

## **CHAPTER 3**

### **OPTIONS EXCHANGE PARTICIPANTS' OBLIGATIONS**

#### **Compliance with the Options Trading Rules**

301. Each Options Exchange Participant shall at all times:-

- (1) adhere strictly to, and be bound by, these Options Trading Rules, the Operational Trading Procedures and any conditions set out in the notice of approval of its Options Exchange Participantship; and
- (2) comply with the decisions, directions, directives, guidelines, determinations, findings of fact and/or interpretation of the Board and/or any other person or body of persons in the exercise or performance of any right, power, privilege, discretion, function, duty or obligation conferred on them by or pursuant to these Options Trading Rules, the Operational Trading Procedures, the Clearing Rules, the Operational Clearing Procedures, the Exchange Rules and, to the extent applicable, the HKSCC Rules.

#### **Continuing Obligations**

302. Each Options Trading Exchange Participant shall at all times:-

- (1) be an Exchange Participant and in compliance with the Exchange Rules;
- (2) notify the Exchange in writing immediately upon:
  - (a) [Repealed]
  - (b) [Repealed]
  - (c) any change in the information supplied to the Exchange on the Request for Connection to HKATS Form
- (3) [Repealed]
- (4) have arrangements in place for the clearing of all OCH Contracts arising from its Exchange Traded Options Business either:-
  - (a) by being, and maintaining its status as, a SEOCH Participant; or
  - (b) by having a valid, binding and effective Clearing Agreement with at least one GCP pursuant to which such one or more GCPs agree to clear the OCH Contracts of that Options Trading Exchange Participant.

Unless or until the Options Trading Exchange Participant is or becomes a SEOCH Participant or has a valid, binding and effective Clearing Agreement with a GCP, it shall not be allowed to trade Options Contracts on or through the facilities of the Exchange;

- (4A) where it is an NCP and has entered into Clearing Agreements with more than one GCP, ensure that each of its trades is designated to the relevant GCP for clearing

on the basis of the HKATS log-in through which the trade is executed or in such other manner as the Exchange may specify, and have arrangements in place to notify the GCP of such designation. An NCP which has appointed only one GCP to clear its trades is deemed to have all trades executed by itself designated to the GCP for clearing;

- (5) comply with all applicable provisions of the Clearing Rules and the Operational Clearing Procedures;
- (6) pay all amounts of margin, Settlement Amount and Premium payable by it when due;
- (7) before writing an Options Contract or before exercising an OCH Contract or an NCP Contract, ensure that it will be able to satisfy any resulting delivery obligations;
- (8) have installed at one or more registered business addresses such computer equipment and software as may be specified by the Exchange and the Options System Operator for gaining access to HKATS and ensure that such computer equipment is operated and maintained in accordance with the requirements of the Exchange;
- (9) have in place, to the satisfaction of the Exchange, staff and internal operating and security procedures necessary, amongst other things, to enable it always to have access to HKATS for the purpose of conducting its Exchange Traded Options Business and, where applicable, for processing instructions from its clients and for the purpose of providing professional services to its clients;
- (10) [Repealed]
- (11) pay all levies, duties, charges and fees payable from time to time by it in its capacity as an Options Trading Exchange Participant when due;
- (12) maintain accurate daily records of all Contracts to which it is or has been party and of its Exchange Traded Options Business, and make such regular and other returns as may from time to time be required by the Exchange; and
- (13) [Repealed]
- (14) be able to demonstrate, to the satisfaction of the Exchange, the ability to comply with the above at all times.

302A. Each Options Broker Exchange Participant shall at all times:-

- (1) be an Exchange Participant and in compliance with the Exchange Rules;
- (2) [Repealed]
- (3) [Repealed]
- (4) have in place exclusively with one Options Trading Exchange Participant, which is a Direct Clearing Participant of SEOCH or a GCP, an Options Broking Agreement;

- (5) if the Options Broker Exchange Participant is, or becomes, subject to the Long-Only Restriction to inform such Options Trading Exchange Participant of this restriction;
  - (6) before giving instructions to an Options Trading Exchange Participant to write an Options Broker Client Contract, or to exercise an Options Broker Client Contract, ensure that it will be able to satisfy any resulting delivery obligations;
  - (7) have in place, to the satisfaction of the Exchange, staff, computer equipment and internal operating and security procedures necessary, amongst other things, to enable it always to have access to updated price information regarding options traded on the Exchange for the purpose of conducting its Exchange Traded Options Business and, where applicable, for processing instructions from its clients and for the purpose of providing professional services to its clients;
  - (8) [Repealed]
  - (9) pay all levies, duties, charges and fees payable from time to time by it in its capacity as an Options Broker Exchange Participant when due;
  - (10) maintain accurate daily records of all Contracts to which it has been party and of its Exchange Traded Options Business, and make such regular and other returns as may from time to time be required by the Exchange; and
  - (11) [Repealed]
  - (12) be able to demonstrate, to the satisfaction of the Exchange, the ability to comply with the above at all times.
- 302B. (1) It is the duty of every Options Exchange Participant to ensure that any systems it uses for the purposes of conducting its Exchange Traded Options Business, including accounting system and back-office clearing and settlement systems, shall be Year 2000 Compliant.
- (2) An Options Exchange Participant shall immediately report any failure, error or defect in its systems which is directly or indirectly caused by its systems not being Year 2000 Compliant and rectify such failure, error or defect. All losses, damages, demands, costs (including legal costs) and expenses arising out of directly or indirectly as a result of or in connection with any failure, error or defect shall be borne by the Options Exchange Participant concerned.
  - (3) The Exchange, HKFE and a recognized exchange controller which is the controller of the Exchange shall have no liability for any losses, damages, demands, costs (including legal costs) and expenses suffered or incurred directly or indirectly as a result of or in connection with the Options System or any system upon which the Exchange, HKFE or a recognized exchange controller which is the controller of the Exchange is/are reliant in the operations of the Options System is not Year 2000 Compliant.
- 302C. The Exchange may enter into an arrangement, provided that the Board considers the arrangement to be conducive to the object of the market, with any person or body which, in the opinion of the Board, exercises a regulatory function under Hong Kong or under

foreign law. Where the Exchange has entered into such an arrangement, the Board may from time to time prescribe, in the context of such arrangement, the characteristics of a person an Options Exchange Participant is or is not entitled to treat as a client, the types of orders that an Options Exchange Participant may accept from a client and the procedures that an Options Exchange Participant must follow in accepting and handling orders from a client, including the documentation which must be provided to the client and the documentation and any representations that must be obtained from the client and maintained by the Options Exchange Participant, and such other criteria as the Board may consider appropriate with reference to particular Options Contracts specified by the Board.

303. [Repealed]

304. [Repealed]

### **Transaction Levies and Investor Compensation Levy**

305. Applicable SFC Transaction Levy at the rate for the time being specified by the Ordinance shall be paid in respect of each Options Contract. No AFRC Transaction Levy and Investor Compensation Levy are payable in respect of each Options Contract in accordance with the Accounting and Financial Reporting Council Ordinance and the Securities and Futures (Investor Compensation – Levy) Rules respectively. The SFC Transaction Levy, the AFRC Transaction Levy and the Investor Compensation Levy at the rates for the time being specified in the Securities and Futures (Levy) Order, the Accounting and Financial Reporting Council Ordinance and the Securities and Futures (Investor Compensation - Levy) Rules respectively, shall be paid in respect of every purchase and sale of underlying securities pursuant to the exercise of an OCH Contract.

### **No Transfer of Options Trading Exchange Participantship**

306. Options Exchange Participantship shall not be capable of being transferred except with the permission of the Board, and no Options Exchange Participant shall attempt to sell or transfer its Options Exchange Participantship.

307. An Options Exchange Participant must not pledge or mortgage, or create any trust, charge, lien or other encumbrance over, its Options Exchange Participantship.

308. An Options Exchange Participant must not assign any of its rights, benefits or privileges as an Options Exchange Participant and such rights, benefits and privileges shall be incapable of assignment.

309. The Exchange will not recognize, be bound by or in any way be compelled to recognize (even if it has notice of the same) any purported dealing or disposal made in contravention of Options Trading Rules 306 to 308 (inclusive).

### **Resignation as an Options Exchange Participant**

310. An Options Exchange Participant may resign its Options Exchange Participantship by giving written notice at any time to the Exchange of its intention to do so.

311. Following any notice of resignation, the Exchange may take any of the steps set out in Options Trading Rule 704 and give such directions to the resigning Options Exchange Participant as the Exchange shall think fit in order, among other things, to ensure the

orderly winding down of its Exchange Traded Options Business, including requiring the Options Exchange Participant to close, give-up or allow the expiration of Contracts to which it is party.

312. The resignation of an Options Exchange Participant shall take effect only when there remain no open positions of that Options Exchange Participant, all its delivery obligations have been met, all its obligations to the Exchange and SEOCH, as applicable, have been met, and the Exchange notifies the Options Exchange Participant that its Options Exchange Participantship is cancelled pursuant to these Options Trading Rules.
313. [Repealed]
314. If an Options Exchange Participant, in its capacity as an Exchange Participant, gives notice to the Board to relinquish all of the Stock Exchange Trading Rights registered in its name at that time, it shall, upon giving any such notice, be treated as having given notice of resignation as an Options Exchange Participant and Options Trading Rules 311 and 312 shall apply accordingly.
315. Every NCP or Options Broker Exchange Participant which gives notice of resignation of its Options Exchange Participantship to the Exchange shall, at the time it gives such notice or within such time period specified by the Exchange, submit for approval to the Exchange a plan for the orderly winding down of its Exchange Traded Options Business including, but not limited to, the closing, give-up, exercise or expiration, in accordance with these Options Trading Rules and the Clearing Rules, of all Contracts to which it is party, and shall provide a copy of such plan at the same time, if it is an NCP, to each GCP with whom it has a Clearing Agreement or, if it is an Options Broker Exchange Participant, to the Options Trading Exchange Participant with whom it has an Options Broking Agreement.

### **Incapacity**

316. If any of the events giving rise to incapacity in the Exchange Rules occurs in relation to an Exchange Participant which is also an Options Exchange Participant, that Exchange Participant shall be treated as having given a notice of resignation as an Options Exchange Participant and of its Options Exchange Participantship on the date of such event, and Options Trading Rules 311 and 312 shall apply accordingly.

### **Confidentiality by the Exchange**

317. All information in the possession of the Exchange relating to an Options Exchange Participant or its clients will be kept confidential by the executives and other staff or officers of the Exchange and HKEX having access to the same in accordance with procedures made by the Exchange. The Exchange, however, may disclose any information at any time:-
- (1) to SEOCH;
  - (2) to the Commission;
  - (3) to HKSCC;
  - (4) to HKFE;

- (5) to any insurer, insurance broker or banker in connection with the arrangement of support for the Reserve Fund;
- (6) to any professional advisers or consultants of the Exchange;
- (7) as required by the laws of Hong Kong;
- (8) to any exchange, clearing house, regulatory authority or any organization (whether in Hong Kong or elsewhere) with whom HKEX or the Exchange has entered into an information sharing arrangement or agreement;
- (9) to any recognized exchange controller;
- (10) to any company of which a recognized exchange controller which is a controller of the Exchange is a controller, or
- (11) to the chief executive or the chief operating officer of HKEX for the time being appointed or deemed to be appointed in accordance with the Ordinance or, as the context may require, their designees,

provided that, in any such case, the confidentiality of the information is made known to the recipient.

317A. The Board may direct an Options Exchange Participant to provide it with any information requested by an exchange, clearing house, regulatory authority or an organization (whether in Hong Kong or elsewhere) with whom HKEX or the Exchange has entered into an information sharing arrangement or agreement.

#### **Fees**

318. The fees and charges set out in the Fee Schedule shall be payable by Options Exchange Participants in respect of the functions specified in the Fee Schedule. These fees and charges, and the functions in respect of which they are payable, may be added to, changed or withdrawn at any time.