

SIXTH SCHEDULE

SECURITIES BORROWING AND LENDING REGULATIONS ("REGULATIONS")

- (1) In these Regulations, unless the context otherwise requires:-

“Collector” has the same meaning as in section 2(1) of the Stamp Duty Ordinance;

“Hong Kong stock” has the same meaning as in section 2(1) of the Stamp Duty Ordinance; and

“mark to market” means for the purposes hereof, the adjustment of the value of collateral deposited by a borrower to be maintained by an Exchange Participant in respect of a securities borrowing.

- (2) An Exchange Participant of the Exchange shall be permitted to borrow or lend securities only in accordance with these Regulations or the HKSCC Rules (as the case may be) and, where the securities borrowing relates to Hong Kong stock, with applicable law and in particular the Stamp Duty Ordinance and the relevant Stamp Duty Interpretation and Practice Notes.
- (3) Unless the terms and conditions of these Regulations or the HKSCC Rules (as the case may be) are complied with, the borrowing and the lending of securities by an Exchange Participant may be treated as a disposal by the lender and an acquisition by the borrower and the return of borrowed securities as an acquisition by the lender and a disposal by the borrower so that the Transaction Levies, the Investor Compensation Levy and any other prescribed levy, fees and charges (including but not limited to the Trading Fee) may be payable in accordance with these Rules, and, if appropriate, the matter will be referred to the Collector. In addition, if the relevant circumstances involve a breach of the Stamp Duty Ordinance, stamp duty may be payable.
- (4) [Repealed]
- (5) [Repealed]
- (6) [Repealed]
- (7) The Chief Executive may restrict or prohibit an Exchange Participant from borrowing and lending securities provided he has first obtained the approval of the Chairman of the Board which may be given either orally or in writing.
- (8) A borrower shall provide collateral for its borrowing. The collateral shall be in a readily realisable form and acceptable to the lender.
- (9) (a) The amount of collateral provided shall at all times be not less than 100% of the current market value of the borrowed securities. Where the securities borrowing is for the purposes of a short sale (as defined in the Eleventh Schedule to the Rules), the amount of collateral deposited by the borrower shall at all times be not less than 105% of the current market value of the relevant uncovered securities borrowing position.

- (b) Where an Exchange Participant maintains uncovered securities borrowing positions on its own account or for its clients, it shall mark to market (at least daily) such uncovered securities borrowing positions and shall further maintain the level of the collateral stipulated in Regulation (9)(a) above.

In marking to market, an Exchange Participant shall when:-

- (i) marking to market only once daily, mark against the closing price of the relevant security on the previous trading day as published by the Exchange; or
 - (ii) marking to market two or more times daily, mark on at least the first occasion, against the closing price of the relevant security on the previous trading day as published by the Exchange.
- (10) In the event that at all times the value of the collateral becomes less than 100% or 105% where the securities borrowing is in relation to a short sale (or such higher percentage as agreed between the borrower and the lender) of the current market value of the borrowed securities, the lender shall at least daily require the borrower to increase the amount of collateral to 100% or 105% where the securities borrowing is in relation to a short sale (or such higher percentage as may have been agreed upon).
- (11) In the event the collateral becomes greater in value than 100% or 105% where the securities borrowing is in relation to a short sale (or such higher percentage as agreed between the borrower and the lender) of the current market value of the borrowed securities, the borrower may require the lender to release collateral which is in excess of 100%, or 105% where the securities borrowing is in relation to a short sale or such percentage which has been agreed upon.
- (12) [Repealed]
- (13) [Repealed]
- (14) An Exchange Participant which conducts securities borrowing or securities lending shall be deemed to have provided to the Exchange an indemnity indemnifying the Exchange (and its authorized officers) against all claims, liabilities and costs related to resisting such claims incurred in the exercise of its powers, or in the execution and discharge of its functions in relation to or in connection with any securities borrowing.
- (15) Except where forbidden by law, the Exchange may, at the request of the Collector, the Commission or any other person exercising regulatory functions, supply information or documents in response to such request concerning the securities borrowing activities of a borrower or the securities lending activities of a lender, and any transaction related to such activities.
- (16) Regulations (8) to (11) above shall not apply to the compulsory stock borrowing transaction effected pursuant to the HKSCC Rules.