

**CCASS OPERATIONAL PROCEDURES**

**Definitions**

- (b) When used in the Operational Procedures, the following expressions shall have the following meanings unless the context otherwise requires:

**“Recipient”**

means, in relation to corporate communications, a person or company being a non-registered holder of Eligible Securities entitled under the Listing Rules and designated by a Participant to receive corporate communications, including but not limited to SSA Statement Recipient in respect of a SSA with Statement Service of a Clearing Participant or a Custodian Participant designated by that Participant;

**“Rule Enforcement Team”**

means the division, department, section or unit of HKEX delegated from time to time by HKSCC with the responsibilities of, inter alia, investigating Participants’ compliance with the Rules and instigating disciplinary proceedings against Participants;

**Section 10**

**Exchange Trades - CNS System**

**10.8.3 Exemption from Buy-in**

HKSCC may grant an exemption from a Buy-in on behalf of a short Participant on T+3 if such Participant is able to provide HKSCC with satisfactory evidence in accordance with Section 10.8.4 that a ground for exemption as set out below applies:

- (iv) the relevant Eligible Securities are not credited to the Stock Clearing Account of the Participant applying for exemption due to the hoisting of Typhoon Signal No. 8 or above, the announcement of Extreme Conditions, the issuance of a Black Rainstorm Warning, acts of God or due to the occurrence of other events beyond the relevant Participant's reasonable control such as labour disputes, strike, mechanical breakdowns, computer or electronic system or network failures, unavailability of or restrictions on any communication media or any other event (including sanctions or the issuance of a court order or a restriction notice or order by a competent authority) as determined by HKSCC at its sole discretion to be an acceptable ground for exemption on a case-by-case basis;
- (v) in respect of oversold trades due to clerical or calculation error of the short Participant applying for exemption (or in the case of a GCP, including such oversold trades of its

NCP), the delivery obligations of the Participant applying for exemption will be settled fully on T+3 pursuant to purchase transactions executed on T+1, or, if trading of the underlying Eligible Security is suspended on T+1, within two Settlement Days after resumption of trading;

- (vi) in respect of assigned Clearing Agency Transactions, the delivery obligations of the Participant applying for exemption will be settled fully on T+3 pursuant to purchase transactions executed on T+1, or, if trading of the underlying Eligible Security is suspended on T+1, within two Settlement Days after resumption of trading;
- (vii) for trades where a client buys and sells the same Eligible Securities on the same day through different Exchange Participants, sufficient Eligible Securities which are due to be credited to the Stock Clearing Account of the delivering Participant by HKSCC for onward delivery to the Participant applying for exemption have not been so credited as a result of relevant Eligible Securities not having been made available to HKSCC by Participants with short stock positions under the CNS System for allocation on the relevant due Settlement Day;
- (viii) [Repealed]
- (x) the Participant applying for exemption can provide evidence satisfactory to HKSCC that it or the delivering Participant has sufficient Eligible Securities in its Stock Account on T+2 to cover the relevant short position and the Participant applying for exemption or the delivering Participant has received valid instruction from the selling client to make delivery of the relevant Eligible Securities for settlement on T+2 but is unable to do so due to clerical error;

#### **10.8.4 Application for exemption from Buy-in on T+3**

In respect of an exemption claimed under Section 10.8.3(v), the Participant applying for exemption will have to provide HKSCC with a copy of (i) the relevant report to the Exchange and (ii) the relevant CCASS report evidencing a purchase has been executed on T+1 to cover the shortfall of Eligible Securities. If the trading of the underlying Eligible Security is suspended on T+1, a copy of the relevant CCASS report evidencing a purchase has been executed upon resumption of trading shall be provided as soon as practicable subsequent to the submission of the application for exemption under Section 10.8.3(v).

In respect of an exemption claimed under Section 10.8.3(vi), the Participant applying for exemption will have to provide HKSCC with a copy of (i) the assignment report generated by The SEHK Options Clearing House Limited and (ii) the relevant CCASS report evidencing a purchase has been executed on T+1 to cover the shortfall of Eligible Securities. If the trading of the underlying Eligible Security is suspended on T+1, a copy of the relevant CCASS report evidencing a purchase has been executed upon resumption of trading shall

be provided as soon as practicable subsequent to the submission of the application for exemption under Section 10.8.3(vi).

In respect of an exemption claimed under Section 10.8.3(vii), the Participant applying for exemption is required to provide HKSCC with a copy of (i) the relevant bought and sold contract notes and (ii) the relevant CCASS report evidencing a matched SI.

## **Section 10A**

### **China Connect Securities Trades - CNS System**

#### **10A.6.2A Exemption from Buy-in**

HKSCC may grant an exemption from a Buy-in on behalf of a short China Connect Clearing Participant on T+1 if such China Connect Clearing Participant is able to provide HKSCC with satisfactory evidence in accordance with Section 10A.6.2B that a ground for exemption as set out below applies:

- (ii) the relevant China Connect Securities are not credited to the Stock Clearing Account of the China Connect Clearing Participant applying for exemption due to acts of God or due to the occurrence of other events beyond the relevant Participant's reasonable control such as labour disputes, strike, mechanical breakdowns, computer or electronic system or network failures, unavailability of or restrictions on any communication media or any other event (including sanctions or the issuance of a court order or a restriction notice or order by a competent authority) as determined by HKSCC at its sole discretion to be an acceptable ground for exemption on a case-by-case basis.

## **Section 20**

### **Disciplinary Action**

#### **20.5 THE DISCIPLINARY FUNCTION OF HKSCC**

##### **20.5.3 The Rule Enforcement Team**

The Rule Enforcement Team may investigate and consider grounds for bringing disciplinary proceedings, and may refer cases to the Risk Management Committee and/or the Disciplinary Committee of HKSCC under Section 20.7.1. The Rule Enforcement Team, through any one of its officers shall have conduct of disciplinary cases against the Participants. Such officer of the Rule Enforcement Team may act or appear, at the discretion of the Disciplinary Committee through a solicitor or barrister, or through any other officer of HKSCC.

**20.5.4 The Risk Management Committee**

The Risk Management Committee may receive reports from the Rule Enforcement Team under Section 20.7.1, and decide whether there should be a referral of the case to the Disciplinary Committee. The Risk Management Committee may give such other advice to the Rule Enforcement Team as it deems appropriate or as may be requested.

**20.7 REFERRAL TO THE DISCIPLINARY COMMITTEE**

**20.7.1 Referrals by the Rule Enforcement Team**

Where it appears to the Rule Enforcement Team that there are grounds for believing that a Participant has or may have committed an act of misconduct and that it is appropriate to refer the matter to the Disciplinary Committee, the Rule Enforcement Team may do so directly, or may report those grounds to the Risk Management Committee which shall then determine whether or not a referral to the Disciplinary Committee should be made.

**20.7.2 Statement of Case**

Referral to the Disciplinary Committee shall be made, and disciplinary proceedings begun, by the Rule Enforcement Team serving on the secretary to the Disciplinary Committee and on the Participant the statement of case, which shall comprise the charge or charges and a summary of the principal facts to be relied on.

**20.8 PRE-HEARING PREPARATION AND PRE-HEARING REVIEW**

**20.8.1 Initial exchange of evidence, pleas and proposed directions**

After service of a statement of case, except in cases where all charges to be proceeded with are to be admitted by the Participant:

- (a) the Rule Enforcement Team shall serve on the Participant copies of the documents on which it intends to rely and a list of the witnesses, if any, proposed to be called and a summary of the witnesses' proposed evidence;
- (b) the Participant shall serve to the Rule Enforcement Team written notice stating its intended pleas to the charges, what evidence of the witnesses, if any, served by the Rule Enforcement Team is agreed and can be read at the hearing, which documents are agreed and what admissions of facts the Participant can make;
- (c) the Rule Enforcement Team and the Participant shall then serve on each other and on the secretary of the Disciplinary Committee notice of the directions to be sought at the pre-hearing review or their assessment that there is no need for a pre-hearing review.

**20.8.2 Convening of pre-hearing review**

A pre-hearing review will be convened as soon as practicable in all cases save those in which all charges are to be admitted and those where both the Rule Enforcement Team and the Participant have agreed in writing that there is no need for a pre-hearing review.

**20.8.5 Particular directions**

Without restriction on the general power to give directions under Section 20.8.4, the Disciplinary Committee may:

- (b) with the consent of the Rule Enforcement Team and the Participant, direct the hearing or any part of the hearing to proceed by written representations;
- (g) direct the Participant to provide the Rule Enforcement Team with the names of all witnesses to be called at the hearing and their statements or an outline of the matters on which it is intended that they should give evidence;

**20.8.7 Failure to comply with pre-hearing rules and directions**

Failure by Participant to comply with Sections 20.8.1 or 20.8.4 or any directions given at the pre-hearing review shall not render the Participant liable to disciplinary proceedings, but may be commented on by the Rule Enforcement Team before the Disciplinary Committee for such inferences to be drawn as are proper in all the circumstances, and may render the Participant liable for costs, whether or not any charge is found proved.

**20.8.9 Departure by Participant from statement of defence or admissions**

A statement of defence by the Participant pursuant to Section 20.8.5(f) may be put before the Disciplinary Committee. The Participant shall not be prevented by such statement of defence, or by any admissions made to the Rule Enforcement Team or pursuant to the pre-hearing review, from putting forward any contrary or further case or from withdrawing such admissions; though in any such case the Rule Enforcement Team may invite the Disciplinary Committee to draw, and the Disciplinary Committee may draw, any inferences proper in all the circumstances.

**20.8.10 Consent order**

At any time after a referral until the opening of the hearing before the Disciplinary Committee, the Rule Enforcement Team and the Participant may without prejudice negotiate a proposed consent order and jointly submit it in writing to the Disciplinary Committee for approval.

## **20.9 THE DISCIPLINARY COMMITTEE HEARING**

### **20.9.5 Normal order of proceedings**

Unless otherwise directed by the Disciplinary Committee, the order of proceedings at the hearing shall be as follows:

- (b) the Rule Enforcement Team shall open the case;
- (c) if any charge is not admitted:
  - (i) the Rule Enforcement Team shall present evidence and/or call witnesses whom the Participant may then cross-examine, the Rule Enforcement Team re-examine, and witness(es) may be asked questions by the Disciplinary Committee;
  - (iii) the Rule Enforcement Team may address the Committee, provided that the Participant has presented or called evidence;
- (d) when any charge has been admitted or found proved, the Rule Enforcement Team shall give information as to any previous findings of misconduct which may include the findings of regulatory bodies within or outside Hong Kong;

### **20.9.16 Reservation of judgment**

If the Disciplinary Committee has reserved its judgment, it shall reconvene for the purpose of completing any proceeding and imposing any penalty. The Disciplinary Committee may give any decision in writing by delivering it to the Rule Enforcement Team and the Participant.

### **20.9.17 Written summary of decision**

At the conclusion of the disciplinary proceedings against the Participant, the Disciplinary Committee shall deliver to the Participant and the Rule Enforcement Team a written summary:

- (a) of the charges admitted;
- (b) of its findings as to whether any charges not admitted are proved;
- (c) of its findings or views on any facts or matters to which it wishes to draw attention; and
- (d) of any penalties and order for costs imposed.

### **20.9.18 Costs**

The Disciplinary Committee may order a party to the disciplinary hearing to pay such costs and expenses as it considers reasonable excluding any costs or expenses which, in the Disciplinary Committee's view, regardless of the outcome of the case, have been unnecessarily incurred. Such costs and expenses may include the remuneration and expenses of the members of the Disciplinary Committee, legal costs, administration costs and costs incurred in the investigation, preparation and presentation of the case.

In addition, costs may be awarded against HKSCC if, in the opinion of the Disciplinary Committee, the Rule Enforcement Team has behaved unreasonably in the commencement or conduct of the proceedings.

The Disciplinary Committee may determine the amount of costs to be awarded against a party to the disciplinary hearing.

Costs shall be payable within 10 Business Days of the delivery of the written notice of the order and the amount of the costs.

## **20.10 APPEAL TO THE DISCIPLINARY APPEALS COMMITTEE**

### **20.10.2 Time for appeal**

(a) Within 10 Business Days of service on it of the Disciplinary Committee's written summary, the Participant may appeal to the Disciplinary Appeals Committee by serving a notice of appeal on the Rule Enforcement Team and the secretary to the Disciplinary Committee;

### **20.10.9 Notice of the appeal hearing in other cases**

The secretary to the Disciplinary Appeals Committee shall give to the Participant and the Rule Enforcement Team not less than 10 Business Days' notice in writing of the date, time and place of the appeal hearing.

### **20.10.12 Normal order of proceeding before the Disciplinary Appeals Committee**

The normal order of proceeding will be as follows:

(b) the Rule Enforcement Team may make submissions in answer;