

## CHAPTER VI

### CASH SETTLEMENT, DELIVERY AND EXCHANGE OF FUTURES

#### Cash Settled Contracts and Physical Delivery Contracts

601. (a) Cash Settled Contracts shall be settled by payment of cash in the Settlement Currency.
- (b) Physical Delivery Contracts that are Futures Contracts shall be settled by delivery of the underlying commodity or instrument by their Sellers and the payment of cash by their Buyers, Physical Delivery Contracts (other than Physically Settled Options on Futures 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 Physical Delivery Contracts (other than Physically Settled Options on Futures 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.
- (c) In respect of Physically Settled Options on Futures Contracts, any Futures Contracts arising from the exercise of such Physically Settled Options on Futures Contracts shall be settled as Cash Settled Contracts by payment of cash in the Settlement Currency.

#### Cash settlement and delivery governed by Exchange Rules, these Rules and the Clearing House Procedures

602. The obligations of HKCC Participants to make cash payment under a Cash Settled Contract or make and/or take delivery under a Physical Delivery Contract and the timing of the foregoing shall be governed by the Exchange Rules, these Rules and the Clearing House Procedures.

#### Rights of the Clearing House against an HKCC Participant under a Cash Settled Contract

- 602A. In addition to any other rights the Clearing House may have under these Rules, where the Clearing House has an obligation to make payment to an HKCC Participant under a Cash Settled 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 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 only exercise its powers under this Rule in circumstances when the Clearing House considers in its reasonable opinion that the Settlement Currency is not freely available or

convertible in the market.

Assignment process

603. After Market close on the Last Trading Day of a Physical Delivery Contract (other than a deliverable Currency Futures Contract, a deliverable Currency Option Contract or a Physically Settled Options on Futures 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 Trading 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;
- (ii) trade (and where applicable, shall procure that its Non-Clearing Participants will not trade) any spot month Physically Settled Metal Futures Contract during or after the T+1 Session on the Trading Day before the Last Trading Day unless such trade serves to close out an existing open position of the Non-delivery HKCC Participant;
- (iii) perform any trade adjustment or position adjustment in any spot month Physically Settled Metal Futures Contract relating to trades registered with the Clearing House during the T+1 Session on the Trading Day before the Last Trading Day unless such trade adjustment or position

adjustment serves to close out an existing open position of the Non-delivery HKCC Participant; or

- (iv) perform any trade adjustment or position adjustment in any spot month Physically Settled Metal Futures Contract on the Last Trading Day unless such trade adjustment or position adjustment 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), 606A(ii), 606A(iii) or 606A(iv), 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.

Failure to comply with delivery and/or payment obligations

607. In the event that an HKCC Participant (“defaulting selling HKCC Participant”) fails to comply with its delivery obligations under the settlement of a Physical Delivery Contract by the prescribed time in accordance with the Exchange Rules, these Rules and the Clearing House Procedures, the Clearing House reserves the right at any time:

- (i) to impose a penalty on the defaulting selling HKCC Participant for any late settlement, such penalty to be of such amount and to be payable at such time as shall be specified by the Clearing House; and/or
- (ii) to execute on behalf of the defaulting selling HKCC Participant a buy-in to purchase the underlying commodity or instrument up to the quantity required to be delivered by the defaulting selling HKCC Participant; and/or
- (iii) to effect on behalf of the defaulting selling HKCC Participant a borrowing of the underlying commodity or instrument up to the quantity required to be delivered by the defaulting selling HKCC Participant.

- 607A. In the event that an HKCC Participant (“defaulting buying HKCC Participant”) fails to comply with its payment obligations under the settlement of a Physical Delivery Contract by the prescribed time in accordance with the Exchange Rules, these Rules and the Clearing House Procedures, the Clearing House reserves the right at any time:
- (i) to impose a penalty on the defaulting buying HKCC Participant for any late settlement, such penalty to be of such amount and to be payable at such time as shall be specified by the Clearing House; and/or
  - (ii) to purchase or borrow on behalf of the defaulting buying HKCC Participant the currency in which payment is required to be made up to the amount required to be paid by the defaulting buying HKCC Participant.
608. The Clearing House may instruct its designated agent to execute a buy-in or effect a purchase or borrowing under Rule 607 or 607A. The Clearing House shall have the right to disclose the name and other details of the defaulting selling HKCC Participant or the defaulting buying HKCC Participant and details of the relevant Contracts to such designated agent as the Clearing House deems fit.
609. Each defaulting selling HKCC Participant and defaulting buying 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 by the Clearing House in executing a buy-in and/or effecting a purchase or borrowing on its behalf under Rule 607 or 607A or taking any other action as the Clearing House considers appropriate as a result of the failure by the HKCC Participant to settle the Physical Delivery Contract in accordance with the Exchange Rules, these Rules and the Clearing House Procedures.

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

610. 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, the Clearing House may deliver such type(s) or issue(s) of underlying commodity or instrument as it in its absolute discretion considers appropriate to the buying HKCC Participant to which the defaulting selling HKCC Participant was allocated under the random assignment process.

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 or a Physically Settled Options on 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.

- 611A. The Clearing House shall not be liable to an HKCC Participant in respect of any loss or damage, in contract, tort or otherwise and whether direct, indirect, consequential or otherwise, arising from any late settlement as a result of the failure by the defaulting selling HKCC Participant or the defaulting buying HKCC Participant to satisfy its delivery or payment obligations by the prescribed time.
- 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.

“Exchange of futures”

612. (a) Where two HKCC Participants enter into a contract with each other for the sale and purchase of an underlying commodity which is to be settled by physical delivery and not by a cash settlement and those two HKCC Participants are each parties to open Contracts of which one is a seller and one is a buyer under the terms of those Contracts, the HKCC Participants may jointly request an "exchange of futures".
- (b) With effect from the acceptance by the Clearing House of a request for an exchange of futures, each of the two open Contracts in question shall be deemed for all purposes to have been closed out at the Closing Quotation prevailing on the date of receipt of the notice.
- (c) A request for exchange of futures shall be in such form as the Clearing House may from time to time require.
- (d) The two HKCC Participants shall, if required by the Clearing House, produce evidence of the physical contract.
- (e) The Clearing House may refuse to accept a request for exchange of futures without assigning any reasons therefor.
- (f) The Clearing House may levy a fee in respect of an exchange of futures.