



SFE Clearing Bulletin No: 131/02

From: SFE Clearing Corporation Pty Ltd ABN 91 050 615 864

Date of Issue: 29 November 2002

Effective Date: 4 December 2002

Competition Between Clearing Systems

This Bulletin outlines the actions taken by SFE and SFE Clearing in answer to the Australian Competition and Consumer Commission (ACCC) determination that the public interest called for competition between clearing systems to be facilitated within the Australian market.

In December 2001, 10 years after first sanctioning the current vertically integrated exchange and clearing house model as being in the public interest, the Australian Competition and Consumer Commission (ACCC) determined that the public interest now called for competition between clearing systems to be facilitated. It provided for a transitional period of 12 months before the two major Australian exchanges would be required to have put rules in place facilitating competition between their respective clearing systems.

In order to comply with the ACCC's determination, exchanges, have therefore had to either:

- change their rules by 4 December 2002 to permit trades effected on one market to be cleared and settled by using another clearing and settlement facility; or
- persuade the ACCC to extend, beyond 4 December 2002, its authorisation of the existing arrangements.

SFE has elected to address point 1 above and provide the optionality sought by the ACCC rather than seek to continue defending the existing arrangements. SFE, however, is not aware of any latent demand for the changes, and is not aware of what approach might be taken by other exchanges.

SFE and SFE Clearing have now made the required changes to the rules. The rule changes for SFE Clearing are attached to this bulletin. The rule changes for SFE are attached to the SFE bulletin number 124. SFE and SFE Clearing have notified the ACCC of these changes and, effective from 25 November 2002, have obtained immunity from prosecution for any breach of the *Trade Practices Act 1974 (Cth)* unless the ACCC revokes such immunity. The rules are expected to commence on 4 December 2002.

The broad effect of the rules is to allow the clearing of trades executed on SYCOM to be performed by an alternative clearing and settlement facility. The key mechanism to achieve this without introducing unacceptable systemic risks is the creation of a new class of clearing participant, a Facility Participant, as a means of enabling SFE trades to be given up to the alternative clearing and settlement facility. If the operator of an alternative clearing facility in fact applies and is admitted by SFE Clearing as a Facility Participant, SFE Participants will be able to offer their clients the option of having SFE trades registered in that system, instead of SFE Clearing's system, provided:

- The alternative clearing and settlement facility has provided to SFE an acceptable third party guarantee of the performance of the obligations of the alternative clearing system (e.g. to make variation margin payments to SFE Clearing); and
- All necessary system/administrative changes have been made to enable the nomination (firstly by the client to its broker and then by the broker when submitting orders into SYCOM or making allocations in SECUR) of the alternative clearing and settlement facility.

These arrangements avoid other users of SFE Clearing having to effectively underwrite the performance of a competing clearing and settlement facility.

Whilst SFE has no reason to expect the changes to the rules to have any immediate practical effect, in the event that an alternative clearing and settlement facility in fact applies to be admitted by SFE Clearing as a Facility Participant, a further bulletin will be issued giving participants adequate time to make any necessary adjustments.

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SFE Corporation Limited (SFE) and its subsidiaries operate fully electronic financial exchanges with 24-hour trading capability, providing investment and risk management products, trading market data, and centralised clearing, settlement and depository services for institutions globally. SFE's shares are listed on the Australian Stock Exchange.

CLEARING BY-LAWS OF
SFE CLEARING CORPORATION PTY LTD
ACN 050 615 864

PART 1 - DEFINITIONS

1. DEFINITIONS

- 1.1 In these Clearing By-Laws, except where the content otherwise requires, words and expressions shall have the same meaning as in the Articles, provided that, except where the context otherwise requires the words and expressions in the first column in By-Law 1.1 hereunder shall have the meaning assigned to them in the second column. In the absence of a contrary definition in these By-Laws, words and expressions shall have the same meaning as in the SFE Rules.

<u>Words</u>	<u>Meanings</u>
Abandonment	The abandonment of an Option in accordance with Exchange Rules and Clearing By-Laws.
Account	In relation to a Clearing Participant, means a House Clearing Account and/or Client Clearing Account as established in accordance with Part 4 of the Clearing By-Laws.
Adoption Date	The date on which the new Constitution of Sydney Futures Exchange Limited, as approved at an extraordinary general meeting of Full Members of that Exchange on 22 July 2000, comes into effect.
Agreed Settlement	An agreed settlement as proposed or agreed under By-Law 10.15.
Allocation	An allocation of an Open Contract or Market Contract as provided by the Exchange Rules.
<u>Alternative Clearing and Settlement Facility</u>	<u>A clearing and settlement facility, approved by the Exchange, that the operator is licensed to conduct under an Australian CS Facility Licence that is operated by a Facility Participant.</u>
API	Applications Programming Interface. (Added 10/12/01)
Applicant	In relation to arbitration of disputes pursuant to these By-Laws means the party who commences the arbitration proceedings.
Approved Warehouse	That term as defined in the Exchange Rules. (<u>Added 26/3/96</u>)
Arbitrable Dispute	A dispute which arises directly or indirectly from a transaction or a proposed transaction which is subject to the By-Laws of SFE Clearing, and in which at least one of the parties is a Clearing Participant, or is a director, partner, employee, consultant, agent or other representative of a Clearing Participant.

Arbitrator	A person appointed as an arbitrator in relation to a dispute under the By-Laws relating to arbitration of disputes.
Arbitration Administrator	An employee of or other person appointed by SFE Clearing as Arbitration Administrator to carry out duties in relation to Arbitrable Disputes and any Assistant Arbitration Administrators who are employees of or other persons appointed by SFE Clearing to assist the Arbitration Administrator.
Articles or Articles of Association	The Articles of Association contained in the Constitution of SFE Clearing Corporation Pty Ltd.
Associate Participant	An Associate Participant of the SFE pursuant to SFE Rules.
Australian Bank	Australian Bank within the meaning of the Corporations Law.
<u>Australian CS Facility Licence.</u>	<u>A licence granted to the operator of a Clearing and Settlement Facility in accordance with the Corporations Act that authorises it to operate a facility providing clearing and settlement services in respect of all products traded on the Exchange.</u>
Board	Board of SFE Clearing Corporation Pty Ltd and except in relation to any power to expel a Clearing Participant, a delegate of the Board duly approved pursuant to the Articles.
Bond	Bonds issued by the Commonwealth of Australia or the Government of a State or Territory.
Bond Position	The net result of Bond purchases and sales.
Bond Transaction	Purchase or sale of a Bond.
Bond and Repurchase Clearing	The clearing of Bond Transactions and/or Repurchase Agreements.
BOS	Back Office Server which connects to the OM SECUR BOC. (Added 10/12/01)
BRC	Bond and Repurchase Clearing
BRC Business Day	Day on which SFE Clearing is open for the conduct of BRC transactions.
BRC Daily Settlement	Daily settlement pursuant to By-law 44A.

Clearing House	The clearing house conducted by SFE Clearing Corporation Pty Ltd.
Clearing By-Laws	These By-Laws including the General Clearing By-Laws and the Schedules, as amended from time to time .
Clearing Participant	Any person who is admitted and remains recognised as a Clearing Participant pursuant to these By-Laws <u>and unless the context otherwise requires, a reference in these By-Laws to a Clearing Participant will include a reference to a Facility Participant.</u>
Client	“Client” as defined by Exchange Rules for the purpose of this provision.
Client Clearing Account	An Account established under By-Law 41.2.
Client Positions	Open Positions designated as Client Positions under By-Law 41 or 41A.
Clients’ Segregated Account	An account maintained pursuant to Section 1209 of the Futures Law or where applicable a client bank account as defined in Regulation 2 of the Futures Industry (Client Funds) Regulations 1990 (New Zealand).
Close Out	To extinguish an Open Contract by matching it with an offsetting Open Contract and effecting the settlement of each such Open Contract against the other.
Commitment	The commitment of a Clearing Participant to provide Financial Support to the obligations of SFE Clearing as provided by By-Law 5 comprising: <ul style="list-style-type: none"> (a) The First Level Commitment. (b) The Second Level Commitment. (c) Any Commitment required in accordance with By-Law 7.6.
Commodity	Any thing entitlement or instrument including stock and shares capable of delivery or transfer.
Compliance and Surveillance Division	The divisions of the SFE Corporation Limited responsible for ensuring compliance by Participants with the SFE Business Rules, compliance by Dealers with the NZFOE Rules and (should SFE Clearing so determine) compliance by Clearing Participants with the By-Laws of SFE Clearing. (Amended 2/1/02)
Compulsory Settlement	Compulsory Settlement as provided by By-Law 102.

Dispute	Arbitrable Dispute.
'Employee', 'member of staff', 'officer', 'official' and like words, of the Exchange	means 'employee', 'member of staff', 'officer', 'official' and like words of SFE Corporation Limited or any of its related bodies corporate. (Added 21/1/02)
Exchange	SFE Corporation Limited, Sydney Futures Exchange Limited and any Related Exchange. The use in these By-Laws of the term "Exchange or Related Exchange" shall not detract from this wide definition of "Exchange". (Amended 2/1/02)
Exchange Contract	A class of Futures Contract and Options Contract listed on a Market of the Exchange.
Exchange Dealing Participant	A Participant of the SFE which: <ul style="list-style-type: none"> (a) holds a futures brokers licence under the Futures Law; or (b) has declared to the SFE that it will accept instructions from or deal on behalf of persons or corporations, <p>or a Dealer of a Related Exchange which under the relevant Exchange Rules and law of the place of incorporation of the Related Exchange is entitled to deal on behalf of clients.</p>
Exchange Markets	The markets of the SFE and any Related Exchange.
Exchange Rules	The business rules, articles or by-laws or contract specifications however described of the Exchange.
Exercise Price	The price at which an Option Contract may be exercised.
Exercise Request	The notice to be lodged by Participants holding a bought option position in the SFE Allocation & Clearing System pursuant to which options (whether or not in the money) are exercised prior to their expiry on the Declaration Date. (Added 10/12/01)
Extra Margin	A deposit with SFE Clearing pursuant to By-Law 45.2 or 45A.2.
<u>Facility Participant</u>	<u>Any person approved by the Exchange who has an Australian CS Facility Licence and is a Clearing Participant .</u>
Financial Requirements	Net Tangible Assets of not less than five million dollars (\$5,000,000) or such other requirements as may be prescribed in the Schedules or which otherwise apply to a Clearing Participant pursuant to By-Law 8.

Financial Support	In relation to a Clearing Participant the financial support provided by that Clearing Participant pursuant to By-Law 5 or By-Law 7.6.
First Level Commitment	The Fixed Commitment and Variable Commitment provided pursuant to By-Law 5.6(a).
Fixed Commitment	The Commitment provided pursuant to By-Law 5.6(a)(i).
Floor Participant	See Full Participant definition. <u>(Amended 13/12/99)</u>
Full Participant	A Full Participant of the SFE pursuant to the SFE Rules. <u>(Added 13/12/99)</u>
Futures Contract	Futures Contract as defined by the Futures Law other than a Futures Option or an Eligible Exchange Traded Option as defined by the Futures Law whether or not traded in Australia. This definition shall apply whether or not the Corporations Law is in force where any Market Contracts were traded.
Futures Law	Chapter 8 of the Corporations Law of Australia or if that Law should be repealed or cease to any extent to operate, then that legislation that shall be in force in the State of New South Wales or any other State or Territory of Australia as the case may be from time to time in partial or complete substitution for the Futures Law or equivalent legislation and references to specific provisions of that Futures Law shall be construed as references to the provisions of that replacement legislation.
Futures Option Contract	An option over a Futures Contract.
General Clearing By-Laws	Part 2 of the Clearing By-Laws
Guarantor Clearing Participant	A Clearing Participant who in accordance with Exchange Rules is the guarantor of the Market Contracts of a Trading Participant which is not a Clearing Participant and who enters into or receives an Allocation of a Market Contract in accordance with Exchange Rules <u>and unless the context otherwise requires, a reference to Guarantor Clearing Participant will include a reference to a Facility Participant.</u>
Holding Company	Holding Company within the meaning of the Corporations Law of Australia as if that Law applies to all Clearing Participants.
House Clearing Account	An Account established under By-Law 41.1 or a BRC House Account established under By-law 41A.1.

Local Participant	A Local Participant of the SFE pursuant to the SFE Rules.
Managing Director	<p>The Managing Director of SFE Clearing or where there is no Managing Director, the principal executive officer of SFE Clearing.</p> <p>The principal executive officer of SFE Clearing shall be:</p> <ul style="list-style-type: none"> (a) the Managing Director and CEO of SFE Corporation Limited; or (b) any other person or persons he delegates to perform or share the role of principal executive officer; or (c) in the absence of: <ul style="list-style-type: none"> (i) the Managing Director; or (ii) where there is no Managing Director, the principal executive officer. <p>then a person delegated by the Managing Director or the principal executive officer to perform some or all of the powers and functions of the Managing Director conferred by the By-Laws. <u>(Amended 19/7/96, 5/08/02)</u></p>
Mandatory Cash Settlement	Cash settlement pursuant to the Exchange Rules and Part 6 of the By-Laws.
Margin	Initial Margin, Daily Settlement Amounts, Intra Day Margin or Extra Margin.
Market Contract	<ul style="list-style-type: none"> (a) A contract traded on a market of the Exchange which market is listed in accordance with the Exchange Rules, or otherwise executed in accordance with the Exchange Rules (and, in the case of a Related Exchange, is prescribed in the schedules or has been accepted in writing by the Managing Director for clearing by SFE Clearing), provided that where a transaction is for more than one lot there shall be nevertheless deemed to be a separate contract with respect to each lot <u>and includes, where the context so requires, either the position of the Buyer or the position of the Seller as the case may be;</u> or (b) A Bond Transaction; or (c) A Repurchase Agreement.
Participant (in relation to SFE or a Related Exchange)	Includes a person which is not a member or shareholder of SFE or of a corporation which constitutes a Related Exchange but which under Exchange Rules is entitled to directly access the market of that Exchange or has otherwise bound itself to comply with those rules other than as a client in accordance with the rules and includes a Participant of SFE or Dealer of NZFOE.
Net Liquid Assets	The net liquid assets of a Clearing Participant as Prescribed in the Schedules.
Net Tangible Assets	That term as defined in the Exchange Rules or as otherwise Prescribed by the Board in the Schedules.
Non-Clearing Trading Participant	A Trading Participant of the Exchange which is not a Clearing Participant.

Open Contract	<p>(a) Except where paragraph (b) applies, a contract of a Clearing Participant with SFE Clearing deemed to arise from:</p> <ul style="list-style-type: none"> (i) the registration of a Market Contract; (ii) an Allocation; (iii) a Transfer; (iv) the Exercise of an Option Contract; or (v) a daily settlement in accordance with By-Law 44 or 44A. <p><u>(b) In the case of a Facility Participant, unless the context otherwise requires, a contract between SFE Clearing and the Facility Participant referred to in Clearing By-Laws 31A.7 and 31A.8</u></p>
Option Contract	A Futures Option Contract as defined by the Corporations Law of Australia or a Physical Options Contract.
Open Position	<p>The entitlement of a Clearing Participant under Open Contracts (including Open Contracts replacing previous Open Contracts by Daily Settlement in accordance with By-Law 44 or 44A) which has not been closed out or completed by Delivery or Mandatory Cash Settlement.</p> <p>In the case of BRC transactions, the entitlement of a BRC Participant under an Open Contract which has not been completed or closed out.</p>
Person	Includes an individual and a body corporate.
Physical Option Contract	An option over a Commodity or index (as opposed to an option over a futures contract), including an Eligible Exchange Traded Option as defined by the Corporations Law of Australia.
Position	The position of a Buyer or Seller under an Open Position.
Prescribed	Prescribed by the Board.
Prescribed in the Schedules	Prescribed by the Board and set out in the Schedules.
Premium	The amount payable by the Buyer of an Option Contract to the Seller as consideration for the Option Contract.
Publish or Published	Make information available to the public and/or to Participants by any means including electronic means.
Recorded by the Exchange	In relation to a Market Contract, recorded by the Relevant Exchange as Prescribed in the Schedules, on the day on which the Contract is traded or in the case of trades effected after the Close of Trading, on the next Business Day of the Relevant Exchange.
Registered Contract	A Market Contract which has been registered under By-Law 31.
Related Body Corporate	Has the same meaning as in the Corporations Act 2001 (Cwlth). (Added 21/1/02)
SFE Allocation & Clearing System	The computer system known as OM SECUR developed by the Swedish company OM Technology AB, which includes the OMnet Gateway and related systems, and which

comprises the central clearing system of the Exchange and all of its related bodies corporate used for the receipt of matched trade records from SYCOM, and the processing of Allocations and Confirmations of each Trade. (Added 10/12/01)

SFE or the SFE	Either SFE Corporation Limited or Sydney Futures Exchange Limited, or both, as the context requires. (Amended 2/1/02).
SFE Clearing	In these By-Laws means SFE Clearing Corporation Pty Ltd
SFE Rules	Either the Business Rules of SFE Corporation Limited, or the Business Rules of Sydney Futures Exchange Limited, or both, as the context requires. (Amended 2/1/02).
Substantial Change in Control	In relation to a Clearing Participant means: <ul style="list-style-type: none"> (a) The transfer of twenty percent (20%) or more of the issued capital of the Clearing Participant. (b) The transfer of such lesser percentage of the issued capital of the Clearing Participant and/or the issue of new shares (or options in relation thereto) whereby one party becomes the holder of twenty percent (20%) or more of the issued capital of the Clearing Participant. (c) A change of 50% or more in the composition of the Board of the Clearing Participant. (d) Any transfer or issue of shares in any corporation which would result in a corporation becoming or ceasing to be a holding company of the Clearing Participant. (e) A change of 50% or more in the composition of the Board of a holding company of the Clearing Participant.

4. Becoming a Clearing Participant

4.1 A corporation (or in special circumstances to the satisfaction of the Board and with the consent of the Board a person or body other than a corporation not being an individual) may apply to become a Clearing Participant with access to the facilities of SFE Clearing.

4.2 An applicant who wishes to be approved as a Clearing Participant shall lodge with the Board:

- (a) an application in the Prescribed form signed by the applicant;
- (b) such information concerning the applicant and supported by such evidence as the Board may prescribe
- (c) an undertaking by the applicant in the Prescribed form to abide by these By-Laws as amended from time to time, if the application is granted; and
- (d) an application fee of an amount determined from time to time in accordance with By-Law 3.2.

4.11 Undertaking to Abide by the By-Laws

- (a) Subject to By-Law 4.11(b), Each Clearing Participant agrees to be bound by the By-Laws in its dealings with SFE Clearing and with each other Clearing Participant and each Clearing Participant agrees that the provisions of the By-Laws shall be binding on the Clearing Participant as between the Clearing Participant and SFE Clearing and as between the Clearing Participant and every other Clearing Participant. Each Clearing Participant shall also comply in full with any undertaking given, or condition imposed by the By-Laws.
- (b) By-Law 4.11(a) applies to each Clearing Participant that is a Facility Participant except to the following extent:
 - (i) By-Laws 31 and 43 do not apply to a Facility Participant and to a Market Contract that becomes registered with the Facility Participant.
 - (ii) By-Laws 44, 45 and 47 do not apply to a Facility Participant where both the position of a Seller and the position of a Buyer under a Market Contract are registered with the Facility Participant.

~~(b)(c)~~ Clearing Participants shall lodge with SFE Clearing on request from time to time, an undertaking in the form required by SFE Clearing and to the effect set out in By-Law 4.11(a) duly signed by the Clearing Participant.

~~(c)(d)~~ If SFE Clearing has not received an undertaking as referred to above signed by the Clearing Participant on the due date, the status and rights of the Clearing Participant will be suspended until the signed undertaking is received by SFE Clearing. Should default not be remedied within one (1) month of the due date, the Board may without further notice terminate the status and rights of the Clearing Participant. No such suspension or termination shall release the Clearing Participant from its liability in respect of its Commitment for the full period of its Commitment and no Commitment shall be liable to be returned until the expiry of such Commitment.

(e) A Clearing Participant has the primary responsibility for compliance with the By-Laws and shall ensure that its officers and representatives shall comply with them.

(f) Where any Clearing Participant:

- (i) undertakes any action, or course of actions which is contrary to a provision of the By-Laws; or
- (ii) fails for any reason to act in accordance with a provision of the By-Laws, including, without limitation, failure to maintain any document or record, failure to give any notice or notification, or failure to comply with an undertaking or condition, required by or imposed under the By-Laws; or
- (iii) fails to comply with or continue to comply with any requirement or condition for application for Participation Entitlements;

then the Clearing Participant shall thereby have committed a breach of the By-Laws and/or relevant provisions of the By-Laws.

(g) Officers or representatives of Clearing Participants shall comply with the By-Laws at all times in respect to:

- (i) obligations expressed to apply to them in that capacity; and
- (ii) obligations expressed to apply to a Clearing Participant of which they are an officer or representative, including any undertaking given, or condition imposed, under the By-Laws.
(Added 3/12/01)

In the case of either type of obligation a breach by a Clearing Participant of a provision of the By-Laws which was committed on its behalf in whole or in part by an officer or representative of the Clearing Participant shall be deemed to be, or have been, committed by that officer or representative as well as the Clearing Participant.

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REGISTRATION OF A MARKET CONTRACT WITH SFE CLEARING

- 31.1 (a) Subject to 31A.3, Aa Market Contract Recorded by the Exchange, or a BRC transaction notified to SFE Clearing, in the manner Prescribed in the Schedules shall be deemed to have been presented to SFE Clearing by the Buyer and Seller (and in the case of a Market Contract in respect of which only the position of one party is to be registered with SFE Clearing, by that Buyer or that Seller as the case may be) and shall be deemed to be registered with SFE Clearing at the time Prescribed in the Schedules. Only Clearing Participants shall be entitled to have Market Contracts registered in their name.
- (b) (i) Where a Market Contract is Recorded by the Exchange incorrectly, upon correction of any such Recording in accordance with the Exchange Rules the Market Contract registered shall also be deemed to be corrected and the By-Laws shall be read as if such Market Contract had originally been registered as corrected. SFE Clearing shall not be liable to any party as a result of any correction so made.
- (ii) In relation to Bond and Repurchase Clearing, where a Market Contract is recorded by SFE Clearing incorrectly, upon correction of any such recording the Market Contract registered shall be deemed to be corrected and the By-Laws shall be read as if such Market Contract had originally been registered as corrected. SFE Clearing shall not be liable to any party as a result of any correction so made.
- (c) Where a Market Contract is allocated and such allocation confirmed in accordance with Exchange Rules prior to registration that Market Contract shall for the purposes of this By-Law be deemed to be Recorded by the Exchange as so allocated and confirmed.
- (d) Particulars of a Market Contract not Recorded by the Exchange (through failure of the parties to advise particulars of that Contract to the Exchange or otherwise) may subsequently be presented for registration in the Prescribed manner and confirmed to SFE Clearing by both parties to the Market Contract if they are Clearing Participants (and in the case of a Market Contract in respect of which only the position of one party is to be registered with SFE Clearing, by that Buyer or that Seller as the case may be) or if they are not Clearing Participants~~not~~, their Guarantor Clearing Participant or Guarantor Clearing Participants and upon the acceptance of such particulars by SFE Clearing with the approval of the Relevant Exchange the Market Contract shall be registered with SFE Clearing and these By-Laws shall apply accordingly.
- (e) (i) Where on the application of a Clearing Participant SFE Clearing is satisfied that a Market Contract which has been registered by SFE Clearing has been inadvertently Recorded by the Exchange incorrectly it may in its absolute discretion with the agreement of all parties, being the Buyer and Seller of the Market Contract and any Buyer and Seller of an Open Contract arising from the registration of such contract, correct the registration of such Market Contract so that such Market Contract shall be deemed to be registered as so corrected and the By-Laws shall apply accordingly. Any such correction may be made subject to any conditions imposed by SFE Clearing, including the payment of Margin.
- (ii) In relation to Bond and Repurchase Clearing, where SFE Clearing is satisfied that a Market Contract which has been registered by SFE Clearing has been registered incorrectly it may in its absolute discretion with the agreement of all parties, being the Buyer and Seller of the Market Contract and any Buyer and Seller of an Open Contract arising from the registration of such contract, correct the registration of such Market Contract so that such Market Contract shall be deemed to be registered as so corrected and the By-Laws shall apply accordingly. Any such correction may be made subject to any conditions imposed by SFE Clearing, including the payment of Margin and SFE Clearing shall not be liable to any party as a result of any correction so made.
- (f) **Misallocation**
- Subject always to any objection made by the Exchange and/or SFE Clearing where an Open Contract has been incorrectly allocated by reason of inadvertence, then the Participant may, with the consent of:
- (i) the holder of the Open Contract; and
- (ii) the proposed holder of the Open Contract (the new holder),

correct such allocation within the SFE Allocation & Clearing System, and such Open Contract shall be deemed to be held by the new holder of the open position as if the Open Contract had been allocated to the new holder of the Open Contract on the day of the trade, and the By-Laws shall be deemed to apply to such Open Contract as if such allocation had occurred in accordance with the Rules of the Relevant Exchange. Amounts held in the relevant Clearing Account shall be adjusted accordingly. (Amended 10/12/01)

31.2 Notwithstanding By-Law 31.1 the Board or Managing Director or a delegate of either may in their absolute discretion at any time prior to registration decline to register a Market Contract in the name of a Clearing Participant or may impose conditions (including the deposit of Margin) on the registration of any Market Contract, without being required to give any reason and shall notify any such decision to the Clearing Participant. SFE Clearing shall where practical consult with the SFE and where registration relates to a Market Contract traded on a Related Exchange, that Related Exchange with respect to any decision under this By-Law 31.2.

31.3 (a) Upon and by virtue of registration with SFE Clearing, a Market Contract shall be extinguished and two new contracts which shall be binding on SFE Clearing and Clearing Participants, shall come into existence:

- (i) an Open Contract between SFE Clearing and the Buyer in terms identical to the Market Contract except that SFE Clearing shall have the rights and obligations as seller; and
- (ii) an Open Contract between SFE Clearing and the Seller in terms identical to the Market Contract except that SFE Clearing shall have the rights and obligations of buyer.

The terms of each Open Contract shall be subject to these By-Laws.

(b) Upon and by virtue of registration with SFE Clearing of only the position of the Buyer or of the Seller in a Market Contract, the Market Contract shall be extinguished and a new contract which shall be binding on SFE Clearing and the Clearing Participant, shall come into existence:

- (i) an Open Contract between SFE Clearing and the Buyer in terms identical to the Market Contract except that SFE Clearing shall have the rights and obligations as seller; or
- (ii) an Open Contract between SFE Clearing and the Seller in terms identical to the Market Contract except that SFE Clearing shall have the rights and obligations of buyer.

The terms of the Open Contract shall be subject to these By-Laws.

31.4 Each Open Contract (whether Designated to a House Clearing Account or a Client Clearing Account) shall be between SFE Clearing and a Clearing Participant as a principal and not as an agent. No other person (including any Non-Clearing Trading Participant which is guaranteed by the Clearing Participant or with which the Clearing Participant has a Clearing agreement) shall have any rights or obligations under any Open Contract between the Clearing Participant and SFE Clearing.

31.5 (a) SFE Clearing shall be entitled to rely on the particulars of any Market Contract recorded with the Exchange being correct and shall not be bound to recognise any error in relation to such particulars.

(b) In relation to Bond and Repurchase Clearing SFE Clearing shall be entitled to rely on the particulars of any Market Contract notified to it as being correct and shall not be bound to recognise any error in relation to such particulars.

31.6 SFE Clearing shall not register any Market Contract in the name of a Clearing Participant which is not entitled under the By-Laws (whether under By-Law 105 or otherwise) or Exchange Rules to have a Market Contract registered in its name.

31.7 SFE Clearing shall not be obliged to meet its obligations under an Open Contract with a Clearing Participant where the Market Contract the registration of which gave rise to the Open Contract:

- (a) was entered into fraudulently by the Clearing Participant or the party to such Market Contract in relation to which the Clearing Participant holds an equivalent position (ie. of Buyer or Seller); or
- (b) such Market Contract was, to the knowledge of the Clearing Participant or such party entered into with an intention by one or both parties to the Market Contract to Default; or

(c) was otherwise not entered into in a bona fide manner by the Clearing Participant or such party, provided that:

- (i) the rights provided under this By-Law to SFE Clearing shall not relieve the Clearing Participant from any obligations to SFE Clearing under the Open Contract; and
- (ii) the existence of or exercise of any rights under this By-Law by SFE Clearing in relation to an Open Contract shall not affect or avoid SFE Clearing obligations under any other Open Contract whether or not arising from the registration of the same Market Contract.

NEW BY-LAW RELATING TO FACILITY PARTICIPANTS

31A REGISTRATION OF A MARKET CONTRACT ALLOCATED TO A FACILITY PARTICIPANT

31A.1 Where a Market Contract is Allocated to a Facility Participant by a Full Participant, the Facility Participant agrees to accept that Market Contract or the position of either a Buyer or a Seller under a Market Contract for registration in accordance with these Clearing By-Laws provided the Full Participant arranges to have its trades registered with the Facility Participant by an entity that is a participant (as that term is defined in the Corporations Act) of the Facility Participant.

31A.2 Where the positions of a Buyer and of a Seller under a Market Contract are registered separately with SFE Clearing and a Facility Participant respectively, upon such registration the Market Contract shall be extinguished and two new contracts which shall be binding on SFE Clearing and the Facility Participant respectively shall come into existence:

- (a) an Open Contract between SFE Clearing and the Buyer or the Seller, as the case may be, in terms identical to the Market Contract except that SFE Clearing shall have the rights and obligations as the Seller or the Buyer as the case may be.
- (b) a contract between a Facility Participant and the Seller or Buyer as the case may be in accordance with the rules of the Facility Participant.

31A.3 Where a Market Contract is Allocated to a Facility Participant prior to registration with SFE Clearing, that Market Contract will not be registered with SFE Clearing in accordance with By-Law 31 and the Market Contract will be deemed to be registered with the Facility Participant by the Buyer and Seller (or in the case of a Market Contract in respect of which only the position of one party is to be registered with SFE Clearing, either the Buyer or the Seller, as the case may be) at the time the Market Contract is recorded with the Exchange.

31A.4 Subject to By-Law 31A.5, where the Market Contract is not Allocated to a Facility Participant at the time it is recorded by the Exchange, the Market Contract will be registered with SFE Clearing in accordance with Clearing By-Law 31.

31A.5 Where an Open Contract is Allocated to a Facility Participant after registration with SFE Clearing in the SFE Allocation and Clearing System, the registration of that Open Contract with SFE Clearing shall be extinguished and a new open contract will be registered with the Facility Participant in accordance with its rules, such registration with the Facility Participant being deemed to have come into existence when the Market Contract was recorded by the Exchange in the manner prescribed in Schedule 1.

31A.6

- (a) Where a Market Contract is Recorded by the Exchange incorrectly, upon correction of any such Recording in accordance with the Exchange Rules, the Market Contract registered with the Facility Participant shall also be deemed to be corrected, the By-Laws shall be read as if such Market Contract had originally been registered as corrected and SFE Clearing shall not be liable to any party as a result of any correction so made.
- (b) Where a Market Contract is allocated and such allocation confirmed in accordance with Exchange Rules prior to registration, that Market Contract shall for the purposes of this By-Law be deemed to be Recorded by the Exchange as so allocated and confirmed.
- (c) Particulars of a Market Contract not Recorded by the Exchange (through failure of the parties to advise particulars of that Contract to the Exchange or otherwise) may subsequently be presented for registration

in the Prescribed manner and confirmed to the Facility Participant by both parties to the Market Contract or in the case of a Market Contract in respect of which only the position of one party is to be registered with SFE Clearing, either the Buyer or the Seller, as the case may be and upon the acceptance of such particulars by SFE Clearing with the approval of the Relevant Exchange the Market Contract shall be registered with the Facility Participant and these By-Laws shall apply accordingly.

31A.7 In the case of a Market Contract in respect of which only the position of one party is to be registered with SFE Clearing, there will exist a contract between the Facility Participant and SFE Clearing by virtue of the position of a party to a Market Contract that has been registered with the Facility Participant so that the Facility Participant will be subject to the same obligations of any other Clearing Participant in the same way as if that position had been registered with SFE Clearing in the name of the Facility Participant including without limitation the obligations to pay Daily Settlement Amounts and Intra Day and Extra Margins.

31A.8 SFE Clearing will have contractual rights and obligations only with the Facility Participant and no other person (including any Clearing Participant of the Facility Participant) will have any rights or obligations under the contractual relationship referred to in Clearing By-Law 31A.7 or otherwise.

Relationship with SFE Clearing

The payment of margin or settlement monies into a Client Clearing Account of a Clearing Participant or the designation by a Clearing Participant of an Open Position as a Client Position shall not in any way derogate from the fact that SFE Clearing is dealing with Clearing Participants as principals as provided for in By-Law 31 [and 31A](#), and SFE Clearing shall not in any way be required to recognise any clients of the Clearing Participant and shall not be in any way responsible for the performance of the obligations under Open Contracts to such clients. SFE Clearing shall not in any way, be on notice in relation to any matter arising between the Clearing Participant and any Client or otherwise affecting the Client. A Clearing Participant's obligations as principal to SFE Clearing shall extend to any monies owing to SFE Clearing in relation to any account established in relation to a Clearing Participant at SFE Clearing including (subject to By-Law 41.7) any Client Clearing Account.

45 Intra Day and Extra Margins

- 45.1 A Clearing Participant shall by no later than the Prescribed time on each Business day of the Relevant Exchange deposit with SFE Clearing by way of Intra Day Margin amounts owing as a result of the revaluation in the prescribed manner of Open Contracts held by it.
- 45.2 In addition to or instead of the Intra Day Margins provided by By-Law 45.1 SFE Clearing may at any time require at its absolute discretion a Clearing Participant or all or any Clearing Participants by a time determined by the Board or Managing Director to deposit as Extra Margin further cash, securities, margin or cover for Open Contracts or Market Contracts eligible to be registered having regard to movements in the price of Market Contracts traded in any market of the Exchange.
- 45.3 In the absence of any other determination by the Board or Managing Director either generally or in a particular case the time for deposit of Extra Margin called pursuant to By-Law 45.2 shall be one hour.
- 45.4 Where a Market Contract, in respect of which only the position of one party is to be registered with the Facility Participant, is registered with a Facility Participant, the Facility Participant may call on SFE Clearing to deposit with the Facility Participant by way of Intra Day Margin amounts owing as a result of the revaluation in the prescribed manner of Open Contracts held by it with respect to the other position of that Market Contract.
- 45.5 In addition to or instead of the Intra Day Margins provided by By-Law 45.4, where a Market Contract, in respect of which only the position of one party is to be registered with the Facility Participant, is registered with a Facility Participant, the Facility Participant may at any time require SFE Clearing to deposit as Extra Margin further cash, securities, margin or cover for Open Contracts or Market Contracts eligible to be registered having regard to movements in the price of Market Contracts traded in any market of the Exchange.

SCHEDULE 1**REGISTRATION AND PERFORMANCE OF CONTRACTS**

(Amended 2/12/99)

Sydney Futures Exchange Limited (SFE)

The following clauses relate to registration of Market Contracts traded on the SFE:

- 1 For the purposes of Part 3 of the Clearing By-Laws the procedures for the registration of Market Contracts shall be as set out in this Schedule.
- 2 In this Schedule all expressions shall have the same meaning as in either General By-Laws G.22 and G.23 of the SFE Rules or the Clearing By-Laws.
- 3 For the purposes of the definition of Recorded with the Exchange:
- (a) A Market Contract Traded on SYCOM® shall be deemed to be Recorded by the Exchange upon SYCOM® producing a matched trade record of the Trade.
- (b) A Market Contract Traded other than on SYCOM® shall be deemed to be Recorded by the Exchange upon being submitted to and accepted for registration by SFE Clearing.
- 4 Where there is an objection to a Trade, for the purposes of the definition of Recorded with the Exchange, a Market Contract Traded on SYCOM® shall be deemed to be Recorded by the Exchange in substitution for the original recording where the Trade is Confirmed upon resolution of an objection in accordance with SFE Rules.
- 5 For the purposes of By-Law 31.1 a Market Contract shall be deemed to be registered with SFE Clearing when recorded by the Exchange in the manner set out in this Schedule.
- 6 For the purposes of By-Law 31A a Market Contract shall be deemed to be registered with a Facility Participant in accordance with its rules when recorded by the Exchange in the manner set out in this Schedule if the Trade:
- (a) is Allocated to the Facility Participant at the time it is recorded by the Exchange; or
(b) is subsequently Allocated to the Facility Participant in the SFE Allocation and Clearing System.
- 67 Any allocation:
- (a) effected and confirmed in accordance with General By-Laws G.42 and G.43 of SFE Rules or otherwise in accordance with SFE Rules; or
- (b) effected and confirmed in accordance with any procedures as determined from time to time by the SFE or SFE Clearing,
- subsequent to the registration or deemed registration of a Market Contract with SFE Clearing shall be deemed to be an Allocation for the purposes of the Clearing By-Laws and for this purpose any Allocation made by or to a Full Participant which is not a Clearing Participant shall be deemed to be Allocated by or to the Guarantor Clearing Participant of that Full Participant.
- 78 All Designations of Trades (being the bought or sold side of a Market Contract) as House or Client Trades:

- (a) effected under General By-Laws G.42 and G.43 of the SFE Rules or otherwise under the SFE Rules; or
- (b) otherwise effected in accordance with any other procedures as determined from time to time by the SFE or SFE Clearing;

shall be deemed to be a Designation to a House Clearing Account or Client Clearing Account respectively under the Clearing By-Laws in relation to an Open Contract arising from that Trade. Where no Designation as a House Trade or Client Trade has been made or the Open Contract otherwise Designated to a House Clearing Account or Client Clearing Account under the Clearing By-Laws such Open Contract shall be deemed to be Designated to the relevant House Clearing Account unless the Trade is deemed to be Designated to a Client Clearing Account under SFE Rules or SFE Clearing in its absolute discretion Designates the Open Contract to a Client Clearing Account.

~~89~~ The confirmation of a Trade pursuant to General By-Laws G.42 and G.43 of the SFE Rules or otherwise pursuant to SFE Rules or the execution of a Trade on SYCOM® shall be deemed to be presentation of the Trade to SFE Clearing for registration and consent to such registration by the Clearing Participant which is the party to such Trade or if the party to the Trade is not a Clearing Participant the Guarantor Clearing Participant of that party.

~~10~~ Where a Trade is Allocated to a Facility Participant, the confirmation of a Trade pursuant to General By-Laws G.42 and G.43 of the SFE Rules or otherwise pursuant to SFE Rules or the execution of a Trade on SYCOM® shall be deemed to be presentation of the Trade to the Facility Participant for registration.

Bond and Repurchase Clearing

The following clauses relate to registration of Bond Transactions and Repurchase Agreements.

- 1 For the purposes of By-law 31.1 a Market Contract in the form of a Bond Transaction or a Repurchase Agreement shall be deemed to be registered with SFE Clearing when the relevant transaction is submitted to and accepted for registration by SFE Clearing.

New Zealand Futures & Options Exchange Limited (NZFOE)

The following clauses relate to registration of Market Contracts traded on the NZFOE:

- 1 For the purposes of Part 3 of the Clearing By-Laws the procedures for the registration of Market Contracts shall be as set out in this Schedule.
- 2 In this Schedule all expressions shall have the same meaning as in either NZFOE Rules or the Clearing By-Laws.
- 3 For the purposes of the definition of Recorded by the Exchange:
 - (a) A Market Contract traded on NZFOE SYCOM® shall be deemed to be Recorded by the Exchange upon SYCOM® producing a matched trade record of the trade.

- (b) A Market Contract traded other than on NZFOE SYCOM® shall be deemed to be Recorded by the Exchange upon being submitted to and accepted for registration by SFE Clearing. (Amended 25/11/96)

3A Where there is an objection to a Trade, for the purposes of the definition of Recorded with the Exchange, a Market Contract Traded on SYCOM® shall be deemed to be Recorded by the Exchange in substitution for the original recording where the Trade is Confirmed upon resolution of an objection in accordance with NZFOE Rules.

4 For the purposes of By-Law 31.1 a Market Contract shall be deemed to be registered with SFE Clearing when Recorded by the Exchange in the manner set out in this Schedule.

5 Any allocation:

- (a) effected and confirmed in accordance with NZFOE Rules; or
- (b) effected and confirmed in accordance with any other procedures as determined from time to time by NZFOE or SFE Clearing,
- (a) subsequent to the registration or deemed registration of a Market Contract with SFE Clearing shall be deemed to be an Allocation for the purposes of the Clearing By-Laws and for this purpose any Allocation made by or to a Trading Participant which is not a Clearing Participant shall be deemed to be Allocated by or to the Guarantor Clearing Participant of that Trading Participant.

6 All Designations of Trades (being the bought or sold side of a Market Contract) as House or Client Trades:

- (a) effected under NZFOE Rules; or
- (b) otherwise effected in accordance with any other procedures as determined from time to time by the NZFOE or SFE Clearing,

shall be deemed to be a Designation to a House Clearing Account or Client Clearing Account respectively under the Clearing By-Laws in relation to an Open Contract arising from that trade. Where no Designation as a House Trade or Client Trade has been made or the Open Contract otherwise Designated to a House Clearing Account or Client Clearing Account under the Clearing By-Laws such Open Contract shall be deemed to be Designated to the relevant House Clearing Account unless the Trade is deemed to be Designated to a Client Clearing Account under NZFOE Rules or SFE Clearing in its absolute discretion designates the Open Contract to a Client Clearing Account.

7 The confirmation of a Trade pursuant to NZFOE Rules or the execution of a Trade shall be deemed to be presentation of the Trade to SFE Clearing for registration and consent to such registration by the Clearing Participant which is the party to such trade or if the party to the trade is not a Clearing Participant the Guarantor Clearing Participant of that party.