

(Translation)

Contents

Regulations

Chapter 700: Clearing Fund

	Page
701 Clearing Fund Establishment	700-1
701.01 Objectives	700-1
701.02 Clearing Fund Contribution	700-1
701.03 Ownership in Assets Contributed to the Clearing Fund	700-1
701.04 Change in Funds	700-1
702 Clearing Fund Member	700-2
702.01 Admission of Membership	700-2
702.02 Member Duties	700-2
702.03 Termination of Membership	700-2
702.04 Admission of Membership Due to Transfer of TCH Membership Right	700-2
703 Clearing Fund Committee	700-3
703.01 Appointment of Clearing Fund Committee	700-3
703.02 Term of Office	700-3
703.03 Vacation from Office	700-3
703.04 Meeting	700-4
703.05 Duties of the Clearing Fund Committee	700-4
704 Clearing Fund Management	700-5
704.01 Funds Management	700-5
704.02 Fund Manager Duties	700-5
704.03 Auditor	700-5
705 Use of Funds	700-5
705.01 Use of Funds	700-5
705.02 Return of Funds	700-6
705.03 Placement of Collateral	700-6
706 Miscellaneous	700-7

(Translation)

Regulations

Chapter 700: Clearing Fund

701 Clearing Fund Establishment

701.01 Objectives

TCH may establish the Clearing Fund for the purpose of securing compensation for damage which may arise from default in the securities clearing and settlement system, or other damage which may arise from the acts of the Clearing Fund members in relation to securities clearing and settlement system of TCH.

The funds shall be as prescribed by the Clearing Fund Committee.

701.02 Clearing Fund Contribution

Assets contributed to the Clearing Fund shall comprise contributions from the SET and the Clearing Fund members, in accordance with the following criteria:

(1) the SET makes one lump sum Baht 100 million contribution, only upon the establishment of the Clearing Fund;

(2) a Clearing Fund member shall fully pay the contributions according to the types and amounts as follows:

(2.1) a fixed Baht 900,000 contribution shall be paid upon admission of membership;

(2.2) a monthly contribution shall be paid, based on the level of risk for damages arising from the acts of the respective members as prescribed by TCH, in the minimum amount of Baht 1,000.

In the event of a delay in payment of the monthly contribution by any Clearing Fund member, such member shall pay a fine of at least Baht 1,000 to the Clearing Fund. In the event of failure to pay the monthly contribution by any Clearing Fund member, the fund manager may fine such member at the maximum rate pursuant to the law governing the loan interest of financial institutions, from the date of the delayed payment until full payment is made, unless such rate is otherwise prescribed by the fund manager. The criteria shall be prescribed and notified to the member in advance.

701.03 Ownership in Assets Contributed to the Clearing Fund

The SET and the Clearing Fund members shall own the funds and be entitled to the benefits derived from the investment in the funds in proportion with their contributions made to the Clearing Fund.

The benefits derived from the investment in the funds shall be allotted to the Clearing Fund members based on the period commencing from the date of admission of membership, until the date of termination of membership of the respective members, unless in the case of a Clearing Fund member whose membership is terminated prior to the end of the fiscal year, the allocation shall be based on the period commencing from the date of admission of membership, until the end of the fiscal year before the membership of such member is terminated.

701.04 Change in Funds

Where TCH deems that the funds are not sufficient to accommodate the risk of the clearing and settlement system, the fund manager may contribute the interest or benefits derived from the investment in the funds to the Clearing Fund as contributions of the SET and the Clearing Fund members, in proportion with the contributions made by such person(s) to the Clearing Fund.

702 Clearing Fund Member

702.01 Admission of Membership

To apply for a membership of the Clearing Fund, the applicant must be in the process of applying for the right to use the clearing and settlement services of TCH, and submit the membership application to the fund manager in accordance with the form prescribed . The fund manager shall notify such person of their acceptance as a Clearing Fund member.

702.02 Member Duties

A Clearing Fund member shall have the following duties:

- (1) to make contributions to the Clearing Fund;
- (2) to repay money, together with the interest, to the Clearing Fund in accordance with this Regulation; and
- (3) to comply with the regulations, notifications, circulars, or instructions of TCH

702.03 Termination of Membership

The membership of a Clearing Fund member may be terminated in any of the following cases:

- (1) termination of TCH membership;
- (2) failure to pay contributions on two consecutive occasions;
- (3) failure to repay money, together with the interest, to the Clearing Fund, according to the demand for repayment sent from the fund manager;
- (4) violation or non-compliance with the regulations, notifications, circulars or instructions of TCH; or
- (5) resignation by way of submitting a resignation letter to the fund manager.

The termination of the membership of the Clearing Fund member shall be effective from the date designated by the fund manager. The Clearing Fund member whose membership is terminated shall be responsible for paying any outstanding debt and damages to the Clearing Fund, but shall be entitled to receive the remaining amount of the contributions paid to the Clearing Fund, and the benefits derived from the investment in the funds, after the settlement of the debt outstanding to the Clearing Fund.

702.04 Admission of Membership Due to Transfer of TCH Membership Right

(1) A Clearing Fund member, who transfers his TCH membership right to a transferee, shall concurrently transfer the Clearing Fund membership right to such transferee, except in the case of clause (2).

The member in the preceding paragraph, shall submit the application for transfer of the membership right to the fund manager in accordance with the form prescribed. Transfer of the membership right, and the admission of such transferee as a Clearing Fund member shall be effective from the date designated by the fund manager.

(2) Where the Clearing Fund member, who transfers the TCH membership right to a transferee, fails to transfer the Clearing Fund membership right in accordance with clause (1), such member shall resign from the Clearing Fund, and cause the transferee to submit the applicant for Clearing Fund membership to the fund manager by complying with the criteria and procedures as follows:

(Translation)

(2.1) The Clearing Fund member shall resign by submitting a resignation letter to the fund manager, and ensure that the transferee of the TCH membership right concurrently submits their membership application in accordance with the form prescribed. The resignation of said Clearing Fund member, and the admission of the transferee as a Clearing Fund member, shall be effective from the date designated by the fund manager.

(2.2) The transferee of the TCH membership right shall pay the fixed contribution upon their admission of membership, in the amount equivalent to the sum of the contributions paid by the resigning member and the benefits derived from the investment in the funds.

The resigning member agrees that the fund manager may use the money entitled to him under the last paragraph of Regulation 702.03, to pay the fixed contributions of the transferee of the TCH membership rights. If such amount is still insufficient, the transferee of the TCH membership rights shall pay the shortfall in fixed contributions upon the admission of membership.

703 Clearing Fund Committee

703.01 Appointment of the Clearing Fund Committee

The Clearing Fund shall have a committee which comprises five (5) members, three (3) of whom shall be appointed by the SET and the other two (2) shall be appointed by the Clearing Fund members. The fund manager shall be appointed by the SET.

In electing the committee members, the Clearing Fund members shall comply with the criteria and procedures prescribed by the fund manager. The Clearing Fund Committee shall elect one committee member as the Chairman of the Committee.

703.02 Term of Office

The members of the Clearing Fund Committee, who are appointed by the SET or the Clearing Fund members, shall hold the office for two (2) years for each term. Upon the expiration of one (1) year in their first term of office, two (2) committee members shall retire, by way of drawing lots. Such retirement shall be deemed as rotation.

Upon the rotation of the members of the Clearing Fund Committee, the replacement members shall be appointed or elected within 30 days. The retiring committee members shall hold the office, and perform duties until such new committee members are appointed or elected and assume such duties.

A member of the Clearing Fund Committee who retires by rotation, is eligible for reappointment or reelection for only two (2) consecutive terms.

703.03 Vacation from Office

Apart from rotation under Regulation 703.02, a member of the Clearing Fund Committee may vacate the office for the following reasons:

- (1) death;
- (2) removal by the SET which has appointed such committee member;
- (3) removal by the Clearing Fund members who have appointed such committee member;
- (4) resignation;
- (5) bankruptcy;
- (6) being an incompetent or quasi-incompetent person; or

(Translation)

(7) being imprisoned under the final judgment, except for punishment for offences committed through negligence or petty offences.

Where any committee member retires prior to the expiration of his term, the SET or the Clearing Fund members, whoever has appointed or elected such committee member, may appoint or elect another person to fill such vacancy, as the case may be, and the newly appointed or elected committee member shall hold the office for the remaining term of office of the committee member he has replaced.

703.04 Meetings

At Clearing Fund Committee meetings, the presence of at least one-half of the total number of committee members is required to constitute a quorum.

At any Clearing Fund Committee meetings, if the chairman is absent or not able to perform the duty, the committee members attending the meeting shall elect one committee member to chair the meeting.

The decision of the meeting requires a majority affirmative vote. One committee member shall have one vote. In the case of a tie, the chairman of the meeting shall have a casting vote.

703.05 Duties of the Clearing Fund Committee

The Clearing Fund Committee shall have the power and authority to set out the policy on the management of the funds, and the supervision of the performance of the fund manager in accordance with this Regulation. The Clearing Fund Committee shall receive remunerations as prescribed by TCH.

In determining the funds management policy, the Clearing Fund Committee may prescribe that the investment in securities or other assets, or procurement of interest be made, by taking into account the liquidity and investment risk, as well as the possible effects with regard to the stability of the securities clearing and settlement system of TCH, in one or several ways as follows:

- (1) Government bonds;
- (2) bonds issued by a state enterprise or juristic person established under a specific law;
- (3) debentures or notes which are securities under the law on securities and exchange;
- (4) promissory notes issued by a finance company or credit foncier;
- (5) bills of exchange accepted or avaled by a commercial bank or finance company;
- (6) certificates of deposit issued by a commercial bank or finance company;
- (7) cash deposits in a commercial bank or other banks established under a specific law;
- (8) investment units or investment unit warrants;
- (9) securities or other assets as designated from time to time by the Clearing Fund Committee.

The cost and expenses in relation to the operation, the remuneration of the Clearing Fund Committee and the auditor fee shall be deducted from the funds.

704 Clearing Fund Management

The fund manager shall have the power to undertake general administration, maintain and manage the funds in accordance with the objectives of the Clearing Fund, and to comply with this Regulation, as well as to act on behalf of the Clearing Fund in business involving a third person. The fund manager may delegate any person to act on his behalf for the foregoing purposes.

704.01 Funds Management

With respect to the management of the funds, the fund manager or a person delegated by the fund manager, shall have the power to manage the funds in accordance with the funds management policy as determined by the Clearing Fund Committee.

In the event that the interests or benefits are derived from the investment in the funds or from other activities, the fund manager, with the approval of the Clearing Fund Committee, may allot the same to the SET and the Clearing Fund members at the end of every fiscal year, in proportion with their respective contributions made to the Clearing Fund.

704.02 Fund Manager Duties

(1) The fund manager shall keep and maintain the books representing the financial condition of the Clearing Fund separate from the books and financial records of TCH.

(2) The fund manager shall cause the preparation of the balance sheet and the profit/loss statements as of the end of the fiscal year, and cause the same to be certified by an auditor for presenting to the Clearing Fund Committee for consideration and approval.

(3) The fund manager shall submit the balance sheet and the profit/loss statement, which have been approved by the Clearing Fund Committee, to the SET and the Clearing Fund members within 30 days from the date of receipt of approval from the Clearing Fund Committee.

704.03 Auditor

The Clearing Fund Committee shall appoint an auditor, and specify the auditor fee for every fiscal year. The same auditor may be reappointed.

705 Use of Funds

705.01 Use of Funds

The fund manager shall have the power to use the funds in such a way, so that TCH can use such funds in settlement or delivery of default securities, together with the damages, according to the regulations of TCH, or in order to compensate for any other damage arising from the acts of Clearing Fund members in relation to securities clearing and settlement of TCH in the following order:

- (1) contributions to the Clearing Fund by the defaulting Clearing Fund member;
- (2) contributions to the Clearing Fund by other Clearing Fund members;
- (3) contributions to the Clearing Fund by the SET.

The use of funds under clause (2) shall be in proportion with the contributions made by the Clearing Fund member to the Clearing Fund.

705.02 Return of Funds

(1) Upon the payment of funds to TCH under Regulations 705.01, the defaulting Clearing Fund member shall be responsible for reimbursement of the funds so paid to the Clearing Fund, together with the interest accrued from the date of payment of the funds.

(Translation)

The interest in the preceding paragraph shall be calculated at the maximum rate of interest pursuant to the law governing loan interest of financial institutions, from the date of the payment of the capital fund until the date of repayment of such funds, unless otherwise prescribed by the Clearing Fund Committee.

(2) Where the defaulting Clearing Fund member fails to repay the funds and the interest within the date of payment of such funds, the fund manager may take the following actions:

(2.1) to suspend the payment, which the defaulting Clearing Fund member is entitled to receive according to the report, on the date of utilization of the funds and thereafter, and to use such amount to repay the funds and the interest;

(2.2) to suspend the delivery of the securities in the clearing account, which the defaulting Clearing Fund member is entitled to receive according to the report, on the date of utilization of the funds and thereafter, and to sell such securities in order to repay the funds and the interest;

in the amount equivalent to the funds, which has been used, less the contributions to the Clearing Fund by the defaulting Clearing Fund member, until the repayment of the funds and interest is made.

(3) Where the defaulting Clearing Fund member, or the Clearing Fund member who causes the damage, repays the funds to the fund manager, such amount shall be allotted and returned the funds in the following order:

(3.1) contributions to the Clearing Fund by the SET;

(3.2) contributions to the Clearing Fund by other Clearing Fund members;

(3.3) contributions to the Clearing Fund by the defaulting Clearing Fund member, or the member causing the damage.

705.03 Placement of Collateral

(1) Where the value of the securities in the clearing account of the defaulting Clearing Fund member, which have been suspended in accordance with Regulation 705.02 (2) (2.2), is not sufficient to cover the amount of funds used, less the contributions to the Clearing Fund by the defaulting Clearing Fund member, the fund manager may require such member to place full collateral no later than the business day next to the date of utilization of the funds.

If the defaulting Clearing Fund member fails to place, or fully place the collateral, the fund manager may give a notice demanding such member to repay the funds and the interest within the time specified. If such member fails to comply with such notice, the fund manager may terminate his membership.

(2) Where the defaulting Clearing Fund member places the collateral, but fails to repay the funds and the interest within the time specified by the fund manager, the fund manager may enforce such collateral to make a full repayment of the funds and the interest.

The fund manager may delegate TCH to suspend the settlement, or delivery of the securities, under Regulation 705.02, or the enforcement against the collateral under Regulation 705.03 (2) on his behalf.

Where the fund manager pays the funds to TCH under Regulation 705.01 for settlement or delivery of the default securities, in whole or in part, together with the damages, if TCH suspends the money or securities, which the defaulting Clearing Fund member is entitled to receive, or holds the collateral placed by such member for the purpose of the settlement or delivery of the default securities and the damages, the fund manager shall be entitled to suspend or enforce the use of such money, securities, or collateral for the purpose of repayment of the funds and the interest.

(Translation)

706 Miscellaneous

(1) With regard to the problem as to whether the repayment of the default Clearing Fund member, the suspension of settlement or delivery of the securities, which such member is entitled to receive according to the report, or the enforcement against the collateral placed by such member is made for the purpose of repayment of outstanding debt, or for the purpose of repayment of the funds, it shall be deemed as being for the purpose of repayment of outstanding debt to TCH first.

(2) Where the damage arises from the acts of the Clearing Fund member in relation to the securities clearing and settlement of TCH, the fund manager shall use the funds to compensate such damage. In this regard, Regulation 705 shall apply, mutatis mutandis.