

By Email (response@hkex.com.hk)
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8/F, Two Exchange Square,
8 Connaught Place, Central,
Hong Kong

ASIFMA Response to HKEX Consultation Paper - Proposal on Severe Weather Trading of Hong Kong Securities and Derivatives Markets

Dear Sir/Madam,

On behalf of its members, ASIFMA¹ thanks HKEX for this consultation on Severe Weather Trading (SWT) proposals, and we recognize a number of our recommendations submitted during the soft consultation stage have been incorporated or touched upon. We continue expressing our support for having trading available on all trading days, including SWT Days. Please find below our responses to the questionnaire, containing suggestions that we believe can further refine some areas of the proposals and hence enhance market participants' experience of SWT.

Proposed Operational Arrangements for Severe Weather Trading (Chapter 2, pp9-17)

Q1: Do you have any comments or concerns on the proposed arrangements for the Hong Kong securities market? (pp10-13)

Lingering Manual Processes

Members' main concerns lie around the existence of manual processes which require in-office personnel which would become challenging under SW conditions. Given that HKEX's consultation indicates all processes should be remote and personnel safety is their priority, there are some important operational uplifts needed to eliminate manual processes ahead of the go-live, e.g.

- ETF Creation and Redemption (Paragraph 42)

Currently, where there is subscription/redemption for an ETF security (which is expected to resume on a SWT Day per paragraph 42), members' HK team needs to submit a form by fax to the Central Clearing and Settlement System (CCASS) which contains the economics of the transaction. The form includes details such as stock code, settlement date, creation unit, along with CCASS participation ID. In order to remove existing manual ETF form processes if trading is opened on SW days, we recommend that CCASS develop an online portal where we can submit these forms digitally; otherwise, CCASS needs to ensure that its SW coverage has fax capability if the current manual process stays in place. Alternatively, members would require an exemption on a SWT Day to submit the form on the next normal business day.

¹ ASIFMA is an independent, regional trade association with over 150 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, accounting and law firms, and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region.

- Buy-in Exemption

Whilst instructions are sent in using the client connect platform, there is still a fair bit of manual work needed to apply for the exemption, e.g. form filling, and evidence needs to be uploaded to the client connect platform, which involves printing, scanning, etc. Again, we would require an exemption to deliver such on the next normal business day.

Stamp Duty (Paragraph 35 & Footnote 7)

Members believe that the current SWT proposal is workable as it only impacts SD-1 stamp duty collection (i.e. where payment is auto-debited by HKEX, and a report is submitted by HKEX's portal). However, if HKEX plans to expand the current proposal to include non-SD1 stamp payments (such as SD-4), we would ask for HKEX to work with IRD to enhance current manual processes with digital ones. Under SD-4 processes, physical cheques are printed, signed/stamped, and sent to the mail room, and runners are sent to HK IRD for delivery every day, so we understand that this falls under the scope of the arrangement spelt out by footnote 7 of the consultation paper.

Below are some questions on which members wish to have clarity from HKEX:

- *In relation to the stamp duty collection by HKEX -*
 - 1) For SD-1 daily stamp duty payment (via direct debit by HKEX) post the implementation of SWT, could HKEX please confirm it would be T+2 direct debit by HKEX? (Before SWT, stamp duty would automatically be debited on T+2 submission date)
 - 2) In case of SD-1 late/re-submission (with payment via physical cheque issuance) - could HKEX please confirm that for cheque deposit to HKEX's bank post implementation of SWT, there would be an extension from T+2 to the next trading day with no penalty, or it could be done by direct debit the next trading day rather than via cheque payment on the submission date (T+2)? (Currently, the deadline is 4pm HKT on the submission date (T+2)).
- *In relation to stamp duty reporting to HKEX -*
 - 1) For SD-1 and SD-4 daily stamp duty reporting post implementation of SWT, could HKEX please confirm the portal for submission would still be open on a SWT Day as per the daily deadline?
 - 2) In case of SD-1/ SD-4 late/re-submission which requires physical form submission (with the requirement of wet-ink authorized signatures and company chop on a physical form, to be scanned and emailed to HKEX) - could HKEX please confirm there would be an extension to the next trading day after the SWT Day given the IRD closure (i.e. the arrangement spelt out by footnote 7 of the consultation paper would apply)?
 - 3) For SD-2 submission (which is required to be submitted physically with authorized signatures and company chop by the 5th day from the beginning of the following month, rather than via HKEX's Electronic Communication Platform) - if the 5th day from the beginning of the following month is a SWT Day, could HKEX please confirm that there would be an extension to submit on the next trading day? (Before this consultation, there did not appear to be specific guidance.)

Trading of stocks on ex-entitlement date ("ex-date") due to a corporate action with ex-entitlement arrangement (Paragraphs 36, 41.1.1)

Given the ex-date will not change under SWT, will this impact the Record Date for a Corporate Action event (as the consultation only addresses the Last Registration Date, which would only be relevant if there were a book closure)?

Clearing and Settlement (Paragraphs 38-40)

Members have no major concerns around settlements – current BAU arrangements should be sufficient and achievable under SWT. That said, for each CP, their settlement processes are dependent on their settlement banks and other CPs to fulfil payment and delivery obligations. In other words, each CP's BAU depends on their settlement banks and other CPs' operational resilience on SWT Days.

Also currently, some cross-settlement processes may involve the submission of CCASS forms or re-materialization /de-materialization at share registrars. We want to seek further clarification on the arrangement of foreign securities cross-border settlement on SWT Days.

Risk Management Arrangements (Paragraph 44)

Can HKEX provide some details on how auctions/buy-ins would be conducted to achieve a matched book following a member default on SWT?

Concern with FX amidst SW

Another point of consideration is that FX market liquidity is often light during SW days, and international brokers rely on the FX market to raise HKD funding when executing HKEX orders. We would like to flag to HKEX the importance of coordinating with market players/HKMA to ensure the depth of FX market liquidity for cost management as they plan to enable trading on SW days. In addition, banks' ability to support all currencies (not only a select few currencies, like they currently do for derivatives holiday trading on HKEX) and to also support SWIFT and CHATS (i.e., both onshore and offshore) would be important as well.

Active Quote (AQ) Exemption for Listed Structured Product (LSP) Issuers

LSP issuers wonder if they can get AQ exemption given the uncertainty over the underlying liquidity on a SWT Day (due to fewer participants, sub-optimal TFH setup, etc.) compared to a typical trading day.

Q2: Do you have any comments or concerns on the proposed arrangements for Northbound Trading under Stock Connect? (pp13-14)

No concerns. Clearing/settlement and respective service schedules in CCASS will remain the same as on a regular trading and settlement day.

Q3: Do you have any comments or concerns on the proposed arrangements for Hong Kong derivatives market? (pp14-16)

Margin movements should not be impacted by SW assuming key funding and operations partners are operating as per BAU.

Regarding default risk management arrangements (paragraph 57), can HKEX provide some details on how auctions would be conducted to achieve a matched book following a member default on SWT?

Regarding the case where a CP's client fails to fulfill its payment obligations to the CP under any circumstances such as the closures of the client's banks (paragraph 58), will the client's failure to meet the margin call during a SWT Day disqualify it from being an Established Client under Rule 617(b) of the HKFE Rules? Will the client be deemed as not consistently meeting margin obligations as one of the criteria for the Established Client classification?

Q4: Do you have any comments or concerns on the proposed arrangements for new listings and new products? (pp16-17)

If share registrars and physical outlets of HKSCC are closed, then there will be no shares for settlement. In this case, HK IPO settlement and follow-on transactions should be out of scope as the current process requires share registrars to deposit physical securities at a physical outlet of HKSCC/CCASS counter on the listing/settlement date for onward CCASS settlement on the same day.

For structured product listing (paragraphs 69-70), there are two comments:

- We will need to update the LASLD and also definitions of Market Disruption Events in the BLD. Given the implementation of the change would not be earlier than July 2024, the proposed change can be done/language agreed upon with the HKEX during the upcoming programme update in April.
- We need to send signed CCASS forms for listed products on US underlying securities as soon as practicable (normally on L+1 Business Day). A delay in delivering a physical copy due to SW should be acceptable given we would have first sent a soft copy of the signed document to the HKEX on the launch date. In general, there needs to be an extension for all documentation which requires signatures and has to be sent to HKEX offices physically to allow for these to be sent on the day following the SWT.

Wider Arrangements and Infrastructural Changes in Enabling Severe Weather Trading (Chapter 3, pp18-20)

Q5: Do you have any comments or concerns on the proposed money transfer arrangements:

- (i) Cheque clearing
- (ii) Banking services

Cheque clearing – HKEX’s consultation suggests that physical cheques will be processed as normal for those cheques deposited prior to the closure of bank branches due to SW hoisting, including the clearing of cheques deposited on the previous day prior to SW. One member wishes to ask: What if a client wishes to deposit physical cheques but is unable to due to the closure of bank branches due to SW hoisting? How will the exchange be treating such cases?

Banking services – no impact.

Implications for Listing Applicants and Listed Issuers in The Securities Market (Chapter 4, pp21-23)

Q6: Do you agree with the proposed arrangements for listing applicants and listed issuers as set out in paragraphs 90 – 91 above, where (a) no change should be made to the existing definition of “business day” under the Listing Rules; and (b) consequential amendments (where necessary) should be made to the Listing Rules to remove any current time extension? Please provide reasons for your view.

Yes, the suggestion sounds reasonable.

Q7: Do you agree with the proposed arrangements for listing applicants and listed issuers as set out in paragraphs 92 – 94 above, and that consequential amendments (where necessary) should be made to the Listing Rules to accommodate situations where there are practical difficulties in complying with a Listing Rule obligation on a SWT Day? Please provide reasons for your view.

Yes, for situations that have been highlighted in our response to Q4, it would make sense to have revisions made to the listing rules given the practical difficulties in complying with those listing rule obligations on a SWT Day.

Q8: Do you envisage there being any material practical difficulty in complying with any particular Listing Rule requirements (e.g. those identified in paragraph 93) if a SWT Day is counted as a “business day”? If so, please explain the practical difficulty with reference to the relevant Listing Rules.

Yes, we agree with the scenarios set out in paragraph 93 and also refer to the examples provided in our response to Q4.

Q9: Do you agree that consequential amendments to the Listing Rules should be made to reflect any arrangements proposed under this chapter and the relevant trading and clearing arrangements proposed under Chapter 2?

Yes, to the extent applicable, there should be amendments made to the Listing Rules.

Next Steps (Chapter 6, p27)

Q10: Under the proposed model, do you foresee any insurmountable difficulties for implementing SWT? If yes, please specify.

If the concerns highlighted in the above responses are addressed, then market participants should be ready. However, some of our members have expressed further concerns around Hong Kong infrastructure in general – for example, the New Territories only has one provider of electricity services, CLP, and also only one broadband internet provider, HKT. If the weather is severe, it is not impossible to have power or telecoms outages. In these cases, it may not be possible for participants to mitigate the risk through their own work arrangements. Will HKEX call for the SWT to be suspended based on “special events”? If so, what is the list of “special events”? In particular, if participants cannot fulfil market settlement obligation due to these “special events”, will HKEX waive buy-in and penalty charges on a discretionary basis?

In addition, will HKEX host a dry run on a business day for SWT prior to going live and perform some due diligence with network service providers to ensure network infrastructure stays resilient during SW?

Q11: Would there be adequate time to prepare for SWT to come effective in July 2024 under the proposed model? If not, what would be a reasonable length and why?

It depends on how long it will take HKEX to address the concerns raised in the above responses, particularly with digitization raised for Q1.

Best regards,