

SFE NOTICE NO.

50/06

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CLIENTS' SEGREGATED ACCOUNT PROVISIONS

The objective of this Notice is to remind all Participants and end user clients of the provisions relating to a Clients' Segregated Account (CSA) and to clarify how a CSA functions and the potential contingent liabilities which may arise for clients (including Local Participants) out of the operation of a CSA.

For this reason, it is strongly recommended that Participants pass this Notice on to clients for their information.

The purpose of a CSA is to segregate moneys deposited by clients of a Participant from the Participant's own money, thus insulating the clients' moneys from liabilities arising from proprietary trading by the Participant or any other business liabilities incurred by the Participant. The moneys in a Participant's CSA **cannot** be applied to satisfy margin liabilities for a Participant's own trading or any other liabilities of the Participant that do not relate to client dealings.

Part 7.8 of the Corporations Act details the provisions relating to segregation of clients' moneys for Australian Financial Services Licence holders providing futures broking services and these provisions are reflected in detail in the Exchange Operating Rules. In addition, the Operating Rules of SFE Clearing Corporation (SFECC) require that clients' moneys be segregated at Clearing House level and that clients' moneys are not permitted to be used to meet any default on the House Clearing Account of a Clearing Participant.

It should be highlighted that **individual client moneys are not separated from each other** as all clients' moneys are co-mingled into the CSA held by the Participant. This is consistent with the Corporations Act and the Exchange Operating Rules – refer Rule 2.2.26 and related guidance. As a result, **it is important for clients (including Local Participants) to understand that the operation of a CSA may not protect an individual client's money in the case of a default arising from the trading of any other client of that Participant. In such a case, assets in the accounts of non-defaulting clients are potentially at risk, even though these clients did not cause the default.** A Participant has the right to apply all clients' moneys held in the CSA to meet any default of another client.

Should there be insufficient clients' moneys to meet margin liabilities in the CSA, a Participant is required under Exchange Operating Rule 2.2.26(f) to "top up" the CSA by the extent of any shortfall within five (5) clear business days. Therefore, a Participant's own money would be applied to satisfy a default in its CSA. It could arise that the Participant's own money may not be sufficient to cover the whole default – for example, in the event that the Participant itself becomes insolvent as a result of the client default or for other reasons including losses on its own trading.

In summary, total CSA moneys would be at risk after Participant moneys have been applied to cover any shortfall in the CSA. An individual client's moneys may be at risk as such individual balances are not separated from each other but instead are co-mingled into the one CSA.

Should you have any further queries in relation to the above, please contact Robert Coaldrake - Senior Manager, Compliance and Surveillance on 9256 0495 or via e-mail on rcoaldrake@sfe.com.au.



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