

香港期貨結算有限公司

(香港交易及結算所有限公司全資附屬公司)

**HKFE CLEARING CORPORATION LIMITED**

(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)

## 通告 CIRCULAR

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Subject: Amendments to the Rules and Procedures of HKFE Clearing Corporation Limited  
("HKCC") (the "Rules")

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HKCC Participants are requested to note that the Securities and Futures Commission has approved amendments to the Rules for the purposes of implementing:

- (i) the acceptance of registered institutions under the SFO with Tier 1 capital of at least HK\$390m as General Clearing Participants (RIGCPs);
- (ii) enhanced ongoing information obligations for all Participants and an additional set of information obligations for RIGCPs;
- (iii) amendments to the events of default to enable HKCC to call a default if a Participant defaults at another clearing and settlement system operated by HKEX or one of HKEX's affiliates, or if HKCC has concerns about the creditworthiness of an affiliated entity of a Participant; and
- (iv) amendments to the provisions dealing with Capital-Based Position Limits to include RIGCPs.

The amendments, as set out in the Appendix, will come into effect on Monday, 28 October 2019.

The marked-up version of the amendments can be downloaded from the "Rule Update - Rules and Procedures of HKCC" section of the HKEX website.

Florence Leung  
Head of Legal

**Rules and Procedures of HKFE Clearing Corporation Limited**

**CHAPTER I**

**INTERPRETATION**

**Definitions**

101. In these Rules, the definitions contained in the Exchange Rules (as hereinafter defined) shall where the context permits be incorporated herein by reference and the following expressions shall, unless the context otherwise requires, bear the following meanings:-

“Adjusted Capital”	in respect of a General Clearing Participant which is a Registered Institution, means the minimum of its: (i) High Quality Liquid Assets – Total Net Cash Outflows over the next 30 calendar days (in each case as described in the latest financial information and accounts supplied to the Clearing House under Rule 214D) and (ii) Tier 1 capital;
“Registered Institution”	means an authorized institution under the Banking Ordinance (Chapter 155 of the Laws of Hong Kong) which is registered to carry on Type 2 regulated activity under the Ordinance;
“Tier 1 capital”	has the same meaning as set out in the Banking (Capital) Rules (Chapter 155L of the Laws of Hong Kong);

## CHAPTER II

### HKCC PARTICIPANTSHIP

#### Requirements for Participantship

201. Every HKCC Participant must be registered under one of the categories of Participantship prescribed by these Rules and, unless it is a General Clearing Participant which is a Registered Institution, must be an Exchange Participant.

#### Procedure on application

208. Every applicant shall apply for registration as an HKCC Participant under the same name as that under which it is registered as an Exchange Participant or, in the case of an application for registration as a General Clearing Participant which is a Registered Institution, the same name as that under which it is registered as such under the Ordinance. The applicant shall provide the Clearing House with such certifications, declarations, representations, undertakings, documents and further information as the Clearing House may require for dealing with the application.
210. An applicant approved pursuant to Rule 209 shall not be registered as an HKCC Participant unless and until it shall have satisfied all of the following conditions:-
- (d) become registered as an Exchange Participant (unless it is a Registered Institution approved as a General Clearing Participant); and

#### Continuing obligations of HKCC Participants

214. Every HKCC Participant must at all times during the currency of its HKCC Participantship:-
- (a) comply with the Financial Resources Rules, unless it is a General Clearing Participant which is a Registered Institution, and where applicable the financial resources requirements made under Rule 215 or 215A;
  - (d) keep in good standing its Exchange Participantship or, in the case of a General Clearing Participant which is a Registered Institution, keep in good standing its registration as a Registered Institution and demonstrate to the satisfaction of the Clearing House its capability to manage the portfolio of a defaulting NCP for which it clears;
  - (m) provide the Clearing House with sufficient information so as to enable the Clearing House to determine whether any payments to be made by the Clearing House under these Rules are withholdable payments pursuant to the Tax Information Exchange Framework and to enable the Clearing House to meet any applicable obligations relating to the Tax Information Exchange Framework;

- (n) notify the Clearing House of any change in the details supplied to the Clearing House at the time of admission and thereafter, including but not limited to anything relating to such HKCC Participant, its directors or employees which would render inaccurate, incomplete or superseded a statement or information previously furnished by such HKCC Participant to the Clearing House in connection with either (a) such HKCC Participant's application for admission to be an HKCC Participant or (b) the status of such HKCC Participant under the Tax Information Exchange Framework, the documentation previously furnished by such HKCC Participant on such status or the meeting by the Clearing House under clause (m) of any obligations relating to the Tax Information Exchange Framework; and
- (o) keep all books, records or documents relating to each Contract registered in its name for the term of such Contract and for at least seven years following the termination of each such Contract.

214A. Every HKCC Participant shall:

- (a) provide to the Clearing House:
  - (i) as soon as reasonably practicable subsequent to any reorganisation of its corporate group, an updated group organisation chart;
  - (ii) on an annual basis, a list of each of its direct and indirect shareholders holding 10% or more of the share capital or voting rights of the HKCC Participant;
  - (iii) as soon as reasonably practicable following a change (direct or indirect) of 10% or more in the share capital or voting rights of the HKCC Participant (including any change in the interest of an existing shareholder who holds an interest (direct or indirect) of 10% or more in the share capital or voting rights of the HKCC Participant and any new shareholder acquiring an interest (direct or indirect) of 10% or more in the share capital or voting rights of the HKCC Participant), the relevant information setting out such change; and
  - (iv) within the time frame specified by the Clearing House, such information as the Clearing House may request from time to time including changes to its financial condition; and
- (b) upon the Board's direction, provide the Exchange with any information requested by an exchange, clearing house, governmental, regulatory or other competent authority or an organization (whether within or outside Hong Kong) with which HKEX, the Clearing House or the Exchange has entered into an information arrangement or agreement or pursuant to the Tax Information Exchange Framework.

- 214B. (a) Every HKCC Participant which is an Exchange Participant must set Prescribed Risk Controls for itself (as Exchange Participant) and every General Clearing Participant must set Prescribed Risk Controls for each Exchange Participant for whom it clears, including its or such Exchange Participant's Authorized Persons and any other person who is allowed to trade through HKATS via its or such Exchange Participant's connection or any connection granted by the Exchange through it or such Exchange Participant.
- 214C. Each General Clearing Participant which is a Registered Institution shall notify the Clearing House in writing without delay providing full particulars known to it of:
- (a) any failure to maintain Tier 1 capital in an amount not less than that set out in Rule 215;
  - (b) a decrease in Tier 1 capital by more than 10% from the amount of Tier 1 capital shown on its most recent financial information as provided to the Clearing House pursuant to Rule 214D;
  - (c) any events or matters which relate to its clearing activities and exposure to general and financial risks as from time to time specified in these Rules or as the Clearing House may from time to time specify or notify to General Clearing Participants which are Registered Institutions;
  - (d) any material breach, infringement of or non-compliance with any provisions of these Rules, or where it has reason to suspect any such breach, infringement or non-compliance whether by itself, or any other persons acting on its behalf; and
  - (e) within the time frame specified by the Clearing House, submit to the Clearing House such statements, books, records, accounts, other documents or information which relate to its clearing activities or its exposure to general and financial risks as the Clearing House may reasonably demand, and shall promptly respond to all queries from the Clearing House.
- 214D. Each General Clearing Participant which is a Registered Institution must provide the following information to the Clearing House:
- (a) audited financial statements and audited consolidated financial statements, including balance sheet and profit and loss accounts, with the auditor's report drawn up in accordance with applicable law and accounting standards within 120 days of the end of the General Clearing Participant's fiscal year;
  - (b) quarterly balance sheet and profit and loss statements that are signed by authorized signatory or signatories of such General Clearing Participant, drawn up in accordance with applicable law and accounting standards, within 30 days of its quarter-end date, together with evidence of signing authority and specimen signatures. Save and except for any changes made to a General Clearing Participant's list of authorized signatory(ies), a General Clearing Participant is only required to provide evidence of signing authority and specimen signatures for the first time its quarterly balance sheet

and profit and loss statements are delivered to the Clearing House;

- (c) copies of all financial returns made by a General Clearing Participant to its regulator as soon as reasonably practicable following such returns having been submitted to the relevant regulator; and
- (d) such financial or other relevant information which relates to the General Clearing Participant's clearing activities or its exposure to general and financial risks, in addition to what is required by this Rule 214D, as may be requested by the Clearing House at its reasonable discretion from time to time.

#### Financial resources requirements

215. The minimum financial resources requirements applicable to HKCC Participants shall be those stipulated by the Clearing House from time to time by reference to, among other things, the nature and category of HKCC Participants. Without prejudice to Rule 215A,

- (I) every HKCC Participant (other than a General Clearing Participant which is a Registered Institution) shall maintain Liquid Capital of no less than:-
  - (a) its required Liquid Capital under the Financial Resources Rules; or
  - (b) the following amount, as appropriate:-
    - (i) HK\$20,000,000 for a General Clearing Participant; or
    - (ii) HK\$5,000,000 for a Clearing Participant,

whichever is greater; and

- (II) every General Clearing Participant which is a Registered Institution shall have Tier 1 capital of not less than HK\$390 million.

### **CHAPTER V**

#### **LIMITS AND DEFAULTS**

##### Position limits

503. In deciding whether or not to exercise its powers pursuant to Rule 501, the Clearing House shall have regard to the minimum financial resources requirement applicable to such HKCC Participant, the Liquid Capital of the HKCC Participant or, in the case of a General Clearing Participant which is a Registered Institution, the Adjusted Capital of such HKCC Participant, the volume of trading currently conducted by the HKCC Participant and whether the HKCC Participant is a General Clearing Participant or a Clearing Participant, and, if the latter, whether it has been given permission to clear for other Clearing Participants.

504. If the Clearing House forms the view that the position limits imposed under Rule 501 might be relaxed or lifted if an HKCC Participant's level of Liquid Capital or, in the case of a General Clearing Participant which is a Registered Institution, Adjusted Capital, were to be increased, it shall notify the HKCC Participant of the same in order to give the HKCC Participant an opportunity to reorganize its affairs and may stipulate the position limits which apply pending such reorganization.

#### Exceeding position limits

508. (c) Where an HKCC Participant (or, in the case of a General Clearing Participant, any Non-Clearing Participant for whom it clears) has failed to comply with any requirement of the Chief Executive of the Exchange to close out or transfer open positions pursuant to Rule 631 or Rule 632 of the Exchange Rules and the Clearing House receives a request from the Exchange to that effect, the Clearing House shall close out or transfer such open positions as may be directed by the Chief Executive of the Exchange on behalf of the Defaulting HKCC Participant (or, in the case of a General Clearing Participant, require the General Clearing Participant to close out or transfer to another HKCC Participant such open positions, and if it fails to comply with such requirement, the Clearing House shall close out or transfer such open positions on the General Clearing Participant's behalf), in accordance with Rules 313, 512 and 513.
- (d) A HKCC Participant shall indemnify the Clearing House, the Exchange, and a recognized exchange controller which is the controller of the Clearing House in respect of any costs, loss or other expenses arising by reason of any Contract being closed out or transferred by the Clearing House on the HKCC Participant's behalf pursuant to this Rule.

#### Events of default

509. Any of the following events or circumstances shall constitute an event of default upon its occurrence or if the Clearing House in its absolute discretion determines that it has occurred:
- (g) an HKCC Participant's Exchange Participantship has been suspended or revoked by the Exchange or, in the case of a General Clearing Participant which is a Registered Institution, its registration as a Registered Institution has been suspended or revoked by the Commission or is no longer valid for any reason;
- (ga) failure by a General Clearing Participant which is a Registered Institution to demonstrate to the satisfaction of the Clearing House its capability to manage the portfolio of a defaulting NCP for which it clears. Such capability might include, for example, having a valid, binding and effective Clearing Agreement with more than one NCP for which it provides clearing services which permits such General Clearing Participant to close out trades of an NCP in the event of a default by such NCP under the Exchange Rules;

- (h) an HKCC Participant is charged with or convicted of any offence relating to fraud or dishonesty or any act of bad faith;
- (i) in respect of an HKCC Participant which is also a participant or member of any clearing and settlement system operated by HKEX or its affiliates:
  - (i) failure to meeting any obligation owed by it to the central counterparty or operator of such system;
  - (ii) breach of the rules or terms of participation or membership of such system;  
or
  - (iii) declaration of default by, or suspension or expulsion from participation or membership of such system by the central counterparty; and
- (j) the Clearing House becomes aware of circumstances affecting a client, associate or affiliate of a HKCC Participant which might, in the opinion of the Clearing House, result in that HKCC Participant being unable to meet any of its obligation under these Rules or any Contract to which it is a party.



**CLEARING HOUSE PROCEDURES FOR FUTURES/OPTIONS CONTRACTS TRADED ON THE AUTOMATED TRADING SYSTEM OF THE EXCHANGE ("HKATS")**

**Chapter 5 Capital-Based Position Limits**

Pursuant to HKCC Rules, the Clearing House may impose position limits on any HKCC Participant to regulate or limit the maximum number or value of gross and net positions which can be held or controlled by the HKCC Participant.

**5.1 Position Limits Prescribed by the Clearing House**

Gross and net position limits are assigned to each HKCC Participant on the basis of its Liquid Capital or, in the case of a General Clearing Participant which is a Registered Institution, its Adjusted Capital. The gross and net margin liabilities of all clearing accounts of each HKCC Participant may not exceed its gross and net position limits respectively.

Gross and net position limits are assigned to each HKCC Participant on the basis of its Liquid Capital or, in the case of a General Clearing Participant which is a Registered Institution, its Adjusted Capital. Where an HKCC Participant is a Common Participant or carries on regulated activities under the Ordinance other than Type 1 or Type 2 regulated activity, it must apportion either a designated amount or a percentage of the Liquid Capital (unless otherwise determined by the Clearing House on a case by case basis, as per its latest monthly return filed with the Commission under the Financial Resources Rules and received by the Clearing House from the Commission) or, in the case of a General Clearing Participant which is a Registered Institution, a designated amount or a percentage of the Adjusted Capital as notified to the Clearing House for the purpose of clearing trades concluded or to be concluded on the Exchange or satisfying its payment or other obligations as an HKCC Participant to the Clearing House, and the gross and net position limits will be assigned to such HKCC Participant on the basis of its apportioned Liquid Capital or Adjusted Capital as appropriate as notified to the Clearing House.

Notification of an HKCC Participant's initial Liquid Capital or Adjusted Capital apportionment or any change thereof shall be made by such HKCC Participant in such manner, using such form and according to such schedule as may be prescribed by the Clearing House from time to time. Any notification of changes to the apportionment received by the Clearing House before a time specified by the Clearing House from time to time, shall become effective on the same Business Day the notification is received by the Clearing House. Otherwise, changes to the apportionment shall become effective on the commencement of the T Session of the next Business Day following receipt of the notification by the Clearing House. Notwithstanding the foregoing, the Clearing House reserves the right to accept or reject any initial apportionment or change of apportionment notified to it at its sole discretion. If no apportionment is notified to the Clearing House, the Clearing House reserves the right to apportion the Liquid Capital or Adjusted Capital, as appropriate, on behalf of the HKCC Participant.

For the purpose of this Chapter: (1) the term “Liquid Capital” shall, where applicable, be construed as the “apportioned Liquid Capital” and for the purpose of calculating the gross and net limits of an HKCC Participant, its Liquid Capital shall be adjusted to include its cash contribution to the Reserve Fund Deposits as at the date of its latest monthly return filed with the Commission under the Financial Resources Rules and received by the Clearing House from the Commission; and (2) the term “Adjusted Capital” shall, where applicable, be construed as the “apportioned Adjusted Capital”.

Unless otherwise determined by the Clearing House, the gross and net position limits shall be calculated as follows:

Gross Limit = 6 x Liquid Capital or, in the case of a General Clearing Participant which is a Registered Institution its Adjusted Capital

(i.e., 6 x Liquid Capital or Adjusted Capital  
≥ the sum of the gross margin liabilities of the House,  
Omnibus Client, Individual Client, Client Offset Claim,  
Sink and Market Maker (“MM”) Accounts; or

Liquid Capital or Adjusted Capital  
≥ 16.7% x the sum of the gross margin liabilities of the  
House, Omnibus Client, Individual Client, Client  
Offset Claim, Sink and MM Accounts)

Net Limit = 3 x Liquid Capital or Adjusted Capital

(i.e., 3 x Liquid Capital or Adjusted Capital  
≥ the sum of the net margin liabilities of the House,  
Client, Sink and MM Accounts; or

Liquid Capital or Adjusted Capital  
≥ 33.3% x the sum of the net margin liabilities of  
the House, Client, Sink and MM Accounts)

The gross and net margin liabilities of all contracts will be measured in Hong Kong dollars or the equivalent based on the exchange rate determined by the Clearing House for each type of currency.

For the purpose of calculating the gross margin liabilities of an HKCC Participant, since positions in the House, MM, Individual Client and Client Offset Claim Accounts are margined on a net basis, the net margin liabilities (please refer to sections 2.2.1 to 2.2.5) of these clearing accounts will be used in calculating the gross limits of HKCC Participants.

For the purpose of calculating the net margin liabilities of an HKCC Participant, positions in each of its Individual Client Accounts will be aggregated with positions in its Omnibus Client Account and Client Offset Claim Account and margined together on a net basis to determine the net margin liabilities of its Client Accounts, and positions of an HKCC

Participant's Sink Account will be margined together on a net basis to determine the net margin liabilities of its Sink Account.

Unless otherwise determined by the Clearing House, positions of an HKCC Participant arising from the T+1 Session on a Business Day will be incorporated in its position limit calculations on the next Business Day.

## 5.2 Extension of Position Limits

An HKCC Participant may increase its Liquid Capital or, in the case of a General Clearing Participant which is a Registered Institution, its Adjusted Capital, whether by revising the amount or percentage of Liquid Capital or Adjusted Capital (as appropriate) apportioned or otherwise, to extend its position limits.

Based on the gross and net margin liabilities calculated by the Clearing House at the end of the T Session of each Business Day, if the gross and/or net position limit of an HKCC Participant are/is exceeded, the HKCC Participant must take remedial action by increasing its Liquid Capital or Adjusted Capital (as appropriate). The remedial action must be taken

- within 10 Business Days if the HKCC Participant pays or delivers to the Clearing House an additional margin equivalent to 25% of whichever is the higher of:
  - its gross margin liability in excess of its gross position limit; or
  - its net margin liability in excess of its net position limit; or
- immediately in any other case.

When the applicable time period comes to an end, the HKCC Participant must, or failing which the Clearing House may, close out or transfer to any other HKCC Participant or HKCC Participants all positions in excess of the position limit.

## 5.3 T+1 Session Position Limit

The Clearing House will regularly monitor the net margin liabilities against the net position limit of all clearing accounts of each HKCC Participant during the T+1 Session. Unless otherwise determined by the Clearing House, the net position limit of the T+1 Session shall be calculated as follows:

Net Limit = 3 x Liquid Capital or Adjusted Capital

(i.e., 3 x Liquid Capital or Adjusted Capital  
≥ the sum of the net margin liabilities of the House,  
Client, Sink and MM Accounts; or

Liquid Capital or Adjusted Capital  
≥ 33.3% x the sum of the net margin liabilities of the  
House, Client, Sink and MM Accounts)

The net margin liabilities of all contracts will be measured in Hong Kong dollars or the equivalent based on the exchange rate determined by the Clearing House for each type of currency.

For the purpose of calculating the net margin liabilities of an HKCC Participant during the T+1 Session, positions in each of its Individual Client Accounts will be aggregated with positions in its Omnibus Client Account and Client Offset Claim Account and margined together on a net basis to determine the net margin liabilities of its Client Accounts, and positions of an HKCC Participant's Sink Account will be margined together on a net basis to determine the net margin liabilities of its Sink Account.

For the purpose of calculating the net limit of an HKCC Participant, the Liquid Capital shall be upward adjusted by the cash contribution to its HKCC Participant's Deposit and HKCC Participant Additional Deposit as of the date of its latest monthly return filed with the Commission under the Financial Resources Rules and received by the Clearing House from the Commission.

Based on the net margin liabilities calculated during the T+1 Session, if the net position limit is exceeded, an HKCC Participant must, or failing which the Clearing House may, close out, hedge or transfer to any other HKCC Participant or HKCC Participants all positions in excess of the net position limit.