

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

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## **PREFACE**

### **Risk Management**

HKCC has a number of powers which it uses to assist in the risk management process. These include:-

- (f) the power to manage the fund referred to above, including requiring HKCC Participants where necessary to provide HKCC Participant Additional Deposits and Assessments or replenish the depleted fund;
- (h) in the event that an HKCC Participant fails to satisfy its delivery obligations in the settlement of a Physical Delivery Contract, the power to borrow, execute a buy-in to purchase the underlying commodity or instrument and/or make payment of Cash Compensation on behalf of the HKCC Participant; ~~and~~
- (i) in the event that an HKCC Participant fails to satisfy its payment obligations in the settlement of a Contract (including, without limitation, the payment of Cash Compensation), the power to borrow and/or purchase on behalf of the HKCC Participant the currency in which payment is required to be made;~~;~~
- ~~(j) the power to allocate losses arising from any event of default through a Loss Distribution Process; and~~
- ~~(k) the power to perform contract termination.~~

## **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:-

~~“Replenishment Contribution Assessments”~~ means additional contributions to the Reserve Fund provided or required to be provided by a contribution required to be made by an HKCC Participant pursuant to Rule 707A to replenish its Reserve Fund Deposits in the event that the Reserve Fund has been applied or depleted;

“Base Currency” means Hong Kong dollars, or such other currency as designated by the Clearing House and notified to HKCC Participants from time to time;

<u>“Capped Liability Period”</u>	<u>means the period beginning from the date on which the Clearing House declares an HKCC Participant to be a Defaulter for an event of default and ending on the 5th Business Day following such declaration, provided that each time another HKCC Participant is declared a Defaulter for an event of default during a prevailing Capped Liability Period, such Capped Liability Period shall be extended until the 5th Business Day following each such declaration and no new Capped Liability Period will be established for such declaration;</u>
<u>“Clearing Account Cum MTM(t)”</u>	<u>means, with respect to each clearing account and each Business Day t during the Loss Distribution Period, the sum of Currency Cum MTM(t) in all Settlement Currencies in respect of such clearing account;</u>
<u>“Clearing Account Gain”</u>	<u>means, with respect to each Clearing Account Gainer and a Business Day during the Loss Distribution Period, the amount of positive Clearing Account Cum MTM in respect of such Clearing Account Gainer on such Business Day;</u>
<u>“Clearing Account Gainer”</u>	<u>means, with respect to any Business Day during the Loss Distribution Period, each clearing account of a non-defaulting HKCC Participant in respect of which the value of the Clearing Account Cum MTM on such Business Day is greater than zero;</u>
<u>“Clearing Account Loser”</u>	<u>means, with respect to any Business Day during the Loss Distribution Period, each clearing account of a non-defaulting HKCC Participant in respect of which the value of the Clearing Account Cum MTM on such Business Day is equal to or less than zero;</u>
<u>“Clearing Service Termination Event”</u>	<u>means an event in relation to the winding down of clearing and settlement services by the Clearing House in relation to Futures/Options Contracts pursuant to Rule 1101;</u>
<u>“Currency Cum MTM(t)”</u>	<u>means, with respect to each Business Day t during the Loss Distribution Period and a Settlement Currency, the sum of Currency MTM Chg relating to the Currency VA Payment in such Settlement Currency for each Business Day from (and including) the date on which the Clearing House declares an HKCC Participant to be a Defaulter for an event of default to (and including) such Business Day t;</u>
<u>“Currency Cum VA</u>	<u>means, with respect to each Business Day t during the Loss</u>

Flow(t)

Distribution Period and a Settlement Currency, the total sum of Currency VA Flow which would be a gain to a non-defaulting HKCC Participant (expressed as a positive number) or a loss to a non-defaulting HKCC Participant (expressed as a negative number) in such Settlement Currency from (and including) the date on which the Clearing House declares an HKCC Participant to be a Defaulter for an event of default to (and including) such Business Day t. Currency Cum VA Flow(t-1) shall be the value for Currency Cum VA Flow(t) calculated on the Business Day immediately preceding Business Day t during the Loss Distribution Period, provided that where Business Day t is the day of event of default, Currency Cum VA Flow(t-1) shall be zero;

“Currency MTM Chg(t)”

means, with respect to each Business Day t during the Loss Distribution Period and a Settlement Currency, the Currency VA Payment in such Settlement Currency (converted, where applicable, into the Base Currency at the exchange rate determined by the Clearing House on such Business Day t) which would be a gain to a non-defaulting HKCC Participant (expressed as a positive number) or a loss to a non-defaulting HKCC Participant (expressed as a negative number) on such Business Day;

“Currency VA Flow(t)”

means, with respect to each Business Day t during the Loss Distribution Period and a Settlement Currency, an amount equal to the net Currency VA Payment in such Settlement Currency for that Business Day after taking into account the additional amount payable to the Clearing House or the amount received from the Clearing House pursuant to Rule 711(b) or 711(c);

“Currency VA Payment”

means, in respect of any Business Day and a Settlement Currency, the aggregated amount of variation adjustment (including the profits or losses on final settlement of Cash Settled Contracts and/or Identified Contracts) which would be a gain to a non-defaulting HKCC Participant (expressed as a positive number) or a loss to a non-defaulting HKCC Participant (expressed as a negative number) in such Settlement Currency on such Business Day without application of the VA Haircut; and for the purpose of the calculations and adjustments conducted under the Loss Distribution Process, the unrealized profits or losses in respect of Physical Delivery Contracts pursuant to section 2.3.3.2 of the Clearing House Procedures will be included;

<u>“Early Termination Date”</u>	<u>means, in respect of an open Contract registered in the name of an HKCC Participant, the date determined as an Early Termination Date for such Contract in accordance with Rule 547(a), 549(a) or 550, as the case may be. An open Contract shall be terminated or novated with effect from the Early Termination Date relating to it;</u>
<u>“event of default”</u>	<u>means an event relating to an HKCC Participant as referred to in Rule 509; and in the case of an HKCC Participant being declared a Defaulter because of an event of default, the date of occurrence of the event of default refers to the date the HKCC Participant is declared to be a Defaulter;</u>
<u>“Failure to Pay Notice”</u>	<u>means a written notification provided by an HKCC Participant to the Clearing House pursuant to Rule 545 upon the failure by the Clearing House to make, when due, any payment to an HKCC Participant (other than a Defaulter) under an open Contract;</u>
<u>“Former HKCC Participant”</u>	<u>means, at any time, a person who was an HKCC Participant but whose participation had been terminated prior to such time;</u>
<u>“Gainer VA Flow Adjustment(t)”</u>	<u>means the Gainer VA Flow Adjustment Base Currency (t) converted into the Settlement Currency of the relevant Currency VA Payment at the exchange rate determined by the Clearing House on Business Day t;</u>
<u>“Gainer VA Flow Adjustment Base Currency(t)”</u>	<u>means an amount determined in the Base Currency on the relevant Business Day t for each Currency VA Payment relating to a clearing account as follows: <math>Currency\ MTM\ Chg(t) - [Currency\ Cum\ MTM(t) \times (1 - VA\ Haircut(t)) - Currency\ Cum\ VA\ Flow(t-1)]</math></u>
<u>“HKCC Default Applicable Percentage”</u>	<u>means, in respect of an HKCC Failure to Pay Event or an HKCC Insolvency Event, a percentage applied by the Clearing House to determine the HKCC Default CP Receivable with respect to a clearing account of an HKCC Participant and the amount payable by the Clearing House in respect of the Reserve Fund Deposits Balance of an HKCC Participant pursuant to section 8.1 of the Clearing House Procedures;</u>
<u>“HKCC Default CP Receivable”</u>	<u>means, in respect of an HKCC Failure to Pay Event or an HKCC Insolvency Event, the amount payable by the Clearing House to each relevant HKCC Participant with respect to each of its clearing accounts pursuant to section</u>

8.1.2.2 of the Clearing House Procedures;

“HKCC Default Final CP Payable”

means, in respect of an HKCC Failure to Pay Event or an HKCC Insolvency Event, the final net amount payable by each relevant HKCC Participant to the Clearing House with respect to each of its clearing accounts after taking into account the operation of sections 8.1.2.1(a) and 8.1.2.1(b) of the Clearing House Procedures;

“HKCC Default Interim CP Payable”

means, in respect of an HKCC Failure to Pay Event or an HKCC Insolvency Event, the amount payable by each relevant HKCC Participant to the Clearing House with respect to each of its clearing accounts, after taking into account any Margin Balance applied pursuant to section 8.1.2.1(a) of the Clearing House Procedures;

“HKCC Failure to Pay Event”

means an event arising from the failure of the Clearing House to make all relevant payments under an open Contract to an HKCC Participant by the end of the relevant HKCC Failure to Pay Grace Period, provided that no such event shall occur if (1) such failure to pay arises as a result of technical or administrative reasons beyond the control of the Clearing House; or (2) during the HKCC Failure to Pay Grace Period, the Clearing House has exercised its powers under Rules 547(a) and/or 547(b);

“HKCC Failure to Pay Grace Period”

means the period from (but excluding) the day on which the Clearing House receives a Failure to Pay Notice from an HKCC Participant to (and including) the 21st Business Day following such day;

“HKCC Insolvency Event”

means an event relating to the insolvency of the Clearing House as referred to in Rule 550;

“HKCC Participant Additional Deposit”

means (i) an additional deposit required to be made by an HKCC Participant pursuant to Rule 705A; (ii) where any Assessment has been demanded by the Clearing House, any Assessment provided or required to be provided by the HKCC Participant; and (iii) where any Voluntary Recap Amount has been requested by the Clearing House, any Voluntary Recap Amount provided by the HKCC Participant which will not be refunded by the Clearing House to such HKCC Participant in accordance with Rule 709(d);

“HKCC Participant Additional Deposits Credit”

means a credit limit in respect of HKCC Participant Additional Deposits (other than any Assessment or Voluntary Recap Amount) that may be allowed to each HKCC Participant

pursuant to Rule 701(ac);

<u>“Identified Contracts”</u>	<u>means the open Contracts (including the open Contracts of a Defaulter and those of any non-defaulting HKCC Participants so determined by the Clearing House pursuant to Rule 515A(b)) to be terminated under the contract termination process as referred to in Rule 515A;</u>
<u>“Limited Recourse Applicable Percentage”</u>	<u>means, in respect of a Clearing Service Termination Event, a percentage applied by the Clearing House to determine the Limited Recourse CP Receivable with respect to a clearing account of an HKCC Participant and the amount payable by the Clearing House in respect of the Reserve Fund Deposits Balance of an HKCC Participant pursuant to section 7.1 of the Clearing House Procedures;</u>
<u>“Limited Recourse CP Receivable”</u>	<u>means, in respect of a Clearing Service Termination Event, the amount payable by the Clearing House to each relevant HKCC Participant with respect to each of its clearing accounts pursuant to section 7.1.2.2 of the Clearing House Procedures;</u>
<u>“Limited Recourse Final CP Payable”</u>	<u>means, in respect of a Clearing Service Termination Event, the final net amount payable by each relevant HKCC Participant to the Clearing House with respect to each of its clearing accounts, after taking into account the operation of sections 7.1.2.1(a) and 7.1.2.1(b) of the Clearing House Procedures;</u>
<u>“Limited Recourse Interim CP Payable”</u>	<u>means, in respect of a Clearing Service Termination Event, the amount payable by each relevant HKCC Participant to the Clearing House with respect to each of its clearing accounts, after taking into account any Margin Balance applied pursuant to section 7.1.2.1(a) of the Clearing House Procedures;</u>
<u>“Loser VA Flow Adjustment(t)”</u>	<u>means the Loser VA Flow Adjustment Base Currency(t) converted into the Settlement Currency of the relevant Currency VA Payment at the exchange rate determined by the Clearing House on Business Day t;</u>
<u>“Loser VA Flow Adjustment Base Currency(t)”</u>	<u>means an amount determined in the Base Currency on the relevant Business Day t for each Currency VA Payment relating to a clearing account as follows: <u>Currency MTM Chg(t) – [Currency Cum MTM(t) – Currency Cum VA Flow(t-1)]</u></u>

“Loss Distribution Period”

means the period beginning from the date on which the Clearing House declares an HKCC Participant to be a Defaulter for an event of default to (but excluding) the Business Day on which all open Contracts registered in that Defaulter’s name have been successfully transferred, closed out, sold or settled and all receivables, payments and/or delivery obligations in respect of such Contracts have been discharged in full by the relevant party provided that each time another HKCC Participant is declared a Defaulter for an event of default during a prevailing Loss Distribution Period, such Loss Distribution Period shall, where applicable, be extended until the Business Day on which all open Contracts registered in such subsequent Defaulter’s name have been successfully transferred, closed out, sold or settled and the related receivables, payments and/or delivery obligations have been discharged in full by the relevant party and no new Loss Distribution Period will be established for such subsequent Defaulter;

“Loss Distribution Process”

means the process of applying any VA Flow Adjustment to each clearing account of each HKCC Participant as described in Rules 710 to 714;

“Margin Balance”

means, in respect of an HKCC Participant and a clearing account, the aggregate value of variation adjustment, margin and collateral (including any excess collateral) provided by such HKCC Participant, in each case, as recorded in the corresponding CCMS Collateral Account;

“Notice of Assessment”

means a written notification provided by the Clearing House to HKCC Participants of any demand for Assessments pursuant to Rule 707A;

“Relevant CP Contracts”

means the open Contracts of the relevant HKCC Participant to be terminated under an HKCC Failure to Pay Event as referred to in Rule 547 or 549;

“Reserve Fund Deposits Balance”

means, on any Business Day, with respect to each HKCC Participant, the aggregate value of the HKCC Participant’s Deposits and HKCC Participant Additional Deposits provided by the HKCC Participant, as reduced by payments out of the Reserve Fund allocated to such HKCC Participant’s Deposits and/or HKCC Participant Additional Deposits, as applicable, in accordance with Rule 706;

“Reserve Fund Resources”

means the Reserve Fund and any other amounts specified as forming part of the Reserve Fund Resources in the Rules;

<u>“Termination Value Payable”</u>	<u>means, under the contract termination process, the amount payable by each relevant HKCC Participant to the Clearing House with respect to each of its clearing accounts pursuant to section 2.13.1 of the Clearing House Procedures;</u>
<u>“Termination Value Receivable”</u>	<u>means, under the contract termination process, the amount payable by the Clearing House to each relevant HKCC Participant with respect to each of its clearing accounts pursuant to section 2.13.1 of the Clearing House Procedures;</u>
<u>“Total Clearing Accounts Cum MTM(t)”</u>	<u>means, with respect to any Business Day t during the Loss Distribution Period, the sum of the Total Clearing Accounts Currency Cum MTM(t) in all Settlement Currencies;</u>
<u>“Total Clearing Accounts Currency Cum MTM(t)”</u>	<u>means, with respect to each Business Day t during the Loss Distribution Period, the sum of the Total Clearing Accounts Currency MTM for each Business Day from (and including) the date on which the Clearing House declares an HKCC Participant to be a Defaulter for an event of default to (and including) such Business Day t;</u>
<u>“Total Clearing Accounts Currency MTM(t)”</u>	<u>means, with respect to each Business Day t during the Loss Distribution Period, the sum of Currency MTM Chg(t) in respect of all clearing accounts of all non-defaulting HKCC Participants;</u>
<u>“Total Gains(t)”</u>	<u>means, with respect to each Business Day t during the Loss Distribution Period, the sum of all Clearing Account Gains in respect of all Clearing Account Gainers on such Business Day t;</u>
<u>“Unadjusted HKCC Default CP Receivable”</u>	<u>means, in respect of an HKCC Failure to Pay Event or an HKCC Insolvency Event, the amount determined to be payable by the Clearing House to each relevant HKCC Participant with respect to each of its clearing accounts, without taking into account any adjustment pursuant to section 8.1.2.2 of the Clearing House Procedures;</u>
<u>“Unadjusted Limited Recourse CP Receivable”</u>	<u>means, in respect of a Clearing Service Termination Event, the amount determined to be payable by the Clearing House to each relevant HKCC Participant with respect to each of its clearing accounts, without taking into account any adjustment pursuant to section 7.1.2.2 of the Clearing House Procedures;</u>
<u>“VA Flow Adjustment(t)”</u>	<u>means either the Gainer VA Flow Adjustment(t) or Loser</u>

VA Flow Adjustment(t), as applicable;

“VA Haircut(t)” means, on each Business Day t during the Loss Distribution Period, an amount equal to the (1) VA Shortfall(t) divided by (2) Total Gains(t), expressed as a percentage figure;

“VA Shortfall(t)” means, in respect of Business Day t, the greater of (1) zero and (2) an amount equal to (i) Total Clearing Accounts Cum MTM(t) plus (ii) any costs, interests or other expenses incurred by the Clearing House in effecting the transfer, closing out, sale or settlement of any Contract under Rule 510 less (iii) resources available to the Clearing House including those available to be applied under Rules 510(e), 510(g) and 706 with respect to all such events of default but excluding any Assessments which have not been deposited with the Clearing House by such day;

“Voluntary Recap Amount” means a voluntary contribution to the Reserve Fund, as requested by the Clearing House pursuant to a Voluntary Recap Request Notice;

“Voluntary Recap Request Notice” means a written notification provided by the Clearing House pursuant to Rule 709 to an HKCC Participant requesting for a Voluntary Recap Amount;

## **CHAPTER II** **HKCC PARTICIPANTSHIP**

### Continuing obligations of HKCC Participants

214. Every HKCC Participant must at all times during the currency of its HKCC Participantship:-

(ja) pay when due all amounts required by the Clearing House including but not limited to Gainer VA Flow Adjustment in the Loss Distribution Process, Termination Value Payable in the contract termination process, Limited Recourse Interim CP Payable or Limited Recourse Final CP Payable upon a Clearing Service Termination Event and HKCC Default Interim CP Payable or HKCC Default Final CP Payable pursuant to section 8.1 of the Clearing House Procedures;

(k) meet all requirements to provide such HKCC Participant Additional Deposits, ~~and Replenishment Contributions~~ Assessments and replenishment of Reserve Fund Deposits as may from time to time be demanded by the Clearing House;

Resignation and reimbursement of HKCC Participants' Deposits and HKCC Participant Additional Deposits

217. (ab) The liability of a resigning HKCC Participant to provide Reserve Fund Deposits and to ~~provide Assessments~~~~make Replenishment Contributions~~ shall be limited in accordance with Rule 707D and the Clearing House Procedures.
- (c) If all or part of the HKCC Participant's Deposit of the resigning HKCC Participant is applied towards any payment in accordance with Rule 706, the HKCC Participant's right to reimbursement shall be reduced by an equivalent amount and if any amount so applied is ~~replenished from any monies~~ recovered from Defaulters under Rule 701(b) as determined on the effective date of termination of its HKCC Participantship, monies recovered from the Defaulter (less any uncovered costs and expenses of recovery) shall be repaid~~the reimbursement~~ to the resigning HKCC Participant pursuant to Rule 701(b)~~shall include such replenished amount~~.
- (k) The Clearing House may deliver or return to HKCC Participant assets in such form and in such amount, as the Clearing House deems appropriate, equivalent to the assets recorded as part of its Reserve Fund Deposits Balance.

**CHAPTER III**  
**REGISTRATION, CLEARING, RISK**

Legal effect of registration

310. The obligations of the Clearing House to HKCC Participants under a Contract arising pursuant to Rule 309 and for the time being extant shall be limited exclusively to:-
- (a) amounts received by the Clearing House from HKCC Participants on the settlement of any Contract including variation adjustments and any underlying commodity or instrument;
- (b) amounts recovered by the Clearing House from any Defaulting HKCC Participant (whether on enforcement of non-cash collateral, realization of assets or otherwise);
- (c) the amount from time to time standing to the credit of the Reserve Fund, including the relevant amount received under Rules 707A and 709, which is available to support the Clearing House's obligations under that particular Contract or class of Contract;

- (d) the amount received pursuant to any claim under any insurance policy taken out by the Clearing House for the purpose of providing financial resources to support the Reserve Fund and which is available to support the Clearing House's obligations under that particular Contract or class of Contract;
- (e) the amount of any guarantees or facilities available to the Clearing House and arranged expressly for the purpose of providing financial resources to support the Reserve Fund and which are available to support the Clearing House's obligations under that Contract or class of Contract; and
- (f) any HKCC Participant Additional Deposits Credit which may be made available and utilized by HKCC Participants and which, if actually applied to satisfy any liabilities of the Clearing House as a result of the default of a Defaulting HKCC Participant, shall be repayable by the Defaulting HKCC Participant to the Clearing House.

No other assets of the Clearing House shall be available to meet any such obligation.

For the avoidance of doubt it is hereby declared that to the extent that the aggregate of the funds or assets of the Clearing House referred to in sub-paragraphs (a) to (f) above are insufficient at any time to meet the aggregate of the Clearing House's liabilities to HKCC Participants under all Contracts subsisting at any time, each HKCC Participant to which the Clearing House is liable shall, subject to Rules 515A, 545 to 554, 710 to 713 and 1101 to 1103, only be entitled to receive payment pro rata according to the amount due to it as compared with the aggregate due to all HKCC Participants. Without prejudice to the foregoing:

- (i) in respect of the Clearing House's obligations to deliver the underlying commodity or instrument under Physical Delivery Contracts, to the extent that the Chairman determines that it is not possible or reasonably practicable to deliver the underlying commodity or instrument, the Clearing House's obligations shall be to make money compensation to HKCC Participants concerned in substitution for the delivery of the underlying commodity or instrument in whole or in part and in such amount as the Chairman may in his absolute discretion considers appropriate in consultation with the Commission by reference to the market value of such underlying commodity or instrument at the time of payment of compensation by the Clearing House (or the value at such other time as the Chairman shall, in consultation with the Commission, consider fair and reasonable in the circumstances). The money compensation shall be in such currency or currencies (whether in the Settlement Currency, the Currency of the Contract or otherwise) and at such conversion rate(s) as the Clearing House may in its absolute discretion determine to be fair and reasonable, taking into account all relevant circumstances as it may consider appropriate; and

- (ii) in respect of the Clearing House's obligations to make payment to HKCC Participants under Contracts in the Settlement Currency, to the extent that the Clearing House determines that it is not possible or reasonably practicable to make payment in such Settlement Currency, the Clearing House's obligations shall be to make payment, in full or in part, in such other currency or currencies and at such conversion rate(s) as the Clearing House may in its absolute discretion determine to be fair and reasonable, taking into account all relevant circumstances as it may consider appropriate.

Subject to Rules 515A(e), 555, 714 and 1104, the Clearing House shall remain liable on all Contracts which remain to be settled by the Clearing House, but payment of the balance of any amounts due and delivery of the balance of any underlying commodity or instrument (or payment of money compensation in substitution therefor) shall only be made as and when, and to the extent that, the amounts, funds or assets referred to in sub-paragraphs (a) to (e) are subsequently replenished. **The Clearing House shall only exercise its powers to defer making payment to HKCC Participants under this Rule in consultation with the Commission.**

**CHAPTER IV**  
**CLEARING HOUSE MARGIN, VARIATION ADJUSTMENT,**  
**COVER FOR MARGIN AND ACCOUNTS**

Application of monies

416A. (a) The Clearing House shall be entitled to apply any sums denominated in any currency standing to the credit of any CCMS Collateral Account with the Clearing House of an HKCC Participant in satisfaction of any sum denominated in any currency due or payable by such HKCC Participant to the Clearing House, whether actual or contingent, and whether solely or jointly with any other person, with the exception that credit balances on a Client CCMS Collateral Account or an account which is of a Client nature may only be applied to meet liabilities arising in respect of any of those accounts.

- (b) For the purpose of this Rule, the Clearing House is authorised to purchase with sums denominated in any currency standing to the credit of any such CCMS Collateral Account such other currencies as may be necessary to effect such application and any agreement relating to such credit balance shall be deemed to incorporate a provision entitling the Clearing House so to apply such credit balance whether or not the same is held on any special terms (including where it shall only be repayable at some future date).

(c) The Clearing House shall not be obliged to exercise its rights under this Rule.

“Client CCMS Collateral Account” dealt with separately

420. In determining:-

(vi) whether Clearing House margin, or additional margin should be released;

(vii) the amount of VA Flow Adjustment in the Loss Distribution Process;

(viii) the amount of Termination Value Payable and Termination Value Receivable in the contract termination process;

(ix) the amount of Limited Recourse Interim CP Payables, Limited Recourse Final CP Payables and Limited Recourse CP Receivables in a Clearing Service Termination Event; and

(x) the amount of HKCC Default Interim CP Payables, HKCC Default Final CP Payables and HKCC Default CP Receivables pursuant to section 8.1 of the Clearing House Procedures

any HKCC Participant’s account in CCMS designated as a “Client CCMS Collateral Account” or which is of a Client nature shall be regarded entirely independently and separately from any other CCMS Collateral Account of the HKCC Participant.

## **CHAPTER V** **LIMITS AND DEFAULTS**

### 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:

(e) an HKCC Participant fails to comply with any of the following:

(i) any provision of the Financial Resources Rules or any financial resources requirement prescribed by the Clearing House;

(ii) any position limits imposed by the Clearing House or the Exchange;

(iii) any payment obligations in respect of its HKCC Participant Additional Deposit, ~~or any Replenishment Contribution Assessments~~ demanded by the Clearing House pursuant to Rule 707A or any replenishment of Reserve Fund Deposits pursuant to Rule 707B; ~~or~~

- (iv) margin calls or demands for variation adjustment, mandatory intra-day variation adjustment and margin, additional margin or intra-day variation adjustment;
- (v) any payment obligations in respect of the Gainer VA Flow Adjustment pursuant to Rule 711;
- (vi) any payment obligations in respect of the Termination Value Payable pursuant to section 2.13 of the Clearing House Procedures;
- (vii) any payment obligations in respect of the Limited Recourse Interim CP Payable or Limited Recourse Final CP Payable pursuant to section 7.1 of the Clearing House Procedures; or
- (viii) any payment obligations in respect of the HKCC Default Interim CP Payable or HKCC Default Final CP Payable pursuant to section 8.1 of the Clearing House Procedures;

#### Contract Termination

- 515A. (a) Following the occurrence of an event of default, if the Clearing House reasonably believes that it will not be able to close out, settle, sell, transfer, hedge or conclude a new Contract in respect of all or any open Contracts of the Defaulter within a reasonable time as determined by the Clearing House, the Clearing House may, without prejudice to Rules 310, 545 to 551, 710 and 1101, invoke the contract termination process as provided for in this Rule 515A in consultation with the Commission.
- (b) The Clearing House will terminate all remaining open Contracts of the Defaulter and will determine which open Contracts of the non-defaulting HKCC Participants shall be terminated under this Rule (such open Contracts of the Defaulter and those of the non-defaulting HKCC Participants so determined by the Clearing House shall collectively be referred to as “Identified Contracts”). The Clearing House will notify relevant HKCC Participants of its determination, including details of the Identified Contracts and the effective date of termination of such Identified Contracts. In making this determination, the Clearing House may:
- (i) select those Contracts which are in the same Market with the same underlying commodity or instrument as, but whose side is opposite to, the open Contracts to which the Defaulter is a party. The Contracts to be terminated shall, to the extent practicable, be allocated among the clearing accounts of the non-defaulting HKCC Participants holding such open Contracts on a pro-rata basis with reference to the open Contracts in the relevant Market

- with the same underlying commodity or instrument held by such non-defaulting HKCC Participants; or
- (ii) select some or all of the open Contracts in one or more Markets, regardless of whether the side of such open Contracts is the same as or opposite to that of the open Contracts to which the Defaulter is a party; or
- (iii) select all of the open Contracts in all Markets which are to be cleared and settled by the Clearing House.
- (c) Upon termination of one or more Identified Contracts under this Rule, all prevailing obligations of the Clearing House and the relevant HKCC Participant in respect of each such Identified Contract between them (including the obligation to deliver any underlying commodities or instruments under the Identified Contracts) shall cease and be replaced with the obligation of the Clearing House or the relevant HKCC Participant, as the case may be, to pay the other party with respect to each clearing account registered in the name of such HKCC Participant a net sum equal to the aggregate termination value of each Identified Contract between them, as determined by the Clearing House under this Rule 515A and section 2.13 of the Clearing House Procedures.
- (d) The termination value for each Identified Contract shall be determined based on the Closing Quotation determined in accordance with section 2.3 of the Clearing House Procedures at the time of contract termination, or if such Closing Quotation is not available, the price shall be such price as the Clearing House may reasonably determine.
- (e) Payment by the Clearing House of the Termination Value Receivable with respect to each clearing account of each relevant HKCC Participant arising from its Identified Contracts pursuant to this Rule 515A and section 2.13 of the Clearing House Procedures discharges in full the obligations of the Clearing House in respect of these Identified Contracts and no HKCC Participant or client of an HKCC Participant shall have any recourse against the Clearing House or to any fund or other entity, including without limitation any affiliate or recognized exchange controller which is the controller of the Clearing House in relation to any Identified Contract.
- (f) Notwithstanding the above, at any time during the contract termination process but prior to the effective date of termination of the relevant Identified Contracts, the Clearing House may instead of proceeding with the termination of such open Contracts, declare the occurrence of a Clearing Service Termination Event, and in such case the Identified Contracts shall not be terminated in accordance with the contract termination process but shall be terminated in accordance with Rule 1101.

HKCC Failure to Pay Event

545. Notwithstanding Rule 310, if the Clearing House fails to make, when due, any payment to an HKCC Participant (other than a Defaulter) under an open Contract, the relevant HKCC Participant may provide written notification (the “Failure to Pay Notice”) to the Clearing House formally informing the Clearing House of such failure pursuant to this Rule 545.

546. An “HKCC Failure to Pay Event” shall be deemed to occur if after the receipt of the Failure to Pay Notice by the Clearing House, the Clearing House has not made all relevant payments to the HKCC Participant by the end of the relevant HKCC Failure to Pay Grace Period, provided that no HKCC Failure to Pay Event shall occur if (1) such failure to pay arises as a result of technical or administrative reasons beyond the control of the Clearing House; or (2) during the HKCC Failure to Pay Grace Period, the Clearing House has exercised its powers under Rules 547(a) and/or 547(b). The exercise by the Clearing House of its rights pursuant to the Loss Distribution Process, a Clearing Service Termination Event or contract termination pursuant to Rule 515A shall not constitute an HKCC Failure to Pay Event. During the HKCC Failure to Pay Grace Period, the relevant HKCC Participant shall continue to be obliged to pay when due all amounts required by the Clearing House in accordance with the Rules and Clearing House Procedures and shall satisfy in full all its other obligations under the Rules and Clearing House Procedures.

547. During the HKCC Failure to Pay Grace Period, the Clearing House may take the following action or actions:

(a) designate an Early Termination Date in respect of all the open Contracts of the relevant HKCC Participant (each a “Relevant CP Contract”) by delivering a notice to the relevant HKCC Participant whereupon all the Relevant CP Contracts shall be novated with effect from the day that falls on the second Business Day following the date of delivery of such notice by the Clearing House. Upon the delivery of such notice, the relevant HKCC Participant agrees that the Clearing House shall novate all the Relevant CP Contracts on the designated Early Termination Date by terminating such Relevant CP Contracts and registering in the name of any other HKCC Participant (other than a Defaulter) Contracts on substantially similar terms as any Relevant CP Contract with the agreement of such other HKCC Participant, and the provisions as set out in Rules 552 to 555 shall apply; or

(b) declare and notify all HKCC Participants of the occurrence of a Clearing Service Termination Event pursuant to the terms set out in Rule 1101, whether or not the Clearing House has, prior to such declaration of Clearing Service Termination Event, exercised its power pursuant to sub-paragraph (a) above. Upon the occurrence of a Clearing Service

Termination Event, the clearing and settlement services in relation to Futures/Options Contracts, including the Relevant CP Contracts, will be wound down in accordance with Rules 1101 to 1104.

548. Upon the occurrence of an HKCC Failure to Pay Event, if the Clearing House has not taken any action under Rule 547(a) or Rule 547(b) above, the relevant HKCC Participant may terminate and liquidate all the Relevant CP Contracts by delivering a notice to the Clearing House.

549. In the event that the relevant HKCC Participant delivers a notice to the Clearing House to terminate all the Relevant CP Contracts pursuant to Rule 548, the Clearing House shall:

(a) terminate all the Relevant CP Contracts on the day that falls on the second Business Day following the date of delivery of such notice by the relevant HKCC Participant (such day being the “Early Termination Date” for the purpose of this Rule 549) by registering in the name of any other HKCC Participant (other than a Defaulter) one or more Contracts on substantially similar terms as any Relevant CP Contract with the agreement of such other HKCC Participant on the Early Termination Date and Rules 552 to 555 shall apply; or

(b) declare and notify all HKCC Participants of the occurrence of a Clearing Service Termination Event, upon which the clearing and settlement services in relation to Futures/Options Contracts, including the Relevant CP Contracts, will be wound down in accordance with Rules 1101 to 1104.

#### HKCC Insolvency Event

550. An “HKCC Insolvency Event” shall occur if the Clearing House voluntarily commences a procedure seeking or proposing liquidation, administration, receivership, judicial management or a scheme of arrangement, or other similar relief with respect to itself or its debts under any bankruptcy, insolvency, regulatory, supervisory or similar law, or if any of the foregoing case or procedure (other than one that is frivolous or vexatious in nature) is commenced in relation to the Clearing House by any other person and either:

(a) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for the winding-up or liquidation of the Clearing House; or

(b) such case or procedure is not dismissed, discharged, stayed or restrained in each case within 21 Business Days of the institution or presentation thereof.

Upon the occurrence of an HKCC Insolvency Event, a non-defaulting HKCC Participant may by written notice to the Clearing House declare the HKCC Insolvency Event and designate an Early Termination Date for the termination and liquidation of all open Contracts then registered in its name.

551. In the event that a non-defaulting HKCC Participant delivers a notice to the Clearing House to terminate all of its open Contracts then registered with the Clearing House pursuant to Rule 550 as a result of the occurrence of an HKCC Insolvency Event, then all open Contracts of all HKCC Participants will be terminated with effect from (and including) the day that falls on the second Business Day following the date of delivery of such notice by the non-defaulting HKCC Participant (such day being the “Early Termination Date” for the purpose of this Rule 551) and Rules 552 to 555 will apply to each HKCC Participant. Upon receipt of a notice from a non-defaulting HKCC Participant declaring the occurrence of an HKCC Insolvency Event, the Clearing House will notify all HKCC Participants of (1) the occurrence of such event and (2) the Early Termination Date with respect to all open Contracts registered in the name of all HKCC Participants.

Calculations of Net Payments under an HKCC Failure to Pay Event or an HKCC Insolvency Event

552. Upon the designation of an Early Termination Date pursuant to either Rule 547(a) or Rule 549(a) in respect of an HKCC Failure to Pay Event or pursuant to Rule 550 in respect of an HKCC Insolvency Event, every open Contract between the Clearing House and the relevant HKCC Participant shall be terminated and all prevailing obligations of the Clearing House and such HKCC Participant in respect of each such Contract between them (including the obligations to deliver any underlying commodities or instruments under such Contract) shall cease and be replaced with the obligation of the Clearing House or the relevant HKCC Participant, as the case may be, to pay the other party with respect to each clearing account registered in the name of such HKCC Participant a net sum which shall take into account the termination value and any unpaid amounts of each such Contract registered in the relevant clearing account as determined by the Clearing House under this Rule and section 8.1 of the Clearing House Procedures. The termination value for each open Contract shall be determined based on the Closing Quotation determined in accordance with section 2.3 of the Clearing House Procedures on the Early Termination Date, or if such Closing Quotation is not available, the price shall be such price as the Clearing House may reasonably determine. The Clearing House may also take into account any unpaid amounts that have become due and payable in respect of any Contract on or prior to the designation of the Early Termination Date.

553. Following the payment by each relevant HKCC Participant of the HKCC Default Interim CP Payable or HKCC Default Final CP Payable with respect to each clearing account of each relevant HKCC Participant arising from such

Contracts, the Clearing House shall pay an amount equal to the Margin Balance in respect of an HKCC Participant to such HKCC Participant in accordance with section 8.1 of the Clearing House Procedures; and the Clearing House shall pay an amount equal to the Reserve Fund Deposits Balance in respect of an HKCC Participant or Former HKCC Participant to such HKCC Participant or Former HKCC Participant in accordance with section 8.1 of the Clearing House Procedures.

554. The Clearing House will, as soon as reasonably practicable, inform the Commission of the occurrence of an HKCC Failure to Pay Event or HKCC Insolvency Event upon becoming aware of the same.

Liability of the Clearing House under an HKCC Failure to Pay Event or an HKCC Insolvency Event

555. Notwithstanding the provisions of Rule 310, settlement (by payment, set-off or otherwise) of the HKCC Default CP Receivable with respect to the clearing accounts of each relevant HKCC Participant arising from such Contracts pursuant to Rule 552 and section 8.1 of the Clearing House Procedures discharges in full the obligations of the Clearing House in respect of these Contracts and no HKCC Participant or client of an HKCC Participant shall have any recourse against the Clearing House or to any fund or other entity, including without limitation any affiliate or recognized exchange controller which is the controller of the Clearing House in relation to any Contract once the resources available to the Clearing House including those available to be applied under Rules 510(e), 510(g) and 706 have been exhausted. In particular, no HKCC Participant or client of an HKCC Participant shall be entitled to instigate any action for the winding-up or the appointment of a receiver or manager over any property of the Clearing House.

**CHAPTER VII**

**THE RESERVE FUND AND LOSS DISTRIBUTION PROCESS**

General

701. (ac) In addition to establishing the Reserve Fund, the Clearing House may put in place an arrangement in the form of an HKCC Participant Additional Deposits Credit to each HKCC Participant, up to such limit as the Clearing House may from time to time determine in its absolute discretion. For the avoidance of doubt, such limit may be determined by the Clearing House on an HKCC Participant basis. The HKCC Participant Additional Deposits Credit shall only be utilized for the purpose of reducing the amount of HKCC Participant Additional Deposits (other than any Assessment and Voluntary Recap Amount) payable by an HKCC Participant to the Clearing House in accordance with the Clearing House

Procedures. The amount of HKCC Participant Additional Deposits Credit utilized by an HKCC Participant may be applied by the Clearing House towards satisfaction of an HKCC Participant's share of liabilities in accordance with Rule 706, subject to the following:

- (b) Notwithstanding that ~~any resources of~~ the Reserve Fund and ~~other resources the HKCC Participant Additional Deposits Credit utilized may be applied to cover a default and credits may be utilized and applied to satisfy any obligations and liabilities in relation to an event of default~~, this shall in no way prejudice the Clearing House's right to recover such sums in full, including the following, in full from the Defaulter as a result of its event of default:

(i) any amount paid out of the Reserve Fund pursuant to Rule 706;

(ii) any amount of HKCC Participant Additional Deposits Credit utilized and applied to satisfy any obligations and liabilities pursuant to Rule 706;

(iii) any Voluntary Recap Amount applied pursuant to Rule 709;

(iv) any amount of Gainer VA Flow Adjustment paid by the non-defaulting HKCC Participants pursuant to Rules 710 to 714; and

(v) any unpaid amount of Termination Value Payable by the Defaulter pursuant to section 2.13 of the Clearing House Procedures.

Monies recovered from the Defaulter (less any uncovered costs and expenses of recovery) may, but need not necessarily, be ~~applied in replenishment of the Reserve Fund or repaid to the relevant HKCC Participants and the Clearing House~~, subject to the terms of any relevant guarantee, bank facility or policy of insurance. If the amounts recovered are repaid to the relevant HKCC Participants and the Clearing House applied, the replenishment and repayment it would be in the reverse order of priority and on the same pro rata basis with reference to the amounts and credits that have been utilized and applied as that for payment out of the Reserve Fund and application of the HKCC Participant Additional Deposits Credit utilized to satisfy the liabilities pursuant to Rules 706(e) to 706(f) and obligations in relation to an event of default including:

(i) any amount paid out of the Reserve Fund pursuant to Rule 706;

(ii) any amount of HKCC Participant Additional Deposits Credit utilized and applied to satisfy any obligations and liabilities pursuant to Rule 706;

(iii) any Voluntary Recap Amount applied pursuant to Rule 709; and

(iv) any amount of Gainer VA Flow Adjustment paid by the non-defaulting HKCC Participants pursuant to Rules 710 to 714.

It may be a term of any guarantee, facility or insurance policy that recoveries from the Defaulter be applied in a particular fashion other than repaid to the relevant HKCC Participants or the Clearing House, in which case the recoveries shall be applied in accordance with such term~~in replenishment of the Reserve Fund or repaid to the Clearing House.~~

To the extent that the amount repaid to the Clearing House represents the financial support provided by HKEX, the Clearing House will pay the relevant amount received by it to HKEX.

#### Accounts and accounting

702. (a) The Clearing House shall earmark the Reserve Fund in its accounts and maintain a separate record in respect of the Reserve Fund so that –
- (i) all amounts standing to the credit of;
  - (ii) all resources appropriated or which may under these Rules be appropriated by the Clearing House as contributions to; and
  - (iii) all guarantees, facilities or policies inuring for the benefit of

the Reserve Fund from time to time shall be apparent from the accounts and so that it is apparent whether any of such amounts, guarantees, facilities or policies are of limited application, being available to support the Clearing House's obligations only under particular Contracts or classes of Contract. Without prejudice to the aforesaid, the Clearing House shall maintain a separate account in respect of all the HKCC Participant's Deposits and HKCC Participant Additional Deposits made or required to be made by HKCC Participants to the Reserve Fund.

#### Appropriations to Reserve Fund

704. (a) In the event that payments out of the Reserve Fund under sub-paragraph (iv) of Rule 706(c) are required, ~~the~~ the Clearing House ~~will~~may appropriate ~~any of~~ its resources as contributions to the Reserve Fund. The appropriation should amount to 10% or such other percentage of the Reserve Fund size as the Clearing House may determine from time to time.

Use and order of application of Reserve Fund, and application of HKCC Participant Additional Deposits Credit

706. (db) In the event that there are outstanding liabilities of the Clearing House remaining after the application under sub-paragraph (i) of Rule 706(c), the Clearing House will first apply the amount of HKCC Participant Additional Deposits Credit utilized by the Defaulter on the Business Day immediately before the start of the Capped Liability Period~~default~~ to satisfy the outstanding liabilities, prior to making any further payments out of the Reserve Fund in accordance with the order set out in sub-paragraphs (ii) to (vii) of Rule 706(c).
- (e) The amount of HKCC Participant's Deposit in respect of each HKCC Participant to be applied pursuant to sub-paragraph (v) of Rule 706(c) shall be calculated on a pro rata basis by reference to the HKCC Participant's share of the total HKCC Participant's Deposits on the Business Day immediately before the start of the Capped Liability Period~~default~~, excluding the portions contributed by any Defaulter and any HKCC Participant whose HKCC Participantship has been effectively terminated or revoked by the Clearing House at or prior to the start of the Capped Liability Period. The amount of HKCC Participant Additional Deposit in respect of each HKCC Participant to be applied pursuant to sub-paragraph (vii) of Rule 706(c) shall be calculated in accordance with sub-paragraph (f) below. Following such application, the Reserve Fund Deposits Balance of each relevant HKCC Participant shall be reduced by an amount equal to the amount so applied in respect of such HKCC Participant. Notwithstanding the aforesaid, if at or prior to~~on or before~~ the start of the Capped Liability Period~~date of the default of a Defaulter~~, the HKCC Participantship of an HKCC Participant is effectively terminated or revoked, its HKCC Participant's Deposit and HKCC Participant Additional Deposit will not be applied towards the default, and if at or prior to~~on or before~~ the start of the Capped Liability Period~~date of the default~~, an HKCC Participant has itself been declared as a Defaulter, its HKCC Participant's Deposit and HKCC Participant Additional Deposit will only be applied towards its own default.
- (f) The amount of HKCC Participant Additional Deposits in respect of each HKCC Participant to be applied pursuant to sub-paragraph (vii) of Rule 706(c) shall be determined as follows:-
- (i) The Clearing House will first calculate the HKCC Participant's share of the outstanding liabilities by reference to the HKCC Participant's share of the sum of HKCC Participant Additional Deposits and HKCC Participant Additional Deposits Credit utilized in respect of all the HKCC Participants on the Business Day immediately before the start of the Capped Liability Period~~the default~~, excluding the portions contributed by any Defaulter and any HKCC Participant

whose HKCC Participants has been effectively terminated or revoked at or prior to the start of the Capped Liability Period; and

- (ii) The HKCC Participant's share of the outstanding liabilities calculated under sub-paragraph (i) above shall be borne by way of (a) payment of its HKCC Participant Additional Deposits out of the Reserve Fund pursuant to paragraph (vii) of Rule 706(c) and (b) the application by the Clearing House of the HKCC Participant Additional Deposits Credit utilized by such HKCC Participant on a pro-rata basis, by reference to their respective proportions as compared to the sum of its HKCC Participant Additional Deposits and HKCC Participant Additional Deposits Credit utilized on the Business Day immediately before the start of the Capped Liability Period~~the default~~, provided that the amount borne by the HKCC Participant Additional Deposits Credit utilized shall not exceed the HKCC Participant Additional Deposits Credit allowed to such HKCC Participant. Any amount in excess of the HKCC Participant Additional Deposits Credit allowed to such HKCC Participant shall be borne by the HKCC Participant by way of the HKCC Participant Additional Deposits.

#### Assessments~~Replenishment of Reserve Fund~~

- 707A. (a) Upon the occurrence of an event of default, ~~W~~where all or part of the HKCC Participant's Deposit and HKCC Participant Additional Deposit of an HKCC Participant Reserve Fund ~~is~~are applied pursuant to Rule 706 or the Clearing House determines that the resources available to the Clearing House under the Reserve Fund and those that may be applied under Rules 510(e), 510(g) and 706 will not be sufficient to satisfy the obligations and liabilities of the Clearing House in relation to an event of default, the Clearing House may demand each, ~~the~~ HKCC Participant (excluding any HKCC Participant specified under Rule 707A(b)) ~~shall on demand by the Clearing House to provide such additional contributions~~make a Replenishment Contribution to the Reserve Fund (i) to ensure that any deficiency in its bring the Reserve Fund Deposits following such application, including taking into account any utilized HKCC Participant Additional Deposits Credit following such application, is replenished to the same level as that before any application is made or to be made; and/or (ii) to provide such additional contributions~~resources~~ as the Clearing House may require to meet any obligations and liabilities in relation to an event of default, subject to the limit set out in Rule 707A(aa) ("Assessments") that remain outstanding. Any Assessment provided by an HKCC Participant shall form part of its Reserve Fund Deposits Balance.

- (aa) In respect of one or more events of default occurring during a Capped Liability Period, the aggregate liability of an HKCC Participant to provide

Assessments during a Capped Liability Period shall be limited to an amount which is equal to its HKCC Participant's Deposit required and its HKCC Participant Additional Deposit calculated pursuant to Chapter 4 of the Clearing House Procedures on the Business Day immediately preceding the start of the Capped Liability Period, plus one time such amount.

For example, assume that the HKCC Participant's Deposit required is HK\$1,500,000 and the HKCC Participant Additional Deposit calculated is HK\$1,000,000 on the Business Day immediately preceding the start of the Capped Liability Period. In this case, the maximum liability of the HKCC Participant to provide Assessments during a Capped Liability Period would be HK\$5,000,000 (i.e. two times the aggregate of its HKCC Participant's Deposit of HK\$1,500,000 and HKCC Participant Additional Deposit of HK\$1,000,000).

- (b) ~~Replenishment Contributions~~Assessments shall not be required from HKCC Participants which have been declared as a Defaulter on the day such Assessments are demanded or whose HKCC Participantships have been effectively terminated or revoked by the Clearing House at or prior to the start of the Capped Liability Period on the day such Replenishment Contributions are demanded. For the avoidance of doubt, the obligations and liabilities of an HKCC Participant to provide Assessments under Rule 707A in respect of any events of default which occur during a Capped Liability Period which commenced prior to the termination of its HKCC Participantship shall survive the termination of the HKCC Participantship notwithstanding the fact that the expiry of such Capped Liability Period occurs after termination, provided that the aggregate liability of the HKCC Participant shall be limited as provided for in Rule 707A(aa).
- (c) The Clearing House shall notify HKCC Participants of any demand for ~~Replenishment Contribution~~Assessments ~~verbally or by issuing a written notice ("Notice of Assessment") in writing~~ as the Clearing House considers appropriate. The Clearing House may demand such ~~Replenishment Contributions~~Assessments to be satisfied before, after or at the same time that an application is made under Rule 706. All demands for Assessments~~Replenishment Contributions~~ must be met by cash payment in Hong Kong dollars or in any other currency prescribed by the Clearing House from time to time no later than the first Business Day after the demand is made by the Clearing House or within such other time period as may be specified by the Clearing House.

#### Replenishment of Reserve Fund

707B. Following the occurrence of an event of default, any recalculation of the Reserve Fund size apart from under Rule 707A shall be suspended during the relevant Capped Liability Period. Upon the expiry of the relevant Capped

Liability Period, the Clearing House shall assess the adequacy of the Reserve Fund and determine the Reserve Fund Deposits requirement of each HKCC Participant in accordance with Chapter 4 of the Clearing House Procedures. Subject to Rule 707D, the Clearing House will notify the HKCC Participant of any replenishment amount required as Reserve Fund Deposits as a result of the recalculation. The HKCC Participant shall make such Reserve Fund Deposits no later than the first Business Day after the date of the notice, or within such other time period as may be specified by the Clearing House. Any such Reserve Fund Deposits made by an HKCC Participant following the expiry of such Capped Liability Period shall only be applied in respect of the events of default which occur after the expiry of the relevant Capped Liability Period and shall not be applied in respect of any event of default that occurred prior to the expiry of such Capped Liability Period.

707C. Following the expiry of a Capped Liability Period following an event of default, if the whole or any part of the Clearing House's appropriation to the Reserve Fund is applied in accordance with Rule 706, the Clearing House shall make appropriations for the deficiency of its appropriation to the Reserve Fund following the same replenishment time period as specified in Rule 707B, subject to the approval of the Board and regulatory capital requirements applicable to the Clearing House. Any part of the Clearing House's appropriation to the Reserve Fund following the expiry of such Capped Liability Period shall only be applied in respect of the events of default which occur after the expiry of the relevant Capped Liability Period and shall not be applied in respect of any event of default that occurred prior to the expiry of such Capped Liability Period.

Resignation of HKCC Participantship for limiting liability following the expiry of the Capped Liability Period

707D. (a) Where an HKCC Participant wishes to resign its participantship to limit its liability to any subsequent events of default that may occur following the expiry of the applicable Capped Liability Period, it must:

- (i) submit a Resignation Notice to the Clearing House and receive an acknowledgement from the Clearing House;
- (ii) successfully close out, trade out, transfer, settle or otherwise discharge its liabilities in respect of all open Contracts registered in its house clearing account and any clearing account which is not of a Client nature in accordance with the Rules prior to the expiry of the Capped Liability Period; and
- (iii) either: (a) successfully close out, trade out, transfer, settle or otherwise discharge its liabilities in respect of all open Contracts registered in its Client clearing accounts and any clearing account which is of a Client nature in accordance with the Rules prior to the

expiry of the applicable Capped Liability Period or (b) notify the Clearing House that it wishes to extend the period for the winding down of open Contracts registered in its Client clearing accounts and any clearing account which is of a Client nature until the date which falls 5 Business Days from the date of expiry of the applicable Capped Liability Period. If an HKCC Participant sends a notification pursuant to Rule 707D(a)(iii)(b) above it must provide collateral, by way of additional margin, which is at least equal to the net projected loss (projected aggregate loss less General Collateral and any margin) arising from such open Contracts registered in the Client clearing accounts and any clearing account which is of a Client nature as communicated by the Clearing House until the time at which any remaining open positions in its Client clearing accounts and any clearing account which is of a Client nature have been successfully closed out, traded out, transferred, settled or any liabilities in respect of such open positions have been discharged in accordance with the Rules.

(b) If the conditions set out in Rule 707D(a) are not met, the HKCC Participant will be subject to the replenishment of Reserve Fund Deposits pursuant to Rule 707B (and liabilities thereto) upon the expiry of the applicable Capped Liability Period.

#### Payments out of Reserve Fund

708. (aa) The Clearing House may apply any amounts standing to the credit of the Reserve Fund as a short-term source of liquid funds to meet any immediate obligations under Contracts arising pursuant to Rule 309 or Rule 313 on a temporary basis, regardless of the order of priority set out in Rule 706.

#### Voluntary Recapitalization

709. (a) If the Clearing House determines at any stage that the loss arising from an event of default is expected to exceed the financial resources available including the Reserve Fund and the relevant amount received or to be received under Rule 707A and those available to be applied under Rules 510(e), 510(g) and 706, the Clearing House may issue a written notice (the “Voluntary Recap Request Notice”) requesting each HKCC Participant to make a payment of funds (each a “Voluntary Recap Amount”) to the Clearing House.

(b) Upon receipt of a Voluntary Recap Request Notice issued by the Clearing House in accordance with Rule 709(a), an HKCC Participant may, but is not obliged to, provide its Voluntary Recap Amount to the Clearing House within one Business Day following receipt of the Voluntary Recap

Request Notice. The Voluntary Recap Amount provided by HKCC Participants must be met by cash payment in Hong Kong dollars or in any other currency prescribed by the Clearing House from time to time. Any Voluntary Recap Amount made by an HKCC Participant to the Clearing House may not be withdrawn.

- (c) Any Voluntary Recap Amount received by the Clearing House from an HKCC Participant shall form part of the Reserve Fund Deposits Balance of such HKCC Participant after such Voluntary Recapitalization is declared successful by the Clearing House, and the application of such amount will be subject to Rule 706.
- (d) If the total Voluntary Recap Amount received by the Clearing House is less than the aggregate of the Voluntary Recap Amounts requested by the Clearing House from the HKCC Participants, any amounts received will be refunded to the relevant HKCC Participants on the next Business Day and will not form part of the HKCC Participant Additional Deposits or Reserve Fund Deposits Balances of the relevant HKCC Participants.

#### Loss Distribution Process

710. On each Business Day during the Loss Distribution Period, the Clearing House will determine whether the loss resulting from an event of default will exceed the resources available to the Clearing House including the relevant amount received under Rule 709 and those available to be applied pursuant to Rules 510(e), 510(g) and 706 with respect to such event of default. If it does, then the Clearing House will consult with the Commission and may either invoke the “Loss Distribution Process” set out in Rules 710 to 714 or invoke the Clearing Service Termination Event as set out in Rules 1101 to 1104.

711. If the Loss Distribution Process applies, then on each Business Day during the Loss Distribution Period:

- (a) the Clearing House will determine whether a clearing account registered in the name of a non-defaulting HKCC Participant is a Clearing Account Gainer or a Clearing Account Loser;
- (b) if the clearing account registered in the name of a non-defaulting HKCC Participant is a Clearing Account Gainer, and the Gainer VA Flow Adjustment calculated for a Currency VA Payment in respect of that clearing account for that Business Day is a positive number, the relevant non-defaulting HKCC Participant shall pay an amount equal to such Gainer VA Flow Adjustment to the Clearing House. If the clearing account registered in the name of a non-defaulting HKCC Participant is a Clearing Account Gainer and the Gainer VA Flow Adjustment calculated for a Currency VA Payment in respect of that clearing account for that Business Day is a negative number, the Clearing House shall pay to the

relevant non-defaulting HKCC Participant an amount equal to the absolute value of such Gainer VA Flow Adjustment; and

(c) if the clearing account registered in the name of a non-defaulting HKCC Participant is a Clearing Account Loser, the Clearing House shall pay to the relevant non-defaulting HKCC Participant an amount equal to the absolute value of such negative Loser VA Flow Adjustment calculated for a Currency VA Payment in respect of that clearing account for that Business Day.

For the purpose of the calculations and adjustments conducted under the Loss Distribution Process, each clearing account of a non-defaulting HKCC Participant will be treated separately.

712. On each Business Day during the Loss Distribution Period, the Clearing House will apply the exchange rate determined by the Clearing House from such source and on such basis as it shall consider appropriate, in making the calculations required to be made under the Loss Distribution Process, including components which relate to payments made, or falling due, on previous days.

713. On each loss distribution day, the Clearing House shall apply set-off with respect to any payment or receipt of any VA Flow Adjustment on such day against any payments denominated in the same Settlement Currency as such VA Flow Adjustment payable to, or receivable from, the relevant HKCC Participant.

714. Without prejudice to Rules 310, 515A, 545 to 551 and 1101, in the absence of manifest error, any VA Flow Adjustment determined by the Clearing House shall be final and conclusive. Any application of a Gainer VA Flow Adjustment resulting in a reduction of Currency VA Payment by the Clearing House to a non-defaulting HKCC Participant shall not constitute a failure to pay by the Clearing House.

## **CHAPTER XI**

### **CLEARING SERVICE TERMINATION EVENT**

#### Clearing Service Termination Event

1101. Notwithstanding Rules 310, 515A and 545 to 551, if the Clearing House, in consultation with the Commission, determines at any stage that:

(a) the losses resulting from one or more events of default occurring within the same Capped Liability Period will exceed the resources available to it including those available to be applied under Rules 510(e), 510(g) and

706 with respect to all such events of default; or

(b) the clearing and settlement services in relation to Futures/Options Contracts shall cease to be provided,

the Clearing House shall notify all HKCC Participants of its determination to cease providing clearing and settlement services in relation to Futures/Options Contracts (a “Clearing Service Termination Event”) and the clearing and settlement services will be wound down in accordance with Rules 1101 to 1104.

1102. Upon the occurrence of a Clearing Service Termination Event, every open Contract between the Clearing House and an HKCC Participant shall be automatically terminated and all prevailing obligations of the Clearing House and such HKCC Participant in respect of each such Contract between them (including the obligations to deliver any underlying commodities or instruments under such Contract) shall cease and be replaced with the obligation of the Clearing House or the relevant HKCC Participant, as the case may be, to pay the other party with respect to each clearing account registered in the name of such HKCC Participant a net sum which shall take into account the termination value and any unpaid amounts of each such Contract registered in the relevant clearing account as determined by the Clearing House under this Rule and section 7.1 of the Clearing House Procedures. The termination value for each open Contract shall be determined based on the Closing Quotation determined in accordance with section 2.3 of the Clearing House Procedures at the time of contract termination, or if such Closing Quotation is not available, the price shall be such price as the Clearing House may reasonably determine. The Clearing House may also take into account any unpaid amounts that have become due and payable in respect of any Contract on or prior to the occurrence of the Clearing Service Termination Event.

1103. Following the payment by each relevant HKCC Participant of the Limited Recourse Interim CP Payable or Limited Recourse Final CP Payable with respect to each clearing account of each relevant HKCC Participant arising from such Contracts, the Clearing House shall pay an amount equal to the Margin Balance in respect of an HKCC Participant to such HKCC Participant in accordance with section 7.1 of the Clearing House Procedures; and the Clearing House shall pay an amount equal to the Reserve Fund Deposits Balance in respect of an HKCC Participant or Former HKCC Participant to such HKCC Participant or Former HKCC Participant in accordance with section 7.1 of the Clearing House Procedures.

#### Liability of the Clearing House under a Clearing Service Termination Event

1104. Notwithstanding the provisions of Rule 310, settlement (by payment, set-off or otherwise) of the Limited Recourse CP Receivable with respect to the clearing accounts of each relevant HKCC Participant arising from such Contracts

pursuant to Rule 1102 and section 7.1 of the Clearing House Procedures discharges in full the obligations of the Clearing House in respect of these Contracts and no HKCC Participant or client of an HKCC Participant shall have any recourse against the Clearing House or to any fund or other entity, including without limitation any affiliate or recognized exchange controller which is the controller of the Clearing House in relation to any Contract once the resources available to the Clearing House including those available to be applied under Rules 510(e), 510(g) and 706 have been exhausted. In particular, no HKCC Participant or client of an HKCC Participant shall be entitled to instigate any action for the winding-up or the appointment of a receiver or manager over any property of the Clearing House.

**Clearing House Procedures for Futures/Options Contracts Traded on the Automated Trading System of the Exchange ("HKATS")**

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The Clearing House Procedures below outline the registration, settlement, clearing and margining procedures for the Futures / Options Contracts (in these procedures, referred to as “Contracts”) traded on HKATS. These procedures are divided into the following chapters:- Chapter 1 – Registration Procedures; Chapter 2 – Clearing and Settlement Procedures; Chapter 2A – Settlement of Physical Delivery Contracts; Chapter 3 – Clearing Documentation; Chapter 4 – Reserve Fund Contribution; Chapter 5 – Capital-Based Position Limits; ~~and~~ Chapter 6 – Typhoons and Rainstorms; Chapter 7 – Clearing Service Termination Event and Chapter 8 - HKCC Failure to Pay Event and HKCC Insolvency Event.

**Chapter 2 Clearing and Settlement Procedures**

**2.13 Contract Termination**

Following the occurrence of an event of default, if the Clearing House reasonably believes that it will not be able to close out, settle, sell, transfer, hedge or conclude a new Contract in respect of all or any open Contracts of the Defaulter within a reasonable time as determined by the Clearing House, the Clearing House may, without prejudice to any other rights under the Rules, invoke the contract termination process as provided for in Rule 515A in consultation with the Commission.

If the Clearing House invokes contract termination in accordance with Rule 515A, it shall determine the Identified Contracts under Rule 515A(b) and notify the relevant HKCC Participants of its determination, including details of the Identified Contracts and the effective date of termination of such Identified Contracts. Notwithstanding the above, at any time during the contract termination process but prior to the effective date of termination of the relevant Identified Contracts, the Clearing House may instead of proceeding with the termination of such open Contracts, declare the occurrence of a Clearing Service Termination Event, and in such case the Identified Contracts shall not be terminated in accordance with the contract termination process but shall be terminated in accordance with Rule 1101.

#### 2.13.1 Calculation of termination value

The termination value for each Identified Contract shall be determined based on the Closing Quotation determined in accordance with section 2.3 of the Clearing House Procedures at the time of contract termination, or if such Closing Quotation is not available, the price shall be such price as the Clearing House may reasonably determine.

On the basis of the termination value established for each Identified Contract, the Clearing House shall, with respect to each relevant clearing account of each relevant HKCC Participant, determine the resulting net sum payable by such HKCC Participant to the Clearing House for such clearing account (the “Termination Value Payable”) or the resulting net sum receivable by such HKCC Participant from the Clearing House for such clearing account (the “Termination Value Receivable”). For the avoidance of doubt, an HKCC Participant may have a Termination Value Payable in respect of one clearing account registered in its name, but a Termination Value Receivable in respect of another clearing account registered in its name. There shall be no combining or set-off between any house clearing account (including any clearing account which is not of a Client nature) and Client clearing accounts (including any clearing account which is of a Client nature).

#### 2.13.2 Payment of Termination Value Payable and Termination Value Receivable

##### 2.13.2.1 Termination Value Payable

The Clearing House will notify each relevant HKCC Participant of its Termination Value Payable(s) and each such HKCC Participant shall pay the specified Termination Value Payable(s) to the Clearing House in

full within one Business Day or within such other time specified by the Clearing House in the notice. If the relevant HKCC Participant fails to pay the Termination Value Payable(s) within the time specified in the notice, the Clearing House may declare such HKCC Participant as a Defaulter.

In the event that the Clearing House does not receive any part of the Termination Value Payable from an HKCC Participant, the Clearing House shall take reasonable steps to recover such amount. Such HKCC Participant shall be responsible for any costs the Clearing House reasonably incurs in attempting to recover such amounts and accordingly the Termination Value Payable actually received from such HKCC Participant shall be deemed to be decreased by an amount equal to such costs, unless such costs are paid by such HKCC Participant.

#### 2.13.2.2 Termination Value Receivable

The Clearing House will notify each relevant HKCC Participant of its Termination Value Receivable(s) upon determination.

#### 2.13.2.3 Payment

The amount of Termination Value Payable and Termination Value Receivable will be debited from or credited to (as the case may be) the relevant CCMS Collateral Account of the HKCC Participant. To the extent that the collateral in the HKCC Participant's relevant CCMS Collateral Account is insufficient, funds will be collected via the Direct Margin Debiting System. HKCC Participants shall ensure that there are sufficient funds deposited in their DMDS bank accounts for debiting purpose.

The Termination Value Payable and Termination Value Receivable shall be settled in the Settlement Currency. To the extent that the Clearing House determines that it is not possible or reasonably practicable to make payment in the Settlement Currency, the obligations of the Clearing House shall be to make payment, in full or in part, in such other currency or currencies and at such conversion rate(s) as the Clearing House may in its absolute discretion determine to be fair and reasonable, taking into account all relevant circumstances as it may consider appropriate.

2.13.2.4 Liability of the Clearing House

Upon termination of one or more Identified Contracts under Rule 515A, all prevailing obligations of the Clearing House and the relevant HKCC Participant in respect of each such Identified Contract between them (including the obligation to deliver any underlying commodities or instruments under the Identified Contracts) shall cease and be replaced with the obligation of the Clearing House or the relevant HKCC Participant, as the case may be, to pay the other party with respect to each clearing account registered in the name of such HKCC Participant a net sum equal to the aggregate termination value of each Identified Contract between them, as determined by the Clearing House in accordance with Rule 515A and this section of the Clearing House Procedures.

**Chapter 4 Reserve Fund Contribution**

4.1 HKCC Participant Additional Deposits

Subject to Rule 707B, On the first Business Day of every month, the Clearing House will assess the adequacy of the Reserve Fund to cover the maximum daily risk exposure of the Reserve Fund during the most recent 60 Business Days and will determine whether any HKCC Participant Additional Deposits would be required from HKCC Participants, taking into consideration the risk exposure of the Reserve Fund, the Reserve Fund Threshold and the prevailing market conditions.

HKCC Participant Additional Deposits will be demanded such that 90% of the sum of (i) the existing aggregate value of the Reserve Fund after the injection of the HKCC Participant Additional Deposits and resources which may be appropriated by the Clearing House as contributions to the Reserve Fund; and (ii) the aggregate HKCC Participant Additional Deposits Credit utilized by all the HKCC Participants, will cover all the risk exposures of the Reserve Fund throughout the most recent 60 Business Days. If the sum determined above is higher than the Reserve Fund Threshold, it shall be reduced to an amount equal to the Reserve Fund Threshold.

The total HKCC Participant Additional Deposits required and the resources which may be appropriated by the Clearing House as contributions to the Reserve Fund can be obtained using the following formulae:

If *MEX* is lower than *BEF*:

$$CHA = 10\% \times (BEF \div 90\%)$$
$$HPAD = 0$$

If *MEX* is higher than or equal to *BEF* but lower than 90% of the Reserve Fund Threshold:

$$CHA = 10\% \times (MEX \div 90\%)$$
$$HPAD = (MEX \div 90\% - BEF - CHA)$$

If *MEX* is higher than 90% of the Reserve Fund Threshold:

$$CHA = 10\% \text{ of Reserve Fund Threshold}$$
$$HPAD = \text{Reserve Fund Threshold} - BEF - CHA$$

where:

*MEX* denotes the maximum daily risk exposure of the Reserve Fund during the most recent 60 Business Days;

*BEF* denotes the basic elements of the Reserve Fund (i.e. the existing aggregate value of the Reserve Fund less the total HKCC Participant Additional Deposits and resources which may be appropriated by the Clearing House as contributions to the Reserved Fund);

*HPAD* denotes the total HKCC Participant Additional Deposits required; and

*CHA* denotes the resources which may be appropriated by the Clearing House as contributions to the Reserve Fund, which should amount to 10% or such other percentage of the Reserve Fund size as the Clearing House may determine from time to time, in which case the percentage in the formulae above shall be adjusted accordingly.

Aside from the demands made under regular monthly assessments, subject to Rule 707B, HKCC Participant Additional Deposits will be recalculated and demanded in accordance with the abovementioned formula if

- (a) the daily risk exposure of the Reserve Fund as calculated on each Business Day exceeds 90% of; and
- (b) Reserve Fund Threshold is higher than

the sum of (i) the existing aggregate value of the Reserve Fund (i.e. the basic elements of the Reserve Fund plus the total HKCC Participant Additional

Deposits and the resources which may be appropriated by the Clearing House as contributions to the Reserve Fund); and (ii) the aggregate HKCC Participant Additional Deposits Credit utilized by all the HKCC Participants, provided that the Chairman may, at his sole discretion, waive the demand of HKCC Participant Additional Deposits under one of the following circumstances:

- (a) where the relevant Business Day (i.e. day of calculation) falls on the last four Business Days of the month and the current risk exposure of the Reserve Fund does not exceed the sum of (i) the existing aggregate value of the Reserve Fund; and (ii) the aggregate HKCC Participant Additional Deposits Credit utilized by all the HKCC Participants by more than 30%; and
- (b) where the relevant Business Day does not fall on the last four Business Days of the month and the current risk exposure of the Reserve Fund does not exceed the sum of (i) the existing aggregate value of the Reserve Fund; and (ii) the aggregate HKCC Participant Additional Deposits Credit utilized by all the HKCC Participants by more than 15%.

Notwithstanding the above or any other provisions of these HKCC Rules, the Clearing House may assess the adequacy of the Reserve Fund and recalculate the requirements for HKCC Participant Additional Deposits based on the abovementioned formula or on such other basis as the Clearing House may consider appropriate at its absolute discretion from time to time and following the Capped Liability Period pursuant to Rule 707~~Ban event of default~~, the Clearing House may further at its absolute discretion determine the appropriate aggregate value of the Reserve Fund for the purpose of calculating any HKCC Participant Additional Deposits required ~~taking into account the estimated loss arising from any actions taken by the Clearing House in respect of such event of default under Chapter 5 of the HKCC Rules~~; and in each of the aforementioned circumstances, HKCC Participants shall pay to the Clearing House such HKCC Participant Additional Deposits as may from time to time be demanded by the Clearing House.

#### 4.2 Calculation Methodology for each HKCC Participant's contribution to HKCC Participant Additional Deposits

4.2.5 Each HKCC Participant's required contribution as calculated under section 4.2.4 will be compared with its existing contribution amount. In determining its existing contribution amount, any HKCC Participant Additional Deposit that has been applied ~~or that has been replenished from monies recovered from Defaulters~~ preceding the calculation day shall be taken into account. HKCC Participants with increased contribution requirements will be required to pay any deficit to the Clearing House. HKCC Participants with decreased

contribution requirements will be refunded any surplus contribution in accordance with section 4.4.

4.4A Settlement Time for HKCC Participants

In the event HKCC Participant Additional Deposits are recalculated by the Clearing House [pursuant to section 4.1](#) on any Business Day, a clearing report showing the amount payable or that may be released will be distributed to each HKCC Participant on the same Business Day. Any HKCC Participant Additional Deposit payable by an HKCC Participant will be debited from its House CCMS Collateral Account via the Direct Margin Debiting System (DMDS) by 4:00 p.m. on the first Business Day, unless otherwise specified by the Clearing House, after the distribution of the clearing report. HKCC Participants shall ensure that sufficient funds are available in their DMDS House accounts to meet any HKCC Participant Additional Deposit payable by them as demanded in their clearing reports. Any surplus HKCC Participant Additional Deposit will be credited to its House CCMS Collateral Account via the DMDS on the same day. For the avoidance of doubt, any HKCC Participant Additional Deposit settled via the DMDS shall be in Hong Kong dollars or in any other currency prescribed by the Clearing House from time to time.

4.4B Settlement Time for HKCC appropriation

If as a result of an assessment of the adequacy of the Reserve Fund, additional resources should be appropriated by the Clearing House as contributions to the Reserve Fund or surplus resources should be released to the Clearing House, such appropriation or release will under normal circumstances be effected [or set aside](#) on the same day as the day of payment by or release to HKCC Participants of HKCC Participant Additional Deposits following such assessment.

4.5 Illustration

The following example illustrates how HKCC Participant Additional Deposits are collected and released. For illustration purposes only, the following parameters will be applied:

- (iii) a hypothetical Reserve Fund size of HK\$200,000,000 (comprising the basic elements of the Reserve Fund of HK\$180,000,000 and HK\$20,000,000 [which may be](#) appropriated by the Clearing House to the Reserve Fund with no HKCC Participant Additional Deposits);

4.5.1 On Day 4, the maximum risk exposure during the most recent 3 Business Days

= HK\$279,000,000

The resources which may be appropriated by the Clearing House

= HK\$ (279,000,000 ÷ 0.9) x 10%

= HK\$31,000,000

Hence, Clearing House shall make available appropriate HK\$(31,000,000-20,000,000) = HK\$11,000,000 more for appropriation to the Reserve Fund on Day 4.

- 4.5.6 On Day 5, the condition for recalculation stipulated in section 4.1 is triggered. The maximum risk exposure during the most recent 3 Business Days is HK\$306,000,000.

Since the maximum risk exposure is above 90% of the Reserve Fund Threshold (i.e. HK\$306,000,000 > 90% x HK\$320,000,000), by applying the formula in section 4.1, the resources which may be appropriated by the Clearing House

= HK\$320,000,000 x 10%

= HK\$32,000,000

Hence, Clearing House shall make available appropriate HK\$(32,000,000-31,000,000) = HK\$1,000,000 more for appropriation to the Reserve Fund on Day 5.

#### 4.6 Termination of HKCC Participantship

##### 4.6.1 Resignation

- aa) Subject to Rule 707D, Any demand for the payment of Reserve Fund Deposits made by the Clearing House ~~on or of an HKCC Participant~~ preceding the effective date of termination of its HKCC Participantship ~~Business Day the Clearing House receives a Resignation Notice from an HKCC Participant~~ must be met in full by the resigning HKCC Participant. Any demand made by the Clearing House for ~~Replenishment Contribution Assessments of an HKCC Participant in respect of any events of default which occur during a Capped Liability Period which commenced prior to the termination of its HKCC Participantship~~ shall survive the termination of the HKCC Participantship ~~must also be met in full by an HKCC Participant notwithstanding the fact that the expiry of such Capped Liability Period occurs after termination,~~

~~provided that the aggregate liability of the HKCC Participant shall be limited as provided for in Rule 707A(aa) and provided that the HKCC Participant shall not have any obligations or liabilities to provide Assessments in respect of any events of default which occur during a Capped Liability Period which commences after the termination of its HKCC Participantship unless on the date of demand or the next Business Day after the demand is made, the Clearing House receives a Resignation Notice from the HKCC Participant, in which case its liability will be limited in the manner prescribed in paragraph (ab) below.~~

- ab) ~~(deleted) Where an HKCC Participant has submitted a Resignation Notice to the Clearing House, its liability to provide Reserve Fund Deposits and to make Replenishment Contributions pursuant to any demands made by the Clearing House (i) for Reserve Fund Deposits from the Business Day following receipt of its Resignation Notice and (ii) for Replenishment Contributions from the Business Day immediately preceding the Business Day on which the Clearing House receives the Resignation Notice shall be limited to an amount which equals its Reserve Fund Deposits requirement on the Business Day the Clearing House receives the Resignation Notice, plus two times such amount.~~

~~— For example, assume that (i) the Clearing House issues a notice demanding Replenishment Contribution of HK\$7,000,000 from an HKCC Participant on a particular Business Day; (ii) the Clearing House receives a Resignation Notice from the HKCC Participant on the following Business Day; (iii) on the Business Day the Clearing House receives the Resignation Notice, its HKCC Participant's Deposit is HK\$1,500,000 and the HKCC Participant Additional Deposit already demanded by the Clearing House but remains to be settled by the resigning HKCC Participant is HK\$1,000,000. In this case, the maximum liability of the resigning HKCC Participant to contribute to the Reserve Fund would be HK\$7,500,000 (i.e. three times the aggregate of its HKCC Participant's Deposit of HK\$1,500,000 and HKCC Participant Additional Deposit requirement of HK\$1,000,000). In other words, it would only be obliged to contribute a further amount of HK\$5,000,000 in addition to its existing Reserve Fund Deposits requirement of HK\$2,500,000.~~

- b) Subject to Rules 553 and 1103, Aa resigning HKCC Participant shall be entitled to reimbursement of its HKCC Participant Additional Deposit only to the extent it is entitled to a release of such HKCC Participant Additional Deposit under section 4.4.

#### 4.6.2 *Revocation of HKCC Participantship*

The HKCC Participant Additional Deposit of the HKCC Participant will be refunded according to the conditions described in section 4.6.1 provided that no such refund shall be made until after the Clearing House has determined if all or part of the HKCC Participant Additional Deposit of the HKCC Participant shall be applied under HKCC Rule 706(c)(~~+~~).

#### 4.8 Other Means of Contribution to HKCC Participant Additional Deposits

HKCC Participant Additional Deposits (other than Assessments and Voluntary Recap Amounts) may be contributed in the form of non-cash collateral including Exchange Fund Bills and Notes which satisfy or are subject to the same requirements and criteria as those set forth in section 2.6.4 for Exchange Fund Bills and Notes that are provided as a means of cover for Clearing House margin liability.

## **Chapter 7 Clearing Service Termination Event**

### 7.1 Calculations of Net Payments following a Clearing Service Termination Event

If a Clearing Service Termination Event occurs under Rule 1101, the Clearing House shall, without prejudice to any other rights under the Rules, wind down the clearing and settlement services in accordance with Rules 1101 to 1104, in consultation with the Commission.

#### 7.1.1 Calculation of termination value

The termination value for each Contract shall be determined based on the Closing Quotation determined in accordance with section 2.3 of the Clearing House Procedures at the time of contract termination, or if such Closing Quotation is not available, the price shall be such price as the Clearing House may reasonably determine. The Clearing House may also take into account any unpaid amounts that have become due and payable in respect of any Contract on or prior to the occurrence of the Clearing Service Termination Event.

As soon as reasonably practicable following a Clearing Service Termination Event, the Clearing House shall, with respect to each clearing account registered in the name of each HKCC Participant, calculate a net sum payable by or to such HKCC Participant. In calculating such net sum, the Clearing House will take into account the termination value determined for each Contract pursuant to Rule

1102 and this section of the Clearing House Procedures, and the value of all other amounts which are payable to the Clearing House from the HKCC Participant under the Rules or which are payable to the HKCC Participant from the Clearing House (other than any amounts arising from the obligation of the Clearing House to pay an amount equal to (i) the Margin Balance (ii) any income and redemption proceeds on any non-cash collateral that have not already been paid to or withdrawn by the HKCC Participant and/or (iii) the Reserve Fund Deposits Balance to the relevant HKCC Participant, or Former HKCC Participant), whether such amounts are presently payable or not and whether they are liquidated or unliquidated, actual or contingent. Any net sum calculated to be payable by the Clearing House is subject to adjustment in accordance with section 7.1.2.2 below. There shall be no combining or set-off between any house clearing account (including any clearing account which is not of a Client nature) and Client clearing accounts (including any clearing account which is of a Client nature). The Clearing House will determine any such net sum payable by, or to, an HKCC Participant in the Base Currency. For the purpose of the determination under this section of the Clearing House Procedures, the Clearing House may convert any amounts denominated in any other currency into the Base Currency at such exchange rate determined by the Clearing House from such source and on such basis as it shall consider appropriate.

7.1.2 *Payment of Limited Recourse Interim CP Payable, Limited Recourse Final CP Payable and Limited Recourse CP Receivable*

7.1.2.1 *Limited Recourse Interim CP Payable and Limited Recourse Final CP Payable*

- (a) If, pursuant to section 7.1.1 above, a net sum is determined to be payable by an HKCC Participant to the Clearing House with respect to one of its clearing accounts, the Clearing House shall deduct all or part of such sum from the Margin Balance consisting of cash in the Base Currency, if any, relating to the relevant clearing account. If, after applying such Margin Balance relating to the relevant clearing account, there remains an amount payable by the HKCC Participant to the Clearing House for such clearing account (the “Limited Recourse Interim CP Payable”), the Clearing House will, as soon as reasonably practicable, notify the relevant HKCC Participant of the Limited Recourse Interim CP Payable, and the relevant HKCC Participant shall pay the Clearing House the Limited Recourse Interim CP Payable within one Business Day

following receipt of such notification or within such other time period as may be specified by the Clearing House.

(b) If the HKCC Participant fails to pay the Limited Recourse Interim CP Payable within the time frame set out in sub-paragraph (a) above, the Clearing House may declare such HKCC Participant as a Defaulter. The Clearing House may, in satisfaction of any due but unpaid Limited Recourse Interim CP Payable, apply any remaining Margin Balance including any cash in other currencies and the cash proceeds of any non-cash collateral which the Clearing House shall be entitled to liquidate relating to the relevant clearing account, and if the Limited Recourse Interim CP Payable of any clearing account of such HKCC Participant is not satisfied in full following such application, regardless of whether such Limited Recourse Interim CP Payable arises out of a house clearing account or Client clearing account belonging to such HKCC Participant, the Clearing House will set-off the Reserve Fund Deposits Balance in respect of such HKCC Participant against the unpaid Limited Recourse Interim CP Payable. For the avoidance of doubt, if the unpaid Limited Recourse Interim CP Payable arises out of both a house clearing account (or any clearing account which is not of a Client nature) and Client clearing accounts (or any clearing account which is of a Client nature), the Clearing House will set-off the Reserve Fund Deposits Balance in respect of such HKCC Participant against these clearing accounts on a pro-rata basis.

(c) Following the application by way of set-off of any remaining Margin Balance and any Reserve Fund Deposits Balance as described in sub-paragraph (b) above, the Clearing House shall determine and notify each relevant HKCC Participant of the final net sum payable by the HKCC Participant in respect of its Limited Recourse Interim CP Payable, if any (“Limited Recourse Final CP Payable”) with respect to each clearing account. Each HKCC Participant that receives a notice to pay any Limited Recourse Final CP Payable shall pay each such amount to the Clearing House in full within one Business Day or within such other time period as may be specified by the Clearing House.

(d) In the event that the Clearing House does not receive any part of the Limited Recourse Final CP Payable from an HKCC Participant, the Clearing House shall take reasonable steps to recover such amount. Such HKCC Participant shall be responsible for any costs the Clearing House reasonably incurs in attempting to recover such amounts and accordingly the Limited Recourse Final CP Payable actually received from such HKCC Participant shall be deemed to be decreased by an amount equal to such costs, unless such costs are paid by such HKCC Participant.

#### 7.1.2.2 Limited Recourse CP Receivable

Any net sum that is determined to be payable by the Clearing House to an HKCC Participant with respect to one of its clearing accounts pursuant to section 7.1.1 above shall be known as the “Unadjusted Limited Recourse CP Receivable” and shall be subject to adjustment. The amount payable by the Clearing House to each relevant HKCC Participant with respect to each such clearing account (the “Limited Recourse CP Receivable”) shall be calculated by multiplying the Unadjusted Limited Recourse CP Receivable by a percentage (“Limited Recourse Applicable Percentage”) which is equal to the lesser of:

(1) 100%; and

(2)(A) the aggregate value of (I) the Reserve Fund Resources then held by the Clearing House; (II) any Margin Balance in respect of all clearing accounts applied pursuant to sections 7.1.2.1(a) and 7.1.2.1(b) above; and (III) all Limited Recourse Interim CP Payables and/or Limited Recourse Final CP Payables received by the Clearing House, divided by

(B) the aggregate value representing the sum of (I) all Unadjusted Limited Recourse CP Receivables and (II) the Reserve Fund Deposits Balance in respect of all HKCC Participants or Former HKCC Participants taking into account the operation of section 7.1.2.1(b) above;

The Clearing House will notify each relevant HKCC Participant of its Limited Recourse CP Receivable(s) upon determination.

7.1.2.3 Payment

The amount of Limited Recourse Interim CP Payable, Limited Recourse Final CP Payable and Limited Recourse CP Receivable will be debited from or credited to (as the case may be) the relevant CCMS Collateral Account of the HKCC Participant. To the extent that the collateral in the HKCC Participant's relevant CCMS Collateral Account is insufficient, funds will be collected via the Direct Margin Debiting System (DMDS). HKCC Participants shall ensure that there are sufficient funds deposited in their DMDS bank accounts for debiting purpose.

All payments made under this section of the Clearing House Procedures shall be made in the Base Currency. To the extent that the Clearing House determines that it is not possible or reasonably practicable to make payment in the Base Currency, the obligations of the Clearing House shall be to make payment, in full or in part, in such other currency or currencies and at such conversion rate(s) as the Clearing House may in its absolute discretion determine to be fair and reasonable, taking into account all relevant circumstances as it may consider appropriate.

7.1.2.4 Liability of the Clearing House

Upon the occurrence of a Clearing Service Termination Event, every open Contract between the Clearing House and an HKCC Participant shall be automatically terminated and all prevailing obligations of the Clearing House and such HKCC Participant in respect of each such Contract between them (including the obligation to deliver any underlying commodities or instruments under such Contract) shall cease and be replaced with the obligation of the Clearing House or the relevant HKCC Participant, as the case may be, to pay the other party with respect to each clearing account registered in the name of such HKCC Participant a net sum which shall take into account the termination value and any unpaid amounts of each such Contract registered in the relevant clearing account as determined by the Clearing House and where applicable adjusted in accordance with this section of the Clearing House Procedures.

7.1.3 Return of Margin Balance

With respect to each HKCC Participant and each of its clearing account(s), taking into account (if applicable) the operation of sections 7.1.2.1(a) and 7.1.2.1(b) above, the Clearing House shall pay an amount equal to the Margin Balance for such clearing account to such HKCC Participant in accordance with the Rules.

7.1.4 Return of Reserve Fund Deposits Balance

With respect to each HKCC Participant or Former HKCC Participant which has a positive Reserve Fund Deposits Balance after payment of the Limited Recourse Interim CP Payable or after determination of the Limited Recourse CP Receivable for such clearing account, as the case may be, the Clearing House shall pay to each relevant HKCC Participant or Former HKCC Participant an amount equal to its Reserve Fund Deposits Balance multiplied by the Limited Recourse Applicable Percentage provided that the aggregate sum payable by the Clearing House in respect of the Reserve Fund Deposits Balance for all HKCC Participants and Former HKCC Participants shall not in any event exceed the value of the Reserve Fund Resources then held by the Clearing House. The Clearing House may deliver or return to an HKCC Participant or Former HKCC Participant assets in such form and in such amount, as the Clearing House deems appropriate, equivalent to the assets recorded as part of its Reserve Fund Deposits Balance. Once the Reserve Fund Resources have been exhausted, the unpaid balance of the Reserve Fund Deposits Balance shall be extinguished and the relevant HKCC Participant(s) and Former HKCC Participant(s) shall have no further recourse to the Clearing House (its affiliates, a recognized exchange controller which is the controller of the Clearing House, or any of their respective Representatives) in respect thereof.

**Chapter 8 HKCC Failure to Pay Event and HKCC Insolvency Event**

8.1 Calculations of Net Payments under an HKCC Failure to Pay Event or an HKCC Insolvency Event

Upon the designation of an Early Termination Date pursuant to either Rule 547(a) or Rule 549(a) in respect of an HKCC Failure to Pay Event or pursuant to Rule 550 with respect to an HKCC Insolvency Event, the Clearing House shall, without prejudice to any other rights under the Rules, terminate the open Contracts between the Clearing House and the relevant HKCC Participant in accordance with Rules 552 to 555.

8.1.1 Calculation of termination value

The termination value for each Contract shall be determined based on the Closing Quotation determined in accordance with section 2.3 of the Clearing House Procedures on the Early Termination Date, or if such Closing Quotation is not available, the price shall be such price as the Clearing House may reasonably determine. The Clearing House may also take into account any unpaid amounts that have become due and payable in respect of any Contract on or prior to the designation of the Early Termination Date.

The Clearing House shall on, or as soon as reasonably practicable after, the Early Termination Date, with respect to each clearing account registered in the name of each relevant HKCC Participant, calculate a net sum payable by or to such HKCC Participant. In calculating such net sum, the Clearing House will take into account the termination value determined for each Contract pursuant to Rule 552 and this section of the Clearing House Procedures, and the value of all other amounts which are payable to the Clearing House from the HKCC Participant under the Rules or which are payable to the HKCC Participant from the Clearing House (other than any amounts arising from the obligation of the Clearing House to pay an amount equal to (i) the Margin Balance (ii) any income and redemption proceeds on any non-cash collateral that have not already been paid to or withdrawn by the HKCC Participant and/or (iii) the Reserve Fund Deposits Balance to the relevant HKCC Participant or Former HKCC Participant), whether such amounts are presently payable or not and whether they are liquidated or unliquidated, actual or contingent. Any net sum calculated to be payable by the Clearing House is subject to adjustment in accordance with section 8.1.2.2 below. There shall be no combining or set-off between any house clearing account (including any clearing account which is not of a Client nature) and Client clearing accounts (including any clearing account which is of a Client nature). The Clearing House will determine any such net sum payable by, or to, an HKCC Participant in the Base Currency. For the purpose of the determination under this section of the Clearing House Procedures, the Clearing House may convert any amounts denominated in any other currency into the Base Currency at such exchange rate determined by the Clearing House from such source and on such basis as it shall consider appropriate.

8.1.2 Payment of HKCC Default Interim CP Payable, HKCC Default Final CP Payable and HKCC Default CP Receivable

8.1.2.1 HKCC Default Interim CP Payable and HKCC Default Final CP Payable

- (a) If, pursuant to section 8.1.1 above, a net sum is determined to be payable by an HKCC Participant to the Clearing House with respect to one of its clearing accounts, the Clearing House shall deduct all or part of such sum from the Margin Balance consisting of cash in the Base Currency, if any, relating to the relevant clearing account. If, after applying such Margin Balance relating to the relevant clearing account, there remains an amount payable by the HKCC Participant to the Clearing House for such clearing account (the “HKCC Default Interim CP Payable”), the Clearing House will, as soon as reasonably practicable, notify the relevant HKCC Participant of the HKCC Default Interim CP Payable, and the relevant HKCC Participant shall pay the Clearing House the HKCC Default Interim CP Payable within one Business Day following receipt of such notification or within such other time period as may be specified by the Clearing House.
- (b) If the HKCC Participant fails to pay the HKCC Default Interim CP Payable within the time frame set out in sub-paragraph (a) above, the Clearing House may declare such HKCC Participant as a Defaulter. The Clearing House may, in satisfaction of any due but unpaid HKCC Default Interim CP Payable, apply any remaining Margin Balance including any cash in other currencies and the cash proceeds of any non-cash collateral which the Clearing House shall be entitled to liquidate relating to the relevant clearing account, and if the HKCC Default Interim CP Payable of any clearing account of such HKCC Participant is not satisfied in full following such application, regardless of whether such HKCC Default Interim CP Payable arises out of a house clearing account or Client clearing account belonging to such HKCC Participant, the Clearing House may set-off the Reserve Fund Deposits Balance in respect of such HKCC Participant against the unpaid HKCC Default Interim CP Payable. For the avoidance of doubt, if the unpaid HKCC Default Interim CP Payable arises out of both a house clearing account (or any clearing account which is not of a Client nature) and Client clearing accounts (including any clearing account which is of a Client nature), the Clearing House will set-off the Reserve Fund Deposits Balance in respect of such HKCC Participant against these clearing accounts on a pro-rata basis.

(c) Following the application by way of set-off of any remaining Margin Balance and any Reserve Fund Deposits Balance as described in sub-paragraph (b) above, the Clearing House shall determine and notify each relevant HKCC Participant of the final net sum payable by the HKCC Participant in respect of its HKCC Default Interim CP Payable, if any (“HKCC Default Final CP Payable”) with respect to each clearing account. Each HKCC Participant that receives a notice to pay any HKCC Default Final CP Payable shall pay each such amount to the Clearing House in full within one Business Day or within such other time period as may be specified by the Clearing House.

(d) In the event that the Clearing House does not receive any part of the HKCC Default Final CP Payable from an HKCC Participant, the Clearing House shall take reasonable steps to recover such amount. Such HKCC Participant shall be responsible for any costs the Clearing House reasonably incurs in attempting to recover such amounts and accordingly the HKCC Default Final CP Payable actually received from such HKCC Participant shall be deemed to be decreased by an amount equal to such costs, unless such costs are paid by such HKCC Participant.

#### 8.1.2.2 HKCC Default CP Receivable

Any net sum that is determined to be payable by the Clearing House to an HKCC Participant with respect to one of its clearing accounts pursuant to section 8.1.1 above shall be known as the “Unadjusted HKCC Default CP Receivable” and shall be subject to adjustment. The amount payable by the Clearing House to each relevant HKCC Participant with respect to each such clearing account (the “HKCC Default CP Receivable”) shall be calculated by multiplying the Unadjusted HKCC Default CP Receivable by a percentage (“HKCC Default Applicable Percentage”) which is equal to the lesser of:

(1) 100%; and

(2) (A) the aggregate value of (I) the Reserve Fund Resources then held by the Clearing House; (II) any Margin Balance in respect of all clearing accounts applied pursuant to sections 8.1.2.1(a)

and 8.1.2.1(b) above; and (III) all HKCC Default Interim CP Payables and/or HKCC Default Final CP Payables received by the Clearing House, divided by

(B) the aggregate value representing the sum of (I) all Unadjusted HKCC Default CP Receivables and (II) the Reserve Fund Deposits Balance in respect of all HKCC Participants or Former HKCC Participants taking into account the operation of section 8.1.2.1(b) above;

The Clearing House will notify each relevant HKCC Participant of its HKCC Default CP Receivable(s) upon determination.

#### 8.1.2.3 Payment

The amount of HKCC Default Interim CP Payable, HKCC Default Final CP Payable and HKCC Default CP Receivable will be debited from or credited to (as the case may be) the relevant CCMS Collateral Account of the HKCC Participant. To the extent that the collateral in the HKCC Participant's relevant CCMS Collateral Account is insufficient, funds will be collected via the Direct Margin Debiting System (DMDS). HKCC Participants shall ensure that there are sufficient funds deposited in their DMDS bank accounts for debiting purpose.

All payments made under this section of the Clearing House Procedures shall be made in the Base Currency. To the extent that the Clearing House determines that it is not possible or reasonably practicable to make payment in the Base Currency, the obligations of the Clearing House shall be to make payment, in full or in part, in such other currency or currencies and at such conversion rate(s) as the Clearing House may in its absolute discretion determine to be fair and reasonable, taking into account all relevant circumstances as it may consider appropriate.

#### 8.1.2.4 Liability of the Clearing House

Upon the designation of an Early Termination Date pursuant to either Rule 547(a) or Rule 549(a) in respect of an HKCC Failure to Pay Event or pursuant to Rule 550 with respect to an HKCC Insolvency Event, every open Contract between the Clearing House and the relevant HKCC Participant shall be terminated and all prevailing

obligations of the Clearing House and such HKCC Participant in respect of each such Contract between them (including the obligation to deliver any underlying commodities or instruments under such Contract) shall cease and be replaced with the obligation of the Clearing House or the relevant HKCC Participant, as the case may be, to pay the other party with respect to each clearing account registered in the name of such HKCC Participant a net sum which shall take into account the termination value and any unpaid amounts of each such Contract registered in the relevant clearing account as determined by the Clearing House and where applicable adjusted in accordance with this section of the Clearing House Procedures.

#### 8.1.3 Return of Margin Balance

With respect to each relevant HKCC Participant and each of its clearing account(s), taking into account (if applicable) the operation of sections 8.1.2.1(a) and 8.1.2.1(b) above, the Clearing House shall pay an amount equal to the Margin Balance for such clearing account to such HKCC Participant in accordance with the Rules.

#### 8.1.4 Return of Reserve Fund Deposits Balance

With respect to each HKCC Participant or Former HKCC Participant which has a positive Reserve Fund Deposits Balance after payment of the HKCC Default Interim CP Payable or after determination of the HKCC Default CP Receivable for such clearing account, as the case may be, the Clearing House shall pay to each relevant HKCC Participant or Former HKCC Participant an amount equal to its Reserve Fund Deposits Balance multiplied by the HKCC Default Applicable Percentage provided that the aggregate sum payable by the Clearing House in respect of the Reserve Fund Deposits Balance for all HKCC Participants and Former HKCC Participants shall not in any event exceed the value of the Reserve Fund Resources then held by the Clearing House. The Clearing House may deliver or return to an HKCC Participant or Former HKCC Participant assets in such form and in such amount, as the Clearing House deems appropriate, equivalent to the assets recorded as part of its Reserve Fund Deposits Balance. Once the Reserve Fund Resources have been exhausted, the unpaid balance of the Reserve Fund Deposits Balance shall be extinguished and the relevant HKCC Participant(s) and Former HKCC Participant(s) shall have no further recourse to the Clearing House (its affiliates, a recognized exchange controller which is the controller of the Clearing House, or any of their respective Representatives) in respect thereof.