

**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 or replenish the depleted fund;
- (g) in respect of Physical Delivery Contracts, the power to require an HKCC Participant to provide, evidence of its holding of such amount of the underlying commodity or instrument as may be required to satisfy its settlement obligations and the power to require a Non-delivery HKCC Participant to close out and/or transfer any open positions by such time as shall be specified by the Clearing House from time to time;
- (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.

**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:-

“Acceptance Notice”	means a notice to be provided by a Buyer under a Physically Settled Metal Futures Contract in the form prescribed and published by the Clearing House from time to time;
“Approved Depository”	means, in respect of a Physically Settled Metal Futures Contract, a depository for precious metals approved by the Clearing House and included on the list of Approved Depositories published by the Clearing House from time to time;
“Approved Depository Account Agreement”	means an agreement between an HKCC Participant and an Approved Depository containing such terms as may be specified by the Clearing House;
“Arbitration Rules”	has the meaning given to it in section 2A.3.5(k) of the Clearing House Procedures;
“Cash Compensation”	means the amount payable upon a delivery or settlement failure under a Physically Settled Metal Futures Contract as calculated in accordance with section 2A.3.3 of the Clearing House Procedures;
“Cash Settled Metal Futures Contract”	means a Metal Futures Contract which is a Cash Settled Contract;
“Deliverable Metal”	means, in respect of a Physically Settled Metal Futures Contract, the metal underlying such contract which is to be delivered by the Seller to the Buyer;
“Delivery Agent”	means an HKCC Participant appointed as such by another HKCC Participant for the delivery of Deliverable Metal for such other HKCC Participant under the terms of a Delivery Agreement;
“Delivery Agreement”	means an agreement between an HKCC Participant and its Delivery Agent containing such terms as may be specified by the Clearing House;
“Delivery Assets”	has the meaning given to it in section 2A.3.4(f)(iii)(C) of the Clearing House Procedures;
“Delivery Notice”	means any notice to be provided by a Seller under a Physically Settled Metal Futures Contract in a form prescribed and published by the Clearing House from time to time;
“Delivery Representations”	has the meaning given to it in section 2A.3.5(f) of the Clearing House Procedures;

“Delivery Warranties”	has the meaning given to it in section 2A.3.5(g) of the Clearing House Procedures;
“Dispute”	has the meaning given to it in section 2A.3.5(k) of the Clearing House Procedures;
“Disputing Party”	has the meaning given to it in of section 2A.3.5(j) of the Clearing House Procedures;
“HKIAC”	has the meaning given to it in section 2A.3.5(k) of the Clearing House Procedures;
“Metal Futures Contract”	has the meaning given to it in the Regulations for Trading Metal Futures Contracts of the Exchange Rules;
“Non-delivery HKCC Participant”	means, in respect of a Physically Settled Metal Futures Contract, an HKCC Participant which neither has itself entered into, nor has entered into a Delivery Agreement with another HKCC Participant which has entered into, an Approved Depository Account Agreement with each of the Approved Depositories;
“Physical Delivery Participant”	means, in respect of a Physically Settled Metal Futures Contract, an HKCC Participant other than a Non-delivery HKCC Participant;
“Physically Settled Metal Futures Contract”	means a Metal Futures Contract which is a Physical Delivery Contract;
“Price Differential”	has the meaning given to it in section 2A.3.3(a)(iii), 2A.3.3(a)(iv) or 2A.3.3(b)(ii) of the Clearing House Procedures, as the case may be;
“Recognized Assayer”	means, in respect of a Physically Settled Metal Futures Contract, an assayer for precious metals which is included on the list of Recognized Assayers published by the Exchange from time to time;
“Recognized Depository”	means, in respect of a Physically Settled Metal Futures Contract, a depository for precious metals which is included on the list of Recognized Depositories published by the Exchange from time to time;
“Recognized Forwarder”	means, in respect of a Physically Settled Metal Futures Contract, a transportation firm specializing in transporting precious metals which is included on the list of Recognized Forwarders published by the Exchange from time to time;
“Recognized Refiner”	means, in respect of a Physically Settled Metal Futures Contract, a precious metal refinery which is included on the list of Recognized Refiners published by the Exchange from time to time;
“Reference Price”	has the meaning given to it in section 2A.3.3(a)(ii) of the Clearing House Procedures;
“Re-novated Contract”	has the meaning given to it in Rule 309A and “Contract Re-novation” shall be construed accordingly;

“Settlement Agent”

means, following the Contract Re-novation in respect of a Physically Settled Metal Futures Contract, the Clearing House acting in its role as settlement agent for the buying HKCC Participant and the selling HKCC Participant under that Re-novated Contract to facilitate the settlement of that Re-novated Contract, as further described in section 2A.3.2.3(b) of the Clearing House Procedures;

“Third Party Service Provider”

means an Approved Depository, Recognized Assayer, Recognized Depository, Recognized Forwarder, Recognized Refiner or any other third party which performs or which is responsible for any service in connection with the clearing and settlement of Physically Settled Metal Futures Contracts under these Rules and/or the Exchange Rules;

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

### Rights to record, register, and clear

203. Every HKCC Participant is entitled in accordance with the HKCC Rules to record, register, and clear Contracts entered into by itself provided that it (i) has opened a House and a Client bank account with a Designated Bank, an Approved Settlement Bank or a Prime Settlement Bank for each applicable Settlement Currency; and (ii) has satisfied such additional eligibility criteria as may from time to time be prescribed by the Clearing House and notified to HKCC Participants. In addition:-
- (a) a General Clearing Participant is entitled to record, register, and clear Contracts in accordance with the HKCC Rules on behalf of those Non-Clearing Participants with which it has entered into a Clearing Agreement, and also for Clearing Participants; and
  - (b) at the discretion of the Clearing House a Clearing Participant may be entitled to record, register, and clear Contracts in accordance with the HKCC Rules for other Clearing Participants.

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

### Legal effect of registration

- 309A. In respect of Contracts in Physically Settled Metal Futures Contracts which have been novated to the Clearing House pursuant to Rule 309 and which have the same Final Settlement Day, following:
- (a) the completion of the Matching Process described in section 2A.3.2.1(c) of the Clearing House Procedures in respect of such Physically Settled Metal Futures Contracts;
  - (b) the giving of notice of the results of such Matching Process and relevant settlement details by the Clearing House to the relevant HKCC Participants as described in section 2A.3.2.1(c)(vii) of the Clearing House Procedures;

- (c) receipt by the Clearing House of notice from the relevant Approved Depository that the Approved Depository has successfully earmarked the required quantity of Deliverable Metal to be delivered by a matched Seller to the corresponding matched Buyer pursuant to section 2A.3.2.2(b) of the Clearing House Procedures; and
- (d) receipt by the Clearing House of payment to the prescribed settlement account of the amount of the payment obligation which is payable by the matched Buyer to the corresponding matched Seller in respect of the Matched Contract pursuant to section 2A.3.2.3(a) of the Clearing House Procedures,

any such Contracts arising pursuant to Rule 309 between (i) the relevant Buyer or Buyers and the Clearing House and (ii) the Clearing House and the relevant Seller or Sellers (each a "**Pending Contract**") shall immediately be novated without further notice to or action by any party, with the result that new contracts (each a "**Re-novated Contract**") shall arise directly between the matched Buyers and the corresponding matched Sellers on the terms and as further described in section 2A of the Clearing House Procedures.

Under each Re-novated Contract:

- (i) all rights and obligations between the Clearing House and the relevant Buyer or Seller, as the case may be, under each relevant Pending Contract shall be simultaneously discharged and replaced by the rights and obligations between the relevant Buyer and relevant Seller under the corresponding Re-novated Contract; and
- (ii) thereafter the Clearing House shall be fully and finally released and discharged from all its obligations and liabilities as a central counterparty to the relevant Buyer and Seller under each relevant Pending Contract.

For the avoidance of doubt, a Re-novated Contract shall be a market contract for the purposes of the Securities and Futures Ordinance (Cap 571 of Hong Kong).

#### Transfer of Contracts after registration

- 313. (b) Where a Contract made by one HKCC Participant for another HKCC Participant has been registered in the name of the former, or where an HKCC Participant becomes compelled by reason of Rule 508(a), Rule 518(a)(iv), Rule 519(c), Rule 606 or Rule 606B to transfer a Contract registered in its name and another HKCC Participant agrees to accept a transfer of that Contract, the Clearing House may at its absolute discretion and at the joint request of both such HKCC Participants and subject to any conditions it may think fit to impose, transfer the registration of the Contract into the name of the second HKCC Participant.
- (c) Without prejudice to paragraph (a) or paragraph (b) above, the Clearing House may at any time and for any reason transfer the registration of a Contract from the name of one HKCC Participant to the name of another HKCC Participant or from one account of an HKCC Participant to another account of such HKCC Participant, and may do so in its absolute discretion and subject to any conditions it may think fit to impose, subject only to obtaining the consent thereto of both HKCC Participants (or, in the case of a transfer between a single HKCC Participant's accounts, the HKCC Participant concerned) and of the Exchange and to any conditions imposed by the Exchange.

- (d) A transfer made pursuant to paragraph (b) or (c) above (other than a transfer between a single HKCC Participant's accounts) will take effect by means of a novation of the Contract between the transferor, the transferee and the Clearing House. Every transfer made pursuant to paragraph (b) or (c) above will be recorded in a statement or summary issued by the Clearing House to the transferor and the transferee (or, in the case of a transfer between a single HKCC Participant's accounts, to that HKCC Participant). With effect from the issue of such statement or summary, the transferee (if any) shall be deemed for all purposes of these Rules to be a principal party to the Contract to the exclusion of the transferor.

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

Variation adjustment

410. The Clearing House shall calculate margin requirements and variation adjustments at least once on every Business Day in respect of:-

- (b) every Physical Delivery Contract until the earliest of (i) the date on which that Contract is closed out; (ii) the date on which that Contract is settled; or (iii) in the case of a Physical Delivery Contract where the settlement obligations of HKCC Participants to HKCC will complete at or before 9:15 a.m. on the Final Settlement Day, the Business Day immediately preceding the Final Settlement Day, or in the case of any other Physical Delivery Contract, the Final Settlement Day.

Additional margin and intra-day variation adjustment

411. (aa) The Clearing House may also call for additional margin on any Business Day if according to its assessment of the liabilities arising from the open Contracts of an HKCC Participant which are based on the same or similar underlying instruments, any concentration or specified threshold imposed on the HKCC Participant in accordance with the Clearing House Procedures has been exceeded.

- (e) In addition to any other rights the Clearing House may have under these Rules, where the Clearing House has an obligation to make payment under Rule 411(c) in a Settlement Currency, notwithstanding that the Settlement Currency may be available, the Clearing House may in lieu of making payment in that Settlement Currency make payment to the HKCC Participant concerned, 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 having regard to all the circumstances of the case. The Clearing House shall exercise its powers under this Rule only if the Clearing House considers in its reasonable opinion that the Settlement Currency is not freely available or convertible in the market.

**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:

- (iv) margin calls or demands for variation adjustment, mandatory intra-day variation adjustment and margin, additional margin or intra-day variation adjustment;
- (f) an HKCC Participant defaults in any of its delivery or payment obligations in relation to a Physical Delivery Contract including, without limitation, the payment of any Cash Compensation and non-delivery charge;
- (i) an HKCC Participant, being a Common Participant, fails to meet any payment obligation (including fees or charges) owed to, or margin call issued by, any one of the Recognized Clearing House or commits an event of default under its rules.

509A. Notwithstanding Rule 509(f) and in the absence of any other event of default set forth in Rule 509, if a Seller fails in any of its delivery obligations in relation to a Physically Settled Metal Futures Contract but continues to perform all of its payment obligations in relation to the Physically Settled Metal Futures Contract and all of its delivery and payment obligations under all its other Contracts, the Clearing House may in its discretion determine that such failure does not constitute an Event of Default and instead require the Seller to settle its delivery obligations by paying Cash Compensation to the affected Buyer and the non-delivery charge to the Clearing House and to return any amount paid by the Buyer to the Clearing House (in accordance with Rule 309A(d)).

#### Disciplinary action against an HKCC Participant

520. Subject to the provisions of Rules 509 and 510 and without prejudice to the powers of the Clearing House to take action against an HKCC Participant as provided for in the Rules, allegations of Rule violations shall be investigated by the Compliance Department and shall be adjudicated by the Designated Compliance Department Staff and the Disciplinary Committee, and the exercise of disciplinary powers herein shall where appropriate be dealt with, in accordance with the Rules set out in this Chapter V and such other rules and procedures as may from time to time be prescribed by the Board.

## **CHAPTER VI** **CASH SETTLEMENT, DELIVERY AND EXCHANGE OF FUTURES**

#### Assignment process

603. After Market close on the last trading day of a Physical Delivery Contract (other than a deliverable Currency Futures Contract or a deliverable Currency Options Contract), the Clearing House will allocate all short positions in such Contract to long positions in such Contract by an assignment process set forth in the Clearing House Procedures. In respect of a Physical Delivery Contract which is Physically Settled Metal Futures Contract, any outstanding open position in the relevant spot month Physically Settled Metal Futures Contract held by any HKCC Participant will be included in the Matching Process pursuant to section 2A.3.2.1(c) of the Clearing House Procedures. Each Physical Delivery Participant acknowledges and accepts that they may be matched, through the Matching Process, with a Non-delivery HKCC Participant. In such circumstances, the Physical Delivery Participant will receive a payment of Cash Compensation instead of completing the sale or purchase of, and delivering or taking delivery of, Deliverable Metal, as the case may be. The Physical Delivery Participant accepts and acknowledges such risk, and shall have no claim against the Clearing House, the relevant Non-delivery HKCC Participant or any other person resulting from it receiving payment of Cash Compensation instead of delivering or taking delivery of Deliverable Metal, as the case may be.
604. The Clearing House will notify relevant HKCC Participants of the settlement details by facsimile, phone or such other means as the Clearing House may consider appropriate as soon as practicable after the assignment process is completed.

605. Once a short position of an HKCC Participant is allocated to a long position of another HKCC Participant under the assignment process stipulated in Rule 603, (except where either the selling or buying HKCC Participant is a Non-delivery HKCC Participant) the selling HKCC Participant shall deliver the underlying commodity or instrument to the buying HKCC Participant and the buying HKCC Participant shall make payment to the selling HKCC Participant in accordance with the settlement details provided by the Clearing House under Rule 604 and the procedures set forth in the Clearing House Procedures. An HKCC Participant which has short positions in one account may be assigned against the long positions in another account of the HKCC Participant, in such a case, the HKCC Participant shall make and/or take the underlying commodity or instrument and the relevant payment between these accounts in accordance with the settlement details notified by the Clearing House.

605A. Notwithstanding any other provision of these Rules or the Exchange Rules, the Clearing House shall have no liability of any nature whatsoever to an HKCC Participant or any other person in connection with, or the exercise by the Clearing House of its functions under, any assignment process pursuant to Rules 603 – 605 and applicable Clearing House Procedures including without limitation any claims by an HKCC Participant matched with another HKCC Participant in connection with:

- (a) a failure by either HKCC Participant to make payment or delivery, as the case may be, under the relevant Re-novated Contract;
- (b) a delivery by either HKCC Participant of an underlying commodity or instrument which does not comply with the applicable Contract Specifications for that Re-novated Contract, these Rules or the Exchange Rules; and/or
- (c) any breach by either such HKCC Participant of any other provision of these Rules or the Exchange Rules.

Information regarding an HKCC Participant's delivery obligations

606. The Clearing House may from time to time require an HKCC Participant to provide to the Clearing House such information regarding the underlying commodity or instrument that is to be delivered by the HKCC Participant, such evidence of the HKCC Participant's ability to deliver the underlying commodity or instrument and such other information relating to the HKCC Participant's delivery obligations under a Physical Delivery Contract as the Clearing House considers appropriate. If at any time the Clearing House has reason to believe that an HKCC Participant may not be able to comply with its delivery obligations under a Physical Delivery Contract, the Clearing House shall have the right to restrict the HKCC Participant from opening new positions in such Physical Delivery Contract and/or require the HKCC Participant to close out or transfer to another HKCC Participant open positions in such Physical Delivery Contract.

Open positions of a Non-delivery HKCC Participant under a Physically Settled Metal Futures Contract

606A. A Non-delivery HKCC Participant shall not:

- (i) have any open position in any spot month Physically Settled Metal Futures Contract at or after the System Input Cutoff Time on the Business Day before the last trading day in respect of such Contract and shall close out or transfer any such open position to another HKCC Participant before such time; or
- (ii) trade (and where applicable, shall procure that its Non-Clearing Participants will not trade) or accept any trade or position transfer in any spot month Physically Settled Metal Futures Contract after the T Session on the Business Day before the last trading day unless such trade serves to close out an existing open position of the Non-delivery HKCC Participant.



Action of the Clearing House against a Non-delivery HKCC Participant under a Physically Settled Metal Futures Contract

606B. If a Non-delivery HKCC Participant fails to comply with Rule 606A, the Clearing House shall have the right to impose a fine as set out in section 2A.3.3.A of the Clearing House Procedures and the Non-delivery HKCC Participant shall submit to the Clearing House within one month of the last trading day a rectification plan setting out an explanation of the non-compliance and the measures that it will put in place to ensure that non-compliance will not recur. If there is any breach by the Non-delivery HKCC Participant by virtue of the Non-delivery HKCC Participant failing to comply with Rule 606A(i) or 606A(ii) or maintaining open positions by the end of the last trading day in more than one month during any continuous 12-month period, the Clearing House shall have the right to restrict the Non-delivery HKCC Participant from opening new positions in all Contract Months of the Physically Settled Metal Futures Contract and/or require the Non-delivery HKCC Participant to close out or transfer to another HKCC Participant open positions in such Physically Settled Metal Futures Contract for such period as the Clearing House considers fit.

Rights of the Clearing House against an HKCC Participant under a Physical Delivery Contract

611. In addition to any other rights the Clearing House may have under these Rules:-

- (a) where the Clearing House has an obligation to deliver the underlying commodity or instrument to the buying HKCC Participant in relation to a Physical Delivery Contract other than a Physically Settled Metal Futures Contract, the Clearing House may, in lieu of delivering the underlying commodity or instrument in whole or in part, make compensation to the buying HKCC Participant notwithstanding that such underlying commodity or instrument may be available in the market. The Chairman shall exercise his powers under this Rule 611(a) only in circumstances when the Chairman considers in his reasonable opinion that the underlying commodity or instrument is not freely available in the market. The money compensation shall be in such amount and in such currency or currencies (whether in the Settlement Currency, the Currency of the Contract or otherwise) as the Chairman considers, in consultation with the Commission, to be fair and reasonable having regard to all the circumstances of the case. The Chairman's decision on the amount of payment is final and there shall be no appeal for any reason;
- (aa) notwithstanding any other provision of these Rules, where the Clearing House has an obligation to deliver any Deliverable Metal to the buying HKCC Participant in relation to a Physically Settled Metal Futures Contract, the Clearing House may, in lieu of delivering the Deliverable Metal, pay Cash Compensation to the buying HKCC Participant and such payment shall constitute full and final settlement of the Clearing House's obligations under the relevant Contract;
- (b) where the Clearing House has an obligation to make payment to the selling HKCC Participant in relation to a Physical Delivery Contract in its Settlement Currency, notwithstanding that the Settlement Currency may be available, the Clearing House may in lieu of making payment in that Settlement Currency make payment to the selling HKCC Participant concerned, 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 having regard to all the circumstances of the case. The Clearing House shall exercise its powers under this Rule only if the Clearing House considers in its reasonable opinion that the Settlement Currency is not freely available or convertible in the market; and

(ba) notwithstanding any other provision of these Rules, where the Clearing House has an obligation to make payment to the selling HKCC Participant in relation to a Physically Settled Metal Futures Contract, the Clearing House may, in lieu of paying the Final Settlement Value to the selling HKCC Participant, not take delivery of the Deliverable Metal but instead pay Cash Compensation to the selling HKCC Participant and such payment shall constitute full and final settlement of the Clearing House's obligations under the relevant Contract.

611B. In respect of Physically Settled Metal Futures Contracts, notwithstanding any other provision of these Rules or the Exchange Rules, the Clearing House makes no representation or warranty as to whether, and is under no obligation to investigate or verify that, any Deliverable Metal complies with the terms of these Rules, the Exchange Rules, or any Re-novated Contract, including, without limitation, that such metal complies with the Delivery Warranties. The Clearing House shall have no liability to any person of any nature whatsoever in connection with any dispute or claim relating to the delivery (or non-delivery) of Deliverable Metal, or that Deliverable Metal does not comply with the Delivery Warranties, these Rules, the Exchange Rules or the terms of a Re-novated Contract.

## **CHAPTER VIII** **EMERGENCIES**

### Typhoons and rainstorms

803. Without limiting Rule 802, the Clearing House may make arrangements for clearing, settlement and collateral management services in relation to specific Markets in the event of typhoons and rainstorms, including, but not limited to, postponing the final settlement of any expiring Contract and extending any related clearing, settlement and collateral managements services, in which case those arrangements shall be set out in the applicable Clearing House Procedures or otherwise notified to HKCC Participants.

**APPENDIX A**

**Fees**

<b>Description</b>	<b>Amount<sup>1</sup></b>
<i>Settlement Fees (Futures) and Exercise Fees (Options)</i>	
<u>Metal products</u>	
CNH Gold Futures	RMB12.00/Lot
USD Gold Futures	USD2.00/Lot

**APPENDIX B**

**T+1 Session Cutoff Time**

<b>Products</b>	<b>Time</b>
<u>Metal products</u>	
CNH Gold Futures	1:45 a.m.
USD Gold Futures	1:45 a.m.

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

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Appendix VIII - (deleted)

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

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 2 Clearing and Settlement Procedures**

#### **2.2 Clearing House Margin**

##### *2.2.1.2A Spot Month Charge and Physical Delivery Contract Charge*

PRiME applies a Spot Month Charge and/or a Physical Delivery Contract Charge to each applicable spot month Contract to cover additional risks that may arise during the period leading up to the Final Settlement Day. Such Spot Month Charge and Physical Delivery Contract Charge and the Contracts to which they shall be applicable shall be as specified by the Clearing House from time to time.

##### *2.2.2 Clearing House Margin Liability Calculation for Gross Margining*

The method of calculating the amount of cover for Clearing House margin for designated Contracts or accounts margined on a gross basis is as follows:

- aa) The gross open positions of each applicable spot month Contract are identified. The number of open positions for each applicable spot month Contract is multiplied by the Spot Month Charge and/or the Physical Delivery Contract Charge, as applicable, for such Contract.
- b) The gross open positions of short Option Contracts are identified. The sum of the Scan Risk, Spot Month Charge and Physical Delivery Contract Charge is replaced with the Short Option Minimum Charge for a short Option Contract if the Short Option Minimum Charge is higher than the sum of the Scan Risk, Spot Month Charge and Physical Delivery Contract Charge for such short Option Contract.
- c) The Clearing House margin requirement is the aggregated sum of the Scan Risk, Spot Month Charge and Physical Delivery Contract Charge (or, for short Option Contracts, the Short Option Minimum Charge if it is higher) for each type of Contract.

##### *2.2.3.3A Spot Month Charge and Physical Delivery Contract Charge*

PRiME applies a Spot Month Charge and/or a Physical Delivery Contract Charge to each applicable spot month Contract under the same Combined Commodity to cover additional risks that may arise during the period leading up to the Final Settlement Day. Such Spot Month Charge and Physical Delivery Contract Charge and the Contracts to which they shall be applicable shall be as specified by the Clearing House from time to time.

### *2.2.5 Clearing House Margin Liability Calculation for Net Margining*

The method of calculating the amount of cover for Clearing House margin for designated Contracts or accounts of an HKCC Participant margined on a net basis is as follows:

- c) For Futures/Option Contracts within the same Combined Commodity, the long or short net uncovered Futures Contracts in each delivery month, together with the long or short net uncovered Option Contracts in each series, are margined on a portfolio basis.

In calculating margin on a portfolio basis, the Scan Risk, the Intracommodity (Intermonth) Spread charge, the Spot Month Charge and the Physical Delivery Contract Charge of the portfolio are added together to determine the Commodity Risk. The Commodity Risk is the total risk of all Futures/Option Contracts within the same Combined Commodity.

## 2.3 Variation Adjustment

After Market close on each Business Day until and including the Business Day immediately preceding the last trading day or, for those Cash Settled Contracts whose Final Settlement Day is not the first Business Day after the last trading day, the last trading day, all open positions held at the Clearing House, for the purpose of calculating variation adjustments, are treated as if they were closed out and re-opened at the relevant Closing Quotation. Profits and losses arising from this “mark to market” mechanism are credited to and debited from the relevant HKCC Participant’s CCMS Collateral Account each Business Day as the variation adjustment.

Subject to section 2.6A, variation adjustment arising from trades executed in all Markets shall be settled using cash in the Settlement Currency only.

### *2.3.3 Physical Delivery Contracts on or after the last trading day*

- 2.3.3.2 For the purpose of calculating unrealized profits and losses, after Market close on each Business Day from and including the last trading day to but excluding, (i) in the case of a Physical Delivery Contract where the obligations of HKCC Participants to HKCC for the final settlement will complete at or before 9:15 a.m. on the Final Settlement Day, the Business Day immediately preceding the Final Settlement Day; or (ii) in the case of other Physical Delivery Contract, the Final Settlement Day, such Contract shall be deemed to be closed out and re-opened at the spot price of its underlying commodity or instrument, or at such price with reference to a similar local/overseas commodity or instrument that the Clearing House considers appropriate. If more than one particular type or issue of underlying commodity or instrument is allowed for delivery as specified in the Exchange Rules or prescribed by the Clearing House, reference would be made to the type or issue that would create the greatest variation adjustment for the relevant Physical Delivery Contract.

Profits arising from the above “mark to market” mechanism will be used to offset against, while losses arising from such mechanism will be added to and collected as, Clearing House margin payable in respect of the relevant CCMS Collateral Account of the HKCC Participant. Any profits in excess of the Clearing House margin requirement will not be credited to the relevant CCMS Collateral Account of the HKCC Participant.

2.11 Final Settlement of Futures Contract

*2.11.2. Physical Delivery Contracts*

Physical Delivery Contracts that are Futures Contracts shall be settled in accordance with the Exchange Rules, the Clearing House Rules and Chapter 2A of these Clearing House Procedures.

2.12 Exercise/Assignment of Option Contracts

*2.12.2. Physical Delivery Contracts*

Physical Delivery Contracts that are Option Contracts shall be settled in accordance with the Exchange Rules, the Clearing House Rules and Chapter 2A of these Clearing House Procedures.



## **Chapter 2A Settlement of Physical Delivery Contracts**

(1) Physical Delivery Contracts that are Futures Contracts shall be settled by delivery of the underlying commodity or instrument by the Sellers of such Contracts and by payment of cash by the Buyers of such Contracts, (2) Physical Delivery Contracts that are Put Options shall be settled by delivery of the underlying commodity or instrument by their holders and the payment of cash by their writers, and (3) Physical Delivery Contracts that are Call Options shall be settled by delivery of the underlying commodity or instrument by their writers and the payment of cash by their holders, in accordance with the Exchange Rules, the Clearing House Rules and these Clearing House Procedures.

### **2A.1 Exchange Fund Note (EFN) Futures Contracts**

Settlement in EFN Futures Contracts shall be effected directly between buying HKCC Participants and selling HKCC Participants allocated to each other under the assignment process set forth in the Clearing House Rules through the real-time Delivery against Payment (DvP) facility of the Central Moneymarkets Unit (CMU) of the Hong Kong Monetary Authority. For the avoidance of doubt, if a settlement is effected between different accounts of an HKCC Participant, such settlement shall be effected through the real-time DvP facility of the CMU as if it were between HKCC Participants. If an HKCC Participant is not a Recognised Dealer or Market Maker of EFNs of the CMU, it must appoint a designated agent which is a Recognised Dealer or EFN Market Maker to effect settlement on behalf of the HKCC Participant and must notify the Clearing House of the particulars of such designated agent at least 14 Business Days before the last trading day.

The settlement procedure for EFN Futures shall be as follows:

- (a) after trading of the spot month EFN Futures Contract ceases at 11:00 a.m. on the last trading day or at such other time as may be specified by the Exchange from time to time, the Exchange in conjunction with the Clearing House will announce (i) the Final Settlement Price; and (ii) details of the particular issues of EFN acceptable for delivery (“Acceptable List”) together with the corresponding conversion factors and accrued interest;
- (b) HKCC Participants with short positions in the spot month EFN Futures shall complete and submit by facsimile to the Clearing House by 3:00 p.m. on the last trading day or such other time as may be specified by the Clearing House the “Notification of Designated Agent/Acceptable EFNs to be Delivered” set forth in the DCASS Terminal User Guide specifying the particular issue(s) of EFNs from the Acceptable List, together with the corresponding quantities, that will be delivered by the HKCC Participant in satisfaction of its settlement obligations;
- (c) the Clearing House will allocate short positions of HKCC Participants in the EFN Futures Contract against long positions of HKCC Participants in the EFN Futures Contract. All long positions and short positions will be arrayed in two respective columns. Under the assignment process, a random number will be generated to determine the short position (“starting short position”) that is to be allocated to the first long position. Each consecutive short position following the starting short position will then be allocated to each consecutive long position following the first long position and the short positions listed above the starting short position will be allocated to the remaining long positions under the long position column (in some case, short positions of one account of an HKCC Participant may be assigned against the long positions in another account of the same HKCC Participant);
- (d) the Clearing House will, by the end of the last trading day under normal circumstances, notify relevant HKCC Participants of the results of the assignment process and the relevant settlement details by facsimile, telephone or such other means as it considers appropriate;

- (e) on the Final Settlement Day, each selling HKCC Participant shall, or shall procure that its designated agent shall, if necessary, input DvP settlement instructions in the CMU at or before 3:00 p.m. (or such other cut off time for input of such DvP settlement instructions as may from time to time be specified by the CMU) to effect delivery of EFNs to the buying HKCC Participant allocated to the selling HKCC Participant under the assignment process or its designated agent; and the buying HKCC Participant shall, or shall procure that its designated agent shall, if necessary, input DvP settlement instructions in the CMU at or before 3:00 p.m. (or such other cut off time for input of such DvP settlement instructions as may from time to time be specified by the CMU) to effect payment to the selling HKCC Participant or its designated agent against delivery. The Clearing House shall not be liable to, and shall be discharged from its obligations as the counterparty to, the buying and selling HKCC Participants if a method or facility other than the DvP facility of the CMU is selected by the buying and selling HKCC Participants for settlement purposes. Any resulting claim arising from any failure to settle shall be as between the buying and selling HKCC Participants only.

In the event of settlement failure for any reason, the affected HKCC Participants shall notify the Clearing House of the failure as soon as possible and in any event no later than 5:00 p.m. on the Final Settlement Day by submitting to the Clearing House by facsimile the “Notification of Settlement Failure in respect of Open Contracts in Exchange Fund Notes” set forth in the DCASS Terminal User Guide.

Upon receipt of such notification, the Clearing House will take such action as it considers appropriate, including executing a buy-in and/or a borrowing of EFNs as set forth in the Clearing House Rules to effect settlement as soon as practicable. The Clearing House shall also have the right to impose on the defaulting selling HKCC Participant a late settlement penalty charge of 0.25% of the market value on the Final Settlement Day of the overdue positions of the HKCC Participant in the EFN Futures Contract.

Without prejudice to section 2A.1(e), if notification is not received by the Clearing House by the stipulated time from a buying HKCC Participant or the corresponding selling HKCC Participant, the Clearing House is deemed to have satisfied its obligations as counterparty to the buying and selling HKCC Participants and neither the buying nor selling HKCC Participant shall have any claim against the Clearing House.

Each HKCC Participant shall indemnify the Clearing House, the Exchange and a recognized exchange controller which is the controller of the Clearing House against all costs, fees, expenses, liabilities, losses and damages incurred in executing a buy-in and/or borrowing and taking such other action as the Clearing House considers appropriate as a result of the failure by the HKCC Participant to settle the EFN Futures Contract in accordance with the Exchange Rules, the Clearing House Rules and these Clearing House Procedures.

## 2A.2 Deliverable Currency Futures Contracts

Final settlement of spot month deliverable Currency Futures Contracts shall be effected by delivery of the underlying currency by the Seller and payment of cash in the Settlement Currency by the Buyer in accordance with the Contract Specifications. The settlement procedure shall be as follows:

- (a) after trading of the spot month deliverable Currency Futures Contracts ceases at 11:00 a.m. on the last trading day or at such other time as may be specified by the Exchange from time to time, the Exchange in conjunction with the Clearing House will announce the Final Settlement Price;

- (b) HKCC Participants with short positions in the spot month deliverable Currency Futures Contracts shall make delivery of the underlying currency and receive payment of the Final Settlement Value as determined in accordance with the Contract Specifications;
- (c) HKCC Participants with long positions in the spot month deliverable Currency Futures Contracts shall make payment of the Final Settlement Value and take delivery of the underlying currency as determined in accordance with the Contract Specifications;
- (d) the delivery and payment obligations in relation to the same CCMS Collateral Account of an HKCC Participant are netted by currency with other settlement obligations in relation to that CCMS Collateral Account after the Market close on the Business Day immediately preceding the Final Settlement Day. Any resulting surplus will be credited to the CCMS Collateral Account while any resulting shortfall shall be settled by the HKCC Participant by 9:15 a.m. on the Final Settlement Day.

In the event of any settlement failure on the part of an HKCC Participant under any deliverable Currency Futures Contract for any reason, the Clearing House will take such action as it considers appropriate, including executing a buy-in and/or a borrowing of the underlying currency and/or executing a purchase and/or a borrowing of the currency in which payment is required to be made as set forth in the Clearing House Rules to effect settlement as soon as practicable. The Clearing House shall also have the right to impose on the defaulting HKCC Participant a late settlement penalty charge of 0.25% of the market value on the Final Settlement Day of the overdue positions and/or payment obligations of the HKCC Participant under such deliverable Currency Futures Contract.

Each HKCC Participant shall indemnify the Clearing House, the Exchange and a recognized exchange controller which is the controller of the Clearing House against all costs, fees, expenses, liabilities, losses and damages that may be incurred in executing a buy-in, effecting a purchase or borrowing and taking such other action as the Clearing House considers appropriate as a result of the failure by the HKCC Participant to settle any deliverable Currency Futures Contract in accordance with the Exchange Rules, the Clearing House Rules and these Clearing House Procedures.

### 2A.3 Physically Settled Metal Futures Contract

Unless otherwise stated, final settlement of a spot month Physically Settled Metal Futures Contract shall be effected by physical delivery of the Deliverable Metal by the Seller and payment of cash in the Settlement Currency by the Buyer in accordance with the Contract Specifications. The settlement and delivery procedures shall be as set out below.

#### 2A.3.1 *Documentation*

##### 2A.3.1.1 Delivery Agreements

- (a) An HKCC Participant which intends to deliver the Deliverable Metal through a Delivery Agent must have a valid, binding and effective Delivery Agreement in place between itself and its Delivery Agent. No Delivery Agent may deliver Deliverable Metal for another HKCC Participant until such Delivery Agreement has been entered into by both parties.
- (b) A Delivery Agent shall notify the Clearing House forthwith on the execution of each Delivery Agreement, identifying the name of the HKCC Participant for which delivery of Deliverable Metal will be made. Such notification shall be in such form as the Clearing House may from time to time specify. The Delivery Agent shall, at the request of the Clearing House, supply it with a certified copy of the executed Delivery Agreement.

- (c) A Delivery Agent shall be responsible for all delivery obligations of the HKCC Participant for which delivery of Deliverable Metal will be made. In the event of any failure by the Delivery Agent to comply with any such delivery obligations, the Clearing House shall have the right to claim, and/or take any other action which the Clearing House considers appropriate, against (i) the Delivery Agent where such failure was a result of a breach by the Delivery Agent of its obligations under the Delivery Agreement and/or the Clearing House Rules and/or Clearing House Procedures and/or (ii) the relevant HKCC Participant where such failure was a result of a breach by such HKCC Participant of its obligations under the Delivery Agreement and/or the Clearing House Rules and/or Clearing House Procedures.
- (d) A Delivery Agent or the relevant HKCC Participant shall give no less than 14 Business Days' prior written notice to the Clearing House if either party intends to terminate the Delivery Agreement between them.
- (e) When the Clearing House receives a termination notice from the Delivery Agent or the relevant HKCC Participant, the Clearing House will issue a written confirmation of termination to the Delivery Agent or the relevant HKCC Participant, as the case may be, with a copy to the other party and unless and until such written confirmation has been issued, the Delivery Agreement shall be treated as valid, binding and effective by the Clearing House for the purposes of these Clearing House Procedures notwithstanding any provision to the contrary in the Delivery Agreement and/or the termination notice from the Delivery Agent or the HKCC Participant concerned and the Delivery Agent shall continue to be bound by the Delivery Agreement and be responsible for all the delivery obligations of the HKCC Participant. The termination notice shall be in such form as the Clearing House may from time to time specify.
- (f) Notwithstanding the above, the Delivery Agreement shall be terminated when any one or more of the following has occurred: (i) the Delivery Agent resigns from HKCC Participants, (ii) its HKCC Participants is suspended or revoked, or (iii) its access to DCASS and/or CCMS is suspended or revoked under the HKCC Rules.
- (g) The termination of the Delivery Agreement between a Delivery Agent and an HKCC Participant will not affect any of their rights or liabilities arising out of matters which have taken place prior to the termination of the Delivery Agreement and for the purpose of settlement of any such rights or liabilities of the Delivery Agent and HKCC Participant concerned, the Clearing House may continue to treat the Delivery Agent as the Delivery Agent of the HKCC Participant.
- (h) A Delivery Agent shall enter into an Approved Depository Account Agreement with each Approved Depository.

*2A.3.1.2 Approved Depository Account Agreements*

- (a) Unless an HKCC Participant has in place a Delivery Agreement between itself and a Delivery Agent, an HKCC Participant which intends to deliver Deliverable Metal must enter into an Approved Depository Account Agreement with each Approved Depository in such form and containing such provisions as may from time to time be required by the Clearing House (“mandatory provisions”) including but not limited to the following:
  - (i) authorization to the Approved Depository to comply with any information requests it receives from the Clearing House concerning the HKCC Participant’s account with the Approved Depository and the Deliverable Metal stored by the HKCC Participant at the Approved Depository;

- (ii) authorization to the Approved Depository to act on the instructions of the Clearing House (and such instructions shall prevail over those of the HKCC Participant) in respect of any amount of the HKCC Participant's Deliverable Metal which has been earmarked by the Approved Depository for delivery to the relevant Buyer;
  - (iii) acknowledgement and confirmation by the HKCC Participant and the Approved Depository that any Deliverable Metal which has been so earmarked shall be clearly identified as being separate from other Deliverable Metal and shall not be available to meet or fulfill any delivery or transfer request other than with the consent and/or on the instruction of the Clearing House;
  - (iv) the operational procedure of earmarking shall be specified, in reasonable detail; and
  - (v) an acknowledgement by each of the HKCC Participant and the Approved Depository that any earmarking shall be conducted in compliance with such operational procedure and any requirements set out in the Clearing House Rules or these Clearing House Procedures.
- (b) Any references in an Approved Depository Account Agreement or a Delivery Agreement to "earmarking" shall comply and be consistent with the requirements for earmarking set out under section 2A.3.2.2(d) and the Approved Depository Account Agreement and Delivery Agreement shall include express terms setting out and giving effect to those requirements.
- (c) An HKCC Participant shall notify the Clearing House forthwith on the execution of each Approved Depository Account Agreement. Such notification shall be in such form as the Clearing House may from time to time specify. The HKCC Participant shall, at the request of the Clearing House, supply it with a certified copy of the executed Approved Depository Account Agreement. An HKCC Participant which enters into an Approved Depository Account Agreement may not amend or revoke any mandatory provision without the Clearing House's written consent.
- (d) An HKCC Participant shall give no less than 14 Business Days' prior written notice to the Clearing House if either itself or an Approved Depository intends to terminate any Approved Depository Account Agreement.

### *2A.3.2 Delivery and Settlement Procedures*

#### *2A.3.2.1 Last Trading Day*

- (a) After trading of the spot month Physically Settled Metal Futures Contract ceases on the last trading day, the Exchange in conjunction with the Clearing House will announce the Final Settlement Price.
- (b) Each Physical Delivery Participant with any short positions in the spot month Physically Settled Metal Futures Contract shall complete and submit a Delivery Notice and each Physical Delivery Participant with any long positions in the spot month Physically Settled Metal Futures Contract shall complete and submit an Acceptance Notice, in each case to the Clearing House by 5:00 p.m. on the last trading day. Each Delivery Notice and Acceptance Notice shall be irrevocable upon submission to the Clearing House and the selling HKCC Participant and the buying HKCC Participant shall be bound by the particulars specified in the Delivery Notice and Acceptance Notice respectively.

Notwithstanding that a buying HKCC Participant or a selling HKCC Participant fails to submit an Acceptance Notice or Delivery Notice, as the case may be, or if any such Acceptance Notice or Delivery Notice is incomplete or defective in any way, such Acceptance Notice or Delivery Notice shall be deemed to have been submitted with such particulars as the Clearing House may deem necessary for the Matching Process described below, and such particulars shall thereafter be binding on such buying HKCC Participant or selling HKCC Participant.

- (c) The Clearing House will allocate short positions of HKCC Participants in the Physically Settled Metal Futures Contract to long positions of HKCC Participants in the Physically Settled Metal Futures Contract in accordance with the following process (such process being known as the “Matching Process”):
- (i) all selling and buying HKCC Participants will be divided into two or more notional pools for allocation purposes (each an "Allocation Pool") as follows:
- (A) all selling and buying Non-delivery HKCC Participants will be grouped into a single Allocation Pool (the “Non-delivery Pool”);
- (B) all other selling and buying HKCC Participants will be grouped into one or more Allocation Pools (each “an Approved Depository Pool”) each referable to the Approved Depository at which that selling or buying HKCC Participant intends to deliver or take delivery of, as the case may be, Deliverable Metal in the following manner.

All selling and buying HKCC Participants other than Non-delivery HKCC Participants, which have, in a Delivery Notice or Acceptance Notice, as applicable, delivered in accordance with section 2A.3.2.1(b) above, specified that they will deliver or take delivery of, as the case may be, Deliverable Metal in the same Approved Depository will be grouped into the same Approved Depository Pool. If for the time being there is only one Approved Depository, all HKCC Participants, other than Non-delivery HKCC Participants, will be grouped into a single Approved Depository Pool;

- (ii) in respect of each Allocation Pool:
- (A) all short positions of selling HKCC Participants in that Allocation Pool will be ranked in descending order by reference to the quantity of Deliverable Metal which each HKCC Participant is respectively required to deliver and all long positions of buying HKCC Participants in that Allocation Pool will be ranked in descending order by reference to the quantity of Deliverable Metal which each HKCC Participant is required to take delivery respectively. If the short positions of two or more selling HKCC Participants or the long positions of two or more buying HKCC Participants are the same, then those selling HKCC Participants or those buying HKCC Participants, as the case may be, shall be ranked in descending order on a random basis as between themselves;
- (B) the short positions of selling HKCC Participants will then be matched to the long positions of buying HKCC Participants as follows:
- (I) the respective short and long positions of a selling HKCC Participant and a buying HKCC Participant for the same quantity of Deliverable Metal will be matched with each other, starting with the short and long positions, respectively, of the selling and buying HKCC Participants at the top of the rankings as determined, and thereafter proceeding in

descending order through the short and long positions of the selling and buying HKCC Participants in the remainder of the rankings; and

- (II) once all the respective short and long positions of HKCC Participants for the same quantity of Deliverable Metal have been matched in accordance with section (I) above, matching will continue down the list of remaining selling HKCC Participants and the list of remaining buying HKCC Participants. If there are unmatched short or long positions of HKCC Participants in the Allocation Pool, all the unmatched short or long positions will be handled in accordance with section (iii) and/or (iv), as the case may be;
- (iii) if at any time there are two or more Approved Depository Pools, and, after the application of the process described in section (ii) above to any of those Approved Depository Pools, there remains in those Approved Depository Pools any unmatched short or long position of an HKCC Participant, all HKCC Participants within the Approved Depository Pools which have unmatched positions will be grouped into a further Allocation Pool (a "Cross-depository Pool") in respect of such unmatched positions, and such unmatched positions of those HKCC Participants will be matched in accordance with the process described in section (ii) above;
- (iv) if, after the application of the process described in section (ii) to the Non-delivery Pool and Approved Depository Pool and if applicable, the Cross-depository Pool, there remains any unmatched short or long position of a Non-delivery HKCC Participant, each such short or long position of that Non-delivery HKCC Participant will be matched by applying the process described in section (ii) to the unmatched short or long positions of an HKCC Participant remaining in the Approved Depository Pool or the Cross-depository Pool;
- (v) in some cases, short positions in one account of an HKCC Participant may be matched against the long positions in another account of the same HKCC Participant;
- (vi) a selling HKCC Participant, other than a Non-delivery HKCC Participant, must satisfy in full its obligation to deliver Deliverable Metal to the buying HKCC Participant with which it is matched. If a selling HKCC Participant does not have sufficient Deliverable Metal to satisfy its obligation to deliver Deliverable Metal to all of the buying HKCC Participants with which it has been matched, HKCC will determine on a random basis which of the matched buying HKCC Participant(s) shall take delivery of the Deliverable Metal; and
- (vii) the Clearing House will, by the end of the last trading day under normal circumstances, notify the relevant HKCC Participants of the results of the Matching Process and the relevant settlement details.

#### 2A.3.2.2 First Business Day after Last Trading Day

The provisions set out in this section 2A.3.2.2 relating to delivery or payment shall not apply to Non-delivery HKCC Participants, except where specifically provided otherwise.

- (a) By 10:00 a.m. on the first Hong Kong Business Day after the last trading day each selling HKCC Participant shall confirm to the Clearing House the delivery details using the relevant Delivery Notice prescribed by the Clearing House from time to time.

- (b) By noon on the first Hong Kong Business Day after the last trading day the selling HKCC Participant or its Delivery Agent shall ensure that the required quantity of Deliverable Metal is in the Approved Depository as specified in the Matching Process and notified to it by the Clearing House under section 2A.3.2.1(c)(vii) above. The Clearing House shall request the Approved Depository to earmark the required quantity of Deliverable Metal for delivery and to confirm by a prescribed time on the same day whether the required quantity of Deliverable Metal to be delivered on the Final Settlement Day has been earmarked or not.
- (c) Upon receipt of the Approved Depository's confirmation that the required quantity of Deliverable Metal has been earmarked, or if the selling HKCC Participant is a Non-delivery HKCC Participant, at such time as the Clearing House may elect, the Clearing House shall calculate the Final Settlement Value (including in respect of a Physically Settled Metal Futures Contract under which a Non-delivery HKCC Participant is buyer or seller) in accordance with the following formula, and notify the buying HKCC Participant and selling HKCC Participant of the Final Settlement Value and details of the Deliverable Metal to be delivered:

Final Settlement Value = Final Settlement Price x Contract Size (subject to any adjustment for weight and fineness variance)

- (d) Any references in the Clearing House Rules or these Clearing House Procedures to "earmarking" shall, at a minimum, be construed to mean the following:
  - (i) the Approved Depository has, on behalf of the relevant HKCC Participant, clearly identified and recorded Deliverable Metal held by the Approved Depository for the selling HKCC Participant as (A) being identified as separate from other Deliverable Metal of the selling HKCC Participant and any other person and (B) available for delivery in respect of a specified Re-novated Contract or set of Re-novated Contracts in accordance with the Clearing House Rules and Clearing House Procedures;
  - (ii) any Deliverable Metal so earmarked shall, and the selling HKCC Participant, the Approved Depository, the Clearing House and any relevant Delivery Agent shall have acknowledged, represented and agreed that such Deliverable Metal shall, not be available to meet or fulfill any delivery, transfer or similar request other than with the consent, or on the instruction of, the Clearing House acting in its role as Settlement Agent; and
  - (iii) (A) the selling HKCC Participant shall have good title to such Deliverable Metal and (B) such Deliverable Metal shall be free and clear from any encumbrance, lien, claim, mortgage, charge, security interest or any other interest of any nature whatsoever, and the selling HKCC Participant shall represent and warrant to the Clearing House, the Approved Depository and any relevant Delivery Agent that (A) and (B) are, and will be, the case at the time of, and during the period of, any earmarking.

#### 2A.3.2.3 Final Settlement Day

The provisions set out in this section 2A.3.2.3 relating to delivery or payment shall not apply to Non-delivery HKCC Participants, except where specifically provided otherwise.

- (a) By 9:15 a.m. on the Final Settlement Day, the buying HKCC Participant shall transfer to a settlement account specified by the Clearing House the amount of its



payment obligation previously notified to it by the Clearing House under section 2A.3.2.2(c) above. Any such amount paid to the Clearing House will be kept in a segregated settlement account for the buying HKCC Participant until the Clearing House either (i) releases such amount to the selling HKCC Participant pursuant to section 2A.3.2.3(d)(ii) below in settlement of the buying HKCC Participant's payment obligation under the Re-novated Contract; or (ii) returns such amount to the buying HKCC Participant pursuant to section 2A.3.2.3(c)(ii) below, and, without prejudice to any other provision of the Clearing House Rules, the Clearing House Procedures or the Exchange Rules, the Clearing House shall have no other obligations of any nature whatsoever to the buying HKCC Participant or any other person in respect of such amount.

- (b) Upon receipt by the Clearing House of the following:
- (i) a notice from the relevant Approved Depository confirming that the required quantity of Deliverable Metal from the selling HKCC Participant has been earmarked in accordance with section 2A.3.2.2(b) above; and
  - (ii) the full amount of the payment obligation from the buying HKCC Participant in accordance with section 2A.3.2.3(a) above,

Contract Re-novation shall occur, pursuant to Rule 309A, immediately and without further notice to or action by any party. Upon the occurrence of Contract Re-novation, the Clearing House's role as a counterparty to the relevant Physically Settled Metal Futures Contracts and all of its obligations in respect thereof shall be fully and finally discharged in accordance with Rule 309A and the Clearing House Rules and these Clearing House Procedures. The Clearing House's role shall thereafter be limited to that of acting as settlement agent for the buying HKCC Participant and the selling HKCC Participant in order to facilitate settlement of the Re-novated Contract between the buying HKCC Participant and the selling HKCC Participant under the terms of section 2A.3.2.3(d) below and the Re-novated Contract (the Clearing House in such role being referred to as the "**Settlement Agent**").

- (c) If the Clearing House has not received the notice from the relevant Approved Depository referred to in section 2A.3.2.3(b)(i) above and/or the amount of the payment obligation from the buying HKCC Participant referred to in section 2A.3.2.3(b)(ii) above before 2:30 p.m. on the Final Settlement Day or either the buying HKCC Participant or selling HKCC Participant is a Non-delivery HKCC Participant:
- (i) Contract Re-novation shall not occur;
  - (ii) the Clearing House shall either (A) instruct the relevant Approved Depository to remove the earmarking of the Deliverable Metal which had been earmarked in accordance with section 2A.3.2.2(b) above or (B) return to the buying HKCC Participant the full amount of the payment obligation which had been transferred to the Clearing House in accordance with section 2A.3.2.3(a) above, as the case may be; and
  - (iii) Cash Compensation and the non-delivery charge shall apply in accordance with section 2A.3.3 below.
- (d) Following Contract Re-novation, the Clearing House shall facilitate settlement of the Re-novated Contract between the buying HKCC Participant and the selling HKCC Participant in its role as Settlement Agent by:

- (i) as soon as reasonably practicable after Contract Re-novation, instructing the relevant Approved Depository to effect the delivery of Deliverable Metal from the depository account of the selling HKCC Participant or its Delivery Agent to the depository account of the buying HKCC Participant or its Delivery Agent; and
  - (ii) at, or as soon as reasonably practicable after, 2:30 p.m. on the Final Settlement Day, releasing the amount of the payment obligation it received from the buying HKCC Participant in accordance with section 2A.3.2.3(a) to the selling HKCC Participant's designated bank account, unless the Clearing House has received notice from the buying HKCC Participant before 2:30 p.m. on the Final Settlement Day that the buying HKCC Participant has not received the full amount of the Deliverable Metal in its depository account. Such notice from the buying HKCC Participant shall be in such form as the Clearing House may from time to time specify.
- (e) The transfer of ownership of the Deliverable Metal from the selling HKCC Participant to the buying HKCC Participant shall occur at the time when the full amount of the payment obligation is released to the selling HKCC Participant's designated bank account.
- (f) Upon delivery of the full amount of the Deliverable Metal to the depository account of the buying HKCC Participant, the Approved Depository shall send a confirmation notice to the buying HKCC Participant, with a copy to the Clearing House.
- (g) In respect of each Re-novated Contract, each of the buying HKCC Participant and the selling HKCC Participant irrevocably appoints the Clearing House as their settlement agent to perform the role of Settlement Agent as set out in this section 2A.3.2.3. The selling HKCC Participant irrevocably authorizes and instructs the Clearing House in its capacity as Settlement Agent to instruct the relevant Approved Depository as set out in section 2A.3.2.3(d)(i) above; and
- (h) If (i) the Clearing House receives notice from the buying HKCC Participant before 2:30 p.m. on the Final Settlement Day that the buying HKCC Participant has not received the full amount of the Deliverable Metal in its depository account or (ii) the Clearing House does not release the amount of the payment obligation it received from the buying HKCC Participant in accordance with section 2A.3.2.3(a) to the selling HKCC Participant's designated bank account on or as soon as reasonably practicable after 2:30 p.m. for any other reason, then:
- (A) the Clearing House shall not release the amount of the payment obligation it received from the buying HKCC Participant in accordance with section 2A.3.2.3(a) to the selling HKCC Participant's designated bank account;
  - (B) the Clearing House shall, on the instructions of the buying HKCC Participant, release the amount of the payment obligation from the segregated settlement account to the designated account of the buying HKCC Participant; and
  - (C) any disputes between the buying HKCC Participant and the selling HKCC Participant shall be resolved in accordance with the terms of the Re-novated Contract.

*2A.3.3 Cash Compensation and non-delivery charge*

- (a) *Cash Compensation if one party is unable to fulfill its obligation.* If Contract Renovation does not occur pursuant to section 2A.3.2.3(c) above or a Non-delivery HKCC Participant upon completion of the Matching Process pursuant to section 2A.3.2.1(c) is matched with a Physical Delivery Participant, Cash Compensation shall be payable by (i) the selling HKCC Participant if the Clearing House did not receive the notice from the Approved Depository confirming that the full amount of the Deliverable Metal has been earmarked or the selling HKCC Participant is a Non-delivery HKCC Participant, or (ii) the buying HKCC Participant if the Clearing House did not receive the full amount of the payment obligation, or the buying HKCC Participant is a Non-delivery HKCC Participant. Cash Compensation shall be determined by the Clearing House in its sole and absolute discretion in respect of each Physically Settled Metal Futures Contract which was required to be settled between the relevant buying HKCC Participant and the relevant selling HKCC Participant as follows:
- (i) the Cash Compensation shall be an amount equal to the sum of (A) the Price Differential and (B) 3% of the Reference Price multiplied by the Contract Size;
  - (ii) the Reference Price shall be the Closing Quotation on the Final Settlement Day of the then prevailing spot month Physically Settled Metal Futures Contract whose terms correspond to those of the Physically Settled Metal Futures Contract which is about to settle;
  - (iii) if the Cash Compensation is payable by the selling HKCC Participant, the Price Differential shall be an amount equal to (A) the amount, by which the Reference Price exceeds the Final Settlement Price multiplied by (B) the Contract Size of the Physically Settled Metal Futures Contract which is about to settle and such Price Differential shall be zero if the Final Settlement Price is greater than the Reference Price.
  - (iv) if the Cash Compensation is payable by the buying HKCC Participant, the Price Differential shall be an amount equal to (A) the amount, by which the Final Settlement Price exceeds the Reference Price multiplied by (B) the Contract Size of the Physically Settled Metal Futures Contract which is about to settle and such Price Differential shall be zero if the Reference Price is greater than the Final Settlement Price.

The Clearing House shall debit an amount equal to the Cash Compensation from the relevant CCMS Collateral Account of the paying HKCC Participant and credit the same to the relevant CCMS Collateral Account of the receiving HKCC Participant on the Final Settlement Day or as soon as reasonably practicable thereafter. The Clearing House shall also have the right to impose on the paying HKCC Participant a non-delivery charge of 7% of the Reference Price multiplied by the Contract Size which shall be debited by the Clearing House from the paying HKCC Participant's relevant CCMS Collateral Account.

- (b) *Cash Compensation if both parties are unable to fulfill their respective obligations.* If both: (i) the notice from the relevant Approved Depository confirming the earmarking of the required quantity of Deliverable Metal has not been received by the Clearing House in accordance with section 2A.3.2.3 or the selling HKCC Participant is a Non-delivery HKCC Participant; and (ii) the amount of the payment obligation from the buying HKCC Participant has not been received by the Clearing House in accordance with section 2A.3.2.3 or the buying HKCC Participant is a Non-

delivery HKCC Participant, then Cash Compensation shall be payable by either the selling HKCC Participant or the buying HKCC Participant. Cash Compensation shall be payable by: (A) the buying HKCC Participant if the Final Settlement Price of the Physically Settled Metal Futures Contract which is about to settle is greater than the Reference Price, or (B) the selling HKCC Participant if the Reference Price is greater than the Final Settlement Price of the Physically Settled Metal Futures Contract which is about to settle as follows:

- (i) the Cash Compensation shall be an amount equal to the Price Differential;
- (ii) the Price Differential shall be the difference between the Reference Price and the Final Settlement Price which is about to settle multiplied by the Contract Size; and
- (iii) the Reference Price shall be the Closing Quotation on the Final Settlement Day of the then prevailing spot month Physically Settled Metal Futures Contract whose terms correspond to those of the Physically Settled Metal Futures Contract which is about to settle,

in each case as determined by the Clearing House in its sole and absolute discretion. The Clearing House shall debit an amount equal to the Cash Compensation from the relevant CCMS Collateral Account of the paying HKCC Participant and credit the same to the relevant CCMS Collateral Account of the receiving HKCC Participant on the Final Settlement Day or as soon as practicable thereafter. The Clearing House shall also have the right to impose a non-delivery charge of 7% of the Reference Price multiplied by the Contract Size on each of the HKCC Participants which shall be debited by the Clearing House from each HKCC Participant's relevant CCMS Collateral Account.

- (c) The Clearing House shall be obliged to credit the relevant CCMS Collateral Account of the relevant receiving HKCC Participant with an amount equal to the Cash Compensation, as contemplated in paragraphs (a) and (b) of this section 2A.3.3, only to the extent that the receiving HKCC Participant is entitled to such amount in accordance with the provisions of paragraphs (a) and (b) of this section 2A.3.3.

If at any time the Clearing House shall determine that the Clearing House has credited any amount of Cash Compensation to the relevant CCMS Collateral Account of a receiving HKCC Participant in circumstances where the Clearing House was for any reason not obliged or entitled to do so or was for any reason not entitled to debit any related amount from the CCMS Collateral Account of the relevant paying HKCC Participant (including, without limitation, in circumstances where, the paying HKCC Participant was not obliged to pay Cash Compensation to the receiving HKCC Participant, or by virtue of any mistake or error as to fact or law), the relevant receiving HKCC Participant shall repay such amount to the paying HKCC Participant or to the Clearing House, as may be notified by the Clearing House to the relevant receiving HKCC Participant, and the Clearing House may, but shall not be obliged to, debit any such amount from the CCMS Collateral Account of the relevant receiving HKCC Participant.

#### *2A.3.3A Fine for Non-delivery HKCC Participants*

- (a) If a Non-delivery HKCC Participant holds any open position in a spot month Physically Settled Metal Futures Contract after the System Input Cutoff Time on the Business Day before the last trading day of such spot month contract, the Clearing House shall have the right to impose a fine of 0.25% of the Closing Quotation of the

spot month Physically Settled Metal Futures Contract on that day multiplied by the Contract Size of each such position.

- (b) If a Non-delivery HKCC Participant (or, where applicable, any Non-Clearing Participant of the Non-delivery HKCC Participant) trades or accepts any trade or position transfer in the spot month Physically Settled Metal Futures Contracts after the T Session on the Business Day before the last trading day other than to close out an existing open position that would otherwise be subject to the Matching Process described in section 2A.3.2.1(c) of the Clearing House Procedures in respect of such Physically Settled Metal Futures Contracts, the Clearing House shall have the right to impose a fine of 0.25% of the Final Settlement Price of the spot month Physically Settled Metal Futures Contract multiplied by the Contract Size on each of such open position as determined by the Clearing House in its sole and absolute discretion.

#### *2A.3.4 Role of Clearing House as Settlement Agent; exclusion of liability*

- (a) Without prejudice to the duties and the limitations on the liability of the Clearing House as a central counterparty as set out elsewhere in the Clearing House Rules, the role of the Clearing House in relation to the delivery and settlement of any Physically Settled Metal Futures Contract as set out in section 2A of these Clearing House Procedures (including, without limitation, its role as Settlement Agent) is to assist with the facilitation of the settlement of Physically Settled Metal Futures Contracts only and is purely administrative in nature. HKCC Participants acknowledge and accept (and undertake to procure that all Third Party Service Providers acknowledge and accept) that the Clearing House acts in this role under section 2A of these Clearing House Procedures (including, without limitation, in the role of Settlement Agent), and undertake (and undertake to procure that all Third Party Service Providers undertake) to co-operate with the Clearing House in acting in such role, including to do or refrain from doing (and to procure that Third Party Service Providers do or refraining from doing) such acts, and to provide (and to procure that Third Party Service Providers undertake to provide) such documentation or information to the Clearing House, as the Clearing House, in its sole and absolute discretion, may require.
- (b) The Clearing House shall not be required to take any action under section 2A of these Clearing House Procedures (including, without limitation, in its role as Settlement Agent) unless it is satisfied, in its sole and absolute discretion, that (i) such action is in compliance with all applicable laws and regulations, these Clearing House Procedures, the Clearing House Rules, the Exchange Rules and the internal policies of the Clearing House, and (ii) the Clearing House has received all relevant documentation and other information from an HKCC Participant, Third Party Service Provider or any other party as the Clearing House may require.
- (c) Each HKCC Participant undertakes to notify the Clearing House of any change of fact or circumstance which may be material to the Clearing House to enable it to fulfil its role under section 2A of these Clearing House Procedures (including, without limitation, in its role as Settlement Agent).
- (d) The Clearing House may disclose any information it receives in connection with its role under section 2A of these Clearing House Procedures (including, without limitation, in its role as Settlement Agent) where disclosure is required by applicable law or regulation, a court of competent jurisdiction or a governmental or regulatory body or in connection with legal proceedings. No disclosure restriction shall apply to information which is in, or comes into, the public domain.

- (e) In the event that, in the opinion of the Clearing House, it is unclear how it is required to act under section 2A of these Clearing House Procedures (including, without limitation, in connection with its role as Settlement Agent), it may in its sole and absolute discretion, and without incurring any liability of any nature whatsoever, refrain from acting pending receipt to its satisfaction of such additional information, clarification, or advice from an HKCC Participant, Third Party Service Provider or any other party (including, without limitation, any legal, professional or relevant expert advisor, regulator, or other governmental or judicial body) as it deems necessary or desirable.
- (f) The Clearing House does not in any circumstances act under section 2A of these Clearing House Procedures as a trustee or fiduciary of an HKCC Participant or any other person, shall have no implied duties (including, without limitation, any duty to act in good faith or any fiduciary duty), and none of the Clearing House, the Exchange and any recognized controller of the Clearing House shall have any liability of any nature whatsoever to an HKCC Participant or any other person in connection with its role under section 2A of these Clearing House Procedures (including, without limitation, in its role as Settlement Agent). Without limitation to the foregoing:
  - (i) the Clearing House, the Exchange and any recognized controller of the Clearing House make no representation or warranty as to the competence, condition, suitability, or fitness for purpose for its respective role of any Third Party Service Provider;
  - (ii) the Clearing House makes no representation or warranty as to the validity, authenticity or accuracy of any instruction given by, or document issued, delivered, submitted, lodged or provided by any Third Party Service Provider or which it otherwise receives in connection with its role under section 2A of these Clearing House Procedures (including, without limitation, in its role as Settlement Agent), and the Clearing House shall have no duty to investigate or verify the adequacy, accuracy or completeness of any document, and shall be entitled to rely on all such instructions and documents as valid, authentic and accurate and shall have no liability to any person for any action taken by it in accordance with any such instruction or document;
  - (iii) the Clearing House, in connection with its role under section 2A of these Clearing House Procedures (including, without limitation, in its role as Settlement Agent), shall have no obligation:
    - (A) to take any action which, in its sole and absolute discretion, it determines may subject it to any cost or liability which it deems may not be recoverable promptly;
    - (B) to solicit instructions from any HKCC Participant, any Third Party Service Provider or any other party; and
    - (C) to verify the accuracy, completeness or compliance with the Contract Specifications, these Rules and the Rules of the Exchange of any Deliverable Metal, any amount paid or payable in respect of such Deliverable Metal, or any other assets provided or transferred to it or any other party in connection with the settlement of a Physically Settled Metal Futures Contract (collectively "**Delivery Assets**");

- (iv) the Clearing House shall have no liability to an HKCC Participant or any other person for any decision to release, or any delay by it in releasing, or instructing the release of, as the case may be, any Delivery Assets;
  - (v) in no circumstances shall ownership of Deliverable Metal delivered by a selling HKCC Participant pass to the Clearing House, and the Clearing House shall in no circumstances be liable to any party in connection with any claim that ownership of Deliverable Metal passed to the Clearing House whether in connection with the Clearing House's role under section 2A of these Clearing House Procedures (including, without limitation, in its role as Settlement Agent) or otherwise;
  - (vi) without prejudice to Rule 309A and section 2A.3.2.3(b) of these Clearing House Procedures, following a Contract Re-novation, the Clearing House shall have no further liability as a central counterparty to any Buyer or Seller under a Contract in respect of which Contract Re-novation has occurred; and
  - (vii) the Clearing House shall not be responsible for, and shall have no liability in connection with, ensuring that an HKCC Participant or any other party complies with all applicable laws, regulations, requirements or procedures which may be binding on such HKCC Participant or other party in connection with a Physically Settled Metal Futures Contract.
- (g) Each HKCC Participant confirms and represents at all times that:
- (i) it has conducted and will continue to conduct its own review, due diligence and assessment of each relevant Third Party Service Provider and the procedures of such Third Party Service Provider and it has not relied and will not rely on the Clearing House to conduct any review, due diligence or assessment of any Third Party Service Provider or the procedures of such Third Party Service Provider;
  - (ii) it has had access to such information from the Clearing House or each relevant Third Party Service Provider as it may require to conduct such review, due diligence and assessment;
  - (iii) it has made and will continue to make its own independent investigation and assessment of the financial condition and affairs of the other HKCC Participant under the relevant Re-novated Contract and it has not relied on any investigation or assessment of, or any information provided to it by, the Clearing House or the Exchange; and
  - (iv) it has consulted with its own legal, regulatory, tax, business, investments, financial and accounting advisors to the extent that it has deemed necessary, and it has made its own investments, hedging, and trading decisions in respect of the Re-novated Contract based upon its own judgment and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Clearing House or the Exchange.
- (h) Each HKCC Participant shall indemnify and hold harmless the Clearing House from all liabilities or obligations of any kind whatsoever that may be imposed on or incurred by the Clearing House in connection with any action, claim or proceeding brought or threatened to be brought against it in connection with its role under section 2A of these Clearing House Procedures (including, without limitation, its role as Settlement Agent).

- (i) The Clearing House makes no representation or warranty and assumes no responsibility to any HKCC Participant for:
  - (i) the legality, validity, effectiveness, adequacy or enforceability of the Re-novated Contract;
  - (ii) the financial condition of the other HKCC Participant under a Re-novated Contract;
  - (iii) the performance and observance by the other HKCC Participant under a Re-novated Contract of its obligations under such Re-novated Contract; or
  - (iv) the accuracy of any statements (whether written or oral) made by any HKCC Participant or Third Party Service Provider in or in connection with a Re-novated Contract,

and any representations or warranties implied by law are excluded.

#### 2A.3.5 *Terms of Re-novated Contract and dispute resolution*

A Re-novated Contract shall have the following terms:

- (a) a Re-novated Contract shall be governed by, and construed in accordance with, the laws of Hong Kong;
- (b) the implied terms of the Sale of Goods Ordinance (Cap. 26 of Hong Kong) shall not apply to a Re-novated Contract;
- (c) for the avoidance of doubt, a Re-novated Contract shall constitute a market contract for the purposes of the Securities and Futures Ordinance (Cap. 571 of Hong Kong);
- (d) Rules 509 and 510 of the Clearing House Rules shall not apply to a Re-novated Contract;
- (e) the buying HKCC Participant and/or the selling HKCC Participant which are parties to a Re-novated Contract shall not waive or amend any term of, or assign or otherwise dispose of any right or interest in, that Re-novated Contract without the prior written consent of the Clearing House and the Exchange, unless such waiver or amendment is in respect of one or more of the Delivery Representations and/or the Delivery Warranties set out in section 2A.3.5 (f) and (g) respectively and only to the extent that such waiver or amendment does not affect in any way any rights and obligations of the Exchange or the Clearing House under or in respect of the Re-novated Contract;
- (f) each of the buying HKCC Participant and the selling HKCC Participant under a Re-novated Contract makes the following representations to the other HKCC Participant under such Re-novated Contract at the time that the Contract Re-novation takes place (collectively, the "**Delivery Representations**"):
  - (i) it is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;
  - (ii) it has the power to enter into the Re-novated Contract and any other



- documentation relating to the Re-novated Contract that it is required by the Re-novated Contract to enter into and to perform its obligations under the Re-novated Contract and any such other documentation and has taken all necessary action to authorise the entering into and performance of such obligations;
- (iii) the entering into and performance of the Re-novated Contract and any other documentation relating to the Re-novated Contract that it is required by the Re-novated Contract to enter into do not violate or conflict with any rules of the Exchange or the Clearing House, any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
  - (iv) all governmental and other consents that are required to have been obtained by it with respect to the Re-novated Contract have been obtained and are in full force and effect and all conditions of any such consents have been complied with;
  - (v) its obligations under the Re-novated Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law));
  - (vi) the Re-novated Contract is a market contract for the purposes of the Securities and Futures Ordinance (Cap. 571 of Hong Kong);
  - (vii) no default or potential default under any rules of the Exchange or the Clearing House with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under the Re-novated Contract; and
  - (viii) there is not pending or, to its knowledge, threatened against it any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of the Re-novated Contract or its ability to perform its obligations under the Re-novated Contract;
- (g) the selling HKCC Participant under a Re-novated Contract makes the following warranties to the buying HKCC Participant under such Re-novated Contract at the time that the Contract Re-novation takes place (collectively, the "**Delivery Warranties**"):
- (i) it has good title to the Deliverable Metal that it delivers, and which is earmarked for delivery, under each Re-novated Contract, and such Deliverable Metal is, and will at the time of delivery to the buying HKCC Participant be, free and clear from any encumbrance, lien, claim, mortgage, charge, security interest or any other interest of any nature whatsoever save for any liens or any rights as bailee of any Approved Depository in respect of such Deliverable Metal arising pursuant to the terms of any Approved Depository Account Agreement between an HKCC Participant and an Approved Depository;

- (ii) the Deliverable Metal that is earmarked for delivery and which it delivers under each Re-novated Contract complies in all respects with the applicable Contract Specifications, these Clearing House Procedures, the Clearing House Rules and the Exchange Rules, including, without limitation, that such Deliverable Metal is of the prescribed weight, quality and fineness as specified in the Contract Specifications and is in the amount in aggregate, in respect of each Re-novated Contract, specified in the relevant Delivery Notice; and
- (iii) all information provided by the HKCC Participant or its Delivery Agent to the Clearing House under section 2A of these Clearing House Procedures in connection with the delivery by such HKCC Participant or Delivery Agent of Deliverable Metal, including all information contained in any Delivery Notice, is true, accurate and complete in all respects;
- (h) settlement of the Re-novated Contract shall be conducted in accordance with section 2A.3.2.3(d) to (h) of these Clearing House Procedures. Subject to and in compliance with section 2A.3.2.3(d) to (h) of these Clearing House Procedures and any other relevant provisions of the Clearing House Rules or these Clearing House Procedures, (i) the buying HKCC Participant agrees to pay the amount of its payment obligation in respect of the Re-novated Contract to the designated bank account of the selling HKCC Participant and (ii) the selling HKCC Participant agrees to deliver the Deliverable Metal in respect of the Re-novated Contract to the depository account of the buying HKCC Participant or its Delivery Agent, in each case in accordance with the Contract Specifications. The selling HKCC Participant shall deliver such Deliverable Metal to the buying HKCC Participant with good title and free and clear from any encumbrance, lien, claim, mortgage, charge, security interest or any other interest of any nature whatsoever. All fees, costs and expenses related to such delivery shall be borne by the selling HKCC Participant and all fees, costs and expenses that may be charged by the buying HKCC Participant's Approved Depository for accepting such delivery shall be borne by the buying HKCC Participant;
- (i) all risk in, and ownership of, Deliverable Metal, shall pass from the selling HKCC Participant to the buying HKCC Participant under a Re-novated Contract at the time that the Clearing House releases the full amount of the buying HKCC Participant's payment obligation to the selling HKCC Participant's designated bank account in accordance with section 2A.3.2.3(e) of these Clearing House Procedures;
- (j) in the event that a buying HKCC Participant (the "**Disputing Party**") claims that Deliverable Metal delivered to it by a selling HKCC Participant does not comply with the Contract Specifications or the selling HKCC Participant otherwise breaches the Delivery Warranties, the Disputing Party may submit the relevant Deliverable Metal to a Recognized Assayer for sampling or testing. The Disputing Party shall, in the first instance, bear the costs of such sampling and testing, and shall be responsible for making all necessary arrangements with the Approved Depository, Recognized Refiner, Recognized Assayer and/or any other relevant party for such sampling and testing process. In the event that the Recognized Assayer finds that the Deliverable Metal does not comply with the Contract Specifications or that the selling HKCC Participant has otherwise breached a Delivery Warranty, or the Disputing Party disagrees with the findings of the Recognized Assayer, the Disputing Party may proceed directly against the selling HKCC Participant in accordance with section 2A.3.5(k) of these Clearing House Procedures; and

- (k) Rule 308C shall not apply to a Re-novated Contract.

Rather, any dispute, controversy, difference or claim arising out of or relating to a Re-novated Contract, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual or pre-contractual rights and obligations arising out of or relating to it ("**Dispute**"), shall be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre ("**HKIAC**") under the HKIAC Administered Arbitration Rules in force when the Notice of Arbitration is submitted ("**Arbitration Rules**"), which Arbitration Rules are deemed to be incorporated by reference into this clause. The seat of the arbitration shall be Hong Kong. The number of arbitrators shall be three. The arbitration proceedings shall be conducted in English. The selling HKCC Participant and the buying HKCC Participant undertake to comply without delay with any award or order made by the arbitral tribunal.

For the avoidance of doubt, no HKCC Participant nor any other party may bring arbitration or any other proceedings against the Clearing House, the Exchange or any controller of the Exchange in connection with any Dispute, and nor shall any of the Clearing House, the Exchange or any controller of the Exchange be joined to any arbitration proceedings relating to any Dispute;

- (l) the terms under this section 2A.3.5 constitute the entire agreement between the Clearing House, the buying HKCC Participant and the selling HKCC Participant under a Re-novated Contract in relation to the obligations of each party under the Re-novated Contract and supersedes any previous agreement, whether express or implied, in relation to any term of the Re-novated Contract;
- (m) a person who is not the Clearing House, the Exchange, or the buying HKCC Participant or the selling HKCC Participant under a Re-novated Contract has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce or to enjoy the benefit of any term of the Re-novated Contract; and
- (n) the Clearing House is a party to the Re-novated Contract only for the purposes of effecting the re-novation to the buying HKCC Participant and the selling HKCC Participant, performing its role as Settlement Agent in respect of such Re-novated Contract and enforcing its rights under sections 2A.3.5(d), (e) and (h) and this section 2A.3.5(n). The Clearing House shall have no liability whatsoever for the performance of the buying HKCC Participant and the selling HKCC Participant in respect of the Re-novated Contract and each of the buying HKCC Participant and the selling HKCC Participant confirm to each other and to the Clearing House their agreement to the terms set out in section 2A.3.4 of these Clearing House Rules and such terms shall be incorporated in full into the Re-novated Contract.

#### 2A.4 Deliverable Currency Options Contracts

Final settlement of a spot month deliverable Currency Options Contract shall be effected by physical delivery of the underlying currency by the Call Option writer or Put Option holder; and payment of cash in the Settlement Currency by the Call Option holder or Put Option writer in accordance with the Contract Specifications. The settlement procedure shall be as follows:

- (a) after trading of the spot month deliverable Currency Options Contract ceases at 11:00 a.m. on the Expiry Day or at such other times as may be specified by the Exchange from time to time, the Exchange in conjunction with the Clearing House will announce the Official Settlement Price;

- (b) holders of Call Options and writers of Put Options of the spot month deliverable Currency Options Contract shall make delivery of the Final Settlement Value and receive payment of the underlying currency as determined in accordance with the Contract Specifications;
- (c) writers of Call Options and holders of Put Options of the spot month deliverable Currency Options Contract shall make payment of the underlying currency and take delivery of the Final Settlement Value as determined in accordance with the Contract Specifications;
- (d) the delivery and payment obligations in relation to the same CCMS Collateral Account of an HKCC Participant are netted by currency with other settlement obligations in relation to that CCMS Collateral Account after the Market close on the Business Day immediately preceding the Final Settlement Day. Any resulting surplus will be credited to the CCMS Collateral Account while any resulting shortfall shall be settled by the HKCC Participant by 9:15 a.m. on the Final Settlement Day.

In the event of any settlement failure on the part of an HKCC Participant under any deliverable Currency Options Contract for any reason, the Clearing House will take such action as it considers appropriate, including executing a buy-in and/or a borrowing of the underlying currency and/or executing a purchase and/or a borrowing of the currency in which payment is required to be made as set forth in the Clearing House Rules to effect settlement as soon as practicable. The Clearing House shall also have the right to impose on the defaulting HKCC Participant a late settlement charge of 0.25% of the market value on the Final Settlement Day of the overdue positions and/or payment obligations of the HKCC Participant under such deliverable Currency Options Contract.

Each HKCC Participant shall indemnify the Clearing House, the Exchange and a recognized exchange controller which is the controller of the Clearing House against all costs, fees, expenses, liabilities, losses and damages that may be incurred in executing a buy-in, effecting a purchase or borrowing and taking such other action as the Clearing House considers appropriate as a result of the failure by the HKCC Participant to settle any deliverable Currency Options Contract in accordance with the Exchange Rules, the Clearing House Rules and these Clearing House Procedures.

## **Chapter 6 Typhoons and Rainstorms**

Except as otherwise determined by the Clearing House or the Exchange (which shall have the discretion to suspend, terminate, postpone or extend any clearing, money settlement or collateral management services of the Clearing House for such period and on such terms as it may specify), the following procedures shall apply when a Typhoon Signal No. 8 or above is hoisted or lowered or when a Black Rainstorm Warning is issued or cancelled on any Business Day by the Hong Kong Observatory.

### **6.1 Clearing Services**

#### *6.1.1 Typhoons*

If a Typhoon Signal No. 8 or above is hoisted before clearing services under DCASS are available and is lowered at or before 12:00 noon on any Business Day, such services will resume two hours thereafter and continue to be available in accordance with their normal services hours.

If a Typhoon Signal No. 8 or above is hoisted before clearing services under DCASS are available and is not lowered at 12:00 noon on any Business Day, such services will resume two

hours from 12:00 noon and cease at the System Input Cutoff Time for Contracts traded in Markets with a T+1 Session and any other Market whose underlying instrument is the same as or similar to any of the Markets with a T+1 Session, but no clearing services will be available for the day for all other Contracts. If such Business Day is the last trading day or Expiry Day of an Exchange Contract, clearing services in respect of such expiring Exchange Contract will be further extended by one Business Day.

If a Typhoon Signal No. 8 or above is hoisted after clearing services under DCASS are available and is lowered at or before 12:00 noon on any Business Day, such services will continue to be available in accordance with their normal services hours.

If a Typhoon Signal No. 8 or above is hoisted after clearing services under DCASS are available and is not lowered at 12:00 noon on any Business Day, such services will continue to be available within two hours after the hoisting of the Signal but will cease thereafter.

If a Typhoon Signal No. 8 or above is hoisted after 12:00 noon on any Business Day, clearing services under DCASS will continue to be available until two hours after the hoisting of the Signal or the end of its normal services hours, whichever is earlier.

#### 6.1.2 *Rainstorms*

If a Black Rainstorm Warning is issued before clearing services under DCASS are available and is cancelled at or before 12:00 noon on any Business Day, such services will resume two hours thereafter and continue to be available in accordance with their normal services hours.

If a Black Rainstorm Warning is issued before clearing services under DCASS are available and is not cancelled at 12:00 noon on any Business Day, such services will resume two hours from 12:00 noon and cease at the System Input Cutoff Time for Contracts traded in Markets with a T+1 Session and any other Market whose underlying instrument is the same as or similar to any of the Markets with a T+1 Session, but no clearing services will be available for the day for all other Contracts. If such Business Day is the last trading day or Expiry Day of an Exchange Contract, clearing services in respect of such expiring Exchange Contract will be further extended by one Business Day.

If a Black Rainstorm Warning is issued after clearing services under DCASS are available and is cancelled at or before 12:00 noon on any Business Day, such services will continue to be available in accordance with their normal services hours.

If a Black Rainstorm Warning is issued after clearing services under DCASS are available and is not cancelled at 12:00 noon on any Business Day, such services will continue to be available until the T+1 Session Cutoff Time if the T+1 Session of any Market continues to be available on that day. Otherwise, clearing services under DCASS will cease at the System Input Cutoff Time.

Notwithstanding 6.1.1 and 6.1.2 above, the Clearing House will continue to perform the daily clearing process and compute each HKCC Participant's liabilities as stated in section 2.1.

## 6.4 Settlement Services relating to Physical Delivery Contracts

### 6.4.1 *Typhoons*

If a Typhoon Signal No. 8 or above is hoisted on a Business Day which is after the last trading day or Expiry Day and up to and including the Final Settlement Day of an expiring Physical Delivery Contract and physical delivery of the underlying commodity or instrument

for the settlement of the Physical Delivery Contract cannot be effected on the day by the CMU, an Approved Depository or any other relevant depository or facility which effects the physical delivery of such Physical Delivery Contract, as the case may be, services relating to the final settlement of such Physical Delivery Contract (i.e. both physical delivery and the corresponding money settlement) will be postponed by one Business Day.

6.4.2 *Rainstorms*

If a Black Rainstorm Warning is issued on a Business Day which is after the last trading day or Expiry Day and up to and including the Final Settlement Day of an expiring Physical Delivery Contract and physical delivery of the underlying commodity or instrument for the settlement of the Physical Delivery Contract cannot be effected on the day by the CMU, an Approved Depository or any other relevant depository or facility which effects the physical delivery of such Physical Delivery Contract, as the case may be, services relating to the final settlement of such Physical Delivery Contract (i.e. both physical delivery and the corresponding money settlement) will be postponed by one Business Day.