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## CHAPTER 36

### RISK MANAGEMENT MEASURES - CNS SYSTEM

#### 3601. Marks

HKSCC shall be entitled from time to time and at any time to Mark-to-market all unsettled Market Contracts (whether or not due for settlement) by reference to the market price of the Eligible Securities that are the subject of Market Contracts, as determined by HKSCC.

Each Clearing Participant and Clearing Agency Participant shall on demand provide to HKSCC such amounts ("Marks") as may be considered appropriate by HKSCC as a result of the Mark-to-market of all unsettled Market Contracts to which such Participant is a party.

Where a Clearing Participant or Clearing Agency Participant wishes HKSCC to waive computation of Marks on a part or the whole of a short stock position not due for settlement, it may provide the relevant quantity of Eligible Security representing the short stock position to HKSCC as Collateral Security. HKSCC will have absolute right to use such Collateral Security to settle the covered portion of the short stock position on or before its Settlement Day.

Where a Clearing Participant or Clearing Agency Participant wishes HKSCC to waive computation of Marks on a part or the whole of a long stock position not due for settlement, it may provide to HKSCC the relevant amount of Specific Cash Collateral representing the corresponding money position of the long stock position as cover for such long stock position. The Specific Cash Collateral paid to and accepted by HKSCC will be recorded in the CCMS House Collateral Account of such Participant as a credit entry. HKSCC will have absolute right to use such Specific Cash Collateral to settle the money position of the covered portion of the long stock position on or before its Settlement Day. The only obligation of HKSCC in respect of such Specific Cash Collateral shall be to pay to such Participant an amount equal to the balance (if any) remaining after satisfaction of all obligations and liabilities (actual or contingent) of such Participant to HKSCC.

A Clearing Participant or Clearing Agency Participant which provides Specific Cash Collateral to HKSCC represents and warrants to HKSCC that it has title and authority to provide such Specific Cash Collateral to HKSCC, free from all liens, charges, encumbrances, equities and all other third party rights of any nature whatsoever.

The calculation and collection of Marks, and the provision of Collateral Security and Specific Cash Collateral for HKSCC to waive computation of Marks shall be made in accordance with the Operational Procedures. For the avoidance of doubt, HKSCC may at any time Mark-to-market the unsettled stock positions of Clearing Participants and Clearing Agency Participants in respect of Clearing Agency Transactions to be settled under the CNS System, and demand Marks from such Participants who are parties to the Clearing Agency Transactions.

#### 3601A. Margin

HKSCC shall be entitled from time to time and at any time to compute Margin on all unsettled Market Contracts (whether or not due for settlement) using the methodology set forth in the RMS Guide, the Operational Procedures or such other methods and assumptions as HKSCC may from time to time consider appropriate. Unless HKSCC otherwise specifies, Margin will be computed with reference to the Marginable Position of a Clearing Participant or Clearing Agency Participant. For a Clearing Agency Participant which is a China Connect Clearing

House, Margin will be computed with reference to the Marginable Position of unsettled Market Contracts arising from Exchange Trades that are executed by each of its Special Participants separately. Such Marginable Position will be determined by HKSCC in accordance with the Operational Procedures or such other methodology and assumptions as HKSCC may consider appropriate.

Each Clearing Participant and Clearing Agency Participant shall on demand provide to HKSCC such amounts as determined by HKSCC to be the required amount of Margin on all unsettled Market Contracts to which such Participant is a party.

Where a Clearing Participant or Clearing Agency Participant wishes HKSCC to reduce the Marginable Position for computation of Margin, it may provide to HKSCC the relevant quantity of Eligible Security representing a part or the whole of a short stock position not due for settlement as Collateral Security. HKSCC will have absolute right to use such Collateral Security to settle the covered portion of the short stock position on or before its Settlement Day.

Where a Clearing Participant or Clearing Agency Participant wishes HKSCC to reduce the Marginable Position for computation of Margin in the manner as provided in the Operational Procedures, it may provide to HKSCC the relevant amount of Specific Cash Collateral representing the corresponding money position of a part or the whole of a long stock position not due for settlement as cover for such long stock position. The Specific Cash Collateral paid to and accepted by HKSCC will be recorded in the CCMS House Collateral Account of such Participant as a credit entry. HKSCC will have absolute right to use such Specific Cash Collateral to settle the money position of the covered portion of the long stock position on or before its Settlement Day. The only obligation of HKSCC in respect of such Specific Cash Collateral shall be to pay to such Participant an amount equal to the balance (if any) remaining after satisfaction of all obligations and liabilities (actual or contingent) of such Participant to HKSCC.

A Clearing Participant or Clearing Agency Participant which provides Specific Cash Collateral to HKSCC represents and warrants to HKSCC that it has title and authority to provide such Specific Cash Collateral to HKSCC, free from all liens, charges, encumbrances, equities and all other third party rights of any nature whatsoever.

The calculation and collection of Margin, and the provision of Collateral Security and Specific Cash Collateral for HKSCC to reduce the Marginable Position for computation of Margin, shall be made in accordance with the Operational Procedures or such other methodology and assumptions as HKSCC may consider appropriate. For the avoidance of doubt, HKSCC may at any time calculate Margin on unsettled stock positions of Clearing Participants and Clearing Agency Participants in respect of Clearing Agency Transactions to be settled under the CNS System, and demand Margin from such Participants who are parties to the Clearing Agency Transactions.

HKSCC may at any time in its absolute discretion determine the Margin amount required to be provided by a Clearing Participant or Clearing Agency Participant, and the time and manner of payment of the Margin amount by the Participant.

### **3602. Collateral**

HKSCC shall be entitled from time to time to require a Clearing Participant or a Clearing Agency Participant to provide on demand collateral (including Guarantee Fund Risk Collateral and Collateral required under Rule 4107(iii)) or additional collateral in such form, to such extent and in such manner as is determined by HKSCC to be appropriate by reference to, inter alia, the level of exposure of such Participant to HKSCC (including, but not limited

to, the risks associated with the effecting of Closing-out Contracts pursuant to Rule 3607 or 4107(x), the risks of effecting Buy-ins pursuant to Rule 3501 or 3501A in the event of a default by the Participant, the risks associated with the clearing and settlement of China Connect Securities Trades and in the case of a Clearing Agency Participant which is a China Connect Clearing House, the risks associated with the clearing and settlement of Exchange Trades in respect of each of its Special Participants) and such other matters as HKSCC shall consider relevant, all in accordance with the Rules.

Unless otherwise approved by HKSCC, it shall be mandatory for a Clearing Agency Participant which is participating in CCASS pursuant to a Clearing Link to provide to HKSCC as Collateral Security on T-day the relevant quantity of Eligible Securities representing its short stock positions in Market Contracts arising from Exchange Trades and no Marks will be payable on such short stock positions to the extent that they are so covered.

Without limiting the generality of the above, when the Guarantee Fund Expected Uncollateralised Loss exceeds the Guarantee Fund Risk Predefined Limit, a Clearing Participant is subject to a Guarantee Fund Risk Collateral as determined by HKSCC from time to time in accordance with the Operational Procedures, in order to cover the residual risk exposure when the size of the Guarantee Fund has reached the Guarantee Fund Threshold.

A Clearing Participant which is a China Connect Clearing Participant may, but is not required to, provide Collateral to HKSCC for the early release of China Connect Securities that are Securities-on-hold in accordance with Sections 10A.14.4A and 10A.14.5A of the Operational Procedures.

A Clearing Participant or Clearing Agency Participant providing Collateral to HKSCC, where applicable, represents and warrants in favour of HKSCC that it has title and authority to provide such Collateral to HKSCC, free from all liens, charges, encumbrances, equities and all other third party rights of any nature whatsoever.

For the avoidance of doubt, HKSCC may at any time require Clearing Participants and Clearing Agency Participants who are parties to Clearing Agency Transactions to be settled under the CNS System to provide Collateral, including Guarantee Fund Risk Collateral (if applicable), to HKSCC.

### **3602A. Mainland Settlement Deposit and Mainland Security Deposit**

Each China Connect Clearing Participant shall on demand provide to HKSCC such amount of Mainland Settlement Deposit and Mainland Security Deposit for each China Connect Market as may from time to time be determined by HKSCC to be payable by the China Connect Clearing Participant in respect of its or its NCCCPs' China Connect Securities Trades on that China Connect Market.

HKSCC shall be entitled from time to time and at any time to compute Mainland Settlement Deposit and Mainland Security Deposit using the methodology set forth in the Operational Procedures or such other methods and assumptions as HKSCC may consider appropriate. Unless HKSCC otherwise specifies, in respect of each China Connect Market, (i) Mainland Settlement Deposit will be computed with reference to the buy turnover in China Connect Securities and any overdue short CNS stock positions in China Connect Securities of a China Connect Clearing Participant and its NCCCPs on that China Connect Market and the sell turnover in China Connect Securities that are executed on that China Connect Market by the

China Connect Clearing Participant and its NCCCPs for Special Segregated Accounts; and (ii) Mainland Security Deposit will be computed with reference to the net trading amount in China Connect Securities Trades of the China Connect Clearing Participant and its NCCCPs on that China Connect Market.

### **3603. Form of Marks, Margin and Collateral**

Unless HKSCC otherwise agrees or the Operational Procedures otherwise provided, Clearing Participants and Clearing Agency Participants shall provide Marks, Margin and Collateral required pursuant to Rules 3601, 3601A and 3602 in the form of cash in the currency in which Marks, Margin and/or Collateral is calculated and denominated. The provision of Marks, Margin and Collateral in any other currency or any other form, if it is accepted by HKSCC, shall be subject to such conditions and up to such limits as HKSCC may from time to time determine.

HKSCC shall be entitled from time to time to accept Eligible Securities from Participants as Collateral Securities for discharge and satisfaction of Marks, Margin and/or Collateral of the Participants required pursuant to Rules 3601, 3601A and 3602. The calculation and collection of Collateral Securities shall be made in accordance with the Operational Procedures.

Without prejudice to Rules 3601, 3601A and 3602, HKSCC may, for the purposes of deciding whether or not to require Clearing Participants and Clearing Agency Participants to provide Marks, Margin or Collateral, prescribe position limits on such Participants.

HKSCC may apply all or any of the Marks, Margin, and/or Collateral (including all rights and entitlements thereto, if any) and/or Charged Property or the proceeds thereof at any time without prior notice to a Clearing Participant or Clearing Agency Participant, as the case may be, which has made the provision of Marks, Margin, Collateral and/or Charged Property in or towards satisfaction of the obligations and liabilities (actual or contingent) of such Participant to HKSCC.

HKSCC has absolute discretion to determine the order of application of such Marks, Margin, Collateral and Charged Property in such manner as it considers appropriate.

A Clearing Participant or Clearing Agency Participant, as the case may be, which provides Marks, Margin, Collateral and/or Charged Property shall not create or permit to subsist any mortgage, charge or other encumbrance over all or any of the Marks, Margin, Collateral or Charged Property. The Marks, Margin, Collateral and Charged Property shall be in addition to and independent of any cover provided to HKSCC and any security which HKSCC may at any time hold for the obligations and liabilities of such Participant.

In respect of any sums received by HKSCC and/or Eligible Securities deposited with HKSCC as Marks, Margin, Collateral and/or Charged Property from a Clearing Participant or Clearing Agency Participant, as the case may be, the only obligation of HKSCC to such Participant shall be to pay such Participant an amount equal to the balance remaining after satisfaction of all obligations and liabilities (actual or contingent) of such Participant to HKSCC and/or to return to such Participant the balance of the Charged Property remaining after satisfaction of all obligations and liabilities (actual or contingent) of such Participant to HKSCC.

#### **3603A. Marks, Margin and Collateral in the form of cash**

Cash in Hong Kong dollar and other currencies provided by a Clearing Participant or Clearing Agency Participant to HKSCC pursuant to Rules 3601, 3601A, 3602 and/or 3603 are amounts paid by the Participant to HKSCC. Such amounts shall be recorded as credit entries in the CCMS House Collateral Account (or any other CCMS Collateral Account as determined by HKSCC) allocated to the Participant or, in the case of a Clearing Agency Participant which is a China Connect Clearing House, to such Clearing Agency Participant in respect of the relevant Special Participant. The only obligation of HKSCC to the Participant in respect of such amounts shall be to pay the Participant an amount equal to the balance remaining after satisfaction of all obligations and liabilities (actual or contingent) of such Participant to HKSCC.

#### **3604. Securities-on-hold**

Until such time as HKSCC is satisfied that (i) it has received payment in full in respect of Eligible Securities delivered by HKSCC to a Clearing Participant or Clearing Agency Participant as the case may be under the CNS System on a particular Settlement Day; and (ii) such payment is good and irrevocable, or, in the case of China Connect Securities, the required amount of Collateral has been received in good and irrevocable funds pursuant to an application for the early release of Securities-on-hold that has been approved by HKSCC in accordance with Section 10A.14.5A of the Operational Procedures, or unless otherwise agreed by HKSCC, title, property or any interest in such Eligible Securities (“Securities-on-hold”) shall not pass to such Clearing Participant or Clearing Agency Participant, as the case may be.

For the avoidance of doubt, title and property in Securities-on-hold shall be deemed to have passed when such Clearing Participant or Clearing Agency Participant, as the case may be, is allowed by HKSCC to use or withdraw such Eligible Securities from CCASS but at any time before then, HKSCC shall be free to use or apply such Eligible Securities in such manner as HKSCC considers appropriate.

#### **3605. Evidence of Securities available for settlement**

In relation to Exchange Trades, China Connect Securities Trades or Clearing Agency Transactions in Eligible Securities which are subject to expiry (e.g. warrants) or which HKSCC considers as high risk securities and which are to be settled under the CNS System, the delivering Clearing Participant, delivering China Connect Clearing Participant or the delivering Clearing Agency Participant as the case may be must ensure that when they or, in the case of GCPs, including their NCCCPs, place a selling order or in the case of a Clearing Agency Transaction when the transaction is reported to HKSCC by the Clearing Agency Participant they have readily available evidence showing that, on or before the due date for settlement of the Market Contracts, they have or will have the required quantity of Eligible Securities in their stock accounts in CCASS for settlement of the Market Contracts. The delivering Clearing Participant, delivering China Connect Clearing Participant or delivering Clearing Agency Participant, as the case may be, shall provide the evidence to HKSCC upon request.

If at any time HKSCC is not satisfied that such Participant has or will have the Eligible Securities on the due date for settlement of the Market Contract, HKSCC may direct such Participant to arrange or may on behalf of such Participant execute immediately a Buy-in on or off the Exchange to purchase the Eligible Securities required by that Participant to settle its obligations in respect of that Market Contract. If a Buy-in is unable to be effected, HKSCC may require additional cash collateral to be provided by the Participant in such amount as

HKSCC considers appropriate.

### **3606. Money compensation and payment obligations**

In addition to any other rights HKSCC may have under the Rules:

- (i) where HKSCC has an obligation to deliver securities under a Market Contract, HKSCC may in lieu of delivering securities make money compensation to the Participant concerned notwithstanding that such securities may be available in the market. HKSCC shall only exercise its powers under this Rule in circumstances when HKSCC considers in its reasonable opinion that the securities are not freely available in the market. The money compensation shall be in such amount and in such currency or currencies (whether in the Eligible Currency in which the securities are denominated or otherwise) as HKSCC considers to be fair and reasonable having regard to all the circumstances of the case;
- (ii) where HKSCC has an obligation to make payment under a Market Contract in an Eligible Currency in which the relevant securities are denominated or in a specified Eligible Currency, notwithstanding that the relevant Eligible Currency may be available, HKSCC may in lieu of making payment in that Eligible Currency make payment to the Participant concerned, in full or in part, in such other currency or currencies and at such conversion rate(s) as HKSCC may in its absolute discretion determine to be fair and reasonable having regard to all the circumstances of the case. HKSCC shall only exercise its powers under this Rule in circumstances when HKSCC considers in its reasonable opinion that the relevant Eligible Currency is not freely available or convertible in the market.
- (iii) where the situation contemplated in Rule 12A20 occurs, HKSCC shall have the right to take the actions set out in Rule 12A20(iii) in relation to the settlement of TSF Exchange Trades.

### **3607. Closing-out**

If at any time HKSCC decides that an Event of Default exists in relation to a Clearing Participant or Clearing Agency Participant, HKSCC may, in respect of the obligations of such Clearing Participant or Clearing Agency Participant arising out of all or any Market Contracts to which it is a party and which are unsettled at the time (whether or not due for settlement), on behalf of the Clearing Participant or Clearing Agency Participant, enter into Closing-out Contracts at what it determines to be the best prevailing market price and terms available (but taking into account that HKSCC may need to act promptly and provided that HKSCC shall have no liability if it acts in good faith) and for such purpose, HKSCC may instruct other authorized brokers to assist.

Each defaulting Clearing Participant or Clearing Agency Participant shall indemnify HKSCC against all costs, fees, expenses, liabilities, losses and damages of any nature whatsoever suffered or incurred by it directly or indirectly arising out of the entering into such Closing-out Contracts by HKSCC.

### **3608. Charged Property**

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Collateral Securities accepted by HKSCC pursuant to Rule 3603 shall be credited to the CCMS House Collateral Account (or any other CCMS Collateral Account as determined by HKSCC) of the Participant.

HKSCC shall have a first fixed charge over:-

- (a) the Collateral Securities from time to time credited to any CCMS Collateral Account of the Participant; and
- (b) the Derived Assets

by way of a continuing security (i) for the discharge and satisfaction of any Marks, Margin and Collateral obligations of such Participant, (ii) for the discharge and satisfaction of all other obligations and liabilities (actual or contingent) of such Participant to HKSCC arising directly in connection with HKSCC ensuring the settlement of Market Contracts to which such Participant is a party, (iii) for the discharge and satisfaction of all liabilities (actual or contingent) of such Participant to HKSCC arising from a loss of or defects affecting Eligible Securities pursuant to Rule 812, Rule 813, Rule 814 and Rule 815 and (iv) for the discharge and satisfaction of all other obligations (actual or contingent) of such Participant to HKSCC. Each of the charges created over the assets specified in (a) and (b) and in respect of the Participant's obligations in (i), (ii), (iii) and (iv) above shall form a separate security.

Without prejudice to the above, the Charged Property shall also be a continuing security for HKSCC's waiver of computation of Marks and reduction of Marginable Position for computation of Margin required from such Participant.

The Participant shall, at its own cost, promptly execute and do, all such acts, deeds and things as HKSCC may from time to time require for perfecting, preserving or protecting the security created under this Rule or for facilitating the realisation of HKSCC's security over the Charged Property.

Collateral Securities credited to the CCMS Collateral Account of a Participant may not be transferred from such Account without the express consent of HKSCC.

Without prejudice to HKSCC's rights in Rule 3702, upon any failure by a Participant to perform its obligations to HKSCC under the CNS System or when HKSCC otherwise deems it necessary for its own protection:

- (i) HKSCC may sell or apply the Charged Property of the Participant without further reference to the Participant and the provisions of Rule 3702 shall apply equally to such sale. Following such sale or application, the only obligation of HKSCC to such Participant in respect of its Charged Property shall be to pay such Participant an amount equal to the balance and/or to return to such Participant the balance of the Charged Property remaining after satisfaction of all obligations and liabilities (actual or contingent) of such Participant to HKSCC;

- (ii) Derived Assets credited to the Entitlement Account may not be transferred from such Account without the express consent of HKSCC and may be transferred to the Participant's CCMS Collateral Account by HKSCC; and
- (iii) all dividends, interests and other distributions in respect of the Charged Property not forming part of the Derived Assets may be retained and used by HKSCC.

**3609. [Repealed]**