
CHAPTER 39

ACCESS TO CCASS FROM A FOREIGN JURISDICTION

3901. Obligations of Participants or Settlement Agents located in a foreign jurisdiction

A Participant that wishes (i) to install a CCASS Terminal at its or its Settlement Agent's office premises located in a foreign jurisdiction or (ii) to access and operate CCASS from a foreign jurisdiction must obtain HKSCC's prior written approval to do so. Where approval is granted, such installation shall be subject to the following Rules of this chapter and such conditions as prescribed by HKSCC from time to time.

A Participant shall ensure that it is able to, and shall continue to, comply with all of its obligations as a Participant under the Rules despite the location from where it is accessing CCASS and despite its appointment of a Settlement Agent which accesses or operates from a foreign jurisdiction.

A Participant shall ensure that its money obligations arising from the operation of CCASS or other liabilities owing to HKSCC are settled in Hong Kong via one of the Designated Banks and that all money settlement is effected under Hong Kong business hours within the time and in accordance with the process specified under the Rules.

A Participant shall satisfy such other requirements and conditions in relation to its or its Settlement Agent's access to CCASS from a foreign jurisdiction as may from time to time be imposed by HKSCC. For the avoidance of doubt, in the event that any access to CCASS from a foreign jurisdiction is determined by HKSCC to be inappropriate for CCASS, HKSCC may discontinue such arrangement at any time by notifying the Participant in writing.

3902. Books and records

A Participant or its Settlement Agent which accesses and operates CCASS from a foreign jurisdiction, shall maintain in Hong Kong a set of books and records of its CCASS related activities, and ensure, and shall procure the Settlement Agent to ensure, that it is kept up-to-date on a day to day basis. The duplicate set can be in hardcopy or electronic form. Upon HKSCC's request, a Participant shall make available the hardcopy of books and records for inspection by HKSCC. Such copy shall be certified by a director or the company secretary of the Participant that it is a true and complete copy of the original.

In the event that HKSCC, in its absolute discretion, considers it necessary to inspect the books, records or systems relating to CCASS or transactions conducted through CCASS, the Participant shall grant or shall procure its Settlement Agent to grant, HKSCC or its authorized persons or agents access to such books, records and systems and the Participant shall reimburse HKSCC all the costs incurred.

3903. Communication

A Participant shall provide a means of communication with HKSCC, so that HKSCC will not bear any additional cost or suffer from any inconvenience due to the location of the Participant's CCASS Terminal or the location from where the Participant or its Settlement Agent access CCASS. A Participant may be required to reimburse HKSCC against all costs incurred by HKSCC in connection with any communication or correspondence with the Participant and its Settlement Agent, employees or representatives outside Hong Kong. The Participant shall be available for contact during normal CCASS operation hours. Emergency contacts in the relevant foreign jurisdictions shall also be available for time outside normal CCASS operation hours.

A Participant shall be responsible for all the costs and expenses in relation to the connection of communication links between the Hong Kong service provider and its or its Settlement Agent's office premises in a foreign jurisdiction.

3904. Legal liabilities

A Participant shall obtain from a reputable law firm of a foreign jurisdiction a legal opinion issued in favor of HKSCC confirming that :

- (i) having the Participant's CCASS operation and the placement of the CCASS Terminal in a foreign jurisdiction; and/or
- (ii) appointing a Settlement Agent which accesses CCASS on the Participant's behalf from or has its operation in a foreign jurisdiction

will not (a) subject HKSCC, the Exchange or a recognized exchange controller to any legal, regulatory, reporting, registration or other requirements of the foreign jurisdiction (b) deem HKSCC, the Exchange or a recognized exchange controller to be carrying on any business in that jurisdiction; (c) have any tax implications on HKSCC, the Exchange or a recognized exchange controller; and (d) affect the right of inspection by HKSCC to books, records or systems relating to CCASS or transactions conducted through CCASS in that jurisdiction. The legal opinion shall be issued in such form as may be required by HKSCC.

A Participant shall ensure that it complies with all applicable laws, regulations and requirements of the jurisdiction where its and its Settlement Agent's CCASS Terminals, office premises or operations are located.