

Conduct of Business Rulebook (COBS)

*In this Appendix, underlining indicates new text and strikethrough indicates deleted text, unless otherwise indicated.

2. CLIENT CLASSIFICATION

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2.2 Client Categorisation

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2.2.3 If an Authorised Person is aware that a Client, with or for whom it is intending to carry on a Regulated Activity where this involves provision of a service to a Client, is acting as an agent for another Person (the "second person") in relation to a particular Transaction, then unless the Client is another Authorised Person, ~~or a Recognised Body~~ or a Remote Body, the Authorised Person must also treat that second person as its Client in relation to that Transaction.

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2.4 Professional Clients

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2.4.2 "Deemed" Professional Clients

- (a) A Person is a "deemed" Professional Client if that Person is:
- (i) a Person which, as at the date of its most recent financial statements, met at least two of the following requirements:
 - (A) a balance sheet total of US\$20 million;
 - (B) a net annual turnover of US\$40 million; or
 - (C) own funds or called up capital of at least US\$2 million(a "Large Undertaking");
 - (ii) a supranational organisation whose members are either countries, central banks or national monetary authorities;
 - (iii) a properly constituted government, government agency, central bank or other national monetary authority of any country or jurisdiction;
 - (iv) a public authority or state investment body;
 - (v) a Recognised Body or Remote Body;
 - (vi) an Authorised Person;
 - (vii) the management company of a regulated pension fund;
 - (viii) a Collective Investment Fund or a regulated pension fund;

- (ix) a Body Corporate whose shares are listed or admitted to trading on any exchange of an IOSCO member country;
 - (x) any other institutional investor whose main activity is to invest in Financial Instruments, including an entity dedicated to the securitisation of assets or other financial transactions;
 - (xi) a trustee of a trust which has, or had during the previous twelve months, assets of at least US\$10,000,000. An individual trustee on the board of such a trust is only a "deemed" Professional Client in relation to that particular trust;
 - (xii) ~~a holder of a licence under the Single Family Office Regulations~~ single family office with respect to its activities carried on exclusively for the purposes of, and only in so far as it is, carrying out its duties as a ~~Single Family Office~~;
 - (xiii) a Subsidiary or a Parent of any of the Persons described in Rules 2.4.2(a)(i)-(xii).
- (b) An Authorised Person must have a reasonable basis for classifying a Person as falling within the list of "deemed" Professional Clients above, including by inspecting copies of any necessary supporting documentation and keeping records of the same.

2.4.3 "Service-based" Professional Clients

- (a) Subject to paragraph (b) below, a Person is a "Service-based" Professional Client if:
- (i) the Regulated Activity carried on, where this involves provision of a service to a Client, is Providing Credit and;
 - ~~(iiA)~~ the Person is an Undertaking;
 - ~~(iiiB)~~ the Credit Facility in question is provided for use in the business activities of:
 - ~~(A)~~ a. the Person;
 - ~~(B)~~ b. a Controller of the Person;
 - ~~(C)~~ c. any member of the Group to which the Person belongs; or
 - ~~(D)~~ d. a joint venture of a Person referred to in Rules 2.4.3(a)(iii)(A) – c(C); or
 - ~~(ii)~~ the Regulated Activity carried on, where this involves provision of a service to a Client, is "Advising on Investments or", "Advising on Credit", "Arranging Credit" or "Arranging Deals in Investments" and the service is provided for the purposes of Corporate Structuring and Financing; and
 - ~~(v)~~ the Person has not opted in to be classified as a Retail Client.

- (b) A "Service-based" Professional Client may elect to be treated as a Retail Client in accordance with Rule 2.6.1.
- (c) An Authorised Person must have a reasonable basis for classifying a Person as falling within the list of "Service-based" Professional Clients above such as inspecting copies of any necessary supporting documentation and keeping records of the same.

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2.4.4 "Assessed" Professional Clients

Individuals

- (a) An individual may be treated as an "assessed" Professional Client (instead of a Retail Client) if:
 - (i) the individual has net assets of at least US\$500,000 (including any assets held directly or indirectly by that person), the calculation of which must exclude:
 - (A) property which is that person's primary residence or any loan secured on that residence;
 - (B) any rights of that person under a qualifying Contract of Insurance within the meaning of FSMR; or
 - (C) any benefits (in the form of pensions or otherwise) which are payable on the termination of that person's service or on death or retirement and to which that person or that person's dependents are, or may be, entitled;
 - (ii) either:
 - (A) the individual is, or has been, in the previous twelve months, an Employee in a professional position of an Authorised Person, ~~or~~ a Recognised Body or Remote Body; or
 - (B) the individual appears, on reasonable grounds, to have sufficient experience and understanding of relevant financial markets, products or transactions and any associated risks, following the analysis set out in Rule 2.6.2; and
 - (iii) the individual has not opt to be classified as a Retail Client.

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6. ADDITIONAL RULES – INVESTMENT BUSINESS

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6.5 Best Execution

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6.5.3 Requirements

In determining whether an Authorised Person has taken reasonable care to provide the best overall price for a Client in accordance with Rule 6.5.2 the Regulator will have regard to whether an Authorised Person has:

- (a) discounted any fees and charges previously disclosed to the Client;
- (b) not taken a Mark-up or Mark-down from the price at which it Executed the Transaction, unless this is disclosed to the Client; and
- (c) had regard to price competition or the availability of a range of price sources for the execution of its Clients' Transactions. In the case where the Authorised Person has access to prices of different Recognised Investment Exchanges, Remote Investment Exchanges, ~~or~~ MTFs or OTFs or its own available proprietary prices, it must Execute the Transaction at the best overall price available having considered other relevant factors.

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6.6 Non-market Price Transactions

6.6.1 General Prohibition

Except in relation to:

- (a) a non-market price Transaction subject to the Rules of a Recognised Investment Exchange or Remote Investment Exchange; or
- (b) Fund Investment Managers pursuing a strategy that involves the buying, selling or holding of securities that are not publicly listed or traded or readily saleable,

an Authorised Person must not enter into a non-market price Transaction in any capacity, with or for a Client, unless it has taken reasonable steps to ensure that the Transaction is not being entered into by the Client for an improper purpose.

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6.9 Other Dealing Rules

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~~6.9.7 Direct Electronic Access~~

~~Where an Authorised Person provides a Client (including a Market Counterparty) with direct electronic access to a Recognised Body or MTF, the Authorised Person must:~~

~~(a) establish and maintain policies, procedures, systems and controls to limit or prevent a Client from placing an order that would result in the Authorised Person exceeding its existing position limits or credit limits; and~~

~~(b) ensure that such policies, procedures, systems and controls remain appropriate and effective on an on-going basis.~~

~~6.9.8 An Authorised Person must undertake on-going monitoring of its systems and controls to ensure that they are operating effectively and as intended and remain appropriate.~~

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8. ADDITIONAL RULES: OPERATING AN MTF OR OTF

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8.2 Rules Applicable to MTF and OTF Operators – General

8.2.1 In addition to the general requirements applicable to Authorised Persons in COBS, GEN and elsewhere in the Rules, an Authorised Person carrying on the Regulated Activity of Operating an MTF (an "MTF Operator") or an Authorised Person carrying on the Regulated Activity of Operating an OTF (an "OTF Operator")_must comply with the following requirements applicable to a Recognised Body or Recognised Investment Exchange set out in the MIR rulebook, reading references to Recognised Bodies or Recognised Investment Exchanges in the relevant rules as if they were references to the MTF Operator or OTF Operator:

- (a) MIR 2.6 (*Operational systems and controls*);
- (b) MIR 2.7.1 and 2.7.2 (*Transaction recording*);
- (c) MIR 2.8 (*Membership criteria and access*);
- (d) MIR 2.9 (*Financial crime and market abuse*);
- (e) MIR 2.11 (*Rules and consultation*);
- (f) MIR 3.3 (*Fair and orderly trading*);
- (g) MIR 3.7 (*Public disclosure*);
- (h) MIR 3.8 (*Settlement and Clearing ~~facilitation~~ Services services*);
- (i) MIR 3.10 (*Default Rules*).

Guidance

In assessing whether an MTF Operator or OTF Operator_complies with the requirements set out above, the Regulator will take into account the general principle that users of an MTF ~~or_OTF~~ anticipate less comprehensive regulatory protections, and users of an OTF less again.

8.3 Rules Applicable to MTF and OTF Operators – Transparency

- 8.3.1 (a) An MTF Operator or OTF Operator must disclose to its Members and the public as appropriate, on a continuous basis during normal trading, the following information relating to trading of Investments on its MTF or OTF:
- (i) the current bid and offer prices and volume;
 - (ii) the depth of trading interest shown at the prices and volumes advertised through its systems for the Investments; and
 - (iii) any other information relating to Investments which would promote transparency relating to trading.
- (b) The Regulator may waive or modify the disclosure requirement in Rule ~~8.3.18.2.2~~ in relation to certain transactions where the order size is predetermined, exceeds a pre-set and published threshold level and the details of the exemption are made available to an MTF Operator or OTF Operator's Members and the public.

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8.6 Rules Applicable to OTF Operators

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~~8.6.9 OTF Operators must also comply with the requirements relating to financial crime and market abuse, and fair and orderly trading in MIR 2.9 and MIR 3.3 respectively.~~

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14. CLIENT MONEY PROVISIONS

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14.2 Client Money Rules

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14.2.14 Segregation and portability

- (a) Pursuant to section 4 of FSMR, an Authorised Person acts as trustee for all Client Money received or held by it for the benefit of the Clients for whom that Client Money is held, according to their respective interests in the relevant Statutory Trust.
- (b) In line with MIR 4.12, an Authorised Person that is also a Clearing Member of a Recognised Clearing House or Remote Clearing House, shall offer Clients whose Client Money or Safe Custody Assets are rehypothecated or re-used to fund margin at a Recognised Clearing House or Remote Clearing House in relation to Client transactions, the choice to clear their positions through an Omnibus Client Account ("Omnibus Client Segregation") or an individually segregated Client Account ("Individual Client Segregation") maintained by the Authorised Person with that Recognised Clearing House.

- (c) When a Client chooses Individual Client Segregation, any margin in excess of the Client's requirement shall also be transferred to the Recognised Clearing House or Remote Clearing House and distinguished from the margins of other Clients of the Authorised Person and shall not be exposed to losses connected to positions recorded in another account.
- (d) To segregate Client Money (that would otherwise be held in a single Statutory Trust as the general pool of Client Money held for all Clients of the Authorised Person) for a specific Client or group of Clients clearing positions through a particular Client account at a Recognised Clearing House or Remote Clearing House, a Clearing Member firm may, in accordance with these rules, create a separate Statutory Trust for Client Money receivables relating to a particular Client Account at that Recognised Clearing House or Remote Clearing House (as in Rule 14.2.15 below).

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14.2.15 Statutory Trusts

- (a) An Authorised Person receives and holds Client Money as trustee in accordance with the following requirements in Rule 14.2.15.
- (b) The requirements in (a) are:
 - (i) for the purposes of and on the terms of the Client Money rules and the Client Money Distribution Rules;
 - (A) where an Authorised Person maintains only a single Statutory Trust as a general pool of Client Money, subject to (ii), for the Clients for whom that money is held, according to their respective interests in it;
 - (B) where an Authorised Person has established one or more separate Statutory Trusts of Client Money, subject to (ii), each separate Statutory Trust is held for the Clients of the Authorised Person who are beneficiaries of that specific Statutory Trust according to their respective interests in it;
 - (ii) for the payment of the costs properly attributable to the distribution of the Client Money in accordance with (i), if such distribution takes place following the Failure of the Authorised Person; and
 - (iii) after all valid claims and costs under (i) to (ii) have been met, for the Authorised Person itself.
- (c) The beneficiaries of each separate Statutory Trust are those Clients:
 - (i) from whom the Authorised Person has received a signed Statutory Trust disclosure document under Rule 14.2.14(e);

- (ii) for whom the Authorised Person maintains, previously maintained or is in the process of establishing a margined transaction(s) in the relevant Client Account at the relevant Recognised Clearing House or Remote Clearing House;

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14.4 Client Money Distribution Rules

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14.4.3 Pooling and distribution

- (a) If a Primary Pooling Event occurs, an Authorised Person must comply with (b)-(h) below.
- (b) The following Client Money is included in a separate Statutory Trust under Rule 14.2.14(d):
 - (i) the Authorised Person's receivables in respect of any Client Money held in a Client Account of the Authorised Person relating to that separate Statutory Trust; and
 - (ii) the Authorised Person's receivables in respect of any Client Money held in a Client Account of the Authorised Person relating to that separate Statutory Trust, except in respect of Client Money held in a Client Account at a Recognised Clearing House, a Remote Clearing House or a Clearing Member which is, in either case, held as part of a Clearing Member Client Contract under FSMR;
- (c) In respect of the general Statutory Trust (i.e., the Statutory Trust in respect of the general pool of Client Money held for all Clients of the Authorised Person or held for residual Clients not interested in a Designated Client Account, Designated Client Fund Account or specific Statutory Trust under Rule 14.2.14), the following is treated as a single notional pool of Client Money for the beneficiaries of the general pool:
 - (i) the Authorised Person's receivables in respect of any Client Money held in any Client Account of the Authorised Person;
 - (ii) the Authorised Person's receivables in respect of any Client Money held in a Client Account of the Authorised Person, except for Client Money held in a Client Account at a Recognised Clearing House or Remote Clearing House, or a Clearing House which is, in either case, held as part of a Clearing Member Client Contract under FSMR; and
 - (iii) the Authorised Person's receivables in respect of any Client Money identifiable in any other account held by the Authorised Person into which Client Money has been received;

except, in each case, for Client Money relating to a separate Statutory Trust which falls under (b)(i) or (ii).

- (d) The Authorised Person must:

- (i) distribute Client Money in accordance with Rule 14.2.15, so that each Client who is a beneficiary of each separate Statutory Trust receives a sum which is rateable to the Client Money entitlement and calculated in accordance with Rule 13.4.3(n) relating to each Client's Client Equity Balance; or
 - (ii) (where applicable) transfer Client Money held at a Recognised Clearing House, Remote Clearing House or Non-ADGM Clearing House to effect or facilitate porting of positions held for the Clients who are beneficiaries of that separate Statutory Trust; and
- (e) If, in connection with a Clearing Member Client Contract, Client Money is remitted directly to the Authorised Person ~~either~~ from a Recognised Clearing House, a Remote Clearing House or from a Clearing Member thereof, then:
- (i) any such remittance in respect of a Client Account constituting a separate Statutory Trust under Rule 13.2.14 must be distributed to the relevant Client interested in such Client Account subject to Rule 14.2.15(d); and
 - (ii) subject to (e)(i), any such remittance in respect of any other Client Account must form part of the relevant Statutory Trust under (b) and be subject to distribution accordingly.
- (f) Where any Asset is valued by a Recognised Clearing House or Remote Clearing House, the close-out price or valuation of the Recognised Clearing House or Remote Clearing House shall apply on a Pooling Event, regardless of the actual time of close-out, provided that the Recognised Clearing House or Remote Clearing House has acted in accordance with its Default Rules.
- (g) For the avoidance of doubt, 'relevant Clients' in the case of (e) includes any entitlement of a Client held by it for a Person who is an indirect client.
- (h) Where an Authorised Person that is a Clearing Member of a Recognised Clearing House or Remote Clearing House defaults, the Recognised Clearing House or Remote Clearing House may:
- (i) port Client positions and related collateral (including proceeds of Client Money or Safe Custody Assets) where possible; and
 - (ii) after the completion of the default management process:
 - (A) return any balance due directly to those Clients for whom the positions are held, if they are known to the Recognised Clearing House or Remote Clearing House; or
 - (B) remit any balance to the Authorised Person for the account of its Clients if the Clients are not known to the Recognised Clearing House or Remote Clearing House.

- (i) Where an Authorised Person acting in connection with a Clearing Member Client Contract for a Client (who is also an indirect Client) defaults, the Clearing Member with whom the Authorised Person has placed Client Money of the indirect Client, may:
 - (i) transfer the positions and assets either to another Clearing Member of the relevant Recognised Clearing House or Remote Clearing House, or to another Authorised Person willing to act for the indirect Client; or
 - (ii) liquidate the Assets and positions of the indirect Clients and remit all monies due to the indirect Clients.
- (j) Where any balance remitted from a Recognised Clearing House or Remote Clearing House (or in the case of the Authorised Person being an indirect Client, a Clearing Member) to an Authorised Person is Client Money, Rule 13.4.3(k) provides for the distribution of remittances from either an Individual Client Account or an Omnibus Client Account.
- (k) Remittances received by the Authorised Person falling within Rules 13.4.3(e)(i) and (ii) should not be pooled with Client Money held in any Client Account operated by the Authorised Person at the time of the Primary Pooling Event. Those remittances should be segregated and promptly distributed to each Client on whose behalf the remittance was received.
- (l) For the avoidance of doubt, in respect of a Clearing Member Client Contract, any Client Money remitted by the Recognised Clearing House or Remote Clearing House (or in the case of the Authorised Person being an indirect Client, a Clearing Member) to the Authorised Person pursuant to Rule 13.4.3(e) should not be treated as Client Money received after the Failure of the Authorised Person under Rule 14.4.4.
- (m) The Authorised Person's obligation to its Client in respect of Client Money relating to a particular Statutory Trust is discharged where the Authorised Person, to facilitate porting transfers or the transfer of that Client Money to a Clearing Member in connection with a Clearing Member Client Contract and the Clearing Member, remits payment to another Authorised Person or to another Clearing Member where the Client Money is paid to the Client or a duly authorised representative of the Client.
- (n) Each Client's Client Equity Balance must be reduced by:
 - (i) any amount paid by:
 - (A) a Clearing House to a Clearing Member other than the Authorised Person in connection with a porting arrangement where Client Money is ported by the Recognised Clearing House or Remote Clearing House as part of the default management process of that Recognised Clearing House or Remote Clearing House;
 - (B) a Clearing Member to another Clearing Member or Authorised Person (other than the Authorised Person) in connection with a Clearing

Member Client Contract where Client Money is paid to the Client or a duly authorised representative of the Client;

- (ii) any amount paid by:
 - (A) a Recognised Clearing House or Remote Clearing House directly to that Client, where the amount comprises the balance owed by the Recognised Clearing House or Remote Clearing House after the completion of the Clearing Member's default management process by the Recognised Clearing House or Remote Clearing House; and
 - (B) a Clearing Member directly to an indirect Client in accordance with default management procedures adopted by the Clearing Member.
- (iii) any amount that must be distributed to that Client by the Authorised Person in accordance with Rule 13.4.3(e)(i) and (ii).
- (o) When, in respect of a Client who is a beneficiary of a Statutory Trust, there is a positive individual Client balance and a negative Client Equity Balance in relation to that Statutory Trust, the credit for that Statutory Trust must be offset against the debit reducing the individual Client balance for that Client.
- (p) When, in respect of a Client who is a beneficiary of a Statutory Trust, there is a negative individual Client Equity Balance and a positive Client Equity Balance in relation to that Statutory Trust, the credit for that Statutory Trust must be offset against the debit for that Statutory Trust reducing the Client Equity Balance for that Client.

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