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## **Section 18**

### **Guarantee Fund**

#### **18.1 GENERAL**

The Guarantee Fund is administered by HKSCC, subject to the supervision of the Risk Management Committee.

The failure of a Clearing Participant to provide its Basic Contribution or Dynamic Contribution to HKSCC will be treated by HKSCC as a default.

#### **18.2 CALCULATION OF CONTRIBUTIONS**

##### **18.2.1 Determination of amount**

Each Clearing Participant shall pay to HKSCC both the Basic Contribution and the Dynamic Contribution to the Guarantee Fund.

The amount of the Basic Contribution required from a Clearing Participant will be determined by reference to the Clearing Participant's share of the average Expected Uncollateralised Loss of all Clearing Participants during the most recent 60 Business Days, subject to a minimum cash Basic Contribution. The minimum cash Basic Contribution by each DCP shall be HK\$50,000 or HK\$50,000 in respect of each Stock Exchange Trading Right held by such DCP, whichever is the higher. The minimum cash Basic Contribution 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 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.

A Clearing Participant's share of the average Expected Uncollateralised Loss of all Clearing Participants during the most recent 60 Business Days as mentioned above will also be used by HKSCC as the basis for calculating the Clearing Participant's share of the Dynamic Contribution calculated in respect of all Clearing Participants. The "Dynamic Contribution calculated" in respect of all Clearing Participants means the required size of the Guarantee Fund determined by HKSCC (which is an amount below or equal to the Guarantee Fund Threshold) following a review of the size of the Guarantee Fund by HKSCC, less:

- (i) the aggregate Basic Contributions required from all Clearing Participants;
- (ii) resources amounting to 10% or such other percentage of the Guarantee Fund size as HKSCC may determine from time to time which may be appropriated by HKSCC as contributions to the Guarantee Fund; and
- (iii) any other amounts which HKSCC, in its absolute discretion, considers as appropriate to reduce the Dynamic Contribution calculated in respect of all Clearing Participants. Such Clearing Participant's share of the Dynamic Contribution calculated in respect of all Clearing Participants, in money terms, will be the Dynamic Contribution calculated in respect of the Clearing Participant.

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The Dynamic Contribution calculated in respect of the Clearing Participant, determined as above, will be compared with the Dynamic Contribution Credit allowed to the Clearing Participant to determine the Dynamic Contribution required from the Clearing Participant in the following manner: –

- (i) If the Dynamic Contribution calculated equals to the Dynamic Contribution Credit, no Dynamic Contribution will be required and the Dynamic Contribution Credit will be treated as fully utilized by the Clearing Participant.
- (ii) If the Dynamic Contribution calculated exceeds the Dynamic Contribution Credit, the excess amount will be the Dynamic Contribution required and the Dynamic Contribution Credit will be treated as fully utilized by the Clearing Participant.
- (iii) If the Dynamic Contribution calculated is less than the Dynamic Contribution Credit, no Dynamic Contribution will be required. The amount of Dynamic Contribution calculated will be the amount of Dynamic Contribution Credit utilized by the Clearing Participant.

When calculating the Expected Uncollateralised Loss arising from CNS stock positions in Eligible Securities denominated in an Eligible Currency other than Hong Kong dollars, the value of the CNS stock positions will be converted into Hong Kong dollar equivalent at such exchange rates as determined by HKSCC for the purpose of computing the amounts of Basic Contributions and Dynamic Contributions required from Clearing Participants. HKSCC reserves the right to collect the required amounts of Basic Contributions and Dynamic Contributions in an Eligible Currency other than Hong Kong dollars.

#### **18.2.2 Repealed**

#### **18.2.3 Acquisition of additional Stock Exchange Trading Rights and/or increase in number of NCCCPs**

A Clearing Participant acquiring additional Stock Exchange Trading Rights and/or entering into Clearing Agreements with additional NCCCPs, where applicable, may need to pay to HKSCC an additional amount in respect of its required Basic Contribution.

This will be the case if the minimum cash Basic Contribution required of the Clearing Participant as a result of its acquisition of additional Stock Exchange Trading Rights and/or entering into Clearing Agreements with additional NCCCPs, where applicable, will exceed the amount of the existing Basic Contribution made in cash of such Clearing Participant.

Any additional amount so required from a Clearing Participant as Basic Contribution (as a result of its acquisition of additional Stock Exchange Trading Rights and/or entering into Clearing Agreements with additional NCCCPs) must be made in cash within seven Business Days from the date on which notice of approval of the Exchange (in respect of the issue of such Stock Exchange Trading Right to that Exchange Participant) is given and in relation to entering into Clearing Agreements with additional NCCCPs, no later than seven Business Days from the date on which notice of the execution of each Clearing Agreements is given to HKSCC.

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### **18.3 FORM OF CONTRIBUTIONS**

The minimum cash Basic Contribution of a Clearing Participant will be collected by way of a DDI as part of the CCASS money settlement process.

Any further amount required of a Clearing Participant as its Basic Contribution (i.e. in excess of the minimum cash Basic Contribution required) and any amount required of a Clearing Participant as its Dynamic Contribution (other than Assessments and Voluntary Recap Amounts) may be provided in cash in Hong Kong dollars or in any other currency prescribed by HKSCC from time to time. Any Assessments required or Voluntary Recap Amounts requested of a Clearing Participant must be made in cash.

Interest on or other sums accruing to the minimum cash Basic Contribution will be appropriated by HKSCC to the Guarantee Fund. Interest at negative rates on such cash Basic Contribution will also be charged to and paid out of the Guarantee Fund.

Interest on or other sums accruing to Contributions which are made in cash and are in excess of the minimum cash Basic Contribution may be paid to the appropriate Clearing Participant as determined by HKSCC. Interest at negative rates on such cash Contributions in excess of the minimum cash Basic Contribution may be charged to the appropriate Clearing Participant as determined by HKSCC.

### **18.4 REVIEW OF CONTRIBUTIONS**

#### **18.4.1 Monthly reviews**

The Basic Contribution and Dynamic Contribution required from each Clearing Participant will be reviewed on a monthly basis, subject to Rule 2509B.

At the beginning of each month, each Clearing Participant will be advised of each of the Basic Contribution and the Dynamic Contribution required from that Clearing Participant, for that month.

#### **18.4.2 Ad hoc reviews**

If:

- (i) the daily risk exposure of the Guarantee Fund as calculated by HKSCC on each Business Day exceeds 90% of; and
- (ii) the Guarantee Fund Threshold is higher than

the existing Guarantee Fund size plus the aggregate Dynamic Contribution Credit utilized by all Clearing Participants or if HKSCC considers it appropriate to do so in any other circumstances, HKSCC may, from time to time and in its absolute discretion, review the size of the Guarantee Fund and the Basic Contribution and Dynamic Contribution required from each Clearing Participant. Such review by HKSCC may be undertaken at any time, regardless of whether or not a monthly review of Contributions has recently been, or is soon due to be, completed, subject to Rule 2509B. At a minimum, HKSCC will review the size of Guarantee Fund monthly and HKSCC may, as a result of the ad hoc review or monthly review, require additional amounts as Basic Contributions and/or Dynamic Contributions from Clearing Participants.

### **18.4.3 Collection and redelivery of Contributions following reviews**

HKSCC will notify Clearing Participants of any additional amounts required from Clearing Participants as Basic Contributions and Dynamic Contributions as a result of a review described in Section 18.4.1 and Section 18.4.2.

Similarly, following such a review, should a Clearing Participant's required Basic Contribution be less than its existing Basic Contribution, HKSCC may (but it is not obliged to) redeliver to the Clearing Participant, by means of DCIs (see Section 14), an amount that is the lesser of :

- (i) the surplus of the Clearing Participant's existing Basic Contribution over its required Basic Contribution; and
- (ii) the surplus of the Clearing Participant's Basic Contribution in cash over its minimum cash Basic Contribution.

In addition, should a Clearing Participant's required Dynamic Contribution be less than its existing Dynamic Contribution and the surplus of the existing Dynamic Contribution over its required Dynamic Contribution is in the form of cash, HKSCC may (but is not obliged to) redeliver to the Clearing Participant, by means of DCIs, an amount that is the cash surplus.

For the avoidance of doubt, HKSCC shall have the absolute right to withhold the redelivery of any surplus Basic Contribution and/or surplus Dynamic Contribution to a Clearing Participant for such period as HKSCC may from time to time consider appropriate.

### **18.4.4 Appropriation and redelivery of HKSCC resources following reviews**

If as a result of a review described in Section 18.4.1 and Section 18.4.2, additional resources should be appropriated by HKSCC as contributions to the Guarantee Fund or surplus resources should be redelivered to HKSCC, such appropriation or redelivery will under normal circumstances be effected or set aside on the same day as the day of collection from or redelivery to Clearing Participants of Contributions following such review.

## **18.5 PAYMENTS TO BE MADE OUT OF THE GUARANTEE FUND**

The payments which may be made out of the Guarantee Fund are set out in the Rules.

As an internal measure, HKSCC will seek the approval of the Risk Management Committee before recourse is made to the Guarantee Fund.

## **18.6 ASSESSMENTS, VOLUNTARY RECAPITALIZATION AND REPLENISHMENT OF GUARANTEE FUND**

### **18.6.1 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 Notice of Assessment demanding each Clearing Participant to provide Assessments, subject to the limit set out in Rule 2509. 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.

Any Assessments required from the Clearing Participants 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. HKSCC may require the amounts to be satisfied in full before any application is made. Any Assessment provided by a Clearing Participant shall form part of its Guarantee Fund Contribution Balance.

#### **18.6.2 Cessation of participation in CCASS**

A Relevant Clearing Participant's liability to provide Assessments will not be affected by its subsequent cessation of participation in CCASS, whether voluntary or involuntary.

Upon ceasing to be a Clearing Participant, 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 (less any pending applications of the Guarantee Fund, up to the time when the Clearing Participant ceased to be a Participant and, if applicable, including without limitation any outstanding obligation to provide Assessments under Rule 2509). Any such redelivery or refund will normally be made by HKSCC six months after termination of a Clearing Participant's participation in CCASS. 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.

#### **18.6.3 Limit on Clearing Participant's liability to Assessments**

The liability of a Clearing Participant to provide Assessments under Rule 2508 shall be limited in accordance with Rule 2509.

In respect of one or more Relevant Events occurring during a Capped Liability Period, the aggregate liability of a Clearing Participant to provide Assessments during a Capped Liability Period pursuant to Rule 2508 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, as prescribed in Rule 2509. For example, assume that the Clearing Participant's Basic Contribution required and Dynamic Contribution calculated on the Business Day immediate preceding the start of the Capped Liability Period is HK\$2,000,000 and the Clearing Participant is not in default. In this case, the maximum liability of the Clearing Participant to provide Assessments would be HK\$4,000,000 (i.e. the Clearing Participant would only be obliged to pay a further sum of HK\$4,000,000 in addition to its existing Contributions of HK\$2,000,000).

Clearing Participants should refer to Rule 2509 of the Rules for further details.

#### **18.6.4 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 Voluntary Recap Request Notice requesting each Clearing Participant to make 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.

#### **18.6.5 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 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.

#### **18.6.6 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.

#### **18.6.7 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.