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通告 CIRCULAR

Subject: **Guidance on Mitigating the Risks of Self-Trades**

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The purpose of this guidance is to describe the factors that an Exchange Participant could consider to help demonstrate their internal set-ups are adequate to mitigate the risk of self-trades by different trading units that might be susceptible to inappropriate trading behaviour. It is important to note that the facts and circumstances of each group of self-trades must be considered on a case-by-case basis so that matters relevant to the case can be put into context.

Mitigating Arrangements

1) Operational Independency of Different Trading Units

- i) Matching orders should originate from units within the same firm which are independent of each other. "Units", in most cases, could be referred to trading desks, traders, individual trading strategies (i.e. algorithm or otherwise).
- ii) Sound internal controls should be in place with necessary and sufficient documentary evidence to demonstrate that different units within the firm are independent of each other. The onus lies with the firm to ensure the appropriate policies and procedures are in place. Nonetheless, some examples are:
 - a. Arrangements for segregation of each relevant unit including, but not limited to, personnel, system hardware and/or software;
 - b. Policies/procedures or internal systems, records, logs restricting access to the trading activities/positions of relevant units and ensure each unit has no knowledge of each other's orders/strategies;

- c. Segregation of the internal gateways and trading systems utilized by the relevant units;
- d. Written documentation on independence in the setup of two or more relevant units. For example, segregation policy(s) or Chinese wall setup;
- e. Details of the organisation structure, including, but not limited to, the governance structure of the relevant units, and description on how independence of the relevant units are upheld by the organisation; and
- f. Regular review by relevant control functions (e.g. Internal Audit, Compliance) to ensure adherence to the above policies and procedures by the relevant units and/or business functions.

Notwithstanding the above, the independence of different units does not relieve or exempt any trading activities conducted by them from compliance with any rules of the Exchange, nor could it be used as a defense of market misconduct behaviour.

2) Preventive Measures

- i) Appropriate pre-trade and post-trade system controls and surveillance measures should be in place to prevent, identify, minimize and review any unusual placement of orders and trades conducted between different units in a frequent manner, which may potentially cause noticeable market impact and acts of market misconduct behaviour.
- ii) Reasonable action(s) should be taken against personnel involved, taking into account their level of seniority, roles and responsibilities, intent, compliance history etc. with a view to discourage future recurrence of questionable trading behaviour.
- iii) Regular review should be conducted to ensure the independence of trading units/strategies and adherence to the relevant measures/controls, such as:
 - a. Assessment and reporting by a control function; and
 - b. Review and reporting by an independent and adequately qualified party.
- iv) Proper data retention policies and procedures should be implemented to ensure that accurate and adequate records are maintained in compliance with regulatory requirements, so that internal communications (e.g. emails, private text messages) can be monitored to identify any potential market misbehaviour in relation to self-crossed trades amongst the organisation.

3) Other Relevant Factors

- i) MSM may take into account other relevant factors in determining whether there is any potential act of false trading. As the factors and determinants surrounding each incident are often of a dynamic nature, MSM will consider them on a case-by-case basis. For example:
 - a. Repeated occurrences of the same behaviour, and across a small or large number of securities/products;
 - b. The traded volumes have made a relatively substantial contribution to a specific period(s), and across small or large number of securities/products;
 - c. The impact of the traded volumes on any noticeable price movement of the security(s);
 - d. Whether the trading activities might have given a false impression to the genuine market price or/and trading volume of the security(s);
 - e. Whether the trading activities might have misled investors and the market of the genuine level of liquidity and price of the security(s), noting that the range for substantial volume would differ for a market with limited number of players versus a market with a large array of players;
 - f. Whether the trading activities reflect the capacities and functions of a market maker, i.e. in the course of fulfilling a market maker's obligations, the matching of a market maker's order with another order from a different trading desk of the same firm (i.e. no change of beneficial ownership) should not be considered as having an intention to create a false appearance of active trading; and
 - g. Whether the trader could successfully establish the purpose(s) of his/her transactions does not bear any intention of creating a false or misleading appearance of active trading.

Note

- Exchange Participants are also reminded to consider, where and if appropriate, the adoption of the Exchange's Self-Match Prevention ("SMP") services across the Cash and Derivatives Markets to avoid inadvertent self-trades at exchange level. This allows market participants (e.g. trading units within the firm, client or client groups) to utilize the SMP-ID as an identifier for triggering SMP order cancellations either through a single or multi-brokers.
- A licensed corporation should always seek to ensure its on-going compliance with all regulatory requirements and to operate in the interest of market integrity. It should obtain its own advice with regard to compliance with applicable rules and regulations.

- MSM may conduct enquiries to ensure the firm has performed regular review and assessed any changes to relevant policies, procedures and measures/controls continue to be appropriate and effective.

HKEX would like to point out that the requirements and examples set out in this circular are by no means exhaustive. They are intended for general reference only and should not be construed as legal advice. All liabilities with respect to actions taken or not taken based on the contents of this circular are hereby expressly disclaimed. Exchange Participants should always take into consideration their own circumstances to ensure full compliance with the relevant rules and requirements and seek their own professional advice on their specific situation where appropriate.

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This circular has been issued in English together with Chinese translation of the same. If there is any discrepancy between the Chinese translation and the English version, the English version shall prevail.