

Settlement Agent – Frequently Asked Questions

Q. 1 What is a Settlement Agent (SA)? What is the difference between Settlement Agent and Third Party Clearing (TPC)?

A Settlement Agent is a service provider appointed by a CCASS Participant except Investor Participant (“non-IP Participant”) to access CCASS and conduct settlement and other activities in CCASS on behalf of the Participant without changing the Participant’s principal obligations vis-à-vis HKSCC. The TPC model offers an added option for Exchange Participant who trades on the Stock Exchange of Hong Kong (SEHK) to choose not to become a clearing participant in CCASS and outsource its clearing functions to a General Clearing Participant who provides clearing services to Exchange Participants. Under TPC, an Exchange Participant has **NO** clearing participants in CCASS and is referenced as a Non-Clearing Participant (NCP).

A table summarizing the key features of the SA and TPC models is shown below:

Descriptions	SA	TPC
1. Key concept	Allow Exchange Participant to outsource its CCASS operations (administrative functions only) to a Settlement Agent.	Allow Exchange Participant to outsource its CCASS clearing and settlement obligations to a designated GCP.
2. Role of the service provider	SA is a CCASS account operator who conducts settlement and other activities in CCASS on behalf of the Participant.	GCP takes up the Exchange Trades executed by its NCPs and conduct clearing and settlement with HKSCC as principal in GCP’s own CCASS.
3. Status of the service provider	SA does not need to be a CCASS Participant itself. However, it needs to demonstrate that it has adequate clearing experience and capability.	GCP is a CCASS Clearing Participant who needs to be formally admitted by HKSCC before clearing trades for other Exchange Participants.
4. Participants	Exchange Participant must be a DCP. SA is not itself a type of CCASS Participant.	Exchange Participant does not need to be a Clearing Participant i.e. as NCP. GCP does not need to become an Exchange Participant

For more details on TPC, please visit the TPC section http://www.hkex.com.hk/eng/market/clr/secclr/clarng_hksc/tpc/tpc.htm.

Settlement Agent – Frequently Asked Questions

Q. 2 What factors should a non-IP Participant consider when appointing a Settlement Agent?

The appointment of a Settlement Agent by a non-IP Participant can be regarded as an outsourcing arrangement between the two parties concerned. Non-IP Participants should understand the various implications and obligations to HKSCC related to outsourcing the CCASS function to a third party. The key implications including the control over the outsourced CCASS operations, operational and systemic risks and the associated insurance coverage, as well as the local legal and regulatory requirements if the Settlement Agent is located in a foreign jurisdiction, should be considered and properly addressed beforehand. Non-IP Participants should refer to the “Principles on Outsourcing of Financial Services for Market Intermediaries” issued by the International Organization of Securities Commissions “IOSCO” which can be downloaded from IOSCO’s website at <http://www.iosco.org/> (Related link of the document: <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD187.pdf>).

Q. 3 How to Apply?

A non-IP Participant who is interested in the appointment of a Settlement Agent to carry out CCASS operations on its behalf is required to apply to HKSCC (Related explanatory note and application form can be downloaded at http://www.hkex.com.hk/eng/market/clr/secclr/clrarng_hksc/sa/sa.htm). Alternatively, interested non-IP Participant can also make a request to the Clearing Administration & Services, Cash & Derivatives Clearing Operations by mail: 30/F, One Exchange Square, 8 Connaught Place, Central, Hong Kong or by fax: 2590-7000 to obtain the Application Package.

Q. 4 Must a Settlement Agent be a CCASS Participant?

A Settlement Agent may be a non CCASS Participant as long as all the conditions and requirements in relation to appointing a Settlement Agent are met. When considering such application, the Settlement Agent would be assessed as if it were applying to become a CCASS Participant.

Settlement Agent – Frequently Asked Questions

Q. 5 Can a non-IP Participant appoints a Settlement Agent, whose operation is located in a foreign jurisdiction?

In general, CCASS can be operated from a foreign jurisdiction, for more details, please refer to CCASS/3 – Frequently Asked Questions at

http://www.hkex.com.hk/eng/market/clr/secclr/ccass3/ccass_faq_question.htm.

A non-IP Participant may, subject to HKSCC's approval, appoint a Settlement Agent who is located in a foreign jurisdiction. Pursuant to CCASS Rule 3904, the non-IP Participant needs to provide a legal opinion confirming that such arrangement will not:

- a. subject HKSCC, the Exchange or a recognized exchange controller to any legal, regulatory, reporting, registration or other requirements of the foreign jurisdiction;
- b. deem HKSCC, the Exchange or a recognized exchange controller to be carrying on any business in that jurisdiction;
- c. have any tax implications on HKSCC, the Exchange or a recognized exchange controller; and
- d. affect the right of inspection by HKSCC to books, records or systems relating to CCASS or transactions conducted through CCASS in that jurisdiction.

The legal opinion shall be issued in such form as set out in Rule 3904 of the General Rules of CCASS. The non-IP Participant shall ensure that it complies with all applicable laws, regulations and requirements of the jurisdiction where its and its Settlement Agent's CCASS Terminals, office premises or operations are located.

Q. 6 What other conditions should a non-IP Participant fulfill in order to obtain approval from HKSCC?

If a non-IP Participant is regulated under the Securities and Futures Ordinance "SFO", then it should notify the Securities and Futures Commission ("SFC") of its plan to outsource its operations to a Settlement Agent prior to applying to HKSCC. HKSCC will liaise with the SFC on receipt of an application from a non-IP Participant and obtain SFC's consent on the outsourcing arrangement before approving the application.

In addition, non-IP Participants should notify HKSCC of any change of particulars arising from the appointment of Settlement Agent according to the existing procedures.

Settlement Agent – Frequently Asked Questions

Q.7 What are the key aspects that SFC would consider when assessing the outsourcing arrangement?

The Participant, which is a licensed corporation or registered institution, must ensure that it will continue to comply with all the requirements as set out in the SFO including but not limited to:

- Client Securities Rules
- Client Money Rules
- Contract Notes, Statements of Account and Receipts Rules
- Keeping of Records Rules
- Accounts and Audit Rules

The Participant should also ensure additional insurance would be taken up to cover the additional risks arisen as a result of the outsourcing arrangement.

The Participant and the Settlement Agent may be required to issue an undertaking to the SFC covering the above. Applicants are advised to contact the SFC direct to determine the SFC's requirements on the undertaking.

Q.8 Apart from SFC's assessment, what are the key aspects that HKSCC would consider when assessing the Settlement Agent application?

When assessing the Settlement Agent application, HKSCC would consider key aspects such as:

- Whether the proposed SA is an existing CCASS participant and if it has a good track record;
- Whether the proposed SA has specified a designated person with adequate qualification to be responsible for ensuring compliance with the CCASS Rules & OP;
- Whether the proposed SA has an adequate operational risk control plan in place.

Settlement Agent – Frequently Asked Questions

Q.9 Is there any contractual relationship between the Settlement Agent and HKSCC?

As mentioned in Q. 1 above, despite the appointment of a Settlement Agent, the Participant's principal obligation vis-à-vis HKSCC remains unchanged. As such, there is no direct relationship between HKSCC and the Settlement Agent.

Q.10 What should be included in the service contract between the non-IP Participant and the Settlement Agent?

The business drivers, scope and service requirements of each outsourcing arrangement differ. The service contract should be a commercial agreement between the non-IP Participant and the Settlement Agent. Nonetheless, for regulatory purposes, the non-IP Participant and the Settlement Agent are required to undertake to the SFC that certain clauses have been incorporated in the service agreement. Applicants are advised to contact the SFC direct to determine the SFC's requirement on the undertaking.

Q.11 Can a non-IP Participant appoint more than one Settlement Agent?

No. A non-IP Participant is allowed to appoint one Settlement Agent only to operate CCASS on its behalf.

Q.12 What if a non-IP Participant wants to switch Settlement Agent?

The non-IP Participant is required to submit a cancellation form and make a new application to HKSCC following the standard procedures. The cancellation form can be downloaded at http://www.hkex.com.hk/eng/market/clr/secclr/clarng_hksc/sa/documents/cancel_form.pdf). Alternatively, participant can also make a request to the Clearing Administration & Services, Cash & Derivatives Clearing Operations by mail: 30/F, One Exchange Square, 8 Connaught Place, Central, Hong Kong or by fax: 2590-7000 to obtain the cancellation form.

Settlement Agent – Frequently Asked Questions

Q.13 Does a non-IP Participant need to appoint Delegated Administrators and end users after appointing a Settlement Agent?

Yes. The appointment of Delegated Administrators (at least one maker and one checker to maintain user profiles and reset smartcard passwords of its end users) and end users (to perform various CCASS functions) should be authorized by the non-IP Participant.

HKEX will issue one smartcard (HKD250.00 each) for each user with single capacity. A user performing both end user and Delegated Administrator functions will need two smartcards.

Q.14 Can non-IP Participants use their smartcards at CCASS/3 Terminal (C3T) installed overseas?

Non-IP Participants can use their Delegated Administrator and end user smartcards at C3T installed overseas. Depending on the administration rights assigned, Delegated Administrators can change, delete user profile and reset smartcard password of end users.

However, end user addition and user profile maintenance as well as reset smartcard password of Delegated Administrators can only be performed by HKEX. As the original copy of instructions and smartcards are required by HKEX for processing, Participants must ensure such documents are received by HKEX in time to effect the instructions.

Given below is a list of examples of documents required for different types of requests. This is not an exhaustive list.

1. for change and deletion of Delegated Administrator, original copy of authorized request forms are required;
2. for resetting Delegated Administrator smartcard password, Delegated Administrator smartcard has to be returned in addition to the original copy of authorized request forms;
3. for associating new user profile to reused smartcard, reused smartcard has to be returned in addition to the original copy of authorized request forms;
4. for ordering of new smartcards and readers, HKD cheque drawn by the Participant is required in addition to the original copy of authorized request forms;

Settlement Agent – Frequently Asked Questions

5. in any case, the original copy of Letter of Authorization for Collection is required for HKEX to release smartcards and smartcard passwords to Participant's authorized personnel as stated in the Letter and who should collect in person.

For technical details related to installing C3T overseas, please refer to CCASS/3 – Frequently Asked Questions at http://www.hkex.com.hk/eng/market/clar/secclr/ccass3/ccass_faq_question.htm

Q.15 Can an Exchange Participant who has appointed a SA become a Non Clearing Participant (NCP)?

Yes, an Exchange Participant can choose to become an NCP even if it has already appointed a SA. As an NCP will no longer be a CCASS Participant, the SA appointment will need to be terminated as well. The Exchange Participant will need to terminate its CCASS Participantship, cancel the appointment of its SA and notify SEHK of its appointment of a GCP. HKSCC will then terminate the Exchange Participant's CCASS Participantship, cancel its CCASS account and establish clearing relationship between the Exchange Participant and its newly appointed GCP according to the specified effective date.

For further questions or queries, please call CCASS Hotline at 2979-7111.