



## CLEARING RULES

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# 1 Definitions, Interpretation and Construction

## 1.1 Definitions

In this Rulebook unless the context otherwise requires, the following words and expressions shall have the following meanings:

“Account” means an account established in the books and records of SECDEX in accordance with Rule 4;

“Additional Margin” means margin of a type and in an amount determined by SECDEX in accordance with these Rules in respect of Open Contracts;

“Affiliate” in relation to a financial institution, means a subsidiary of the financial institution or a company of which the financial institution is a subsidiary or a company that is under common control with the financial institution;

“Applicable Law” means all laws, regulations, decrees, instruments, codes of conduct, that apply in the Seychelles, in the jurisdiction of incorporation of the Member (if different), in the jurisdiction in which a delivery may be made, in the jurisdiction in which any Collateral or Mutual Performance Contribution Amount or Mutual Performance Contribution Fund is held, and in the jurisdiction of the Competent Regulatory Authority;

“Applicant” means a person applying to become a Member in accordance with Rule 3;

“Back-Up Clearing Member” means a GCM to whom one or more Client Account is ported (transferred) in the circumstances set out Rule 14;

“Base Currency” means US Dollars;

“Board” means the board of directors of SECDEX;

“Business Day” means any day on which SECDEX is open for business as further detailed in the Schedule Business Days;

“Buyer” means: (i) in respect of a Transaction, the party specified or otherwise designated as such; (ii) in respect of a Contract the party specified or otherwise designated as such;

“Cash Settlement” means in respect of an Open Contract the settlement of such Contract by means of the payment of a cash amount calculated in accordance with the Product Specification and where relevant the Delivery Procedures;

“Central Bank” means the Central Bank of Seychelles;

“Circular” means a communication described as such and published (on the SECDEX Website or otherwise) or issued by SECDEX, and may be addressed to Members generally or to a specific category of Members;

“Clearing Member” means either General Clearing Member or Individual Clearing Member;

“Clearing Services” means the services provided by SECDEX under this Rulebook;

“Client” means a client of a Member that has entered into a Client Clearing Agreement with such Member;

“Client Account” means an Individual Client Segregated Account and/or an Omnibus Client Account as the case may be;

“Client Clearing Agreement” means the contractual arrangements between the GCM and its Client in relation to the Client Clearing Service;

“Client Clearing Service” means the clearing service provided by a GCM to its Client in relation to client clearing at SECDEX;

“Collateral Balance” means as at a particular time and in relation to a specific Account of the Member, the amount of Eligible Collateral standing to the credit of that Account;

“Collateral Value” means the value of the Eligible Collateral after haircuts and as calculated by SECDEX;

“Competent Regulatory Authority” means the FSA and the Central Bank together with any other regulatory authority or body with (i) locus and remit over the activities of SECDEX in whatever jurisdiction in which SECDEX operates; and/or (ii) in the case of a Member, locus and remit over the activities of all or any part of the Member whether in connection with SECDEX or otherwise;

“Confidential Information” means unless otherwise contemplated in this Rulebook, the Membership Documentation;

“Contract” means a binding agreement between the Member and SECDEX which is created in accordance with Rule 7;

“Contract Size” means with respect to a Contract, the deliverable quantity of the underlying Product.

“Declared Default” shall have the meaning set out in Rule 13;

“Default Notice” means the notice provided by SECDEX in circumstances set out in Rule 13;

“Default Resources Waterfall” means the order of the application of resources by SECDEX as contemplated by Rule 13;

“Default Rule” means Rule 13 together with all Circulars issued thereunder;

“Defaulting Member” means a Member that has become a Defaulting Member pursuant to Rule 13;

“Delivery Margin” means margin of a type and in an amount determined by SECDEX in accordance with these Rules in respect of Open Contracts;

“Eligibility Criteria” means the criteria for eligibility for Membership of SECDEX as set out in Rule 3;

“Eligible Cash” means cash in an eligible currency as determined by SECDEX and communicated to the Clearing Members by SECDEX via Circular and/or posting on its Website;

“Eligible Collateral” or “Collateral” means Eligible Cash and/or Eligible Non-Cash Collateral as set out in the Schedule Eligible Collateral;

“Eligible Non-Cash Collateral” means Collateral which is not Eligible Cash but which takes the form of another asset and is specified as being Eligible Non-Cash Collateral by SECDEX;

“Eligible Products” means those products that are eligible for clearing by SECDEX from time to time as set out in the Schedule Eligible Products;

“ETP (Electronic Trading Platform)” or “Exchange” or “ATS (Automated Trading System)” means SECDEX Exchange Limited (“SECDEX Exchange”);

“Event of Default” has the meaning set out at Rule 13 and the term “Default” shall be construed accordingly;

“Exchange Rules” means the rules, regulations and administrative procedures which regulate an Exchange and the market administered by it and as notified to SECDEX by the ETP from time to time;

“Fees and Charges Schedule” means the fees and charges schedule published by SECDEX on the SECDEX Website as the same may be amended from time to time by SECDEX in accordance with the Membership Agreement;

“Fees” means the fees specified as such in the Fees and Charges Schedule to which shall be added any relevant sales tax and/or government duty and/or impost as applicable;



“FM Affected Party” means the party that is unable to perform its obligations as a result of a Force Majeure;

“FM Unaffected Party” means the party that is not the FM Affected Party;

“FSA” means the Financial Services Authority;

“Force Majeure” or “FM” means any act, event, omission or accident or circumstance not within the control of SECDEX or a Member as the case may be, which hinders or prevents the performance either in whole or in part of any of its obligations under the Rulebook (other than the case of a Member’s obligations to make a payment to SECDEX), including without limitation: acts of God, flood, drought, storms, earthquakes or other natural disaster; epidemic or pandemic, pestilence, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination, electromagnetic disturbances, black outs, brown outs or sonic boom; any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action, sabotage, cyber- attack or lockouts or interruption or failure of a utility service, the closure, suspension or disruption of the operated ETP, the failure or insolvency of any service provider on which SECDEX relies in order to operate the SECDEX CCP System or whilst performing its obligations under the Rulebook;

“General Clearing Member” or “GCM” means a party that is a Member of SECDEX as further described at Rule 3;

“Haircut” means the discount applicable in the valuation of Eligible Collateral as specified in Rule 11;

“Illegality” shall have the meaning set out at Rule 16;

“Individual Clearing Member” or “ICM” means a party that is a Member of SECDEX as further described at Rule 3;

“Individual Segregated Client Account” shall have the meaning set out at Rule 4;

“Initial Calculation Amount” shall in respect of an Account have the meaning set out at Rule 13;

“Initial Margin” means margin of a type and in an amount determined by SECDEX in accordance with these Rules in respect of Open Contracts;

“Insolvency Event” means in respect of a Member:

- i) That an order is made by a court of competent jurisdiction, or a resolution is passed, for the liquidation, bankruptcy or administration of such Member, or a notice of appointment of a bankruptcy trustee or administrator of such Member is filed with a court of competent jurisdiction;
- ii) The appointment of a manager, receiver, administrative receiver, administrator, trustee or other similar officer of such Member in respect of all or any part of the assets of the Member;
- iii) Such Member convenes a meeting of its creditors generally or makes or proposes any arrangement or composition with, or any assignment for the benefit of, its creditors generally (otherwise than in the course of a reorganisation or restructuring previously approved in writing by SECDEX);
- iv) Such Member is unable to pay its debts as they become due or admits in writing its inability to pay its debts as they are due or is insolvent;
- v) A petition is presented for the winding up of the Member (provided that an Insolvency Event shall not have occurred due to the filing of a winding-up petition which is discharged, stayed or dismissed within thirty (30) days of commencement); or
- vi) Any action occurs in respect of any Member as the case may be in any jurisdiction which is analogous to any of those set out in sub-paragraphs (i), (ii), (iii), (iv) or (v) immediately above;

“Intellectual Property Rights” means patents, trademarks, service marks, rights in logos, get up, trade names, internet domain names, rights in designs, copyright (including rights in computer software) and moral rights, certification marks, database rights, semi-conductor topography rights, utility models, trade secrets, inventions, rights in know how (which shall mean commercial information and techniques in any form including drawings, formulae, processes, schematics, business methods, drawings, prototypes, models, designs, test results, reports, project reports, and testing procedures, instruction and training models, tables of operating conditions, market forecasts and lists and particulars of customers, Members and suppliers) and all other intellectual property or proprietary rights, in each case whether registered or unregistered and including all applications for registration, and all rights or forms of protection having equivalent or similar effect which may now or in the future subsist in, apply to, or are enforceable in any jurisdiction in the world;

“International Standards” mean the Principles for Financial Market Infrastructures April 2012 published by the Committee on Payments and Settlement Systems and the Technical Committee of the International Organisations of Securities Commissions<sup>1</sup>, as the same may be, updated, amended and/or supplemented from time to time;

“Invoicing Back” Describes an action that SECDEX is authorized to perform under a certain set of circumstances as defined in these Rules; whereby SECDEX closes out an Open Contract by requiring a Clearing Member to enter into an offsetting position at a predetermined rate.

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<sup>1</sup><https://www.bis.org/cpmi/publ/d101a.pdf>

“Margin” means Initial Margin and/or Variation Settlement Margin and or any other types of margin as set out in Rule 8 and the Margin and Collateral Procedures;

“Margin Call” means a demand made of a Member by SECDEX for the provision of Eligible Collateral as further described in the Margin and Collateral Procedures;

“Margin Requirement” means a calculation which is performed by SECDEX in respect of the Accounts of each Member as set out in Rule 10;

“Market” means the market(s) for which SECDEX provides a Clearing Service;

“Market Rules” means the rules, regulations, procedures, administrative notices governing a market and as notified to SECDEX by the Market, ETP or Exchange from time to time;

“Member” or “Clearing Member” means an ICM and/or a GCM as the case may be and “Membership” shall be construed accordingly;

“Membership Agreement” means in respect of each Member, the agreement described as such and entered into by a Member with SECDEX;

“Membership Documentation” means collectively, the Rulebook, the Membership Agreement, the Security Documentation and the Membership Application Form;

“Membership Termination Date” means the date specified by SECDEX on which the termination of a Member’s Membership becomes effective;

“Mutualised Performance Amount” means in respect of that Member and as at a particular time the specific amount which is required to be contributed by that Member in respect of its Mutualised Performance Contribution obligations set out at Rule 15;

“Mutualised Performance Contribution” shall have the meaning set out at Rule 15;

“Mutualised Performance Fund”, (“MPF”), means the fund maintained by SECDEX in respect of which each Member is required to make its Mutualised Performance Contribution as set out in Rule 15;

“Non-Defaulting Member” means a Member that is not a Defaulting Member in respect of that specific Declared Default;

“Novation” or “Novated” shall have the meaning set out at Rule 7;

“Omnibus Segregated Client Account” shall have the meaning set out at Rule 4;

“Open Contract” shall have the meaning set out at Rule 7;

“Option Contract” means a Contract described as such in the relevant Product Specification;

“Physical Delivery” means that an Open Contract is settled by way of the delivery of an underlying asset as set out in Rule 9, the relevant Product Specification and the Delivery Procedures;

“Position Limit” shall have the meaning set out in Rule 7;

“Potential Event of Default” means any event which, with the giving of notification, the lapse of time or both would constitute an Event of Default;

“Prescribed CCP Language” means the language to be provided by a GCM to its Clients;

“Product Specification” means the specification of an Eligible Product which is described as such and which forms part of the Rulebook and which is published on SECDEX Website;

“Proprietary Account” means an Account in the books and records of SECDEX as set out in Rule 4;

“Required Collateral Value” means the amount of Eligible Collateral that is required to be posted at or to SECDEX by a Member in respect of an Account as further described at Rule 10;

“SECDEX” means SECDEX Clearing Limited, a company incorporated under the laws of the Seychelles, and licensed and regulated by the FSA;

“SECDEX CCP System” means the electronic clearing platform which incorporates various software, firmware and hardware licensed or owned by SECDEX and used by SECDEX for the provision of Clearing Services;

“SECDEX Designated Person” means any person acting as a director, officer, employee, consultant or agent of SECDEX;

“SECDEX Membership Documentation” means the Rulebook, the Membership Agreement, the Membership Application Form, the Security Documentation and the Product Specification(s);

“SECDEX Rules” or “Rulebook” or “Rules” means all the rules by SECDEX under the Securities Act 2007<sup>2</sup> and set out in the present Rulebook and amended by it from time to time, at its own discretion but subject to the approval of the FSA where applicable;

“SECDEX Website” or “Website” means [www.SECDEX.net](http://www.SECDEX.net) or such replacement website

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<sup>2</sup><https://www.fsaseychelles.sc/wp-content/uploads/2019/08/Consolidated-Securities-Act-2007-to-20th-December-2018.pdf>

specified as such by SECDEX;

“Security Documentation” means the SECDEX Clearing Security Agreement and any associated documentation proof required as such by SECDEX;

“Seller” means: (i) in respect of a Transaction, the party specified or otherwise designated as such; (ii) in respect of a Contract the party specified or otherwise designated as such;

“Settlement Obligation” means, in respect of a Transaction, the Member must honour any instruction in order to ensure the settlement of any obligation, be it in cash or by physical delivery of any Eligible Products;

“Stay or Licensing Event” means that the Member: (i) becomes subject to a special resolution regime (as determined by SECDEX), or is otherwise stopped on a temporary or a permanent basis from performing its obligations under all or any civil or criminal legal proceedings; (ii) has a material regulatory license suspended or revoked and the existence or the operation of the license is key to SECDEX’s continuing determination that the Member meets the eligibility criteria;

“Transaction” means a transaction (trade) in an Eligible Product executed on the ETP between two Clearing Members;

“Variation Settlement Margin” means an outright payment of Eligible Cash of a type and in an amount determined by SECDEX in accordance with these Rules in respect of Open Contracts.

## 1.2 Interpretation and Construction

- 1.2.1 Capitalised terms used herein and not defined herein shall have the meaning usually given to them in the English language.
- 1.2.2 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.2.3 Unless otherwise stated, references to any Rule are to those contained in this Rulebook.
- 1.2.4 Headings are for convenience only and shall not affect the interpretation of this Rulebook.
- 1.2.5 References to statutes, statutory instruments, decrees and rules of a regulatory authority or provisions thereof shall be construed as references to any of the foregoing as the same may be amended, extended, varied or replaced from time to time.

- 1.2.6 A reference to a time shall mean a reference to Seychelles time unless otherwise stated.
- 1.2.7 The Rules, Procedures, Schedules, Product Specifications and Circulars shall form part of this Rulebook, notwithstanding that they may be referred to separately.

## 2 General Provisions of the SECDEX Rulebook

### 2.1 SECDEX CCP

SECDEX Clearing Limited (“SECDEX”) is a company incorporated under the laws of the Seychelles, and licensed<sup>3</sup> and regulated by the FSA as a Clearing Agency. It is licensed to clear and settle the Markets and Eligible Products set out in the Schedules to this Rulebook.

### 2.2 The Rulebook

- 2.2.1 The Rulebook sets out the terms and conditions which apply to Membership of SECDEX. These rules apply to all Members. Each Member shall be bound by and comply with this Rulebook and its associated Schedules and Procedures, the Membership Agreement, the Security Documentation, as amended from time to time by SECDEX. Failure by a Member to comply with the latest version of the Rulebook, the Membership Agreement, and the Security Documentation or any decision of SECDEX made pursuant to the Rulebook shall constitute a breach of these Rules.
- 2.2.2 Subject to the other provisions of this Rule, SECDEX may in its absolute discretion introduce new Rules, Schedules, Procedures or Circulars and/or amend, extend, vary and /or supplement the Rulebook, subject to the prior approval of the FSA.
- 2.2.3 Amendments to Rules shall be subject to the approval of the FSA except for amendments that relate to fees and charges, including interest paid or charged on Collateral deposited and/or Mutualised Performance Contribution payments made by a Member.
- 2.2.4 Any amendment to the Rulebook shall be notified to Members by way of:
- i) Circular sent to Members electronically via e-mail (to the email address notified by the Member to SECDEX from time to time), and
  - ii) posting on the SECDEX Website.
- 2.2.5 SECDEX will not be required to consult with Members in relation to any change in the Rulebook which is:
- i) required in order to enable SECDEX to comply with Applicable Law;
  - ii) in the opinion of SECDEX required to be made as an emergency;

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<sup>3</sup><https://www.fsaseychelles.sc/wp-content/uploads/2019/08/Consolidated-Securities-Act-2007-to-20th-December-2018.pdf>

- iii) desirable in order to allow SECDEX to maintain its status as a central counterparty;
- iv) in the opinion of SECDEX necessary to prevent a material disruption in the operation of SECDEX and/or the SECDEX CCP System.

SECDEX will notify Members of such change(s) in the Rulebook and/or related Schedules. No minimum notification period shall apply and notification may occur after the Rulebook change has taken effect.

2.2.6 In the case of changes in the Rulebook which SECDEX acting in good faith determines to be non-material Members shall be notified of such non-material changes at least 5 Business Days prior to the effective date thereof.

2.2.7 In the case of material amendments to the Rulebook and upon FSA approval (other than those made pursuant to Rule 2.2.4), SECDEX shall give Members no less than thirty 30 Business Days' notice of such amendments and such amendments shall then become effective.

2.2.8 In relation to fees and charges, including interest paid or charged on Collateral deposited and/or Mutualised Performance Contribution payments made by a Member, SECDEX shall give Members no less than thirty 30 Business Days' notice of such amendments and such amendments shall then become effective;

2.2.9 SECDEX will inform Clearing Members of the intent of any proposed rule change and the likely impacts it will have on Clearing Members.

2.2.10 Wherever practicable SECDEX will invite all or a limited group of Clearing Members to submit comments on any proposed amendments to the Rulebook.

2.2.11 SECDEX will include transitional provisions where possible.

2.2.12 SECDEX will be mindful of the costs of compliance of Clearing Members.

2.2.13 SECDEX may provide notice of the amendments made pursuant to Rule 2.2.5 to a limited group of Members where SECDEX determines that such amendments only affect that limited group of Members.

2.2.14 If any amendment to the Rulebook materially adversely affects the rights or obligations of a Member, that Member may, within 30 Business Days of being notified of such amendment, resign its Membership and cease to be a Member by giving notice in writing SECDEX.

2.2.15 Each Member acknowledges and agrees that this Rulebook shall bind the Member to the same extent as if it had executed a master agreement with SECDEX, applicable to all Contracts entered into by it under this Rulebook. Each Contract is accepted by SECDEX in reliance upon the fact that all Contracts and



every other obligation undertaken by the Member under the Rulebook constitute a single indivisible legal agreement.

## 2.3 Principal Clearing

Notwithstanding the existence of Client Accounts in the books and records of SECDEX, all dealings between a Member and SECDEX and vice versa are conducted on the basis that each party is acting as a principal and, in particular, that in the context of its dealings with SECDEX, the Member is not acting as an agent for any Client or person whatsoever.

## 2.4 Exclusion of Third-Party Rights

The Rulebook creates the contractual relationship between SECDEX and its Members only. Save in the very limited circumstances set out in Rule 14 (Client Porting) in relation to Clients, no provision of this Rulebook confers or is intended to confer a benefit on or shall otherwise be enforceable by any third party whatsoever, whether pursuant to Seychelles law or otherwise.

## 2.5 Interpreting the Rulebook

The Board or any committee of the Board are authorised to interpret the Rulebook and the interpretation of the Board (or the committee, as the case may be) shall be binding. A Member has a right of appeal to the Appeal Committee as outlined in the Protection and Grievances Mechanism for Members and Clients of Members as outlined in Schedule 5.

## 2.6 Withdrawal of Clearing Service

SECDEX may, in its absolute discretion, determine that it intends to cease to provide Clearing Services in respect of any Eligible Product to any group or category of Members. Unless it is required to cease to provide such Clearing Services as a matter of Applicable Law, SECDEX shall provide no less than 90-day notice of the withdrawal of any Clearing Service. If SECDEX decides to terminate the clearing of any Eligible Product, it shall use its reasonable endeavours to transfer all or some of the related Contracts and Collateral to another clearing house, if requested to do so by a Member. SECDEX shall promptly inform the FSA and/or other competent authorities of the reason for the cessation.

## 2.7 International Standards

SECDEX operates in accordance with best practice both domestically and internationally.

These Standards include:

- The CPSS-IOSCO Principles for financial market infrastructures<sup>4</sup>;
- The IOSCO Principles for the Regulation and Supervision of Commodity Derivatives Markets<sup>5</sup>; and
- EMIR Regulation 648/2012<sup>6</sup> and its Regulatory Technical Standards.

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<sup>4</sup> <https://www.bis.org/cpmi/publ/d101a.pdf>

<sup>5</sup> <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD358.pdf>

<sup>6</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0648>

## 3 Membership

SECDEX will aim to ensure fair and open access to Membership among firms wishing to be Members. SECDEX will review the Applicants from a legal, risk and operational perspective.

SECDEX has 2 types of Membership: Either a General Clearing Member (“GCM”) (who is entitled to clear transactions on behalf of itself and its clients), or an Individual Clearing Member (“ICM”) (who only clears its own account business).

### 3.1 General

- 3.1.1 An application for Membership of SECDEX, as either a GCM or an ICM, shall be made in accordance with the Application Procedure specified here below. It must include all supporting information as stipulated in the application procedure, failing which the application will be returned to the Applicant and will not be processed until fully completed.
- 3.1.2 In making an application the Applicant is expressly confirming, acknowledging and undertaking that it has read, understood and agrees to be bound by the Rulebook, as amended from time to time by SECDEX. This confirmation, acknowledgement and undertaking are material to the application for Membership and are the only basis on which SECDEX is prepared to accept an application.
- 3.1.3 All fully completed applications shall be determined by SECDEX and such determination shall be notified to the Applicant. SECDEX may grant an application approval, refuse an application or grant a conditional application approval subject to any conditions that it considers appropriate. Where it grants an application, the Membership shall become effective on the date and at the time specified by SECDEX.
- 3.1.4 SECDEX shall not be required to make a decision in respect of an application within a particular timeframe, however subject to the Applicant responding promptly to SECDEX’s request for further information, and enabling an onsite inspection to take place in a timely manner, then SECDEX would ordinarily aim to make a decision within 12 weeks of the receipt of all complete information.
- 3.1.5 The decision to accept an application for Membership is taken by the Board of Directors of SECDEX, on the advice of SECDEX Group’s Risk Management Committee. SECDEX will convey the reasons for its decision in the event an Applicant is refused Membership in writing or via e-mail. SECDEX will keep a full record related to the application and reasons for approval for a minimum of 7 years from the date of initial application.

- 3.1.6 An Applicant that has been accepted as a Member must commence clearing operations within 6 months of being notified of its acceptance as a Member. If it does not commence operations within such timeframe (or such extended timeframe as SECDEX may agree) then its Membership shall automatically lapse. In the event of a lapsed Membership, a re-application will be required.
- 3.1.7 A Member of SECDEX has authorization to clear all Eligible Products. SECDEX can however decide to introduce different categories of Membership, each one giving authorization to clear a different type or set of Eligible Products; should this become the case, a Member might apply to provide a clearing service in respect of one or more additional Eligible Products set, or reduce the number of Eligible Products that it clears to no less than one; likewise, a Member can change its type of Membership from an ICM to a GCM or vice versa, and in order to apply to do so shall complete such additional documentation and meet such additional requirements as SECDEX shall prescribe.
- 3.1.8 SECDEX will publish the names of its Members on the SECDEX Website.

## 3.2 Eligibility Criteria

- 3.2.1 An application for Membership will only be considered if the Applicant meets the following Eligibility Criteria:
- i) The Applicant must be:
    - a. Licensed in the Seychelles as a Market Participant in accordance with Chapter 208A of the Securities Act; or as a foreign institution recognised by the FSA, and
    - b. A Member of the ETP.
  - ii) The Applicant must not be subject to an Insolvency Event or a Stay or Licensing Event.
  - iii) Net Capital Requirements:

“Net Capital Requirement” shall be determined as follows: the Applicant’s latest audited net shareholder’s equity, or such other capital requirement that might be set from time to time by SECDEX at its discretion.

    - a. A GCM shall at all times meet the following Net Capital Requirement: SR 10,000,000
    - b. An ICM shall at all times meet the following Net Capital Requirement: SR 1,000,000
    - c. SECDEX may set different Net Capital Requirements applying to Members that wish to clear different Eligible Contract types.

iv) The Applicant must be fit and proper as determined by SECDEX, notably with respect to the following:

- a. The Applicant must have a sufficient level of ability and competence, in particular having regard to the types of Eligible Products which the Applicant wishes to clear;
- b. The Applicant, where it wishes to undertake client clearing, must have sufficient ability and competence to undertake such client clearing and to segregate Client Accounts and Collateral provided in respect of such Client Accounts from other Client Accounts and from any Proprietary Accounts;
- c. The Applicant must have the technical and organisational facilities to ensure the orderly performance of Contracts, respond to Margin Calls, meet any Settlement obligations or delivery procedures and provide Collateral, as determined by SECDEX;
- d. The Applicant must meet the technical requirements communicated to the Applicant for connection to the SECDEXCCP System;
- e. The Applicant must meet and have the capacity to maintain at all times the banking, settlement, technical, training and testing arrangements and requirements set by SECDEX from time to time.
- f. The Applicant must have proper, extensive and up to date risk management and anti-money laundering policies. These include an adequate Business Continuity Plan (BCP) plan with associated systems and adequate cyber security systems and policies.
- g. The Applicant must have adequate disaster recovery and business continuity procedures and policies to enable it to satisfy its obligations under the Rulebook.
- h. The Applicant must be in compliance with any other additional operational requirements set out by SECDEX from time to time.

### 3.3 Application Procedure

The Applicant must have executed and delivered to SECDEX all the agreements and required documents specified in the Membership Documentation (including, among others, the Membership Application Form, the Membership Agreement, the Security Documentation, the Applicant's risk management procedures, anti-money laundering policies, disaster recovery and business continuity procedures.), which must be in full force and effect, and the Member must be in full compliance with all the provisions of the agreements and Rules in the Membership Documentation.

3.3.1 An Applicant for Membership shall provide SECDEX with, among others:

- i) A completed, duly executed Membership Application Form accompanied by the information and documentation specified in this form. As part of the application, the Applicant shall specify which markets it wishes to clear and whether it intends to act as a GCM or an ICM;
- ii) Two duly executed Membership Agreements and Security Documentation;
- iii) The membership application fee as specified in the Fees and Charges Schedule;
- iv) Certified true copies of the relevant licenses.

3.3.2 Whilst an application is pending, the Applicant must notify SECDEX in writing of any changes in relation to any of the statements made in the Membership Documentation, any changes in the legal or financial information in relation to the Applicant or the occurrence of any event which would be an Event of Default or Potential Event of Default if the Applicant were at that point a Member and not an Applicant.

3.3.3 SECDEX shall be entitled to:

- i) Make such enquiry about the Applicant, its business, its shareholders and its connected persons as SECDEX shall deem appropriate and without limitation such enquires may include the Applicant's regulator(s) and other exchanges, trading venues and clearing houses;
- ii) Require the Applicant to provide such additional information as SECDEX shall deem relevant to the application;
- iii) Take such steps as SECDEX shall deem necessary to verify information provided by and/or in respect of the Applicant;
- iv) Conduct one or more due diligence visits to the Applicant's premises in order to assess the Applicant's ability to meet the Eligibility Criteria.

### **3.4 Members' Ongoing Obligations**

A Clearing Member shall provide SECDEX with copies of all financial regulatory reports which it provides to its regulatory authority, whether it is the FSA, the Central Bank or any other competent regulatory authority. Provision to SECDEX of these reports should be effected within 15 Business Days after the Member has provided them to its regulatory authority.

The Clearing Member also agrees to provide SECDEX with any other additional information that SECDEX might request and which its regulatory authority entitles it to receive; and that SECDEX may disclose this information to any of its Affiliates or any entity which provides services to SECDEX. SECDEX will use its reasonable endeavour to insure in the case of Confidential Information that this information will be kept confidential by the party to which it is disclosed.

3.4.1 A GCM may not provide Client Clearing Services to a Client unless it has:

- i) Entered into a Client Clearing Agreement with that Client which is in full force and effect; pursuant to which such Client agrees to be bound by the applicable provisions (including, but not limited to, those related to porting of positions in case of default, CCP insolvency and termination of clearing membership) of the Rulebook and the Membership Agreement signed between SECDEX and the Clearing Member; the Client also shall acknowledge that he does not have any rights against SECDEX (unless expressly set out in the Rulebook). A Client Clearing Agreement should also include a waiver signed by the Client enabling the Member to disclose his/her identity to SECDEX;
- ii) Provided a copy of the Prescribed CCP Language to that Client;
- iii) Complied with any other requirements from time to time specified by SECDEX in the Client Porting Rules;
- iv) Checked that it is not providing clearing services to non-authorized persons, with respects to Applicable Law.

3.4.2 Each Member must at all times ensure that:

- i) It continues to meet the Eligibility Criteria;
- ii) It continues to comply with the Rulebook, the Membership Agreement, the Security Documentation and all directions of SECDEX otherwise made or given under this Rulebook;
- iii) It continues to comply with all Applicable Laws and, in particular, that it does not participate in any conduct that may involve market abuse, breach of any Applicable Law relating to short selling, insider trading, money laundering, or commit any act or engage in any course of conduct which creates or is likely to create a false or misleading impression as to the market in, or the price of, any Eligible Product;
- iv) It does not engage in any act or course of conduct which is likely to harm the integrity, stability or public image of SECDEX itself, or the SECDEX CCP System.
- v) It does not, without disclosing it to SECDEX or the ETP, offer clearing services on the ETP for a client who is a SECDEX Designated Person;

- vi) It pays in due time all the fees and charges that are levied by SECDEX on Clearing Members with respect of its provision of Clearing Services, and which are determined by SECDEX and amended from time to time. vii) The Client Clearing Agreement(s) that it has signed with its Client(s) is in full force and effect.

3.4.3 Without limitation to Rule 3.4.1 above, a Member shall upon becoming aware of the following events, notify SECDEX promptly:

- i) Upon the occurrence of an Insolvency Event, or a Stay or a Licensing Event relating to the Member, one of its Affiliates or any stakeholder of the Member or one of its Affiliates.
- ii) If it ceases to meet the Eligibility Criteria;
- iii) If it commits a material breach of the Rulebook;
- iv) If it becomes aware that it is or is highly likely to be unable to comply with the Rulebook;
- v) If it is in breach of any its obligations under the rules of the relevant ETP;
- vi) If there is a major change in its shareholding structure, board of directors' composition, senior management or authorized representatives. More specifically, a Member shall promptly notify SECDEX of the details of any new person or corporate entity holding or having a beneficial interest in 5% or more of any class of its equity share capital, whether directly or indirectly;
- vii) Of any technical difficulties it may be experiencing in relation to the ETP system and/or the SECDEX CCP System.
- viii) Of the default of any client to whom it is providing a client clearing service;
- ix) Of any legal dispute with another Member or ETP or Exchange Member in connection with the Clearing Rules and this Rulebook.

3.4.4 A Member must at all times have adequate systems and controls to inter-alia minimise the risk of error in relation to clearing on SECDEX and to ensure that the Member's conduct with SECDEX complies with this Rulebook. These include an adequate Business Continuity Plan (BCP) plan with associated systems and adequate cyber security systems and policies.

3.4.5 All Members are responsible for ensuring that their staff are properly trained, supervised and have the appropriate level of experience, knowledge and competence in order to clear Eligible Products and to use the SECDEX CCP System properly and in accordance with the Rulebook.

3.4.6 Each Member shall act in good faith co-operate and assist SECDEX, the Central Bank, the FSA and/or any other recognised regulatory body as the case may be, in any investigation conducted in relation to clearing and any other investigation,



which may impact its Membership on SECDEX.

- 3.4.7 Without limitation, Members must comply with any additional obligations in relation to particular types of Eligible Product.
- 3.4.8 Each Clearing Member shall participate in business continuity and disaster recovery tests as well as default drills with SECDEX. These tests shall occur whenever SECDEX considers it necessary from a risk management perspective, with a minimum of once per year. Timing of the test(s) will be agreed between SECDEX and the Member on typically 3 months' notice given by SECDEX.
- 3.4.9 A Member shall allow SECDEX to carry out onsite inspections of its clearing business and operations and shall provide SECDEX with such assistance as it may require. A Member which is not incorporated or otherwise located in the Seychelles must organise its clearing business and operations in a country which permits such onsite visits.

### **3.5 Members' Indemnities**

- 3.5.1 Each Member hereby indemnifies and holds SECDEX and each SECDEX Designated Person harmless against all losses, costs, damages, liabilities, claims, and expenses, howsoever arising which are incurred or suffered by SECDEX and/or any SECDEX Designated Person as the case may be, arising out of or in connection with all or any of the following:
- i) A breach by such Member of any of its obligations under the Rulebook, the Membership Agreement, the Security Documentation and/or any Contract;
  - ii) A breach by such Member of Applicable Law; or
  - iii) Any wrongful act, omission, negligence, recklessness, wilful default, misrepresentation, fraud or breach of trust by such Member.
- 3.5.2 Each Member hereby indemnifies SECDEX on demand against any transaction tax, registration and similar taxes (if any) arising in respect of a Contract.

### **3.6 Resignation, Suspension and Termination**

- 3.6.1 A Member may resign its Membership and cease to be a Member by giving no less than 30 Business Days prior notice in writing to SECDEX (or such shorter period as may be required to comply with Applicable Law). SECDEX may in its absolute discretion waive some or all of the notice period.

- 3.6.2 A Member's Membership may be suspended or terminated in accordance with Rule 17. In addition, SECDEX may immediately suspend a Member or the Member's authorised representatives' access to the SECDEX CCP System or any part of the SECDEX CCP System or refuse to accept a Transaction, if SECDEX considers such action to be necessary to preserve the security or integrity of the SECDEX CCP System, to prevent a breach of Applicable Law or to protect other Members from fraud or a computer virus.
- 3.6.3 In the event of the resignation, suspension or termination of a Member's Membership:
- i) SECDEX shall be entitled to take all measures necessary to prevent the Member from entering into new Transactions on the SECDEX CCP System; and may take such other action as set out in the Rules.
  - ii) The Clearing Member shall continue to comply with the Rulebook and take such actions as SECDEX deems necessary.
  - iii) SECDEX shall forthwith notify the FSA and the ETP of such resignation, suspension or termination.
- 3.6.4 SECDEX will publish the resignation, suspension or termination of a Member's Membership on the public and/or Members' only section of the SECDEX Website.
- 3.6.5 Resignation, suspension or termination of a Member's Membership shall be without prejudice to any obligation of a Member under any provision of the Rulebook that expressly or by implication is designed to come into effect or to continue after the resignation suspension or termination of the Membership including without limitation Rules which shall survive such resignation or termination of the Membership and endure through any suspension.
- 3.6.6 There will be no refunding of any fees paid by the Member to SECDEX in case of resignation, termination or suspension of the Membership.
- 3.6.7 In case of termination or resignation of a Clearing Member, SECDEX, after having terminated the Member's Open Contracts and calculated any pending liabilities, fees or charges due to SECDEX, shall refund the Clearing Member its net remaining Collateral, contribution to the Default Fund, and any other applicable assessments and optional payments made by the Member. A Member has a right of appeal to the Appeal Committee as outlined in the Protection and Grievances Mechanism for Members and Clients of Members as outlined in Schedule 5.

## 4 Membership categories and Accounts

### 4.1 GCM Accounts

4.2.1 A General Clearing Member:

- i) Must establish one or more Proprietary Accounts with SECDEX; each Proprietary Account shall consist of a Position Account and a Collateral Account;
- ii) May establish one or more Client Accounts with SECDEX; each Client Account shall consist of a Position Account and a Collateral Account;
- iii) Shall provide the following information to SECDEX in relation to a Client that holds an Individual Segregated Client Account: full name, copy of identification and proof of residency.

4.2.2 The General Clearing Member shall be responsible for ensuring that it correctly allocates:

- i. Proprietary Contracts, Collateral and any other rights and entitlements to the relevant Proprietary Account; and
- ii. Client Contracts, Collateral and any other rights and entitlements to the relevant Client Account.

4.2.3 Where the General Clearing Member is providing services to an Affiliate, it shall ensure that the Contracts, Collateral and any other rights and entitlements are correctly allocated to a Proprietary Account.

### 4.2 ICM Accounts

4.2.1 An Individual Clearing Member:

- i) Must establish one or more Proprietary Account with SECDEX; each Proprietary Account shall consist of a Position Account and a Collateral Account.
- ii) May not establish any Client Accounts.

### 4.3 Client Accounts

4.3.1 A General Clearing Member may establish one or more of the following Accounts:

- i) One or more Omnibus Segregated Client Account; and/or

ii) One or more Individual Segregated Client Account.

4.3.2 An Omnibus Segregated Client Account may be used to record Contracts cleared by a GCM on behalf of one or more Clients and its associated Collateral.

4.3.3 An Omnibus Segregated Client Account is deemed to be a Gross Omnibus Account

4.3.4 In an Omnibus Segregated Client Account structure, the GCM should at all times be in a position to identify on its books and records to which underlying Client of the GCM each Contract has been entered into as well as the value of the Collateral transferred with respect to that Contract. The GCM commits to providing that information to SECDEX on demand. This insures that SECDEX is able to identify a 'notional sub-account' associated to each underlying Client within an Omnibus Segregated Client Account, i.e. to identify to which Client each Contract has been entered into and the value of Collateral and Variation Margin associated with it.

4.3.5 An Individual Segregated Client Account may only be used to record Contracts cleared by a GCM on behalf of a single named Client and its associated Collateral. Opposing identical positions recorded in this type of account are automatically netted against each other.

#### **4.4 Liability of the Member notwithstanding the Category of Accounts**

The Member shall remain liable to SECDEX as Principal in respect of all obligations under all categories of Account, notwithstanding that an Account bears the name Client Account.

## 5 Risk Management Framework and Policies

SECDEX's risk management framework and policies are established by the SECDEX Board of Directors and is supported by SECDEX Group's Risk Management Committee. In turn, the Risk Management Committee reviews the framework and policies and makes recommendations to their application and implementation to the SECDEX Board.

### 5.1 Framework

- 5.1.1 SECDEX adopts a flexible and principles-based approach to risk management. This enables SECDEX to employ prudent risk management practices, while allowing sufficient flexibility to any changing regulatory requirements.
- 5.1.2 In designing its risk management framework and policies, SECDEX aims to have the incentives for strong risk management aligned between Clients, Clearing Members and SECDEX.
- 5.1.3 SECDEX's risk management framework and policies address, among others, the following aspects: credit risk, market risk, liquidity risk, delivery risk, legal risk and operational risk.

### 5.2 Margin Model and Collateral

- 5.2.1 SECDEX calculates an Initial Margin rate which provides it with a confidence interval of 99%. Portfolio margining is allowed for instruments that are significantly and reliably correlated with one another.
- 5.2.2 SECDEX sets its collateral acceptance criteria and valuation methods so that Eligible Collateral remains sufficiently diversified to allow its liquidation within a defined holding period without a significant market impact.

### 5.3 Model Validation

- 5.3.1 SECDEX performs regular back testing, sensitivity analysis and stress testing exercises, all designed to validate that its methodologies and models are robust, flexible and provide the needed protection against a variety of events.
- 5.3.2 SECDEX publishes on its Website the results of back testing and verification of the parameters of any test at regular intervals.

## 6 SECDEX Reports

SECDEX will provide the following reports to Clearing Members:

- a) End-of-day transaction reports
- b) End-of-day position report
- c) End-of-day price report
- d) End-of-day margin report

Reports are generated in an Excel<sup>7</sup> readable format and distributed to Clearing Members via a mutually agreed<sup>8</sup> method.

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<sup>7</sup>Excel is used generically in this context. Whilst referring to the Microsoft application of the same name the attributes of the file will be readable by any compatible application.

<sup>8</sup>Mutually agreed allows the flexibility for security protocols, such as encryption, to be observed between the parties.

## 7 Clearing Mechanics (Position Management, Transfers, SECDEX Rights)

This Rule sets out the basis on which SECDEX will accept and register Transactions on the SECDEX CCP System and create Contracts with Members in respect of such Transactions.

Members will only be approved to Clear Contracts in those Eligible Products that they have applied for access to. Any resulting position, prior to Settlement, will be held in the Members Client Account. All positions in the Members Client Account will be subject to Margin.

### 7.1 Submission of Transactions to the SECDEX CCP System (Validation, Enrichment and Novation)

7.1.1 A Transaction is submitted to the SECDEX CCP System by the ETP system via a real-time data feed. All Transactions are automatically validated as they are received into the SECDEX CCP System from the ETP. Validation occurs at a number of levels.

- a) Initial validation checks to make sure the message received from the ETP includes all the correct components and data types.
- b) Business rules validation then checks for correct static data (e.g. security identifiers).

A Transaction will be marked as 'Rejected' if there is any validation failure. 'Rejected' is a terminal status and the Transaction will not be processed automatically any further.

7.1.2 Once validated, the SECDEX CCP System may enrich trades as per the requirements of the Market and its participants. Each Transaction must be designated by the Member as relating to a specific Account of that Member. In particular, it is the Member that is responsible for ensuring that Client Transactions are always allocated to the correct Client Account.

7.1.3 A Transaction that has been validated by the SECDEX CCP System and not rejected is automatically Novated.

7.1.4 A Clearing Member will be bound by the Contracts resulting from the Transaction that has been Novated by SECDEX regardless of whether the person or any of its representative(s) submitting the Transaction on behalf of the Member was authorized to do so and whether the Transaction caused the Clearing Member to breach any limit or any other requirement imposed by SECDEX.

- 7.1.5 SECDEX shall make available to a Clearing Member daily and real-time data about all Transactions accepted in the Members name; the Clearing Member shall report any error(s) within a 24-hour period starting from the time the report showing the error has been made available to the Member by SECDEX. Notwithstanding the above, SECDEX will use all reasonable efforts to correct any error(s) after this 24-hour period, but failure to timely report any error is the ultimate responsibility of the Member.
- 7.1.6 SECDEX will make available to Members reports on the Transactions submitted by the Members at the end of each trading day.

## 7.2 Novation

- 7.3.1 A Transaction that has been validated by the SECDEX CCP System is automatically Novated. The process of Novation results in substituting the original Transaction with two new Transactions for which SECDEX becomes the counterparty to both the original buyer and seller of the Transaction. At the time of Novation and in order to replace the Transaction:
- i) Each Member that is a party to the Transaction shall be released from his/her obligations to make payments or deliveries to each other as the case may be under the Transaction (“Discharged Rights and Obligations”);
  - ii) Simultaneously two Contracts shall arise, the first in which SECDEX shall assume the position of buyer to the seller under the Transaction and the second in which SECDEX shall assume the position of the seller to the buyer under the Transaction so that:
    - a) The Member that was the seller under the Transaction shall acquire rights against and assume obligations against SECDEX equivalent to the Discharged Rights and Obligations, but with SECDEX as a substitute for the original buyer; and
    - b) The Member that was the buyer under the Transaction shall acquire rights and assume obligations against SECDEX equivalent to the Discharged Rights and Obligations, but with SECDEX as a substitute for the original seller.
- 7.3.2 A Novation is final and binding on all parties and irrevocable. The time of Novation shall be the first time at which both the first Contract and the second Contract as described in this Rule 7.2 are recorded as having been Novated onto the books and records of SECDEX as certified by SECDEX.



## 7.3 Transaction Acceptance Conditions

7.3.1 SECDEX will accept a Transaction for clearing where:

- i) The Transaction is in an Eligible Product as set out in the Schedule: Eligible Products;
- ii) It is submitted to the SECDEX CCP System with all the needed identification criteria, including:
  - a. It identifies both Clearing Members to the Transaction;
  - b. It identifies the relevant Accounts of each Clearing Member to which the Contracts arising out of the Novation shall be credited;
  - c. It contains all the other the mandatory data information and meets the mandatory data checks as set out by SECDEX.
- iii) There is, in the opinion of SECDEX, sufficient Collateral standing to the credit of the relevant Account.
- iv) No Event of Default or Potential Event of Default in respect of the Member(s) has occurred; v) No Force Majeure event or Illegality has or is reasonably likely to occur in respect of any Contract arising out of a Transaction;
- v) It would not be a breach of or in the opinion of SECDEX would not result in a breach of Applicable Law.

7.3.2 With respect to point 7.3.1 (iii) above, SECDEX runs a prefunded model for trade acceptance; whereby when SECDEX determines that a particular Account does not have a sufficient haircut-adjusted Collateral value standing to its credit to take on any more Transaction(s), it will reject (i.e. not accept) any Transaction for that Account.

## 7.4 Rejection and Cancellation of Transactions

7.4.1 In the event of SECDEX rejecting a Transaction, it shall notify the affected Members and the ETP that it has rejected the Transaction, unless SECDEX considers that it is prevented from doing so as a result of Applicable Law or such notification may otherwise cause SECDEX to be in breach of Applicable Law. SECDEX will keep an appropriate record for the Transaction, including the reason for rejection, for a minimum of 7 years.

7.4.2 SECDEX, at its sole discretion, will decide whether to:

- i) manually modify the rejected Transaction;

- ii) advise the ETP to cancel and resubmit the Transaction, or
- iii) close the rejected Transaction by recording an offsetting Transaction and reporting this to the ETP.

7.4.3 Once a transaction has been accepted it will be registered in the SECDEX CCP System.

7.4.4 SECDEX shall have no liabilities to the Clearing Member or the ETP or to any other person in respect of the failure to register or the rejection of a Transaction.

## 7.5 SECDEX's rights to void certain Contracts

7.7.1 Notwithstanding that SECDEX has validated and novated a Transaction in its books and records, it shall be entitled to treat any Contract as void or voidable at its own discretion or if a competent authority or court of law so requires, with an appropriate record for the Transaction, including the reason for voiding kept for 7 years, if:

- i) It appears to SECDEX that the Contract results from erroneous information, whether or not caused by a systems error and whether the error arises at the level of SECDEX or the ETP;
- ii) A Competent Regulatory Authority requires or requests SECDEX to treat the Contract as void;
- iii) The Contract is or might in the opinion of SECDEX be connected with fraud, illegality, insider trading, money laundering, market abuse or any other breach of Applicable Law;
- iv) Information relating to the Contract conflicts with information received from another source including without limitation the ETP, another Clearing Member and/or a Competent Regulatory Authority;
- v) The Contract is void, voidable or otherwise unenforceable in relation to SECDEX or Applicable Law requires SECDEX to treat the Contract as void or voidable; or
- vi) If requested to do so by the ETP upon the occurrence or an operational error occasioned by the ETP or a Member of the ETP.
- vii) An Event of Default or Potential Event of Default has occurred in respect of a Member to the Transaction;
- viii) A Force Majeure event or an Illegality has occurred or is reasonably likely

to occur; or

- ix) Any other reasons that make SECDEX believe that the novation of this Transaction could result in a detrimental effect on SECDEX and/or the Market in general.

7.7.2 SECDEX may instruct the relevant Member or Members to take such action as it deems necessary in order to enable SECDEX to achieve a balanced book in respect of such Contract, or otherwise protect the Clearing Service. Such direction may include a direction communicated to the ETP that either or both of the Contracts that arose from the Transaction should be cancelled. The losses, costs and expenses incurred by SECDEX in exercising its rights in relation to a circumstance or event which exists or occurs under Rule 7.5.1 including without limitation re-establishing a balanced book, shall be charged to the account of the relevant Member(s), in accordance with the determination of SECDEX.

## 7.6 Open Contracts

A Contract is an Open Contract until the soonest to occur of, and in accordance with this Rulebook:

- i) It expires or is cash or physically-settled;
- ii) It is closed out by an offsetting Open Contract;
- iii) It is transferred to another Member;
- iv) It is closed out under the Default Management Procedures, or is otherwise liquidated including without limitation as a result of Invoicing Back, buy in, or Force Majeure or illegality.

## 7.7 Business as Usual Transfers of Open Contracts and Collateral

An Open Contract may be transferred from an Account of a Member to an Account of another Member (“the Second Member”), or across two Accounts of the same Member, in the circumstances and manner set out below.

7.7.1 A Member who wishes to transfer an Open Contract from its Proprietary Account or its Client Account as the case may be to a Second Member shall only be entitled to do so if:

- i) Neither it nor the Second Member has committed an Event of Default or a

Potential Event of Default which has not been cured at the time of transfer;

- ii) The Second Member is entitled to provide a Clearing Service in respect of the same product and in the case of a transfer involving a Client is authorised by SECDEX to provide a Client Clearing Service in respect of such product;
- iii) The Second Member consents to such transfer and as determined by SECDEX, has sufficient Eligible Collateral in the relevant Account at the time of such transfer;

In the case of a transfer from:

- a) an Omnibus Segregated Client Account, the underlying Client in such Account to which the Open Contract belongs to; or
- b) an Individual Segregated Client Account, the Client of such Account has provided a transfer instruction to the Member specifying the Second Member as the transferee.

7.7.2 A Member is not allowed to transfer Collateral and/or Open Contracts from any of its Clients' Account(s) to any of its Proprietary Account(s).

7.7.3 A Member is allowed to transfer Collateral and/or Open Contracts from a Proprietary Account to a Client Account, if the concerned underlying Client of such Account has provided an acceptance of the transfer to the Member, and subject to having the necessary collateral in the Account(s) as determined by SECDEX.

7.7.4 Provided that there is sufficient Collateral in the relevant Accounts as determined by SECDEX, a Member is allowed to transfer Collateral and/or Open Contracts between any of its Proprietary Accounts; and to transfer Open Contracts and Collateral between any of its Client Accounts, if the concerned underlying Clients of such Account(s) have provided to the Member their acceptance of such a transfer.

7.7.5 SECDEX may, in its absolute discretion, decline to effect a transfer of Open Contract(s) from one Member to another Member, or between two accounts of the same Member. SECDEX will promptly inform the Member as to the reasons for declining via e-mail. Notwithstanding the previous, SECDEX will normally agree to a transfer if it reasonably considers that the transfer is in the interest of SECDEX.

7.7.6 Transfers of Open Contracts (Give-Ups) between Members are done manually

on a Position level and are normally initiated by the Clearing Member, with SECDEX approving (or rejecting) them. A Transfer can be instructed by the giving-up Member or by SECDEX on behalf of the giving-up Member. The target Member is notified in real-time and the Transfer can then be processed (or rejected). If processed, the target Member takes up the position and selects the destination Account.

## 7.8 Close-Out Process

- 7.8.1 Clearing Members, or SECDEX, can amend or reduce existing positions in an Omnibus Segregated Client Account, through a Close-Out (netting) process.
- 7.8.2 Clearing Members can only net opposing positions belonging to the same underlying Client; this will lead to the closing out or matching out of a long position/short position with an equivalent short position/long position.
- 7.8.3 Clearing Members can close out via a flag on the ETP trade feed.
- 7.8.4 The Close-Out Process happens in an Omnibus Segregated Client Account, which is a non-automatically netted account, unlike Proprietary and Individual Segregated Client Accounts.

## 7.9 Position Management

- 7.9.1 Positions of Members are computed on a real-time basis as Transactions are novated into the SECDEX CCP System. All Clearing Members positions will be maintained in Accounts that are identified through the Trade acceptance process. Positions will be maintained at the level of: Clearing Member, Account and Instrument.
- 7.9.2 When a Trade on a particular instrument is novated, the SECDEX CCP System checks whether a position with the same parameters exists. The SECDEX CCP System updates a position if a position already exists in the Account or otherwise creates a new position for the Clearing Member.
- 7.9.3 Depending on the type of Account, Open Contracts of the same type but in opposing direction will be automatically netted (Closed-out) against each other. Proprietary Accounts and Individual Segregated Client Accounts are netted automatically; Omnibus Segregated Client Accounts are not automatically netted and follow a Close-out Process described in Rule 7.8.
- 7.9.4 The Contract entry price that is applied into a novated position corresponds to the weighted average (buying or selling) price of the novated Transaction. Through the daily Variation Settlement Margin process (described in Rule 8), a

Contract is carried forward to the next Business Day with the previous day's Daily Settlement Price as the new Contract entry price.

## 7.10 Position Limits

7.10.1 SECDEX may impose, at its discretion, limits on the total number of Contracts held by a Clearing Member or on the number of Contracts held in proportion of total open interest; this either at a specific Account level or on a Member level. SECDEX will inform the Member as to the reasons why and will provide a notice to the FSA concerning the reasons. SECDEX will keep an appropriate record for the reasons for a minimum of 7 years.

7.10.2 SECDEX may prescribe limits to a Clearing Member exposure with respect to any type of Margin.

7.10.3 The SECDEX CCP System checks in real-time every Account with respect to these limits and sends a message to the ETP to prevent any further Trades should a breach occur.

## 7.11 Debit and Excess Credit Balances

A Clearing Member's debit balances on its Proprietary and Client Account (s) are due to SECDEX on demand. Likewise, credit balances which are in excess of a Member's obligations towards SECDEX are refundable to the Clearing Member by SECDEX upon demand; provided that SECDEX considers, in its absolute discretion, that such deposits will not be required to satisfy a Margin or any other obligation of the Clearing Member.

## 7.12 SECDEX Rights

SECDEX may set off and net any obligation due to it from a Member against any obligation owed by it to a Member, except that SECDEX may not set off any Collateral credited to any Client Account against any sum owed to SECDEX in respect of a Member's Proprietary Account.

SECDEX may, at its discretion, combine the balances (whether arising from settlements, Margin payments or otherwise) in respect of all or any of the Open Contracts in a Clearing Member's Proprietary Accounts and inform the Member promptly for its reasons with a record kept for a minimum of 7 years; and/or set-off any amount (s) standing to the credit of any of the Clearing Member's Proprietary Accounts towards payment or satisfaction of all or any of:

- i) The Clearing Member's liabilities to SECDEX in respect of Open Contracts in its Proprietary Accounts,

- ii) Open Contracts relating to the Clearing Member Client Accounts, to the extent of any shortfall where proceeds of a Client Account are insufficient to meet its liabilities vis-a-vis SECDEX in respect to Open Contracts in that Account.
- iii) All other liabilities of the Clearing Member to SECDEX.

SECDEX may, at its discretion, combine the balances (whether arising from settlements, Margin payments or otherwise) in respect of all or any of the Open Contracts in Clearing Member's Omnibus Segregated Client Accounts and to set-off any amount(s) standing to the credit of any of a Clearing Member's Omnibus Segregated Client Account towards payment or satisfaction of all or any of the Clearing Member's liabilities to SECDEX in respect of Open Contracts designated to a Clearing Member's Omnibus Segregated Client Account.

## 8 Clearing Mechanics (Variation Settlement Margin Process)

All Contracts, in a Client Account are subject to variation margin; this Rule describes the Variation Settlement Margin process adopted by SECDEX for the purposes of applying variation margin to Eligible Products.

### 8.1 Daily Settlement Price (DSP) and Expiration Settlement Price (ESP)

A Daily Settlement Price (DSP) for each instrument is determined at the end of every Business Day. The SECDEX CCP System aids in the determination process by suggesting DSPs based on trade prices received from the ETP during the day. The SECDEX CCP System uses a range of techniques for calculating the suggested DSP. After reviewing the suggested DSPs, SECDEX at its discretion adjusts or accepts the recommended DSP which is to be used for Variation Settlement Margin calculations.

On the expiration day of an Open Contract, an Expiration Settlement Price (ESP) is calculated. It is very similar to the DSP but it may be calculated in a different way to prevent manipulation of the price to favour certain trading positions. The SECDEX CCP System uses a range of techniques for calculating the suggested ESP.

### 8.2 Variation Settlement Margin and Closed Out Contracts Settlement Process

On each Business Day, with respect to all Open Contracts at the end of the Business day, SECDEX shall:

- i) Create an equivalent Open Contract (the 'Settlement Contract') of the same description and characteristics as the Settled Contract (i.e. the original Open Contract), but whose direction is the opposite of the Settled Contract (Long when SECDEX is Short the Settled Contract and Short when SECDEX is Long the Settled Contract) and with an entry price that is set as the Daily Settlement Price.
- ii) Such Settlement Contract shall be settled against the Settled Contract, and daily settlement amounts calculated and paid out as described here below in (a) to (e).
- iii) Upon such settlement, the Settled Contract and the Settlement Contract shall be extinguished and a new Open Contract on the same terms as the Settled Contract, other than as to its entry price which shall be the DSP, is created. SECDEX then proceeds with the Open Contracts Variation Settlement Margin and the Closed Out Contracts Settlement, in the following manner:



- a) The Variation Settlement Margin for each Long Open Contract is calculated by subtracting the previous day's DSP from the current DSP, times the Contract Size; The Variation Margin for each Short Open Contract is calculated by subtracting the current DSP from the previous day's DSP, times the Contract Size.
- b) The daily settlement amount for each Long Contract which has been closed out during this Business Day's session (either as a result of a closing Transaction or because it has expired and been cash settled) is calculated by subtracting the previous day's DSP from the price at which the Contract has been closed out (or cash settled), times the Contract Size; the daily settlement amount for each Short Contract which has been closed out during this Business Day's session (either as a result of a closing Transaction or because of it has expired and been cash settled) is calculated by subtracting the price at which the Contract has been closed out (or cash settled) to the previous day's DSP, times the Contract Size.
- c) The sum of all Variation Settlement Margins and Closed out (or cash settled) Contracts Settlement amounts and any amounts otherwise owing by the Clearing Member or to the Clearing Member (including amounts with respect to Deliveries or otherwise) is computed in relation to each Clearing Member and separately with respect to its relevant Client Account(s) (Omnibus Segregated Client and Individual Segregated Client) and Proprietary Account(s), and either credited or debited to these relevant Accounts by SECDEX.
- d) SECDEX and/or the Clearing Member will proceed, when applicable, to separate payment transfers to settle the computed amounts in c): one transfer reflecting the sum of all daily settlement amounts related to all Client Accounts, and one transfer reflecting the sum of all daily settlement amounts related to all Proprietary Accounts).
- e) The amounts payable to SECDEX and referred to in (f) shall be paid by such time as prescribed by SECDEX or on demand by SECDEX, usually before 10:00 am the next Business Day.

## 9 Clearing Mechanics (Settlement and Delivery)

### 9.1 Mode of Settlement

Each Product Specification shall specify whether a Contract shall be settled:

- i) By way of Cash Settlement; or
- ii) By way of Physical Delivery; or
- iii) In the case of Option Contracts, the procedure related to the expiry of the Contract and whether it is exercised or abandoned; or
- iv) Other specific instructions as detailed in the Delivery Procedures for that Eligible Product.

### 9.2 Cash Settlement

Where a Contract is subject to Cash Settlement, and it has not been closed out prior to its expiration, then the Member with the obligation to make payment under the Contract shall make the Cash Settlement Payment in accordance with the Product Specification.

### 9.3 Physical Delivery

9.3.1 Where a Contract is subject to Physical Delivery, and it has not been closed out prior to its expiration, then Physical Delivery shall take place in accordance with the Product Specification and the Delivery Procedures.

9.3.2 A Member shall not be eligible to become a party to a Physical Delivery Contract in relation to any Underlying Asset unless it has in place, at all times, all necessary arrangements with an Approved Delivery Facility that is specified in the Clearing Procedures as being approved for such Underlying Asset.

9.3.3 Physical Delivery Contracts shall be settled, on the Settlement Date, by:

- i) the Buyer making a Settlement Payment to the Seller, in cash in the relevant Settlement Currency; and
- ii) the Seller delivering to the Buyer such quantity of Underlying Assets as are specified by the terms of the Contract, in accordance with the following:

Upon the Settlement Date for a Physical Delivery Contract the Member and SECDEX shall settle their respective Delivery Positions in accordance with the

#### Delivery Procedures.

The Selling Member shall deliver to SECDEX the Underlying Asset that is required to be delivered under the terms of the Contract and in such quantities and in such form as are required pursuant to the Member's Delivery Obligation; whilst, the Buying Member shall pay to SECDEX the Settlement Payment in such Settlement Currency and of such amount as is required pursuant to the Members Payment Obligation.

The settlement obligations specified above shall be performed in accordance with the procedures, requirements and timescales specified in the Clearing Procedures. SECDEX may refuse to accept delivery of an Underlying Asset in settlement of an Open Contract in the event that such acceptance would result in a breach of Applicable Law.

### 9.4 Cash Settlement and Physical Delivery Instructions

- 9.4.1 On each Business Day, each Member shall settle all Cash Settlements (if any) due to or from the Member to SECDEX in accordance with the settlement instructions issued by SECDEX.
- 9.4.2 On each Business Day, SECDEX shall issue to each Member instructions to perform the Physical Delivery(s) due to be performed by that Member in accordance with the timings and other processes set out in the relevant Rules, Delivery Procedures and Product Specification.
- 9.4.3 On each Business Day, each Member shall settle all Physical Deliveries (if any) due to or from the Member to SECDEX in accordance with the settlement instructions issued by SECDEX and the Delivery Procedures.
- 9.4.4 Subject to the ETP or Exchange By-Laws, the Rules and/or the Delivery Procedures, the Delivery process is, at the absolute discretion of SECDEX, effected by:
- 9.4.5 SECDEX instructing the Clearing Member holding Open Contracts under which it is obliged to make or take delivery, to make delivery to or take delivery directly from a Clearing Member holding an opposite obligation selected in its absolute discretion by SECDEX, and to make or receive the settlement amounts accordingly; or
- ii) SECDEX making or taking delivery under Open Contracts subject to delivery obligations and paying or receiving the settlement amounts accordingly to the respective Clearing Members.

9.4.6 SECDEX may, in the cases where it considers that delivery is rendered impossible or difficult and would adversely disrupt the Market or in order to protect the integrity of SECDEX, direct that:

- i) Clearing Members make and accept a cash settlement, in such an amount as SECDEX reasonably determines, in lieu of Physical Delivery; or
- ii) It effects a cash settlement itself to the respective Clearing Members, when SECDEX is obliged under Open Contracts to deliver a Product and does not receive delivery or delivery is not available.

## 9.5 Other Provisions Relating to Physical Delivery

A Member that is settling by way of Physical Delivery:

- i) Must ensure that it establishes and maintains the requisite arrangements with the delivery facilities, warehouses, settlement systems and agents as set out in the Product Specification and/or the Delivery Procedures as the case may be;
- ii) Executes all of the relevant documentation as specified by SECDEX as being necessary or convenient in order to enable the Member to settle by way of Physical Delivery.
  - a. Where a Contract is subject to Physical Delivery SECDEX may, in its sole discretion, delay the performance of its delivery obligations under that Contract until it has received a suitable amount of the relevant asset which is the subject matter of the Contract from another Member under a different Contract.
  - b. A Member must ensure that Physical Delivery is made in accordance with the mechanics and timings set out in the Delivery Procedures.

Where a Member fails to comply with its Physical Delivery obligations either at all, or in a timely manner, then SECDEX shall be entitled to take all or any of following actions:

- iii) Treat such failure as an Event of Default in respect of such Member;
- iv) Refrain from returning any Collateral held in respect of the relevant Contract(s) until the Member has satisfied its obligations;
- v) Instruct the Member at its own cost to fulfil its outstanding delivery obligations as directed by SECDEX (which may include requiring the Member to deliver the asset to another Member and not to SECDEX);

- vi) Effect a buy-in;
- vii) Effect an Invoicing Back;
- viii) Call upon that Member's Rule 3.5 Indemnity.
  - a) In the case of a Delivery failure, SECDEX shall at its discretion opt to pay the Member who is not responsible for the Delivery failure an amount termed the Replacement Cost, and after that Member has used its reasonable endeavours to minimize any loss thereof;
  - b) Such Replacement Cost is determined by SECDEX at its discretion but is generally no less than the difference between the reasonable market to marked value of the Contract (estimated at the earliest time at which the delivery obligations could have been concluded) and the Daily Settlement Price of the Contract on its expiry date. The Clearing Member whose actions or omissions contributed to the Delivery failure shall indemnify SECDEX for the loss suffered thereof.

## 10 Margin Requirements

### 10.1 Members Overriding Obligation

A Clearing Member shall deposit with respect to each Open Contract that it has entered into an amount of Margin determined by SECDEX in its absolute discretion from time to time, and which SECDEX is entitled to apply in satisfaction of performance by the Clearing Member of its obligations pursuant to this Rulebook. A Clearing Member is not entitled to a repayment of any amount of Margin so deposited, except in accordance with this Rulebook and until the Open Contract ceases to be an Open Contract.

It is a key condition of Membership that each Member shall provide to SECDEX, and maintain on a daily basis and throughout the day, Eligible Collateral in an amount at least equal to the Required Collateral Value in order to meet its Margin Requirement. Each Member confirms and acknowledges that the payment and maintenance of the Required Collateral Value is a key element in enabling SECDEX to fulfil its functions as Central Counterparty.

Individual Margin Requirements (for Open Contracts considered on a standalone basis) will be posted by SECDEX on its Website.

SECDEX determines based on its rules whether a Margin Requirement is to be applied on an Open Contract, depending on the type of Eligible Product that this Open Contract belongs to, and/or the direction of the Transaction that the Member has entered into (if the Member is Long or Short the Open Contract), and/or whether the Member will make or take delivery on this Open Contract.

### 10.2 Security Cover Collateral

All Eligible Collateral is being provided as security, cover and collateral for the present and future performance by the Member of its obligations under the Rulebook.

### 10.3 Types of Margin Requirement

SECDEX may require Members to provide Eligible Collateral in support of all or any of the following types of Margin:

- a. Initial Margin
- b. Variation Settlement Margin
- c. Delivery Margin
- d. Additional Margin

Initial Margin may be provided in any type of Eligible Collateral but subject always to the other provisions of this Rulebook, Membership Agreement and Security Documentation.

Variation Settlement Margin may only be provided in Eligible Cash.

Other types of Margins required by SECDEX can be provided in Eligible Cash or Non-Cash Collateral (or both), as determined by SECDEX at its own discretion and as communicated to the Clearing Members from time to time. SECDEX may also specify whether there is a minimum Eligible Cash requirement.

The precise Margin Requirement applicable to a Member at a specific time shall depend inter-alia upon:

- i) The type, amount of, nature and close out value of a Member's Open Contracts;
- ii) The delivery mechanics in relation to such Member's Open Contracts;
- iii) The creditworthiness of such Member;
- iv) Any correlation between a Member's Open Contracts and the Collateral provided by such Member; and
- v) Any correlation between the Collateral posted by a Member and the Member's creditworthiness.

A Margin Requirement shall be calculated in respect of each Member and separately in respect of each Member's Accounts. A Margin Requirement shall be the amount determined by SECDEX and notified to the Member from time to time.

Margins applicable to Open Contracts held by Clearing Members may be changed by SECDEX from time to time. In its absolute discretion, SECDEX may choose to apply an amount of Margin to a Member's Account that is greater or inferior to the sum of the Margins that it would normally apply to each individual Open Contracts that are in the Account. In the manner that it considers appropriate, SECDEX may also determine different Margin amounts for different Clearing Members or particular portfolios on the basis of its own risk analysis.

## 10.4 Payment of Margin Requirements

Payment of Margin Requirements by Clearing Members is fulfilled on a daily basis, as the case may be, before 10:00am (or at any other time that SECDEX decides on) and via the payment mechanism described in Rule 12.

SECDEX may as per its rules, request a Clearing Member to effect an intraday Margin payment within the timetable that it sees fit, and following its own analysis of the credit risk

of that Member and the volatility of the Market.



## 11 Collateral

- 11.1 Each Member must transfer Eligible Collateral which it is required to transfer to SECDEX in accordance with the provisions of this Rule and any other instructions from time to time provided by SECDEX.
- 11.2 SECDEX accepts collateral as detailed in the Eligible Collateral Schedule.
- 11.3 SECDEX will specify in the “Collateral” section of its Website:
- i) The Eligible Collateral Schedule;
  - ii) The valuation, haircuts and concentration limits that are applied to Eligible Collateral;
  - iii) Prevailing interest rates that apply to Eligible Cash Collateral;
  - iv) The mechanics relating to dividends or other benefits relating to Eligible non-Cash Collateral;
  - v) The method and timing for the substitution of Eligible non-Cash Collateral with replacement Eligible non-Cash Collateral and the method and timing for the substitution of Collateral which has ceased to be Eligible Collateral with Eligible non-Cash Collateral.

### 11.4 Eligible Collateral - General

- 11.4.1 SECDEX shall be entitled to add to the list of Eligible Collateral on its Website and may at any time remove items from the list of Eligible Collateral. A Member that has posted an item that no longer meets the Eligible Collateral criteria shall immediately post replacement Eligible Collateral. Whenever a Member posts collateral that does not meet the Eligible Collateral criteria it shall be valued at zero for the purposes of Margin Requirements.
- 11.4.2 Eligible Collateral shall be provided via a Title Transfer Collateral Arrangement, whereby the Member provides full ownership of or full entitlement to, the Collateral to SECDEX for the purposes of securing or otherwise covering the performance of its obligations to SECDEX.
- 11.4.3 If at any time the Collateral Balance on a Member’s Account exceeds the Margin Requirement in respect of such Account, then SECDEX shall, if requested to do so by the Member, allow a withdrawal of the surplus amount.
- 11.4.4 SECDEX shall pay a Member interest on Eligible Cash Collateral (or if applicable

on any Eligible non-Cash Collateral at the discretion of SECDEX) at the rate from time to time and in the manner set out in the Collateral section of its Website.

- 11.4.5 SECDEX shall have the right to invest Collateral posted by the Clearing Members for their benefit in any manner as it sees fit pursuant to its investment policy.

### **11.5 Eligible Collateral – Valuation, Haircuts, Concentration Limits**

- 11.5.1 SECDEX may attribute a value to Eligible Collateral that is less than the market or face value of such Collateral. For the purposes of this Rulebook, any discount applied to the market value of the Collateral is referred to as the Haircut
- 11.5.2 Haircuts shall be applied to Eligible Collateral upon the method determined by SECDEX at its absolute discretion notwithstanding the recommendations of the Risk Management Committee. SECDEX shall be entitled to amend all or any Haircut or the method for determining a Haircut either by notice or forthwith.
- 11.5.3 The Collateral concentration limits, if any, are specified on the SECDEX Website in the Collateral section. These can be amended by SECDEX at its discretion.

## 12 Payment System and Settlement Mechanics

- 12.1 SECDEX has Accounts in USD, EUR, GBP, MUR and SCR at the Central Bank or at a commercial bank licensed by the Central Bank (hereafter referred to as the “Settlement Bank”) in which it will receive from Members and from which it will pay to Members all due daily settlement amounts, Margin-related cash Collateral, fees and charges.
- 12.2 SECDEX shall publish on its Website a list of Approved Banks at which Clearing Members should open Settlement Account(s) with (in various currencies as needed); for the purpose of transferring and receiving all due daily settlement amounts, Margin-related cash Collateral, fees and charges.
- 12.3 As applicable, Clearing Members should open a minimum of two accounts at an Approved Bank: one for transfers related to Proprietary Transactions, and one for transfers related to Clients’ Transactions.
- 12.4 Members shall execute a mandate (Direct Debit Authority) with respect to each of their Accounts at each Approved Bank in favour of SECDEX enabling it to instruct payments to and receive payments from SECDEX’s Account(s) at the Central Bank or the Settlement Bank. The Approved Bank will act on SECDEX’s instructions. SECDEX will transfer all due amounts to the Clearing Member to these Accounts.
- 12.5 The Clearing Member may not revoke or terminate this Direct Debit Authority unless it has notified SECDEX in that respect and has set up an alternative arrangement with another Approved Bank.
- 12.6 The Member takes the Credit risk on the Approved Bank and if the Approved Bank fails to make a payment, the Member continues to be liable until SECDEX receives cleared funds.
- 12.7 With respect to transfers related to non-cash Collateral, the Clearing Members will transfer all Collateral to SECDEX’s Account as detailed in the Collateral Schedule.

## 13 Default

### 13.1 Events of Default

The occurrence at any time with respect to a Member, of any of the following events (whether or not continuing) shall constitute an “Event of Default” in respect of such Member:

- i) The Member fails to make any payment or delivery required to be made by it or threatens not to make any payment or delivery required to be made by it, under the Rulebook, a Contract, the Security Documentation and/or the Membership Agreement;
- ii) The Member fails to comply or threatens not to comply with any other obligation applicable to it under the Rulebook, a Contract, the Security Documentation and/or the Membership Agreement, including without limitation the continuing obligation requirements of the Rulebook as set out at Rule3;
- iii) Any representation or warranty made by a Member in its application for Membership which was or has become incorrect in any material respect;
- iv) A Potential Event of Default occurs in respect of the Member or any of its Affiliates;
- v) An Insolvency Event occurs in respect of the Member or any of its Affiliates;
- vi) If in the opinion of SECDEX, there is a material adverse change in the creditworthiness or financial condition of the Member;
- vii) A Stay or Licensing Event occurs in respect of the Member;
- viii) The Member is in breach of the rules or terms of membership of the ETP, or if the ETP, any other exchange, trading platform or clearing house (other than SECDEX) has declared the Member to be a defaulter, or if it has been suspended or expelled from membership by the ETP or any such exchange, trading platform or clearing house;
- ix) The Member disclaims, disaffirms, repudiates or attempts to reject any Contract, or any provision of the Rulebook, the Membership Agreement or/and the Security Documentation;
- x) The Member disclaims, disaffirms, repudiates or attempts to repudiate or contest the validity, perfection or priority of the Security Documentation; or
- xi) SECDEX determines that the continued Membership of the Member could be prejudicial to the reputation of SECDEX, or could impair the orderly operation,

security or regulatory status of SECDEX, or could otherwise lead to SECDEX becoming involved in legal proceedings with any third party.

SECDEX shall be entitled to determine in its absolute discretion whether an Event of Default has occurred.

### **13.2 Action following an Event of Default**

Upon the occurrence of an Event of Default in respect of a Member, SECDEX shall determine in its absolute discretion whether or not it wishes to treat the Event of Default as a Declared Default. Where it wishes to treat the Event of Default as a Declared Default it shall send a Default Notice to the Member specifying that it is a Declared Default, the Default Date, and the Default Time; and the Member shall be a Defaulting Member with effect from the Default Time.

SECDEX shall notify the FSA forthwith of the Default and be entitled to publish a copy of the Default Notice on the SECDEX Website or otherwise.

### **13.3 Powers of SECDEX following a Declared Default**

Default management policies of SECDEX outlined below aim to ensure continuity of the central counterparty service for the Market as a whole, and continuity for Clients of the Defaulting Member.

Following a Declared Default, SECDEX may take all or any of the following actions in any order and in its complete discretion:

- i) Enforce and/or execute all rights, powers and discretions afforded to SECDEX under the Rulebook, the Membership Agreement and the Security Documentation.
- ii) Accept or decline to register a Contract;
- iii) Cancel or reverse any outstanding instruction for a payment or delivery to be made to or for the benefit of the Defaulting Member;
- iv) Close out or otherwise discharge all or any rights, obligations and positions of the Defaulting Member, with respect to Open Contracts;
- v) Transfer Open Contracts from the Defaulting Member's Client Account(s) to the Defaulting Member's Proprietary Account(s) with the aim of closing them out, when the Porting of Clients' positions is not possible as determined by SECDEX.
- vi) Realise all or any part of the Defaulting Member's Collateral whether by private sale, appropriation or otherwise without the necessity to obtain the consent of the

- Defaulting Member or to obtain an order of any court, and to appoint any person to execute any document for such purpose in the name and or behalf of the Defaulting Member;
- vii) Port by whichever method it considers appropriate or refrain from porting all or any Client Account (Open Contracts and associated cash and non-cash Collateral) and to take or refrain from taking all or any other action set out in this Rule 13.3 in relation to all or any Client Account;
  - viii) Instruct the ETP to suspend all or any trading activity of the Defaulting Member and/or to cause Transactions to be entered into in the books and records of SECDEX in the name of the Defaulting Member or otherwise to hedge Transaction exposure and/or to close out Transactions;
  - ix) Auction all or any Open Contract in such manner as SECDEX shall determine;
  - x) Enter into all or any hedging arrangement (such costs and expenses to be for the account of the Defaulting Member) in order to hedge SECDEX's actual or potential exposure to the Defaulting Member;
  - xi) Act in lieu of the Defaulting Member in performing all or any payment or delivery obligation;
  - xii) Impose a penalty upon the Defaulting Member for late delivery or payment;
  - xiii) Effect an Invoicing Back of all or any Open Contract;
  - xiv) Exercise, perform or abandon any Option Contract;
  - xv) Obtain at the expense of the Defaulting Member such advice and assistance (including legal, tax and accounting advice) as SECDEX deems necessary in relation to any matter arising out of the Declared Default;
  - xvi) Designate a currency as a currency of account and at the expense of the Defaulting Member convert any sum payable by or to the Defaulting Member in another currency into the currency of account;
  - xvii) Apply the Defaulting Member's and the non-Defaulting Members' Mutualised Performance Contribution; xviii) Take such other steps as SECDEX considers necessary or expedient to resolve or reduce its exposure arising from the Declared Default.

### **13.4 Additional Miscellaneous Powers of SECDEX**

SECDEX may at any time co-operate with and share information with any Competent Regulatory Authority, the ETP, any other clearing house or exchange or platform of which the Defaulting Member is or was a member, or any office holder acting for or in connection with the Defaulting Member.

### **13.5 Defaulting Member's Duty to Co-operate**

The Defaulting Member shall act in good faith co-operate with SECDEX and respond to any request which SECDEX deems necessary in respect of any manner arising out of or in connection with the Declared Default, and if required to do so, assist SECDEX in exercising its rights in respect of the Declared Default.

### **13.6 Non- Defaulting Members' Duty to Co-operate**

Following a Declared Default, each Non-Defaulting Member shall act in good faith co-operate with SECDEX and comply to the extent that it is reasonably able to do so with the reasonable requests of SECDEX.

### **13.7 Calculations following a Declared Default**

13.7.1 Following the Declared Default, and upon the determination of the outstanding rights and liabilities of the Declared Defaulter, SECDEX shall take an account of amounts owing to or from a Defaulting Member. In calculating such amounts SECDEX shall act in accordance with the following provisions:

(i) In the case of an ICM with:

- a) One Proprietary Account, the calculation shall be performed in respect of that Proprietary Account only and the result of that calculation shall be the Initial Calculation Amount for that Account;
- b) More than one Proprietary Account, SECDEX shall combine such accounts and perform one calculation in respect of the combined account and the result of that combined calculation shall be the Initial Calculation Amount for that Account;

(ii) In the case of an GCM with:

- a) One Proprietary Account, the calculation shall be performed in respect of that Proprietary Account only and the result of that calculation shall be the Initial Calculation Amount for that Account;

- b) More than one Proprietary Account, SECDEX shall combine such accounts and perform one calculation in respect of the combined account and the result of that combined calculation shall be the Initial Calculation Amount for that Account;
- c) One or more Omnibus Segregated Client Account, SECDEX shall combine such accounts and perform one calculation in respect of the combined accounts and the result of that combined calculation shall be the Initial Calculation Amount for that type of Accounts;
- d) One or more Individual Segregated Client Account, separately in respect of each Individual Segregated Client Account and the result of that calculation shall be the Initial Calculation Amount for that Account;
- e) Client Accounts which have ported, will be recorded as having ported and any costs, losses, damages or expenses that have been incurred by SECDEX in effecting such porting (and have been met by the Back-Up Clearing Member) shall be debited to the GCM's Proprietary Account and included in the calculation performed in respect of the Proprietary Account as set out above.

Each Initial Calculation Amount shall take into account the actions taken in respect of that Account by SECDEX pursuant to Rule 13.3 above including without limitation;

- (i) applying Collateral provided by the Defaulting Member by way of set off or otherwise; and
- (ii) exercising the rights of SECDEX under the Security Documentation and applying the proceeds of the realisation of such Collateral; but shall not include the application of any Mutualised Performance Contribution at this stage (unless otherwise determined by SECDEX).

SECDEX shall seek to achieve a fair allocation of any excess Collateral and any positive and negative amounts with respect to Omnibus Segregated Client Account(s).

13.7.2 Following the calculation of each Initial Calculation Amount, if and to the extent that a positive Initial Calculation Amount is standing to the credit of the Proprietary Account but a negative Initial Calculation Amount is recorded in respect of one or more Client Account(s), then SECDEX shall be entitled to apply by way of set off, the combination of accounts or otherwise, the positive Initial Calculation Amount to reduce or extinguish as the case may be the negative Initial Calculation Amount(s) arising in respect of the Client Account(s), in such manner as SECDEX shall determine.



13.7.3 A positive Initial Calculation Amount in any Client Account shall never be used to reduce or extinguish as the case may be a negative Initial Calculation Amount arising in respect of a Proprietary Account.

13.7.4 Following the completion of the processes at Rules 13.7.1 and 13.7.2 above, if:

- i) There is a positive Initial Calculation Amount standing to the credit of a Client Account, then SECDEX shall pay that Initial Calculation Amount to the Defaulting Member in accordance with 13.9.1 below;
- ii) If there is a negative Initial Calculation Amount recorded in respect of a Client Account then the absolute value of that amount shall be immediately due and payable by the Defaulting Member;
- iii) If there is a positive Initial Calculation Amount standing to credit of the Proprietary Account, then SECDEX shall pay that Initial Calculation Amount to the Defaulting Member in accordance with 13.9 below;
- iv) If there is a negative Initial Calculation Amount recorded in respect of the Proprietary Account, then the absolute value of that amount shall be immediately due and payable by the Defaulting Member.

The sum of items (ii) and (iv) or item (ii) (if there is no item (iv)) or item (iv) (if there is no item (ii)), shall be known as the (“Initial Excess Loss”) and the Defaulting Member’s Mutualised Performance Contribution shall be applied by way of set off, combination of accounts or otherwise to extinguish, or if insufficient reduce, the amount of the Initial Excess Loss.

Where the Initial Excess Loss is not extinguished (for whatever reason) then the Initial Excess Loss if not extinguished shall be known as the (“Shortfall Excess Loss”) or if partially extinguished, the remaining excess loss shall also be known as the (“Shortfall Excess Loss”) and shall be extinguished by the application of SECDEX’s and the Non-Defaulting Members Mutualised Performance Contributions to the Mutualised Performance Fund.

## 13.8 Certification of Amounts

13.8.1 Upon the completion of the processes set out in Rule 13.7.4 SECDEX will certify as the case may be the amount owed by the Defaulting Member to SECDEX and /or any amount(s) owed by SECDEX to the Defaulting Member.

13.8.2 The books and records of SECDEX shall be the definitive record of the matters contained therein.

### 13.9 The Payment of Amount(s) if any to the Defaulting Member

13.9.1 If following the exercise of SECDEXs rights under the Membership Documentation there is:

- i) A surplus amount standing to the credit of a Client Account, then subject to Rule 13.9.2 below, SECDEX shall pay such amount to the Defaulting Member;
- ii) A surplus amount standing to the credit of the Proprietary Account then subject to Rule 13.9.2 below, SECDEX shall pay such amount to the Defaulting Member (or its insolvency practitioner as the case may be).

13.9.2 SECDEX may, but shall not be obliged to, make any payment under 13.9.1 above unless and until:

- i) SECDEX has completed the exercise of all of its rights under Rules 13, 14 and 15; and
- ii) The Defaulting Member (or the insolvency practitioner where applicable) has provided a legally binding written acknowledgement in form and substance satisfactory to SECDEX that the amounts returned under Rule 13.9.1 above are accepted by the Defaulting Member (or the insolvency practitioner where applicable) in full and final settlement of all claims which the Defaulting Member (whether through its insolvency practitioner or otherwise) may have against SECDEX.

### 13.10 Default Resources Waterfall

13.10.1 Unless otherwise provided for in this Rulebook, SECDEX intends that losses incurred by SECDEX in respect of a Defaulting Member shall be borne in the following manner:

- i) Firstly, by the application by SECDEX of all Variation Settlement Margin provided by the Defaulting Member (if any) which has not yet been applied by SECDEX;
- ii) Secondly by the application by SECDEX of all other Collateral provided by the Defaulting Member;
- iii) Thirdly by the application by SECDEX of the Mutualised Performance Contribution of the Defaulting Member;
- iv) Fourthly by the application by SECDEX of the Mutualised Performance

Contribution of SECDEX.

- v) Fifthly by the application by SECDEX of the Mutualised Performance Contributions of the Non-Defaulting Members;
- vi) Thereafter by further commitments which could take the form of:
  - a. Assessment Rights
  - b. Optional Payments

The Assessments Rights constitute additional amounts that the Clearing Members are contractually obliged to provide to SECDEX if the Default fund proves to be inadequate in case of a Member Default.

In addition, SECDEX may request a Clearing Member to make further optional payments by way of deposit of Collateral in such amount and at such times as SECDEX deems it critical to provide continuing financial support for the obligations of SECDEX in the case of a Member Default.

- 13.10.2 Each Member expressly confirms and agrees that whilst it is the intention of SECDEX to operate the Default Resources Waterfall in the manner set out in Rule 13.10.1 above, if any Applicable Law would in the opinion of SECDEX have the effect of preventing SECDEX from applying the resources in the sequential manner set out in Rule 13.10.1 above, then SECDEX shall be entitled to operate the Default Resources Waterfall in the manner which in the opinion of SECDEX eliminates the risk to SECDEX.
- 13.10.3 Neither the application of a Non-Defaulting Member's Mutualised Performance Contribution, nor the application of SECDEX's Mutualised Performance Contribution shall discharge the Defaulting Member's obligations to indemnify SECDEX under Rule 3.5 or otherwise.
- 13.10.4 If after having applied the contribution to the Default Fund of Non-Defaulting Members to discharge some or all of a Defaulting Member's liabilities, SECDEX makes a recovery with respects to those liabilities, then the amount recovered (net of any deductions made by SECDEX to cover applicable recovery costs) shall be credited back to the Non-Defaulting Members in the same proportion at which it was initially applied. The same procedure will be followed with respect to any Assessments Rights, Variation Margin Haircuts and optional payments contributed by a Non-Defaulting Member.

## 14 Client Porting

### 14.1 Porting of Client Account(s)

- 14.1.1 If a GCM is a Defaulting Member then SECDEX will aim, but shall not be required to, port (transfer) all or any of the Client Account(s) of the Defaulting Member to one or more Back-Up Clearing Members.
- 14.1.2 For the avoidance of doubt (and without limitation to the powers of SECDEX under the Rulebook, the Membership Agreement, the Security Documentation and at law) it is hereby acknowledged by each Member that no request or consent is required from the Defaulting Member in order for SECDEX to exercise its right to port (transfer) all or any Client Account and/or Collateral.
- 14.1.3 In order for a Client Account to be eligible for porting:
- i) In the case of an Individual Segregated Client Account, the Client and the Clearing Member shall execute a Standard Porting Request within the Porting Period timeframe; failure of the Client to sign a Standard Porting Request does not prevent SECDEX from exercising its right to port the Account if it determines, in its absolute discretion, that failure to do so would be detrimental to the interests of the Market as a whole. SECDEX will promptly inform the Member of its reasons and also promptly inform the FSA. SECDEX will keep a record of its reasoning for a minimum of 7 years.
  - ii) In the case of an Omnibus Segregated Client Account, the approval to port of each Client forming part of the Account is deemed to be automatically given to SECDEX, with no need for the underlying Clients to sign a Standard Porting Request.
- 14.1.4 SECDEX may, but shall not be required to, port a Client Account that is eligible for porting. When porting, SECDEX may transfer the Account to any Back-Up Clearing Member that agrees to accept the Client Account without receiving the specific approval of the concerned Client(s) to such Back-Up Clearing Member. Once transferred, the Client (in the case of an Individual Segregated Client Account) or all Clients (in the case of an Omnibus Segregated Client Account) may elect to transfer the ported Client Account to a replacement Clearing Member.
- 14.1.5 SECDEX shall determine the method which it wishes to use for porting a Client Account; in particular it may close out the positions in the Client Account of the Defaulting Member and re-establish the positions and transfer the Collateral to support the re-established positions in the Client Account of the Back-Up

Clearing Member. SECDEX will also determine the appropriate method to transfer associated non-cash Collateral to a Back-Up Clearing Member and additional legal documentation might need to be entered into by the concerned parties in that respect.

## 14.2 Other Points to Note

Clearing Members should note that a Client Account is more likely to port:

- i) If there is one or more Back-Up Clearing Member(s) willing to accept the transfer of Client Account(s);
- ii) If the Client (in the case of an Individual Segregated Client Account) or all Clients (in the case of an Omnibus Segregated Client Account) are creditworthy and the relevant Client(s) is not in default of its obligations to its Clearing Member;
- iii) If there is no shortfall in the Collateral which has been provided in respect of that Individual Segregated Client Account or the Omnibus Segregated Client Account as the case may be.

## 15 Mutualised Performance Contribution

It is a condition of Membership that each Member shall make a Mutualised Performance Contribution in the amount of the Mutualised Performance Amount as notified to it by SECDEX.

### 15.1 Acknowledgement

Each Member confirms and acknowledges that the payment of a Mutualised Performance Contribution and the creation of a Mutualised Performance Fund is a key element in enabling SECDEX to meet its intended purpose of providing central counterparty services. The aim of the Mutualised Performance Contribution policy is to cover credit exposure to each participant with a high degree of confidence. The contribution made by a Clearing Member is available to be used in the event it is unable to meet its obligations to SECDEX and where the costs to SECDEX of managing the default exceeds the Collateral posted by the Defaulting Member.

### 15.2 Stress Testing

In order to assess the adequacy of the Mutualised Performance Fund, SECDEX will undertake daily stress testing utilising a set of extreme but plausible market scenarios. The scenarios are based on worst-case historical market movements and hypothetical market movements. SECDEX may alter and/or supplement the stress scenarios whenever it deems it appropriate to do so.

The principle adopted by SECDEX is that the Default fund should, among other resources, be able to cope with the default of the Member who has the largest exposure to SECDEX, measured according to a 'stress shortage' value, in extreme but plausible market conditions

A summary of Stress Test results will be published, quarterly, on the SECDEX Website.

### 15.3 Mutualised Performance Fund Contributions

The total amount of the Mutualised Performance Fund shall be, except as otherwise set out by SECDEX in exceptional circumstances, determined as follows:

- 15.3.1 The minimum size of the Mutualised Performance fund shall at all times be USD200,000.00 ("Two Hundred Thousand US Dollars"). The formula for determining a Member's contribution to the Mutualised Performance Fund includes an activity-based contribution from each Member and a minimum contribution.

- 15.3.2 The minimum size of the Mutualised Performance Contribution of each Clearing Member shall at all times be USD 20,000.00 (Twenty Thousand US Dollars), provided that if there are fewer than ten (10) Clearing Members then the minimum Mutualised Performance Contribution of each Clearing Member shall be increased so that their aggregate contribution is no less than USD100,000.00 (“One Hundred Thousand US Dollars”).
- 15.3.3 The minimum contribution of SECDEX to the Mutualised Performance Fund shall at all times be USD100,000.00 (“One Hundred Thousand US Dollars”). The required size of the Mutualised Performance Fund shall be assessed every three months or more frequently at the discretion of SECDEX using the stress testing approach set out above. SECDEX will promptly inform Members of its reasons via a market notice and via email as well as also promptly inform the FSA. SECDEX will keep a record of its reasoning for a minimum of 7 years.
- 15.3.4 If the required size of the Mutualised Performance Fund is greater than USD200,000.00 (“Two Hundred Thousand US Dollars”) then this increase will be equally shared between:
- a. Clearing Members, who shall make additional contributions in proportion to the amount of their required average initial margin over a time period specified by SECDEX (usually the preceding three months), and
  - b. SECDEX shall make additional contributions up to a limit of 25% of its Operational Reserves (as agreed periodically with the FSA).

In the event that SECDEX is already contributing 25% of its Operational Reserves to the Mutualised Performance Fund then the increase will be applied to Clearing Members, who shall make additional contributions in proportion to the amount of their required average initial margin over a time period specified by SECDEX (usually the preceding three months)

- 15.3.5 If the required size of the Mutualised Performance Fund falls to a lower level then Clearing Members will be allowed to withdraw their excess contribution (on the condition that there is no unresolved Declared Default) on a pro-rata basis and taking into account the minimum contribution level that is set by SECDEX. SECDEX will promptly inform Members of its reasons via a market notice and via email as well as promptly inform the FSA. SECDEX will keep a record of its reasoning for a minimum of 7 years.

## **15.5 Mechanics relating to payments into and out of the Mutualised Performance Fund**

- 15.5.1 All payments into and out of the Mutualised Performance Fund will be made via the payment system described in Rule 12.
- 15.5.2 All Mutualised Performance Contributions shall be paid in US Dollars and shall be credited to an account in the name of SECDEX Performance Fund held at [the Central Bank]. Interest shall be payable to Clearing Members on each Mutualised Performance Contribution, at the rate and frequency determined by SECDEX, which is applicable to all Members.
- 15.5.3 Following a Declared Default, SECDEX shall be entitled to debit amounts from the Mutualised Performance Fund and for the avoidance of doubt may debit such amounts in more than one drawing.
- 15.5.4 SECDEX shall debit a Shortfall Excess Loss to the Mutualised Performance Fund. With respect to individual Member contributions any draw down on the Mutualised Performance Fund will be applied on a pro-rata basis across the Non-Defaulting Members.



## 16 Force Majeure, Illegality

### 16.1 Force Majeure

#### 16.1.1 Occurrence of Force Majeure (“FM”) event

Upon the occurrence of a Force Majeure event:

- i) The FM Affected Party shall promptly notify the FM Unaffected Party specifying the nature and details of the event and where possible the anticipated timetable for curing the Force Majeure event. Where the FM Affected Party is SECDEX, SECDEX shall be entitled to provide such notice by Circular;
- ii) The FM Affected Party shall promptly take such steps as may be reasonable to resolve (or if such resolution is not possible, until a resolution is possible) or to mitigate the Force Majeure event;
- iii) The FM Affected Party shall keep the FM Unaffected Party informed on a regular basis of its progress in resolving and/or mitigating as the case may be, the Force Majeure event.

#### 16.1.2 Force Majeure - Not a Breach

An FM Affected Party shall not be in breach of the Rulebook or otherwise liable to the FM Unaffected Party in any manner whatsoever for any failure, hindrance or delay in performing its obligations under the Rulebook that is caused by any Force Majeure event, provided that the FM Affected Party complies with Rule 16.1.1.

#### 16.1.3 Further powers of SECDEX in respect of a Force Majeure event

If the FM Affected Party is SECDEX, then SECDEX shall be entitled to take such action as it considers necessary in order to ensure the continued operation of the SECDEX CCP System, or take such action otherwise in relation to the obligations of SECDEX or the Members under the Rulebook. Such action may include all or any of the following:

- i) Delaying the time by which SECDEX or all or any Member shall perform their obligations in respect of any Contract;
- ii) Requiring all or any Member to comply with instructions issued by SECDEX in respect of any Contract affected by Force Majeure;
- iii) Effecting an Invoicing Back of the affected Contract(s).

## 16.2 Illegality

It shall be an Illegality, if as determined by SECDEX, an event or circumstance has occurred after a Contract has been entered into, which renders it unlawful under any Applicable Law on any day, or it would be unlawful if the relevant payment, delivery or compliance were required on that day, to perform any absolute or contingent obligation to make a payment or delivery or receive a payment or delivery in respect of such Contract, or to comply with any other material provision of this Rulebook in respect of such Contract.

Where an Illegality has occurred, SECDEX shall in addition to any other rights which it may have under this Rulebook or at law, be entitled to effect an Invoicing Back of the affected Contract(s).

## 16.3 SECDEX Determination of Classification of an Event

Where a circumstance or an event is capable of being classified as a Force Majeure event, or an Illegality, then SECDEX shall, in its absolute discretion, determine whether the circumstance or event should be classified as a Force Majeure, or an Illegality as the case may be. SECDEX will promptly inform Members of its reasons via a market notice and via email and also promptly inform the FSA. SECDEX will keep a record of its reasoning for a minimum of 7 years.

# 17 Administrative Action, Sanctions, Complaints

All investigations into a Member's conduct or following a Member's complaint are run by SECDEX Group's Appeal Committee, which is composed of the following individuals: SECDEX's Chairman and two independent non-executive Directors. The protection and grievance resolution mechanism for Member and Clients of Members is elaborated in SCHEDULE 5.

## 17.1 Administrative Action

17.1.1 SECDEX may take administrative action against a Member and impose all or any of the administrative sanctions set out in Rule 17.2 below:

- i) If the Member commits any act or omission that SECDEX deems to be a material breach of this Rulebook;
- ii) If the Member enters into any conduct which has brought or is likely to bring SECDEX into disrepute;

- iii) If the Member provides information to SECDEX (including information provided for the purposes of becoming a Member) which is false misleading or inaccurate in any material respect; or
- iv) If the Member ceases to meet the Eligibility Criteria.

The occurrence of any of the events set out at (i)-(iv) above shall without limitation constitute a breach of this Rule 17.1.1.

17.1.2 A Member shall, acting with the utmost good faith, cooperate with SECDEX in the investigation of a potential breach and provide personal assistance and information to SECDEX in order to enable SECDEX to investigate the potential breach.

17.1.3 Without limitation to its other powers under this Rulebook, SECDEX may suspend or restrict a Member's activities with SECDEX on an interim basis when a matter is under investigation by SECDEX.

17.1.4 In order to achieve its overall aim of providing a timely, safe, efficient, robust and legally compliant Clearing Service and in accordance with its own regulatory obligations, SECDEX will operate processes designed to identify breaches of, or otherwise ensure a Member's compliance with, the Rulebook.

17.1.5 SECDEX shall investigate the facts of each case and shall determine whether to impose all or any of the administrative sanctions set out in Rule 17.2. SECDEX will promptly inform the Member in question the reasons for doing so as well as inform the FSA. SECDEX will keep a record of the reasons for doing so for a minimum of 7 years. In making such a determination, SECDEX shall take into account a number of factors, including without limitation:

- (i) The nature and severity of the Rule breach and the duration and frequency of misconduct;
- (ii) How the Rule breach came to light (e.g. whether the Member under investigation notified SECDEX);
- (iii) The actual or potential market impact of the Rule breach, generally and in relation to SECDEX, and any other repercussions;
- (iv) The extent to which the Rule breach was deliberate or reckless;
- (v) The compliance history of the Member under investigation, and the specific history regarding the Rule breach in question and whether any warning notices have previously been issued to the Member in relation to the Rule;

- (vi) The Member's consistent and fair application of the Rulebook (taking into account any precedents of similar breaches); and
- (vii) The responsiveness and conduct of the Member in relation to the matter under investigation, e.g. whether the Clearing Member has taken the appropriate action to remedy it and prevent any recurrence.

17.1.6 Upon the conclusion of its investigation, SECDEX will decide what action is necessary in each instance and shall communicate such decision to the Member and the action to be taken (if any). In addition (or in the alternative) to the administrative sanctions set out in Rule 17.2, SECDEX may, as an initial step, request that the Member takes remedial action so as to ensure that the breach does not recur. A Member has a right of appeal to the Appeal Committee as outlined in the Protection and Grievances Mechanism for Members and Clients of Members as outlined in Schedule 5.

17.1.7 During its investigation, SECDEX shall allow the Member a reasonable opportunity to submit petitions and/or information in relation to the alleged breach and SECDEX shall take such submissions into account in reaching its conclusions.

17.1.8 SECDEX may appoint legal, tax, regulatory accounting or other external professional advisers to assist SECDEX in the conduct of its investigation and the Member under investigation shall meet the reasonable costs of all such appointees and of the investigation in general.

17.1.9 In addition to meeting the costs under Rule 17.1.8 above, the Member under investigation shall also meet such additional costs as may be determined by SECDEX in relation to the investigation, and any hearing. Costs awarded against the Member under investigation may include costs incurred by other Members in assisting SECDEX in its investigations.

## 17.2 Administrative Sanctions

17.2.1 SECDEX may, in its absolute discretion, impose all or any of the following administrative sanctions on a Member in the circumstances set out in this Rule and promptly inform the Member in question the reasons for doing so as well as inform the FSA whilst keeping a record of the reasons for doing so for a minimum of 7 years:

- (i) A written warning;
- (ii) The suspension or termination of the Member's Membership;
- (iii) A public or private censure;

- (iv) An order that the Member makes a restitution payment to any person that has suffered as a result of the Member's misconduct; SECDEX shall notify the FSA forthwith of any administrative sanction imposed by it.

17.2.2 Notwithstanding Rule 17.2.1, SECDEX will not usually impose penalties in the circumstances set out in Rule 17.2.1 (iii) above unless the Member failed to notify SECDEX promptly.

17.2.3 Where a penalty has been levied upon a Member, it shall be paid on the due date for payment of the same, in accordance with the notice of the sanction, with no possibility of appeal by the Member.

17.2.4 For the purposes of conducting its investigation and making a determination, SECDEX shall be entitled to rely upon the following:

- i) A criminal conviction by any court in the Seychelles which shall be conclusive evidence of the commission of that offence;
- ii) Any finding of fact or decision by the Courts of the Seychelles, the FSA, the Central Bank or any Competent Regulatory Authority of the Member.

17.2.5 Any failure by a Member to comply with an administrative sanction, meet its costs obligation or otherwise comply with any direction made in this Rule 17 will constitute a breach of the Rulebook.

17.2.6 The rights of SECDEX under this Rule 17 are in addition to and shall not limit the rights of SECDEX to determine that an Event of Default has occurred in respect of the Member under investigation and to treat the Event of Default as a Declared Default.

### 17.3 Complaints

17.3.1 Formal complaints made by a Clearing Member should be addressed by letter to SECDEX at the following address: SECDEX Clearing Limited, Suite 206, The Catalyst, Silicon Avenue, Cybercity, Ebene.

17.3.2 The complaint letter should include:

- i) the exact time and date of the incident which caused the complaint,
- ii) the persons involved,
- iii) a description of the complaint, and
- iv) the outcome sought by the complainant.

- 17.3.3 The time limit for addressing a complaint to SECDEX is 2calendar months after the event that is the subject of the complaint.
- 17.3.4 SECDEX will address a Clearing Member complaint by commencing an investigation into the complaint and notifying the Clearing Member of the steps taken to review the complaint as well as the expected time table to complete the investigation.
- 17.3.5 SECDEX will normally respond to the Member within 15 business days on receiving the complaint, specifying how it plans to address it and how long it will take to reach a conclusion on the matter.
- 17.3.6 Once SECDEX has carried out an investigation, it shall send to the Clearing Member a letter describing its conclusion and the action proposed. A Member has a right of appeal to the Appeal Committee as outlined in the Protection and Grievances Mechanism for Members and Clients of Members as outlined in Schedule 5. Members also have recourse to lodge complaint with the FSA if they don't feel that the SECDEX conclusion has addressed their original complaint.

## 18 Fees and Charges

### 18.1 Payment undertaking

Each Member shall pay the fees and charges set out in the Fees and Charges Schedule, as published on the SECDEX Website.

### 18.2 Invoicing

SECDEX shall invoice Clearing Members as set out in the Fees and Charges Schedule.

### 18.3 Overdue amounts and Penalties

Any overdue amounts will attract penalties as set out in the Fees and Charges Schedule.

### 18.4 Changes and amendments

SECDEX shall be entitled to amend the Fees and Charges Schedule as per the Rulebook change process detailed in 2.2.

### 18.5 Other Fees and Charges

SECDEX can impose other charges upon a Member, in relation to expenses incurred by SECDEX in relation to delivery, service charges levied on Collateral or any other charge that has been incurred by SECDEX in providing Clearing Services to a Member and that it reasonably deems should be supported by the Member. SECDEX will provide a full explanation of such charges to the Member. In the event a Member is not satisfied by the explanation, a Member has a right of appeal to the Appeal Committee as outlined in the Protection and Grievances Mechanism for Members and Clients of Members as outlined in Schedule 5. Members also have recourse to lodge complaint with the FSA if they don't feel that the SECDEX conclusion has addressed their original complaint.

### 18.6 Remedies

SECDEX reserves the right to pursue any other remedies to it under this Rulebook or under the Laws of the Seychelles.

## 19 Exclusion of Liability

19.1 Neither SECDEX nor any SECDEX Designated Person shall be liable to any person whatsoever for any losses, (whether direct or indirect), damages (whether ordinary, special, incidental or consequential), claims, liabilities, costs or expenses, whether in contract, tort, including without limitation negligence, breach of statutory duty, breach of trust or otherwise arising out of or in connection with:

- i) The installation, use and operation of the SECDEX CCP System.
- ii) Any exercise or failure of SECDEX to exercise its rights under the Rulebook including without limitation any action or failure by SECDEX to take any action under Rule 13 of the Rulebook and Rule 14 of the Rulebook;
- iii) Any exercise or failure of SECDEX to exercise any discretion;
- iv) Any suspension, restriction or closure of a Market or the ETP;
- v) The failure of any communication system or other system for the communication of information between SECDEX and the ETP, or between SECDEX and a Member, or between SECDEX and any of its correspondents (e.g. custodian, settlement bank, warehouse...);

19.2 SECDEX does not warrant or forecast that the SECDEX CCP System or any of its components there of or any services performed in respect thereof will meet the requirements of any user, or that the operation of the SECDEX's CCP System and SECDEX's Clearing Services will be uninterrupted or error-free.

19.3 Limitation of Liability

Nothing in this Rulebook shall exclude or in any way limit the liability of a party:

- i) Arising out of its wilful default or fraud, and/or
- ii) For death or personal injury.



## 20 SECDEX Insolvency and Termination

In the event that SECDEX fails to honour its obligations with respect to a non- defaulting Clearing Member and the failure is not remedied within seven days, the Clearing Member may request the FSA to appoint an administrator under section 31 (2) (b) of the Financial Services Authority Act 2013.

At such time, the FSA, at its discretion, may review the SECDEX licence conditions. In the event that the SECDEX licence is suspended, revoked or otherwise terminated, the FSA may appoint a person as an administrator in relation to the whole or part of the business activities of SECDEX.

The administrator shall set a Termination Date and shall together with each non- defaulting Clearing Member calculate a Single Default Net Sum by aggregating and setting off all of the Clearing Member's obligations vis-a-vis SECDEX for each of its accounts. If the Net Sum is positive, the administrator shall ensure that SECDEX makes payment to the Clearing Member and if the Net Sum is negative the Clearing Member shall make payment to SECDEX. After the payment is made, the Clearing Member's rights and liabilities shall be discharged.

## 21 Miscellaneous Provisions

### 21.1 Member's Responsibilities in respect to Reporting and Taxes

21.1.1 Each Member shall familiarise itself with and be responsible for its own legal and regulatory obligations including, and without limitation, in relation to anti money laundering requirements, short selling, best execution, disclosure obligations and undertaking the relevant regulatory reporting in respect of all of its Transactions with SECDEX.

21.1.2 Each Member shall familiarise itself with and be responsible for paying all applicable taxes, duties, stamp duties, levies and imposts as required by Applicable Law.

### 21.2 Intellectual Property Rights

21.2.1 All Intellectual Property Rights attaching or relating to:

- i) the SECDEX CCP System and any part of it;
- ii) any data displayed on, generated by or derived from the SECDEX CCP System (except for member data); and
- iii) SECDEX's name, belong to SECDEX and/or its licensors. Each Member agrees that such Intellectual Property Rights shall remain vested exclusively in SECDEX and/or its licensors both during and after the termination of their Membership and each Member undertakes that it will not challenge the ownership or validity of such Intellectual Property Rights.

21.2.2 Each Member acknowledges and agrees that SECDEX shall be permitted, and each Member grants SECDEX an irrevocable, non- exclusive, transferable, worldwide, royalty free licence (without warranties of any kind, express or implied) to use, compile and disseminate for sale or otherwise the member data provided that SECDEX may disclose such information on an anonymised or anonymised Member-aggregated basis only.

### 21.3 Confidentiality

21.3.1 Each party shall keep the other party's Confidential Information confidential and shall not:

- i) Disclose or use such Confidential Information except for the purpose of exercising or performing its rights and/or obligations or as otherwise contemplated or permitted under this Rulebook, the Membership Agreement, the Security Documentation; or
- ii) Disclose such information in whole or in part to any third party (save as contemplated in (i) above,) except as expressly permitted by this Rule21.3.

21.3.2 A party may disclose the other party's Confidential Information to those of its employees, officers, contractors, representatives and advisers ("CI Representatives") who need to know such Confidential Information for the purposes of providing and/or receiving the services as the case may be, provided that:

- i. It informs such CI Representative of the confidential nature of the Confidential Information before such disclosure; and
- ii. It procures that its CI Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause as if they were a party to the Rulebook.

21.3.3 A party may disclose the other party's Confidential Information to the extent that such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction.

21.3.4 The provisions of this Rule21.3 shall not apply to any Confidential Information that:

- (i) Is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its CI Representatives in breach of this Rule21.3);
- (ii) Was available to the receiving party on a non-confidential basis before disclosure by the disclosing party; or
- (iii) Was, is or becomes available to the receiving party on a non- confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party.

## 21.4 Data Protection

SECDEX and its Members shall comply with the provisions of the Data Protection Act 2002 and a re-enactment in that regard.

## 21.5 Currency Conversion

SECDEX may in its absolute discretion convert any monies standing to the debit or credit of a Member's Accounts (including any Client Accounts) into such other currency or currencies as it shall determine in order to exercise its rights under the SECDEX Membership Documentation. Any such conversion shall be effected at such rate or rates of exchange as SECDEX may reasonably determine. SECDEX will provide a full explanation of such actions to the Member. In the event a Member is not satisfied by the explanation, a Member has a right of appeal to the Appeal Committee as outlined in the Protection and Grievances Mechanism for Members and Clients of Members as outlined in Schedule 5. Members also have recourse to lodge complaint with the FSA if they don't feel that the SECDEX conclusion has addressed their original complaint.

## 21.6 Set Off

SECDEX may at any time and from time to time and without notice to the Member, set off any amount whether actual, present, future or contingent (and for the avoidance of doubt the term amount shall include any indebtedness and SECDEX may accelerate the payment of such indebtedness) due to it by a Member against any amount whether actual, present, future or contingent (and for the avoidance of doubt the term amount shall include any indebtedness and SECDEX may accelerate the payment of such indebtedness) owed by it to the Member, regardless of the place of payment or currency of indebtedness. If the amount in respect of the Member and amount in respect of SECDEX are in different currencies, SECDEX may convert either amount at such rate or rates of exchange as SECDEX may reasonably determine for the purposes of effecting such set off.

## 21.7 Other General Powers to Ascertain Amounts

In addition to its rights and powers under this Rulebook, if SECDEX is unable to ascertain any amount for any purpose under the Membership Documentation then SECDEX may estimate that obligation whether actual, present, future or contingent, subject to SECDEX accounting to the Member or vice versa once the obligation is ascertained.

## 21.8 Waiver

No failure or delay by SECDEX to exercise any right or remedy provided for under this Rulebook or by law shall constitute a waiver of that or any other right or remedy, nor shall it

prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **21.9 Rights in Addition**

SECDEX's rights under the SECDEX Membership Documentation are in addition to and not in limitation or exclusion of any other rights which SECDEX may have whether by agreement, by operation of law or otherwise.

## **21.10 Validity of the Rulebook**

If at any time any provision of this Rulebook becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity nor enforceability of the remaining provisions of this Rulebook nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction shall be affected or impaired.

## 22 Governing Law and Jurisdiction

22.1 The governing law shall be the laws of the Seychelles and SECDEX and the Member agree to submit themselves to the jurisdiction of the Seychelles Courts, save as set in Clause 5.2 below.

22.2 In any contractual relationship, if they jointly agree, SECDEX and the Member can (a) choose to apply UK law to any dispute between them and (b) choose arbitration, as a means of dispute resolution, in any one of the jurisdictions which has signed the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958).

## 23 Schedules to the SECDEX Rulebook

All schedules are available on the SECDEX Website.

Business Days;

Fees and Charges Schedule;

Eligible Collateral;

Eligible Products.

## SCHEDULE 1

### BUSINESS DAYS

SECDEX Clearing Limited will be closed for business on Public holidays in 2020

S. No	Holiday	Date	Day
1.	New Year's Day	January 01,2020	Wednesday
2.	New Year Holiday	January 02,2020	Thursday
3.	New Year Holiday	January 03,2020	Friday
4.	Good Friday	April 10, 2020	Friday
5.	Easter Monday	April 13, 2020	Monday
6.	Labour Day	May 01, 2020	Friday
7.	Corpus Christi	June 11, 2020	Thursday
8.	Constitution Day	June 18, 2020	Thursday
9.	Independence (National) Day	June 29, 2020	Monday
10.	Assumption Day	August 15, 2020	Saturday
11.	All Saints' Day	November 01, 2020	Sunday
12.	All Saints' Day Holiday	November 02, 2020	Monday
13.	Immaculate Conception	December 8, 2020	Tuesday
14.	Christmas Day	December 25, 2020	Friday



## SCHEDULE 2

### FEES AND CHARGES SCHEDULE

Equity SECDEX Clearing Transaction Charges (USD on traded value, per side)

Market Segmentation Clearing<sup>1</sup> Regular Market 0.009% Cash Market 0.009% 1 – Clearing fee percentage is based on trading Value.

Futures SECDEX Clearing Transaction Charges (USD per contract per side)

Contract Daily Volume<sup>1</sup> Clearing Futures 0-1000 0.30 Futures 1001-5000 0.28 Futures > 5000 0.25

1 – Clearing fee is based on Daily Futures Contract Volume.

Options SECDEX Clearing Transaction Charges (USD per contract per side)

Contract Daily Volume<sup>1</sup> Clearing Options 0-500 0.05 Options 501-1000 0.04 Options >1000 \$25/ Trade

1 – Clearing fee is based on Daily Options Contract Volume

### SECDEX Membership Fee

Fee Description Amount\* Membership Application fee (GCM/ICM) Waived Annual Fee (GCM/ICM) Waived Membership Administration fee (GCM/ICM) Waived \*SECDEX Clearing reserves the right to modify/ alter/ revise/withdraw the same, either in full or in part, at any time after giving notice to the members.

## SCHEDULE 3

### ELIGIBLE COLLETRAL

SECDEX Clearing accepts cash as collateral, including Seychellois rupee and USD.

Non-cash collateral such as gold may also be accepted by SECDEX Clearing from Clearing Members and as communicated to the Clearing Members from time to time.

Clearing Members must meet initial margin requirements with acceptable collateral.

## SCHEDULE 4

### ELIGIBLE PRODUCTS

#### List of Clearing Products

SECDEX Clearing provides services for all SECDEX Exchange products.

The Clearing Products are indicated as below;

- Securities (equities, bonds and other securities products)
- Futures
- Options (except binary options, which are not permitted by FSA)

## SCHEDULE 5

# Protection and Grievances Resolution Mechanism for Members and Clients of Members (jointly referred to as Clients)

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## 1 General Introduction

SECDEX Clearing Limited (SECDEX) has in place mechanisms for the protection of Clients. These include:

- A Clearing Guarantee Fund for the integrity of markets;
- An Appeal Committee, inclusive of industry practitioners, to ensure all complaints, direct or indirect have an open hearing.

### 1.1 SECDEX Guarantee Fund

The SECDEX Guarantee Fund ensures the financial integrity of the markets in the event of a Member default. The SECDEX Guarantee Fund operates to satisfy any open contracts received into the SECDEX Clearing system. This avoids the contagion of risk from one defaulting Member to another non-defaulting Member. SECDEX guarantees that trades will be settled among Members and thereby ensures the integrity of the markets it serves.

### 1.2 Types of Complaint

We envisage 2 types of complaints: Direct and Indirect.

- Direct Complaints are those originating from SECDEX Members. These complaints will be addressed as per the SECDEX Clearing Rule Book, Section 17.3.
- Indirect Complaints are those originating from indirect users of SECDEX services, namely Clients of Members that have accessed the services of SECDEX through the use of a SECDEX Member.

## 2 Lodging a Complaint against SECDEX or a SECDEX Member

2.1. One of the core objectives of SECDEX is the protection of Clients' interests. In so doing, SECDEX ensures that Clients' complaints against SECDEX or SECDEX Members are adequately addressed.

- 2.2. If a Client of Member lodges a complaint against a SECDEX Member and/or SECDEX, with supporting evidence of market misconduct or any activity which may bring the market into disrepute, SECDEX will immediately acknowledge and address such a complaint by referring it to the Appeal Committee (the “AC”).
- 2.3. If the dispute involves a breach of SECDEX rules and falls within the purview of SECDEX, SECDEX will conduct an investigation of that matter.
- 2.4. If the complaint is regarding a commercial dispute between a Client of Member and a SECDEX Member, the Client of Member will first be advised to lodge a complaint promptly with the SECDEX Member. If the Client of Member fails to receive a satisfactory response, after follow-ups with the SECDEX Member, it may lodge a complaint directly with SECDEX. If the matter is purely commercial, SECDEX will not intervene in the dispute. SECDEX will then inform the Client of the relevant contact details for the SECDEX Member’s regulatory authorities.
- 2.5. If the complaint originates from a source that has not used a SECDEX service, then the complaint will not be entertained.
- 2.6. When filing a complaint, the following minimum information must be submitted to SECDEX, namely:
  - a. Name, address and contact numbers of the complainant;
  - b. The name of the SECDEX Member (and where possible the individuals at the firm with whom the complainant dealt);
  - c. A description of the alleged improper conduct and the date(s) when the improper conduct took place; and
  - d. Details relating to any related transactions including, but not limited to: contract note, ledger entries relating to any transaction, bank statement(s) and any correspondence exchanged with regards to disputed matter.

### **3 Appeal Committee (the ‘AC’)**

- 3.1. The AC:
  - a. Meets periodically, but not less than annually, to review all complaints. This includes all complaints both direct and indirect, and against both SECDEX Members and SECDEX itself.
  - b. Acts as the escalation point for any complaints which have arisen and not been resolved to the complainant’s satisfaction.
- 3.2. A dedicated email (complaints.clearing@secdex.net) has been allocated for ease of lodging such complaints with SECDEX.
- 3.3. The AC shall consist of not less than 3 people as set out below:

- a. Chairman of the Group
- b. Independent Non-Executive Director 1
- c. Independent Non-Executive Director 2

Details of actual AC members will be included in as attachment PART A to this policy and updated as necessary.

#### **4 Complaint Handling Procedure**

- 4.1 Once a written complaint is referred to the AC, an acknowledgement email will be dispatched to the complainant within 24 hours.
- 4.2 A meeting will be convened within 10 business days by the Appeal Committee, which will endeavour to issue a determination within 30 days.
- 4.3 If the AC is unable to satisfactorily resolve a complaint within 30 days, the provisions of clause 5 below will apply.

#### **5 Applicable Law and Jurisdiction**

5.1 The governing law shall be the laws of the Seychelles and SECDEX and the Member agree to submit themselves to the jurisdiction of the Seychelles Courts, save as set in Clause 5.2 below.

5.2 In any contractual relationship, if they jointly agree, SECDEX and the Member can (a) choose to apply UK law to any dispute between them and (b) choose arbitration, as a means of dispute resolution, in any one of the jurisdictions which has signed the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958).

#### **6 Record-keeping**

A copy of all documents and materials relating to Complaints sent to SECDEX will be maintained in complaint register. SECDEX will retain such documents and materials for a minimum of 7 years.

**PART A:**

AC Representatives

Effective from [dd/mm/yyyy]

Chairman of the Group	tba
Independent Non-Executive Director 1	tba
Independent Non-Executive Director 2	tba