

CHAPTER XI

CLEARING SERVICE TERMINATION EVENT

Clearing Service Termination Event

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

- (a) the losses resulting from one or more events of default occurring within the same Capped Liability Period will exceed the resources available to it including those available to be applied under Rules 510(e), 510(g) and 706 with respect to all such events of default; or
- (b) the clearing and settlement services in relation to Futures/Options Contracts shall cease to be provided,

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

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

1103. Following the payment by each relevant HKCC Participant of the Limited Recourse Interim CP Payable or Limited Recourse Final CP Payable with respect to each clearing account of each relevant HKCC Participant arising from such Contracts, the Clearing House shall pay an amount equal to the Margin Balance in respect of an HKCC Participant to such HKCC Participant

in accordance with section 7.1 of the Clearing House Procedures; and the Clearing House shall pay an amount equal to the Reserve Fund Deposits Balance in respect of an HKCC Participant or Former HKCC Participant to such HKCC Participant or Former HKCC Participant in accordance with section 7.1 of the Clearing House Procedures.

Liability of the Clearing House under a Clearing Service Termination Event

1104. Notwithstanding the provisions of Rule 310, settlement (by payment, set-off or otherwise) of the Limited Recourse CP Receivable with respect to the clearing accounts of each relevant HKCC Participant arising from such Contracts pursuant to Rule 1102 and section 7.1 of the Clearing House Procedures discharges in full the obligations of the Clearing House in respect of these Contracts and no HKCC Participant or client of an HKCC Participant shall have any recourse against the Clearing House or to any fund or other entity, including without limitation any affiliate or recognized exchange controller which is the controller of the Clearing House in relation to any Contract once the resources available to the Clearing House including those available to be applied under Rules 510(e), 510(g) and 706 have been exhausted. In particular, no HKCC Participant or client of an HKCC Participant shall be entitled to instigate any action for the winding-up or the appointment of a receiver or manager over any property of the Clearing House.