

CHAPTER VI

EXCHANGE PARTICIPANTS AND THEIR CLIENTS

601. – 605. (deleted)

Disclosure of Information about Clients

606. (a) Upon the request of the Chief Executive or any designated HKEX staff, an Exchange Participant shall disclose (or where appropriate, cause its Clients to disclose) to the Chief Executive or such designated HKEX staff, all information regarding the identity of a Client whose account involves the trading of Exchange Contracts about which the Exchange Participant is required to be satisfied on reasonable grounds in accordance with the SFC Code of Conduct and the Client Identity Guidance Note, within such period as is specified in the Client Identity Guidance Note. Such information includes the identity, address and contact details of the person or entity (legal or otherwise) ultimately responsible for originating the instruction in relation to a transaction involving an Exchange Contract and of the person or entity (legal or otherwise) that stands to gain the commercial or economic benefit of the transaction and/or bear its commercial or economic risk and the instruction given by that person or entity and such other information as the Chief Executive or any designated HKEX staff may request. Subject to the aforesaid, an Exchange Participant shall not disclose such information without the Client's permission.
- (b) If an Exchange Participant fails to comply with the disclosure requirement referred to in paragraph (a) of this Rule in respect of any Client, the Chief Executive may require the Exchange Participant to close out any or all the open contracts held by the Exchange Participant on behalf of the Client or request the Clearing House to effect such closing out on behalf of the Exchange Participant, or the Chief Executive may impose such margin surcharge on any or all the positions held by the Exchange Participant on behalf of the Client as the Chief Executive thinks fit.

607. - 612. (deleted)

Omnibus Accounts

613. (a) With regard to any Client which is an Omnibus Account operator, an Exchange Participant shall be required to obtain from such Client prior to conducting a transaction involving an Exchange Contract on its behalf the names and details of those persons who are ultimately beneficially interested in the Omnibus Account and those persons or entities who are ultimately responsible for originating the instruction in relation to the transaction, unless the Exchange Participant has a system in place

whereby it can, when requested by the Exchange or the Commission, either:

- (i) obtain from the Client the names, details and such other information as the Exchange or the Commission may require of those persons who are ultimately beneficially interested in the Omnibus Account and those persons or entities who are ultimately responsible for originating the instruction in relation to the transaction, and immediately disclose such information to the Exchange or the Commission; or
 - (ii) procure that the Client or those persons who are ultimately beneficially interested in the Omnibus Account or those persons or entities who are ultimately responsible for originating the instruction in relation to the transaction disclose such information to the Exchange or the Commission directly.
- (b) If an Exchange Participant fails to comply with the disclosure requirement referred to in paragraph (a) of this Rule in respect of any Client, the Chief Executive may require the Exchange Participant to close out any or all of the open contracts held by the Exchange Participant on behalf of the Client or request the Clearing House to effect such closing out on behalf of the Exchange Participant, or the Chief Executive may impose such margin surcharge on any or all of the positions held by the Exchange Participant on behalf of the Client as the Chief Executive thinks fit.

614. - 615. (deleted)

Exchange Participant's Contractual Requirements for Margin

616. Notwithstanding the levels of minimum margins stipulated according to Rule 617, an Exchange Participant may demand from a Client such higher level of margin as the Exchange Participant deems appropriate.

Exchange Participant's Contractual Requirements for Variation Adjustment

- 616A. (a) Notwithstanding the levels of variation adjustment demanded in accordance with the Clearing House Rules, an Exchange Participant may demand from a Client such higher level of variation adjustment as the Exchange Participant deems appropriate.
- (b) (deleted)
- (c) All variation adjustments must be paid in cash or by the lodgement of such non-cash collateral as may be approved by the Board from time to time. For these purposes a cheque received by an Exchange Participant in good faith which the Exchange Participant has no reason for

suspecting will not be honoured on first presentation may be treated as cash.

Minimum Margins

617. (a) Except as provided in paragraph (b) of this Rule or for the purpose of closing out a Client's open positions or as the Exchange may from time to time prescribe, generally or otherwise, no Exchange Participant shall transact F.O. Business for any Client until and unless the Exchange Participant has received from that Client collateral adequate to cover that Client's minimum margin requirement.
- (b) Subject to procedures prescribed by the Exchange from time to time, in respect of an established Client who has demonstrated a record of consistently meeting margin obligations and maintaining a sound financial position ("established Client") and who has represented to the Exchange Participant that the funds necessary to fully satisfy his margin obligations will be immediately transmitted, the Exchange Participant may transact F.O. Business for the established Client even though the Exchange Participant has not received from him collateral adequate to cover his minimum margin requirement provided that:
- (i) if a new position is established on behalf of the established Client during the T Session on any Trading Day, the Exchange Participant must issue a call for the amount of minimum margin within that Trading Day; if a new position is established on behalf of the established Client during the T+1 Session on any Trading Day, the Exchange Participant must issue a call for the amount of minimum margin within the next Trading Day;
 - (ii) the Exchange Participant must advise the established Client that the minimum margin is due as soon as practicable after the call but in no event later than the next Trading Day following the T Session or T+1 Session during which the new position is established; and
 - (iii) the Exchange Participant shall not permit any Client to establish new positions if the Client has calls for minimum margin which are overdue for settlement.

Notwithstanding the foregoing, an Exchange Participant shall not transact a day trade (i.e. a position that is opened and closed out within the same T Session or within the same T+1 Session) on behalf of an established Client until and unless the Exchange Participant has received from the established Client collateral adequate to cover his minimum requirements if the established Client has a history of transacting day trades exclusively.

- (c) All margin requirements must be settled in cash or by the lodgement of approved debt securities, approved securities or such other non-cash collateral as may be approved by the Board from time to time. For these purposes, a cheque received by an Exchange Participant in good faith which the Exchange Participant has no reason for suspecting will not be honoured on first presentation may be treated as cash.
- (d) The Exchange shall from time to time stipulate the minimum amount of margin required to be collected by Exchange Participants in respect of Exchange Contracts executed for Clients and shall notify Exchange Participants of any changes to the minimum margin requirements in such manner as the Exchange thinks fit.
- (e) The Exchange may vary the minimum margin requirements of Clients from time to time either:-
 - (i) in relation to any category or group of Exchange Participants;
 - (ii) in relation to any particular Exchange Participant;
 - (iii) in relation to any type of F.O. Business; or
 - (iv) in relation to any Client or type of Client.
- (f) (deleted)

Determination of Variation Adjustment

617B. The Exchange shall from time to time stipulate in the applicable Regulations the manner for determining the variation adjustment required to be made in respect of Exchange Contracts.

618. (deleted)

Monitoring Margin Calls, Demands for Variation Adjustment and Physical Delivery Contracts Delivery Obligations

- 619. (a) Exchange Participants are obliged to monitor continuously their Clients' ability to meet any margin calls and demands for variation adjustment.
- (b) Each Exchange Participant shall forthwith notify the Chief Executive in the event any Client has failed to meet two or more successive margin calls or demands for variation adjustment which in aggregate exceed HK\$150,000. Such notification shall include details of the account number(s) and (where relevant) the number of Exchange Contracts in respect of which default has been made and the market(s) in which they were transacted.

- (c) The Chief Executive or any designated HKEX staff may require Exchange Participants to supply such further information in respect of accounts in respect of which default has occurred in the payment of margin or variation adjustment as he deems appropriate, including the name and Beneficial Identity of the relevant Client(s).
- (d) After the making of any notification pursuant to paragraph (b) of this Rule, the Exchange Participant shall submit to the Chief Executive or any designated HKEX staff details concerning any default by the Exchange Participant's Clients (including the details referred to in paragraph (b) of this Rule) on each Trading Day until the aggregate amount of default falls below the amount referred to in paragraph (b) of this Rule.
- (e) Exchange Participants are obliged to monitor continuously their Clients' ability to satisfy any delivery obligations in relation to a Physical Delivery Contract.

620. - 625. (deleted)

Accounts with Clearing House and Executing Agents

626. (a) Every Exchange Participant registered under the category of Futures Commission Merchant shall request the Clearing House or any executing agent to open a separate account in the Exchange Participant's name, designated as a "segregated", "client" or "non-house" account or some other similar title.
- (b) Every Exchange Participant registered under the category of Futures Commission Merchant shall ensure that all F.O. Business transacted by it on the instructions of a Client shall be booked through the account referred to in paragraph (a) of this Rule and that no F.O. Business transacted by that Exchange Participant for its own account shall be booked through such account.
- (c) Where an Exchange Participant instructs the same executing agent in respect of both HKFE Trade and Non-HKFE Trade, the Exchange Participant shall request the executing agent to open separate accounts designated as "segregated", "client", "non-house" or some other similar title and further designated as "HKFE Trade" or "Non-HKFE Trade" or some other similar title and the Exchange Participant shall ensure that HKFE Trade and Non-HKFE Trade are booked through the appropriate accounts of the executing agent and are accounted for separately.
- (d) In the event that the jurisdiction in which any executing agent of the Exchange Participant operates does not require the segregation of clients' monies from the assets of the dealer, the Exchange Participant shall inform those Clients with trades executed by the executing agent of such non-requirement.

- (e) For the avoidance of doubt it is declared that, notwithstanding the opening of an account referred to in paragraph (a) of this Rule, the Exchange Participant deals as principal and accordingly no trust or other equitable interest arises in respect of any money, approved debt securities, approved securities or other property paid to or deposited with the Clearing House.

Commissions

627. An Exchange Participant shall charge a commission for all trades executed on or through the facilities of the Exchange (whether by itself or through its agent) in accordance with the rate or rates as the Exchange may from time to time prescribe.

Monitoring Large Open Positions

628. (a) The Board shall from time to time specify the number of open contracts in a particular futures contract month or option series in a particular Market carried or held by Exchange Participants on behalf of any Client or for their own account which is to be regarded as a Large Open Position for the purpose of this Rule.
- (b) Every Exchange Participant shall make reports to the Chief Executive or any designated HKEX staff of its Large Open Positions in such form and with such frequency as may from time to time be prescribed by the Board.
- (c) The Chief Executive or any designated HKEX staff may require Exchange Participants to supply such information in respect of a Large Open Position report as he deems appropriate.

Trading Limits and Position Limits

629. (a) Subject to paragraph (e) of this Rule, the Chief Executive may from time to time in his absolute discretion and during such period as he thinks fit:-
- (i) prescribe the maximum number or value of long or short Exchange Contracts in respect of any Market which any Exchange Participant is permitted to buy or sell in any Trading Day (whether on its own behalf or on behalf of a Client) in respect of any one futures contract month or option series, or in respect of any number of futures contract months or option series combined; and/or
 - (ii) prescribe the gross position and/or net long or net short position in any Market or any Markets combined which any Exchange Participant may hold or control (whether on its own behalf or on behalf of its Clients) in respect of any one futures contract month

or option series, or in respect of any number of futures contract months or option series combined.

- (b) Whenever the Chief Executive intends to impose any trading limit or position limit on any Exchange Participant pursuant to this Rule, he shall give prompt notice in writing of that intention to the Exchange Participant in question and to the Clearing House.
 - (c) Subject to paragraph (e) of this Rule, the Chief Executive may at any time increase, reduce or remove any trading limit or position limit imposed pursuant to this Rule by giving prompt notice in writing to the Clearing House and the Exchange Participant in question.
 - (d) The Chief Executive shall not be required to give any reasons for his decision to impose, increase, reduce or remove any trading limit or position limit pursuant to this Rule.
 - (e) Notwithstanding the above, any position limit from time to time imposed by the Chief Executive pursuant to this Rule shall not be less stringent than that prescribed by the Commission under section 35(1) of the Ordinance unless the Exchange Participant in question is, or is holding futures and/or options for, a person under section 4A of the Securities and Futures (Contracts Limits and Reportable Positions) Rules, in which case the Chief Executive may authorize the Exchange Participant to hold futures and/or options in excess of the limit prescribed by the Commission as the Chief Executive considers appropriate. Furthermore, an Exchange Participant may hold for itself or another person futures and/or options in excess of the position limit from time to time imposed by the Chief Executive or the Exchange if such Exchange Participant or person has been authorized by the Commission under subsection 4(3) of the Securities and Futures (Contracts Limits and Reportable Positions) Rules and the relevant Exchange Participant has notified the Exchange in writing of such authorization from the Commission.
630. (a) (1) Subject to paragraph (e) of this Rule, if the Chief Executive is of the opinion that positions are being accumulated in a Market or Markets by or on behalf of any person or persons and the accumulation is or may be detrimental to any Market or Markets or is or may be capable of adversely affecting the fair and orderly operation of any Market or Markets, or (2) if the designated HKEX staff has grounds to believe that any person has failed to comply with its Large Open Position reporting or position limit requirements in respect of any Market or Markets, he may in his absolute discretion and during such period as he thinks fit:-
- (i) prescribe the maximum number or value of long or short Exchange Contracts in respect of any Market which any Exchange Participant or Exchange Participants is/are permitted to buy or sell on behalf of such person or persons in any Trading

Day in respect of any one futures contract month, option series or in respect of any number of futures contract months or option series combined; and/or

- (ii) prescribe the gross position and/or net long or net short position in any Market or any Markets combined which any Exchange Participant or Exchange Participants may carry or hold on behalf of such person or persons in respect of any one futures contract month or option series, or in respect of any number of futures contract months or option series combined.
- (b) Whenever the Chief Executive or any designated HKEX staff intends to impose a trading limit or position limit pursuant to this Rule, he shall give prompt notice in writing of that intention to the Clearing House and the Exchange Participant or Exchange Participants in question.
- (c) Subject to paragraph (e) of this Rule, the Chief Executive may at any time increase, reduce or remove any trading limit or position limit imposed pursuant to this Rule by giving notice in writing to the Clearing House and the Exchange Participant or Exchange Participants in question.
- (d) The Chief Executive or any designated HKEX staff may require any Exchange Participant which holds or carries positions on behalf of a person or persons who is or are subject to any limits imposed pursuant to this Rule to report to the Chief Executive or any designated HKEX staff with such frequency as he deems appropriate.
- (e) Notwithstanding the above, any position limit from time to time imposed by the Chief Executive pursuant to this Rule shall not be less stringent than that prescribed by the Commission under section 35(1) of the Ordinance unless the person or persons in question is or are person(s) specified under section 4A of the Securities and Futures (Contracts Limits and Reportable Positions) Rules, in which case the Chief Executive may authorize him or them to hold or control futures and/or options in excess of the limit prescribed by the Commission as the Chief Executive considers appropriate. Furthermore, a person may hold or control futures and/or options in excess of the position limit from time to time imposed by the Chief Executive or the Exchange if he is authorized by the Commission under subsection 4(3) of the Securities and Futures (Contracts Limits and Reportable Positions) Rules and the relevant Exchange Participant has notified the Exchange in writing of such authorization from the Commission.

Exceeding Position Limits

631. (a) If an Exchange Participant exceeds any position limit imposed pursuant to Rule 629 or the Contract Specifications, the Chief Executive shall be entitled to require that Exchange Participant to close out or to effect the

transfer in accordance with the Clearing House Rules to another Exchange Participant of such number of open contracts as will in the opinion of the Chief Executive result in the Exchange Participant complying with the position limit.

- (b) If an Exchange Participant fails to comply with any requirement of the Chief Executive to close or transfer open positions pursuant to this Rule, the Chief Executive may close out or transfer such open positions on the Exchange Participant's behalf or may request the Clearing House to effect such closing out or transfer on the Exchange Participant's behalf. None of the Exchange, the Clearing House or a recognized exchange controller which is the controller of the Exchange shall be liable to the Exchange Participant for any loss suffered by the Exchange Participant in respect of such closing out or transfer. Such Exchange Participant shall indemnify and hold the Exchange, a recognized exchange controller which is the controller of the Exchange and/or the Clearing House harmless in respect of any costs or other expenses arising by reason of such closing out or transfer and shall indemnify the Clearing House in respect of any loss suffered by the Clearing House in respect of such closing out or transfer.
632. (a) If any person or persons exceed any position limit imposed by the Chief Executive pursuant to Rule 630, the Chief Executive may in his absolute discretion require one or more Exchange Participants to close out such excess open positions as will in the opinion of the Chief Executive result in the person or persons complying with the position limit.
- (b) If an Exchange Participant fails to comply with any requirement of the Chief Executive to close out open positions pursuant to this Rule, the Exchange may close out such open positions on the Exchange Participant's behalf or may request the Clearing House to effect such closing out on the Exchange Participant's behalf. None of the Exchange, the Clearing House or a recognized exchange controller which is the controller of the Exchange shall be liable for any loss suffered by the person or persons in respect of such closing out. Such Exchange Participant shall indemnify and hold the Exchange, a recognized exchange controller which is the controller of the Exchange and the Clearing House harmless in respect of any costs or other expenses arising by reason of such closing out and shall indemnify the Clearing House in respect of any loss suffered by the Clearing House in respect of such closing out.

Position Limits under the Contract Specifications

- 632A. (a) Without prejudice to the provisions of Rules 629 to 632, no person shall hold or control positions in any Exchange Contract that exceed the position limit prescribed from time to time in the relevant Contract

Specifications. Exchange Participants shall advise Clients of the position limits prescribed therein.

- (b) For the purpose of this Rule, the positions of all accounts under the direct or indirect common control or management of a person, and the positions of all accounts of a person or persons acting pursuant to an express or implied agreement or understanding, shall be subject to aggregation by the Exchange.
- (c) The Chief Executive, or his designee, shall require an Exchange Participant or Exchange Participants carrying an account or aggregated accounts in excess of the position limit to liquidate positions necessary to bring the account or aggregated accounts into compliance with the position limits. In the case of aggregated accounts in excess of the position limits that are carried by more than one Exchange Participant, the Chief Executive, or his designee, shall in his discretion require each affected Exchange Participant to close out as many positions as he may direct, to bring the aggregated accounts into compliance with the position limits. In exercising this discretion, the Chief Executive, or his designee, shall take into account the proportion of the aggregated accounts held by each Exchange Participant. The Chief Executive, or his designee, in directing the timing and procedure for any closing of positions pursuant to this Rule shall take into account the orderly operation of the markets.
- (d) Exchange Participants which knowingly contravene this Rule or which fail to comply with any directions provided under this Rule shall be liable to disciplinary proceedings.
- (e) Notwithstanding the above, an Exchange Participant or a Client or a person under section 4A of the Securities and Futures (Contracts Limits and Reportable Positions) Rules may apply to the Chief Executive to hold or control futures and/or options in excess of the position limit prescribed in the relevant Contract Specifications provided that if the application from the Exchange Participant or the Client or the person does not fall within section 4A of the Securities and Futures (Contracts Limits and Reportable Positions) Rules, the position limit authorized by the Chief Executive shall not exceed any limit prescribed by the Commission under section 35(1) of the Ordinance. Furthermore, a person may hold or control futures and/or options in excess of such prescribed position limit if it is authorized by the Commission under subsection 4(3) of the Securities and Futures (Contract Limits and Reportable Positions) Rules and has notified the Exchange in writing of such authorization from the Commission.

Increasing a Position Limit

632B. Subject to Rules 629(e), 630(e) and 632A(e), an Exchange Participant or a Client or a person under section 4A of the Securities and Futures (Contracts Limits and Reportable Positions) Rules may request the Chief Executive to increase the position limit imposed. Where applicable, an Exchange Participant (if it is a Non-Clearing Participant) or a Client may also submit a request to increase the position limit imposed on behalf of the HKCC Participant which clears its trades together with its own request. Such requests shall be made in writing to the Chief Executive. The Exchange Participant or the Client or the person that made the request(s) may be required to justify the increase of position limit. The Chief Executive may in his absolute discretion grant or refuse the request. Approval from the Chief Executive must be received prior to entering into positions which exceed the position limit. In the event that approval to hold or control excess position limit is granted by the Chief Executive under section 4A of the Securities and Futures (Contracts Limits and Reportable Positions) Rules in respect of any Exchange Contracts, the Exchange Participant or the Client shall appoint only one HKCC Participant to hold its positions in such Exchange Contracts.

Contract Limits and Reportable Positions Prescribed by the Commission under Section 35(1) of the Ordinance

633. (a) (deleted)
- (b) The Board may adopt procedures to assist Exchange Participants and their Clients (and the HKCC Participants which clear their trades if the Exchange Participants are Non-Clearing Participants and such HKCC Participants are not Exchange Participants) in complying with contract limits and reportable positions prescribed by the Commission under Section 35(1) of the Ordinance, including procedures for the acceptance from Clients of reports in relation to their reportable positions.
- (c) Exchange Participants shall inform their Clients of the reporting requirements and the responsibilities of reporting set out in these Rules, Regulations and Procedures and in the Securities and Futures (Contracts Limits and Reportable Positions) Rules and related guidance notes issued by the Commission.