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## CHAPTER 25

### GUARANTEE FUND

#### 2501. Establishment of Guarantee Fund

HKSCC has established, in accordance with the Rules, a fund called the Guarantee Fund. The Guarantee Fund shall only be used in accordance with the Rules.

HKSCC may apply any amounts standing to the credit of the Guarantee Fund as a short-term source of liquid funds or otherwise to meet any immediate obligations and liabilities arising out of Market Contracts regardless of the order of priority set out in Rule 2507 and/or pursuant to Rules 813, 814, 815 and 816, other than the following:

- (a) obligations and liabilities between HKSCC and a Clearing Agency Participant arising out of a Market Contract between HKSCC and the Clearing Agency Participant which is participating in CCASS pursuant to a Clearing Link as referred to in Chapter 42; and
- (b) liabilities between HKSCC and a Clearing Agency Participant which is participating in CCASS pursuant to one or more Clearing Links as referred to in Chapter 42 for a loss of or defects affecting Eligible Securities pursuant to Rules 813, 814, 815 and/or 816.

For the purpose of calculating the Guarantee Fund size under Rule 2504 and Section 18.2.1 of the Operational Procedures, HKSCC may, from time to time in its absolute discretion, prescribe an amount which is projected to be the maximum required size for the time being of the Guarantee Fund, known as the Guarantee Fund Threshold, taking into account such relevant factors as it shall consider appropriate, including any historical scenarios and prevailing market conditions.

#### 2502. Contributions by Clearing Participants

Each Clearing Participant shall pay to HKSCC the Basic Contribution and the Dynamic Contribution, being two types of contributions to the Guarantee Fund, in accordance with the Rules. HKSCC shall credit the Basic Contributions and Dynamic Contributions by Clearing Participants to the Guarantee Fund.

- (i) Basic Contribution

Subject to this Rule, Rule 2509B and Rule 2509D, the amount of Basic Contribution from time to time required to be made by each Clearing Participant shall be determined by reference to and shall be subject to such adjustments as are provided in the Operational Procedures.

The minimum amount of Basic Contribution to be made by each DCP shall be HK\$50,000 or HK\$50,000 in respect of each Stock Exchange Trading Right held by such DCP in the Exchange, whichever is the higher. The minimum amount of Basic Contribution to be made by each GCP shall be HK\$150,000 or the aggregate of HK\$50,000 in respect of each Stock Exchange Trading Right held by it and HK\$50,000 in respect of each NCCCP with whom such GCP has entered into a Clearing Agreement, whichever is the higher. The minimum amount of Basic Contribution to be made by each Clearing Participant shall be made in cash. HKSCC may from time to time specify such other amount as the minimum amount of Basic Contribution by each Clearing Participant.

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The size of the aggregate Basic Contributions required from all Clearing Participants shall generally be not less than HK\$100,000,000 provided that HKSCC reserves the right to determine from time to time the required size of the aggregate Basic Contributions.

(ii) Dynamic Contribution

There is no minimum amount of Dynamic Contribution required to be made by each Clearing Participant or minimum size of the aggregate Dynamic Contributions by all Clearing Participants. Subject to this Rule, Rule 2507A, Rule 2508, Rule 2509, Rule 2509B and Rule 2509D, the amount of the Dynamic Contribution from time to time required to be made by each Clearing Participant shall be determined by reference to and shall be subject to such adjustments as are provided in the Operational Procedures or as HKSCC may from time to time prescribe.

Each Clearing Participant may be allowed a Dynamic Contribution Credit, up to such limit as HKSCC may from time to time determine in its absolute discretion. For the avoidance of doubt, such limit may be determined by HKSCC on an individual Clearing Participant basis. The Dynamic Contribution Credit shall only be utilized for the purpose of reducing the amount of Dynamic Contribution (other than any Assessment or Voluntary Recap Amount) payable by a Clearing Participant to HKSCC in the manner as provided in the Operational Procedures. The amount of Dynamic Contribution Credit utilized by a Clearing Participant may be applied by HKSCC towards satisfaction of a Clearing Participant's share of obligations and liabilities in accordance with Rule 2507A.

The arrangement of allowing a Dynamic Contribution Credit to each Clearing Participant is put in place by HKSCC with the financial support of HKEX. Neither HKEX nor HKSCC shall be required to make any actual payment to a Clearing Participant at any time in respect of the whole or any part of the Dynamic Contribution Credit that has been utilized and/or applied as above mentioned.

Unless otherwise determined by HKSCC, where the whole or any part of the amount of Dynamic Contribution Credit utilized by a Clearing Participant is applied by HKSCC towards satisfaction of the Clearing Participant's (as the Relevant Clearing Participant's) share of the remaining obligations and liabilities pursuant to Rule 2507A, the Dynamic Contribution Credit to be allowed to the Clearing Participant thereafter will correspondingly be reduced by the amount applied. Unless otherwise determined by HKSCC, such reduction of Dynamic Contribution Credit follows the Clearing Participant even on its re-admission as a Clearing Participant after cessation of its existing participation in CCASS of Clearing Participant for any reason.

### **2503. Form of Contributions**

(i) Basic Contributions in excess of the minimum amount of Basic Contribution required under Rule 2502 and (ii) Dynamic Contributions may be provided by Clearing Participants in cash in Hong Kong dollars or in any other currency prescribed by HKSCC from time to time or in such other form as may be acceptable to HKSCC.

Where applicable, a Clearing Participant providing Basic Contribution and/or Dynamic Contribution shall be deemed to represent and warrant in favour of HKSCC that it has title to and authority over such Contributions, free from all liens, charges, encumbrances, equities and other third party rights of any nature whatsoever.

### **2504. Additional resources to Guarantee Fund**

In the event that payments out of the Guarantee Fund under paragraph (iii) of Rule 2507 are required, HKSCC will appropriate its resources up to 10% or such other percentage of the Guarantee Fund size as HKSCC may from time to time determine as contributions to the Guarantee Fund.

HKSCC may from time to time establish such additional arrangements, including but without limitation, bank facilities and policies of insurance, as it may from time to time consider appropriate for the purposes of providing additional resources to the Guarantee Fund. Such arrangements may be terminated by HKSCC from time to time at its discretion.

The costs and expenses incurred in establishing, maintaining, managing, administering and terminating such arrangements shall from time to time be paid out of the Guarantee Fund and/or the interest or other sums accruing to the assets of the Guarantee Fund. Further, HKSCC may require Clearing Participants to reimburse it in respect of such costs and expenses, pro-rata to their respective Contributions required under Rule 2502 or in such other manner as HKSCC considers fair and appropriate.

For the avoidance of doubt, the Dynamic Contribution Credit and Margin Credit arrangements put in place by HKSCC are not (i) additional arrangements for the purposes of providing additional resources to the Guarantee Fund; or (ii) appropriation of HKSCC resources to the Guarantee Fund.

#### **2505. Investment of assets of Guarantee Fund**

Without prejudice to any other rights of HKSCC in respect of the Guarantee Fund, HKSCC may invest the assets and resources of the Guarantee Fund or any part thereof in such manner and to such extent as shall be approved by the Risk Management Committee. Any gain or loss arising from the investment activities is for the Guarantee Fund.

Interest or any other sums accruing to the assets of the Guarantee Fund shall, unless otherwise provided in the Rules, be appropriated by HKSCC to the Guarantee Fund. Interest at negative rates on or other sums chargeable in respect of the assets of the Guarantee Fund will be charged by HKSCC to the Guarantee Fund and paid out of the Guarantee Fund unless otherwise provided.

For the avoidance of doubt, any obligation of HKSCC to redeliver Basic Contribution and Dynamic Contribution to a Clearing Participant and any interest on or other sums accruing to such Contributions HKSCC may pay and/or charge to the Clearing Participant in accordance with the Rules and the Operational Procedures shall not be affected by any gain or loss arising from the investment activities in respect of the assets and resources of the Guarantee Fund. Any such gain or loss, as mentioned above, is for the Guarantee Fund.

#### **2506. Application of Guarantee Fund**

Subject to Rule 2501 but without prejudice to other provisions of the Rules, the Guarantee Fund may be applied in respect of:-

- (i) the obligations and liabilities of HKSCC arising out of Market Contracts (including, but not limited to the costs and expenses incurred in relation to making recoveries from Clearing Participants and in relation to risk management measures effected by HKSCC with respect to Market Contracts); and

- (ii) the liabilities of HKSCC for a loss of or defects affecting Eligible Securities pursuant to Rule 813, Rule 814, Rule 815 and Rule 816 and in respect of which a Clearing Participant shall be liable to HKSCC.

If, in the opinion of HKSCC, the resources of the Guarantee Fund are at any time liable to be exhausted or are at any time at a level which is unlikely to meet all claims or potential claims, HKSCC may apportion the resources available under the Guarantee Fund between claims arising out of each of the categories referred to in paragraphs (i) and (ii) above (either on a pro-rata basis by reference to the aggregate amount of claims arising out of each of such categories subsisting at the time or in such other manner as the Risk Management Committee shall consider fair and appropriate in the circumstances).

Where the resources of the Guarantee Fund apportioned to a category under this Rule are insufficient to meet all the liabilities and obligations of HKSCC under that category at the time of apportionment, such resources shall be applied to all claims of that category on a pro-rata basis or in such other manner as HKSCC considers fair and appropriate.

If HKSCC applies any resources of the Guarantee Fund pursuant to this Rule, it shall promptly notify the Commission.

#### **2507. Order of application of Guarantee Fund**

Without prejudice to HKSCC's right to draw on other resources available to the Guarantee Fund and subject to the terms of any guarantees, facilities, policies or other assets from time to time forming part of the resources of the Guarantee Fund, payments out of the assets of the Guarantee Fund to satisfy the obligations and liabilities of HKSCC in relation to a Relevant Event shall be in the following order of priority: -

- (i) first, the Basic Contributions and Dynamic Contributions made by the Relevant Clearing Participants in default (if applicable);
- (ii) second, subject to Rule 2507A(ii), interest or any other sums accruing to the assets of the Guarantee Fund and appropriated by HKSCC to the Guarantee Fund;
- (iii) third, resources of HKSCC appropriated to the Guarantee Fund;
- (iv) fourth, the Basic Contributions made by all other Relevant Clearing Participants (or all Relevant Clearing Participants if sub-paragraph (i) above is not applicable); and
- (v) fifth, the Dynamic Contributions made by all other Relevant Clearing Participants (or all Relevant Clearing Participants if paragraph (i) above is not applicable).

The application of the Basic Contributions and Dynamic Contributions under paragraphs (iv) and (v) above shall also be subject to Rules 2507A(iii) and (iv) respectively.

Where HKSCC exercises its right to draw on any other resources available to the Guarantee Fund or other assets forming part of the Guarantee Fund, HKSCC may vary the order of priority of payments set forth above by including in it payment out of such other resources or assets, including the proceeds thereof, in such manner as HKSCC considers fair and appropriate.

HKSCC shall notify the Relevant Clearing Participants concerned in the case of an application under paragraph (i) of this Rule and shall notify all Relevant Clearing Participants in the case of an application under paragraphs (iv) and/or (v) of this Rule. Such notice to Relevant Clearing Participants of any application is referred to as a “notice of application”. Following such application, the Guarantee Fund Contribution Balance of each Relevant Clearing Participant shall be reduced by an amount equal to the amount so applied in respect of such Clearing Participant.

For the purposes of application of Guarantee Fund under this Rule and all matters arising therefrom or in relation thereto, where a Relevant Clearing Participant whose participation in CCASS as a Clearing Participant has been effectively terminated before the application, HKSCC shall be entitled to treat and apply the Basic Contribution and Dynamic Contribution made by the Relevant Clearing Participant as assets of the Guarantee Fund as if the termination of the Relevant Clearing Participant’s participation in CCASS had not occurred.

For the avoidance of doubt, Relevant Clearing Participants in relation to the Relevant Event do not include (a) Clearing Participants admitted into CCASS after the date of occurrence of the Relevant Event and (b) Clearing Participants whose participation in CCASS had been effectively terminated on or before the date of occurrence of the Relevant Event.

**2507A. Application of Dynamic Contribution Credit and Margin Credit, etc.**

- (i) In this Rule, “Dynamic Contribution calculated” has the same meaning as referred to in Section 18.2.1 of the Operational Procedures.
- (ii) In the event that there are obligations and liabilities of HKSCC remaining after payment under Rule 2507(i) (if applicable), HKSCC will first apply the amount of Dynamic Contribution Credit and the amount of Margin Credit utilized by the Relevant Clearing Participant in default (if applicable) on the Business Day immediately before the occurrence of the Relevant Event to satisfy the remaining obligations and liabilities, prior to making any further payments out of the Guarantee Fund in accordance with the order set out in Rules 2507(ii) – (v).

The Margin Credit arrangement, as referred to in Section 10.10A.2 of the Operational Procedures, is put in place by HKSCC with the financial support of HKEX. Neither HKEX nor HKSCC shall be required to make any actual payment to a Clearing Participant in respect of the whole or any part of the Margin Credit that has been utilized as provided in the Operational Procedures and/or applied as mentioned above.

- (iii) The amount of Basic Contribution in respect of each Relevant Clearing Participant to be applied pursuant to Rule 2507(iv) shall be calculated on a pro-rata basis by reference to the Relevant Clearing Participant’s share of the aggregate Basic Contributions made or required to be made by all the Relevant Clearing Participants on the Business Day immediately before the occurrence of the Relevant Event, excluding the Basic Contribution made or required to be made by the Relevant Clearing Participant in default (if applicable).
- (iv) The amount of Dynamic Contribution in respect of each Relevant Clearing Participant to be applied pursuant to Rule 2507(v) shall be determined as follows:-
  - (a) HKSCC will first calculate the Relevant Clearing Participant’s share of the remaining obligations and liabilities by reference to the Relevant Clearing Participant’s share of the Dynamic Contribution calculated in respect of all the Relevant Clearing Participants on the Business Day immediately before the occurrence of the Relevant Event, excluding the Dynamic Contribution

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calculated in respect of the Relevant Clearing Participant in default (if applicable).

- (b) The Relevant Clearing Participant's share of the remaining obligations and liabilities calculated under sub-paragraph (a) above shall be borne by way of the Dynamic Contribution required from the Relevant Clearing Participant and the Dynamic Contribution Credit utilized by the Relevant Clearing Participant on a pro-rata basis, by reference to their respective proportions in the Dynamic Contribution calculated in respect of the Relevant Clearing Participant on the Business Day immediately before the occurrence of the Relevant Event, provided that the share borne by the Dynamic Contribution Credit utilized shall not exceed the Dynamic Contribution Credit allowed to the Relevant Clearing Participant. Any amount in excess of the Dynamic Contribution Credit allowed to the Relevant Clearing Participant shall be borne by the Relevant Clearing Participant by way of the Dynamic Contribution required from it.
- (c) The amount of Dynamic Contribution made by the Relevant Clearing Participant shall be paid out of the Guarantee Fund pursuant to Rule 2507(v) to satisfy the share of remaining obligations and liabilities borne by the Dynamic Contribution required, as determined under sub-paragraph (b) above. HKSCC will apply the amount of the Dynamic Contribution Credit utilized by the Relevant Clearing Participant to satisfy the share of remaining obligations and liabilities borne by the Dynamic Contribution Credit utilized (up to but not exceeding the amount of Dynamic Contribution Credit allowed to the Relevant Clearing Participant), as determined under sub-paragraph (b) above and subject to paragraph (v) below.
- (v) Where the whole or any part of the amount(s) of Dynamic Contribution Credit utilized and/or Margin Credit utilized is applied to satisfy the remaining obligations and liabilities pursuant to this Rule 2507A, the Relevant Clearing Participant in default (if applicable) shall be liable to repay to HKSCC the relevant amounts and HKSCC shall be entitled to recover the amounts from such Relevant Clearing Participant in default (if applicable), without prejudice to any other rights which HKSCC may have. To the extent that the amount recovered by HKSCC from such Relevant Clearing Participant in default (if applicable) represents the financial support provided by HKEX, HKSCC will pay the amount received by it to HKEX.

#### **2508. Assessments**

Upon the occurrence of a Relevant Event, whenever the whole or any part of the Guarantee Fund is applied in accordance with Rules 2507 and 2507A or HKSCC determines that the resources available to HKSCC under the Guarantee Fund and those that may be applied under Rules 2507A and 3702(ii) will not be sufficient to satisfy the obligations and liabilities of HKSCC in relation to a Relevant Event, HKSCC may issue a written notice ("Notice of Assessment") demanding each Clearing Participant to provide such additional contributions to bring the Guarantee Fund to the same level as that before any application is made or to be made and/or such additional contributions as HKSCC may require to meet any obligations and liabilities in relation to a Relevant Event, subject to the limit set out in Rule 2509 ("Assessments"). Each Clearing Participant shall provide its Assessments to HKSCC no later than the first Business Day after the date of the Notice of Assessment, or within such other time period as may be specified by HKSCC.

The Assessments to be provided by Clearing Participants under this Rule 2508 must be paid in full by the Clearing Participants in cash in Hong Kong dollars or in any other currency prescribed by HKSCC from time to time. Any Assessment provided by a Clearing Participant shall form part of its Guarantee Fund Contribution Balance.

The obligations and liabilities of a Clearing Participant to provide Assessments under this Rule in respect of any Relevant Events which occur during a Capped Liability Period which commenced prior to the Clearing Participant's termination of participation in CCASS shall survive the termination of the Clearing Participant's participation in CCASS notwithstanding the fact that the expiry of such Capped Liability Period occurs after termination, provided that the aggregate liability of the Clearing Participant shall be limited as provided for in Rule 2509 and provided that the Clearing Participant shall not have any obligations or liabilities to provide Assessments in respect of any Relevant Events which occur during a Capped Liability Period which commences after the termination of the Clearing Participant's participation in CCASS.

#### **2509. Limit on Clearing Participant's liability to Assessments**

In respect of one or more Relevant Events occurring during a Capped Liability Period, the aggregate liability of a Clearing Participant to provide Assessments pursuant to one or more Notices of Assessment given by HKSCC during a Capped Liability Period shall be limited to an amount which is equal to the Clearing Participant's Basic Contribution required and Dynamic Contribution calculated pursuant to Section 18.2.1 of the Operational Procedures on the Business Day immediately preceding the start of the Capped Liability Period, plus one time such amount.

##### **2509A. Voluntary Recapitalization**

- (i) If HKSCC determines at any stage that the loss arising from a Relevant Event is expected to exceed the financial resources available including the Guarantee Fund and the relevant amount received or to be received under Rule 2508 and those available to be applied under Rules 2507A and 3702(ii), HKSCC may issue a written notice (the "Voluntary Recap Request Notice") requesting each Clearing Participant to make a payment of funds (each a "Voluntary Recap Amount") to HKSCC.
- (ii) Upon receipt of a Voluntary Recap Request Notice issued by HKSCC in accordance with Rule 2509A(i), a Clearing Participant may, but is not obliged to, provide its Voluntary Recap Amount to HKSCC within one Business Day following receipt of the Voluntary Recap Request Notice. The Voluntary Recap Amount provided by Clearing Participants must be paid in cash in Hong Kong dollars or in any other currency prescribed by HKSCC from time to time. Any Voluntary Recap Amount made by a Clearing Participant to HKSCC may not be withdrawn.
- (iii) Any Voluntary Recap Amount received by HKSCC from a Clearing Participant shall form part of such Clearing Participant's Guarantee Fund Contribution Balance after such Voluntary Recapitalization is declared successful by HKSCC, and the application of such amount will be subject to Rules 2506 and 2507.
- (iv) If the total Voluntary Recap Amount received by HKSCC is less than the aggregate of the Voluntary Recap Amounts requested by HKSCC from the Clearing Participants, any amounts received will be refunded to the relevant Clearing Participants on the next Business Day and will not form part of the Dynamic Contributions or Guarantee Fund Contribution Balances of the relevant Clearing Participants.

##### **2509B. Clearing Participants to replenish Guarantee Fund**

Following the occurrence of a Relevant Event, any review of the Guarantee Fund size apart from under Rule 2508 shall be suspended during the relevant Capped Liability Period. Upon the expiry of the relevant Capped Liability Period, HKSCC shall review the size of the Guarantee Fund and the Basic Contribution and/or Dynamic Contribution required from each Clearing Participant in accordance with Rule 2502. Subject to Rule 2509D, HKSCC will notify the Clearing Participant of any replenishment amount required as Basic Contributions and/or Dynamic Contributions as a result of the review. The Clearing Participant shall make such Contributions no later than the first Business Day after the date of the notice, or within such other time period as may be specified by HKSCC. Any such Contributions made by the

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Clearing Participant following the expiry of such Capped Liability Period shall only be applied in respect of Relevant Events which occur after the expiry of the relevant Capped Liability Period and shall not be applied in respect of any Relevant Event that occurred prior to the expiry of such Capped Liability Period.

**2509C. HKSCC to make appropriations for Guarantee Fund**

Following the expiry of a Capped Liability Period following a Relevant Event, if the whole or any part of HKSCC's contribution to the Guarantee Fund is applied in accordance with Rule 2507, HKSCC shall make appropriations for the deficiency of its contribution to the Guarantee Fund following the same replenishment time period as specified in Rule 2509B, subject to the approval of the Board and regulatory capital requirements applicable to HKSCC. Any part of HKSCC's contribution to the Guarantee Fund following the expiry of such Capped Liability Period shall only be applied in respect of Relevant Events which occur after the expiry of the relevant Capped Liability Period and shall not be applied in respect of any Relevant Event that occurred prior to the expiry of such Capped Liability Period.

**2509D. Termination of participation in CCASS for limiting liability following the expiry of a Capped Liability Period**

- (i) Where a Clearing Participant wishes to terminate its participation in CCASS to limit its liability to any subsequent Events of Default that may occur following the expiry of the applicable Capped Liability Period, it must:
  - (a) submit a notice of termination of participation in CCASS to HKSCC and receive an acknowledgement from HKSCC; and
  - (b) successfully close out or otherwise discharge its liabilities in respect of all its Markets Contracts in accordance with the Rules prior to the expiry of the Capped Liability Period.
- (ii) If the conditions set out in Rule 2509D(i) are met, and notwithstanding Rule 2203, the Clearing Participant will not be subject to the replenishment of Basic Contribution and/or Dynamic Contribution pursuant to Rule 2509B. If the conditions set out in Rule 2509D(i) are not met, the Clearing Participant will be subject to the replenishment of Basic Contribution and/or Dynamic Contribution pursuant to Rule 2509B (and liabilities thereto) upon the expiry of the applicable Capped Liability Period.

**2510. Recovery of sums**

If HKSCC receives any amounts from a Relevant Clearing Participant in default, or any other amounts howsoever recovered relating to the Relevant Event of the Relevant Clearing Participant in default, HKSCC shall, in the absence of any obligation of HKSCC to deal with the amounts so recovered in any other way, deal with the amount so received in accordance with this Rule, having regard to Rules 2507, 2507A, 2509A and 3709.

The amounts recovered (less any uncovered costs and expenses of recovery) may, but need not necessarily, be repaid to the Relevant Clearing Participants and HKSCC, subject to the terms of any relevant guarantee, bank facility or policy of insurance. If the amounts recovered are repaid to the Relevant Clearing Participants and HKSCC, it will be in the reverse order of priority with reference to the amounts and credits that have been utilized and applied to satisfy obligations and liabilities in relation to the Relevant Event including:

- (i) any amount paid out of the Guarantee Fund pursuant to Rule 2507;
- (ii) any amount of Dynamic Contribution Credit and Margin Credit that has been utilized and applied to satisfy any obligations and liabilities pursuant to Rule 2507A;
- (iii) any Voluntary Recap Amount that has been applied pursuant to Rule 2509A; and
- (iv) any amount of Unadjusted Termination Value Receivable which is not fully paid to the non-defaulting Clearing Participants or Clearing Agency Participants pursuant to Rule 3709 and Section 10.16 of the Operational Procedures.



Where any such payment or application is made on a pro-rata basis, the credit and repayment would be made on the same pro-rata basis. To the extent that a Relevant Clearing Participant's (other than the Relevant Clearing Participant in default) participation in CCASS has been effectively terminated, HKSCC may return such amount to the Relevant Clearing Participant or deal with it in such other manner as HKSCC considers appropriate, without prejudice to any other rights of HKSCC. To the extent that the amount repaid to HKSCC represents the financial support provided by HKEX, HKSCC will pay the relevant amount received by it to HKEX.

It may be a term of any guarantee, bank facility or policy of insurance that recoveries from the Relevant Clearing Participant in default be applied in a particular fashion other than repaid to the Relevant Clearing Participants or HKSCC, in which case the recoveries shall be applied in accordance with such term.

For the avoidance of doubt, a Relevant Clearing Participant in default shall be liable to reimburse or repay HKSCC in full for:

- (i) any amount paid out of the Guarantee Fund pursuant to Rule 2507;
- (ii) any amount of Dynamic Contribution Credit and Margin Credit that has been utilized and applied to satisfy any obligations and liabilities pursuant to Rule 2507A;
- (iii) any Voluntary Recap Amount that has been applied pursuant to Rule 2509A; and
- (iv) any unpaid amount of Termination Value Payable by the Relevant Clearing Participant in default pursuant to Rule 3709 and Section 10.16 of the Operational Procedures

as a result of its default.

#### **2511. Information on assets and resources of Guarantee Fund**

HKSCC shall maintain a separate record of:-

- (i) all amounts standing to the credit of;
- (ii) all resources appropriated by HKSCC as contributions to; and
- (iii) all guarantees, facilities or policies enuring for the benefit of

the Guarantee Fund from time to time. Without prejudice to the aforesaid, HKSCC shall maintain a separate account or separate accounts in respect of the Contributions.

HKSCC shall notify Clearing Participants and the Commission (on an annual basis) of the assets and resources available to the Guarantee Fund.

#### **2512. Return of Contributions**

For the avoidance of doubt, once credited to the Guarantee Fund, the Basic Contributions and Dynamic Contributions made by Clearing Participants shall be dealt with in accordance with the Rules and will not be returned to Clearing Participants except in accordance with the Rules.

Six months after the termination of the participation in CCASS of a Clearing Participant, provided that all liabilities of such Clearing Participant to HKSCC at the time of termination, actual and contingent, shall have been satisfied or provided for in full (including without limitation any pending applications of the Guarantee Fund at the time of such termination and, if applicable, any outstanding obligation to provide Assessments under Rule 2509), HKSCC may deliver or return to the Clearing Participant assets in such form and in such amount, as HKSCC deems appropriate, equivalent to the assets recorded as part of its Guarantee Fund

Contribution Balance. In the case of a Relevant Clearing Participant, HKSCC shall have the right (without prejudice to any other rights it may have) to retain, and not to redeliver or return, such Contributions or any part thereof as cover for any contingent liability of the Relevant Clearing Participant under Rules 2507, 2507A, 2508, 2509, 3707, 3709 and 4301.

### **2513. Dissolution of Guarantee Fund**

If at any time it appears in the opinion of HKSCC to be in the interests of Clearing Participants or in the interests of the operations of CCASS, HKSCC may, with the approval of the Risk Management Committee and the Commission, dissolve the Guarantee Fund. Unless otherwise provided in the Rules, HKSCC shall be entitled to adopt such procedures in relation to the dissolution of the Guarantee Fund as it shall deem appropriate.

### **2514. Application upon dissolution of Guarantee Fund**

Upon dissolution of the Guarantee Fund, HKSCC may apply the Guarantee Fund in respect of one or more of the following matters:-

- (i) in payment of all sums to be paid out of the Guarantee Fund;
- (ii) in payment of the costs and expenses of and incidental to the administration and management of the dissolution of the Guarantee Fund;
- (iii) at the discretion of HKSCC, the balance of the Basic Contributions and Dynamic Contributions may be returned to Clearing Participants; and
- (iv) with the approval of the Risk Management Committee and the Commission, for use in such manner as HKSCC considers appropriate, including but not limited to the transfer to a new fund having similar objectives as the Guarantee Fund of all amounts standing to the credit of and all guarantees, facilities or policies enuring for the benefit of the Guarantee Fund.