

Guidance Note: Clearing And Settlement

References: Chapter 7, CMAEC Business

Introduction

This guidance note has been issued to assist CMAEC brokers comply with their clearing and settlement obligations under the CMAEC Business Rules.

Regulatory Objectives

The key objectives of the CMAEC market clearing and settlement arrangements are to:

- complete transactions entered into on the CMAEC market as efficiently as possible;
- minimise the risk of transactions not being settled in a timely way;
- resolve outstanding issues in relation to clearing and settlement of transactions efficiently; and
- achieve the above aims as cost effectively as possible.

CMAEC regards achieving the above objectives as an important way of meeting several of the key principles upon which the CMAEC Business Rules are based.

Primary Obligations of CMAEC Brokers

Chapter 7 of the CMAEC Business Rules sets out the requirements of CMAEC brokers in relation to clearing and settlement.

The primary obligations of CMAEC brokers under Chapter 7 are to:

- settle trades on a broker to broker basis (Rule 7.01 for uncertificated transfers and Rule 7.29 for certificated transfers); and
- settle on a T + 5 basis (Rule 7.30 for uncertificated transfers); and
- settle on a T + 3 basis (Rule 7.22 for uncertificated securities)

Chapter 7 contains detailed provisions about how CMAEC brokers are to deal with corporate actions and taxation adjustments and requirements in relation to

documents.

CMAEC brokers should ensure they are well aware of their obligations in relation to clearing and settlement and corporate actions.

In particular, they should ensure they have relevant procedures in place so they can comply with their obligations efficiently and effectively.

Settlement Agents

Under CMAEC Business Rules 7.23 and 7.35, a CMAEC broker may appoint a settlement agent approved by CMAEC to carry out their delivery and settlement obligations under Chapter 7.

To be approved by CMAEC to act as a settlement agent an organisation must satisfy either CMAEC Business Rule 7.23 or 7.33.

Under CMAEC Business Rules 7.27 or 7.35 a CMAEC broker may, upon giving prior written notice to SIM VSE, appoint an organisation approved by CMAEC to act as their settlement agent.

If a CMAEC broker appoints a settlement agent they must ensure the settlement agent complies with the CMAEC Business Rules in relation to settlement of the CMAEC broker's transactions (Rules 7.24 or 7.37).

The CMAEC broker also remains responsible for the actions of their settlement agent (Rule 7.26 or 7.38). As at the time of issue of this Guidance Note, CMAEC had approved the organisations in the Table to act as settlement agents for CMAEC Brokers.

Clearing and Settlement Administrator

Under CMAEC Business Rule 7.39, CMAEC may appoint a clearing and settlement administrator on such terms as CMAEC believes are appropriate to monitor and report to CMAEC on the settlement of transactions that take place on the CMAEC market.

A CMAEC broker, or their settlement agent, is required under CMAEC Business Rule 7.41 to notify the clearing & settlement administrator of all of their settled and unsettled transactions by 4.30 pm on the day the transactions were due to settle.

CMAEC Powers in Relation to Clearing and Settlement Obligations

CMAEC reviews the reports from the clearing and settlement administrator to ensure that transactions on the CMAEC market are being settled in an orderly way.

If CMAEC believes a CMAEC broker is not complying with their settlement obligations, CMAEC has a range of actions it can potentially take against the CMAEC broker under the CMAEC Business Rules.

In particular, CMAEC can:

- suspend a CMAEC broker's dealing rights under Rule 6.19;
- impose fees for late settlement under Rule 7.22 or 7.32;
- take disciplinary action against the CMAEC broker under Chapter 8 of the CMAEC Business Rules;
- suspend or cancel a CMAEC broker's recognition under Chapter 8;
- declare a CMAEC broker a defaulter.

Scope of Guidance Note

This guidance note is intended to assist CMAEC brokers comply with their obligations under the CMAEC Business Rules. It is not exhaustive, does not in any way act as a substitute for any CMAEC Business Rules and is not binding on CMAEC in its application of the Rules in any particular case.

This guidance note does not constitute legal advice by SIM VSE. Where appropriate, CMAEC brokers should obtain their own professional advice about compliance with their obligations under the CMAEC Business Rules.