



ACH Clearing Rules Guidance Note No. 14

KEY TOPICS

1. Monthly Statements for Derivatives Market Transactions

ACH Clearing Rules

1. 2.1
2. 2.5.1
3. 4.15.1

Cross-reference

1. ASX Market Rule 7.17

Guidance Note History

Issued:

Re-Issued

Periodic Reporting Requirements

Purpose

This Guidance Note assists ACH Clearing Participants (“Participants”) to interpret ACH Clearing Rule 4.15.1 relating to despatch to clients of monthly statements for Derivatives Market Transactions.

Background

A number of participants have considered their procedures and the design of their statements dispatched for the purpose of Rule 4.15.1 having regard to the words "a statement" in the Rule. ACH received feedback that an interpretation had evolved that the Rule requires a single statement and that a series of statements would not meet the requirements of the Rule.

The Requirement For “A Statement”

When interpreting Clearing Rule 4.15.1, ACH has had regard to Clearing Rules 2.1(c) and 2.5.1 and to industry practice.

Clearing Rule 2.1(c) states that the singular includes the plural and vice-versa. Hence, an interpretation that the Rule could be satisfied by a series of statements is not unreasonable.

Clearing Rule 2.5.1 states that in the interpretation of a Rule, a construction that would promote the purpose or object underlying the Rules (whether that purpose or object is expressly stated in the Rules or not) is to be preferred to a construction which would not promote that purpose or object.

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The objectives of Clearing Rule 4.15.1 include ensuring that clients are fully aware of their financial position. Provided the information is all despatched to the client at the same time in a clear, concise and comprehensive manner, the objective of the Rule may be satisfied. If the Participant's objective or result is to confuse or hide matters from the client, the Rule's objective has not been satisfied. If the elements of Clearing Rule 4.15.1 are despatched to the client at different times, the Rule would not be satisfied.

Market practice has included despatch of Open Position Statements, Collateral Statements and Transaction Statements concurrently at the end of the month. These statements combined can be interpreted as satisfying the requirement for "a statement" for the purpose of Clearing Rule 4.15.

When interpreting Clearing Rule 4.15.1 ACH takes the view that a single statement containing all the information required by Clearing Rule 4.15.1 in a clear, concise and comprehensive manner would satisfy the Rule. Similarly a series of statements (such as Open Position Statements, Collateral Statements and Transaction Statements) containing all the information required by Clearing Rule 4.15.1 in a clear, concise and comprehensive manner and despatched to the client at the same time would satisfy the Rule.

Qualification

The Clearing House has published this note to promote commercial certainty and to assist Participants. Nothing in this note necessarily binds the Clearing House in the application of the Rules in a particular case. In issuing this note the Clearing House is not providing legal advice and market participants should obtain their own advice from a qualified professional person in respect of their obligations. The Clearing House may replace this Guidance Note at any time without further express notice to any particular person. Readers may contact the Clearing House to ensure they have the latest version.

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