



THE MONETARY AUTHORITY OF SINGAPORE

GUIDELINES ON THE PERMISSIBLE
USE OF CUSTOMERS' MONEY AND
ASSETS BY DESIGNATED CLEARING
HOUSES UNDER SECTION 63 OF THE
SECURITIES
AND FUTURES ACT (CAP. 289)

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I PURPOSE OF THESE GUIDELINES

These *Guidelines on the Permissible Use of Customers' Money and Assets by Designated Clearing Houses Under Section 63 of the Securities and Futures Act (Cap. 289)* (these "Guidelines") are issued by the Monetary Authority of Singapore (the "Authority") pursuant to section 321 of the Securities and Futures Act (Cap. 289) (the "SFA"). These Guidelines aim to provide guidance on the appropriate use of money or assets deposited or paid in respect of or in relation to contracts of customers of a member of a designated clearing house (the "DCH") (collectively referred to as "customers' money and assets") and held by that DCH under section 63(1) of the SFA.

2 These Guidelines should be read in conjunction with the provisions of Part III of the SFA and the Guidelines on the Regulation of Clearing Facilities (Guideline No. SFA 03-G01).

II APPLICATION OF SECTION 63(1) OF THE SFA

3 A DCH's contractual arrangements are made directly with its members, and not with the customers of its members. The customers' money and assets are passed through their respective members to the DCH to meet the customers' obligations arising from market contracts cleared or settled through the DCH. Where customers' money and assets are held by a DCH in respect of or in relation to market contracts, the DCH has a right to use such money or assets to meet the obligations of the customers and members to the DCH.

4 Section 63 of the SFA permits the DCH to use customers' money and assets where the member fails to meet its obligations to the DCH provided that the DCH has reasonable grounds for forming an opinion that (i) the member's failure to meet its obligations to the DCH is due to

the failure of any of the customers of the member to meet that customer's obligations under the market contracts, and (ii) the failure to use such money or assets to meet the member's obligations may jeopardize the financial integrity of the DCH. Section 63 therefore serves to provide some measure of protection over the money and assets of customers who meet their obligations under the market contracts.

5 It is the Authority's intent and view that customers' money and assets which a DCH is permitted to use pursuant to section 63 should not include monies and assets which are held by the DCH in escrow for the parties to a market contract and which the DCH has no claim or lien over.

6 These Guidelines provide guidance on the operation of section 63 and do not form and should not be used in the interpretation of sections 62 and 64, or any other provision that affects customers' money and assets.