

Operation Procedures for Stamp Duty Collection

Updated: [*] 2014

OPERATION PROCEDURES FOR STAMP DUTY COLLECTION

This Operation Procedures shall be read in conjunction with and shall form part of the Rules of the Exchange. Unless otherwise indicated, the terms used herein shall have the same meaning as contained in the Rules of the Exchange. In the event of inconsistencies between this Operation Procedures and the Rules of the Exchange, the Rules of the Exchange shall prevail.

1. **PURPOSE**

The purpose of this document is to prescribe the procedures for stamp duty collection that a Participant shall follow pursuant to Chapter 13 of the Rules of the Exchange.

2. **GENERAL**

2.1 Stamp duty shall be payable to the Exchange on each and every contract note issued in respect of all transactions recognized by the Exchange on a Trading Day (T day) basis unless the transaction is:

- (a) a Market Maker jobbing transaction; or
- (b) an applicable market making transaction of a Securities Market Maker (“SMM Market Making transaction”) which is subject to stamp duty remission or refund under Section 52 of the Stamp Duty Ordinance

as specified under Rule 1301.

2.2 The stamp duty shall be at a rate, subject to adjustments from time to time, as prescribed under Head 2 (1) of the First Schedule of the Stamp Duty Ordinance. The stamp duty amount shall be rounded to the nearest \$1.00.

2.3 (a) An Exchange Participant shall state in every contract note to clients the amount of the stamp duty payable to the Government of the Hong Kong Special Administrative Region through the Exchange as a separate item.

(b) A Special Participant shall state in every contract note the amount(s) of stamp duty payable to the Government of the Hong Kong Special Administrative Region through the Exchange.

2.4 (a) Prior to 11:00 a.m. on the second trading day following T day (T+2 day), an Exchange Participant shall submit to the Exchange a completed return (Form SD-1) of the stamp duty payable in respect of transactions carried out as principal or agent during T day through the ECP or in any other manner as prescribed by the Exchange from time to time. The Form SD-1 submitted to the Exchange shall be in the format as notified to the Exchange Participants by the Exchange from time to time.

(b) Prior to 11:00 a.m. on the second trading day following T day (T+2 day), a Special Participant shall submit to the Exchange a completed return (Form SD-

1) of the stamp duty payable in respect of transactions carried out as agent for China Connect Market Participants (for itself or for client) during T day through the ECP or in any other manner as prescribed by the Exchange from time to time. The Form SD-1 submitted to the Exchange shall be in the format as notified to the Special Participants by the Exchange from time to time.

2.5 Unless otherwise determined by the Exchange, the amount of stamp duty payable for T day as reported in the Form SD-1 referred to under Clause 2.4 shall be directly debited on T+2 day by means of electronic payment instructions from the bank account designated by the Participant for stamp duty payment. A Participant shall furnish to the Exchange details of such designated bank account and ensure that sufficient funds are available in the bank account for stamp duty payment. A Participant shall not close or change its designated bank account for stamp duty payment without prior approval from the Exchange.

2.6 A Participant shall also submit to the Exchange a completed and signed monthly stamp duty summary (Form SD-2) for the month, in duplicate, in person or by post, or in such other form or manner as prescribed by the Exchange from time to time, within 5 days from the beginning of the following month.

2.7 (a) If an Exchange Participant suspends or ceases its business of dealing in securities, it shall submit to the Exchange a completed and signed Form SD-2 for the month of suspension or cessation in person or by post, or in such other form or manner as prescribed by the Exchange from time to time, within 3 days following suspension or cessation of business.

(b) If a Special Participant suspends or ceases its order-routing business, it shall submit to the Exchange a completed and signed Form SD-2 for the month of suspension or cessation in person or by post, or in such other form or manner as prescribed by the Exchange from time to time, within 3 days following suspension or cessation of business.

3. IDENTIFICATION OF MARKET MAKER JOBBING TRANSACTIONS AND SMM MARKET MAKING TRANSACTIONS BY MARKET MAKERS OR SECURITIES MARKET MAKERS

3.1 Prior to 10:15 a.m. on the next trading day following T day (T+1 day), a completed Form SD-4 to report Market Maker jobbing transactions of the T day shall be submitted by a Market Maker and a completed Form SD-5 to report SMM Market Making transactions of the T day by a Securities Market Maker. The forms shall be in the format as notified to the Market Makers or the Securities Market Makers by the Exchange from time to time and submitted to the Exchange through the ECP or in any other manner as prescribed by the Exchange from time to time.

3.2 Where the specified forms are not received by the Exchange under Clause 3.1, a Market Maker who executes a Market Maker jobbing transaction, or a Securities Market Maker who executes an SMM Market Making transaction, shall pay to the Exchange stamp duty at the rate stipulated in Clause 2.2 on the transaction and shall be responsible to contact Inland Revenue Department (IRD) directly to obtain a refund or otherwise.

3.3 Without prejudice to Clause 3.1, (i) a Market Maker shall not identify a transaction as a Market Maker jobbing transaction if the transaction concerned does not meet the

criteria or directives prescribed by the Collector of Stamp Revenue in accordance with the Stamp Duty (Jobbing Business) (Options Market Makers) Regulation and agreed to by the Exchange from time to time; and (ii) a Securities Market Maker shall not identify a transaction as an SMM Market Making transaction if the transaction concerned does not meet the criteria or directives prescribed in the relevant stamp duty remission or refund order pursuant to Section 52 of the Stamp Duty Ordinance.

3.4 The Exchange may, without prior notice to the Market Maker or the Securities Market Maker concerned, notify the Collector of Stamp Revenue immediately whenever it has reasonable grounds to believe that a transaction not satisfying the criteria or directives prescribed in the relevant Regulation and order as referred to in Clause 3.3 has been identified by a Market Maker as a Market Maker jobbing transaction or by a Securities Market Maker as an SMM Market Making transaction.

4. UNDERPAYMENT OF STAMP DUTY FOR T DAY TRANSACTIONS

4.1 A Participant shall be responsible to account for any underpayment of stamp duty for T day transactions as recorded by the Exchange.

4.2 A Participant shall indicate in the Form SD-1 submitted to the Exchange the nature of the underpayment and provide the Original Allowance Ticket from IRD (if applicable). A Participant shall also furnish direct to IRD details of the underlying transactions accounting for the underpayment upon a written request from IRD. If the Participant's written explanations in respect of the underpayment are not acceptable to IRD, the Participant shall, upon demand from IRD, pay the additional duty to IRD to make up the payment shortfall within 7 days from the date of demand.

4.3 Without prejudice to the aforementioned, upon oral or written notification by the Exchange, a Participant shall pay the underpayment of stamp duty for T day transactions into the Exchange's designated bank account and submit by fax or in such other manner as prescribed by the Exchange from time to time (i) a revised Form SD-1 to replace any incomplete or invalid Form SD-1 and (ii) the proof of payment prior to 4:00 p.m. on the day of notification.

5. TRADE AMENDMENT FOR T DAY TRANSACTIONS

5.1 A Participant shall be responsible to apply for approval for trade amendment for T day transactions to the Exchange no later than 9:45 a.m. on T+1 day. No late application will be entertained.

5.2 A Participant shall be responsible to adjust the amount of stamp duty payable for T day in respect of any trade amendment. Prior to making any adjustment, the relevant trade amendment must be approved by the Exchange for that day.

6. OVERSEAS TRANSACTIONS

6.1 An Exchange Participant shall be responsible to report all overseas transactions concluded by it either as a principal or an agent to the Exchange by entering details of the transactions into the Exchange's trading system.

6.2 For the purpose of stamp duty payment, the reporting date shall be deemed as the T

day for the reported overseas transactions.

- 6.3 Overseas transactions as reported under Clause 6.2 shall be subject to the same stamp duty collection procedures as specified under Section 2 of this Operation Procedures.

7. TRANSACTIONS NOT RECORDED IN THE SYSTEM BEFORE MARKET CLOSE

- 7.1 Any transactions not recorded in the Exchange's trading system before the end of the Afternoon Session on a trading day (or before the end of the Morning Session on a trading day which does not have an Afternoon Session) shall be reported to the Exchange by Exchange Participants within the order input period and the pre-order matching period of the Pre-opening Session on the next trading day, or within the first 15 minutes after the commencement of the Continuous Trading Session on the next trading day, and the Exchange will treat the reporting date as the transaction date.
- 7.2 The stamp duty payment of the transaction shall be based on the value and the date of the contract note.
- 7.3 The stamp duty payable as calculated by the Exchange, based on the date on which the report has been made may be different from the stamp duty payable as calculated by the Exchange Participant based on the date of the contract note. An Exchange Participant shall be responsible to itemize and reconcile the discrepancy (if any) in the Form SD-1.

8. PENALTY ON LATE PAYMENT OF STAMP DUTY

- 8.1 If a Participant fails to pay the stamp duty to the Exchange on T+2 day under Clause 2.5, a surcharge of 2% on the defaulted amount shall be imposed. A Participant shall settle the surcharge within 7 trading days upon demand from the Exchange.
- 8.2 If the defaulted amount remains unpaid at the end of T+3 day, from T+4 day on each and every trading day the defaulted amount remains outstanding, the Participant shall be subject to a daily penalty equivalent to 10% of stamp duty on T day transactions or \$200, whichever is higher. A Participant shall settle the penalty within 7 trading days upon demand from the Exchange.

9. NON-PAYMENT OF STAMP DUTY ON T+6 DAY

- 9.1 If the stamp duty on T day transactions remains unpaid at the end of T+6 day, the Participant may be suspended from trading and subject to any other disciplinary action as the Board may think fit.
- 9.2 Without prejudice to the disciplinary and other powers of the Board and the Chief Executive under the Rules of the Exchange and the Exchange's right to impose surcharge and penalty as specified in Section 8 of this Operation Procedures, the Exchange, or an external auditor appointed by the Exchange, shall have the power to carry out an investigation on the financial position of a Participant whose stamp duty payment for T day transactions remains outstanding by T+7 day. Costs incurred on any such investigations shall be borne by the Participant.
- 9.3 Notwithstanding any action which the Board may take against the Participant in default, the Board may also take legal action to recover the outstanding amount of

stamp duty and penalties.

10. DEPOSITS FOR STAMP DUTY COLLECTION

- 10.1 A deposit shall be payable by a Participant to the Exchange as prescribed in Rule 1302.
- 10.2 The amount of deposit payable by a Participant shall be in proportion to its accumulated stamp duty payment for 3 days based on its average daily turnover over a 6-month period.
- 10.3 A Participant shall, upon demand from the Exchange, pay a specified amount of deposit to the Exchange within 7 trading days from the date of demand in the form and manner as prescribed by the Exchange from time to time. The amount of deposit is as follows:

Class	Stamp Duty Payment for a 3-day Period (\$)	Amount of Deposit (\$)
A	0 - 15,000	5,000
B	15,001 - 60,000	30,000
C	60,001 - 120,000	75,000
D	120,001 - 200,000	150,000
E	200,001 - 500,000	250,000
F	500,001 and above	500,000

- 10.4 Unless otherwise notified by the Exchange, a Participant's deposit shall be subject to a half-yearly review.
- 10.5 The amount of deposit so collected pursuant to Clause 10.2 shall earn interest at savings rate and such interest shall be payable to Participants on a half-yearly basis.
- 10.6 Notwithstanding the aforementioned, a Participant shall maintain the specified amount of deposit in accordance with Rules 1302 and 1303 at all times with the Exchange.
- 10.7 For the purpose of Clause 10.6, a Participant shall pay to the Exchange any shortfall in the deposit within 3 trading days from the date of demand from the Exchange in the form and manner as prescribed by the Exchange from time to time.

11. FORMS AND INFORMATION

The Exchange has the right to copy, print, release and disseminate the forms and information received by the Exchange pursuant to this Operation Procedures for the purposes of or otherwise in connection with this Operation Procedures.