

香港聯合交易所有限公司

(香港交易及結算所有限公司全資附屬公司)

THE STOCK EXCHANGE OF HONG KONG LIMITED

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

通告 CIRCULAR

Subject: Amendments to the Rules of the Exchange and the Operation Procedures for Stamp Duty Collection of The Stock Exchange of Hong Kong Limited (“SEHK”)

Enquiry: Mr. Andy Leung (Tel: 2840 3358 Email: ETFs@hkex.com.hk)

As a result of amendments to the Stamp Duty Ordinance which are scheduled to become effective on 1 August 2020, sale and purchase transactions by Securities Market Makers, their approved affiliate and their registered Designated Specialists of constituent underlying stocks made to fulfil an allotment order for, or pursuant to the receipt constituent underlying stocks in connection with a redemption of, shares or units of exchange traded funds, arising from market making and liquidity providing activities on such funds, are no longer subject to stamp duty. Holders of Stock Exchange Trading Rights and Exchange Participants of SEHK are requested to note that the Securities and Futures Commission has approved amendments to the Rules of the Exchange and the Operation Procedures for Stamp Duty Collection to facilitate the administration of the stamp duty exemption in respect of such transactions.

The amendments, as set out in Appendices 1 and 2, will come into effect on Saturday, 1 August 2020.

The marked-up version of the amendments can be downloaded from the following sections of the HKEX website:

- "Rule Update - Rules of the Exchange"
- "Rule Update - Operation Procedures for Stamp Duty Collection"

Florence Leung
Head of Legal

Rules of the Exchange

CHAPTER 1

INTERPRETATION

101. In these Rules, unless the context otherwise requires:-

“Exchange Traded Funds Market Maker”	means an Exchange Participant which is registered as a market maker by the Exchange, as more particularly described in the Securities Market Maker Regulations in the Fourteenth Schedule to these Rules;
“Exchange Traded Fund underlying stock transaction”	means a sale or purchase transaction of constituent underlying stocks made to fulfil an allotment order for, or pursuant to the receipt of constituent underlying stocks in connection with a redemption of, shares or units of an Exchange Traded Fund, arising from market making and liquidity providing activities on shares or units of such Exchange Traded Fund, which qualifies for exemption from stamp duty as set out in Schedule 8 of the Stamp Duty Ordinance;
“Exchange Traded Options”	means Options Contracts traded on the Exchange pursuant to the Options Trading Rules;

CHAPTER 13

STAMP DUTY COLLECTION

1301. A Participant shall pay to the Exchange in the manner and in accordance with the Operation Procedures for Stamp Duty Collection (“Operation Procedures”) as prescribed by the Exchange from time to time the stamp duty chargeable under the Stamp Duty Ordinance on each and every contract note issued in respect of all transactions recognized by the Exchange under Rule 544, save and except:
- (a) Market Maker jobbing transactions for which any applicable stamp duty shall be paid directly to the Collector of Stamp Revenue or in such other way as prescribed in the Stamp Duty Ordinance from time to time; and
 - (b) Exchange Traded Fund underlying stock transactions.

OPERATION PROCEDURES FOR STAMP DUTY COLLECTION

This Operation Procedures shall be read in conjunction with and shall form part of the Rules of the Exchange. Unless otherwise indicated, the terms used herein shall have the same meaning as contained in the Rules of the Exchange. In the event of inconsistencies between this Operation Procedures and the Rules of the Exchange, the Rules of the Exchange shall prevail.

2. GENERAL

- 2.1 Stamp duty chargeable under the Stamp Duty Ordinance shall be payable to the Exchange on each and every contract note issued in respect of all transactions recognized by the Exchange on a Trading Day (T day) basis unless the transaction is:
- (a) a Market Maker jobbing transaction; or
 - (b) an Exchange Traded Fund underlying stock transaction, as specified under Rule 1301.

3A. IDENTIFICATION OF EXCHANGE TRADED FUND UNDERLYING STOCK TRANSACTIONS BY EXCHANGE TRADED FUNDS MARKET MAKERS, THEIR AFFILIATES AND DESIGNATED SPECIALISTS

- (1) In respect of a relevant Exchange Traded Fund for which an Exchange Traded Funds Market Maker has been granted a Securities Market Maker permit, an Exchange Traded Funds Market Maker shall (for its own account or for the account of any of its affiliates and, if applicable, for the account of its registered Designated Specialist(s)) submit to the Exchange, prior to 10:15 a.m. on the next trading day following T day (T+1 day), a completed Form SD-6 to report Exchange Traded Fund underlying stock transaction(s) on T day and details of allotment order(s) and redemption order(s) of shares or units of such relevant Exchange Traded Fund, comprising:
- (i) purchase of relevant constituent securities that are scheduled to settle between the day on which the order for allotment of the shares or units of such relevant Exchange Traded Fund is placed, and the day the shares or units of such relevant Exchange Traded Fund is settled (both days inclusive);
 - (ii) details of the allotment order(s) of the relevant Exchange Traded Fund in fulfilment of which such Exchange Traded Fund underlying stock transactions have been made, attaching the allotment order confirmation(s) issued by the relevant Exchange Traded Fund or its

authorized agent on its behalf or a participating dealer thereof;

- (iii) sale of relevant constituent securities made between the day on which the order for redemption of the shares or units of such relevant Exchange Traded Fund is placed, and the trading day immediately after such relevant constituent securities listed on the Exchange are delivered by such Exchange Traded Fund as part of the consideration for such redemption (both days inclusive); and
- (iv) details of the redemption order(s) of the relevant Exchange Traded Fund and the constituent securities listed on the Exchange delivered pursuant thereto, attaching the redemption order confirmation(s) issued by the relevant Exchange Traded Fund or its authorized agent on its behalf or a participating dealer thereof.

The form shall be in the format as notified to the Exchange Traded Funds Market Makers by the Exchange from time to time and submitted to the Exchange through ECP or in any other manner as prescribed by the Exchange from time to time.

If all the details relating to the allotment orders of the relevant Exchange Traded Funds are not available by the time Form SD-6 is required to be filed as specified above, as a result of allotment orders placed after 10:15 a.m. on T+1 day and before the end of T+2 day, or if an allotment order of a relevant Exchange Traded Fund is subsequently cancelled, the Exchange Traded Funds Market Maker shall (for its own account or for the account of any of its affiliates and, if applicable, for the account of its registered Designated Specialist(s)) include such information in a supplemental Form SD-6A, to be filed prior to 10:15 a.m. on the trading day immediately following the date the allotment order is placed.

(2) If Form SD-6 and Form SD-6A (if required):

- (i) contain incomplete information or are missing the requisite allotment order confirmation(s) and/or redemption order confirmation(s), as applicable;
- (ii) contain allotment or redemption details which cannot be verified with the attached allotment order confirmation(s) or redemption order confirmation(s), as the case may be; or
- (iii) are not received by the Exchange by the time specified in Clause 3A(1),

the Exchange Traded Funds Market Maker who executed that Exchange Traded Fund underlying stock transaction(s) (for its own account or for the account of any of its affiliates and, if applicable, for the account of its registered Designated Specialist(s)) shall pay to the Exchange stamp duty at the rate stipulated in Clause 2.2 on the transaction and shall be responsible to contact Inland Revenue Department (IRD) directly to obtain a refund or otherwise.

If an allotment order of the relevant Exchange Traded Fund is subsequently cancelled by the Exchange Traded Funds Market Maker, its affiliates and/or Designated Specialist(s), the purchase of relevant constituent securities made for the purpose of fulfilling that allotment order will not qualify as Exchange Traded Fund underlying stock transaction(s) and the Exchange Traded Funds Market Maker who executed that transaction(s) (for its own account or for the account of the relevant affiliate and, if applicable, for the account of its registered Designated Specialist(s)) shall pay to the Exchange stamp duty at the rate stipulated in Clause 2.2 on that securities purchase transaction if such cancellation is notified to the Exchange prior to 10:15 a.m. on T+3 day, otherwise the Exchange Traded Funds Market Maker shall be responsible for paying the requisite stamp duty directly to IRD.

If a redemption order of the relevant Exchange Traded Fund is subsequently cancelled by the Exchange Traded Funds Market Maker, its affiliates and/or Designated Specialist(s), the sale of relevant constituent securities made pursuant to that redemption order will not qualify as Exchange Traded Fund underlying stock transaction(s) and the Exchange Traded Funds Market Maker who executed that transaction(s) (for its own account or for the account of the relevant affiliate and, if applicable, for the account of its registered Designated Specialist(s)) shall pay to the Exchange stamp duty at the rate stipulated in Clause 2.2 on that securities sale transaction. However, if such cancellation is not notified to the Exchange prior to 10:15a.m. on T+2 day, the stamp duty exemption previously claimed in the Form SD-6 submitted on T+1 day will be processed and the Exchange Traded Funds Market Maker who executed the relevant Exchange Traded Fund underlying stock transaction(s) on T day (for its own account or for the account of the relevant affiliate and, if applicable, for the account of its registered Designated Specialist(s)) shall be responsible for paying the requisite stamp duty directly to IRD.

- (3) Without prejudice to Clause 3A(1), an Exchange Traded Funds Market Maker (for its own account or for the account of any of its affiliates and, if applicable, for the account of its registered Designated Specialist(s)) shall not identify a transaction as an Exchange Traded Fund underlying stock transaction, if the transaction concerned does not meet the conditions for exemption prescribed in Schedule 8 of the Stamp Duty Ordinance.
- (4) The Exchange may, without prior notice to the Exchange Traded Funds Market Maker concerned, notify the Collector of Stamp Revenue immediately whenever it has reasonable grounds to believe that a transaction which does not satisfy the conditions for exemption prescribed in Schedule 8 of the Stamp Duty Ordinance has been identified by an Exchange Traded Funds Market Maker (for its own account or for the account of any of its affiliates and, if applicable, for the account of its registered Designated Specialist(s)) as an Exchange Traded Fund underlying stock transaction.