

# **METROPOLITAN CLEARING CORPORATION OF INDIA LIMITED<sup>1</sup>**

## **Bye-laws of Currency Derivatives Segment**

**Amended till July 1, 2016**

**Metropolitan Clearing Corporation of India Limited**  
4<sup>th</sup> Floor, Vibgyor Tower, G Block, Plot No. C62,  
Bandra Kurla Complex, Bandra (East),  
Mumbai -400098

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<sup>1</sup> Substituted MCX-SX Clearing Corporation of India Limited with Metropolitan Clearing Corporation of India Limited wherever it appears (w.e.f. August 18, 2015).

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**METROPOLITAN CLEARING CORPORATION OF INDIA LIMITED  
BYE LAWS OF CURRENCY DERIVATIVES SEGMENT**

**Arrangement of Chapters**

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<sup>2</sup> Substituted w.e.f. January 28, 2014, prior to substitution Chapter III read as under:  
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<sup>3</sup> Substituted w.e.f. May 19, 2015

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## CHAPTER I

### DEFINITIONS

1. **BOARD**

"Board" means Board of Directors of Metropolitan Clearing Corporation of India Limited.

2. **BYELAWS**

Unless the context indicates otherwise, Byelaws means the Byelaws of the Currency Derivatives Segment (CD Segment) of the Clearing Corporation for the time being in force.

3. **CLEARING AND SETTLEMENT**

"Clearing and Settlement" means clearing or settlement or clearing and settlement of deals in respect of Currency Derivatives Segment in such manner and subject to such conditions as may be specified by the Relevant Authority from time to time, unless the context indicates otherwise.

4. **CLEARING BANK(S)**

Clearing Bank(s) is such bank(s) as the Clearing Corporation may appoint to act as a funds settling agency, for the collection of margin money for all deals cleared through CD Segment and any other funds movement between clearing members and the Clearing Corporation and between clearing members as may be directed by the Clearing Corporation from time to time.

5. **CLEARING CORPORATION**

Clearing Corporation means Metropolitan Clearing Corporation of India Limited.

6. **CLEARING MEMBER**

"Clearing Member" means a member of the CD Segment of Clearing Corporation and includes all categories of clearing members as may be admitted as such by the Clearing Corporation but does not denote the shareholders of the Clearing Corporation.

7. **CONSTITUENT**

A Client /Constituent means a person, on whose instructions and on whose account the Clearing Member clears and settles deals. For this purpose the term "Client" shall include all registered constituents of trading members of Specified Exchange.

Explanation 1: The terms `Constituent' and `Client' are used interchangeably in the Byelaws, Rules & Regulations and shall have the same meaning assigned herein.

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Explanation 2: The term „Constituent“ in relation to trades shall also include a trading member where such trades done on the Specified Exchange are cleared and settled on his behalf by a Clearing Member.

**8. CURRENCY DERIVATIVES SEGMENT**

"Currency Derivatives Segment" or "CD Segment" means CD Segment of Clearing Corporation and also includes the different clearing sub-segments or divisions thereof for clearing and settlement of deals as may be classified by the relevant authority from time to time.

**9. DEAL**

"Deal" means, unless the context indicates otherwise, a deal which is admitted to be cleared and settled through the Clearing Corporation in the CD Segment.

**10. DELIVERING MEMBER**

"Delivering Member" means a clearing member who has to or has delivered documents in fulfillment of contract to which these Rules, Bye Laws and Regulations apply unless the context indicates otherwise.

**11. RECEIVING MEMBER**

"Receiving Member" means a clearing member who has to receive or has received documents in fulfillment of contracts to which these Rules, Bye Laws and Regulations apply unless the context indicates otherwise.

**12. REGULATIONS**

"Regulations" means Regulations of the CD Segment for the time being in force and includes business rules, code of conduct and such other procedures and regulations, circulars, directives and orders as issued by the relevant authority from time to time for the operations of the CD Segment.

**13. RELEVANT AUTHORITY**

"Relevant Authority" means the Board, Securities and Exchange Board of India or such other authority as specified by the Board from time to time as relevant for a specified purpose.

**14. RULES**

Unless the context indicates otherwise, "Rules" means the Rules of the CD Segment for the time being in force.

**15. SEBI**

"SEBI" means the Securities and Exchange Board of India.

**16. SECURITIES**

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"Securities" shall have the meaning assigned to it in the Securities Contracts (Regulation) Act, 1956 and shall also include such other class of instruments or products, monetary or non-monetary, scrip- less or otherwise, as may be admitted to be cleared and settled through the CD Segment.

**17. SETTLEMENT GUARANTEE FUND**

Settlement Guarantee Fund means a fund established and maintained in accordance with the relevant provisions of the Bye Laws.

**18. SPECIFIED EXCHANGE**

"Specified Exchange" or "specified exchange" means a recognised stock exchange/segment of recognised stock exchange under the Securities Contracts (Regulation) Act, 1956 dealings on which may be admitted to be cleared and settled by the Clearing Corporation in its CD Segment subject to such terms and conditions as may be specified from time to time by the relevant authority.

**19. TRADING MEMBER**

"Trading Member" or "trading member" means any person admitted as a member in any Exchange in accordance with the Rules, Bye Laws and Regulations of that Exchange.

**Note:** The terms defined above shall mean the same when used in lower case in the Bye Laws and Regulations, unless the context indicates otherwise.

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## CHAPTER II

### CLEARING SEGMENTS

1. There may be more than one clearing segment as may be specified by the relevant authority under these Bye-laws from time to time
2. The Clearing Corporation may establish more than one clearing sub-segment or division in the CD Segment as may be specified by the relevant authority from time to time. Deals which may be admitted to the different clearing sub-segments or divisions of CD Segment for the purpose of clearing and settlement will be specified by the relevant authority from time to time.

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## CHAPTER III

### [STATUTORY AND OTHER COMMITTEES

1. The Board may, from time to time, constitute one or more committees comprising of members of the Board or such other members as the Board may in its discretion deem fit or necessary or as may be prescribed by SEBI from time to time.
2. The Board may specify the terms of reference of such committee and delegate to such committees such powers as the Board may deem fit or as may be prescribed by SEBI from time to time and the Board may from time to time revoke such delegation or dissolve such committees.]<sup>4</sup>

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<sup>4</sup> Substituted w.e.f January 28, 2014, prior to substitution, Chapter III read as under:

#### **EXECUTIVE COMMITTEE**

1. Executive Committee(s) may be appointed by the Board for the purposes of managing the day to day affairs of the CD Segment of the Clearing Corporation in such manner as laid down in the Rules.
2. The Executive Committee of CD Segment shall have such responsibilities and powers as may be delegated to it by the Board.
3. The Executive Committee for CD Segment shall not have any representation from the Clearing Members and Trading Members. The composition of such Executive Committee shall be subject to the prior approval of Securities and Exchange Board of India (SEBI).

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## CHAPTER IV

### REGULATIONS

1. The Board may prescribe Regulations from time to time for the functioning and operations of the CD Segment and to regulate the functioning and operations of the clearing members of the CD Segment.
2. Without prejudice to the generality of the above, the Board may prescribe regulations from time to time, inter alia, with respect to:
  - (1) norms, procedures, terms and conditions for admission of Exchanges;
  - (2) norms, procedures, terms and conditions to be complied with for admission of deals for clearing and settlement in the CD Segment by the Clearing Corporation;
  - (3) norms, procedures, terms and conditions for clearing and settlement of deals in the CD Segment;
  - (4) forms and conditions of deals to be entered into, and the time, mode and manner for performance of deals between clearing members inter se or between clearing members and their constituents;
  - (5) norms, procedures, terms and conditions for guaranteed settlement by the CD Segment;
  - (6) prescription, from time to time, and administration of penalties, fines and other consequences, including suspension/expulsion of clearing members from the CD Segment for defaults;
  - (7) norms, procedures, terms and conditions for imposition and administration of different types of margins and other charges and restrictions that may be imposed by the CD Segment from time to time.
  - (8) determination from time to time, of fees, system usage charges, deposits, margins and other monies payable to the Clearing Corporation by clearing members of the CD Segment and the scale of clearing and other charges that may be collected by such clearing members;
  - (9) supervision of the clearing operations and promulgation of such Business Rules and Codes of Conduct as it may deem fit;
  - [(9A) maintenance of records and books of accounts by clearing members as it may deem fit and records as required under the Securities Contracts (Regulation) Act and Rules made thereunder or any other law for the time being in force;]<sup>5</sup>
  - (10) inspection and audit of records and books of accounts;
  - (11) settlement of disputes, complaints, claims arising between clearing members inter-se as well as between clearing members and persons who are not clearing members relating to any deal in securities cleared and settled through the CD Segment including settlement by arbitration;
  - (12) norms, procedures, terms and conditions for arbitration;

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<sup>5</sup> Inserted w.e.f. January 28, 2014.



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- (13) administration, maintenance and investment of the corpus of the Fund(s) set up by the CD Segment including Settlement Guarantee Fund(s);
  - (14) establishment, norms, terms and conditions, functioning and procedures of clearing house, clearing through depository or other arrangements including custodial services for clearing and settlement;
  - (15) norms, procedures, terms and conditions in respect of, incidental to or consequential to closing out of deals;
  - (16) dissemination of information and announcements; (17) any other matter as may be decided by the Board.

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## CHAPTER V

### CLEARING MEMBERS

1. The relevant authority is empowered to admit clearing members in accordance with Rules and Regulations subject to the minimum financial requirements prescribed by SEBI. Such Clearing Members shall pay such fees, security deposits and other monies as may be specified by the Board or the relevant authority from time to time, on admission as Clearing Members and for continued admission. The fees, security deposits, other monies and any additional deposits paid, whether in the form of cash, bank guarantee, securities or otherwise, with the Clearing Corporation, by a Clearing Member from time to time, shall be subject to a first and paramount lien for any sum due to the Clearing Corporation in any Clearing Segment and all other claims against the Clearing Member for due fulfillment of engagements, obligations and liabilities of Clearing Members arising out of or incidental to any dealings made subject to the Byelaws, Rules and Regulations of the Clearing Corporation in any Clearing Segment. The Clearing Corporation shall be entitled to adjust or appropriate such fees, deposits and other monies for such dues and claims, to the exclusion of the other claims against the Clearing Member, without any reference to the Clearing Member.

The proceeds arising out of invocation of the bank guarantees furnished by the Clearing Member in lieu of security deposits or additional deposits on being invoked by the Clearing Corporation shall not be reckoned as part of the Clearing Member's deposits for the purpose of enablement or exposure, etc.

The Clearing Corporation may utilise the proceeds of the bank guarantee so invoked for the purpose of settlement of claims / dues of clients, Clearing Corporation, the stock exchange or SEBI against the Clearing Member. The surplus, if any, shall be refunded to the Clearing Member.

[(1A) The relevant authority may specify prerequisites, conditions, formats and procedures for application for admission, termination, re-admission, etc. of clearing members to CD clearing segment. The relevant authority may, at its absolute discretion, refuse permission to any applicant to be appointed as clearing member in CD Segment.]<sup>6</sup>

2. Clearing Member of any sub-segment may clear and settle deals through the Clearing Corporation pertinent to that sub-segment in such manner and mode and subject to such terms and conditions and procedures as may be specified for the Clearing Member.

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<sup>6</sup> Inserted w.e.f. January 28, 2014.

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3. Clearing Members may clear and settle deals either on their own account or on behalf of their clients unless otherwise specified by the relevant authority and subject to such terms and conditions which the relevant authority may prescribe from time to time.

**[Conditions**

- (4) (a) Clearing members shall adhere to the Bye Laws, Rules and Regulations of the CD Segment of the Clearing Corporation and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the relevant authority as may be applicable.
- (b) All deals cleared on the Clearing Corporation shall be in accordance with the Bye Laws, Rules and Regulations of the CD Segment of the Clearing Corporation.
- (c) Clearing members shall furnish declarations relating to such matters and in such forms as may be prescribed by the relevant authority from time to time.
- (d) Clearing members shall furnish such information and periodic returns pertaining to their operations as may be required by the relevant authority from time to time.
- (e) Clearing members shall furnish to the extent such audited and/or unaudited financial or quantitative information and statements as may be required by the relevant authority from time to time.
- (f) Clearing members shall extend full co-operation and furnish such information and explanation as may be required for the purpose of any inspection or audit authorised by the relevant authority or other authorised official of the Stock Exchange/ Clearing Corporation into or in regard to any dealings, their settlement, accounting and/or other related matters.]<sup>7</sup>

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<sup>7</sup> Inserted w.e.f. January 28, 2014.

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## CHAPTER VI

### CLEARING AND SETTLEMENT OF DEALS

#### A. DEALS FOR CLEARING AND SETTLEMENT

##### 1. CLEARING AND SETTLEMENT OF DEALS

- (1) The CD Segment of Clearing Corporation shall clear and settle such deals as provided in the Bye Laws and Regulations and save as so provided, no other deals shall be cleared and settled.
- (2) Without prejudice to the generality of the above, the relevant authority may in its discretion and subject to such conditions as it may deem fit admit any other deals.

##### 2. ADMISSION OF DEALS

- (1) Clearing and settlement shall be permitted on the Clearing Corporation in deals which are from time to time admitted on the CD Segment by the relevant authority in accordance with the provisions of the Bye Laws and Regulations.
- (2) The relevant authority may specify securities from time to time dealings on which may be admitted in accordance with the provisions of the Bye Laws and Regulations in that regard.
- (3) The relevant authority may specify stock exchanges from time to time dealings on which may be admitted for clearing and settlement by the CD Segment in accordance with the provisions of the Bye Laws and Regulations.

##### 3. CONDITIONS AND REQUIREMENTS OF CLEARING AND SETTLEMENT

The relevant authority may grant admission of deals dealt in the Exchange provided all the conditions and requirements specified in the Bye Laws and Regulations and such other conditions and requirements as the relevant authority may prescribe from time to time are complied with.

##### 4. REFUSAL OF ADMISSION OF DEALS

The relevant authority may, in its discretion, approve admission of deals or defer, or reject admission of deals for clearing and settlement on the CD Segment, subject to such terms as it deems fit.

##### 5. SPECIFIC DEALS

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The relevant authority may permit in appropriate cases as it may at its discretion decide from time to time specific deals to be cleared and settled through the CD Segment in case of securities which are not admitted or are for the time being prohibited or suspended.

**6. SUSPENSION OF ADMISSION OF DEALS**

The relevant authority may suspend at any time the admission of deals including of any security or of specified exchange on CD Segment for such period as it may determine and reinstate such deals subject to such conditions as it may deem fit.

**7. WITHDRAWAL OF ADMISSION OF DEALS**

The relevant authority may where it deems necessary withdraw the admission to dealings of a specified exchange either for breach of or non-compliance with any of the conditions or requirements of admission of dealings or for any other reason whatsoever.

**8. READMISSION OF DEALS**

The relevant authority in its discretion may readmit deals of a specified exchange which has been previously withdrawn.

**B. CLEARING AND SETTLEMENT OF DEALS**

**9. CLEARING AND SETTLEMENT**

(1) Clearing and settlement of deals in the CD Segment may be on netted basis or gross basis or trade- for-trade basis or any other basis as may be specified by the relevant authority from time to time. Settlement shall be effected by clearing members giving and receiving delivery and paying and receiving funds as may be specified by the relevant authority from time to time in the Bye Laws and Regulations.

[(2) The relevant authority may prescribe terms and conditions and processes and procedures for netting, from time to time.

Explanation: For the purpose of this Bye-law:

“**Netting**” means the determination by Clearing Corporation of net payment or delivery obligations of the clearing members of a recognised clearing corporation by setting off or adjustment of the inter se obligations or claims arising out of buying and selling of securities including the claims and obligations arising out of the termination by the Clearing Corporation or Stock Exchange, in such circumstances as the Clearing Corporation may specify in bye-laws, of the transactions admitted for settlement at a future date, so that only a net claim be demanded, or a net obligation be owed.

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**(A) Novation**

1. Novation means the act of a clearing corporation interposing itself between both parties of every trade, being the legal counterparty to both.
2. The relevant authority may prescribe terms and conditions and processes and procedures to effect novation, from time to time.’

**(B) Settlement and Netting**

1. Payment and settlement in respect of a transaction between parties referred above, shall be final, irrevocable and binding on the parties. When a settlement has become final and irrevocable, the right of clearing corporation, to appropriate any collaterals or deposits or margins contributed by the trading member, clearing member or client towards its settlement or other obligations in accordance with the bye-laws shall take priority over any other liability of or claim against the said trading member, clearing member or client, as the case may be.in terms of the applicable laws
2. The relevant authority may prescribe terms and conditions and processes and procedures in this regard, from time to time.’

**(C) Guarantee of Settlement of Trades**

1. The Clearing Corporation guarantees the completion of Clearing and settlement of deals admitted to it for clearing and settlement of obligations in terms of the provisions of these Bye-Laws and the Rules and Regulations of the Clearing Corporation
2. The relevant authority may prescribe terms and conditions and processes and procedures in respect of settlement guarantee, from time to time.
3. The relevant authority may from time to time exclude deals or classes of deals from the settlement guarantee mentioned in clause (1) above.]<sup>8</sup>

**10. PRIVACY OF CONTRACT**

- (1) Except as provided herein, clearing members giving and receiving delivery as provided in the Bye Laws and Regulations shall be deemed, notwithstanding that no direct contract may exist between them, to have made a contract with each other as sellers and buyers. However the rights and liabilities of delivering and receiving member in relation to their immediate contracting party shall not be deemed to be affected thereby except that the selling member (unless he be himself the delivering member) shall be released from all responsibility in regard to the title, ownership, genuineness, regularity and validity of the documents received by the receiving member and in regard to the loss and damages arising therefrom, which shall be dealt with in accordance with the provisions of Bye Laws and Regulations thereof.
- (2) In cases where the CD Segment may specify either generally or specifically, clearing members giving and receiving delivery and paying and receiving funds as provided in the Bye Laws and Regulations shall be deemed, notwithstanding that no direct contract exists between them, to have made a contract with the Clearing Corporation as sellers and buyers and between themselves as delivering and receiving members; provided further however that in such event the rights and liabilities of delivering and receiving member with the CD Segment shall not be deemed to be affected thereby except that the CD Segment shall not be

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<sup>8</sup> Inserted w.e.f. January 28, 2014.

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responsible in respect of the title, ownership, genuineness, regularity and validity of the documents delivered or received and in regard to the loss and damages arising therefrom, which shall be dealt with in accordance with the provisions of Bye Laws and Regulations.

- (3) Notwithstanding anything contained above, the Clearing Corporation may specify either generally or specifically, where Clearing Members clearing and settling deals as provided in the Bye laws and Regulations shall be deemed, notwithstanding that no direct contract exists between them, to have made a contract between themselves as buyers and sellers and where such contract shall be submitted with the Clearing Corporation as the buyer to the seller and as the seller to the buyer.

## **11. ARRANGEMENT FOR CLEARING AND SETTLEMENT**

- (1) Clearing and settlement of deals shall be effected by clearing members by adopting and using such arrangements, systems, agencies or procedures as may be specified by the relevant authority from time to time. Without prejudice to the generality of the above, the relevant authority may prescribe or specify from time to time such custodial, depository and other services for adoption and use by clearing members and their constituents to facilitate smooth operation of the clearing and settlement arrangement or system.
- (2) The clearing and settlement function may be performed by the CD Segment or it may take assistance of any agency identified by the relevant authority for the purpose. The Clearing Corporation will act as the central counterparty to all trades and will provide full novation.
- (3) Save as otherwise expressly provided in the Bye Laws and Regulations, when funds are cleared and/or settled under a specified arrangement, the settlement responsibility shall rest wholly and solely upon the counter parties to the contract and/or the concerned clearing members as the case may be and the Clearing Corporation shall act as the common agent of the clearing members receiving and paying funds, without incurring any liability or obligation as a principal.

## **12. OPERATIONAL PARAMETERS FOR CLEARING**

- (1) The relevant authority may determine and announce from time to time operational parameters regarding clearing of deals through the Clearing Corporation in the CD Segment which the clearing members shall adhere to.
- (2) The operational parameters may, inter alia, include:
- (a) clearing/exposure limits allowed which may include clearing/exposure limits with reference to networth and capital adequacy norms;
  - (b) clearing volumes and limits at which it will be incumbent for clearing members to intimate the CD Segment;
  - (c) fixation of delivery lots for different settlement types;

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- (d) other matters which may affect smooth operation of clearing of deals keeping in view larger interest of the public;
  - (e) determining types of deals permitted for a clearing member and for a security;
  - (f) determining functional details of the clearing and settlement system including the system design, user infrastructure and system operation.

### **13. CLEARING HOURS**

- (1) The hours for clearing and settling of CD Segment of the Clearing Corporation shall be during such time as may be decided by the relevant authority from time to time. The relevant authority may, from time to time, specify clearing hours for different types of deals and different clearing sub segments or divisions of the CD Segment.
- (2) The relevant authority may declare a list of holidays in a calendar year. The relevant authority may from time to time alter or cancel any of the holidays fixed in accordance with these provisions. It may, for reasons to be recorded, suspend clearing and settlement operations in the CD Segment on days other than or in addition to holidays.

### **14. CLOSING OUT**

- (1) A deal admitted for clearing and settlement may be transferred to another clearing member with his consent on the failure of a clearing member to comply with any of the provisions relating to delivery, payment and settlement of deals or on any failure to fulfill the terms and conditions subject to which the deal has been made, or such other circumstances as the relevant authority may specify from time to time. The deal may be transferred to another clearing member by the Clearing Corporation in such manner, within such time frame, and subject to such conditions and procedures as the relevant authority may prescribe from time to time.
- (2) A deal admitted for clearing and settlement may be closed out on failure of a clearing member to comply with any of the provisions relating to delivery, payment and settlement of deals or on any failure to fulfill the terms and conditions subject to which the deal has been made, or such other circumstances as the relevant authority may specify from time to time. The deal may be closed out by the Clearing Corporation in such manner, within such time frame and subject to such conditions and procedures as the relevant authority may prescribe from time to time.
- (3) Without prejudice to the generality of the foregoing, the relevant authority may close out deals, inter alia, by buying in or selling out against a clearing member as follows:-
  - (a) in case of the selling clearing members, on failure to complete delivery on the due date; and
  - (b) in case of the buying clearing members, on failure to pay the amount due on



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- (c) the due date,  
and any loss, damage or shortfall sustained or suffered as result of such closing out shall be payable by the clearing members who failed to give due delivery or to pay amount due.

## **15. FAILURE TO MEET OBLIGATIONS**

In the event a clearing member fails to meet obligations to the Clearing Corporation arising out of clearing and settlement operations of admitted deals, the relevant authority may charge such interest, impose such penalties and fines and take such disciplinary action against the clearing member as it may determine from time to time. Any disciplinary action which the relevant authority takes pursuant to the above shall not affect the obligations of the clearing member to the Clearing Corporation or any remedy to which the Clearing Corporation may be entitled under applicable law.

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## CHAPTER VII

### DEALINGS BY CLEARING MEMBERS

#### 1. JURISDICTION

- (1) All deals admitted by the Clearing Corporation in its CD Segment for clearing and settlement shall be deemed to have been entered into in the city of Mumbai unless provided otherwise expressly by the relevant authority.
- (2) The relevant authority may, from time to time, specify deals as subject to a particular jurisdiction, having regard to the type or nature of the deal, the exchange on which the deal was struck and other relevant factors.

#### 2. RECORD FOR EVIDENCE

The record of the CD Segment as maintained by a central processing unit or a cluster of processing units or computer processing units, whether maintained in any other manner shall constitute the agreed and authentic record in relation to any deals cleared and settled through the Clearing Corporation. For the purposes of any disputes regarding clearing and settlement of deals, the records as maintained by the CD Segment shall constitute valid evidence in any dispute or claim between the constituents and the clearing member or between the clearing members inter-se or between the clearing members and the CD Segment.

#### 3. CLEARING MEMBER ONLY PARTIES TO DEALS

The Clearing Corporation in its CD Segment does not recognise as parties to deals any persons other than its own clearing members, and every clearing member is directly and wholly liable in accordance with whom such clearing member has any deal for due fulfillment of the deal or to the CD Segment as may be specified by the relevant authority, whether such deal be for account of the clearing member effecting it or for account of a constituent.

#### 4. ALL DEALS SUBJECT TO RULES, BYE LAWS AND REGULATIONS

All deals shall be made subject to the Rules, Bye Laws and Regulations and this shall be a part of the terms and conditions of all such deals and the deals shall be subject to the exercise by the relevant authority of the powers with respect thereto vested in it by the Bye Laws, Rules and Regulations.

#### 5. INVIOABILITY OF ADMITTED DEALS

- (1) All the dealings on the CD Segment of the Clearing Corporation made subject to the Byelaws, Rules and Regulations shall be inviolable and shall be cleared

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and settled in accordance with the Byelaws, Rules and Regulations. However, the Clearing Corporation may by a notice annul the deal(s) on an application by a Clearing Member in that behalf, if the relevant authority is satisfied after hearing the other party/parties to the deal(s) that the deal(s) is /are fit for annulment on account of fraud or wilful misrepresentation or material mistake in the deal.

- (2) Notwithstanding anything contained in clause (1) above, the Clearing Corporation may, to protect the interest of investors and for proper regulation of the securities market, suo motu annul deal(s) at any time if the relevant authority is satisfied for reasons to be recorded in writing that such deal(s) is/ are vitiated by fraud, material mistake, misrepresentation or market or price manipulation and the like.
- (3) Any annulment made pursuant to clauses (1) and (2) above, shall be final and binding upon the parties to deal(s). In such an event, the Clearing Member shall be entitled to cancel the relevant deal(s) with its constituents.

#### **6. DEALS BY REPRESENTATIVE CLEARING MEMBERS**

A clearing member may authorise another clearing member to act as his representative for a specified period with the prior permission of the relevant authority.

#### **7. INDEMNITY**

The Clearing Corporation shall not be liable for any activity of the clearing member or any person acting in the name of the clearing member whether authorised or unauthorised including deals cleared and settled through the Clearing Corporation in the CD Segment save and except as and to the extent provided in the Bye Laws and Regulations.

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## CHAPTER VIII

### MARGINS

#### 1. MARGIN REQUIREMENTS

- (1) The relevant authority may from time to time prescribe requirements of margins for deals cleared and settled through the Clearing Corporation in the CD Segment and the clearing member shall furnish such margin as a condition precedent.
- (2) Every Clearing Member has a continuing obligation to maintain margins at such levels and during such periods as may be stipulated by the Clearing Corporation from time to time.

#### 2. FORM OF MARGIN

The margins to be provided by a clearing member under the Bye Laws and Regulations in the CD Segment shall be in cash. The relevant authority may at its discretion accept deposit receipts, guarantee of a bank(s) approved by the relevant authority or securities approved by it or such other mode as may be approved and subject to such terms and conditions as the relevant authority may impose from time to time. Any such substitute like deposit receipt, securities approved by it or any other mode duly approved shall be deemed to have been pledged and/or hypothecated as the case may be in favour of the Clearing Corporation in respect of CD Segment.

#### 3. QUANTUM OF MARGIN

The Clearing Member depositing margins, in the form of securities by way of pledge or otherwise or in such other mode as may be specified by the relevant authority from time to time, shall always maintain the value thereof at not less than the quantum of margin required for the time being covered by them by providing further security to the satisfaction of the relevant authority which shall determine the said value and whose valuation shall conclusively fix the amount of any deficiency to be made up from time to time.

#### 4. MARGIN TO BE HELD BY THE CLEARING CORPORATION IN RESPECT OF CD SEGMENT

The margins shall be held by the Clearing Corporation in respect of CD Segment and when they are in the form of bank deposit receipts and securities, such receipts and securities may be transferred to such persons or to the name of a custodian or such other entity approved by the Clearing Corporation. All margin deposits shall be held by the Clearing Corporation and/or by the approved persons and/or by the approved

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custodian in such form and on such account as the Clearing Corporation may deem fit without any right whatsoever on the part of the depositing clearing member or those in its right to call in question the exercise of such discretion.

**5. LIEN ON MARGINS**

The monies paid by way of margin or bank deposit receipts or other securities or assets pledged or hypothecated by a clearing member in lieu of margin under the provisions of the Bye Laws and Regulations shall be subject to a first and paramount lien for all sums due to the Clearing Corporation in respect of CD Segment. Margin shall be available in preference to all other claims against the clearing member for the due fulfillment of his obligations and liabilities arising out of or incidental to any deals made subject to the Bye Laws, Rules and Regulations or anything done in pursuance thereof.

**6. UTILISATION FOR FAILURE TO MEET OBLIGATIONS**

In the event a clearing member fails to meet obligations to the Clearing Corporation arising out of clearing and settlement operations of such deals on CD Segment as provided in the Bye Laws and Regulations, the relevant authority shall be entitled to utilise any amount paid by the said clearing member in the form of margin or any other payment retained by the Clearing Corporation for the purpose of clearing and settlement on the CD Segment.

**7. EVASION OF MARGIN REQUIREMENTS FORBIDDEN**

A clearing member shall not directly or indirectly enter into any arrangement or adopt any procedure for the purpose of evading or assisting in the evasion of the margin requirements specified under the Bye Laws and Regulations.

**8. SUSPENSION ON FAILURE TO PAY MARGIN**

If a clearing member fails to pay margin as required in the Bye Laws and Regulations, the relevant authority may take such action as it may deem fit and specify from time to time including suspension.

**9. INTEREST, DIVIDEND AND CALLS**

(1) The receiving member shall be entitled to receive all vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges which may relate to securities bought cum voucher, cum coupons, cum dividends, cum cash bonus, cum bonus issues, cum rights etc. The delivering member shall be entitled to receive all vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges which may relate to securities sold ex voucher, ex coupons, ex dividends, ex cash bonus, ex bonus issues, ex rights etc.

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- (2) The manner, mode, information requirements, alterations, date and timing etc., of adjustment with respect to vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges between the receiving and delivering member shall be as specified by the relevant authority from time to time. Save as otherwise provided in the Bye Laws and Regulations, the clearing members shall be responsible between themselves and to their constituents for effecting such adjustments.
- (3) In respect of a deal in securities which shall become or are exchangeable for new or other securities under a scheme of reconstruction or reorganisation, the delivering member shall deliver to the receiving member, as the relevant authority directs, either the securities contracted for or the equivalent in securities and/or cash and/or other property receivable under such scheme of reconstruction or reorganisation.

#### **10. CLEARING FEES**

The relevant authority may prescribe from time to time fees, charges and recoveries to be levied on the clearing members in respect of clearing and settlement of deals.

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## CHAPTER IX

### RIGHTS AND LIABILITIES OF CLEARING MEMBERS AND CONSTITUENTS

#### 1. MARGIN FROM CONSTITUENTS

A clearing member shall demand from his constituent the margin he has to provide under the Rules, Bye Laws and Regulations in respect of the business done by him for such constituent. A clearing member shall also demand and collect an initial margin in cash and securities from his constituent before undertaking to clear his obligations and to stipulate that the constituent shall pay a margin or furnish additional margin as may be specified by the CD Segment of the Clearing Corporation from time to time. The constituent shall when from time to time called upon to do so forthwith pay margins and furnish additional margins as required under the Rules, Bye Laws and Regulations in respect of his obligations and as agreed upon by him with the clearing member concerned.

#### **[All deals subject to Bye Laws, Rules and Regulations**

- (1A) All deals done on the Clearing Corporation made by a clearing member in CD Segment shall in all cases be deemed made subject to the Bye Laws, Rules and Regulations of the CD Segment of the Clearing Corporation. This shall be a part of the terms and conditions of all such contracts and shall be subject to the exercise by the relevant authority of the powers with respect thereto vested in it by the Bye Laws, Rules and Regulations of the CD Segment of the Clearing Corporation.]<sup>9</sup>

#### 2. CONSTITUENT IN DEFAULT

- (1) A clearing member shall not transact business directly or indirectly for a constituent who to his knowledge is in default to another clearing member unless such constituent shall have made a satisfactory arrangement with the clearing member who is his creditor.
- (2) On the application of a creditor clearing member who refers or has referred to arbitration his claim against the defaulting constituent as provided in the Rules, Bye Laws and Regulations, the relevant authority shall issue orders against any clearing members restraining them from paying or delivering to the defaulting constituent any monies or securities up to an amount or value not exceeding the creditor member's claim payable or deliverable by him to the defaulting constituent in respect of deals subject to the Bye Laws, Rules and Regulations, which moneys and securities shall be deposited with the CD Segment. The moneys and securities deposited shall be disposed of in terms of the award in arbitration and pending a decree shall be deposited with the concerned Court when filing the award unless the creditor clearing member and the defaulting constituent mutually agree otherwise.

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<sup>9</sup> Inserted w.e.f. January 28, 2014

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[2A. If he, being an individual and/ or Partnership firm, has been adjudicated as an insolvent or it, being a Company incorporated under the Companies Act, has been ordered to be wound up by a court of law in the petition filed by any of his creditors, as the case may be, he/ it shall ipso facto be declared a defaulter though he/ it may not have at the same time defaulted on any of his/ its obligations on the Clearing Corporation.

2B. If he, being an individual and/ or Partnership firm, / it, being a Company incorporated under the Companies Act, files a petition before a Court of law for adjudication of himself as an insolvent or for its winding up, as the case may be, he/ it shall ipso facto be declared a defaulter though he/ it may not have at the same time defaulted on any of his/ its obligations on the Clearing Corporation.]<sup>10</sup>

### **3. CLOSING-OUT OF CONSTITUENT'S ACCOUNT**

Unless otherwise specified by the relevant authority from time to time, when closing- out the account of a constituent a clearing member may assume or take over such deals to his own account as a principal at prices which are fair and justified by the condition of the market or he may close-out in the open market and any expense incurred or any loss arising therefrom shall be borne by the constituent.

### **4. CLEARING MEMBER NOT LIABLE TO ATTEND TO REGISTRATION OF TRANSFER**

Unless otherwise specified by the relevant authority from time to time, a clearing member shall not be deemed to be under any obligation to attend to the transfer of securities and the registration thereof in the name of the constituent. If it attends to such work in the ordinary course or at the request or desire or by the consent of the constituent it shall be deemed to be the agent of the constituent in the matter and shall not be responsible for loss in transit or for the company's refusal to transfer not be under any other liability or obligation other than that specifically imposed by the Rules, Bye Laws and Regulations. The stamp duty, the transfer fees and other charges payable to the company, the fee for attending to the registration of securities and all incidental expenses such as postage incurred by the clearing member shall be borne by the constituent.

### **5. REGISTRATION OF SECURITIES WHEN IN THE NAME OF CLEARING MEMBER OR NOMINEE**

(1) When the time available to the constituents of a clearing member is not sufficient for them to complete transfers and lodge the securities for registration before the closing of the transfer books and where the security is purchased cum interest, dividend, bonus or rights which the company may have announced or declared, the clearing member may register the securities in its or its nominee's name and recover the transfer fee, stamp duty and other charges from the buying constituent.

(2) The clearing member shall give immediate intimation to the CD Segment the names of such constituents and details of the deals as may be specified by the relevant authority from time to time. The clearing member shall also give immediate intimation

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<sup>10</sup> Inserted w.e.f. January 28, 2014.



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thereof to the buying constituent and shall stand indemnified for the consequences of any delay in delivery caused by such action.

- (3) The clearing member shall be obliged to re-transfer the security in the name of the original constituent as soon as it has become ex interest, dividend, bonus or rights.

**6. CLOSING-OUT BY CONSTITUENT ON FAILURE TO PERFORM A DEAL**

If a clearing member fails to complete the performance of a deal by delivery or payment in accordance with provisions of the Rules, Bye Laws and Regulations, the constituent shall, after giving notice in writing to the clearing member, close out such deal through any other clearing member as soon as possible and any loss or damages sustained as a result of such closing out shall be immediately payable by the defaulting clearing member to the constituent. If the closing out be not effected as provided herein, the damages between the parties shall be determined on such basis as may be specified by the relevant authority from time to time and the constituent and the clearing member shall forfeit all further rights of recourse against each other.

**7. COMPLAINT BY CONSTITUENT**

When a complaint has been lodged by a constituent with the relevant authority that any clearing member has failed to perform his dealings, the relevant authority shall investigate the complaint and if it is satisfied that the complaint is justified it may take such disciplinary action as it deems fit in accordance with the provisions contained in Chapter V of the Rules of the Futures & Options Segment of the Clearing Corporation.

**8. RELATIONSHIP BETWEEN CLEARING MEMBER AND CONSTITUENT**

Without prejudice to any other law for the time being in force and subject to these Bye Laws, the mutual rights and obligations inter se between the clearing members and their constituents shall be such as may be specified by the relevant authority from time to time.

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## CHAPTER X

### ARBITRATION

1. All claims, disputes, differences, arising between Clearing Members and Constituents or between Clearing Members inter se arising out of or related to deals admitted for clearing and settlement by the Clearing Corporation in respect of CD Segment or with reference to anything done in respect thereto or in pursuance of such deals shall be referred to and decided by arbitration as provided in the Rules, Byelaws and Regulations of the MCX Stock Exchange Limited if the deal originated from it or in pursuance thereof.
2. All claims, disputes, differences, arising between Clearing Members and Constituents or between Clearing Members inter se arising out of or related to deals admitted for clearing and settlement by the Clearing Corporation in respect of CD Segment or with reference to anything done in respect thereto or in pursuance of such deals shall be referred to and decided by Arbitration as provided in the Rules, Byelaws and Regulations if the deal originated from any Exchange other than the MCX Stock Exchange Limited or in pursuance thereof. The provisions of these Byelaws providing for such Arbitration are as hereunder:
  - (1) **Definitions**
    - (a) 'arbitrator' shall mean a sole arbitrator or a panel of arbitrators.
    - (b) 'Act' shall mean the Arbitration and Conciliation Act, 1996 and includes any statutory modification, replacement or re-enactment thereof, for the time being in force.

#### **Reference to Arbitration**

- (2) All claims, differences or disputes between the Clearing Members inter se and between Clearing Members and Constituents arising out of or in relation to dealings, contracts and transactions admitted for clearing and settlement on the Clearing Corporation subject to the Bye-Laws, Rules and Regulations or with reference to anything incidental thereto or in pursuance thereof or relating to their validity, construction, interpretation, fulfilment or the rights, obligations and liabilities of the parties thereto shall be submitted to arbitration in accordance with the provisions of these Byelaws and Regulations.

#### **Provisions of these Bye laws and Regulations deemed to form part of all dealings, contracts and transactions**

- (3) In all dealings, contracts and transactions, which are admitted for clearing and settlement on the Clearing Corporation subject to the Byelaws, Rules and

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Regulations, the provisions relating to arbitration as provided in these Byelaws and Regulations shall form and shall be deemed to form part of the dealings, contracts and transactions and the parties shall be deemed to have entered into an arbitration agreement in writing by which all claims, differences or disputes of the nature referred to in Byelaw (2) above shall be submitted to arbitration as per the provisions of these Byelaws and Regulations.

**Limitation period for reference of claims, differences or disputes for arbitration**

- [4) All claims, differences or disputes referred to in Bye law 2 above shall be submitted to arbitration within the period prescribed under the Limitation Act, 1963.]<sup>11</sup>

**Power of the relevant authority to prescribe Regulations**

- (5) (a) The relevant authority may, from time to time prescribe Regulations for the following:
- (i) the procedure to be followed by the parties in arbitral proceedings. In particular, and without prejudice to the generality of the foregoing power, such procedure may, inter alia, provide for the following:
    - (a) the forms to be used;
    - (b) the fees to be paid;
    - (c) the mode, manner and time period for submission of all pleadings by both the parties;
    - (d) matters relating to requests from the parties for amending or supplementing the pleadings; and
    - (e) the consequences upon failure to submit such pleadings by the parties.
  - (ii) the procedure to be followed by the arbitrator in conducting the arbitral proceedings. In particular, and without prejudice to the generality of the foregoing power, such procedure may, inter alia, provide for
    - (a) adjournment of hearings; and
    - (b) terms and conditions subject to which the arbitrator may appoint experts to report on specific issues and the

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<sup>11</sup> Substituted with effect from June 1, 2012. Prior to the amendment Bye-law 2(4) read as under:

"(4) All claims, differences or disputes referred to in Byelaw (2) above shall be submitted to arbitration within six months from the date on which the claim, difference or dispute arose or shall be deemed to have arisen. The time taken in conciliation proceedings, if any, initiated and conducted as per the provisions of the Act and the time taken by the relevant authority to administratively resolve the claims, differences or disputes shall be excluded for the purpose of determining the period of six months."

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procedure to be followed in arbitral proceedings upon such an appointment.

- (c) passing interim orders / directions if deemed fit.
- (iii) Different set of arbitration procedures for different claims, differences or disputes after taking into consideration such circumstances and facts as the relevant authority may deem fit which circumstances and facts may include the value of the subject matter and the persons who are involved as parties to such claims, differences or disputes.
- (iv) creation of seats of arbitration for different regions or prescribing geographical locations for conducting arbitrations and prescribing the courts which shall have jurisdiction for the purpose of the Act.
- (v) The claims, differences or disputes which may be referred to a sole arbitrator and the claims, differences or disputes which may be referred to a panel of arbitrators.
- (vi) The procedure for selection of persons eligible to act as arbitrators.
- (vii) The procedure for appointment of arbitrator.
- (viii) The terms, conditions and qualifications subject to which any arbitrator may be appointed.
- (ix) determination of the number of arbitrators in the case of a panel of arbitrators.
- (x) the time period within which a substitute arbitrator has to be appointed in case the office of the arbitrator falls vacant for any reason whatsoever.
- (xi) The matters to be disclosed by any person who is approached in connection with his possible appointment as an arbitrator.
- (xii) The procedure to be adopted by the parties for challenging the appointment of an arbitrator.
- (xiii) (a) The claims, differences or disputes which, may be decided by the arbitrator without a hearing unless either party in writing requests the relevant authority for a hearing and the time period within which such a request shall be made.

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- (b) The claims, differences or disputes which, may be decided by the arbitrator only by hearing the parties unless both the parties jointly waive the right to such hearing and the time period within which such a waiver shall be made.
  - (xiv) The place of arbitration for each reference and the places where the arbitrator can meet for consultation, for hearing witnesses, experts, or the parties, or for inspection of documents, goods or other property.
  - (xv) The making of the arbitral award including the manner in which a decision is to be taken in the case of panel of arbitrators and the form and contents of the arbitral award.

The term arbitral award shall also include an arbitral award on agreed terms. Prescriptions as to the contents of the arbitral award may include provisions for costs and where the arbitral award is for the payment of money, may include interest payable on principal sum due.

- (xvi) The amount of deposit or supplementary deposit, as the case may be, as an advance for the costs which it expects will be incurred in respect of the claim, difference or dispute; provided where a counter claim is submitted to the arbitrator, a separate amount of deposit for the counter-claim may also be specified.
  - (xvii) The administrative assistance which the CD Segment may render in order to facilitate the conduct of arbitral proceedings.
  - (xviii) All matters regarding the mode and the manner of service of notices and communications by the parties including communication addressed to arbitrator.
  - (xix) Any other matter which in the opinion of the relevant authority is required to be dealt with in the Regulations to facilitate arbitration.
- (5) (b) The relevant authority from time to time may amend, modify, alter, repeal or add to the provisions of the Regulations.

#### **Disclosure by persons to be appointed as arbitrators**

- (6) Every person who is approached in connection with his possible appointment as an arbitrator shall disclose to the relevant authority in writing any circumstances likely to give rise to justifiable doubts as to his independence and impartiality. If the person discloses any circumstances which in the

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opinion of the relevant authority are likely to give rise to justifiable doubts as to his independence and impartiality, then he shall not be appointed as an arbitrator.

**Disclosure by persons appointed as arbitrators**

- (7) An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall, without delay, disclose to the relevant authority in writing any circumstances referred to in Byelaw (6) above which have come to the his knowledge after his appointment as an arbitrator.

**Termination of mandate of the arbitrator**

- (8) The mandate of the arbitrator shall terminate if
- (a) the arbitrator withdraws from office for any reason; or
  - (b) in the opinion of the relevant authority, the arbitrator becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay including failure to make the arbitral award within the time period specified by the relevant authority. Such a decision of the relevant authority shall be final and binding on the parties; or
  - (c) the mandate of the arbitrator is terminated by the relevant authority upon receipt of written request for the termination of the mandate of the arbitrator from both the parties to arbitration; or
  - (d) the arbitrator discloses any circumstances referred to in Byelaws (6) and (7) which in the opinion of the relevant authority are likely to give rise to justifiable doubts as to his independence and impartiality; or
  - (e) the arbitral proceedings are terminated as provided for herein.  
Supplying of vacancy to the office of the arbitrator
- (9) At any time before the making of the arbitral award should the office of the arbitrator fall vacant for any reason whatsoever including any vacancy due to the illness or death of the arbitrator or termination of the mandate of the arbitrator by the relevant authority or otherwise, the vacancy shall be supplied by the relevant authority by following the same procedure as specified by it for appointment of the arbitrator.

**Consideration of recorded proceedings and evidence**

- (10) Unless otherwise agreed by parties, any arbitrator who has been appointed by the relevant authority to supply a vacancy to the office of the arbitrator, may repeat any hearings previously held.

**Order or ruling of previous arbitrator not invalid**

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- (11) An order or ruling of the arbitrator made prior to the termination of his mandate shall not be invalid solely because his mandate has been terminated; provided that when the termination has been effected pursuant to Byelaw (7)(d), the order or ruling of the arbitrator made prior to termination of his mandate shall become invalid unless otherwise agreed upon by the parties. Interim arbitral award and interim measures ordered by the arbitrator
- (12) The arbitrator may be empowered to make an interim arbitral award as well as to provide interim measures of protection. An arbitrator may require a party to provide appropriate security in connection with an interim measure.

**Appearance in arbitral proceedings by counsel, attorney or advocate**

- (13) In arbitral proceedings where both the parties are Clearing Members, the parties shall not be permitted to appear by counsel, attorney or advocate but where one of the parties is a Constituent, then the Constituent shall be permitted to appear by counsel, attorney or advocate. If the Constituent chooses to appear by counsel, attorney or advocate, then the Clearing Member shall be granted a similar privilege.
- [(14) (a) Time for appointment of Arbitrator  
Where an arbitration application is made, the appointment of arbitrator or panel of arbitrators, shall be completed within thirty days of receipt of the application.
- (b) Adjournment  
Adjournment, if any, shall be granted by the arbitrator only in exceptional cases, for bonafide reasons to be recorded in writing.
- (c) Time for Completion of Arbitration  
The arbitrator(s) shall conclude the arbitration reference within four months from the date of their appointment, by issuance of an arbitral award.
- (d) Request for extension  
The time for making an arbitral award may be extended for a total period not exceeding two months by Relevant Authority on an application by either party or the arbitrator(s), for sufficient cause to be recorded in writing.]<sup>12</sup>

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<sup>12</sup> Substituted with effect from June 1, 2012. Prior to substitution the Bye-Law 2(14) read as under:

**Arbitral award by arbitrator**

"(14) The arbitrator shall make the arbitral award within one month from the date of entering upon the reference and the time to make the award may be extended from time to time by the Relevant Authority on an application by either of the parties or the arbitrator as the case may be.

For the purpose of this Byelaw the arbitrator shall be deemed to have entered upon a reference on the date on which the arbitrator has or is deemed to have applied his mind."

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### **[Implementation of Arbitral Award**

- (14A) Notwithstanding anything contained in the Bye-laws, in cases where the arbitral award or appellate arbitral award is passed against the Clearing Member and in favour of a Constituent, the Clearing Corporation shall debit from the deposits or other monies of the Clearing Member lying with the Clearing Corporation, the amount of award payable to the awardee together with interest payable, if any, till the date of debit after setting off the counter claim of the Clearing Member and /or its Constituent allowed under the award, if any, and keep aside the said amount in a separate account to be dealt with in such manner as mentioned in Bye-laws 2(14B) and 2(14C) of Chapter X.

Provided however, where the award is for the delivery of securities, the Clearing Corporation may consider the closing price of such securities on the Stock Exchange as on the date of the award or such other date the Relevant Authority may specify to be reasonable, stating reasons for arriving at the value of such securities and award amount.”

### **Payment of Debited Amount**

- (14B) (a) Arbitral Award:- Where the Clearing Member chose not to prefer an appeal under Bye-law 19 within the time permissible there under, the amount debited under Bye-law 14A shall be paid, together with the interest earned thereon, to the awardee.

(b) Appellate Arbitral Award:- Where an appeal is preferred by the Clearing Member under Bye-law 19 and the appellate arbitral tribunal makes an appellate arbitral award against the Clearing Member the Clearing Corporation shall pay the awarded amount to the awardee from the amount debited under Bye-law 14A:-

- (i) where no application is made by the Clearing Member under Section 34 of the Arbitration and Conciliation Act, 1996 to challenge such arbitral award within the limitation period for making such application, upon expiry of such limitation period;
- (ii) where such an application is made by the Clearing Member, and no stay is granted by the court within three months from the date of receipt of appellate arbitral award by him, upon completion of such three months;
- (iii) in any other case, upon dismissal of the application by the court.



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### **Reversal of Debit in Certain Cases**

- (14C) Where the arbitral award or the appellate arbitral award against the Clearing Member has been set aside or has been modified by reduction of awarded amount, and such setting aside or modification has attained finality, the Clearing Corporation may reverse the debit, in full or in part, as the case may be, and pay the reduced amount, if any, to the awardee.]<sup>13</sup>

### **Arbitration proceedings subject to the provisions of the Act**

- (15) The arbitration proceedings as provided for by the provisions of these Byelaws and Regulations shall be subject to the provisions of the Act to the extent not provided for in these Byelaws or the Regulations.

### **Construction of references**

- (16) For the purposes of section 2(6) of the Act, in all claims, differences or disputes which are required to be submitted to arbitration as per the provisions of these Byelaws and the Regulations, wherever Part A of the Act leaves the parties free to determine a certain issue, the parties shall be deemed to have authorised the relevant authority to determine that issue.

### **Administrative assistance**

- (17) For the purpose of section 6 of the Act, in all claims, differences or disputes which are required to be submitted to arbitration as per the provisions of these Byelaws and Regulations, the parties shall be deemed to have arranged for administrative assistance of the relevant authority in order to facilitate the conduct of the arbitral proceedings.

### **Jurisdiction**

- (18) All parties to a reference to arbitration under these Byelaws and Regulations and the persons, if any, claiming under them, shall be deemed to have submitted to the exclusive jurisdiction of the courts in Mumbai or any other court as may be specified by the relevant authority for the purpose of giving effect to the provisions of the Act.

### **[Appellate Arbitration**

- (19) Any party aggrieved by an arbitral award made under these Bye-laws shall have a right of appeal, in terms of the following:-
- (a) A party aggrieved by an arbitral award may appeal against such award to the appellate panel of arbitrators to be constituted by the Clearing

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<sup>13</sup> Inserted with effect from June 1, 2012.

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Corporation within one month from the date of receipt of arbitral award.

- (b) The Relevant Authority shall thereupon constitute an appellate panel consisting of three arbitrators who shall be different from the ones who passed the arbitral award appealed against.
  - (c) Such constitution of appellate panel of arbitrators shall be completed by Relevant Authority within thirty days from the date of receipt of the appeal.
  - (d) The appeal shall be disposed of within three months from the date of appointment of appellate panel of arbitrators, through issuance of an appellate arbitral award.
  - (e) The time for making an appellate arbitral award may be extended for a total period not exceeding two months by the Relevant Authority on an application by either party or the appellate panel of arbitrators, for sufficient cause to be recorded in writing.
  - (f) A party aggrieved by the appellate arbitral award may file an application to the Court of competent jurisdiction to challenge the appellate award in accordance with Section 34 of the Arbitration and Conciliation Act, 1996.
  - (g) Except where specific provision is made in this Bye-law, the provisions of Bye-laws (4) to (18) and the Regulations shall, so far as may be, apply to appellate arbitrators, appellate arbitration proceedings and appellate arbitral award.]<sup>14</sup>
3. The provisions of Byelaws (1) & (2) shall become applicable to all claims, differences, disputes between the parties mentioned therein for all dealings, contracts and transactions admitted for clearing and settlement on the Clearing Corporation in respect of CD Segment and made subject to the byelaws, rules and regulations provided such dealings, contracts and transactions had been entered into between the parties mentioned therein prior to or to the date on which the Clearing Member was either declared a defaulter or expelled or has surrendered his trading membership.

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<sup>14</sup> Inserted with effect from June 1, 2012.

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## CHAPTER XI

### DEFAULT

#### 1. DECLARATION OF DEFAULT

A clearing member may be declared a defaulter by direction/circular/notification of the relevant authority of the segment if:

- (1) he is unable to fulfill his clearing, settlement or obligations; or
- (2) he admits or discloses his inability to fulfill or discharge his duties, obligations and liabilities; or
- (3) he fails or is unable to pay within the specified time the damages and the money difference due on a closing-out effected against him under the Rules, Bye Laws and Regulations; or
- (4) he fails to pay any sum due to the Clearing Corporation as the relevant authority may from time to time prescribe; or
- (5) if he fails to pay or deliver all moneys, securities and other assets due to a clearing member who has been declared a defaulter within such time of declaration of default of such clearing member in such manner and to such person as the relevant authority may direct; or
- (6) if he fails to abide by the arbitration award as laid down under the Rules, Bye Laws and Regulations; or
- (7) if he has been adjudicated as an insolvent by a court of competent jurisdiction in the petition filed by any of his creditors, he shall ipso facto be declared a defaulter though he may not have at the same time defaulted on any of his obligations on the Clearing Corporation; or
- (8) if he files a petition before a court of competent jurisdiction for adjudication of himself as an insolvent; or
- (9) under any other circumstances as may be decided by the relevant authority from time to time.

**[1A.]** Where the clearing member is declared defaulter on any Clearing Segment of the Clearing Corporation, he shall also be immediately declared defaulter on all other Clearing Segments of the Clearing Corporation in which he may hold membership.]<sup>15</sup>

**[2.]** Without prejudice to the foregoing provisions contained in Byelaw (1) of this chapter, where a clearing member, who is also a member/trading member of any of the recognised Stock Exchanges or a clearing member of any clearing corporation, is declared a defaulter by such Stock Exchange or clearing corporation, the said clearing

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<sup>15</sup> Inserted with effect from June 1, 2012.

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member shall ipso facto stand declared a defaulter by the Relevant Authority across all the Clearing Segments.]<sup>16</sup>

- [2A. If he, being an individual and/ or Partnership firm, has been adjudicated as an insolvent or it, being a Company incorporated under the Companies Act, has been ordered to be wound up by a court of law in the petition filed by any of his creditors, as the case may be, he/ it shall ipso facto be declared a defaulter though he/ it may not have at the same time defaulted on any of his/ its obligations on the Clearing Corporation.
- 2B. If he, being an individual and/ or Partnership firm, / it, being a Company incorporated under the Companies Act, files a petition before a Court of law for adjudication of himself as an insolvent or for its winding up, as the case may be, he/ it shall ipso facto be declared a defaulter though he/ it may not have at the same time defaulted on any of his/ its obligations on the Clearing Corporation.]<sup>17</sup>
- [3. Notwithstanding anything contained in the Bye-laws and Rules of the Clearing Corporation, if a clearing member is declared defaulter, the relevant authority may take appropriate action against the associates of such defaulter member.”

**Explanation 1:** For the purpose of Bye-law 3, the term “associate” shall include a person, -

- a. who, directly or indirectly, by itself, or in combination with other persons, exercises control over the member, whether individual, body corporate or firm or holds substantial share of not less than 15% in the capital of such member; or
- b. in respect of whom the member, individual or body corporate or firm, directly or indirectly, by itself or in combination with other persons, exercises control; or
- c. whose director or partner is also a director or partner of the member, body corporate or the firm, as the case may be.

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<sup>16</sup> Substituted with effect from June 1, 2012. Prior to this Bye-law 2 read as under:

Without prejudice to the foregoing provisions contained in Byelaw (1) of this chapter, where a clearing member, who is also a member/ trading member of any of the recognised Stock Exchanges, is declared a defaulter by such Stock Exchange, the said clearing member shall ipso facto stand declared a defaulter by the Relevant Authority.

<sup>17</sup> Inserted w.e.f. January 28, 2014.

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**Explanation 2:** The expression "control" shall have the same meaning as defined in clause (c) of sub-regulation (1) of regulation 2 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.]<sup>18</sup>

**4. CLEARING MEMBER'S DUTY TO INFORM**

A clearing member shall be bound to notify the Clearing Corporation immediately if there be a failure by any clearing member to discharge his liabilities in full.

**5. COMPROMISE FORBIDDEN**

A clearing member shall not accept from any clearing member anything less than a full and bona fide money payment in settlement of a debt arising out of a deal cleared through the CD Segment.

**6. NOTICE OF DECLARATION OF DEFAULT**

On a clearing member being declared a defaulter, a notice shall be forthwith issued to all the clearing members of the Clearing Corporation.

**7. NOTICE TO THE STOCK EXCHANGE**

On a clearing member being declared a defaulter, a notice shall be forthwith issued to the Exchange if the clearing member is also a trading member of that Exchange.

**8. DEFAULTER'S BOOKS AND DOCUMENTS**

When a clearing member has been declared a defaulter, the relevant authority shall take charge of all his books of accounts, documents, papers and vouchers to ascertain the state of his affairs and the defaulter shall hand over such books, documents, papers and vouchers to the relevant authority.

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<sup>18</sup> Substituted with effect from June 1, 2012. Prior to this Bye-law 3 read as under:

Notwithstanding anything contained in the Byelaws and Rules of Clearing Corporation, if a clearing member is an Associate of a member/ trading member declared a defaulter by any recognised stock exchange, the said clearing member shall render itself liable to be declared a defaulter by the Relevant Authority.

**Explanation:**

The expression "Associate" for the purpose of the above Bye-law shall have the meaning as may be defined by SEBI from time to time.

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**9. LIST OF DEBTORS AND CREDITORS**

The defaulter shall file with the relevant authority within such time of the declaration of his default as the relevant authority may direct, a written statement containing the complete list of his debtors and creditors and the sum owing by and to each.

**10. DEFAULTER TO GIVE INFORMATION**

The defaulter shall submit to the relevant authority such statement of accounts, information and particulars of his affairs as the relevant authority may from time to time require and if so desired shall appear before the relevant authority at its meetings held in connection with his default.

**11. INQUIRY**

The relevant authority may conduct a strict inquiry into the accounts and dealings of the defaulter in the market and shall report anything improper, unbusiness like or unbecoming a clearing member in connection therewith which may come to its knowledge.

**12. DEFAULTER'S ASSETS**

The Relevant Authority shall call in and realise the security deposits in any form, margin money, other amounts lying to the credit of and securities deposited by the defaulter and recover all moneys, securities and other assets due, payable or deliverable to the defaulter by any other Clearing Member in respect of any deal or dealing made subject to the Bye-laws, Rules and Regulations of the Clearing Corporation and such assets shall vest ipso facto, on declaration of any Clearing Member as a defaulter, in the Clearing Corporation for the benefit of and on account of the Clearing Corporation, MCX Stock Exchange Limited, Securities and Exchange

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Board of India, Constituents of the defaulter, approved banks and any other persons as may be approved by the Relevant Authority and other recognised stock exchanges / clearing corporations.

### **13. PAYMENT TO RELEVANT AUTHORITY**

- (1) All monies, securities and other assets due, payable or deliverable to the defaulter must be paid or delivered to the relevant authority within such time of the declaration of default as the relevant authority may direct. A clearing member violating this provision may be declared a defaulter.
- (2) A clearing member who shall have received a difference on account or shall have received any consideration in any deal prior to the date fixed for settling such account or deal shall, in the event of the clearing member from whom he received such difference or consideration being declared a defaulter, refund the same to the relevant authority for the benefit and on account of the creditor members. Any clearing member who shall have paid or given such difference or consideration to any other clearing member prior to such settlement day shall again pay or give the same to the relevant authority for the benefit and on account of the creditor member in the event of the default of such other member.
- (3) A clearing member who receives from another clearing member during any clearing a claim note or credit note representing a sum other than difference due to him or due to his constituent which amount is to be received by him on behalf and for the account of that constituent shall refund such sum if such other clearing member be declared a defaulter within such number of days as specified by the relevant authority after the settling day. Such refunds shall be made to the relevant authority for the benefit and on account of the creditor members and it shall be applied in liquidation of the claims of such creditor members whose claims are admitted in accordance with the Rules, Bye Laws and Regulations.

### **14. DISTRIBUTION**

The relevant authority shall at the risk and cost of the creditor members pay all assets received in the course of realisation into such bank and/or keep them with the CD Segment in such names as the relevant authority may from time to time direct and shall distribute the same in accordance with the Rules, Bye Laws and Regulations.

### **15. CLOSING –OUT**

- (1) Clearing members having open deals with the defaulter shall close out such deals after declaration of default. Such closing out shall be in such manner as may be specified by the relevant authority from time to time. Subject to the regulations in this regard specified by the relevant authority, when in the opinion of the relevant authority, circumstances so warrant, such closing out

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shall be deemed to have taken place in such manner as may be determined by the relevant authority.

- (2) Differences arising from the above adjustments of closing out shall be claimed from the defaulter or paid to the relevant authority for the benefit of creditor clearing members of the defaulter.

**16 CLAIMS AGAINST DEFAULTER**

Within such time of the declaration of default as the relevant authority may direct every clearing member carrying on business on the CD Segment shall, as it may be required to do, either compare with the relevant authority his accounts with the defaulter duly adjusted and made up as provided in the Rules, Bye-Laws and Regulations or furnish a statement of such accounts with the defaulter in such form or forms as the relevant authority may prescribe or render a certificate that he has no such account.

**17. DELAY IN COMPARISON OR SUBMISSION OF ACCOUNTS**

Any clearing members failing to compare his accounts or send a statement or certificate relating to a defaulter within the time specified shall be called upon to compare his accounts or send such statement or certificate within such further time as may be specified.

**18. PENALTY FOR FAILURE TO COMPARE OR SUBMIT ACCOUNTS**

The relevant authority may take such action as it may deem fit including levying of fine and suspension on any clearing member who fails to compare his accounts or submit a statement of its account with the defaulter or a certificate that he has no such account within the specified time.

**19. MISLEADING STATEMENT**

The relevant authority may take such action as it may deem fit including levying of fine and suspension, if it is satisfied that any comparison statement or certificate relating to a defaulter sent by such clearing member was false or misleading.

**20. ACCOUNTS OF RELEVANT AUTHORITY**

The relevant authority shall keep a separate account in respect of all monies, securities and other assets payable to a defaulter which are received by it and shall defray therefrom from all costs, charges and expenses incurred in or about the collection of such assets or in or about any proceedings it takes in connection with the default.

**[REPORT**

- 20A.** The relevant authority shall every six months present a report to the relevant authority relating to the affairs of a defaulter and shall show the assets realised, the liabilities discharged and



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dividends given.

## **INSPECTION OF ACCOUNTS**

- 20B.** All accounts kept by the relevant authority in accordance with these Bye Laws, Rules and Regulations shall be open to inspection by any creditor clearing member.

## **SCALE OF CHARGES**

- 20C.** The charges to be paid to the Clearing Corporation on the assets collected shall be such sum as the relevant authority may from time to time prescribe.]<sup>19</sup>

## **21. APPLICATION OF ASSETS**

The Relevant Authority shall apply the net assets remaining in its hands after defraying all such costs, charges and expenses as are allowed under the Rules, Byelaws and Regulations to be incurred by the Clearing Corporation, in satisfying the claims in the order of priority provided hereunder :-

- (a) Dues to the Clearing Corporation, MCX Stock Exchange Limited, Securities and Exchange Board of India The payment of such subscriptions, debts, fines, fees, charges and other money/ies due to Clearing Corporation, MCX Stock Exchange Limited and Securities and Exchange Board of India on a prorata basis,
- (b) Dues to Constituents of the defaulter The payments as may be admitted by the Relevant Authority, as being due to Constituents of the defaulter for debts, liabilities, obligations and claims arising out of any contracts made by the defaulter subject to the Rules, Bye- laws and Regulations of the Clearing Corporation, provided that if the amount is insufficient then the amounts shall be distributed prorata amongst all the Constituents of the defaulter,
- (c) Dues to the Approved Banks and claims of any other persons as approved by the Relevant Authority

After making payments under (b) above, the amounts remaining, if any, shall be utilised to meet the claims of the approved banks and of any other person as may be admitted by the Relevant Authority. The claims of the approved banks should have arisen by virtue of Clearing Corporation or MCX Stock Exchange Limited invoking any bank guarantee issued by the bank concerned to the Clearing Corporation or MCX Stock Exchange Limited as the case may be on behalf of the defaulter to fulfill his obligation of submitting bank guarantee, guaranteeing discharge of obligations under the Byelaws, Rules and Regulations of Clearing Corporation / MCX-SX. The claims of other persons should have arisen out of or incidental to the clearing and settlement of a deal on the Clearing Corporation or requirements laid down by the Clearing Corporation, provided that if the amount available be insufficient to pay all such claims in full, they shall be paid pro rata,

- (d) Dues to any other recognised stock exchange/clearing corporation After meeting the claims under (c) above, the remaining amounts, if any, shall be disbursed to any other recognised stock exchange / clearing corporation for the purpose of meeting

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<sup>19</sup> Inserted w.e.f. January 28, 2014.

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the obligations of the defaulter as a member of that exchange/clearing corporation. If the defaulter is a member of more than one recognised stock exchange/clearing corporation, then the remaining amounts shall be distributed amongst all such recognised stock exchanges / clearing corporations and if the remaining amount is insufficient to meet the claims of all such stock exchanges/clearing corporations, then the remaining amount shall be distributed pro rata among all such stock exchanges/clearing corporations; and

(e) Surplus

The surplus amounts, if any, remaining after meeting all the above claims, shall be paid to the Clearing Member and in case where the Clearing Member has expired, the surplus amount shall be paid to his legal heirs / legal representatives.

**[CLAIMS OF RELEVANT AUTHORITY**

- 21A.** A claim of a defaulter whose estate is represented by the relevant authority against another defaulter shall not have any priority over the claims of other creditor clearing members but shall rank with other claims.<sup>20</sup>

**22. CERTAIN CLAIMS NOT TO BE ENTERTAINED**

The relevant authority shall not entertain any claim against a defaulter:

- (1) which arises out of a contract in securities, dealings in which are not permitted or which are not made subject to Bye Laws, Rules and Regulations or in which the claimant has either not paid himself or colluded with the defaulter in evasion of margin payable on bargains in any security ;
- (2) which arises out of a contract in respect of which comparison of accounts has not been made in the manner specified in the Rules, Bye Laws and Regulations or when there has been no comparison if a contract note in respect of such deals has not been rendered as provided in the Rules, Bye Laws and Regulations;
- (3) which arises from any arrangement for settlement of claims in lieu of bonafide money payment in full on the day when such claims become due;
- 4) which is in respect of a loan with or without security ;
- (5) which is not filed with the relevant authority within such time of date of declaration of default as may be specified by the relevant authority.

**23. ASSIGNMENT OF CLAIMS ON DEFAULTERS' ESTATE**

A Clearing member being a creditor of a defaulter shall not sell, assign or pledge the claim on the estate of such defaulter without the consent of the relevant authority.

**24. PROCEEDINGS IN THE NAME OF OR AGAINST THE DEFAULTER**

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<sup>20</sup> Inserted w.e.f. January 28, 2014

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The Relevant Authority shall be empowered to (a) initiate any proceedings in a court of law either in the name of the Clearing Corporation or in the name of the defaulter against any person for the purpose of recovering any amounts due to the defaulter; (b) initiate any proceedings in a court of law either in the name of Clearing Corporation or in the name of the creditors (who have become creditors of the defaulter as a result of deals cleared and settled subject to Byelaws, Rules and Regulations of the Clearing Corporation) of the defaulter against the defaulter for the purpose of recovering any amounts due from the defaulter. The defaulter as well as the creditors of the defaulter shall be deemed to have appointed the Clearing Corporation as their constituted attorney for the purpose of taking such proceedings.

## **25. PAYMENT OF RELEVANT AUTHORITY**

If any clearing member takes any proceedings in a court of law against a defaulter whether during the period of its default or subsequent to its re-admission to enforce any claim against the defaulter's estate arising out of any admitted deals in the market made subject to the Bye Laws, Rules and Regulations before it was declared a defaulter and obtains a decree and recovers any sum of money thereon, it shall pay such amount or any portion thereof as may be fixed by the relevant authority for the benefit and on account of the creditor members having claims against such defaulter.

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## CHAPTER XII<sup>21</sup>

### CHAPTER XII: CORE SETTLEMENT GUARANTEE FUND

#### 1. Objective of the Core Settlement Guarantee Fund (CSGF)

The Clearing Corporation shall have a fund called Core Settlement Guarantee Fund (CSGF) for each clearing segment with respect to each segment of the Specified Stock Exchange to guarantee the settlement of trades executed in the respective segment of the Specified Stock Exchange. In the event a Clearing Member fails to fulfil the settlement obligations, the CSGF shall be used to fulfil the settlement obligations of the Clearing Member and complete the settlement without affecting the normal settlement process.

#### 2. Corpus of the CSGF

- (1) The corpus of the CSGF shall be adequate to meet out all the contingencies arising on account of failure of any Clearing Member(s).
- (2) The quantum of the corpus of the CSGF shall be determined by taking into consideration the risk or liability to the CSGF on account of various factors including trade volume, delivery percentage, maximum settlement liability of the Clearing Members, the history of defaults of the Clearing Members, capital adequacy of the Clearing Members and the degree of safety measures employed by the Clearing Corporation. In order to assess the fair quantum of the corpus of the CSGF, the Clearing Corporation shall consider the following factors:
  - a) Risk management system in force
  - b) Current and projected volume/turnover to be cleared and settled by the Clearing Corporation on guaranteed basis
  - c) Track record of defaults of the Clearing Members (number of defaults and amount in default of the Clearing Members)

#### 3. Minimum Required Corpus of the CSGF

The Relevant Authority shall specify from time to time the Minimum Required Corpus (MRC) of the CSGF for each clearing segment of the Clearing Corporation with respect to each segment of the Specified Stock Exchange in accordance with the norms prescribed by SEBI from time to time.

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<sup>21</sup> Substituted Chapter XII of the Bye-laws pursuant to approval granted by Board of Directors at their meeting held on May 19, 2015.

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#### 4. Constitution of the Corpus of CSGF

The corpus of CSGF shall consist of the following:

a) Contributions of various contributors:

The contributions of various contributors to the CSGF at any point of time shall be as follows:

- i. **Clearing Corporation's contribution:** The Clearing Corporation's contribution to CSGF shall be at least 50% of the MRC. The Clearing Corporation shall make this contribution from its own funds. The Clearing Corporation's contribution to CSGF shall be considered as part of its net worth.
  - ii. **Specified Stock Exchange's contribution:** The Specified Stock Exchange's contribution to CSGF shall be at least 25% of the MRC. Such contribution can be adjusted against the transfer of profit by the Specified Stock Exchange as per Regulation 33 of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 (SECC Regulations).
  - iii. **Clearing Member's primary contribution:** The Clearing Corporation may seek risk based contribution from Clearing Members of the clearing segment to the CSGF subject to the following conditions:
    - The total contribution from the Clearing Members shall not be more than 25% of the MRC. Such contribution shall ordinarily be in the form of cash contribution to CSGF. However, the Clearing Corporation may accept the Clearing Member's contribution in the form of bank fixed deposits in accordance with the norms prescribed by SEBI from time to time.
    - No exposure shall be available on CSGF contribution of any Clearing Member. For this purpose, the exposure-free collateral of the Clearing Member available with the Clearing Corporation can be considered towards CSGF contribution of the Clearing Member.
    - The required contribution of each Clearing Member shall be pro-rata based on the risk that they bring to the system.
    - The Clearing Corporation shall have the flexibility to collect the Clearing Member's primary contribution either upfront or staggered over a period of time. In case of staggered contribution, the remaining balance shall be met by the Clearing Corporation to ensure adequacy of total CSGF corpus at all times. Such Clearing Corporation contribution shall be available to the Clearing Corporation for withdrawal as and when further contributions from the Clearing Members are received.
- b) Any penalties levied by the Clearing Corporation (as per Regulation 34 of SECC Regulations.)
- c) Interest on cash contribution to CSGF shall accrue to the CSGF and pro-rata attributed to the contributors in proportion to their cash contribution.

#### 5. Management of CSGF

- (1) The Defaulters' Committee/SGF utilization Committee of the Clearing Corporation shall manage the CSGF.
- (2) The Clearing Corporation shall follow prudential norms of investment policy for the CSGF corpus and establish and implement policies and procedures to ensure that the CSGF corpus is invested in accordance with the investment norms prescribed by SEBI from time to time.

#### **6. Access to CSGF**

The Clearing Corporation may utilise the CSGF in the event of a failure of the Clearing Members to fulfil their settlement obligations.

#### **7. Further contribution to / Recoupment of CSGF**

- (1) The requisite contributions to the CSGF by various contributors for any month shall be made by the contributors before start of the month.
- (2) The Clearing Corporation shall review and determine by 15th of every month the adequacy of contributions made by various contributors as above and call for any further contributions to the CSGF as may be required to be made by various contributors for the next month.
- (3) In the event of usage of the CSGF during a calendar month, the contributors shall, as per usage of their individual contribution, immediately replenish the CSGF to MRC.
- (4) In case there is failure on part of some contributor(s) to replenish its (their) contribution, the same shall be immediately met, on a temporary basis during the month, in the following order:
  - a) By Clearing Corporation
  - b) By Specified Stock Exchange

#### **8. Default waterfall**

The Default waterfall shall become applicable only in case the Clearing Member is declared a defaulter after appropriation of the monies of the defaulting Clearing Member. The default waterfall of the Clearing Corporation for any clearing segment shall follow the following order –

- a) Monies of the defaulting Clearing Member (including the defaulting Clearing Member's primary contribution to the CSGF(s) and excess monies of the defaulting Clearing Member in other clearing segments.)
- b) Insurance, if any.
- c) Clearing Corporation resources (equal to 5% of the clearing segment MRC).
- d) CSGF of the clearing segment in the following order:
  - i. Penalties
  - ii. Clearing Corporation's contribution to the extent of at least 25% of the clearing segment MRC

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iii. Remaining CSGF: Clearing Corporation's contribution, Specified Stock Exchange's contribution and non-defaulting Clearing Members' primary contribution to CSGF on pro-rata basis.

- e) Proportion of remaining Clearing Corporation resources (excluding Clearing Corporation's contribution to CSGFs of other clearing segments and INR 100 Crore) equal to ratio of clearing segment MRC to sum of MRCs of all clearing segments.\*
- f) Clearing Corporation/Specified Stock Exchange contribution to CSGF of other clearing segments (after meeting obligations of those clearing segments) and remaining Clearing Corporation resources to that extent as approved by SEBI.
- g) Capped additional contribution by non-defaulting Clearing Members of the clearing segment.\*\*
- h) Any remaining loss to be covered by way of pro-rata haircut to pay-outs.\*\*\*

*Explanation*

1. \* INR 100 Crore to be excluded only when remaining Clearing Corporation resources (excluding Clearing Corporation contribution to CSGFs of other clearing segments) are more than INR 100 Crore.
2. \*\*Clearing Corporation shall limit the liability of non-defaulting Clearing Members towards additional contribution to a multiple of their required primary contribution to CSGF and the framework regarding the same shall be disclosed. In case of shortfall in recovery of assessed amounts from non-defaulting Clearing Members, further loss can be allocated to layer 'f' with approval of SEBI.
3. \*\*\*In case loss allocation is effected through haircut to payouts, any subsequent usage of funds shall be with prior SEBI approval. Further, any exit by Clearing Corporation post using this layer shall be as per the terms decided by SEBI in public interest.

## **9. Stress Testing and Back Testing**

The Clearing Corporation shall conduct stress tests for credit risk, liquidity stress test, reverse stress test, back testing for adequacy of margins and such other tests as may be appropriate in accordance with the norms prescribed by SEBI from time to time.

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## CHAPTER XIII

### MISCELLANEOUS

1. Save as otherwise specifically provided in the Bye Laws and Regulations specified by the relevant authority regarding clearing and settlement arrangement, in promoting, facilitating, assisting, regulating, managing and operating the CD Segment, the CD Segment of the Clearing Corporation should not be deemed to have incurred any liability, and accordingly no claim or recourse in respect of or in relation to any dealing in securities or any matter connected therewith shall lie against the CD Segment or any authorised person(s) acting for the CD Segment of the Clearing Corporation.
2. No claim, suit, prosecution or other legal proceeding shall lie against the CD Segment or any authorised person(s) acting for the CD Segment in respect of anything which is in good faith done or intended to be done in pursuance of any order or other binding directive issued to the CD Segment under any law or delegated legislation for the time being in force.