays

The table below shows, for each permitted delay for publication and each class of Financial Instrument in terms of average daily turnover (ADT), the minimum qualifying size of transaction that will qualify for that delay in respect of a Financial Instrument of that type.

| Permitted delay for publication | Class of Financial Instruments in terms of average daily turnover (ADT, in USD) | | | |
|--|---|----------------------------|-------------------------------|------------------------------|
| | ADT <= 100,000 | 100,000 < ADT <= 1,000,000 | 1,000,000 <= ADT < 50,000,000 | ADT > 50,000,000 |
| | Minimum qualifying size of transaction for permitted delay | | | |
| 60 minutes | 10,000 | max (5% of ADT, 25,000) | min (10% of ADT, 3,500,000) | min (10% of ADT, 7,500,000) |
| 180 minutes | 25,000 | max (15% of ADT, 75,000) | min (15% of ADT, 5,000,000) | min (20% of ADT, 15,000,000) |
| Until end of trading day (or roll-over to 12pm of next trading day if trade undertaken in final 12 hours of trading day) | 45,000 | max (25% of ADT, 100,000) | min (25% of ADT, 10,000,000) | min (30% of ADT, 30,000,000) |
| Until end of trading day next after trade | 60,000 | max (50% of ADT, 100,000) | max (50% of ADT, 1,000,000) | 100% of ADT |
| Until end of second trading day next after trade | 80,000 | 100% of ADT | 100% of ADT | 250% of ADT |
| Until end of third trading day next after trade | | 250% of ADT | 250% of ADT | |

3.7 Public disclosure

3.7.1 Any arrangement to make information public shall satisfy the following conditions:

- (a) it must include all reasonable steps necessary to ensure that the information to be published is reliable, monitored continuously for errors, and corrected as soon as errors are detected;
- (b) it must facilitate the consolidation of the data with similar data from other sources; and
- (c) it must make the information available to the public on a non-discriminatory commercial basis at a reasonable cost.

3.7.2 For the purposes of Rule 3.7.1(a), a verification process should be established which does not need to be external from the organisation of the publishing entity, but which should be an independent cross-check of the accuracy of the information generated by the trading

process. This process should have the capability to at least identify price and volume anomalies, be systematic and conducted in real-time. The chosen process should be reasonable and proportionate in relation to the business.

3.7.3 In respect of arrangements pertaining to public disclosure in Rule 3.7.1:

- (a) For the purposes of Rule 3.7.1(b), information is made public, if it:
 - (i) is accessible by automated electronic means in a machine-readable way;
 - (ii) utilises technology that facilitates consolidation of the data and permits commercially viable usage; and
 - (iii) is accompanied by instructions outlining how users can access the information.
- (b) For the purposes of Rule 3.7.3(a)(i), an arrangement fulfils the 'machine-readable' criteria where the data:
 - (i) is in a physical form that is designed to be read by a computer;
 - (ii) is in a location on a computer storage device where that location is known in advance by the party wishing to access the data; and
 - (iii) is in a format that is known in advance by the party wishing to access the data.
- (c) Publication on a non-machine-readable website would not meet the requirements of Rule 3.7.1(a).

3.7.4 Information that is made public should conform to a consistent and structured format based on industry standards. Licensed Investment Exchanges can choose the structure that they use.

Guidance

1. When determining whether appropriate arrangements have been made to make relevant information available to Persons engaged in dealing in Financial Instruments admitted to trading on the Licensed Investment Exchange, a Licensed Body should have regard to:
 - (a) the extent to which Members and Clients for whom they act are able to obtain information about those Financial Instruments, either through accepted channels for dissemination of information or through other regularly and widely accessible communication media, to make a reasonably informed judgment about the value and the risks associated with those Financial Instruments in a timely fashion;
 - (b) what restrictions, if any, there are on the dissemination of relevant information to the Licensed Investment Exchange's Members and Clients for whom they act; and

- (c) whether relevant information is or can be kept to restricted groups of Persons in such a way as to facilitate or encourage dealing in contravention of the Code of Market Conduct.

Own means of dissemination

- 2. A Licensed Investment Exchange does not need to maintain their own arrangements for disseminating news or information about Financial Instruments (or underlying assets) to their Members where they have made adequate arrangements for other Persons to do so on their behalf or there are other effective and reliable arrangements for this purpose.

3.8 Settlement and Clearing Services

- 3.8.1 A Licensed Investment Exchange, when engaging a Clearing Service, must ensure that satisfactory arrangements are made for securing the timely discharge (whether by performance, compromise or otherwise), Clearing and settlement of the rights and liabilities of the parties to transactions effected on the Licensed Investment Exchange (being rights and liabilities in relation to those transactions).
- 3.8.2 The engagement of a Licensed Clearing House or Remote Clearing House will be deemed sufficient to satisfy Rule 3.8.1.
- 3.8.3 If a Licensed Investment Exchange engages a party that is not a Licensed Clearing House or a Non-GMC Clearing House, the Recognised Investment Exchange must confirm to the Regulator, in writing, the satisfactory arrangements made under Rule 3.8.1.

Guidance

- 1. The satisfactory arrangements required by Rule 3.8.1 should reference the requirements set out in Rule 4.3.3.
 - 2. For the settlement of digital Securities, the engagement of a digital settlement facility may be deemed sufficient for evidencing satisfactory settlement arrangements.
- 3.8.4 The Business Rules of the Licensed Investment Exchange must permit a Member to use whatever settlement facility they choose for a transaction. This Rule only applies where:
 - (a) such links and arrangements exist between the chosen settlement facility and any other settlement facility as are necessary to ensure the efficient and economic settlement of the transaction; and
 - (b) the Licensed Investment Exchange is satisfied that the smooth and orderly functioning of the GMC financial markets will be maintained.

3.9 Admission of Financial Instruments to trading

- 3.9.1 Admission to trading

In order to admit Financial Instruments to trading, a Recognised Investment Exchange must satisfy the following requirements, save and except for Recognised Investment Exchanges which only admit to trading Derivatives, in which case only (a), (b), (c)(ii), (d), (f), (g), and (j) apply:

- (a) A Recognised Investment Exchange's Business Rules must be clear and transparent in relation to the admission of Financial Instruments to trading on any market operated by it.
- (b) The Business Rules must ensure that all Financial Instruments admitted to trading on any market operated by the Recognised Investment Exchange are capable of being traded in a fair, orderly and efficient manner.
- (c) The Business Rules must ensure that:
 - (i) all Financial Instruments other than Derivatives admitted to trading on a market operated by the Recognised Investment Exchange are freely negotiable; and
 - (ii) all contracts for Derivatives admitted to trading on a regulated market operated by the Recognised Investment Exchange are designed so as to allow for their orderly pricing as well as for the existence of effective settlement conditions.
- (d) For the purposes of meeting the requirements in Rule 3.9.1(c)(ii), a Recognised Investment Exchange must include in its Business Rules, or its Business Rule procedures, contract design specifications relating to Derivative contracts traded on its market which, at a minimum, include:
 - (i) minimum price fluctuations (price ticks);
 - (ii) maximum price fluctuations (daily price limits), if any;
 - (iii) last trading day;
 - (iv) settlement or delivery procedures as applicable;
 - (v) trading months;
 - (vi) position limits, if any;
 - (vii) reportable levels; and
 - (viii) trading hours
- (e) The Recognised Investment Exchange must maintain effective arrangements to verify that Issuers of Financial Instruments admitted to trading on a market operated by it comply with its disclosure obligations.

- (f) The Recognised Investment Exchange must maintain arrangements to assist users of a market operated by it to obtain access to information made public under its disclosure obligations.
- (g) The Recognised Investment Exchange must maintain arrangements regularly to review whether the Financial Instruments admitted to trading on a market operated by it comply with the admission requirements for those Financial Instruments.
- (h) The Business Rules must provide that where a Recognised Investment Exchange, without obtaining the consent of the Issuer, admits to trading on a market operated by it a Financial Instrument which has been admitted to trading on another market, the Recognised Investment Exchange:
 - (i) must inform the Issuer of that Financial Instrument as soon as is reasonably practicable; and
 - (ii) may not require the Issuer of that Financial Instrument to demonstrate compliance with its disclosure obligations.
- (i) The Business Rules must provide that where a Recognised Investment Exchange, without obtaining the consent of the Issuer, admits to trading on an MTF operated by it a Financial Instrument which has been admitted to trading on a market, it may not require the Issuer of that Financial Instrument to demonstrate compliance with its disclosure obligations.
- (j) A Recognised Investment Exchange must comply with the requirements of Rule 3.11 where it admits to trading on a market operated by it a Financial Instrument, the value of which is determined by reference to an underlying benchmark or index provided by a Price Reporting Agency.

3.9.2 Financial Instruments – Freely negotiable and fair, orderly and efficient

For the purposes of Rules 3.9.1(b) and 3.9.1(c)(i):

- (a) Financial Instruments shall be considered freely negotiable if they can be traded between the parties to a transaction, and subsequently transferred without restriction, and if all Financial Instruments within the same class as the Financial Instrument in question are fungible.
- (b) Financial Instruments which are subject to a restriction on transfer shall not be considered as freely negotiable unless the restriction is not likely to disturb the market.
- (c) Financial Instruments that are not fully paid may be considered as freely negotiable, if arrangements have been made to ensure that the negotiability of such Financial Instruments is not restricted and that adequate information concerning the fact that the Financial Instruments are not fully paid, and the implications of that fact for shareholders, is publicly available.

- (d) When exercising its discretion whether to admit a Financial Instrument to trading, a Recognised Investment Exchange shall, in assessing whether the Financial Instrument is capable of being traded in a fair, orderly and efficient manner, take into account the following:
 - (i) the distribution of those Financial Instruments to the public; and
 - (ii) such historical financial information, information about the Issuer, and information providing a business overview as is required to be prepared under the Market Rules or is or will be otherwise publicly available.
- (e) A Financial Instrument that is admitted to the Official List, and the listing of which is not suspended, shall be deemed to be freely negotiable and capable of being traded in a fair, orderly and efficient manner.
- (f) When assessing whether a Financial Instrument is capable of being traded in a fair, orderly and efficient manner, the Recognised Investment Exchange shall take into account, whether the following criteria (if relevant to the particular kind of Financial Instrument) are satisfied:
 - (i) the terms of the Financial Instrument are clear and unambiguous and allow for a correlation between its price and the price or other value measure of the underlying Financial Instrument;
 - (ii) the price or other value measure of the underlying Financial Instrument is reliable and publicly available;
 - (iii) there is sufficient information publicly available of a kind needed to value the Financial Instrument;
 - (iv) the arrangements for determining the settlement price of the Financial Instrument ensure that this price properly reflects the price or other value measure of the underlying; and
 - (v) where the settlement of the Financial Instrument requires or provides for the possibility of the delivery of an underlying security or asset rather than cash settlement, there are adequate settlement and delivery procedures for that underlying as well as adequate arrangements to obtain relevant information about that underlying.

Units in collective investment funds

When assessing whether Units are capable of being traded in a fair, orderly and efficient manner for the purposes of Rule 3.9.1, a Recognised Investment Exchange shall take the following aspects into account:

- (a) For an open-ended Collective Investment Fund:

- (i) ~~the distribution of those Units to the public;~~
 - (ii) whether there are appropriate market-making arrangements, or whether the Fund Manager provides appropriate alternative arrangements for investors to redeem the Units; and
 - (iii) whether the value of the units is made sufficiently transparent to investors by means of the periodic publication of the net asset value.
- (b) For a closed-ended Investment Fund:
- (i) the distribution of those Units to the public; and
 - (ii) whether the value of the Units is made sufficiently transparent to investors, either by publication of information on the Fund's investment strategy or by the periodic publication of a net asset value.

Derivatives

When admitting to trading a Financial Instrument that is a Derivative, a Licensed Investment Exchange shall verify that the following conditions are satisfied:

- (a) the terms of the contract establishing the Derivative must be clear and unambiguous, and enable a correlation between the price of the Derivative and the price or other value measure of the underlying;
- (b) the price or other value measure of the underlying must be reliable and publicly available or ascertainable; or the contract establishing that instrument must be likely to provide a means of disclosing to the market, or enabling the market to assess, the price or other value measure of the underlying, where the price or value measure is not otherwise publicly available;
- (c) sufficient information of a kind needed to value the Derivative must be publicly available or ascertainable;
- (d) the arrangements for determining the settlement price of the contract must be such that the price properly reflects the price or other value measure of the underlying or reference;
- (e) the Licensed Investment Exchange must ensure that appropriate supervisory arrangements are in place to monitor trading and settlement in such Derivative;
- (f) the Licensed Investment Exchange must ensure that settlement and delivery, whether physical delivery or by cash settlement, can be effected in accordance with the contract terms and conditions of those Derivative; and
- (g) where the settlement of the Derivative requires or provides for the possibility of the delivery of an underlying security or asset rather than cash settlement, there must be adequate arrangements to enable market participants to obtain relevant information about that underlying, as well as adequate settlement and delivery procedures for the underlying.

3.9.5 [Deleted]

3.10 Default Rules

3.10.1 A Licensed Investment Exchange must have legally enforceable Default Rules which, in the event of a Member of the Licensed Investment Exchange being or appearing to be unable to meet his obligations in respect of one or more Market Contracts, enable it to suspend or terminate such Member's membership and cooperate by sharing information with its Licensed Clearing House.

3.10.2 The Licensed Investment Exchange must issue a public notice on its website in respect of any Member whose membership is so suspended or terminated.

3.10.3 The Licensed Investment Exchange must be able and willing to cooperate, by the sharing of information and otherwise, with the Regulator, any Relevant Office Holder and any other authority or body having responsibility for any matter arising out of, or connected with, the default of a Member of the Licensed Investment Exchange or any designated non-Member or the default of a Licensed Clearing House or another Licensed Investment Exchange.

3.11 Use of Price Reporting Agencies

3.11.1 When admitting to trading a Financial Instrument that references an underlying benchmark or index provided by a Price Reporting Agency, a Licensed Investment Exchange must undertake appropriate due diligence to ensure that the Price Reporting Agency meets the requirements in Rule 3.11.2.

3.11.2 For the purposes of Rules 3.11.1 and 3.11.3, a Price Reporting Agency must:

- (a) have fair and non-discriminatory procedures for establishing prices of a Financial Instrument, which are made public;
- (b) demonstrate adequate and appropriate transparency over the methodology, calculation and inputs to allow users to understand how the benchmark or index is derived and its potential limitations;
- (c) where appropriate, give priority to concluded transactions in making assessments and adopt measures to minimise selective reporting;
- (d) be of good standing and repute as an independent and objective price reporting agency or index provider;
- (e) have a sound corporate governance framework;
- (f) have adequate arrangements to avoid its staff having any conflicts of interest where such conflicts are, or are likely to have, a material adverse impact on a price establishment process; and
- (g) adequate complaint resolution mechanisms to resolve any complaints about its

assessment process and methodology.

- 3.11.3 A Licensed Investment Exchange must have arrangements in place to regularly review whether a Price Reporting Agency continues to meet the requirements of Rule 3.11.2.

4 RULES APPLICABLE TO RECOGNISED CLEARING HOUSES

4.1 Introduction

4.1.1 This chapter contains additional Recognition Requirements applicable to Licensed Clearing Houses.

4.1.2 The Rules in this chapter are intended to be consistent with the CPSS-IOSCO Principles for Financial Market Infrastructures. All Licensed Clearing Houses should comply with such principles.

Guidance

Requirements that may be of specific interest to a Licensed Clearing House that is providing Central Counterparty Services are set out in the following Rules:

- (a) Rule 4.6 (Stress testing of capital);
- (b) Rule 4.7.14 to 4.7.21 (Credit risk);
- (c) Rule 4.10 (Collateral and margin); and
- (d) Rule 4.12 (Segregation and portability).

4.1.3 [Deleted]

4.1.4 A Licensed Clearing House may also act as a Trade Repository if its Recognition Order includes a stipulation permitting it to do so. Acting as a Trade Repository will result in it being subject to the additional conduct requirements in Appendix 2 of GEN.

4.1.5 A Licensed Clearing House may also conduct activities in relation to Accepted Virtual Assets if its Recognition Order includes a stipulation permitting it to do so. If it does include such a stipulation, the additional rules on Virtual Assets in COBS chapter 17 will apply to that function, but that function only.

4.1.6 A Licensed Clearing House may also conduct activities in relation to Accepted Spot Commodities if its Recognition Order includes a stipulation permitting it to do so. If it does include such a stipulation, the additional rules on Spot Commodities in COBS chapter 22 will apply to that function, but that function only.

4.1.7 A Licensed Clearing House which provides central counterparty, clearing or settlement facilities must make transparent and non-discriminatory Clearing Rules based on objective criteria, governing access to those facilities. A Licensed Body may refuse access to these facilities on legitimate commercial grounds.

4.2 Capital requirements

4.2.1 A Licensed Clearing House shall hold capital more than or equal to the sum of capital calculated in respect of the following risks.

- (a) **Winding down or restructuring activities.** Six months' gross operating

expenses.

- (b) **Operational risks.** A Licensed Clearing House shall calculate its capital requirement for operational risks using either the Basic Indicator Approach or, with prior authorisation from the Regulator, the Standardised Approach or the Alternative Standardised Approach, both as provided specifically in Appendix 7.3 and generally in Appendix 7 of PRU.
- (c) **Credit, counterparty credit and market risks.** A Licensed Clearing House shall calculate its capital requirements as the sum of 10% of its risk-weighted exposure amounts for credit and counterparty credit risk and its capital requirements for market risk calculated in accordance with Appendix 6 of PRU, subject to the following.
 - (i) For the calculation of the risk-weighted exposure amounts for credit risk and counterparty credit risk, a Licensed Clearing House shall apply the Credit Risk Capital Requirement (CRCOM) method in section 4.8 of PRU.
 - (ii) Where a Licensed Clearing House does not use its own resources, the Licensed Clearing House shall apply a risk weight of 250% to its exposure stemming from any contributions to the default fund of another Clearing house and a risk weight of 2% to any trade exposures with another Clearing house.
- (d) **Business risk.** A Licensed Clearing House shall submit to the Regulator for approval its own estimate of the capital necessary to cover losses resulting from business risk based on reasonably foreseeable adverse scenarios relevant to its business model. The capital requirement for business risk shall be equal to the approved estimate and shall be subject to a minimum amount of 25% of its annual gross operating expenses.

4.2.2 For the purposes of Rule 4.2.1, Licensed Clearing Houses shall use the most recent audited information from their annual financial statement and operating expenses shall be considered in accordance with International Financial Reporting Standards (IFRS).

4.2.3 A Licensed Clearing House shall have procedures in place to identify all sources of risks that may impact its on-going functions and shall consider the likelihood of potential adverse effects on its revenues or expenses and its level of capital.

4.2.4 If the amount of capital held by a Licensed Clearing House is lower than 110% of the capital requirements or lower than 110% of USD 9.5 million (the "notification threshold"), the Licensed Clearing House shall immediately notify the Regulator in writing of the information set out in Rule 5.4.1 and keep it updated at least weekly, until the amount of capital held by the Licensed Clearing House returns above the notification threshold.

4.3 Clearing and settlement

4.3.1 A Licensed Clearing House must be able to demonstrate compliance with internationally accepted standards for financial market infrastructures to the satisfaction of the Regulator.

4.3.2 A Licensed Clearing House must ensure that its Clearing Services include satisfactory arrangements for securing the timely discharge (whether by performance, compromise or otherwise) of the rights and liabilities of the parties to transactions for which it provides such services.

Guidance

When determining whether it has satisfactory arrangements in place for securing the timely discharge of the rights and liabilities of the parties to transactions, a Licensed Clearing House should have regard to its:

- (a) Clearing Rules and practices relating to Clearing and settlement including its arrangements with another Person for the provision of Clearing and settlement services;
- (b) arrangements for matching trades and ensuring that the parties are in agreement about trade details;
- (c) where relevant, arrangements for making deliveries and payments, in all relevant jurisdictions;
- (d) procedures to detect and deal with the failure of a Member to settle in accordance with its Clearing Rules;
- (e) arrangements for taking action to settle a trade if a Member does not settle in accordance with its Clearing Rules;
- (f) arrangements for monitoring its Members' settlement performance; and
- (g) (where appropriate) Default Rules and default procedures.

4.3.3 A Licensed Clearing House will not be regarded as failing to comply with the Recognition Requirement merely because it is unable to arrange for a specific transaction to be settled.

4.4 Admission of Financial Instruments to Clearing – investment criteria

4.4.1 A Licensed Clearing House must have clear and objective criteria ("Investment Criteria") included in its Clearing Rules according to which Financial Instruments can be cleared and settled on its facilities. The Investment Criteria must include the requirements in Rule 4.4.2(a) and (b) below as relevant.

4.4.2 A Licensed Clearing House must ensure that Financial Instruments are cleared on its facilities only if:

- (i) admitted to the Official List of Securities; or
 - (ii) admitted to trading on a Licensed Investment Exchange, Remote Investment Exchange, or a market in a jurisdiction acceptable to the Regulator; and
- (b) in the case of Derivative contracts, are traded on a Licensed Investment Exchange, Remote Investment Exchange, or a market in a jurisdiction acceptable to the Regulator, having regard to:
- (i) the degree of standardisation of the contractual terms and operational processes of the Derivative contract;
 - (ii) the volume and liquidity of the Derivative contract; and
 - (iii) the availability of fair, reliable and generally accepted pricing information in the Derivative contract.

4.5 Default Rules

4.5.1 [Deleted]

4.5.2 [Deleted]

4.5.3 A Licensed Clearing House must have legally enforceable Default Rules which, in the event of a Member of the Recognised Clearing House being or appearing to be unable to meet his obligations in respect of one or more Market Contracts, enable it to suspend or terminate such Member's membership and cooperate, if necessary, by sharing information with relevant parties including Licensed Investment Exchanges.

4.5.4 A Licensed Clearing House must have legally enforceable Default Rules which, in the event of a Member (including if a Member is another Licensed Clearing House or a Licensed Investment Exchange) being, or appearing to be, unable to meet his obligations in respect of one or more Market Contracts, enable action to be taken in respect of unsettled Market Contracts to which the Member is a party, where appropriate to the risks faced by it, including:

- (a) effecting any transfers and close-outs of a defaulting Members' or participant's assets or proprietary or Client positions (as applicable) to the Licensed Clearing House, a non-defaulting Member or participant, and/or to a receiver, third party or bridge financial company;
- (b) the auction of any position or asset of the defaulting Member or participant in the market;
- (c) the application the proceeds of liquidation, and other funds and assets of the defaulting Member or participant; and/or
- (d) the use of a default contribution fund mechanism whereby defaulting and non-defaulting Members' or participants' pre-funded contributions to the default contribution fund are applied to cover the obligation.

4.5.5 The Default Rules shall clearly define and specify:

- (a) circumstances which constitute a default, addressing both financial and operational default, and how the different types of default may be treated by the Licensed Clearing House;
- (b) the method for identifying a default, including any automatic or discretionary default scenarios, and how the discretion is exercised in any discretionary default scenarios;
- (c) potential changes to the normal settlement practices in a default scenario;
- (d) the management of transactions at different stages of processing;
- (e) the expected treatment of proprietary and Client transactions and accounts;
- (f) the probable sequencing of actions that the Licensed Clearing House may take;
- (g) the roles, obligations and responsibilities of various parties, including the Licensed Clearing House, the defaulting Member and non-defaulting participants;
- (h) how to address the defaulting Member's obligations to Clients;
- (i) how to address the allocation of any credit losses it may face as a result of any individual or combined default among its participants with respect to their obligations to the Licensed Clearing House and how stress events are dealt with;
- (j) any other mechanisms that may be activated to contain the impact of a default, including:
 - (i) a default contribution fund, whereby defaulting and non-defaulting Members or participants' pre-funded contributions to the default contribution fund are applied to cover the losses or shortfall arising on a default on the basis of a predetermined order of priority; and
 - (ii) a resolution regime of the defaulting participant, involving "porting" or transferring the open positions and margin related to Client transactions to a non-defaulting participant, receiver, third party or bridge financial company;
- (k) for all remaining rights and liabilities of the defaulter under or in respect of unsettled Market Contracts to be discharged and for there to be paid by or to the defaulter such sum of money (if any) as may be determined in accordance with the Default Rules, by offsetting all relevant rights, assets and liabilities on the relevant account;

- (l) for the certification by or on behalf of the Licensed Clearing House of the sum finally payable or, as the case may be, of the fact that no sum is payable, separately for each account of the defaulter;
- (m) the Licensed Clearing House's segregation and portability arrangements, including the method for determining the value at which Client positions will be transferred; and
- (n) provisions ensuring that losses that arise as a result of the default of a Member of the Licensed Clearing House or threaten the Licensed Clearing House's solvency are allocated with a view to ensuring that the Licensed Clearing House can continue to provide the services and carry on the activities specified in its Recognition Order.

4.5.6 Default Rules must be reviewed and tested periodically or following material changes to the rules and procedures to ensure that they are practical and effective.

Guidance

We would expect the periodic testing to be on an annual cycle or as otherwise agreed with the Regulator.

4.5.7 A Licensed Clearing House must have adequate compliance procedures in place to ensure that:

- (a) its Clearing Rules and Default Rules are monitored and enforced;
- (b) any complaints relating to its operations or regarding Members and other participants on its facilities are promptly investigated;
- (c) where appropriate, disciplinary action resulting in financial and other types of penalties can be taken;
- (d) appeal procedures are in place; and
- (e) referrals can be made to the Regulator in appropriate circumstances.

4.5.8 The Default Rules may make the same or similar provision, in relation to Designated Non-Members that have been designated as such in accordance with the procedures mentioned in Rule 4.5.9, as in relation to Members of the Recognised Clearing House.

4.5.9 If such provision is made as allowed under Rule 4.5.8, the Licensed Clearing House must have adequate procedures for:

- (a) designating the Persons, or descriptions of person, in respect of whom action may be taken;
- (b) keeping under review the question which Persons or descriptions of person should be or remain so designated; and

- (c) withdrawing such designation.

4.5.10 The procedures in Rule 4.5.9 must be designed to ensure that:

- (a) a Person is not, or does not remain, designated if failure by him to meet his obligations in respect of one or more Market Contracts would adversely affect the operation of the market; and
- (b) a description of persons is not, or does not remain, designated if failure by a Person of that description to meet his obligations in respect of one or more Market Contracts would affect operation of the market.

4.5.11 The Licensed Body must have adequate arrangements:

- (a) for bringing a designation or withdrawal of designation to the attention of the Person or description of persons concerned; and
- (b) where a description of Persons is designated, or the designation of a description of persons is withdrawn, for ascertaining which Persons fall within that description.

4.6 Stress testing of capital

4.6.1 A Licensed Clearing House must adopt comprehensive and stringent measures to ensure that it has adequate total financial resources to effectively manage its credit risk and exposures.

4.6.2 A Licensed Clearing House must determine the amount of the total financial resources available to it and regularly test the sufficiency of such amount, particularly in the event of a default or multiple defaults in extreme but plausible market conditions through rigorous stress testing.

Guidance

1. In conducting stress testing, a Licensed Clearing House should consider the effect of a wide range of relevant stress scenarios in terms of both defaulters' positions and possible price changes in liquidation periods. Scenarios should include relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in a variety of extreme but plausible market conditions.
2. A Licensed Clearing House which is involved in activities with a more- complex risk profile, or is systemically important in multiple jurisdictions, should maintain additional financial resources to cover a wide range of potential stress scenarios. These should include the default of the two of its market counterparties (including their affiliates) that would potentially cause the largest aggregate credit exposure for the Licensed Clearing House in extreme but plausible market conditions. In all

other cases, a Licensed Clearing House should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios, which include the default of the market counterparty (including its affiliates) that would potentially cause the largest aggregate credit exposure for the Licensed Clearing House in extreme but plausible market conditions.

4.6.3 [Deleted]

4.6.4 [Deleted]

4.7 Risk management

Risk management framework

4.7.1 A Licensed Clearing House must have a comprehensive risk management framework (i.e. detailed policies, procedures and systems) capable of managing systemic, legal, credit, liquidity, operational and other risks to which it is exposed.

4.7.2 The risk management framework in Rule 4.7.1 must:

- (a) encompass a regular review of material risks to which the Licensed Clearing House is exposed and the risks posed to other market participants resulting from its operations; and
- (b) be subject to periodic review as appropriate to ensure that it is effective and operating as intended.

Guidance

1. The risk management framework should identify scenarios that may potentially prevent a Licensed Clearing House from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind down.
2. A Licensed Clearing House should prepare appropriate plans for resumption of its operations in such scenarios and, where it is not possible to do so, for an orderly wind-down of the operations of the Licensed Clearing House premised on the results of such assessments. Such procedures should also include appropriate early notification to the Regulator and other regulators as appropriate.
3. A Licensed Clearing House should, to the extent possible, provide incentives and/or deterrents to Members and other market participants to manage and contain the risks they pose to the orderly and efficient operations of the Recognised Clearing House. For example, they may include financial penalties for Members and other participants that fail to settle Investments in a timely manner or to repay intra-day credit by the end of the Business Day.

4.7.3 [Deleted]

4.7.4 [Deleted]

4.7.5 [Deleted]

Operational risk

4.7.6 A Licensed Clearing House shall have in place a well-documented assessment and management system for operational risk with clear responsibilities assigned for this system. It shall identify its exposures to operational risk and track relevant operational risk data, including material loss data. This system shall be subject to regular review carried out by an independent party possessing the necessary knowledge to carry out such review.

4.7.7 An operational risk assessment system shall be closely integrated into the risk management processes of the Licensed Clearing House. Its output shall be an integral part of the process of monitoring and controlling the operational risk profile.

4.7.8 A Licensed Clearing House shall implement a system of reporting to Senior Management that provides operational risk reports to Regulatory Functions within the institutions. A Licensed Clearing House shall have in place procedures for taking appropriate action according to the information within the reports to management.

Legal risk

4.7.9 A Licensed Clearing House must have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.

4.7.10 A Licensed Clearing House must have adequate Clearing Rules and procedures, including contractual arrangements, which are legally enforceable.

4.7.11 A Licensed Clearing House that operates in multiple jurisdictions must:

- (a) identify and mitigate the risks arising from doing business in the relevant jurisdictions, including those arising from conflicting laws applicable in such jurisdictions; and
- (b) ensure the arrangements referred to in Rule 4.7.10 provide a high degree of certainty that actions taken by the Licensed Clearing House under its Clearing Rules and procedures will not be reversed, stayed or rendered void.

4.7.12 [Deleted]

Guidance

1. A Licensed Clearing House may be conducting its activities in multiple jurisdictions in circumstances such as:
 - (a) where it operates through linked Licensed Clearing Houses in or outside of GMC, or clearing houses, securities settlement systems, being systems that enable Financial Instruments to be transferred and settled by book entry, or central securities depositories outside of GMC;
 - (b) where its Members and other participants are incorporated, located, or

otherwise conducting business in jurisdictions outside GMC; or

- (c) where any collateral provided is located or held in a jurisdiction outside GMC.

4.7.13 [Deleted]

2. A Licensed Clearing House should be able to demonstrate to the Regulator that the legal basis on which it operates, including in multiple jurisdictions, is well founded. This would include:
 - (a) well-defined rights and obligations of the Licensed Clearing House, its Members and other users, including its service providers such as custodians and settlement banks, or would provide a mechanism by which such rights and obligations can be ascertained. This would enable the Licensed Clearing House to identify and address risks that arise from its operations involving such parties;
 - (b) adequately addressing legal risks faced by a Licensed Clearing House, particularly where it operates in multiple jurisdictions including a situation where an unexpected application of a law or regulation may render a contract between itself and counterparty void or unenforceable, thereby leading to a loss; and
 - (c) obtaining independent legal opinions as appropriate to its activities in order to form clear views about the legally binding nature of its contractual arrangements in the relevant jurisdictions. Such legal opinions should, to the extent practicable, confirm the enforceability of the Clearing Rules and procedures of the Licensed Clearing House in the relevant jurisdictions and be made available to the Regulator upon request.

Credit risk

4.7.14 A Licensed Clearing House must establish and implement a robust process to manage:

- (a) its current and potential future credit and market risk exposures to market counterparties, including Members and other participants on its facilities; and
- (b) credit risks arising from its payment, Clearing, and settlement processes.

4.7.15 The process referred to in Rule 4.7.14 must:

- (a) enable a Licensed Clearing House to effectively measure, monitor, and manage its risks and exposures effectively;
- (b) enable a Recognised Clearing House to identify sources of credit risk and routinely measure and monitor its credit exposures; and
- (c) use appropriate risk management tools or margin and other prefunded financial resources to control the identified credit risks.

- 4.7.16 For the purposes of Rule 4.7.14, a Licensed Clearing House must, on a regular basis as appropriate to the nature, scale and complexity of its operations:
- (a) perform stress tests using models containing standards and predetermined parameters and assumptions; and
 - (b) carry out comprehensive and thorough analysis of stress testing models, scenarios, and underlying parameters and assumptions used to ensure that they are appropriate for determining the required level of default protection in light of current and evolving market conditions.
- 4.7.17 A Licensed Clearing House must:
- (a) undertake the analysis referred to in Rule 4.7.16(b) at least on a two-monthly basis, unless more frequent analysis is warranted because the Investments cleared or markets served display high volatility, become less liquid, or when the size or concentration of positions held by its participants increase significantly;
 - (b) consider carrying out daily stress testing to measure and monitor its risk exposures, especially if its operations are complex or widely spread over multiple jurisdictions; and
 - (c) perform a full validation of its risk-management models at least annually.
- 4.7.18 A Licensed Clearing House must establish explicit Clearing Rules, Default Rules and procedures that address fully any credit losses it may face as a result of any individual or combined default among its Members and other participants with respect to any of their obligations to the Licensed Clearing House. Such Clearing Rules, Default Rules and procedures should:
- (a) address how any potentially uncovered credit losses would be allocated, including the repayment of any funds the Licensed Clearing House may borrow from its liquidity providers; and
 - (b) indicate the Licensed Clearing House's process to replenish any financial resources that it may employ during a stress event, so that it can continue to operate in a safe and sound manner.
- 4.7.19 A Licensed Clearing House must document its supporting rationale for, and have appropriate governance arrangements relating to, the amount of total financial resources it maintains.
- 4.7.20 A Licensed Clearing House must have clear procedures to report the results of its stress tests to its Governing Body and Senior Management as appropriate.
- 4.7.21 A Licensed Clearing House must use the results of its stress tests to evaluate the adequacy of its total financial resources and make any adjustments as appropriate.

Liquidity risk

4.7.22 A Licensed Clearing House must:

- (a) determine the amount of its minimum liquid resources;
- (b) maintain sufficient liquid resources to be able to effect same-day, intra-day or multi-day settlement, as applicable, of its payment obligations with a high degree of confidence under a wide range of potential stress scenarios;
- (c) ensure that all resources held for the purposes of meeting its minimum liquid resource requirement are available when needed;
- (d) have a well-documented rationale to support the amount and form of total liquid resources it maintains for the purposes of (b) and (c); and
- (e) have appropriate arrangements in order to be able to maintain, on an on-going basis, such amount and form of its total liquid resources.

4.7.23 A Licensed Clearing House must have a robust framework for managing its liquidity risks. Such a framework must enable it to manage liquidity risks arising from its Members and other participants on its facilities, and any other involved parties, such as settlement banks, custodian banks, liquidity providers ("Members and other involved parties"). For that purpose, the framework must, at a minimum, include:

- (a) Clearing Rules, Default Rules and procedures that:
 - (i) enable the Licensed Clearing House to meet its payment obligations on time following any individual or combined default of its Members and other involved parties;
 - (ii) address unforeseen and potentially uncovered liquidity shortfalls to avoid unwinding, revoking, or delaying the settlement of its payment obligations arising under the same-day, intra-day or multiday settlement obligations, as applicable; and
 - (iii) indicate any liquidity resources the Licensed Clearing House may deploy, in the event of default by a Member or other involved parties, during a stress event to replenish the available liquid resources and the associated process, so that it can continue to operate in a safe and sound manner;
- (b) effective operational and analytical tools to identify, measure and monitor its settlement and funding flows on an on-going and timely basis; and
- (c) rigorous due diligence procedures relating to its liquidity providers to obtain a high degree of confidence that each provider (whether the provider is a Member or other participant using its facilities or an external party) has:
 - (i) sufficient information to assess, understand and manage its own liquidity risks; and

(ii) the capacity to perform as required under their commitment.

4.7.24 The framework referred to in Rule 4.7.23 must enable the Licensed Clearing House to effectively measure, monitor, and manage its liquidity risk.

4.7.25 To the extent that the Clearing Rules addressing liquidity risk referred to in Rule 4.7.23 also address credit risks, the same Clearing Rules, after adjustment as appropriate, can be used for both purposes.

4.7.26 A Licensed Clearing House must regularly:

- (a) review the adequacy of the amount of its minimum liquid resources as determined in accordance with Rule 4.7.22;
- (b) test the sufficiency of its liquid resources maintained to meet the relevant amount through rigorous stress testing; and
- (c) test its procedures for accessing its liquid resources at a liquidity provider.

4.7.27 [Deleted]

Guidance

1. In conducting its stress testing, a Licensed Clearing House should consider:

- (a) a wide range of relevant scenarios including relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in a variety of extreme but plausible market conditions;
- (b) the design and operation of the Licensed Clearing House;
- (c) all entities that may pose material liquidity risks to the Licensed Clearing House (such as settlement banks, custodian banks, liquidity providers, and other involved entities); and
- (d) where appropriate, for price fluctuations during a multi-day period.

4.7.28 [Deleted]

2. For the purposes of meeting the minimum liquid resource requirement referred to in Rule 4.7.22, a Licensed Clearing House's qualifying liquid assets/resources may include:

- (a) cash held in appropriate currencies at a central bank in its or other relevant jurisdiction, or at creditworthy commercial banks;
- (b) committed lines of credit;
- (c) committed foreign exchange swaps;

- (d) committed repos; and
- (e) highly marketable collateral held in custody and Investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions.

4.7.29 A Licensed Clearing House's access to a routine line of credit made available by a central bank in its or other relevant jurisdiction, to the extent that the Licensed Clearing House has collateral that is eligible for pledging to (or for conducting other appropriate forms of transactions with) the relevant central bank must comply with the following to count as liquid assets/resources:

- (a) a Licensed Clearing House must take account of what collateral is typically accepted by the relevant central bank as such assets may be more likely to be liquid in stressed circumstances, even if the Licensed Clearing House does not have access to a routine line of credit made available by a central bank; and
- (b) a Licensed Clearing House should not assume the availability of emergency central bank credit as a part of its liquidity plan.

4.7.30 [Deleted]

Guidance

1. A Licensed Clearing House may supplement its qualifying liquid resources with other forms of liquid resources; and such liquid resources should be in the form of assets that are likely to be saleable, or acceptable as collateral, for lines of credit, swaps, or repos on an ad hoc basis following a default, even if this cannot be reliably prearranged or guaranteed in extreme market conditions.

4.7.31 [Deleted]

2. Where a Licensed Clearing House has access to a central bank lines of credit or accounts, payment services, or securities services, it should use those services as far as practicable, as such use is likely to enhance its ability to manage liquidity risk more effectively.

4.7.32 A Licensed Clearing House must have clear procedures to report the results of its stress tests undertaken for the purposes of this Rule to its Governing Body and Senior Management as appropriate.

4.7.33 A Licensed Clearing House must use the results of stress testing to evaluate the adequacy of its liquidity risk-management framework and make any appropriate adjustments as needed

4.7.34 A Licensed Clearing House must record the results of such stress testing and the rationale for any adjustments made to the amount and form of total liquid resources it maintains.

Custody and investment risk

4.7.35 A Licensed Clearing House must have effective means to address risks relating to the custody of its:

- (a) own assets (or banking of its cash), in accordance with Rule 4.7.36; and
- (b) Members and other participants' assets in accordance with Rule 4.7.37.

4.7.36 For the purposes of Rules 4.7.35(a) and 4.7.35(b), a Licensed Clearing House must:

- (a) hold its own deposits and custody assets only with entities which have been granted a Financial Services Licence by the Regulator or in banks or credit institutions regulated by a non-GMC Financial Services Regulator considered by the Regulator to be equivalent for such purposes;
- (b) be able to have prompt access to its deposits and custody assets when required; and
- (c) regularly evaluate and understand its exposures to entities which hold its assets, including the monitoring of the overall risk exposure to an individual banker or custodian remains within acceptable concentration limits and of the bank or custodian's financial condition on an on-going basis.

4.7.37 For the purposes of investing its own or its participants' deposits and custody assets, a Licensed Clearing House must ensure that:

- (a) it has an investment strategy which is consistent with its overall risk-management strategy and is fully disclosed to its Members and other participants using its facilities; and
- (b) its Investments comprise instruments with minimal credit, market, and liquidity risks. For this purpose, the Investments may be secured by, or be claims on, high-quality obligors, or the arrangements allow for quick liquidation with little, if any, adverse price effect, or there is no Investments in obligors affiliated with or securities issued by the participant.

4.8 Money settlement

4.8.1 Where a Licensed Clearing House conducts its money settlements using commercial bank money, it must adopt appropriate measures to minimise and strictly control the credit and liquidity risk arising from such use.

4.8.2 For the purposes of Rule 4.8.1, a Recognised Clearing House must:

- (a) conduct its money settlements using only such settlement assets with little or no

credit or liquidity risk;

- (b) monitor, manage, and limit its credit and liquidity risks arising from commercial settlement banks. In particular, it must establish and monitor adherence to strict criteria for the use of settlement banks, which take into account, among other things, the regulation and supervision, creditworthiness, capitalisation, access to liquidity, and operational reliability of the relevant settlement banks; and
- (c) monitor and manage the concentration of credit and liquidity exposures to its commercial settlement banks, including, to the extent such banks are also Members ensure that its legal agreements with such settlement banks, at a minimum:
 - (i) specify clearly when transfers on the books of individual settlement banks are expected to occur and when they are final;
 - (ii) ensure that funds received are transferable as soon as possible, if not intra-day, at least by the end of the day to enable it and its Members and other participants on its facilities to manage their credit and liquidity risks; and
 - (iii) not permit such banks to combine or offset any right or liability they or their affiliates may have in their capacity as a Clearing Member.

4.8.3 If a Licensed Clearing House does not conduct its money settlement on commercial bank money but on its own books, it should minimise and strictly control its credit and liquidity risks as appropriate.

4.9 Physical Delivery

4.9.1 A Licensed Clearing House incurring obligations that require physical delivery of physical instruments or commodities must:

- (a) provide adequate information to its Members and other participants using its facilities relating to its obligations with respect to physical delivery of the physical instruments or commodities. Such information must also be made publicly available;
- (b) identify, monitor, and manage the risks associated with such physical deliveries; and
- (c) identify, monitor, and manage the risks and costs associated with the storage and delivery.

4.9.2 A Licensed Clearing House must have adequate arrangements, including service agreements, which enable it to meet its physical delivery obligations.

Guidance

1. Where a Licensed Clearing House matches participants that have delivery and receipt obligations, the Licensed Clearing House would not need to be involved with the physical storage and delivery process but it should monitor the participants' performance and to the extent practicable, ensure the participants have the necessary systems and resources to be able to fulfil their physical delivery obligations.
2. The legal obligations for delivery should be clearly expressed in the Clearing Rules, Default Rules, and any related agreements, including provisions to specify, for instance:
 - (a) whether the receiving participant should seek compensation from the Licensed Clearing House or the delivering participant in the event of a loss; and
 - (b) if the Licensed Clearing House holds margin on the matched participants, such margin will only be released until the Licensed Clearing House confirms that both participants have fulfilled their obligations.

4.10 Collateral and margin

- 4.10.1 A Licensed Clearing House must call and receive collateral to manage its risks arising in the course of or for the purposes of its payment, Clearing, and settlement processes. It must, in the normal course of business, only accept collateral with low credit, liquidity, and market risks.
- 4.10.2 [Deleted]

Guidance

In some instances, certain types of assets which are not considered to have low credit, liquidity and market risks may be acceptable for credit purposes if the Licensed Clearing House sets and enforces appropriately conservative haircuts and concentration limits and appropriate collateral risk management procedures are put in place by the Licensed Clearing House. A Licensed Clearing House may, in some circumstances, accept the deliverable of a contract as collateral against the contract for exchange.

- 4.10.3 A Licensed Clearing House must, for the purposes of meeting the requirement in Rule 4.10.1, establish and implement a collateral management system that is well designed and operationally flexible to enable ongoing monitoring and management of collateral. A Licensed Clearing House must also ensure that it is confident of the collateral's value in the event of liquidation and its capacity to use that collateral quickly, especially in stressed market conditions. Such a system must, at a minimum:
- (a) allow for timely calculation and execution of margin calls, accurate daily reporting of initial and variation margin, and the management of any disputes;
 - (b) track the extent of reuse of collateral by the Licensed Clearing House (both cash and non-cash) and the rights of the Licensed Clearing House to the collateral;

- (c) accommodate timely deposit, withdrawal, substitution and liquidation of collateral;
- (d) regularly adjust its requirements for acceptable collateral in accordance with changes in underlying risks;
- (e) establish prudent valuation practices, including daily marking to market of the Licensed Clearing House's collateral;
- (f) develop haircuts that are regularly tested, independently validated at least annually and take into account stressed market conditions;
- (g) reduce the need for procyclical adjustments, by establishing, to the extent practicable and prudent, stable and conservative haircuts that are calibrated to include periods of stressed market conditions;
- (h) establish concentration limits which are periodically reviewed by the Licensed Clearing House to determine their adequacy or imposing concentration charges to avoid concentrated holdings of certain assets where that would significantly impair the ability to liquidate such assets quickly without significant adverse price effects; and
- (i) mitigate, if it accepts collateral held in another jurisdiction or governed by non-GMC law, the risks and exposures associated with such use, including considering foreign exchange risk, legal and operational challenges such as differences in operating hours of foreign custodians and central securities depositories and conflicts of law risks. Such measures must ensure that the collateral can be used in a timely manner and should identify and address any significant liquidity effects and legal risks.

4.10.4 If a Licensed Clearing House plans to use assets held as collateral to secure liquidity facilities in the event of a participant default, the Licensed Clearing House must:

- (a) consider, in determining acceptable collateral, what will be acceptable as security to lenders offering liquidity facilities.
- (b) measure and monitor the correlation between a counterpart's creditworthiness and the collateral posted; and
- (c) take measures to mitigate risks, that the collateral would likely lose value in the event that the participant providing the collateral defaults.

4.10.5 The Clearing Rules of the Licensed Clearing House must set out:

- (a) collateral and margin requirements and collateral management process, and specify when a Licensed Clearing House may reuse or invest its participants' collateral and the process for returning that collateral to participants; and
- (b) in the event of a default, that margin provided by the defaulter for any Client account is not to be applied to meet a shortfall in its own proprietary account.

4.10.6 A Licensed Clearing House must, for the purposes of managing its exposures and risk and the requirements in Rules 4.10.7 and 4.10.8:

- (a) mark participant positions to market and collect variation margin at least daily to limit the build-up of current exposures;

- (b) have necessary authority and operational capacity to make intra-day margin calls and payments, both scheduled and unscheduled, to participants; and
- (c) regularly review and validate its margin system to ensure that it operates effectively and as intended.

4.10.7 The margin system of a Licensed Clearing House must, at a minimum:

- (a) establish margin levels which are commensurate with the risks and particular attributes of each product, portfolio, and market it serves, especially the risk of credit exposures posed by open positions of its Members or other participants using its facilities;
- (b) use a reliable source of timely price data for its margin system, and also procedures and sound valuation models for addressing circumstances in which pricing data is not readily available or reliable;
- (c) adopt initial margin models and parameters that are risk-based and generate margin requirements sufficient to cover its potential future exposure to Members and other participants using its facilities in the interval between the last margin collection and the close-out of positions following a participant default;
- (d) adopt a daily (and where appropriate, intra-day) calculation and collection policy of variation margin based on models and parameters that manages current and potential future exposures; and
- (e) analyse and review the performance of the margin model and overall margin coverage by:
 - (i) conducting rigorous daily back-testing to evaluate whether there are any exceptions to its initial margin coverage at least monthly, and more frequently as appropriate;
 - (ii) sensitivity analysis to determine the impact of varying important model parameters, including the most-volatile periods that have been experienced by the markets it serves and extreme changes in the correlations between prices; and
 - (iii) an assessment of the theoretical and empirical properties of its margin model for all products it clears.

4.10.8 The initial margin established pursuant to Rule 4.10.7(c) must:

- (a) at the Member's portfolio level, be applied in respect of each portfolio's distribution of future exposure. If a Licensed Clearing House uses portfolio margining, it should continuously review and test offsets among products;
- (b) at more granular levels, meet the corresponding distribution of future exposures; and
- (c) use models which, among other things:
 - (i) rely on conservative estimates of the time horizons for the effective hedging or close-out of the particular types of products cleared by the Licensed Clearing House, including in stressed market conditions; and
 - (ii) have an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products,

and, to the extent practicable and prudent, limit the need for destabilising procyclical changes.

4.10.9 A Licensed Clearing House may allow offsets or reductions in required margin across products that it clears or between products that it and another Licensed Clearing House clear, if the risk of one product is significantly and reliably correlated with the risk of the other product.

4.10.10 Where two or more Licensed Clearing Houses are authorised to offer cross- margining, they must have appropriate safeguards and harmonised overall risk- management systems.

4.11 Settlement finality

4.11.1 A Licensed Clearing House must have adequate arrangements to ensure clear and certain final settlement of payments, transfer instructions or other obligations of Members and other participants using its facilities and, where relevant, its own obligations. Where possible, a Licensed Clearing House should provide intra-day or real-time settlement finality to reduce settlement risk.

4.11.2 A Licensed Clearing House's arrangements for final settlement must:

- (a) ensure that, if intra-day or real-time settlement is not feasible, final settlement (of any payment, transfer instruction, or other obligation that has been submitted to and accepted by a Licensed Clearing House in accordance with its acceptance criteria) occurs at least by the end of the value date of the relevant transaction; and
- (b) clearly define the points:
 - (i) at which the transfer instruction takes effect as having been entered into the system and when the final settlement occurs;
 - (ii) after which unsettled payments, transfer instructions, or other obligations may not be revoked by the parties to the underlying contract; and
- (c) prohibit the revocation by a Member, participant or other user of a transfer instruction from the point specified in accordance with sub-paragraph (b)(ii).

Guidance

For the purposes of this Rule:

- (a) "final settlement" is the irrevocable and unconditional transfer of an asset or Financial Instrument, or the discharge of obligations arising under the underlying contract by the parties to the contract; and
- (b) "value date" is the day on which the payment, transfer instruction, or other obligation arising under the underlying contract is due and, accordingly, the associated funds or Investments are available to the respective parties under the contract.

4.12 Segregation and portability

4.12.1 A Licensed Clearing House must have systems and procedures to enable segregation and portability of positions of the Clients of its Members and other participants on its facilities, and any collateral provided to it with respect to those positions. Such systems and procedures must enable the Licensed Clearing House to:

- (a) maintain the Client positions and any related collateral referred to in this Rule in individual Client accounts or in Omnibus Client Accounts; and
- (b) structure its portability arrangements so that the positions and collateral of a defaulting Member's or other participant's Clients can be transferred to one or more other Members or participants.

4.12.2 A Licensed Clearing House's systems and controls must, at a minimum, provide for the following:

- (a) the segregation and portability arrangements that effectively protect the positions and related collateral of the Clients of the Members or other participants on its facilities, from the default or insolvency of the relevant Member or other participants;
- (b) if the Licensed Clearing House offers additional protection of the Client positions and related collateral against the concurrent default of both the relevant Member or other participants or other Clients, the adoption of necessary measures to ensure that the additional protection offered is effective; and
- (c) the use of account structures that enable the Licensed Clearing House to readily identify assets and positions of the Clients of the relevant Member or other participant, and to segregate their related collateral.

4.12.3 The requirement to distinguish assets and positions in accounts in 4.12.2(a) is satisfied where:

- (a) the assets and positions are recorded in separate accounts;
- (b) the netting and positions recorded on different accounts is prevented; and
- (c) the assets covering the positions recorded in an account are not exposed to losses connected to positions recorded in another account.

4.12.4 In relation to 4.12.2(a) above, a Licensed Clearing House must:

- (a) keep separate records and accounts enabling its Members or participants to distinguish in accounts with the Licensed Clearing House its assets and positions from those held for the accounts of its Clients ('Omnibus Client Segregation'); or
- (b) keep separate records and accounts enabling its Members or participants to distinguish in accounts with the Licensed Clearing House the assets and positions held for the account of a specific Client from those held for the account of other Clients ('Individual Client Segregation'). If requested, the Licensed Clearing House must offer Members or participants the possibility to open more accounts in their own name or for the account of their Clients.

4.12.5 A Licensed Clearing House must make available to its Members and other participants using its facilities, its Clearing Rules, policies and procedures relating to the segregation and portability of the positions and related collateral of the Clients of its Members and other participants using its facilities. This includes specifying the method for determining the value at which Client positions will be transferred.

4.12.6 A Licensed Clearing House should also disclose whether:

- (a) the segregated assets and/or Client collateral are held by the Licensed Clearing

House or unaffiliated third-party custodians that hold assets on behalf of the Licensed Clearing House;

- (b) the Licensed Clearing House takes title transfer or if it takes a security interest, whether it has a right of use or re-use of Client collateral and when;
- (c) the Clients' collateral is protected on an individual or omnibus basis or a Clearing Member default for different accounts; and
- (d) there are any constraints, such as legal or operational, that may impair its ability to segregate or transfer a Member's or other participant's Clients' positions and related collateral.

4.12.7 In this section, assets refers to collateral held to cover positions and include the right to the transfer of assets equivalent to that collateral or the proceeds of the realisation of any collateral, but does not include default fund contributions.

4.12.8 In relation to a Remote Clearing House, this chapter does not prevent other customer segregation models being offered to Clearing Members outside GMC. In relation to clearing members of clearing houses incorporated outside GMC, this chapter does not require such clearing members to offer levels of segregation which are not made available by such clearing houses.

4.13 Rules relating to Central Securities Depositories

4.13.1 If a Licensed Clearing House also carries out functions of a Central Securities Depository, it may do so pursuant to its exemption or alternative may seek an additional registration as a Licensed Firm solely in respect of its activities as a Central Securities Depository, provided that its Recognition Order includes a stipulation permitting it to do so. If the Recognition Order does include such a stipulation, the Rules that are applicable to Central Securities Depositories in COBS pursuant to COBS 10.2 will apply to that function, but that function only, and no other provisions of the Rulebook except MIR and such provisions of COBS shall apply.

5 NOTIFICATION RULES FOR LICENSED BODIES

5.1 Application and purpose

Application

5.1.1 The notification Rules in this chapter apply to Licensed Bodies.

5.1.1 **A** For the purposes of this chapter, any reference to the rules of a Licensed Body, is made to its:

- (a) Business Rules, in the case of a Licensed Investment Exchange;
- (b) Clearing Rules, in the case of a Licensed Clearing House; and
- (c) Default Rules, as applicable.

Guidance

Remote Body notification requirements are set out in Rule 7.4.2.

5.1.2 The notification Rules in this chapter are in addition to the requirements on Licensed Bodies to give notice or information to the Regulator that exist elsewhere in FSA and the Rules.

5.1.3 The requirements relating to the form and method of notification in Rule 5.2 also apply to Remote Bodies.

5.2 Form and method of notification

Form and notification

5.2.1 Where a Licensed Body is required to give any notice or information under any notification rule, it may do so (unless that rule expressly provides otherwise) orally or in writing, whichever is the more appropriate in the circumstances, but where it gives notice or information orally, it must confirm that notice or information in writing promptly.

Method of notification

5.2.2 Unless otherwise stated in the notification rule, a written notification required from a Licensed Body under any notification rule must be given to, or addressed for the attention of, the Licensed Body's usual supervisory contact at the Regulator and delivered by:

- (a) recorded courier to the address in Rule 5.2.3;
- (b) electronic mail to an address for the Licensed Body's usual supervisory contact at the Regulator and obtaining an electronic confirmation of receipt; or
- (c) hand to the Licensed Body's usual supervisory contact at the Regulator.

5.2.3 [Deleted]

Timely notification

5.2.4 If a notification rule requires notification within a specified period:

- (a) the Licensed Body must give the notification so it will be received by the Regulator no later than the end of that period; and
- (b) if the end of that period falls on a day which is not a Business Day, the notification must be given so as to be received by the Regulator no later than the start of the first Business Day after the end of that period.

5.3 Waivers and modifications of notification rules

5.3.1 The Regulator may, on the application or with the consent of a Licensed Body, direct that any notification rule is not to apply to the body or is to apply with such modifications as it may specify. Any such waiver or modification granted by the Regulator may be made subject to conditions.

5.4 Notification requirements

5.4.1 A Licensed Body must, in the circumstances noted, notify the Regulator of the following information:

| | Event | Timing | Information Requirement |
|------------------------|--|---|---|
| Key Individuals | | | |
| 1. | A Licensed Body proposes to appoint or elect a Person as a Key Individual. | At least thirty days before appointment or election is effective. | (a) Name; (b) date of birth; and (c) description of the responsibilities in the post. |
| 2. | A Person has resigned as, or has ceased to be, a Key Individual of the Licensed Body. | As soon as practicable. | Name. |
| 3. | A major change in responsibilities of a Key Individual is made which amounts to a new appointment. | At least thirty days before change is effective. | (a) Name; and (b) description of the new responsibilities. |

| Standing Committees | | | |
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| | Event | Timing | Information Requirement |
| 4. | The Governing Body delegates any of its Regulatory Functions to a standing committee, or appoints a standing committee to manage or oversee the carrying out of any of that Licensed Body's Regulatory Functions. | As soon as practicable. | (a) Names of the members of that standing committee; and (b) the terms of reference of that standing committee (including a description of any powers delegated to that committee and any conditions or limitations placed on the exercise of those powers). |
| 5. | There is any change in the composition or the terms of reference of a standing committee or any such committee is dissolved. | As soon as practicable. | (a) Changes to the names of the members of that standing committee; and (b) changes to the terms of reference of that standing committee (including a description of any powers delegated to that committee and any conditions or limitations placed on the exercise of those powers). |
| Disciplinary action and events relating to Key Individuals | | | |
| 6. | Where any Key Individual: (a) is the subject of any disciplinary action because of concerns about his alleged misconduct; (b) resigns as a result of an investigation into his alleged misconduct; or (c) is dismissed for misconduct. | As soon as practicable. | (a) Name of the Key Individual and his responsibilities within the Recognised Body; (b) details of the acts or alleged acts of misconduct by that Key Individual; and (c) details of any disciplinary action which has been or is proposed to be taken by that body in relation to that Key Individual. |
| 7. | Any of the following has occurred in relation to a Key Individual: (a) a petition for bankruptcy is presented (or similar or analogous proceedings under the law of a jurisdiction outside GMC are commenced); (b) a bankruptcy order (or a similar or analogous order under the | As soon as the Licensed Body becomes aware of the relevant event. | Details of the relevant event. |

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|------------------------------------|---|---|---|
| | law of | | |
| | Event | Timing | Information Requirement |
| | a jurisdiction outside GMC) is made; or (c) he enters into a voluntary arrangement (or a similar or analogous arrangement under the law of a jurisdiction outside GMC) with his creditors. | | |
| Constitution and governance | | | |
| 8. | A Licensed Body proposes to circulate any notice or other document proposing any amendment to its memorandum or articles of association (or other similar agreement or document relating to its constitution) to its shareholders (or any group or class of them), its Members (or any group or class of them), or any other group or class of Persons which has the power to make that amendment or whose consent or approval is required before it may be made. | In advance of circulation or otherwise as soon as reasonably practicable. | (a) The proposed amendments; (b) the reasons for the proposal; and (c) a description of the group or class of Persons to whom the proposal is to be circulated. |
| 9. | A change to a Licensed Body's memorandum or articles of association (or other similar agreement or document relating to its constitution) becomes effective. | As soon as practicable. | (a) Details of the amendment; and (b) the date on which the amendment took effect. |
| 10. | Any change is made to an agreement which relates to the constitution or governance of a Licensed Body: (a) between that Licensed Body and another Person; (b) between the owners of that Licensed Body; (c) between the owners of that Licensed Body and another Person; or (d) between other Persons. | As soon as practicable. | (a) Details of the change; and (b) the date on which the change took, or is to take, effect. |

| Auditors | | | |
|-----------------------|--|---|--|
| 11. | The auditors of a Licensed Body cease to act as such as per GEN 6.4. | As soon as practicable. | (a) Whether the appointment of those auditors expired or was terminated; (b) the date on which the auditors ceased to act; and |
| | Event | Timing | Information Requirement |
| | | | (c) if the Recognised Body terminated, or decided not to renew, their appointment, its reasons for taking that action or decision. |
| 12. | Appointment of new auditors. | As soon as practicable. | (a) The name and business address of those new auditors; and (b) the date of their appointment. |
| 13. | Audit Reports as required per GEN 6.6.1 including a Regulatory Returns Auditor's Report | Within four months of the financial year to which the document relates. | A copy of the relevant reports. |
| Financial information | | | |
| 14. | Publication of a Licensed Body's: (a) annual report and accounts; (b) consolidated annual report and accounts of any Group in which the Licensed Body is a member. | The latest of: (a) four months after the end of the financial year to which the document relates; (b) the time when the document is sent to the Members or shareholders of the Licensed Body; or (c) the time when the document is sent to the shareholders of the Group to which the Licensed Body is | A copy of the relevant document. |

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| | | a member. | |
| 15. | An audit committee has prepared a report in relation to any period or any matter relating to any Regulatory Function of that Licensed Body. | As soon as practicable. | A copy of the relevant report. |
| 16. | A Licensed Body's: | Within one month of the end of the | A copy of the relevant accounts. |

| | Event | Timing | Information Requirement |
|-----|--|--|----------------------------------|
| | (a) quarterly management accounts; or (b) monthly management accounts. | period to which they relate. | |
| 17. | Preparation of: (a) a statement of a Licensed Body's anticipated income, expenditure and cashflow for each financial year; and (b) an estimated balance sheet showing its position as it is anticipated at the end of each financial year. | Before the beginning of the financial year to which they relate. | A copy of the relevant document. |
| 18. | Accounting reference date is changed. | As soon as practicable. | New accounting reference date. |

Fees and incentive schemes

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| 19. | Any proposal to change the fees or charges levied on a Licensed Body's Members (or any group or class of them) is made. | As close to the time when the proposal is communicated to those Members as practicable. | A summary of any such proposal made. |
| 20. | Any change is made to fees or charges levied on a Licensed Body's Members (or any group or class of them) is made. | No later than the date when the changes are published or notified to those Members. | A summary of any such changes. |

| Complaints | | | |
|-------------------|---|-------------------------|---|
| 21. | <p>(a) Where a Licensed Body's complaints investigator has investigated a complaint arising in connection with the performance of, or failure to perform, any of its Regulatory Functions; and</p> <p>(b) that complaints investigator has made a recommendation in respect of that complaint that the Licensed Body should:</p> <p>(i) make a compensatory payment to any Person; or</p> <p>(ii) remedy the matter which was the subject of that complaint.</p> | As soon as practicable. | A notification of that event. |
| 22. | When the complaints investigator's report, as referred to above, and the particulars of his | As soon as practicable. | (a) A copy of the complaints investigator's report; and |
| | Event | Timing | Information Requirement |
| | recommendations are made available to the Licensed Body. | | (b) particulars of his recommendations. |
| Insolvency events | | | |
| 23. | <p>On:</p> <p>(a) the presentation of a petition for the winding up of a Licensed Body (or the commencement of any similar or analogous proceedings under the law of a jurisdiction outside GMC); or</p> <p>(b) the appointment of a receiver, administrator, liquidator, trustee or sequestrator of assets of that body (or of any similar or analogous appointment under the laws of a jurisdiction outside GMC); or</p> <p>(c) the making of a voluntary arrangement by that body with its creditors (or of any similar or analogous arrangement under the law of a jurisdiction outside GMC).</p> | As soon as practicable. | A notification of that event. |

| Legal proceedings | | | |
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| 24. | <p>If any civil or criminal legal proceedings are instituted against a Licensed Body, except where all of the conditions stated at (a) – (c) are met in respect of those proceedings:</p> <p>(a) the amount of damages claimed would not significantly affect that Licensed Body's financial resources, if the claim were successful;</p> <p>(b) the claim would not have a significant adverse effect on the reputation and standing of that body, if that claim were successful; and</p> <p>(c) the claim does not relate to that body's Regulatory Functions.</p> | <p>As soon as practicable.</p> | <p>For civil proceedings:</p> <p>(a) the name of the claimant;</p> <p>(b) particulars of the claim;</p> <p>(c) the amount of damages;</p> <p>(d) any other remedy sought by the claimant; and</p> <p>(e) particulars of any allegation that any act or omission of that body was in bad faith.</p> <p>For criminal proceedings: the particulars of the offence with which that body is charged.</p> |
| Delegation of Regulatory Functions | | | |
| 25. | <p>Where a Licensed Body makes an offer or agrees to delegate any of its Regulatory Functions to</p> | <p>As soon as practicable.</p> | <p>(a) The reasons for that delegation or proposed delegation;</p> |
| | Event | Timing | Information Requirement |
| | <p>another Person in respect of any activities forming a significant part of a Regulatory Function or which make a significant contribution to the performance of a Regulatory Function of that Recognised Body.</p> | | <p>(b) the reasons why the Licensed Body is satisfied that it will continue to meet the Recognition Requirements following that delegation;</p> <p>(c) a copy of the invitation to tender, if the offer is made by issuing a written invitation to tender to another body or Person; and</p> <p>(d) a copy of the agreement, where the Licensed Body makes such an agreement.</p> |

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| 26. | A Licensed Body makes an offer or agrees to undertake any Regulatory Function of another Licensed Body in respect of any activities forming a significant part of a Regulatory Function, or which make a significant contribution to the performance of a Regulatory Function, of that other Licensed Body. | As soon as practicable. | A notification of that event. |
| Products, services and normal hours of operation | | | |
| 27. | A Licensed Body proposes to admit to trading (or to cease to admit to trading) by means of its facilities: (a) a Financial Instrument (other than a Security or an Option in relation to a Security); or (b) a type of Security or a type of Option in relation to a Security. | No later than the date when the proposal is communicated to Members or shareholders. | (a) A description of the Financial Instrument to which the proposal relates; (b) where that Financial Instrument is a Derivative, the proposed terms of that Derivative; and (c) in the case of a Licensed Body which is admitting that Financial Instrument to trading, the name of any Licensed Body, Remote Body or clearing house which will provide Clearing Services in respect of that Financial Instrument under an agreement with that Licensed Body, Remote Body or clearing house. |
| | Event | Timing | Information Requirement |
| 28. | A Licensed Body removes a Financial Instrument from trading on a market. | As soon as practicable. | (a) Notice of that event; (b) relevant information including particulars of that Financial Instrument; and (c) the reasons for the action taken. |

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| 29. | A Licensed Body proposes to provide (or to cease to provide) Clearing Services in respect of: (a) a Financial Instrument (other than a Security or an Option in relation to a Security); or (b) a type of Security or a type of Option in relation to a Security. | As soon as practicable. | (a) Notice of that event; (b) a description of the Financial Instrument to which the proposal relates; (c) where that Financial Instrument is a Derivative, the proposed terms of that Derivative; and (d) in the case of a Recognised Body which is admitting that Financial Instrument to trading, the name of any Licensed Body which will provide Clearing Services in respect of that Financial Instrument under an agreement with that Licensed Body. |
| 30. | A Licensed Body proposes to amend the standard terms of any Derivative admitted to trading by means of its facilities. | As soon as practicable. | (a) Notice of that event; and (b) written particulars of those proposed amendments. |
| 31. | A Licensed Body proposes to amend the standard terms relating to any Derivative in respect of which it provides Clearing Services. | As soon as practicable. | (a) Notice of that event; and (b) written particulars of those proposed amendments. |
| 32. | A Licensed Body proposes to make (or to cease to make) arrangements for the safeguarding and administration of assets belonging to any other Person (other than an undertaking in the same Group). | As soon as practicable. | (a) Notice of that event; (b) a description of the assets (or types of assets) to which the proposal relates; and (c) the date or dates on which the arrangements will be made (or cease to be made). |
| 33. | A Licensed Body proposes to change its normal hours of operation. | As soon as practicable. | (a) Notice of that proposal; (b) the particulars of the proposal; and |

| | Event | Timing | Information Requirement |
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| | | | (c) the reasons for the actions proposed. |

| Suspension of services and inability to operate facilities | | | |
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| 34. | A Licensed Body: (a) suspends trading in any Derivative (other than an Option in relation to a Security), in any type of Security or in any type of Option in relation to a Security; or (b) temporarily calls a trading halt in respect of any type of Security or in any type of Option in relation to a Security. | As soon as practicable. | (a) Notice of that event; (b) particulars of that Derivative, type of Security or type of Option in relation to a Security, as the case may be; and (c) the reasons for the action taken. |
| 35. | A Licensed Body suspends trading on a market in any Financial Instrument. | As soon as practicable. | (a) Notice of that event; (b) relevant information including particulars of that Financial Instrument; and (c) the reasons for the action taken. |
| 36. | A Licensed Body suspends providing Clearing Services generally in respect of any Derivative (other than an Option in relation to a Security), type of Security or type of Option in relation to a Security. | As soon as practicable. | (a) Notice of that event; (b) particulars of that Derivative, type of Security or type of Option in relation to a Security, as the case may be; and (c) the reasons for the action taken. |
| 37. | A Licensed Body suspends any arrangements it makes for the safeguarding and administration of any type of asset belonging to any other Person (other than an undertaking in the same Group). | As soon as practicable. | (a) Notice of that event; (b) particulars of that type of asset; and (c) the reasons for the action taken. |
| 38. | A Licensed Body is unable to operate any of its facilities within its normal hours of operation, due to the occurrence of any event or circumstances. | As soon as practicable. | (a) Notice of that event; (b) which facility the Licensed Body is unable to operate; (c) what event or circumstance has caused it to become unable to operate that facility within those hours; and (d) what action, if any, the Licensed Body is taking or proposes to take to |
| | Event | Timing | Information Requirement |
| | | | enable it to recommence operating that facility. |

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| 39. | A Licensed Body extends its hours of operation, due to the occurrence of any event or circumstances. | As soon as practicable. | (a) Notice of that event; (b) what event or circumstance has caused it to do so; (c) the new hours of operation; and (d) the date on which it expects to revert to its normal hours of operation. |
| Information technology systems | | | |
| 40. | A Licensed Body changes any of its plans for action in the event of a failure of any of its information technology systems resulting in disruption to the operation of its facilities; unless the changes are only minor revisions to, or updating of, the documents containing a Licensed Body's business continuity plan (for example, changes to contact names or telephone numbers). | As soon as practicable. | (a) Notice of that event; and (b) a copy of the new plan. |
| 41. | Any reserve information technology system of a Licensed Body fails in such a way that, if the main information technology system of that body were also to fail, it would be unable to operate any of its facilities during its normal hours of operation. | As soon as practicable. | (a) Notice of that event; (b) what action that Licensed Body is taking to restore the operation of the reserve information technology system; and (c) when it is expected that the operation of that system will be restored. |
| Inability to discharge Regulatory Functions | | | |
| 42. | A Licensed Body is unable to discharge any Regulatory Function because of the occurrence of any event or circumstances. | As soon as practicable. | (a) Notice of that event; (b) what event or circumstances has caused it to become unable to do so; (c) which of its Regulatory Functions it is unable to discharge; and (d) what action, if any, it is taking or proposes to take to deal with the situation and, in particular, to enable it to recommence |

| | Event | Timing | Information Requirement |
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| | | | discharging that Regulatory Function. |
| Membership | | | |
| 43. | A Licensed Body admits a new Member. | As soon as practicable. | (a) Notice of that event; (b) a description of the Person whom it is admitting to membership; and (c) particulars of its reasons for considering that the Recognised Body's membership criteria are met. |
| 44. | A Licensed Body admits for the first time a Remote Member whose head or registered office is in a jurisdiction from which that Recognised Body has not previously admitted Remote Members. | As soon as practicable. | (a) Notice of that event; (b) the name of that jurisdiction; (c) the name of any regulatory authority in that jurisdiction which regulates that Remote Member in respect of activities relating to Financial Instruments; and (d) particulars of its reasons for considering that, in admitting a Remote Member from that jurisdiction to membership, the Licensed Body is able to continue to satisfy the Recognition Requirements which apply to it. |
| Investigations | | | |
| 45. | A Licensed Body becomes aware that a Person has been appointed by any regulatory body (other than the Regulator or a Recognised Body) to investigate: (a) any business transacted by means of its facilities; or (b) any aspect of the Clearing Services which it provides. Notifications do not need to be made in respect of: (a) routine inspections or visits undertaken in the course of regular | As soon as practicable. | Notice of that event. |

| | Event | Timing | Information Requirement |
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| | <p>monitoring, complaints handling or as part of a series of 'theme visits';</p> <p>(b) routine requests for information;</p> <p>or</p> <p>(c) investigations into the conduct of Members of the Licensed Body or of other users of its facilities where the use of its facilities is a small or incidental part of the subject matter of the investigation.</p> | | |
| Disciplinary action relating to Members | | | |
| 46. | A Licensed Body has taken any disciplinary action against any Member or any Employee of a Member, in respect of a breach of a rule relating to the carrying on by the Licensed Body of any of its Regulatory Functions. | As soon as practicable. | <p>(a) Notice of that event;</p> <p>(b) the name of the Person concerned;</p> <p>(c) details of the disciplinary action taken by the Licensed Body; and</p> <p>(d) the Licensed Body's reasons for taking that disciplinary action.</p> |
| 47. | An appeal is lodged against any disciplinary action taken by a Licensed Body against any Member or any Employee of a Member, in respect of a breach of a rule relating to the carrying on by the Licensed Body of any of its Regulatory Functions. | As soon as practicable. | <p>(a) Notice of that event;</p> <p>(b) the name of the appellant;</p> <p>(c) the grounds on which the appeal is based; and</p> <p>(d) the outcome of the appeal, when known.</p> |
| Criminal offences and civil prohibitions | | | |
| 48. | A Licensed Body has evidence tending to suggest that any Person has: <p>(a) been carrying on any Regulated Activity in GMC in contravention of the General Prohibition;</p> <p>(b) been engaged in Market Abuse; committed a criminal offence under FSA and the Rules or subordinate legislation made under FSA and the Rules; or</p> <p>(d) committed a criminal offence under the Anti-Money Laundering and Sanctions Rules (AML).</p> | As soon as practicable. | <p>(a) Notice of that event; and</p> <p>(b) full details of that evidence in writing.</p> |
| Restriction of, or instruction to close out, open positions | | | |

| | Event | Timing | Information Requirement |
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| 49. | A Licensed Body decides to: (a) restrict the open position on any of the contracts of a Member; or (b) issue instructions to a Member to close out its positions on any contracts. | As soon as practicable. | (a) Notice of that event; (b) the Member's name; (c) the nature and size of any position to be restricted or closed out; and (d) the reasons for the Licensed Body's decision. |
| Default | | | |
| 50. | A Licensed Body decides to put a Member into default. | As close to when such a decision is taken by a Recognised Body as practicable. | (a) Notice of that event; (b) the name of the Member and (where relevant) the class of membership; (c) the reasons for that decision; and (d) the names of any other exchange, Clearing house or trading platform on which, to the best of that Licensed Body's knowledge, that Member clears business or transacts for, or in respect of, its Clients. |
| Transfers of ownership | | | |
| 51. | A Licensed Body becomes aware of a transfer of ownership of the Licensed Body which gives rise to a change in the Persons who are in a position to exercise significant influence over the management of the Licensed Body, whether directly or indirectly. | In advance of the transfer taking place, to allow for approval under section 105 FSA. | (a) Notice of that event; (b) the name of the Person(s) concerned; and (c) the details of the transfer. |
| Significant breaches of rules and disorderly trading conditions | | | |
| 52. | Any of the following events arise: (a) significant breaches of a Licensed Body's rules; or (b) disorderly trading conditions on any of its markets. | As soon as practicable. | (a) Notice of that event; <u>and</u> (b) <u>details of the event</u> |
| Rule changes | | | |
| 53. | A Licensed Body issues a consultation on proposed changes to its rules or procedures. | As soon as practicable. | A copy of the consultation paper and accompanying documentation. |

| | Event | Timing | Information Requirement |
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| 54. | Changes to a Licensed Body's rules or procedures become effective. | As soon as practicable. | A copy of the amended rules or procedures. |
| 55. | A Licensed Body issues guidance on or a circular relating its rules or procedures. | As soon as practicable. | A copy of the guidance or circular. |
| Licensed Clearing House capital | | | |
| 56. | The amount of capital falls below the notification threshold set out in Rule 4.2.4. | As soon as practicable. | (a) The reasons for the Licensed Clearing House's capital being below the notification threshold and a description of the short-term perspective of the Licensed Clearing House's financial situation; and (b) a comprehensive description of the measures the Licensed Clearing House intends to adopt to ensure the ongoing compliance with the capital requirements. |
| Operation of markets or MTFs/OTFs | | | |
| 57. | A Licensed Body proposes to operate a new market (or close an existing market). | No later than the date when the proposal is communicated to Members or shareholders | (a) Notice of that event; (b) in the case of a Licensed Body proposing to operate a new market, a description of the market and a description of the Financial Instruments which will be admitted to trading on that market; (c) where the Licensed Body proposes to close a market, the name of that market. |
| 58. | A Licensed Body proposes to operate a new MTF/OTF (or close an existing MTF/OTF). | No later than the date when the proposal is communicated to Members or shareholders | (a) Notice of that event; (b) in the case of a Licensed Body proposing to operate a new MTF/OTF, a description of the MTF/OTF and a description of the Financial Instruments which will be |

| | Event | Timing | Information Requirement |
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| | | | admitted to trading on that MTF/OTF; (c) where the Licensed Body proposes to close an MTF/OTF, the name of that MTF/OTF. |
| GEN Notifications | | | |
| 59. | As set out in GEN 8.10.12(1), a Licensed Body becomes aware, or has information that reasonably suggests that it has, or may have: (a) provided the Regulator with information which was or may have been false, misleading, incomplete or inaccurate; or (b) changed in a material particular. | Immediately it becomes aware of the information. | (a) Notice of that event; (b) Details of the information; (c) Explanation of why such information was or may have been provided; (d) The correct information. |
| 60. | As set out in GEN 8.10.7, one of the following events arises in relation to its activities in or from the GMC: (a) an Employee may have committed a fraud against one of its Customers; (b) a serious fraud has been committed against it; (c) it has reason to believe that a Person is acting with intent to commit a serious fraud against it; (d) it identifies significant irregularities in its accounting or other records, whether or not there is evidence of fraud; or (e) it suspects that one of its Employees who is Connected with the Regulated Body's activities may be guilty of serious misconduct concerning his honesty or integrity. | Immediately the Recognised Body becomes aware of the event. | (a) Notice and details of the event. |
| 61. | As set out in GEN 8.10.6, a Licensed Body becomes aware, or has reasonable grounds to believe, that any of the following matters may have occurred or may be about to occur: | Immediately it becomes aware of the information. | (a) Notice and details of the event. |

| | Event | Timing | Information Requirement |
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| | <ul style="list-style-type: none"> (a) The Licensed Body's failure to satisfy the fit and proper requirements of Rule 2.2.1; (b) any matter which could have a significant adverse effect on the Licensed Body's reputation; (c) any matter in relation to the Licensed Body which could result in serious adverse financial consequences to the GMC Financial System or to other Licensed Firms or Licensed Bodies; (d) a significant breach of a Rule by the Licensed Body or any of their Employees; (e) a breach by the Licensed Body or any of their Employees of any requirement imposed by any applicable law; (f) any proposed restructuring, merger, acquisition, reorganisation or business expansion which could have a significant impact on the Licensed Body's risk profile or resources; (g) any significant failure in the Licensed Body's systems or controls, including a failure reported to the Licensed Body by its auditor; (h) non-compliance with Rules due to an emergency outside the Licensed Body's control and the steps being taken by the Licensed Body. | | |
| 62. | <p>As set out in GEN 8.10.8, the:</p> <ul style="list-style-type: none"> (a) granting or refusal of any application for or revocation of authorisation to carry on financial services in any jurisdiction outside the GMC; (b) granting, withdrawal or refusal of an application for, or revocation of, membership of the Licensed Body of any | Immediately. | (a) Notice and details of the event. |

| | Event | Timing | Information Requirement |
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| | <p>Regulated Exchange or clearing house;</p> <p>(c) the Licensed Body becoming aware that a Non-GMC Financial Services Regulator has started an investigation into the affairs of the Licensed Body;</p> <p>(d) the appointment of inspectors, howsoever named, by a Non-GMC Financial Services Regulator to investigate the affairs of the Licensed Body; or</p> <p>(e) the imposition of disciplinary measures or disciplinary sanctions on the Licensed Body in relation to its financial services by any regulator or any Regulated Exchange or clearing house.</p> | | |
| 63. | As set out in GEN 3.5.18, a Licensed Body becomes aware of a material Cyber Incident | Immediately and in any event no later than 24 hours. | <p>(a) Notice of that event.</p> <p>(b) Particulars of the event.</p> |
| Position Limit Notifications | | | |
| 64. | As set out in MIR 3.3.7(e), a Licensed Body becomes aware that a position limit threshold is exceeded. | As soon as practicable. | <p>(a) The reason why such a large position is being held.</p> <p>(b) How the holding of said position furthers the participant's or Member's trading strategy.</p> <p>(c) How the position is being used for hedging and the relevant contracts being hedged against (where applicable).</p> |

6 SUPERVISION

6.1 Suspension and removal of Financial Instruments from trading

6.1.1 The Regulator may for the purpose of protecting:

- (a) the interests of investors; or
- (b) the orderly functioning of the GMC Financial System,

require a Licensed Investment Exchange to suspend or remove a Financial Instrument from trading.

6.1.2 The Regulator may for the purposes of Rule 6.1.1(a) or (b) require a Licensed Clearing House to cease Clearing a Financial Instrument.

6.1.3 For the purposes of this chapter, any reference to the rules of a Licensed Body is made to its:

- (a) Business Rules, in the case of a Licensed Investment Exchange;
- (b) Clearing Rules, in the case of a Licensed Clearing House; and
- (c) Default Rules, as applicable.

Guidance

The procedure the Regulator will follow if it exercises its power to require a Licensed Investment Exchange to suspend or remove a Financial Instrument from trading or Clearing is set out in Part 14 of FSA. The procedure the Regulator will follow if it exercises its power to require a Licensed Clearing House to cease Clearing a Financial Instrument is set out in Part 14 of FSA, as if references to Licensed Investment Exchanges were to Licensed Clearing Houses.

6.1.4 If the Regulator exercises its power to require a Licensed Body to suspend or remove a Financial Instrument from trading or Clearing, it must as soon as reasonably practicable, publish its decision in such manner as it considers appropriate.

6.2 Information gathering power on Regulator's own initiative

6.2.1 While the Regulator will seek to obtain information from a Licensed Body in the context of an open, cooperative and constructive relationship with the Licensed Body, where it appears to the Regulator that obtaining information in that context will not achieve the necessary results, the Regulator or (as the case may be) its officers may, by notice in writing, require the Licensed Body or any Person who is connected to the Licensed Body to provide or produce specified information or information of a specified description, at a specified place and before the end of a reasonable period, in such form and with such verifications or authentications as it may reasonably require.

6.2.2 A Person is connected with a Licensed Body if he is or has at any relevant time been:

- (a) a Member of the Licensed Body's Group;
- (b) a Controller of the Licensed Body;
- (c) any other member of a partnership of which the Licensed Body is a member; or
- (d) a Person mentioned in section 39 of FSA, reading references in that Part to the "Licensed Firm" as references to the Licensed Body.

6.3 **Risk assessments for Licensed Bodies**

6.3.1 For each Licensed Body, the Regulator will conduct a periodic risk assessment. This assessment will take into account relevant considerations including the special position of Licensed Bodies under FSA and the Rules, the nature of the Licensed Body's Members, the position of other users of its facilities and the business environment more generally.

6.3.2 [Deleted]

6.3.3 [Deleted]

Guidance

1. Information is needed to support the Regulator's risk-based approach to the supervision of all regulated entities, including Recognised Bodies. Risk-based supervision is intended to ensure that the allocation of supervisory resources and the supervisory process are compatible with the Regulator's objectives and the Regulator's general duties. The central element of the process of risk-based supervision is a systematic assessment by the Regulator (a "risk assessment") of the main supervisory risks and concerns for each regulated entity.
2. The risk assessment will guide the Regulator's supervisory focus. It is important, therefore, that there is good dialogue between the Regulator and the Licensed Body. The Regulator expects to review its risk assessment with the staff of the Licensed Body to ensure factual accuracy and a shared understanding of the key issues, and may discuss the results of the risk assessment with Key Individuals of the Licensed Body. If appropriate, the Regulator may send a detailed letter to the Licensed Body with proposals for further action or work to address particular concerns or issues and seek its comments on the risk assessment.

6.4 **Complaints – Regulator's arrangements**

6.4.1 [Deleted]

6.4.2 The Regulator is required to have arrangements to investigate complaints which it considers relevant to the question of whether a Recognised Body should remain recognised as such. This section describes aspects of the Regulator's arrangements for investigating relevant complaints.

- 6.4.3 Where the Regulator receives a complaint about a Licensed Body, it will, in the first instance, seek to establish whether the complainant has approached the Licensed Body. Where this is not the case, the Regulator will ask the complainant to complain to the Licensed Body. Where the complainant is dissatisfied with the handling of the complaint, but has not exhausted the Licensed Body's own internal complaints procedures (in the case of a complaint against a Licensed Body, including by applying to that body's complaints investigator), the Regulator will encourage the complainant to do so.
- 6.4.4 The Regulator will not usually consider a complaint which has not, in the first instance, been made to the Recognised Body concerned, unless there is good reason for believing that it is a relevant complaint which merits early consideration by the Regulator.
- 6.4.5 When it is considering a relevant complaint, the Regulator will make its own enquiries as appropriate with the Licensed Body, the complainant and other Persons. It will usually ask the Licensed Body and the complainant to comment upon any preliminary or draft conclusions of its review and to confirm any matters of fact at that stage.
- 6.4.6 The Regulator will communicate the outcome of its review of a relevant complaint to the complainant and the Licensed Body, but will normally only discuss any action which it considers the Licensed Body should take with the Licensed Body itself.

6.5 **Regulator supervision of action by Licensed Bodies under their Default Rules**

6.5.1 [Deleted]

6.5.2 [Deleted]

Guidance

1. Licensed Bodies which, under their rules, have Market Contracts are required to have Default Rules enabling them (among other things) to take action in relation to a Member that appears to be unable to meet its obligations in respect of one or more unsettled Market Contracts. The detailed Recognition Requirements relating to the Default Rules are set out in Rule 3.10 and Rule 4.5.
2. The Default Rules are designed to ensure that rights and liabilities between the defaulter and any counterparty to an unsettled Market Contract are discharged, and for there to be paid between the defaulter and each counterparty one net sum. The Insolvency Regulations contain provisions which protect action taken under Default Rules from the normal operation of insolvency law which might otherwise leave this action open to challenge by a Relevant Office Holder.

- 6.5.3 The Regulator may direct a Licensed Body to take, or not to take, action under its Default Rules (see Rules 6.5.4 and 6.5.6). Before exercising these powers the Regulator must consult the Licensed Body. The Regulator may also exercise these powers if a Relevant Office Holder applies to it.
- 6.5.4 The Regulator may issue a "positive" direction (to take action) where in any case a Licensed Body has not taken action under its Default Rules, but it appears to the Regulator that the Licensed Body could take action.
- 6.5.5 Before giving such a direction under Rule 6.5.4, the Regulator shall consult the Licensed Body in question, and the Regulator shall not give a direction unless the Regulator is satisfied, in the light of that consultation that:
- (a) failure to take action would involve undue risk to investors or other participants in the market;
 - (b) the direction is necessary having regard to the public interest in the financial stability of GMC; or
 - (c) the direction is necessary to facilitate a proposed or possible use of a power under chapter 16 of COBS or in connection with a particular exercise of a power under that chapter, or Rule 6.5.7(c).
- 6.5.6 The Regulator may issue a "negative" direction (not to take action) where in any case a Recognised Body has not taken action under its Default Rules, but it appears to the Regulator that the Licensed Body is proposing to take or may take action.
- 6.5.7 Before giving a direction under Rule 6.5.6, the Regulator shall consult the Licensed Body in question, and the Regulator shall not give a direction unless the Regulator is satisfied, in the light of that consultation that:
- (a) the taking of action would be premature or otherwise undesirable in the interests of investors or other participants in the market;
 - (b) the direction is necessary having regard to the public interest in the financial stability of GMC; or
 - (c) the direction is necessary to facilitate a proposed or possible use of a power under chapter 16 of COBS or in connection with a particular exercise of a power under that Part.
- 6.5.8 A negative direction cannot be given if, in relation to the defaulter, either:
- (a) a bankruptcy order or an award of sequestration of the defaulter's estate has been made, or an interim receiver or interim trustee has been appointed; or
 - (b) a winding-up order has been made, a resolution for voluntary winding-up has been passed or an administrator, administrative receiver or provisional liquidator has been appointed,

and any previous negative direction will cease to have effect on the making or passing of any such order, award or appointment.

- 6.5.9 A negative direction may be expressed to have effect until a further direction is given, which may either be a positive direction or a revocation of the earlier negative direction.
- 6.5.10 Where a Licensed Body has taken action either of its own accord or in response to a direction, the Regulator may direct it to do or not to do specific things subject to these being within the powers of the Licensed Body under its Default Rules. However,
- (a) where the Licensed Body is acting in accordance with a direction given by the Regulator to take action on the basis that failure to take action would involve undue risk to investors or other participants in the market, the Regulator will not direct it to do or not to do specific things which the Licensed Body has power to do under its Default Rules, unless the Regulator is satisfied that this will not impede or frustrate the proper and efficient conduct of the default proceedings; and
 - (b) where the Licensed Body has taken action under its Default Rules without being directed to do so, the Regulator will not direct it to do or not to do specific things which the Licensed Body has power to do under its Default Rules, unless the Regulator is satisfied that:
 - (i) the direction will not impede or frustrate the proper and efficient conduct of the default proceedings; or
 - (ii) the direction is necessary:
 - A. having regard to the public interest in the stability of the GMC Financial System;
 - B. to facilitate a proposed or possible use of a power under COBS 16; or
 - C. in connection with a particular exercise of a power under COBS 16.
- 6.5.11 Where, in relation to a Member (or designated non-Member) of a Licensed Body:
- (a) a bankruptcy order;
 - (b) an award of sequestration of his estate;
 - (c) an order appointing an interim receiver of his property;
 - (d) an administration or winding-up order;
 - (e) a resolution for a voluntary winding-up; or

- (f) an order appointing a provisional liquidator,

has been made or passed and the Licensed Body has not taken action under its Default Rules as a result of this event or of the matters giving rise to it, a Relevant Office Holder appointed in connection with the order, award or resolution may make an application to the Regulator.

6.5.12 The effect of such an application is to require the Licensed Body concerned to take action under its Default Rules or to require the Regulator to take action.

6.5.13 The procedure is that the Regulator must notify the Licensed Body of the application and unless the Licensed Body:

- (a) takes action under its Default Rules;
- (b) notifies the Regulator that it proposes to take action forthwith; or
- (c) is directed to take action by the Regulator,

within three Business Days after receipt of that notice section 268 of the Insolvency Regulations will not apply in relation to Market Contracts to which the Member or designated non-Member is a party or to anything done by the Licensed Body for the purpose of, or in connection with, the settlement of Market Contracts.

6.6 **Power to give directions**

6.6.1 The Regulator has the power under sections 132 and 133 of FSA to give directions to a Licensed Body to take specified steps in order to secure its compliance with the Recognition Requirements. Those steps may include granting the Regulator access to the Licensed Body's premises for the purposes of inspecting those premises or any documents on the premises and the suspension of the carrying on of any activity by the Recognised Body for the period specified in the direction.

6.6.2 The Regulator is likely to exercise this power if it considers that:

- (a) there has been, or was likely to be, a failure to satisfy one or more of the Recognition Requirements which has serious consequences;
- (b) compliance with the direction would ensure that one or more of the Recognition Requirements is satisfied; and
- (c) the Licensed Body is capable of complying with the direction.

6.6.3 The Regulator need not follow the consultation procedure set out in Rule 6.9 or may cut short that procedure, if it considers it reasonably necessary to do so.

6.7 **Controllers – Notifications and powers to direct**

6.7.1 A Licensed Body must comply with GEN 8.8.1 – 8.8.14 in relation to notifying changes relating to control.

6.7.2 The Regulator has the power to give a direction to a Licensed Body in matters relating to its Controllers if it considers that it is desirable to give the direction in order to advance one or more of its operational objectives.

6.7.3 In exercising or deciding whether to exercise its power to direct a Licensed Body in matters relating to its Controllers, the Regulator will have regard to any statement of policy published under this section and for the time being in force.

6.8 **Power to revoke recognition**

6.8.1 The Regulator has the power to revoke a Recognition Order relating to a Licensed Body, including when a Licensed Body has asked the Regulator to revoke a Recognition Order.

6.8.2 [Deleted]

6.8.3 The Regulator will usually consider revoking a Recognition Order if:

- (a) the Licensed Body is failing or has failed to satisfy one or more of the Recognition Requirements and that failure has or will have serious consequences;
- (b) it would not be possible for the Licensed Body to comply with a direction under the Regulator's power to give directions under sections 132 and 133 of FSA;
- (c) for some other reason, it would not be appropriate for the Regulator to give a direction under its power to give directions under sections 132 and 133 of FSA; or
- (d) the Licensed Body has not carried on the business of a Licensed Body during the 12 months beginning with the day on which the Recognition Order took effect in relation to it, or it has not carried on the business of a Licensed Body at any time during the period of six months ending with the day the Recognition Order is revoked.

6.8.4 The Regulator would be likely to consider the conditions in Rule 6.8.3(b) or Rule 6.8.3(c) to be triggered in the following circumstances:

- (a) the Licensed Body appears not to have the resources or management to be able to organise its affairs so as to satisfy one or more of the Recognition Requirements;
- (b) the Licensed Body does not appear to be willing to satisfy one or more of the Recognition Requirements;
- (c) the Licensed Body is failing or has failed to comply with a direction made by the Regulator; or
- (d) the Licensed Body has ceased to carry out activities in GMC, or has so changed the nature of its business that it no longer satisfies one or more of the Recognition Requirements in respect of the activities for which Licensed Body status is relevant.

6.8.5 In addition to the relevant factors set out in Rule 6.8.4, the Regulator will usually consider that it would not be able to secure a Remote Body's compliance with the Recognition Requirements or other obligations means of a direction if it appears to the

Regulator that the Remote Body is prevented by any change in the legal framework or supervisory arrangements to which it is subject in its home jurisdiction from complying with the Recognition Requirements or other obligations in or under FSA and Rules.

6.8.6 A Licensed Clearing House must terminate, transfer, invoice back or otherwise close out all open contracts prior to any such revocation taking effect.

6.9 Procedure for making orders

6.9.1 [Deleted]

6.9.2 [Deleted]

6.9.3 In considering whether it would be appropriate to exercise its powers to issue directions under sections 132 and 133 of FSA or Rule 6.7.2, the Regulator will have regard to all relevant information and factors including:

- (a) the Rules contained in MIR;
- (b) the results of its routine supervision of the Licensed Body concerned;
- (c) the extent to which the failure or likely failure to satisfy one or more of the Recognition Requirements may affect the objectives of the Regulator.

6.9.4 In considering whether or not to make a Recognition Order under section 124 of FSA, the Regulator will have regard to all relevant information and factors, including the information provided by Applicants.

6.9.5 Before exercising its powers to make directions, the Regulator will usually discuss its intention, and the basis for this, with the Key Individuals or other appropriate representatives of the Licensed Body. It will usually discuss its intention not to make a Recognition Order with appropriate representatives of the Applicant.

6.9.6 The procedures that the Regulator will follow in exercising its powers to make directions or refuse to make a Recognition Order (except in the case of a revocation of a Recognition Order, the Licensed Body concerned has given its consent or, in case where the Regulator proposes to make a direction, it considers it is reasonably necessary not to follow, or to cut short, the procedure) are:

| | The Regulator will: | Guidance |
|----|--|--|
| 1. | give written notice to the Licensed Body (or Applicant); | The notice will state why the Regulator intends to take the action it proposes to take, and include an invitation to |

| | The Regulator will: | Guidance |
|----|---|---|
| | | make representations, and the period within which representations should be made (unless subsequently extended by the Regulator). |
| 2. | receive representations from the Licensed Body or Applicant concerned; | The Regulator will not usually consider oral representations without first receiving written representations from the Licensed Body or Applicant. It will normally only hear oral representations from the Licensed Body or Applicant on request. |
| 3. | write promptly to the Licensed Body or Applicant who requests the opportunity to make oral representations if it decides not to hear that Person's representations; | The Regulator will indicate why it will not hear oral representations and the Regulator will allow the Licensed Body or Applicant further time to respond. |
| 4. | have regard to representations made; | |
| 5. | (when it has reached its decision) notify the Licensed Body or Applicant concerned in writing. | |

6.10 Disciplinary measures

6.10.1 If the Regulator considers that a Licensed Body has contravened a requirement imposed by the Regulator, or under any provision of FSA or the Rules whose contravention constitutes an offence the Regulator has power to prosecute, it may:

- (a) publish a statement to that effect; or
- (b) impose on the body a financial penalty of such amount as it considers appropriate.

6.10.2 The procedures and policies which the Regulator will follow if it proposes to publish a statement or to impose a penalty, and if it decides to publish such statement or impose such penalty, are set out in FSA.

6.10.3 In exercising or deciding whether to exercise its power to impose a penalty, the Regulator will also have regard to any statement of policy published under this section and in force at a time when the contravention in question occurred.

- 6.10.4 If the Regulator considers that a Controller of a Licensed Body has contravened a requirement of a direction given by the Regulator, or a Rule, it may:
- (a) impose a penalty of such amount as it considers appropriate on the Controller of the Licensed Body, or any Person who was knowingly concerned in the contravention; or
 - (b) publish a statement censuring the Person.
- 6.10.5 The procedures which the Regulator will follow if it proposes to take action, and if it decides to take action against a Person, are set out in FSA.
- 6.10.6 In exercising or deciding whether to exercise its power to impose a penalty or publish a statement of censure, the Regulator will also have regard to any statement of policy published under this section and in force at a time when the contravention in question occurred.

6.11 Publication of information

- 6.11.1 A Licensed Body must as soon as practicable after a Recognition Order is made in respect of it, publish such particulars of the ownership of the Licensed Body, including the identity and scale of interests of the Persons who are in a position to exercise significant influence over the management of the Licensed Body, whether directly or indirectly, as the Regulator may reasonably require.
- 6.11.2 A Licensed Body must as soon as practicable after becoming aware of a transfer of ownership of the Licensed Body which gives rise to a change of Persons who are in a position to exercise significant influence over the management of the Licensed Body, whether directly or indirectly, publish such particulars of any transfer as the Regulator may reasonably require.
- 6.11.3 A Licensed Body must publish such particulars of any decision it makes to suspend or remove a Financial Instrument from trading on a market operated by it as the Regulator may reasonably require.

7 REMOTE BODIES

7.1 Applications

7.1.1 Applicants for recognition as a Remote Investment Exchange or Remote Clearing House shall follow the same application procedures as apply in respect of Applicants for recognition as a Licensed Investment Exchange or Recognised Clearing House.

7.1.2 Applicants for recognition as a Remote Clearing House must demonstrate, where they act as a CCP, that they have QCCP status for the purposes of the paper issued by the Basel Committee on Banking Supervision entitled "Capital requirements for bank exposures to central counterparties"(BCBS282, April 2014).

7.1.3 In addition, applications for recognition as a Remote Investment Exchange or Remote Clearing House must contain:

- (a) the address of the Applicant's head office in its home jurisdiction;
- (b) the address of a place in GMC for the service on the Applicant of notices or other documents required or authorised to be served on it;
- (c) information identifying any type of activity which the Applicant envisages undertaking in GMC and the extent and nature of usage and membership;
- (d) a comparative analysis of the Applicant's regulatory requirements in its home jurisdiction compared against those under the Rules set out in this Rulebook and those contained in the "Principles for Financial Market Infrastructures" issued by IOSCO and the Committee on Payment and Settlement Systems (April 2012);
- (e) the information, evidence and explanatory material necessary to demonstrate to the Regulator that the requirements specified in Rule 7.2.2 are met;
- (f) one copy of each of the following documents:
 - (i) its most recent financial statements; and
 - (ii) the Applicant's memorandum and articles of association or any similar documents; and
- (g) the date by which the Applicant wishes the Recognition Order to take effect.

7.1.4 The Regulator may require further information, including information specified in Rule 2.15.4, from the Applicant and may need to have discussions with the appropriate authorities in the Applicant's home jurisdiction.

7.1.5 All material should be supplied in English, or accompanied, if appropriate, by an accurate English translation. An English glossary of technical or statistical terms may be sufficient to accompany tables of statistical or financial information.

7.2 **Recognition requirements**

7.2.1 Before making a Recognition Order, the Regulator will need to be satisfied that the Remote Recognition Requirements in Rule 7.2.2 have been met.

7.2.2 **Remote Recognition Requirements**

A Remote Body must ensure that:

- (a) investors are afforded protection equivalent to that which they would be afforded if the body concerned were required to comply with the Recognition Requirements or MTF requirements, as applicable;
- (b) there are adequate procedures for dealing with a Person who is unable, or likely to become unable, to meet his obligations in respect of one or more Market Contracts connected with the Remote Body;
- (c) the Applicant is able and willing to co-operate with the Regulator through the sharing of information and in other ways; and
- (d) adequate arrangements exist for co-operation between the Regulator and those responsible for the supervision of the Applicant in the jurisdiction in which the Applicant's head office is situated.

7.2.3 In considering whether it is satisfied as to the requirements mentioned in Rule 7.2.2(a) and (b), the Regulator shall have regard to:

- (a) the relevant law and practice of the jurisdiction in which the Applicant's head office is situated, including with respect to a Remote Clearing House Applicant, the equivalence of such laws to those set out in chapter 3, chapter 4 of Part 12, and Part 13 of FSA; and
- (b) the Regulatory Provisions of the Applicant.

7.3 **Regulator decision on recognition**

7.3.1 If the Regulator considers that the Remote Recognition Requirements are satisfied, it may make a Recognition Order, which will state the date on which it takes effect.

7.3.2 [Deleted]

7.3.3 [Deleted]

7.3.4 [Deleted]

7.3.5 [Deleted]

7.3.6 If the Regulator decides to refuse to make a Recognition Order, it will follow the procedure set out in Rule 6.9.6.

Guidance

Where the Regulator considers that it is unlikely to make a Recognition Order it may discuss its concerns with the Applicant with a view to enabling the Applicant to make changes to its Regulatory Provisions, or other parts of its application.

7.4 Supervision

7.4.1 A Remote Body shall provide the Regulator with an annual report which contains the information set out in Rule 7.4.2. In relation to the report:

- (a) the period covered by such a report starts on the day after the period covered by its last report or, if there is no such report, after the making of the Recognition Order recognising the Remote Body as such, and ends on the date specified in the report or, if no date is specified, on the date of the report.
- (b) if a Remote Body changes the period covered by its report, it should ensure that the first day of the period covered by a report is the day immediately following the last day of the period covered by the previous report.
- (c) copies of the report should be sent to the Regulator within two months after the end of the period to which it relates.

Guidance

The period covered by the report to be submitted under Rule 7.4.1 would most conveniently be one year.

7.4.2 A Remote Body must, in the circumstances noted, notify the Regulator of the following information:

| | Event | Timing | Information requirement |
|----|---|--|---|
| 1. | An event occurs which is likely to affect the Regulator's assessment of whether it is satisfied that the Remote Body continues to satisfy the Remote Recognition Requirements (see Rule 7.4.3). | As soon as reasonably practicable. | Particulars of the relevant event. |
| 2. | A Remote Body amends its: (a) memorandum and articles of association or any similar or analogous documents; or (b) chairman or president, or chief executive (or equivalent). | In its next annual report (or first annual report, if not notified to the Regulator during application process). | Particulars of the change and effective date. |

| | Event | Timing | Information requirement |
|----|--|--|--|
| 3. | Disciplinary action (or any similar or analogous action) is taken against the Remote Body by any supervisory authority in its home jurisdiction, whether or not that action has been made public in that jurisdiction. | As soon as reasonably practicable. | Particulars of the disciplinary action taken. |
| 4. | Publication of annual report and accounts. | Within fourteen days of publication or approval of the auditor, whichever is the sooner. | A copy of the annual report and accounts. |
| 5. | A Remote Body proposes to change: (a) its address in GMC for the service of notices or other documents required or authorised to be served on it; or (b) the address of its head office. | Fourteen days before the change is effective. | The new address. |
| 6. | A Remote Body has notice that any license, permission or authorisation which it requires to conduct any regulated activity in its home jurisdiction has been or is about to be revoked or modified in any way which would materially restrict the Remote Body in performing any regulated activity in its home jurisdiction or in GMC. | As soon as practicable. | (a) particulars of the license, permission or authorisation which has been or is to be revoked or modified, including particulars of the Remote Body's regulated activities to which it relates; (b) an explanation of how the revocation or modification restricts or will restrict the Remote Body in carrying on any regulated activity in its home jurisdiction or in GMC; (c) the date on which the revocation or modification took, or will take, effect and, if it is a temporary measure, any date on which, or any conditions that must be met before which, it will cease to have effect; and (d) any reasons given for the revocation or modification. |

| | Event | Timing | Information requirement |
|-----|---|--|--|
| 7. | A Remote Body admits for the first time a Member whose head or registered office is in GMC. | As soon as practicable. | (a) notice of that event; (b) the address of the new Member. |
| 8. | A Remote Body decides to put a Member into default. | As close to when such a decision is taken by a Remote Body as practicable. | (a) notice of that event; (b) the name of the Member and (where relevant) the class of membership; (c) the reasons for that decision; and (d) the names of any other exchange, Clearing house or trading platform on which, to the best of that Remote Body's knowledge, that Member clears business or transacts for, or in respect of, its Clients. |
| 9. | A Remote Body issues a consultation on proposed changes to its rules or procedures. | As soon as practicable. | A copy of the consultation paper and accompanying documentation. |
| 10. | Changes to a Remote Body's rules or procedures become effective. | As soon as practicable. | A copy of the amended rules or procedures. |
| 11. | A Remote Body issues guidance on or a circular relating its rules or procedures. | As soon as practicable. | A copy of the guidance or circular. |

7.4.3 The following events are examples of events likely to affect an assessment of whether a Remote Body is continuing to satisfy the Remote Recognition Requirements:

- (a) significant changes to any relevant law or regulation in its home jurisdiction, including laws or regulations:
 - (i) governing exchanges or Clearing houses;
 - (ii) designed to prevent insider dealing, market manipulation or other forms of Market Abuse or misconduct;
 - (iii) designed to protect the interests of Clients of Members of the Remote Body, or of a class of bodies which includes the Remote Body;
 - (iv) which affect:
 - A. the ability of the Remote Body to seek information (whether compulsorily or voluntarily) from its Members, including

information relating to the price and volume of transactions, the identity of parties to transactions, and the movement of funds associated with transactions; and

- B. the ability of the Remote Body to pass such information, on request, to the Regulator;
- (b) significant changes to its internal organisation or structure;
- (c) significant changes to the practices of the Remote Body applying to any activities carried on by it in GMC; or
- (d) any other event or series of events in relation to the body which:
 - (i) affects or may significantly affect cooperation between the Remote Body, or its supervisor in its home jurisdiction, and the Regulator;
 - (ii) has or may have a substantial effect on the structure of the markets in which the body operates;
 - (iii) brings about or may bring about a substantial change in the nature and composition of its membership in GMC; or
 - (iv) brings about or may bring about a substantial change in the activities undertaken by it in GMC.

Language of notice

7.4.4 Any notice to be given or information to be supplied under these notification rules must be supplied in English, and any document to be provided must be accompanied, if not in English, by an accurate English translation.

7.4.5 An English glossary of technical or statistical terms may be sufficient to accompany tables of statistical or financial information.

Form and method of notification

7.4.6 The Rules relating to the form and method of notification in Rule 5.2 also apply to Remote Bodies.

Waivers

7.4.7 Remote Bodies may apply to the Regulator for a waiver of any of the notification rules. The procedure is the same as that for applications from Licensed Bodies, as set out in Rule 5.3.1.

7.5 Powers to supervise

7.5.1 The Regulator has similar powers to supervise Non-GMC Licensed Bodies to those it has to supervise Recognised Bodies. It may (in addition to any other powers it might exercise) exercise any of the following powers:

- (a) give directions to a Remote Body if it has failed, or is likely to fail, to satisfy the

Non-GMC Recognition Requirements or if it has failed to comply with any other obligation imposed by or under FSA and the Rules;

- (b) give directions to a Remote Body if it has failed, or is likely to fail, to satisfy the Non-GMC Recognition Requirements or if it has failed to comply with any other obligation imposed by or under FSA and the Rules;
- (c) revoke a Recognition Order if a Remote Body is failing, or has failed, to comply with the Remote Recognition Requirements or any other obligation in or under FSA and the Rules;
- (d) require a Remote Body or a Person connected with the Remote Body, to provide or produce specified information or information of a specified description, at a specified place and before the end of a reasonable period, in such form and with such verifications or authentications as it may reasonably require; or
- (e) require any of the following Persons, to provide the Regulator with a report on any matter, or appoint a Skilled Person to provide the Regulator with information or produce documents with respect to any matter:
 - (i) the Remote Body;
 - (ii) any other Member of the Remote Body's Group;
 - (iii) a partnership of which the Remote Body is a Member; or
 - (iv) a Person who has at any time been a Person falling within (i), (ii) or (iii).

7.5.2 The Regulator will follow the approach in Rules 6.2.1, 6.6.1, 6.8.1, 6.9.6 and GEN 8.12 if it is considering exercising these powers in relation to a Remote Body.

8 REMOTE MEMBERS

8.1 Introduction

8.1.1 An Applicant to be a Remote Member must submit a written application to the Regulator on how it satisfies or intends to satisfy the Remote Member Requirements at the date of the application and on an ongoing basis.

8.1.2 The written application in Rule 8.1.1 is to include:

- (a) the business name or trading name the Remote Member intends to use in the GMC;
- (b) the address of the Remote Member's registered office and head office in its home jurisdiction;
- (c) the name of the Recognised Body upon which it is applying for membership;
- (d) the name of, and contact details relating to, the Non-GMC Financial Services Regulator in its home jurisdiction; and
- (e) how the Applicant will satisfy the Remote Member Requirements set out in Rule 8.2.1.

8.1.3 In assessing an application for a Remote Member Recognition Order, the Regulator may:

- (a) carry out any enquiries which it considers appropriate including enquiries independent of the Applicant;
- (b) require the Applicant to submit such additional information as the Regulator may reasonably require;
- (c) require any information submitted by the Applicant to be verified in such manner as the Regulator may specify; and
- (d) take into account any information which the Regulator considers appropriate in relation to the Applicant.

8.2 Applications

8.2.1 The Remote Member Requirements for a Remote Member are that:

- (a) it agrees in writing to submit unconditionally to the jurisdiction of the Regulator in relation to any matters which arise out of or which relate to its use of the facilities of the Recognised Body;
- (b) [Deleted]
- (c) [Deleted]

- (d) it is licensed or otherwise authorised to trade on, or use the facilities of, an exchange or clearing house in a jurisdiction acceptable to the Regulator;
- (e) it is regulated in respect of the trading, or use of facilities in (d), by a Non- GMC Financial Services Regulator to a standard acceptable to the Licensed Body;
- (f) the law and practice under which the Remote Member is licensed or otherwise authorised is broadly equivalent to the GMC regulatory regime as it applies to a GMC Member;
- (g) adequate arrangements exist, or will exist, for co-operation between the Regulator and the Non-GMC Financial Services Regulator responsible for the Remote Member's licensing and regulation;
- (h) it carries on business in a jurisdiction other than GMC and has its head office and registered office outside GMC;
- (i) subject to Rule 8.2.2, when using the facilities of a Licensed Investment Exchange or Licensed Clearing House, it only does so for the purpose of dealing in investments as either agent or principal, pursuant to the scope of the activities it is licensed to undertake by its Non-GMC Regulator; and
- (j) subject to Rule 8.2.3, when undertaking activities on a Recognised Body it does so only for non-GMC clients.

8.2.2 Rule 8.2.1(i) does not prevent a Remote Member which has a Branch that is a Licensed Firm from carrying on a Regulated Activity in or from GMC through such a Branch.

8.2.3 Rule 8.2.1(j) does not apply to a Remote Member which:

- (a) [Deleted]
- (b) has a Branch or a Branch from within its Group which is a Licensed Firm.

8.3 Regulator decision on Remote Member Recognition

8.3.1 If the Regulator considers that the Remote Member Requirements are satisfied, it may make a Recognition Order, which will state the date on which it takes effect.

8.3.2 Where the Regulator considers that it is unlikely to make a Recognition Order, it will discuss its concerns with the Applicant with a view to enabling the Applicant to make changes to its application. If the Regulator decides to refuse to make a Recognition Order, it will follow the procedure set out in Part 12 of F

8.4 Remote Member Supervision

Guidance

The Regulator will rely upon a Remote Member's Non-GMC Financial Services Regulator in its home jurisdiction to supervise the Remote Member. The focus of the Regulator's interest will be on GMC and those activities of the Remote Member that may impact GMC.

- 8.4.1 A Remote Member must provide the Regulator with reasonable advance notice of a change in:
- (a) its name;
 - (b) any business name or trading name it uses in GMC, if different to (a); or
 - (c) the address of its registered office or head office in its home jurisdiction.
- 8.4.2 A Remote Member must notify the Regulator immediately upon the granting, modification, variation, withdrawal or refusal of an application for, or revocation of membership of an exchange or clearing house, including membership of a Licensed Body.
- 8.4.3 A Remote Member must provide the Regulator with a copy of any information provided to any Non-GMC Financial Services Regulator to which the Remote Member is subject and which is relevant to its status as a Remote Member.
- 8.4.4 Notwithstanding Rule 8.4.2, a Remote Member must notify the Regulator as soon as possible of:
- (a) anything which causes, or may cause, it to fail to satisfy the Remote Member Requirements;
 - (b) it becoming aware that a Non-GMC Financial Services Regulator has started an investigation into the affairs of the Remote Member;
 - (c) the appointment of inspectors, howsoever named, by a Non-GMC Financial Services Regulator to investigate or manage the affairs of the Remote Member;
 - (d) the imposition of disciplinary measures or sanctions on the Remote Member by any Non-GMC Financial Services Regulator;
 - (e) any significant event, or anything else relating to the Remote Member, which the Licensed Body would reasonably expect to notified of; or
 - (f) it receiving an order from a Client, or arranges or executes a transactions with or for a Client, and has reasonable grounds to suspect that the order or transaction may constitute Market Abuse in GMC.
- (i) The notification under 8.4.4(f) must provide sufficient details of the order or transaction, and the reasons for the Remote Member suspecting that the order or

transaction may constitute Market Abuse in GMC.

(ii) A Remote Member must not inform the Client, or any other Person involved in the order or transaction, of a notification under Rule 8.4.4(f).

Guidance

Events which may cause a Remote Member to be unable to meet the Remote Member Requirements include significant changes to any relevant laws or regulations in its home jurisdiction, which:

- (a) are designed to prevent market abuse or money laundering; or
- (b) affect the ability of a Remote Member to provide information to the Regulator.

The Regulator does not require notification from a Remote Member, for the purposes of Rule 8.4.4(b) or (c), where the activities of the Non-GMC Financial Services Regulator are part of a routine / regular inspection or audit of affairs of the Remote Member.

8.4.5 A Remote Member must:

- (a) deal with the Regulator in an open and co-operative manner; and
- (b) ensure that communication with the Regulator is conducted in the English language.

Guidance

GEN Rule 8.11 sets out how information is to be provided to the Regulator.

8.5 Revocation of a Remote Member Recognition Order

8.5.1 If a Remote Member wishes to have its Recognition Order revoked it must submit a request in writing to the Regulator stating:

- (a) the reasons for the request;
- (b) that it is no longer, or will no longer be, a Member of a Recognised Body;
- (c) the date on which its membership was, or will be, terminated; and
- (d) that it has discharged, or will discharge, all obligations owed to any Person in GMC which have arisen as a result of its recognised status.

8.5.2 If the Regulator decides to revoke a Remote Member's Recognition Order, it will follow the requirements set out in Rules 6.9.3 and 6.9.6.

Guidance

The Regulator may revoke a Remote Member's Recognition Order in circumstances where such Person continues to the meet the Remote Member Recognition Requirements. This may include where the Regulator considers it necessary or desirable in order to prevent damage to the reputation of GMC or to the GMC Financial System.