



SINGAPORE EXCHANGE LIMITED

PUBLIC CONSULTATION

PURSUANT TO SECTION 23(2) OF THE SECURITIES AND FUTURES ACT, REGULATION 19(2) OF THE SECURITIES AND FUTURES (MARKETS) REGULATIONS 2005 AND REGULATION 22(2) OF THE SECURITIES AND FUTURES (CLEARING FACILITIES) REGULATIONS 2005, THE EXCHANGE HEREBY CONSULTS ITS PARTICIPANTS ON THE PROPOSED AMENDMENTS TO ITS BUSINESS RULES.

**COMPOSITION SYSTEM AND MANDATORY MINIMUM PENALTIES FOR
RULE VIOLATIONS IN THE SECURITIES MARKET**

DATE ISSUED: 14 February 2008

DEADLINE: 6 March 2008

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**INTRODUCTION OF COMPOSITION SYSTEM AND MANDATORY MINIMUM
PENALTIES BY DISCIPLINARY COMMITTEES
FOR RULE VIOLATIONS IN THE SECURITIES MARKET**

14 FEBRUARY 2008

A. INTRODUCTION

1. The Singapore Exchange Limited (“SGX”) refers to the public consultation paper titled “Introduction of Composition System and Mandatory Minimum Penalties by Disciplinary Committees for Rule Violations in the Derivatives Market” issued on 19 December 2007 (“**the Derivatives Proposal**”) (attached at **Appendix A**).
2. As indicated in the Derivatives Proposal, SGX is similarly proposing to introduce these two proposals for rule violations in the securities market.

B. PROPOSED ENFORCEMENT FRAMEWORK FOR THE SECURITIES MARKET

3. The proposed framework and structure of the composition system and mandatory minimum fines for the securities market is similar to the framework proposed for the derivatives market. Please refer to Appendix A for more details in relation to these two proposals.
4. In line with the proposal for the derivatives market, the introduction of a composition system in the securities market will serve to facilitate the prompt resolution and efficient disposal of cases which are administrative in nature, as SGX may offer composition to the offender upon conclusion of investigations.
5. As a complementary measure to the composition system, mandatory minimum penalties to be imposed by Disciplinary Committees will ensure that the quantum of any penalty imposed for all non-compoundable violations does not fall below the upper end of the range of composition sums. This proposal assists in maintaining an overall consistency in the sentencing approach within the sentencing framework.

C. PROPOSED COMPOSITION SYSTEM IN THE SECURITIES MARKET

6. The composition system will provide an alternative option of allowing an offender to resolve a rule violation by fulfilling certain conditions without going through the process of Disciplinary Committee hearings.
7. Rule violations under the SGX-ST Rules and CDP Clearing Rules have been classified into two categories – “compoundable” and “non-compoundable” violations. Violations which are classified as “compoundable” are violations for which SGX has the option of offering composition and stipulate any accompanying terms in order to settle the matter.
8. *Amendments to the SGX-ST Rules and CDP Clearing Rules.* New rules 14.3A and 11.3A will be incorporated into the SGX-ST Rules and CDP Clearing Rules respectively to introduce the system of composition fines for rule violations in relation to trading, clearing and settlement in the securities market.
9. *Publication of schedules in the SGX-ST and CDP Clearing Rulebooks.* Similar to the proposed practice in the derivatives market, SGX proposes to publish schedules in the respective rulebooks setting out guidelines on the range of composition sums it may offer.

The proposed schedules for compoundable rule violations under the SGX-ST Rules and CDP Clearing Rules are set out in **Appendices B and C** respectively.

10. SGX retains the discretion to refer a rule violation to the relevant Disciplinary Committee without making an offer of composition even if the rule violation has been classified as compoundable.
11. If an offer of composition is made to a repeat offender, the composition sum will be offered at a higher tariff. This is reflected in the proposed schedules, where the guidelines for the composition amounts increase correspondingly with each subsequent offence (see fourth to ninth columns of Appendix B and fourth to sixth columns of Appendix C).
12. In respect of compoundable rule violations, SGX will consider records for a period of up to three years preceding the date of the commission of the current rule violation(s) for the purposes of determining repeat rule violations. For the purposes of determining the composition sum only, SGX will not treat any rule violation for which the offender has been dealt with prior to the implementation of the composition system as a previous rule violation. SGX may, however, take these previous rule violations into consideration in determining the appropriate enforcement action to be taken against the offender.
13. SGX will not publish details relating to an offer of composition by SGX or acceptance of composition by any party or the terms of the composition offer.

D. PROPOSED MANDATORY MINIMUM FINES TO BE IMPOSED BY DISCIPLINARY COMMITTEES FOR SPECIFIED RULE VIOLATIONS

14. *Mandatory minimum penalties for non-compoundable violations.* SGX also proposes to introduce mandatory minimum penalties which Disciplinary Committees must impose for non-compoundable violations if they are satisfied that charges brought before them have been established. Similar to the derivatives market, SGX proposes two categories of mandatory minimum penalties for non-compoundable violations – general minimum penalties and specific minimum penalties.
15. *General minimum penalties.* SGX proposes to set a general minimum penalty of S\$10,000 for all non-compoundable rule violations, except for exceptionally serious offences for which SGX has proposed to set specific minimum penalties.
16. *Specific minimum penalties.* Such penalties are designated for particularly egregious rule violations which mirror the provisions of Part XII of the Securities and Futures Act. Higher minimum penalties have been proposed to reflect the severity of these rule violations. For example, a mandatory minimum penalty of \$30,000 has been proposed for the offence of market manipulation under SGX-ST Rule 13.8.1.
17. *Rule amendments to introduce mandatory minimum penalties to the securities market.* Similarly, new rules 14.5.5 and 11.5.5 will be incorporated into the SGX-ST Rules and CDP Clearing Rules respectively to introduce mandatory minimum sentences for non-compoundable violations. Please refer to **Appendices B and C** for the proposed mandatory minimum penalties for non-compoundable violations under the SGX-ST Rules and the CDP Clearing Rules respectively.
18. Where a minimum penalty sum has been stipulated in respect of a particular rule violation, if the Disciplinary Committee is satisfied that the Exchange has established the charge, the Disciplinary Committee must impose a penalty not lower than the stipulated minimum amount. In addition, the Disciplinary Committee may choose to impose, in addition to the minimum penalty, any one or more of the sanction(s) as set out in SGX-ST Rule 14.5.4 or

CDP Clearing Rule 11.5.4. See proposed SGX-ST Rule 14.5.5(2) and CDP Clearing Rule 11.5.5(2).

19. For the avoidance of doubt, where SGX exercises its discretion to refer cases which are classified as “compoundable” to the Disciplinary Committee, there are no mandatory minimum penalties which must be imposed upon establishment of the charge(s).
20. While offences in the SGX-ST Rules and CDP Clearing Rules have been classified into compoundable and non-compoundable offences, SGX retains the discretion to determine whether to take any, and if so the appropriate, enforcement action against the offender, depending on the circumstances of the case. For example, in cases where SGX is of the view that there is insufficient evidence against the offender, SGX may take no further action on the matter even if the offence has been classified as non-compoundable offence.

E. SEGREGATION OF COMPOSITION SUMS COLLECTED

21. In line with the proposed practice for the derivatives market, the monies collected from composition sums will be channeled to a segregated account, which will not go towards SGX’s revenues.

F. REQUEST FOR COMMENTS

22. We seek your comments and welcome both substantive as well as drafting comments. In particular, we would like your views, if any, on the following issues:
 - a. what are your views on the proposed classification of rule violations into the categories of “compoundable” and “non-compoundable”? Are there any rule violations in the SGX-ST Rules or CDP Clearing Rules which should be more appropriately classified in another category? Please state the rule violation and the reason for your proposed classification.
 - b. are the proposed ranges of composition sums for Trading Members, Clearing Members, Approved Executive Directors and/or Trading Representatives for the various rule violations appropriate? If not, should they be higher or lower? Please give reasons.
 - c. besides pecuniary terms, what other terms of settlement would be appropriate when SGX makes offers of composition to offenders?
 - d. what are your views on the proposed mandatory minimum penalties to be imposed by Disciplinary Committee for specific rule violations in the SGX-ST Rules and CDP Clearing Rules? Is the proposed general minimum penalty of \$10,000 for non-compoundable violations appropriate? If not, should it be higher or lower? Please give reasons.
 - e. besides minimum penalties, are there any other sanctions under SGX-ST Rule 14.5.4 and CDP Clearing Rule 11.5.4 which should be mandatory if the Disciplinary Committee is satisfied that the charge has been established? For example, should minimum periods of suspension of the Trading Member, Clearing Member Approved Executive Director or Trading Representative be a mandatory sanction for certain non-compoundable rule violations? Please state the rule violation and give reasons for your views.

G. PROCEDURE AND DEADLINE TO SUBMIT COMMENTS

23. Written submissions are to be sent to the Exchange through email *and* either by post/courier or by fax:

Email: rules@sgx.com

AND

Post/Courier: Singapore Exchange Limited
2 Shenton Way, SGX Centre 1
#27-00,
Singapore 068804
Attn: **Chng Hwee Chin, Regulatory Policy**
Fax: 6535 5573

24. Comments should be organized in the following manner:
- (a) cover page;
 - (b) statement of interest
 - (c) table of contents;
 - (d) summary of major points;
 - (e) comments; and
 - (f) conclusion.
25. Supporting material may be placed in an annex. All submissions should be clearly and concisely written, and should provide a reasoned explanation for any proposed revision to the rules. Where feasible, participants should identify the specific rule on which they are commenting. In any case in which a participant chooses to suggest revisions to the text of the rules, the participant should state clearly the specific changes to the text that they are proposing.
26. All submissions should be made on or before **6 March 2008**. Submissions must be submitted in both hard and soft copies (in Microsoft Word format) and font size should be no smaller than Times New Roman 11pt. Participants submitting comments should include their personal/company particulars as well as their correspondence address, contact numbers and email addresses on the cover page of their submissions.
27. The Exchange reserves the right to make public all or parts of any written submission and to disclose the identity of the source. Participants may request confidential treatment for any part of the submission that the participant believes to be proprietary, confidential or commercially sensitive. Any such information should be clearly marked and placed in a separate annex. If the Exchange grants confidential treatment, it will consider the comments but will not publicly disclose the information. If the Exchange rejects the request for confidential treatment, it will return the information to the party that submitted it and will not consider the information as part of its review. In the interests of market transparency, participants should limit any request for confidential treatment of information submitted. The Exchange will not accept any submission that requests confidential treatment of all, or a substantial part, of the submission.