



Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00257-R00		
Subject:	Prudential Requirements		
Title:	Form of Pledge of Cash or Cash Equivalent		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input type="checkbox"/> Addition
Chapter:	2	Appendix:	
Sections:	5.7.5		
Sub-sections proposed for amending:	5.7.5.2		

PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Submitted for Technical Panel Vote	May 12, 2004
2.0	Recommended by Technical Panel and Submitted for IMO Board Approval	May 18, 2004
3.0	Approved by IMO Board	June 10, 2004
Approved Amendment Publication Date:		June 11, 2004
Approved Amendment Effective Date:		July 6, 2004

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IMO-administered markets* if the amendment is not made
- Alternative solutions considered
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IMO-administered markets*.

Summary

It is proposed to amend the market rules to require market participants that provide cash or cash equivalent prudential support, to do so “in a form acceptable to the IMO”. This change would require the market participant to sign the “Pledge of Cash and Treasury Bills” form and thus provide greater assurance that the IMO will be able to access the market participant’s cash prudentials in the event of the market participant’s payment default. This, in turn, would provide greater assurance of protection for the rest of the market against a possible default levy resulting from the market participant’s payment default.

Background and Discussion

Section 5.0 of Chapter 2 of the market rules specifies the prudential requirements for market participants. These prudential requirements are provided and maintained on an on-going basis in order to protect the IMO-administered markets from market participant payment defaults. In section 5.7.5.2 of Chapter 2 there is no explicit requirement for market participants to sign the “Pledge of Cash and Treasury Bills” when they provide cash or treasury bills as prudential support. Through signing this pledge the market participant formally acknowledges the IMO’s right to the market participant’s cash in the event of a payment default.

On one occasion, as a result of a decrease in its bond rating, a market participant provided a cash deposit to the IMO to meet its prudential requirements instead of the guarantee it had initially provided. The market participant provided the requested cash deposit, but refused to sign the “Pledge of Cash and Treasury Bills” form approved by the IMO Board. Under the current market rules, therefore, there is a possibility that the IMO’s access to a market participant’s cash prudentials in the event of that market participant defaulting could be challenged and frustrated by the market participant.

Other market rules that relate to guarantees provided for prudential support purposes require market participants to provide the guarantee “in a form acceptable to the IMO” (section 5.7.2.2 of Chapter 2). It is this provision which obligates market participants to use the IMO Board approved form of guarantee, acknowledging the IMO’s right to realize upon that guarantee in the event of the market participant’s payment default. A comparable provision is required for cash or cash equivalent prudential support in order to provide the same degree of protection to the market.

PART 4 – PROPOSED AMENDMENT

5.7 Obligation to Provide Prudential Support

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5.7.5 The minimum terms and conditions that shall be included in the *prudential support* shall be as follows:

- 5.7.5.1 *prudential support* provided in accordance with sections 5.7.2.1, 5.7.2.2 and 5.7.2.4 shall be obligations in writing;
- 5.7.5.2 *prudential support* provided in accordance with section 5.7.2.3 shall be an obligation reflected in a written instrument in a form acceptable to the IMO;
- 5.7.5.3 *prudential support* provided in accordance with sections 5.7.2.1 and 5.7.2.3 shall constitute valid and binding unsubordinated obligations to pay to the *IMO* amounts in accordance with its terms which relate to the obligations of the relevant *market participant* under the *market rules*; and
- 5.7.5.4 *prudential support* provided in accordance with sections 5.7.2.1 to 5.7.2.4 shall permit drawings or claims by the *IMO* on demand to a stated certain amount.

PART 5 – IMO BOARD COMMENTS