

# **Financial Services (Spot Commodity Market and Intermediaries) Rules 2024**

**GN No. 23 of 2024**

**Government Gazette of Mauritius No. 14 of 9 February 2024**

## **THE FINANCIAL SERVICES ACT**

**FSC Rules made by the Financial Services Commission under section 93 of the  
Financial Services Act**

### **PART I – GENERAL PROVISIONS**

#### **1. Citation**

These Rules may be cited as the **Financial Services (Spot Commodity Market and Intermediaries) Rules 2024**.

#### **2. Interpretation** In these Rules –

"business rules" means any rules made by a spot commodity market or a spot commodity clearing house to govern the activities and conduct of –

(a) the spot commodity market, the spot commodity clearing house, the members or the clearing members, as the case may be; and

(b) any other person involved in the spot commodity market;

"carbon offsets" means tradable rights linked to business activities that lower the amount of carbon dioxide in the atmosphere;

"commodity" means any agricultural, livestock, fishery, forestry, mining, energy, environmental good or any product, that is manufactured or processed from any such goods;

"commodity derivatives" means options, futures, forwards and other similar derivatives on commodities;

"customer assets" –

(a) means money received or retained by, or any other property, deposited with, a spot commodity market intermediary in the course of his business for which he is liable to account to the customer; and

(b) includes any money or other property accruing therefrom;

"member" means a person who holds a membership in a spot commodity market or spot commodity clearing house, whether or not the person holds any share in the share capital of that spot commodity market or spot commodity clearing house;

"securities" has the same meaning as in the Securities Act;

"securitisation" means the process through which commodities may be pooled and repackaged into securities;

"spot commodity broker" in relation to a spot commodity market, means a corporation which carries on the business of soliciting, or accepting orders, for the spot purchase or sale of commodities by way of or relating to a contract, whether or not the business is part of, or is carried on in conjunction with, any other business;

"spot commodity broker's representative" means an individual who is mandated to perform any of the functions of that spot commodity broker in connection with trading in spot commodity contracts, whether the person's remuneration is by way of salary, wages, commission or otherwise;

"spot commodity clearing house" in relation to a spot commodity market means a corporation that –

(a) clears and settles spot commodity contracts; and

(b) makes adjustments to the contractual obligations arising out of those spot commodity contracts;

"spot commodity contracts" means –

(a) contracts relating to commodities of a fungible nature that are capable of being promptly delivered physically or settled through the exchange of ownership title such as warrants, bills of lading, freight contracts or warehouse 'receipts;

(b) which can be traded on a secondary market; and

- (c) includes an energy or an environmentally-linked financial instrument deemed by the Commission to be a carbon offset;

"spot commodity market" means –

- (a) a market, whether in Mauritius or elsewhere, at which spot commodity contracts are regularly transacted; or
- (b) an electronic system, including an electronic facility which is based on distributed ledger technology or any other relevant technologies, whether operating in Mauritius or elsewhere –
  - (i) through which trading in spot commodity contracts is carried out; and
  - (ii) which provides price or other information relating to spot commodity contracts and permits users of the facility to channel orders for, execute transactions in, or make markets in, spot commodity contracts;

"spot commodity market intermediary" refers to a spot commodity broker, spot commodity broker's representative, spot commodity trading adviser or spot commodity trading adviser's representative;

"spot commodity trading adviser" means any corporation who –

- (a) carries on the business of advising others (directly or indirectly, through publications or writings, or by whatever means or media) on spot commodity contracts, including on the trading in any spot commodity contract;
- (b) as part of a regular business, issues or promulgates analysis or reports concerning spot commodity contracts; or
- (c) pursuant to a contract or an arrangement with a customer, undertakes on behalf of that customer (whether on a discretionary authority or otherwise granted by the customer) to enter into any spot commodity contract for the purposes of managing its funds,

but does not include –

- (i) a bank licensed under the Banking Act; and
- (ii) a spot commodity broker or spot commodity broker's representative;

"spot commodity trading adviser's representative" means an individual who is mandated to perform any of the functions of a spot commodity trading adviser, whether his remuneration is by way of salary, wages, commission or otherwise.

### **3. Application of these Rules**

- (1) These Rules shall apply to any person involved in the trading, clearing, settlement and intermediation of spot commodity contracts in and from within Mauritius.
- (2) These Rules shall not apply to –
  - (a) any business activity involving commodity derivatives;
  - (b) capital formation or raising;
  - (c) the securitisation of any commodity or group of commodities; or
  - (d) any other business activity or arrangement involving commodities that is not deemed by the Commission to constitute financial services.

## **PART II – SPOT COMMODITY MARKET AND SPOT COMMODITY CLEARING HOUSE**

### **4. Establishment and licensing of spot commodity market and spot commodity clearing house**

- (1) No person shall establish, maintain, assist in establishing or maintaining or hold himself out as providing or maintaining any spot commodity market in or from Mauritius, unless it holds a spot commodity market licence issued by the Commission.
- (2) No person shall establish, maintain, provide, assist in establishing, maintaining or providing, or holding himself out as maintaining or providing a spot commodity clearing house for a spot commodity market unless it holds a spot commodity clearing house licence issued by the Commission.
- (3) Without prejudice to section 18 of the Act, the Commission shall not grant a spot commodity market licence or a spot commodity clearing house licence unless it is satisfied that –

- (a) the applicant has appropriate and competent staff commensurate with the size, nature and complexity of the business activity;
  - (b) the applicant has the minimum stated unimpaired capital as specified in rule 7;
  - (c) the applicant will operate its business and operations in an orderly, informed and fair manner;
  - (d) the applicant will manage any risk associated with its business and operations prudently;
  - (e) the applicant will conduct due diligence of its members, in accordance with the requirements of the laws governing anti-money laundering and terrorism financing;
  - (f) the applicant made satisfactory provisions, in its business rules –
    - (i) for the matters referred to in rule 5 or rule 6, where applicable; and
    - (ii) for mechanism to ensure compliance with those provisions by its members; and
  - (g) the applicant meets the requirements for responsible and sustainable sourcing referred to in rule 8.
- (4) A person holding spot commodity market licence or a spot commodity clearing house licence shall, at all times, continue to satisfy the requirements specified in paragraph (3), after the grant of the licence.
- (5) A spot commodity market or spot commodity clearing house licensed by the Commission shall not engage in any business activity other than those for which it is licensed, except with the prior approval of the Commission.

## **5. Business rules of spot commodity market**

- (1) A spot commodity market may make business rules, not inconsistent with the Act, these Rules or any other applicable enactment, with respect to the operation of the spot commodity market.

- (2) A spot commodity market shall not issue or amend its business rules, unless it has obtained the prior written approval of the Commission.
- (3) Any business rules made under paragraph (1) including any amendments to the business rules, shall be of no effect unless approved by the Commission.
- (4) The business rules made under paragraph (1) shall at least provide –
  - (a) for the exclusion from membership of persons who are not of good character and high business integrity;
  - (b) for the expulsion, suspension or disciplining of members for conduct inconsistent with just and equitable principles in the transaction of business, or for a contravention of the business rules of the spot commodity market;
  - (c) for the terms and conditions under which spot commodity contracts may be made;
  - (d) where applicable, with respect to the clearing and other arrangements made, and the financial conditions of the spot commodity market, its spot commodity clearing house and its members, reasonable assurance that all obligations arising out of any contracts entered into on that spot commodity market will be met;
  - (e) that trading practices are fair and properly supervised;
  - (f) that adequate measures have been taken to prevent manipulation and excessive speculation;
  - (g) that adequate provision has been made to record and publish details of trading; and
  - (h) for general provisions for carrying on the business of the spot commodity market with due regard to the interests and protection of the public.

## **6. Business rules of spot commodity clearing house**

- (1) A spot commodity clearing house may make business rules, not inconsistent with the Act, these Rules or any other applicable enactment, with respect to the operation of the spot commodity clearing house.

- (2) Business rules made under paragraph (1) including any amendments to the business rules, shall be of no effect unless approved by the Commission.
- (3) The business rules made under paragraph (1) shall at least provide for –
  - (a) the clearing and settlement procedures;
  - (b) information relating to the registration of, and guaranteeing to the members of the spot commodity clearing house of the performance of, spot commodity contracts made in a spot commodity market; and
  - (c) the general provisions for carrying on the business of the spot commodity clearing house with due regard to the interests and protection of the public,

## **7. Minimum Capital Requirements of spot commodity market or spot commodity clearing house**

- (1) A spot commodity market or spot commodity clearing house shall, at all times, maintain a minimum stated unimpaired capital of 6.5 million rupees or its equivalent in any other currency, or such higher amount as the Commission may determine taking into account the nature, scale and complexity of its activities and the risks to which it is or could be exposed.
- (2) A spot commodity market or spot commodity clearing house shall inform the Commission within 5 business days where its minimum stated unimpaired capital falls below the minimum required.

## **8. Obligations of spot commodity market**

- (1) A spot commodity market shall –
  - (a) operate its activities in accordance with the Act, these Rules and its business rules;
  - (b) ensure an orderly, fair and transparent market in spot commodity contracts traded on the spot commodity market;
  - (c) ensure that risks associated with its business and operations are managed prudently;

- (d) regulate the operations, standards of practice and business conduct of its members (and their employees and representatives) in accordance with its business rules, procedures and practices;
  - (e) ensure compliance with continuous disclosure requirements and that adequate market information is readily available;
  - (f) give equitable treatment to trading members and potential members;
  - (g) ensure confidentiality of all information in its possession concerning its members and their customers;
  - (h) ensure that its information, technology systems are, resilient and not prone to failure, damage, tampering, misuse or unauthorised access;
  - (i) keep such records as are necessary for the proper recording of each transaction on the spot commodity market;
  - (j) publish its business rules, fees and charges on its website;
  - (k) identify and manage conflicts of interest;
  - (l) monitor market activities;
  - (m) provide a means for the resolution of disputes between members, and between members and their customers;
  - (n) provide access to a robust mechanism for clearing and settlement; and
  - (o) immediately notify the Commission if it becomes aware –
    - (i) that a member is unable to comply with any part of its business rules or any financial requirements; or
    - (ii) of a financial irregularity or other matter which in the opinion of the spot commodity market may indicate that the financial standing or integrity of a member is in question, or that a member may not be able to meet his legal obligations.
- (2) Paragraph (1)(g) shall be without prejudice to the spot commodity market's obligation to furnish information –

- (a) where such information is requested by Commission or the Chief Executive under the Act or these Rules;
  - (b) where such information is requested by the spot commodity clearing house in writing; or
  - (c) where disclosure is ordered by the Court.
- (3) A spot commodity market shall ensure compliance with applicable standards for responsible and sustainable sourcing regarding –
- (a) its products, services and activities,
  - (b) activities of its members, and
  - (c) the spot commodity contracts being traded.
- (4) A spot commodity market shall –
- (a) have necessary arrangements in place to ensure, where applicable, that the spot commodity market and its members are certified as compliant with:
    - (i) ISO 14001 (Environmental Management Systems (EMS));
    - (ii) OHSAS 18001 / ISO 45001 (Health & Safety Management); or
    - (iii) equivalent certification standards acceptable to the Commission;and
  - (b) ensure its arrangements are compliant with the OECD's Due Diligence Guidance for Responsible Mineral Supply Chains, as may be applicable.

## **9. Obligations of a spot commodity clearing house**

- (1) A spot commodity clearing house shall, at all times, –
- (a) operate its activities in accordance with the Act, these Rules and its business rules duly approved by the Commission under these Rules;
  - (b) establish and implement appropriate procedures for ensuring that its clearing members comply with its business rules;
  - (c) prudently remedy all the risks associated with its business and operations;

- (d) regulate the operations, standards of practice and business conduct of its members, its employees and representatives in accordance with its business rules, policies, procedures and, practices;
  - (e) keep necessary records for the proper recording of the spot commodity clearing house's transactions;
  - (f) ensure that its information technology systems are resilient and not prone to failure, damage, tampering, misuse or unauthorised access;
  - (g) publish its business rules, fees and charges on its website;
  - (h) identify and manage conflicts of interest;
  - (i) establish a means for the resolution of disputes;
  - (j) match and verify trades in a timely manner;
  - (k) arrange for secure payment and final settlement;
  - (l) put in place risk management arrangements to minimise the effect of any payment default;
  - (m) provide monitoring facilities that can detect the build-up of positions that may threaten the system;
  - (n) ensure confidentiality of all information in its possession concerning its clearing members and their customers; and
  - (o) notify the Commission if it becomes aware –
    - (i) that a clearing member is unable to comply with any business rule of the spot commodity clearing house;
    - (ii) of a financial irregularity or other matter which in the opinion of the spot commodity clearing house may indicate that the financial standing or integrity of a clearing member is in question, or that a clearing member may not be able to meet their obligations provided for by its business rules.
- (2) Paragraph (1)(n) shall be without prejudice to the spot commodity clearing house's obligation to furnish information –

- (a) where such information is requested by Commission's or the Chief Executive's powers under the Act or these Rules;
- (b) where such information is requested by the spot commodity clearing house in writing; or
- (c) where disclosure is ordered by the Court.

**10. Reporting obligations of spot commodity market or spot commodity clearing house**

- (1) A spot commodity market or spot commodity clearing house shall produce to the Commission any books, accounts and records kept by it, in connection with, or for the purposes of its business, or in respect of any trading in spot commodity contracts, as the Commission or the Chief Executive may require.
- (2) A spot commodity market shall furnish the following quarterly information to the Commission, not later than 45 days after the closing date of the relevant quarter –
  - (a) purchases and sales of commodities during the relevant quarter;
  - (b) names of members that have failed to comply with any of the continuing trading requirements of the spot commodity market;
  - (c) details of spot commodity contracts traded; and
  - (d) details of spot commodity contracts in respect of which trading was suspended or cancelled during the relevant quarter including the reasons for the suspension or cancellation.
- (3) A spot commodity market shall furnish to the Commission, together with its audited financial statements required to be filed pursuant to section 30 of the Act, a report of its business activities during the preceding financial year containing information on –
  - (a) amendments made to the business rules of the spot commodity market;
  - (b) changes in the composition of the governing body;
  - (c) any sub-committees of its Board;
  - (d) admission, readmission, resignation or expulsion of members;

- (e) disciplinary action taken against members;
- (f) settlement of disputes between members;
- (g) trade failures;
- (h) actions taken to meet any trading emergencies; and
- (i) details of spot commodity contracts in respect of which trading was suspended or cancelled including the reasons for the suspension or cancellation.

### **PART III – SPOT COMMODITY MARKET INTERMEDIARIES**

#### **11. Licensing of spot commodity broker and spot commodity trading adviser**

- (1) No person, other than a person mentioned in Part 1 of the Schedule, shall carry on the business of a spot commodity broker, whether as principal or agent, without a spot commodity broker licence issued by the Commission.
- (2) No person, other than a person mentioned in Part 1 of the Schedule, shall carry on the business of a spot commodity trading adviser without a spot commodity trading adviser licence issued by the Commission.
- (3) A bank may, with the written approval of the central bank, apply for a spot commodity broker licence through a subsidiary incorporated for such purpose.
- (4) Without prejudice to section 18 of the Act, the Commission shall not grant a spot commodity broker licence or spot commodity trading adviser licence unless it is satisfied that –
  - (a) the applicant has appropriate and competent staff commensurate with the size, nature and complexity of the business activity;
  - (b) the applicant has employed or will employ at least one individual who is licensed as its representative;
  - (c) the applicant has the minimum stated unimpaired capital as specified in rule 13;

- (d) the applicant will operate its business and operations in an orderly, informed and fair manner;
  - (e) the applicant will manage any risk associated with its business and operations prudently; and
  - (f) the applicant will conduct due diligence of its members, in accordance with the requirements of the laws governing anti-money laundering and terrorism financing in force in Mauritius.
- (5) A holder of a spot commodity broker licence or spot commodity trading adviser licence shall, at all times, continue to satisfy the requirements specified in subsection (4), after the, grant of the licence.
- (6) A holder of spot commodity broker licence or spot commodity trading adviser licence shall, in addition to the requirements of paragraph (4), comply with the relevant Acts, guidelines issued by the Commission and any other applicable enactment.
- (7) A spot commodity broker or spot commodity trading adviser shall not engage in any business activity other than the business activity for which it is licensed and such other matters ancillary or incidental thereto, as may be expressly approved by the Commission.

**12. Licensing of spot commodity broker's representative and spot commodity trading adviser's representative**

- (1) No person, other than a person mentioned in Part 2 of the Schedule, shall act as, or hold himself out as, a representative of a spot commodity broker without holding a spot commodity broker's representative licence issued by the Commission.
- (2) No person, other than a person mentioned in Part 2 of the Schedule, shall act as, or hold himself out as, a representative of a spot commodity trading adviser without holding a spot commodity trading adviser's representative licence issued by the Commission.
- (3) An application for a spot commodity broker's representative and spot commodity trading adviser's representative shall be made by the spot commodity broker and the spot commodity adviser, as may be applicable.

- (4) A representative shall only be licensed to act on behalf of one spot commodity broker or one spot commodity trading adviser, as the case may be, and undertake only spot commodity activities for which the spot commodity broker or spot commodity trading adviser is licensed.
- (5) A representative may, with the approval of the Commission, and subject to such terms and conditions as the Commission may determine, have its licence transferred to another spot commodity broker or spot commodity trading adviser.
- (6) Where the appointment of a representative has been terminated, the spot commodity broker or spot commodity trading adviser, as the case may be, shall –
  - (a) immediately notify the Commission in writing of such termination;
  - (b) ensure that the representative surrenders his licence to the Commission in accordance with section 28 of the Act.
- (7) A spot commodity broker's representative or spots commodity trading adviser's representative shall not be allowed to trade in spot commodity contracts for his own account, unless such trading is carried out in accordance with the approved policies and procedures for managing conflicts of interests implemented by the spot commodity broker or spot commodity trading adviser respectively.

**13. Minimum Capital Requirements for spot commodity broker and spot commodity trading adviser**

- (1) A spot commodity broker shall, at all times, maintain a minimum stated unimpaired capital of 700,000 rupees or its equivalent in any other currency, or such higher amount as the Commission may determine taking into account the nature, scale and complexity of its activities and the risks to which it is or could be exposed.
- (2) A spot commodity trading adviser shall, at all times, maintain a minimum stated unimpaired capital of 600,000 rupees or its equivalent in any other currency, or such higher amount as the Commission may determine taking into account the nature, scale and complexity of its activities and the risks to which it is or could be exposed.

- (3) The spot commodity broker or spot commodity trading adviser shall inform the Commission within 5 business days where its minimum stated unimpaired capital falls below the minimum required.

**14. Responsibility for conduct of spot commodity broker's representative and spot commodity trading adviser's representative**

- (1) A spot commodity broker or spot commodity trading adviser shall be responsible for the conduct of its representatives
- (2) Paragraph (1) shall not apply where –
  - (a) the conduct was not related to spot commodity contracts; and
  - (b) the representative made prior disclosure to the customer;

**15. Issue of trade contract confirmation note**

A spot commodity broker or spot commodity broker's representative shall, not later than 2 business days after any transaction in spot commodity contract, furnish to his customer a contract confirmation note, in writing, confirming that the spot commodity contract was executed by the spot commodity market, on behalf of the customer.

**16. Conduct of business of spot commodity market intermediary**

A spot commodity market intermediary shall at all times –

- (a) observe a high standard of integrity and fair trading;
- (b) act with due skill, diligence and quick service;
- (c) observe standards of market conduct;
- (d) seek information from customers about their circumstances and investment objectives which might reasonably be expected to be relevant in enabling the spot commodity market intermediary to fulfil its/his duties to the customers;
- (e) take reasonable steps to provide every customer that he advises, any information in a way that would enable the customer to make a balanced and informed investment decision;

- (f) avoid any circumstances of conflict of interest with customers and where such a conflict unavoidably arises, ensure fair treatment to the customer by complete disclosure or by refraining to act;
- (g) protect properly, by way of segregation and identification of customers' assets, those customers' assets under his responsibility;
- (h) maintain adequate financial resources to meet his business commitments and withstand the risks to which the business is subject;
- (i) organise and control his affairs in an adequate and clear manner;
- (j) ensure that its information technology systems are resilient and not prone to failure, damage, tampering, misuse or unauthorised access;
- (k) keep proper records;
- (l) have adequate arrangements to ensure that all staff employed are qualified, adequately trained and properly supervised; and
- (m) deal with the Commission in an open and co-operative manner and keep the Commission informed of anything that might reasonably be expected to be disclosed.

**17. Customer agreement of spot commodity market intermediary**

No spot commodity market intermediary shall act for any customer other than in accordance with the terms of a written customer agreement.

**18. Risk disclosure by spot commodity market intermediary**

No spot commodity market intermediary shall open a spot commodity trading account for a customer unless the spot commodity market intermediary –

- (a) furnishes the customer with a written risk disclosure statement setting out clearly all the risks involved in the trading of spot commodity contracts; and
- (b) receives from the customer a signed and dated risk acknowledgement form confirming that the customer has received and understood the nature and contents of the risk disclosure statement.

## 19. Segregation of customers' assets

- (1) A spot commodity market intermediary shall, at all times, –
  - (a) deal with all customer assets in a segregated manner, for the purpose of margining, guaranteeing and securing contracts in spot commodity trades;
  - (b) deposit all customer assets in appropriately identified non – interest bearing bank accounts which shall be separated from any bank account which the spot commodity market intermediary may open and maintain for its own funds; and
  - (c) manage the customer assets in a fiduciary capacity and in the best interest of all customers.
- (2) Any customer assets held by a spot commodity market intermediary in the dedicated bank accounts referred to in paragraph (1) shall not form part of the assets of the spot commodity market intermediary.
- (3) A spot commodity market intermediary shall, whenever holding customers' funds –
  - (a) make adequate arrangements to safeguard customers' ownership rights; and
  - (b) except as provided in paragraph (4), not use a customer's funds on its/his own account except with the customer's express consent.
- (4) Nothing in these Rules shall prevent a spot commodity market or a spot commodity clearing house, with the prior approval of the Commission, from using a customer's funds held in the dedicated bank accounts to meet his obligations towards a spot commodity market or spot commodity clearing house, if –
  - (a) the obligations result from a default of the spot commodity market intermediary, which is directly attributable to the failure of the spot commodity market intermediary's customer; and
  - (b) the failure to use the customer's assets held in a dedicated bank account may jeopardise the financial integrity of the spot commodity market or the spot commodity clearing house.

- (5) In this rule, "customer" means a person on whose account a spot commodity market intermediary carries on trading or advising in any spot commodity contract, but does not include directors, employees and related corporations of the spot commodity market intermediary.

#### **PART IV – MARKET ABUSE**

##### **20. Application of certain provisions of the Securities Act**

Part IX of the Securities Act on market abuses shall apply *mutatis mutandis* to the market abuses that may arise in the course of spot commodity trading, clearing or intermediation activities conducted by a spot commodity market, spot commodity clearing house or any spot commodity market intermediary.

#### **PART V– POWERS OF THE COMMISSION**

##### **21. Emergency powers of the Commission**

- (1) Without prejudice to the powers of the Commission or Chief Executive under the Act –
- (a) where the Chief Executive has reason to believe that an emergency exists, or considers it necessary in the interest of the public or for the protection of investors, he may direct, by notice in writing, the spot commodity market, spot commodity clearing house or spot commodity market intermediary, to take such action as it considers necessary to –
- (i) maintain or restore orderly trading in spot commodity contracts; or
- (ii) suspend or terminate trading, or liquidate any position in respect of any spot commodity contract, including but not limited to –
- (A) confining trading to liquidation of spot commodity contracts' positions;
- (B) ordering the liquidation of all positions or part thereof or the reduction in such positions;
- (C) limiting trading to a specific price range;
- (D) modifying trading days or hours;
- (E) altering conditions of delivery;

- (F) fixing the settlement price at which positions are to be liquidated;
  - (G) requiring any person to act in a specified manner in relation to trading in spot commodity contracts;
  - (H) requiring margins or additional margins for any spot commodity contracts; and
  - (I) modifying or suspending any of the business rules of a spot commodity market or clearing house.
- (b) where the Chief Executive suspends trading on a spot commodity market, the suspension shall be for a period not exceeding 3 months, provided that the Chief Executive may, where he considers necessary, extend the suspension for a further period not exceeding 3 months at the expiry of which the Chief Executive shall either notify the spot commodity market in writing that the suspension has expired, or proceed to revoke the spot commodity market licence, as it deems appropriate.
- (c) the Chief Executive may, where he considers necessary or expedient –
- (i) for ensuring a fair and orderly spot commodity market, or for ensuring fair, orderly and expeditious clearing and settlement of transactions in spot commodity contracts;
  - (ii) for ensuring the integrity of, and proper management of systemic risks in a spot commodity market; or
  - (iii) for the protection of investors

issue a direction to a spot commodity market, spot commodity clearing house or spot commodity market intermediary by notice in writing, either of a general or specific nature.

- (2) Any direction, issued by the Chief Executive under paragraph 1(c), may relate to –
- (a) the clearing or settlement of spot commodity contracts and the making of adjustments of contractual obligations arising out of those spot commodity contracts;

- (b) the trading or the termination of trading on or through the facilities of a spot commodity market, spot commodity clearing house or spot commodity market intermediary;
  - (c) the manner in which the spot commodity market, spot commodity clearing house or spot commodity market intermediary carries on its business, including the manner of reporting off-market trades by members;
  - (d) the removal from office of an officer in the employment of a spot commodity market, spot commodity clearing house or spot commodity market intermediary;
  - (e) the submission by the spot commodity market, spot commodity clearing house or spot commodity market intermediary of reports of market transactions, in such form as the Commission may determine;
  - (f) compliance with any emergency margin levels;
  - (g) market positions within limits set by the Chief Executive;
  - (h) any action as the Chief Executive considers fit to maintain or restore orderly trading in any spot commodity contract, or liquidation of any position in respect of spot commodity contracts; or
  - (i) any other matter that the Chief Executive considers necessary for the effective administration of these Rules.
- (3) In this rule, "emergency" means –
- (a) an act of Government affecting relevant commodities;
  - (b) any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for spot commodity contracts;
  - (c) a threatened or actual market manipulation;
  - (d) an impending emergency or natural disaster, whether in Mauritius or elsewhere;
  - (e) an economic or financial crisis, whether in Mauritius or elsewhere; or

- (f) any other situation or practice which in the opinion of the Chief Executive constitutes an emergency.
- (4) Without prejudice to paragraph (1), where a spot commodity market or a spot commodity clearing house exercises its powers under its business rules to take emergency action, the Chief Executive may direct the spot commodity market or a spot commodity clearing house to cancel or modify such emergency action.

## **22. Fixing of position and trading limits to spot commodity contracts**

- (1) For the purpose of preventing excessive speculation in relation to any commodity under a spot commodity contract, the commission may, fix limits as it considers necessary on the amount of trading or positions which may be held by any person, generally or specifically, under a spot commodity contract traded on a spot commodity market.
- (2) Any limits upon positions and trading shall apply to positions held by, and trading done, by two or more persons acting pursuant to an express or implied agreement or understanding, as if the positions were held by, or the trading done by, a single person.
- (3) No person shall, directly or indirectly –
  - (a) buy or sell or agree to buy or sell a spot commodity contract, or any number of such contracts, on a spot commodity market, in excess of the trading limits fixed for any business day, or any other stated period set by the Commission, or by a spot commodity market with the approval of the Commission; or
  - (b) hold or control a net buy or sell position under a spot commodity contract traded on the spot commodity market, in excess of any position limit fixed by the Commission or by the spot commodity market with the approval of the Commission.
- (4) Nothing in this rule shall preclude the Commission from –
  - (a) fixing different trading or position limits for different spot commodity contracts, different delivery months, or for different days remaining until the last day of trading in a spot commodity contract; or
  - (b) exempting transactions from the application of this rule.

### **23. Information to be provided by market participants**

- (1) Where the Commission is of the view that information concerning spot commodity trading accounts may be relevant to determine whether manipulation, corner, squeeze or other market disorders exist in any spot commodity market, the Commission may, by written notice, require such information as it deems necessary from any person, including a member of a spot commodity clearing house or a spot commodity broker or any customer in the spot commodity market.
- (2) Where the Commission issues a written notice to a person under paragraph (1), that person shall provide the required information to the Commission within such time as may be specified by the Commission.
- (3) Where the Commission has reasonable cause to believe that the person referred to in paragraph (1) has failed to give the information required in the notice, the Commission may without prejudice to any other action that may be imposed, direct a spot commodity market or a spot commodity clearing house to prohibit the execution or acceptance for such trades or orders on the spot commodity market or spot commodity clearing house.

### **24. Commencement**

These Rules shall come into operation on 9 February 2024.

Made by the Financial Services Commission on 6 February 2024.

## **SCHEDULE**

[rules 11 and 12]

### **PART 1**

- (a) A person who carries on the purchase or sale of commodities in a market that is not a spot commodity market, where such transaction is made with another person in the ordinary course of business and –
  - (i) it is not intended for resale other than in the ordinary course of business of wholesale or retail; or
  - (ii) where there is physical delivery of such commodities from seller to buyer;
- (b) A person who solicits or accepts orders for the purchase or sale of any commodity by way of or relating to any spot commodity contract for a customer in the following circumstances –
  - (i) the person is not a party to the spot commodity contract;
  - (ii) the person does not carry the customer's position, margin or account in the person's own books;
  - (iii) the person does not accept funds from the customer as settlement of, or a margin for, or to guarantee or secure, any spot commodity contract; and
  - (iv) there is physical delivery of the commodity from seller to buyer;
- (c) A person holding a global treasury activities licence;
- (d) An oil trading agency/company transacting on behalf of the Government of Mauritius;
- (e) A person who carries on spot commodity trading on the person's own account and does not solicit any funds from any member of the public or any section of the public, in connection with the carrying out of any spot commodity trading.

### **PART 2**

A person holding a global treasury activities licence;

An oil trading agency/company transacting on behalf of the Government of Mauritius

A person who carries on spot commodity trading on the person's own account and does not solicit any funds from any member of the public or any section of the public in connection with the carrying out of any spot commodity trading.