

SIAC SGX-DT ARBITRATION RULES

(1st Edition, 1 July 2005)

1. Application

- 1.1. Any dispute, claim or controversy between
 - a. SGX-DT Members arising out of or in connection with a transaction on the Exchange;
 - b. an SGX-DT Member and a Member of a Participating Exchange arising out of or in connection with a transaction on the Exchange pursuant to the Mutual Offset System;
 - c. an SGX-DT Member and a Non-Member Customer arising out of or in connection with a transaction on the Exchange;may be submitted for arbitration under these Rules.
- 1.2. An arbitration or reference to arbitration made under these Rules shall be deemed to be an arbitration or reference under the International Arbitration Act (Cap 143A).
- 1.3. The submission to arbitrate under these Rules shall be in the form of a Submission to Arbitration.¹

2. Definitions

- 2.1. These Rules shall be referred to as “the SIAC SGX-DT Arbitration Rules”.
- 2.2. In these Rules:

“Act” refers to the International Arbitration Act (Cap 143A) and any statutory re-enactments thereof.

“Centre” refers to the Singapore International Arbitration Centre.

“Chairman” refers to the Chairman of the Singapore International Arbitration Centre and includes the Deputy Chairman.

“Exchange” refers to the Singapore Exchange Derivatives Trading Limited by whatever name from time to time called.

“Participating Exchange” refers to an exchange which is a party to the Mutual Offset System and has assumed the rights and obligations thereunder.

¹ See prescribed Form A Submission to Arbitration.

“Member” refers to a Clearing Member, a Corporate Non-Clearing Member, an Individual Non-Clearing Member or a Commercial Associate Member.

“Non-Member Customer” means a person who is a customer of a Member and is not himself a Member.

“Registrar” refers to the Registrar of the Singapore International Arbitration Centre and includes an Assistant Registrar.

“SIAC SGX-DT Panel” refers to the list of persons admitted to serve as arbitrators under these Rules.

“Tribunal” refers to the arbitrator or arbitrators appointed in accordance with these Rules.

- 2.3 For the purposes of these Rules, the terms “Mutual Offset System”, “Clearing Member”, “Corporate Non-Clearing Member”, “Individual Non-Clearing Member” and “Commercial Associate Member” as used herein shall have the same meaning as defined in the SGX-DT Rules.

3. Notice, Calculation of Periods of Time

- 3.1. For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the addressee or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable inquiry, then at the addressee's last-known residence or place of business. Notice shall be deemed to have been received on the day it is so delivered.
- 3.2. For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.
- 3.3. Without prejudice to the effectiveness of any other form of written communication, written communication may be made by fax, email or any other means of electronic transmission effected to a number, address or site of a party.
- 3.4. The transmission is deemed to have been received on the day of transmission.

4. Commencement of Arbitration

- 4.1. Any party wishing to commence an arbitration under these Rules (“the Claimant”) shall file with the Registrar and serve on the other party (“the

Respondent”), a written Notice of Arbitration (“the Notice of Arbitration”)² which shall include the following:

- a. a request that the dispute be referred to arbitration;
- b. the names and addresses of the parties to the dispute;
- c. the market, counter, time, date reference number of the contract or transaction in dispute;
- d. a brief statement describing the nature and circumstances of the dispute;
- e. the amount in dispute;
- f. the relief or remedy sought; and
- g. the name of the Claimant’s nominated arbitrator.

5. Response by Respondent

- 5.1. Within 7 days of receipt of the Notice of Arbitration, the Respondent shall file with the Registrar and serve on the Claimant, a Response³ including:
 - a. a confirmation or denial of all or part of the claims;
 - b. a brief statement of the nature and circumstances of any envisaged counterclaims;
 - c. the estimated value of any such envisaged counterclaims;
 - d. any comment in response to any proposals contained in the Notice of Arbitration; and
 - e. the name of the Respondent’s nominated arbitrator.

6. Filing of Case Statements

- 6.1. Unless the Registrar otherwise directs, the Notice of Arbitration and the Response shall constitute the Claimant’s Case and Respondent’s Defence respectively.
- 6.2. If the Registrar directs parties to file statements, the following shall apply:
 - a. Within 14 days after the filing of the Notice of Arbitration, the Claimant must file with the Registrar and serve on the Respondent, a Statement of Claimant’s Case.

² The Claimant may use Form B to submit a Notice of Arbitration.

³ The Respondent may use Form C to submit a Response.

- b. Within 14 days after the Service of the Statement of Claimant's Case, the Respondent must file with the Registrar and serve on the Claimant, a Statement of Respondent's Defence and Counterclaim (if any).
- c. Within 14 days after the Service of the Statement of Respondent's Defence, if the Claimant intends to challenge anything in the Statement of Respondent's Defence and/or Counterclaim, the Claimant must then file with the Registrar and serve on the Respondent, a Statement of Claimant's Reply and if necessary, Defence to Counterclaim.
- d. No further case statements may be filed without the leave of the Registrar or if a Tribunal has been appointed, the Tribunal.

7. Default in Filing and Serving of Case Statements

- 7.1. If the Claimant fails within the time specified under these Rules or as may be fixed by the Registrar, to submit its Statement of Case, the Registrar may issue an order for the termination of the arbitral proceedings or make such other directions as may be appropriate in the circumstances.
- 7.2. If the Respondent fails to submit a Statement of Respondent's Defence, the Registrar may nevertheless proceed with the arbitration and make the award.
- 7.3. If a Tribunal has been appointed, the Tribunal may exercise the powers of the Registrar given under this Rule.

8. Appointment of Tribunal

- 8.1. A sole arbitrator shall be appointed unless the parties have agreed otherwise or unless the case is such that in the Chairman's view, more than one (1) arbitrator is necessary.
- 8.2. The Chairman will appoint the arbitrator within 10 days following receipt of the all case statements. The Chairman is not bound to appoint any of the names nominated by the parties.
- 8.3. An arbitrator to be appointed under these Rules shall be a person on the SIAC SGX-DT Panel as at the date of the appointment.
- 8.4. In the event of the death, resignation or withdrawal of the arbitrator, a substitute arbitrator must be appointed by the same procedure by which the arbitrator concerned was appointed.

9. Independence and Impartiality of Tribunal

- 9.1. The Tribunal conducting an arbitration under these Rules shall be and remain at all times independent and impartial, and shall not act as advocate for any party.

- 9.2. A prospective arbitrator shall disclose to those who approach him in connection with his possible appointment, any circumstances likely to give rise to justifiable doubts as to his impartiality or independence.
- 9.3. An arbitrator, once nominated or appointed, shall disclose any such circumstance referred to in Rule 9.2 to the Registrar and/or to all parties.

10. Challenge of Arbitrator

- 10.1. An arbitrator may be challenged if there are circumstances that give rise to justifiable doubts as to his impartiality or independence.
- 10.2. A party may challenge an arbitrator appointed on its nomination or with its agreement only for reasons of which it becomes aware after the appointment has been made.
- 10.3. A party who intends to challenge an arbitrator shall file with the Registrar and serve on the other party or all other parties, whichever is applicable, a Notice of Challenge.
- 10.4. The Notice of Challenge must be filed and served within 7 days from the appointment of the arbitrator or within 7 days after the circumstances mentioned in Rule 10.2 became known to that party. Once 7 days have lapsed, the party loses its right to challenge.
- 10.5. The Notice of Challenge must state the reasons for the challenge.
- 10.6. The arbitration shall be suspended until the challenge is resolved or decided upon.
- 10.7. When an arbitrator has been challenged by one party, the other party may agree to the challenge, in which event, the arbitrator shall be deemed to have withdrawn from the arbitration. The arbitrator may also withdraw from his office after the challenge, regardless of whether the other party has agreed to such challenge. However, in both cases it is not implied that there has been an acceptance of the validity of the grounds for the challenge. The procedure provided in Rule 8 shall be used for the appointment of a substitute arbitrator.
- 10.8. If within 7 days of the Notice of Challenge, the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge is made by the Chairman. If the Chairman sustains the challenge, a substitute arbitrator shall be appointed and Rule 8 similarly applies. The Chairman's decision is final and not subject to appeal or review.

11. Transmission of File to the Tribunal

- 11.1. The Registrar shall, as soon as practicable transmit to the Tribunal, a file containing the Notice of Arbitration, the Response and (if applicable) all case statements to the Tribunal together with all the documents submitted by the parties.

- 11.2. The Tribunal shall as soon as practicable, after consultation with the parties, issue such orders and/or directions as are necessary for the conduct of the arbitration to conclusion, including a timetable for steps to be taken in the arbitration and for the hearing of the arbitration.

12. Hearing

- 12.1. Wherever possible documents and evidentiary material should be agreed and the case should proceed based on documents and/or evidentiary material or oral arguments only.
- 12.2. The Tribunal has the discretion to allow oral evidence to be presented. Where oral evidence is requested and directed, the hearing should not exceed 3 days.
- 12.3. The Tribunal shall set the date, time and place of hearing and shall communicate this to the parties, by writing, at least 7 days in advance.
- 12.4. If any party fails to appear at a hearing, of which notice has been given, without showing sufficient cause for such failure, the Tribunal may proceed with the arbitration and may make the award on the evidence before it.
- 12.5. Any party may be represented by legal practitioners or any other representatives.
- 12.6. The Tribunal shall have the widest discretion allowed by the Act to ensure the just, expeditious, economical and final determination of the dispute.
- 12.7. All meetings and hearings shall be in private unless the parties agree otherwise.

13. Witnesses

- 13.1. The Tribunal may direct any party to give notice of the identities of the witnesses it intends to call as well as the subject matter of their testimony and its relevance to the issues. The Tribunal has absolute discretion to allow, refuse or limit the appearance of witnesses.
- 13.2. Evidence may be given in the form of signed written statements, video or audio recordings, Exchange records, trading notes and other evidentiary material.
- 13.3. Exchange officials, floor traders and industry experts may be permitted to give evidence on trade practices and usages.
- 13.4. A party shall be responsible for the practical arrangements, cost and availability of any witness he is allowed to call by the Tribunal.

14. Centre to Provide Assistance

- 14.1. At the request of the Tribunal or either party, the Registrar will render such assistance as is required for the conduct of the arbitration, including arranging for facilities, suitable accommodation for sittings of the Tribunal, secretarial assistance or interpretation.
- 14.2. Any additional expense incurred or to be incurred for any such arrangements shall be borne by the parties.

15. Juridical Seat of Arbitration

- 15.1. The juridical seat of the arbitration shall be Singapore.
- 15.2. An award made under these Rules shall be deemed to be an award made in Singapore.

16. Language of Arbitration

The language of the arbitration shall be in English.

17. Closure of Hearings

- 17.1. The Tribunal may inquire of the parties if they have any further proof to offer or submission to be heard and if there are none, declare the hearings closed.
- 17.2. The Tribunal may also, in view of exceptional circumstances, reopen the hearings at any time before the award is made.

18. Deposits to Costs and Expenses

- 18.1. The Tribunal's fees and the Centre's management fees shall be ascertained in accordance with the Schedule of Fees in force at the time of commencement of the arbitration.
- 18.2. The Claimant shall at the time of filing the Notice of Arbitration make payment of:
 - a. the management fee for the claim; and
 - b. one-half of the Tribunal's feeascertained in accordance with the Schedule of Fees.
- 18.3. The Respondent shall at the time of filing the Response make payment of:
 - a. where there is a counterclaim, the management fee; and
 - b. one-half of the Tribunal's fee

ascertained in accordance with the Schedule of Fees.

- 18.4. Where the amount of the claim or the counterclaim is not quantifiable at the time payment is due a provisional estimate will be made by the Registrar. The management and Tribunal's fees will be adjusted in the light of such information as may subsequently become available. If the arbitration is settled or disposed of without a hearing, the amount of the management and Tribunal's fee shall be finally determined by the Registrar, who will have regard to all the circumstances of the case, including the stage of proceedings at which the arbitration is settled or otherwise disposed of.
- 18.5. The Registrar may from time to time direct parties to make one or more deposit(s) towards any further expenses incurred or to be incurred on behalf of or for the benefit of the parties.
- 18.6. All deposit(s) shall be made to and held by the Centre. Any interest which may accrue on such deposit(s) shall be retained by the Centre.
- 18.7. If a party fails to make the payments or deposits required or directed, the Tribunal may refuse to determine the claims or counterclaims, whichever is applicable, by the non-complying party, although it may proceed to determine claims or counterclaims by any party who has complied with orders.
- 18.8. The parties shall remain jointly and severally liable to the Centre for payment of all such fees and expenses until they have been paid in full even if the arbitration is abandoned, suspended or concluded, by agreement or otherwise, before the final award is made.
- 18.9. In the event that payment obligations under this Rule are not complied with by one party (the "Defaulting Party"), the non-defaulting party may apply to the Registrar or Tribunal to make payment in respect of the deposits owing by the Defaulting Party.
- 18.10. Should the parties fail to make the deposits requested for under this Rule either wholly or in part, the Registrar may direct the Tribunal to suspend its work until such deposits are paid.

19. The Award

- 19.1. The award shall be made promptly by the Tribunal within 14 days after close of hearing, or where the case proceeds on documents and evidentiary material only, from the date when all documents and evidentiary material are submitted to the Tribunal.
- 19.2. The Registrar may extend the time for the making of the award by the Tribunal.
- 19.3. The Tribunal need not state the reasons for the award.

- 19.4. The Tribunal may award simple or compound interest on any sum awarded at such rate or rates and in respect of such period or periods ending not later than the date of the award as the Tribunal considers just.
- 19.5. All awards must be issued through the Registrar.
- 19.6. The Tribunal must deliver to the Registrar a number of original copies of the award sufficient for the parties, the Exchange and for filing with the Registrar.
- 19.7. The Registrar shall release the award to the parties and the Exchange upon the full settlement of fees and expenses.
- 19.8. The award shall be final, binding and enforceable according to its terms and the parties undertake to carry out the award without delay.

20. Correction of Award

- 20.1. Within 7 days of receiving an award, unless another period of time has been agreed upon by the parties, a party may by notice to the Registrar request the Tribunal to correct in the award, any errors in computation, any clerical or typographical errors or any errors of similar nature.
- 20.2. If the Tribunal considers the request to be justified, it shall make the correction (s) within 7 days of receiving the request. Any correction shall be notified in writing to the parties and shall become part of the award.
- 20.3. The Tribunal may correct any error of the type referred to in Rule 20.1 on its own initiative within 7 days of the date of the award.

21. Settlement

- 21.1. If, before the award is made, the parties agree on a settlement of the dispute, the Tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the Tribunal, record the settlement in the form of an arbitral award on agreed terms.
- 21.2. The parties shall:
 - a. notify the Tribunal and the Registrar immediately if the arbitration is settled or otherwise terminated;
 - b. make provision in any settlement for payment of all the costs of the arbitration and fees due to the Centre and any expenses of the Tribunal.
- 21.3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the Tribunal, shall be communicated by the Tribunal to the Registrar and the Exchange.

22. Costs

- 22.1. The Tribunal shall specify in the final award, the costs of the arbitration and decide which party shall bear them and in what proportion they shall be borne.
- 22.2. In this Rule, “costs of the arbitration” shall include:
- a. The fees of the Tribunal and the Centre as determined by the Registrar in accordance with the Schedule of Fees;
 - b. The costs of expert advice or of other assistance rendered; and
 - c. All expenses which are reasonably incurred by the Centre in connection with the arbitration.
- 22.3. The Tribunal has power to order in its award, that all or part of the legal or other costs of one party shall be paid by the other party. Such costs shall, unless the award otherwise fixes or directs, be taxable by the Registrar.

23. Waiver

A party which is aware of non-compliance with these Rules and yet proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

24. Confidentiality

- 24.1. The parties and the Tribunal must at all times treat all matters relating to the arbitration (including the existence of the arbitration) and the award as confidential. A party or any arbitrator must not, without the prior written consent of the other party or the parties, as the case may be, disclose to a third party any such matter except:
- a. for the purpose of making an application to any competent court;
 - b. for the purpose of making an application to the courts of any State to enforce the award;
 - c. pursuant to the order of a court of competent jurisdiction;
 - d. in compliance with the provisions of the laws of any State which is binding on the party making the disclosure; or
 - e. in compliance with the request or requirement of any regulatory body or other authority which, if not binding nonetheless would be observed customarily by the party making the disclosure.
- 24.2. The Centre and the Exchange may however publish any award made under these Rules in any form provided that the names or identities of the parties shall not be disclosed without the consent of all the parties.

25. Exclusion of Liability

- 25.1. The Tribunal, the Chairman, the Centre, the Exchange and any of its officers, employees or agents shall not be liable to any party for any act or omission in connection with any arbitration conducted under these Rules, unless the act or omission is shown to have been in bad faith.
- 25.2. After the award has been made and the possibilities of correction and additional awards referred to in Rule 20 have lapsed or been exhausted, neither the Tribunal nor the Chairman shall be under any obligation to make any statement to any person about any matter concerning the arbitration, and no party shall seek to make any arbitrator or the Chairman or the Centre a witness in any legal proceedings arising out of the arbitration.

26. General

In all matters not expressly provided for in these Rules, the Tribunal and the Registrar shall act in the spirit of these Rules and shall make every reasonable effort to ensure that the disputes are resolved expeditiously and fairly and the awards are legally enforceable.

27. Amendments to Rules

These Rules may from time to time be amended by the Centre in consultation with the Exchange whenever necessary.