
CHAPTER 40

CLEARING BY GENERAL CLEARING PARTICIPANTS

4001. Execution of Clearing Agreement

Every GCP which intends to clear and settle Exchange Trades, Clearing Agency Transactions and/or China Connect Securities Trades for NCPs shall enter into a Clearing Agreement in such form or containing such provisions as may from time to time be required by HKSCC with each NCP the Exchange Trades, Clearing Agency Transactions and/or China Connect Securities Trades of which it clears and settles. Except as otherwise approved by HKSCC and subject to such terms and conditions as HKSCC may from time to time specify, a GCP shall not accept for clearing and settlement of any Exchange Trades, Clearing Agency Transactions and/or China Connect Securities Trades of an NCP unless and until there is in place a valid, binding and effective Clearing Agreement between it and the NCP. Every GCP which is a TSF CCASS Participant which intends to clear and settle TSF Exchange Trades for NCPs shall, in addition to the above, comply with Rule 12A21. Every GCP which is a China Connect Clearing Participant which intends to clear and settle China Connect Securities Trades for NCPs shall, in addition to the above, comply with Rule 4104.

4002. Notification of execution of Clearing Agreement

A GCP shall notify HKSCC of each Clearing Agreement it entered into with an NCP forthwith upon its execution. Such notification shall be in such form as HKSCC may from time to time specify. The GCP shall, at the request of HKSCC, supply it with a certified copy of the executed Clearing Agreement.

4003. Obligations of GCP

A GCP shall capture all liabilities for all the Exchange Trades, Clearing Agency Transactions and/or China Connect Securities Trades concluded by each NCP with which it has entered into a Clearing Agreement, as if it were a party to these trades and transactions and shall not be entitled to decline to settle and clear any Exchange Trades, Clearing Agency Transactions and/or China Connect Securities Trades of the NCP. A GCP shall have arrangement in place with each NCP for the NCP to notify it of all Exchange Trades, Clearing Agency Transactions and/or China Connect Securities Trades concluded by the NCP.

A GCP shall have arrangement in place to monitor the ability of each NCP with whom it has entered into a Clearing Agreement to satisfy promptly all obligations arising from the Exchange Trades, Clearing Agency Transactions and/or China Connect Securities Trades concluded by such NCP. A GCP must forthwith notify HKSCC of any failure of its NCP to meet its obligations under the Clearing Agreement.

A GCP shall, within a period as HKSCC may specify, provide information in its possession about its NCPs to HKSCC, including but not limited to, financial position, an NCP's underlying client information or any other information or documents as HKSCC may demand.

A GCP shall ensure that the Clearing Agreement to which it is a party, and all subsequent agreements to amend the Clearing Agreement do not contain any provision which is inconsistent with the Rules and has terms and conditions to facilitate the performance of, and be consistent with, the GCP's obligations under the Rules. The Clearing Agreement shall incorporate any additional conditions prescribed by HKSCC from time to time. A GCP shall be bound by and comply strictly with the terms of each Clearing Agreement to which it is a party, to the extent that those Clearing Agreements are consistent with the Rules.

A GCP shall notify HKSCC of any changes to any of the Clearing Agreements it entered into forthwith upon such changes being made. Such notification shall be in a form as HKSCC may from time to time specify and be accompanied by a certified copy of a document evidencing such changes. For the avoidance of doubt, a GCP must ensure that any changes to the Clearing Agreement and any amendment agreement are in compliance with these Rules.

Every GCP which is a TSF CCASS Participant which intends to clear and settle TSF Exchange Trades for NCPs shall, in addition to the above, comply with Rule 12A21. Every GCP which is a China Connect Clearing Participant which intends to clear and settle China Connect Securities Trades for NCPs shall, in addition to the above, comply with Rule 4104.

4004. Termination of Clearing Agreement

A GCP shall give prior written notice to HKSCC if it or an NCP intends to terminate the Clearing Agreement between them, unless the NCP has already given notice to terminate the Clearing Agreement to the Exchange in accordance with the Exchange Rules.

When HKSCC receives a termination notice from a GCP or when HKSCC receives notification from the Exchange that notice to terminate the Clearing Agreement had been given by an NCP, HKSCC will issue a confirmation of termination to the GCP (with a copy to the NCP concerned) in writing and unless and until written confirmation has been issued to the GCP, the Clearing Agreement shall be treated as valid, binding and effective by HKSCC for the purposes of these Rules notwithstanding any provision to the contrary in the Clearing Agreement and/or the termination notice from the GCP or the NCP and the GCP shall continue to be bound by the Clearing Agreement and responsible for all the Exchange Trades, Clearing Agency Transactions and/or China Connect Securities Trades concluded by such NCP.

Notwithstanding the above, the Clearing Agreement is deemed to be terminated when the GCP is declared as a defaulter or suspended from further activities in CCASS under the Rules.

The termination of Clearing Agreement will not affect any rights or liabilities of the GCP and NCP arising out of matters which have taken place prior to the termination of the relevant Clearing Agreement and for the purpose of settlement of any such rights or liabilities of the GCP and NCP, HKSCC may continue to treat the GCP as the GCP of the relevant NCP.