

# CIRCULAR



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**To: Clearing Members**

**No: 60/98**

## **Amendment to Clearing By-Law 72.1(b)**

As Members are aware, the Clearing House now accepts currencies and securities as collateral for Initial Margins. Because of this, an amendment has been made to Clearing By-Law 72.1(b) to clarify the powers of the Clearing House in the event of a default.

The By-Law as amended now reads (additions underlined):

- 72.1 Upon a Default by a Clearing Member the Clearing House shall in its absolute discretion have the power to do all or any of the following in any order:
- (b) to sell, realise, apply and set off any monies, securities, collateral or other property deposited with the Clearing House by the Clearing Member in Default by way of Initial Margin, Commitment or otherwise (whether or not arising from obligations under the By-Laws) and to apply the proceeds without being required to give notice to or obtain the consent of the Clearing Member in Default or any court order, with full power to execute any documents in its own name or as attorney for the Clearing Member in Default for that purpose, PROVIDED ALWAYS that any monies, securities, collateral or other property deposited with the Clearing House with respect to open positions designated to a Client Clearing Account or which are subject to a notice under Section 1209(8) of the Corporations Law, or an acknowledgment under Regulation 10 of the Futures Industry (Client Funds) Regulations 1990 of New Zealand, may be used to meet obligations in a Client Clearing Account and shall not be used to meet any obligations in a House Clearing Account;

Two copies of the Eleventh Update to the Business Rules are attached for inclusion in Members' binders.

This is the Eleventh Update to the Business Rules of the Sydney Futures Exchange Clearing House Pty Limited. One amendment has been made to the Business Rules since the last Update in January 1998 - this is an amendment to Clearing By-Law 72.1(b) to clarify the powers of the Clearing House in the event of a default.

Clearing By-Law 72.1(b) appears on page 3703 of the Business Rules, under Tab 3.7.

**Filing Instructions**

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3.7 Procedures on a Default	3702-3703	3702-3703



**SYDNEY FUTURES EXCHANGE CLEARING HOUSE PTY LIMITED**  
**ACN 050 615 864**

# **BUSINESS RULES**

**MEMORANDUM, ARTICLES OF ASSOCIATION  
AND CLEARING BY-LAWS**

**as at September 1998**

- (i) an investigator, inspector or other officer is appointed or an investigation is directed or commenced under the Corporations Law or any other legislation to investigate all or any part of the affairs of the Clearing Member or a related Company of the Member, in circumstances which are material to its capacity to meet its obligations to the Clearing House;
- (j) anything analogous to anything referred to in paragraphs (a) to (i) inclusive, or having substantially similar effect, occurs with respect to the Clearing Member including, without limitation, anything occurring outside Australia or under the law of a jurisdiction other than Australia;
- (k) the Clearing Member is the subject of a notice under any insurance referred to in By-Law 7.1(e), or any other insurance taken out by the Clearing House to enable it to meet its obligations to Clearing Members which affects the amount or conditions or operation of such insurance;
- (l) there is an event deemed or described as a default by the Exchange Rules or as otherwise provided in the Clearing By-Laws including a failure to comply with the requirements of By-Law 9 or Exchange Rules relating to position limits;
- (m) the Clearing Member acts fraudulently or in a misleading or deceptive manner with respect to any Open Contract or Market Contract the registration of which gave rise to an Open Contract; and
- (n) any other event or series of events, whether related or not, occurs (or appears likely to occur) which in the opinion of the Board or Managing Director has (or appears likely to have) a material effect on the capacity of the Member to meet its obligations to the Clearing House.

72 **Powers of Clearing House Upon a Default and Determination of a Loss**

72.1 Upon a Default by a Clearing Member the Clearing House shall in its absolute discretion have the power to do all or any of the following in any order:

- (a) to Close Out all or any Open Contracts of the Clearing Member in Default including in its absolute discretion Open Contracts in the Client Account by Closing Out any opposite positions in each such Account and/or by buying or selling opposite positions on the Exchanges Markets as if a request to Close Out had been made by the Clearing Member in Default pursuant to By-Law 46 and to appropriate any excess after the application of By-Law 47;

**Barbara Jones**  
**Company Secretary & Assistant General Counsel**

26/08/98

**SYDNEY FUTURES EXCHANGE CLEARING HOUSE PTY LIMITED**  
**ACN 050 615 864**

**A wholly owned subsidiary of Sydney Futures Exchange Limited**  
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