
CHAPTER 43

CLEARING SERVICE TERMINATION EVENT

4301. Clearing Service Termination Event

For the purposes of this Rule, (i) references to “Eligible Securities” mean Eligible Securities other than China Connect Securities; and (ii) references to “Market Contract” mean a Market Contract other than a contract between HKSCC and a China Connect Clearing Participant arising as a result of the Novation of a China Connect Securities Trade to be settled under the CNS System.

Notwithstanding Rules 3307, 3705, 3706 and 3709, if HKSCC, in consultation with the Commission, determines at any stage that:

- (1) 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 2507, 2507A and 3702(ii) with respect to all such Events of Default; or
- (2) the clearing and settlement services in relation to Market Contracts shall cease to be provided,

HKSCC shall notify all Clearing Participants and Clearing Agency Participants of its determination to cease providing clearing and settlement services in relation to Market Contracts (a “Clearing Service Termination Event”) and the clearing and settlement services in respect of the Market Contracts will be wound down in accordance with this Rule.

Upon the occurrence of a Clearing Service Termination Event, every Market Contract between HKSCC and a Clearing Participant or Clearing Agency Participant shall be automatically terminated and all prevailing obligations of HKSCC and such Clearing Participant or Clearing Agency Participant in respect of each such Market Contract between them (including the obligations to deliver any Eligible Securities under the Market Contract) shall cease and be replaced with the obligation of HKSCC or the relevant Clearing Participant or Clearing Agency Participant, as the case may be, to pay the other party a net sum which shall take into account the termination value and any unpaid amounts of each such Market Contract as determined by HKSCC under this Rule and Section 17A.1 of the Operational Procedures. The termination value for each Market Contract shall be determined based on the prevailing market price at the time of contract termination, or if such market price is not available, the price shall be such price as HKSCC may reasonably determine. HKSCC may also take into account any unpaid amounts that have become due and payable in respect of any Market Contract on or prior to the occurrence of the Clearing Service Termination Event.

Following the payment by each relevant Clearing Participant or Clearing Agency Participant of the Limited Recourse Interim CP Payable or Limited Recourse Final CP Payable with respect to the CNS positions from its Market Contracts, HKSCC shall pay an amount equal to the Margin Balance in respect of a Clearing Participant or Clearing Agency Participant to such Clearing Participant or Clearing Agency Participant in accordance with Section 17A.1 of the Operational Procedures; and HKSCC shall pay an amount equal to the Guarantee Fund Contribution Balance in respect of a Clearing Participant or Former Clearing Participant to such Clearing Participant or Former Clearing Participant in accordance with Section 17A.1 of the Operational Procedures.

4302. Liability of HKSCC under a Clearing Service Termination Event

Notwithstanding the provisions of Rule 3307, settlement (by payment, set-off or otherwise) of the Limited Recourse CP Receivable with respect to the CNS positions of each relevant Clearing Participant or Clearing Agency Participant arising from its Market Contracts pursuant to Rule 4301 and Section 17A.1 of the Operational Procedures discharges in full HKSCC’s

obligations in respect of these Market Contracts and no Clearing Participant, Clearing Agency Participant or client of a Clearing Participant or Clearing Agency Participant shall have any recourse against HKSCC or to any fund or other entity, including without limitation any affiliate or recognized exchange controller which is the controller of HKSCC in relation to any Market Contract once the resources available to HKSCC including those available to be applied under Rules 2507, 2507A and 3702(ii) have been exhausted. In particular, no Clearing Participant, Clearing Agency Participant or client of a Clearing Participant or Clearing Agency Participant shall be entitled to instigate any action for the winding-up or the appointment of a receiver or manager over any property of HKSCC.