

MEMORANDUM OF UNDERSTANDING

BETWEEN

SECURITIES AND FUTURES COMMISSION

AND

HONG KONG EXCHANGES AND CLEARING LIMITED

ON

MATTERS RELATING TO:

- SFC OVERSIGHT**
- SUPERVISION OF EXCHANGE PARTICIPANTS**
- MARKET SURVEILLANCE**

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- MARKET SURVEILLANCE

BETWEEN:

- (1) SECURITIES AND FUTURES COMMISSION of 12th Floor, Edinburgh Tower, the Landmark, 15 Queen's Road Central, Hong Kong ("SFC"); and
- (2) HONG KONG EXCHANGES AND CLEARING LIMITED of 12th Floor, One International Finance Centre, 1 Harbour View Street, Central, Hong Kong ("HKEx")

1. Interpretation

1.1 Definitions

Unless the context otherwise requires, the following expressions shall have the following respective meanings :

"business risk"	where operational or financial failure of a market participant could adversely affect the operations of or lead to financial loss to HKEx, or an Exchange Company or clearing house
"CCASS"	the Central Clearing and Settlement System operated by HKSCC
"clearing participant"	a clearing participant within the meaning of the SFC Ordinance and the Merger Ordinance, other than an investor participant of CCASS
"Exchange Company"	an Exchange Company within the meaning of the SFC Ordinance
"exchange participant"	<p>means a person:</p> <p>(a) who, in accordance with the rules of an Exchange Company, may trade on or through the Exchange Company; and</p> <p>(b) whose name is entered on a list, register or roll kept by an Exchange Company as a person who may trade on or through the Exchange Company.</p> <p>Under the rules of SEHK and HKFE, an exchange participant must be a person registered with the SFC within the meaning of the Securities Ordinance or the Commodities Trading Ordinance, as the case may be</p>
"HKFE"	Hong Kong Futures Exchange Limited

"HKSCC"	Hong Kong Securities Clearing Company Limited
"market participant"	means a clearing participant or an exchange participant
"Merger Ordinance"	Exchanges and Clearing Houses (Merger) Ordinance (Cap 555)
"MOU"	this Memorandum of Understanding
"relevant Ordinances"	the relevant Ordinances as defined in the SFC Ordinance
"Rules"	means rules of a recognized exchange controller as defined in the Merger Ordinance, rules of the Exchange Company as defined in the Commodities Trading Ordinance, rules made under section 34 of the Stock Exchanges (Unification) Ordinance except for rules made in relation to listing, and rules as defined in the Securities and Futures (Clearing Houses) Ordinance
"SEHK"	The Stock Exchange of Hong Kong Limited
"SFC Ordinance"	the Securities and Futures Commission Ordinance (Cap. 24)

1.2 Construction

In the interpretation of any of the provisions of this MOU such provisions shall receive such fair, large and liberal construction and interpretation as

will best ensure the attainment of the objects of this MOU according to its true intent, meaning and spirit.

2. Reasons for Memorandum of Understanding

2.1 On 6 March 2000, SEHK, HKFE and the clearing houses became wholly-owned subsidiaries of HKEx.

2.2 HKEx is responsible, as a recognized exchange controller, for ensuring so far as is reasonably practicable an orderly and fair market in securities and futures contracts traded on or through an Exchange Company of which it is the controller. It is the duty of :

2.2.1 HKEx and an Exchange Company, to each ensure so far as is reasonably practicable, an orderly and fair market in securities or futures contracts traded on or through an Exchange Company;

2.2.2 HKEx, an Exchange Company and a clearing house, to each ensure, so far as is reasonably practicable, that risks are managed prudently; and

2.2.3 HKEx to ensure, so far as is reasonably practicable, that the Exchange Company or clearing house, as the case may be, complies with any lawful requirement placed on it under any enactment or rule of law and with any other legal requirement placed on it.

2.3 Under the Merger Ordinance, HKEx, an Exchange Company and a clearing house shall each act in the interests of the public, having particular regard to the interests of the investing public, and ensure that where such interests conflict with any other interests that it is required to serve under any other law, the former shall prevail.

- 2.4 The SFC is responsible for supervising and monitoring the activities of HKEx, the Exchange Companies and clearing houses and approving any fees imposed by HKEx, an Exchange Company or clearing house, in its capacity as a recognized exchange controller, an Exchange Company or clearing house, as the case may be as well as administering and enforcing the relevant Ordinances.
- 2.5 Except in relation to management of business risk, and the enforcement of their own trading and clearing rules, HKEx, the Exchange Companies and clearing houses are no longer responsible for front-line prudential and conduct regulation of market participants, which is the responsibility of the SFC.
- 2.6 The existing Memoranda of Understanding between the SFC and HKFE dated October 1989 and between the SFC and HKSCC dated 29 May 1992 are repealed and superseded by this MOU.
- 2.7 This MOU is entered into by the parties in good faith and for the purposes of:
- 2.7.1 facilitating a co-operative working relationship between the parties;
 - 2.7.2 HKEx to the extent permitted by law co-operating with and assisting the SFC to effectively perform its functions under the relevant Ordinances and hereunder and the SFC to the extent permitted by law co-operating with and assisting HKEx, the Exchange Companies and clearing houses to effectively perform their functions in their capacity as a recognized exchange controller, an Exchange Company or clearing house, as the case may be;

2.7.3 setting out the arrangements between the parties in relation to sharing of information, notification and referral of matters in relation to the SFC's functions under the relevant Ordinances and hereunder and HKEx's functions performed in its capacity as a recognized exchange controller; and

2.7.4 clarifying the parties' understandings in relation to the submission for approval of proposed amendments to the Rules of and fees to be charged by HKEx, the Exchange Companies and clearing houses in its capacity as a recognized exchange controller, an Exchange Company or clearing house, as the case may be.

3. Status of MOU

3.1 The parties acknowledge and agree that this MOU does not create any legally enforceable rights or impose any legally binding obligations including any direct or indirect rights on the part of third parties. This MOU sets forth a statement of intent of HKEx and the SFC regarding the arrangements and procedures for facilitating the performance of their respective functions.

3.2 Each of the parties shall use all reasonable endeavours to:

3.2.1 maintain a good working relationship with the other with respect to all matters referred to herein;

3.2.2 cooperate with the other in complying with the provisions hereof;
and

3.2.3 perform its obligations hereunder,

fully, in good faith and to the best of its ability.

- 3.3 In the case of a failure or refusal of HKEx or an Exchange Company or clearing house to comply fully with the provisions of this MOU, then the SFC may, in its absolute discretion, take any action it considers necessary or desirable in the public interest and may exercise its powers as it deems necessary under any applicable legislation. In the case of a failure or refusal by either party to comply with the provisions of this MOU, the other party hereto may unilaterally terminate this MOU by giving not less than 14 days written notice (which shall include the reason or reasons for such termination) to the other party.
- 3.4 Prior to the SFC taking any action it considers necessary or desirable in the public interest or exercise its powers as it deems necessary under any applicable legislation under paragraph 3.3, it shall give HKEx a reasonable opportunity of being heard.
- 3.5 This MOU is a public document and the contents hereof may be disclosed and copies may be furnished by any party hereto to any third party without the consent of the other party hereto.
- 3.6 Nothing in this MOU shall affect the right of the SFC to exercise any of its powers or perform any of its functions under any of the relevant Ordinances.
- 3.7 Nothing in this MOU shall affect the right of HKEx, the Exchange Companies and clearing houses to exercise their rights and powers and perform any of their functions under any of the relevant Ordinances.

4. HKEx's Obligations

HKEx agrees and undertakes as follows:

- 4.1 HKEx shall to the extent permitted by law provide full co-operation and assistance as may be requested by the SFC or provided under this MOU to

assist the SFC to effectively perform its functions under the relevant Ordinances and hereunder.

- 4.2 HKEx shall be responsible for the front line regulation of the trading operations of exchange participants conducted through an Exchange Company. It shall ensure a clear articulation of its standards which are generally acceptable.
- 4.3 HKEx shall establish and maintain a risk management framework for monitoring and managing the business risks of HKEx, the Exchange Companies and clearing houses. It shall monitor and control risks on any market operated by HKEx or an Exchange Company with a view to limiting systemic impact on the financial market in Hong Kong.
- 4.4 HKEx shall ensure that its Rules and procedures are continually reviewed and updated as necessary so as to reflect its operations and practices from time to time.
- 4.5 HKEx shall so far as reasonably practicable maintain an orderly and fair market by putting in place an appropriate system to implement the sound functioning and development of its trading, settlement and operational systems so as to minimise interruption or systemic impact on the markets operated by HKEx or an Exchange Company in the event of any trading, settlement and operational systems failure.
- 4.6 HKEx shall oversee the activities of market participants in the trading and clearing systems of the securities and futures markets operated by it, the Exchange Companies and clearing houses, in its capacity as a recognized exchange controller, an Exchange Company or clearing house, as the case may be. It shall so far as reasonably practicable put in place an appropriate system to promote compliance by market participants with trading and clearing rules and shall take necessary actions against market participants for breach of those rules. Where necessary, in accordance with applicable

Rules of HKEx, the Exchange Companies or clearing houses, it shall be prepared on an urgent basis to exercise its powers to suspend, restrict or otherwise vary the trading or clearing and settlement rights of market participants.

- 4.7 The SFC notes that HKEx is considering separating its depository and nominee services businesses from its clearing business to the extent practicable. The SFC acknowledges that this MOU has no application to the depository and nominee services businesses so separated.
- 4.8 HKEx shall promote market transparency by monitoring price and turnover movements on the markets operated by HKEx or an Exchange Company on a real time basis and by requiring prompt disclosure of price sensitive information to the public.
- 4.9 HKEx shall monitor concentrations in positions and/or unusual price or volume fluctuations of the equities, futures contracts, options and derivative products traded on the markets operated by it or an Exchange Company.
- 4.10 HKEx shall conduct cross-market surveillance in connection with the markets operated by HKEx or any Exchange Company by putting in place an appropriate system to implement appropriate risk management measures and monitor compliance with its Rules.
- 4.11 HKEx shall consider from time to time and to the extent it considers appropriate entering into appropriate co-operative arrangements with other agencies, both local and overseas, to assist itself to effectively manage risk and perform its functions as a recognized exchange controller provided the SFC shall to the extent permitted by law assist HKEx in complying with the obligations and duties under these co-operative arrangements.

- 4.12 HKEx shall administer its Rules fairly and efficiently and deal fairly and efficiently with disputes, complaints and enquiries in relation to trading, clearing and settlement matters in the markets operated by HKEx or an Exchange Company.
- 4.13 HKEx shall have a disciplinary system that will deal with matters appropriately and impose penalties for proven breach of its Rules.
- 4.14 HKEx shall as soon as practicable notify the SFC of matters designated as serious as set out in Appendix I.
- 4.15 HKEx shall be responsible for receiving notifications and disseminating such information of changes in shareholding interests of directors, chief executives and substantial shareholders of listed companies that are discloseable under the Securities (Disclosure of Interests) Ordinance.

5. SFC's Obligations

The SFC agrees and undertakes as follows:

- 5.1 The SFC is responsible for the licensing and the regulation of the conduct of all registered persons (including market participants) and for detecting misconduct which may be in breach of a relevant Ordinance or which may impugn the fitness and properness of a registered person.
- 5.2 The SFC shall institute appropriate surveillance programs for monitoring and enforcing compliance with statutory, financial resources and other requirements and ensuring that market participants put in place proper systems of internal control and risk management.
- 5.3 The SFC shall be responsible for monitoring market activities to detect potential breaches of laws, and infringements of the codes, rules and regulations that it administers relating to the securities and futures markets

and for conducting investigations of such breaches and infringements, including those detected by it through daily surveillance and those referred by HKEx, other agencies and complaints from the public.

5.4 The SFC shall be responsible for enforcing the laws and the codes, rules and regulations that it administers relating to the securities and futures markets by taking appropriate prosecution and disciplinary actions against those in breach of such laws, codes, rules and regulations.

5.5 The SFC shall to the extent permitted by law provide full co-operation and assistance as may be requested by HKEx or provided under this MOU to assist HKEx, the Exchange Companies and clearing houses to effectively perform their functions under the relevant Ordinances and hereunder.

5.6 The SFC shall as soon as practicable notify HKEx, or any Exchange Company or clearing house of matters designated as serious as set out in Appendix I.

5.7 In carrying out its functions, the SFC shall endeavour not to increase the operating costs of HKEx without reasonable cause.

5.8 In carrying out its functions, the SFC shall strive to achieve consistency of treatment to any persons, including HKEx, the Exchange Companies, the clearing houses and other persons, regulated by the SFC who perform similar functions in the securities and futures markets in Hong Kong.

6 Regulatory Rationalization

HKEx and the SFC are co-operating to remove from the jurisdiction of HKEx all matters that relate to the licensing, prudential regulation or conduct of market participants by amending the Rules to make adequate provision for such matters. This paragraph shall not affect the rights and powers of HKEx, the Exchange Companies and clearing houses in relation to the admission of market participants

to the markets and facilities provided by HKEx, the Exchange Companies and clearing houses.

7. Rule Amendments

It is a statutory requirement that any amendments to the constitution and Rules of HKEx or the Exchange Companies or clearing houses are approved by the SFC (save in respect of Rules of a class declared by the SFC not to require such approval). The procedure for seeking approval for such amendments shall be as set out in Appendix V.

8. Fees

In accordance with the provisions of the Merger Ordinance, fees to be imposed by HKEx or an Exchange Company or a clearing house in its capacity as a recognized exchange controller, an Exchange Company or clearing house as the case may be, must be approved in writing by the SFC. In relation to such approval of fees:

8.1 HKEx shall engage the involvement of the relevant SFC staff at a stage of the process which will reasonably enable the SFC to have sufficient knowledge of the nature of the proposed variation in the fees it charges as set out in the Rules, the addition of new fees thereto and raise issues of concern. HKEx and the relevant SFC staff shall endeavour to resolve all issues of concerns within 1 month from the time HKEx shall first approach the relevant SFC staff or such other time frame as agreed between the parties.

8.2 If the matter referred to in paragraph 8.1 above cannot be resolved between the relevant SFC staff and HKEx, the relevant SFC staff shall immediately upon the expiry of the 1 month period or such other time frame as agreed between the parties notify HKEx in writing the issues and reasons of concern and the proposals or recommendations that the relevant SFC staff may have. Upon the issue of the notification by the relevant SFC staff to

HKEx, HKEx shall have the right to make written representations to the Commission and seek the Commission's views on the matter.

8.3 HKEx agrees that proposals for variation in the fees it charges as set out in the Rules and addition of new fees thereto shall be accompanied by such information as HKEx can reasonably obtain and where applicable, setting out comparable fees charged by exchanges or clearing houses in the US, UK, Germany, Singapore and Australia and in such other markets as may be agreed between the SFC and HKEx in a particular case.

8.4 The SFC acknowledges that, in reviewing proposals for variation in the fees and addition of new fees to be charged by HKEx, its primary concerns will be to ensure that HKEx does not abuse a monopoly position whether by way of charging excessive or predatory fees or otherwise and does not unduly discriminate against particular market participants or a class of market participants.

9. Risk Management

HKEx shall establish and maintain an appropriate risk management framework for monitoring and managing the business risks of HKEx, the Exchange Companies and clearing houses. In particular, HKEx shall set up and maintain reserve and guarantee funds, insurance arrangements, margining levels and mechanisms to control intra day risks and co-operate with the SFC to ensure the development, enhancement and operation of CCASS and any other clearing and settlement systems for products traded on its markets are consistent with the Rules. A risk management committee shall be established and maintained by HKEx in accordance with the Merger Ordinance. The risk management committee shall formulate policies on risk management matters relating to the activities of HKEx, the Exchange Companies and the clearing houses and shall submit such policies to the Board of HKEx for its consideration.

10. Enhancement of the Financial Infrastructure

HKEx agrees that it will put in place a system to review its trading and settlement systems, having regard amongst other things to the recommendations set out in the Report of the Steering Committee to Enhance the Financial Infrastructure and where practicable, endeavour to implement measures to enhance these systems to address the changing needs of the financial market in Hong Kong in a cost effective manner.

11. SFC Review

The SFC has a statutory responsibility for supervising and monitoring the activities of HKEx, the Exchange Companies and clearing houses. Those activities include the trading, clearing and settlement operations, market surveillance, regulation and risk management functions of HKEx, the Exchange Companies and clearing houses to the extent that those are linked to the clearing and settlement services provided by the clearing houses. In discharge of its responsibility, the SFC may carry out onsite reviews on the operations of HKEx, the Exchange Companies and clearing houses. When such reviews are conducted:

11.1 HKEx shall co-operate with the SFC in all reviews to be conducted by the SFC from time to time.

11.2 HKEx shall provide SFC officers involved in such reviews reasonable access to the extent permitted by law during normal business hours to HKEx's premises, relevant personnel and documents relevant to the performance by HKEx of its functions in its capacity as a recognized exchange controller. HKEx shall to the extent permitted by law and as requested by the SFC make copies of such documents available to SFC officers involved in the audit or review.

11.3 The parties shall agree the scope, the time schedule and the documents required of any review within a reasonable time from the SFC's proposal of a review. After agreement, HKEx shall have at least 14 days prior to the

commencement of the field work of such review to prepare the necessary documents required by the SFC. The SFC shall give reasonable notice to HKEx if it requires to interview any relevant staff of HKEx, an Exchange Company or clearing house in respect of the functions relevant to the interview and shall conduct such interviews at a time convenient to all parties.

11.4 The SFC agrees to provide HKEx with a draft report on the findings of its review within 30 days of completion of the review. HKEx will consider the draft report and endeavour to revert to the SFC with any comments within 14 days or such other time frame as agreed between the parties. Upon receipt of HKEx's comments, the SFC will within the next 14 days or such other time frame as agreed between the parties clarify the comments and make any necessary inquiries with HKEx. The SFC, after considering all comments and explanations provided by HKEx, will provide a final report to HKEx within the next 14 days.

11.5 HKEx will use best endeavours to ensure satisfactory and timely implementation of necessary improvements identified in a SFC review. In the case where HKEx does not agree to a finding, a recommendation and a need to implement any improvement identified by the SFC, HKEx shall have the right to make written representations to the Commission and seek the Commission's views on the matter. Pending the Commission's views, the improvement(s) in dispute shall not be implemented.

12. Serious Matters

Where HKEx, in the course of performing its functions in its capacity as a recognized exchange controller, or as a result of complaints or market intelligence, becomes aware of a serious matter as set out in Appendix I, as amended from time to time in accordance with paragraph 12.1, HKEx will, to the extent permitted by law, notify the SFC as soon as practicable. Where the SFC, in the course of performing its functions under the relevant Ordinances and hereunder becomes

aware of a serious matter which may affect the markets and facilities operated by HKEx, the Exchange Companies and/or clearing houses the SFC will, to the extent permitted by law, notify HKEx as soon as practicable. In respect of such notifications, the following matters are agreed:

- 12.1 The SFC and HKEx will agree upon the criteria to determine the matters that are regarded by them as serious matters for the purposes of this MOU and acknowledge that the designation of these matters may vary from time to time. Appendix I sets out a list of serious matters which have been so agreed upon by the SFC and HKEx.
- 12.2 Notification of serious matters will be made to the designated officers of the SFC and HKEx. Where the circumstances of the case indicate urgency, notification may be made orally. The designated officers of both parties may be set out in a side letter.
- 12.3 The responsible party shall take appropriate regulatory actions and advise the other party of its actions taken and update the other party regularly on the progress of its follow up actions.

13. General Referrals by HKEx

HKEx shall, to the extent permitted by law and if necessary with the consent of the relevant parties refer to the SFC from time to time all alleged or suspected violations of Ordinances or of codes, rules and regulations made by the SFC relating to the securities and futures markets of which it becomes aware either from market participants, other agencies or the public, where the matter in the opinion of HKEx appears to be relevant to the SFC's functions under the relevant Ordinances and hereunder. The SFC does not require a referral to include information that may in HKEx's view be regarded as merely anecdotal or which lacks credibility. In respect of such referrals, the following matters are agreed:

- 13.1 HKEx shall notify the SFC, as soon as reasonably practicable, of any detected trading malpractices in the markets operated by HKEx or an Exchange Company that appear to HKEx to be in breach of an Ordinance or any rules made under an Ordinance (e.g. rat trading, insider dealing and market manipulation) or that in HKEx's view impugn the fitness and properness of a SFC registrant. HKEx shall, if reasonably possible, provide a brief summary on the matters so detected to facilitate the SFC's investigation into the matter.
- 13.2 HKEx shall notify the SFC, as soon as reasonably practicable, of all complaints lodged by the public concerning a market participant and provide such a brief summary of the matters to facilitate the SFC's investigation into the matter.
- 13.3 HKEx shall to the extent permitted by law notify the SFC, as soon as reasonably practicable, of suspected serious breach of legislative provisions in relation to securities and futures trading and/or clearing by a market participant other than those mentioned in this paragraph, such as money laundering.

14. **Sharing of Information Between the SFC and HKEx**

In order to assist each other in performing their functions under the relevant Ordinances and hereunder, the SFC and HKEx agree to provide information to the other party in order for the other party to carry out such functions. The information that each party will provide to the other are set out in Appendices II and III. In respect of such information provided, each party agrees to use reasonable endeavours to give reasonable prior notice regarding any changes made or enhancements to any of the specified forms and data formats to be provided in order that the other party may make changes necessary for data acceptance.

15. Referrals by the SFC

The SFC shall, to the extent permitted by law, notify HKEx where it suspects that there has been conduct that may warrant disciplinary or other action by HKEx. The SFC shall provide to HKEx such additional information in relation to any such matter as it may provide consistent with its obligations under the law.

16. Financial Requirements Under the Financial Resources Rules

Exchange participants are required by law to comply with the minimum liquid capital requirements of the Financial Resources Rules (“FRR”) that are applicable to their registration with the SFC. In respect of the FRR, the parties agree that in order to assist HKEx in monitoring the financial position of exchange participants, and to avoid an unnecessary reporting burden on exchange participants, the SFC shall provide HKEx with relevant data from exchange participants’ financial returns filed with the SFC in an agreed electronic format and at an agreed time schedule and interval. The SFC shall notify HKEx of any modification of an exchange participant’s financial requirements under the FRR as and when approval is given by the SFC. The SFC shall to the extent permitted by law assist HKEx in understanding the data provided.

17. Contingency Arrangements in Market Surveillance

Each party shall agree to allow authorised personnel of the other party access to its systems, facilities or software applications in relation to market surveillance installed at its premises during normal business hours and make available other facilities for the authorised personnel of the other party to communicate and copy the information and data however it be recorded in the event of a system failure by either party. Each party agrees that the other party is not required to provide additional systems, facilities or software applications in relation to market surveillance other than those already in use by it on the day of the failure. Each party shall give reasonable notice to the other party of such access request, and the access shall be conducted in a controlled environment acceptable to the other party.

18. Cross Market Contingency Plan

HKEx shall formulate and maintain a cross market contingency plan. The plan will be reviewed and tested from time to time. HKEx will consult the SFC prior to any material amendments to the plan.

19. Consultation In the Event of Certain Matters Affecting CCASS or HKSCC

The SFC has a statutory duty to supervise and monitor the activities of clearing houses. Accordingly, HKEx hereby undertakes to consult the SFC if there is an intention to take certain actions affecting CCASS or HKSCC as set out in Appendix IV.

20. Investor Compensation

HKEx agrees to use all reasonable endeavours to provide assistance as requested by the SFC in relation to new investor compensation arrangements in Hong Kong.

21. SFC and HKEx Contacts and Co-ordination

21.1 The SFC and the HKEx shall advise each other (from time to time) of the names of the persons to act as the primary and secondary points of contact for each organization. Should either of the primary point of contact be absent, the secondary point of contact should be contacted.

21.2 The SFC and HKEx shall meet regularly, and not less than quarterly, in order to discuss matters that are the subject of this MOU, including the progress of matters relating to SFC oversight, risk management, sharing of information, supervision of exchange participants, enforcement actions and market surveillance.

22. Confidentiality

22.1 If requested by HKEx, the SFC shall, subject to law, provide on a confidential basis relevant information to HKEx.

22.2 The provision of information is made on the understanding that such information shall be used only for the purposes of assisting HKEx in performance of its functions under the relevant Ordinances and hereunder, or as expressly permitted by the SFC. HKEx shall not disclose such information to any third party (save for its directors, staff and professional advisors where the information is relevant to the performance of their services to HKEx) without the prior written consent of the SFC. HKEx shall establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of information provided to it by the SFC.

23. Effective Date and Termination

23.1 This MOU shall come into force on 20 February 2001 or such other date as may be mutually agreed in writing between the SFC and HKEx.

23.2 The SFC and HKEx agree to keep the operation of this MOU under review and to consult each other with a view to improving its operation and resolving any matters.

23.3 This MOU may be amended at any time by written agreement between the SFC and HKEx. The content of any Appendix to this MOU may be amended from time to time upon terms set out in an exchange of letters between the Chairman of the SFC and the Chairman of HKEx. Where such a change of content is agreed upon, a new Appendix incorporating that change shall be substituted for the existing Appendix and shall be taken to form a part of this MOU.

SIGNED FOR AND ON BEHALF)
OF THE SECURITIES AND FUTURES COMMISSION)
BY MR. ANDREW LEN TAO SHENG) *Signed by Andrew Sheng*
authorised to do so by resolution dated)
4 December 2000 of the Securities and Futures Commission)
on 20 February 2001)

SIGNED FOR AND ON BEHALF)
OF HONG KONG EXCHANGES AND)
CLEARING LIMITED)
BY MR. LEE YEH KWONG, CHARLES) *Signed by Charles Lee*
authorised to do so by resolution)
dated 10 January 2001 of its Board of Directors)
on 20 February 2001)

DESIGNATION OF SERIOUS MATTERS

For the purposes of this MOU, the SFC and HKEx designate the following matters as “serious matters”:

Part A - In relation to supervision of exchange participants

I. For notification by HKEx to the SFC as soon as practicable when HKEx becomes aware of the matter:

1. Declaration of an exchange participant in default by an Exchange Company or declaration of a clearing participant in default by a clearing house.
2. Rejection by a bank of a Direct Debit Instruction issued by a clearing house in relation to payment by a clearing participant of margin, variation adjustment or settlement obligations of trades conducted on a market operated by HKEx or an Exchange Company.
3. Forced liquidation of open positions of an exchange participant with a clearing house in relation to a market operated by HKEx or an Exchange Company.
4. Suspension / revocation of, or imposition / revision of restrictions on, an exchange participant’s trading or clearing rights or a breach of such restrictions by the exchange participant, on a market operated by HKEx or an Exchange Company, including an event originated from a matter set out in Item 2 of Part A(I) above.
5. Facts and circumstances that may require the SFC to exercise its power of intervention, including restricting the business and/or the handling of assets by an exchange participant.
6. Failure by an exchange participant to comply with the minimum liquid capital requirement under the Financial Resources Rules and the rectification thereof.

7. Cancellation by a bank of credit facilities granted to an exchange participant in connection with trading on a market operated by HKEx or an Exchange Company.
8. Reports or allegations, including but not limited to over-the-counter activities relating to stocks or derivatives, concerning an exchange participant and/or its related company, as obtained from market intelligence or otherwise, which if substantiated would impact materially and adversely on an exchange participant's operation and financial integrity.
9. Alleged misappropriation of client assets by an exchange participant or an exchange participant's officer, employee or agent.
10. Abscondment of an officer, employee or agent of an exchange participant.
11. Unauthorised pledging of securities belonging to an exchange participant's client which if substantiated would be in material breach of provisions relating to client asset protection or pose a risk to client assets.
12. Alleged conduct by an exchange participant which if substantiated would pose a material risk of default by the exchange participant in respect of clearing and settlement obligations or other financial obligations due to a third party.

II. For notification by the SFC to HKEx as soon as practicable when the SFC becomes aware of the matter:

1. Suspension / revocation of, or imposition / revision of restrictions on, an exchange participant's registration or a breach of such restrictions by the exchange participant.
2. Facts and circumstances that may require HKEx to exercise its power to suspend or impose restrictions on a market participant's trading or clearing right.
3. Failure by an exchange participant to comply with the minimum liquid capital requirement under the Financial Resources Rules and the rectification thereof.

4. Cancellation by a bank of credit facilities granted to an exchange participant in connection with trading on a market operated by HKEx or an Exchange Company.
5. Reports or allegations, including but not limited to over-the-counter activities relating to stocks or derivatives, concerning an exchange participant and/or its related company, as obtained from market intelligence or otherwise, which if substantiated would impact materially and adversely on an exchange participant's operation and financial integrity.
6. Alleged misappropriation of clients assets by an exchange participant or an exchange participant's officer, employee or agent.
7. Abscondment of an officer, employee or agent of an exchange participant.
8. Unauthorised pledging of securities belonging to an exchange participant's client which if substantiated would be in material breach of provisions relating to client asset protection or pose a risk to client assets.
9. Alleged conduct by an exchange participant which if substantiated would pose a material risk of default by the exchange participant in respect of clearing and settlement obligations or other financial obligations due to a third party.

Part B - In relation to supervision of trading and clearing operations

For notification by HKEx to the SFC as soon as practicable when HKEx becomes aware of the matter:

1. Any suspension of or disruption to the normal trading and clearing services provided by HKEx caused by any event or circumstance which may include, but shall not be limited to, failures of the major shared financial or settlement systems, computer systems or communication network, equipment breakdowns, interruptions of power supplies and other utility services, fires, bomb threats and other emergencies.
2. Any emergency or extraordinary situation which has triggered HKEx to activate its contingency plans or measures to deal with matters affecting the market operations of HKEx.

3. A decision being made or action taken by HKEx to suspend the trading and clearing operations, together with the reasons therefor.
4. Any emergency decision made or action taken by HKEx to exercise its discretion as stipulated in relevant Rules to change the existing policies, practices and procedures relating to the trading, clearing and settlement operations and risk management.
5. Any material non-compliance with or breach of laws by HKEx, an Exchange Company or a clearing house acting in its capacity as such.

PROVISION OF INFORMATION BY HKEx TO THE SFC

The sharing of information between the SFC and HKEx should be within the scope of this MOU between the two parties and subject to applicable laws and regulations.

1. HKEx shall provide the SFC with agreed reports in a manner and within such time periods that are agreed between the SFC and HKEx under a side letter.
2. As and when HKEx becomes aware of, or obtains information on, the following, it shall send the information to the SFC as soon as reasonably practicable:
 - Admission and resignation of an exchange participant;
 - Registration and de-registration of an exchange participant's staff, including a branch manager, with an Exchange Company under its Rules;
 - Revocation, suspension or cessation of the rights of an exchange participant;
 - Revocation, suspension or cessation of the rights of an exchange participant's staff registered with an Exchange Company under its Rules;
 - Change of business name of an exchange participant;
 - Change in holder of a trading right, director, shareholder, capital structure and control of an exchange participant;
 - Commencement and re-commencement of trading by an exchange participant upon notification by the exchange participant; and
 - Opening and closing of local or overseas branches by an exchange participant upon notification by the exchange participant.
3. As and when HKEx becomes aware of, or obtains information on, the following, it shall send the information to the SFC as soon as reasonably practicable:
 - Admission of a clearing participant other than an exchange participant with a clearing house;
 - Cessation of a participation of a clearing participant other than an exchange participant with a clearing house; and
 - Change of name of a clearing participant other than an exchange participant

4. HKEx shall advise the SFC as soon as reasonably practicable when there are material changes to its trading, settlement and risk management systems which would affect the markets operated by HKEx or an Exchange Company.
5. In relation to futures and index options contracts, as and when HKEx becomes aware that any client of an exchange participant who has failed to meet two or more successive margin calls or demands for variation adjustment or interest rate cash adjustment which in aggregate exceed HK\$150,000, it shall inform the SFC together with copy of any related correspondence received by HKEx from the exchange participant as soon as reasonably practicable.
6. As and when HKEx becomes aware of an alleged conduct by an exchange participant which if substantiated would be in breach of provisions relating to client asset protection or pose a risk to client assets, HKEx shall notify the SFC details of the particulars as soon as practicable.
7. HKEx shall advise the SFC as soon as reasonably practicable when it uplifts a trading cap on an exchange participant's trades, or gives approval to an exchange participant to resume trading, after the exchange participant has made good the payment of a Direct Debit Instruction previously issued by the HKSCC and rejected by the exchange participant's designated bank.
8. HKEx shall require an exchange participant to provide the SFC with a liquid capital computation at the same time when it requires the exchange participant to furnish such computation to HKEx following the exchange participant's designated bank's rejection of a Direct Debit Instruction previously issued by the HKSCC.
9. HKEx shall provide the SFC as soon as reasonably practicable a copy of an assessment report on an exchange participant's future settlement ability as and when such a report is produced by HKEx following the exchange participant's designated bank's rejection of a Direct Debit Instruction previously issued by the HKSCC.
10. HKEx shall require an exchange participant to provide the SFC with a copy of an external accountant's review report on the exchange participant's internal control policies and procedures at the same time when it requires the exchange participant to furnish such report to HKEx following the exchange participant's designated bank's rejection of a Direct Debit Instruction previously issued by the HKSCC.
11. HKEx shall notify the SFC as soon as reasonably practicable all subsequent amendments to exchange participants' liquid capital if HKEx has been notified the same by exchange participants.

12. As and when an exchange participant files an ad hoc financial return with HKEx and where HKEx considers that such information has significant and material impact on the operation and the financial position of the exchange participant, HKEx shall notify the SFC of such a case. HKEx shall, upon the request of the SFC, provide the relevant data in the financial return to the SFC as soon as reasonably practicable. HKEx shall, upon an enquiry of the SFC, provide an explanation concerning the financial return to the SFC where such explanations are readily available to HKEx.
13. HKEx shall provide the SFC with particulars relating to an exchange participant's failure in complying with the minimum liquid capital requirement under the Financial Resources Rules as soon as reasonably practicable as and when HKEx become aware of the circumstances.
14. Pursuant to clause 18 of the MOU, a cross market contingency plan shall be formulated by HKEx after consultation with the SFC. HKEx shall, in the crises circumstances outlined in that contingency plan, liaise and exchange information with the SFC about market participants. Such information may include information on participants regarding stockholding, clearing and financial position. The manner and the time frame for such liaison and exchange of information shall be in accordance with those specified in the cross market contingency plan.
15. As and when HKEx issues a warning letter to a market participant or one of its officers or employees, or institutes disciplinary action in respect of a market participant or one of its officers or employees, HKEx shall as soon as reasonably practicable pass to the SFC a copy of the letter that is issued. HKEx shall thereafter inform the SFC of the result of the disciplinary action and any appeal action initiated by the market participant, its officers or employees.
16. HKEx shall provide the SFC with real time electronic access to the SMARTS System, and with daily Market Surveillance System data in an agreed manner as soon as reasonably practicable, which contain such trading and other information as agreed between HKEx and the SFC.
17. In relation to securities listed on the Main Board and the GEM, HKEx shall upon a reasonable request of the SFC send to the SFC information relating to identities of all participants and share holding position of each participant in a stock in an agreed manner not later than the next trading day.

18. HKEx shall provide to the SFC the SEHK Monthly Bulletin in an agreed manner not later than 5 business days following the end of each month or such other time frame as agreed between the parties.
19. As and when HKEx receives a notification from a listed company about changes in the directorate of the company, HKEx shall provide a copy of the notification to the SFC as soon as reasonably practicable.
20. In relation to notifications submitted by directors, chief executives and substantial shareholders of listed companies under the Securities (Disclosure of Interests) Ordinance, HKEx shall provide details of the notifications to the SFC in an agreed manner not later than 3 working days after receipt of the notifications by HKEx.
21. In relation to apparent late submissions filed by directors, chief executives and substantial shareholders of listed companies under the Securities (Disclosure of Interests) Ordinance, HKEx shall provide the SFC with a covering report accompanied by copies of the apparent late submissions on a weekly basis.
22. In relation to share re-purchase notifications as stipulated by the listing rules of HKEx, HKEx shall provide details of the notifications to the SFC in an agreed manner not later than 3 working days after receipt of the notifications by HKEx.
23. In relation to stock options contracts, HKEx shall upon a reasonable request of the SFC provide to the SFC trading activities, open positions and reported large open positions of selected stock options contracts in the next business day following the day of request.
24. In relation to futures and index options contracts, HKEx shall provide the SFC with real time electronic access to the CIBOIS terminal and a daily trading data feed in an agreed manner, which contain such trading and other information as agreed between HKEx and the SFC.
25. In relation to futures and index options contracts, HKEx shall send daily the following reports to the SFC :-
 - large open positions report for all futures and index options contracts;

- risk concentration report on HSI and MHI futures and options contracts;
 - position delta report in relation to HSI and MHI futures and options contracts showing the running delta position for those clients of exchange participants with large open position; and
 - market report on HSI and MHI futures contracts for the extended sessions.
26. HKEx shall provide the SFC with all circulars that are issued to market participants in an agreed manner.
 27. HKEx shall provide the SFC with access to the EMSIS data feed.
 28. HKEx shall provide the SFC with real time electronic access to CCASS terminal in an agreed manner, which contains such functions and information as agreed between HKEx and the SFC.
 29. HKEx shall inform the SFC as and when it initiates an intraday margin call or mark including the time when margin call or mark is initiated, the number of clearing participants and the amounts involved.
 30. As and when any amount in respect of an intraday margin or mark cannot be collected within the period stipulated by HKEx, HKEx shall inform the SFC the name of the respective clearing participant and the outstanding amount.
 31. HKEx shall provide the SFC with its updated cross market contingency plan as soon as reasonably practicable.
 32. HKEx shall provide the SFC with the monthly financial statements of HKSCC Guarantee Fund, HKCC Reserve Fund and SEOCH Reserve Fund.
 33. HKEx shall provide the SFC with cross market information in an agreed manner and containing such information as agreed between HKEx and the SFC.
 34. HKEx shall provide the SFC in such periodical intervals as agreed between the two parties with a sensitivity analysis on HKSCC Guarantee Fund, HKCC Reserve Fund and SEOCH Reserve Fund under different market movements and default rate assumptions in an agreed manner and containing such information as agreed between HKEx and the SFC.
 35. HKEx shall provide the SFC with the breakdown of HKSCC Guarantee Fund, HKCC Reserve Fund and SEOCH Reserve Fund insofar the information has not been covered under the respective financial statements in item 32 above on a half-yearly basis or upon change of the respective Guarantee Fund/Reserve Fund by 10% or more.

36. HKEx shall provide the SFC monthly with the following report :-
- CCASS Trade, Settlement & Depository Statistics
 - Summary on measures of handling late delivery
 - Margin deposits received from participants of HKCC and SEOCH
37. HKEx shall provide the SFC weekly with the following report :-
- Statistics information on trade and settlement activities in CCASS
38. HKEx shall provide the SFC daily with the following report :-
- Summary of exemption and buy-in of HKSCC
39. HKEx shall provide the SFC regularly with an updated organisation chart containing names of senior executives and their contact telephone numbers.

PROVISION OF INFORMATION BY THE SFC TO HKEx

The sharing of information between the SFC and HKEx should be within the scope of this MOU between the two parties and subject to applicable laws and regulations.

1. As and when the SFC becomes aware of, or obtains information on, the following, it shall send the information to HKEx as soon as reasonably practicable:
 - Registration, revocation, suspension or cessation of a corporation or an individual as a dealer, dealing director or dealer's representative, as the case may be;
 - Change or cessation of employment of a dealer, dealing director or dealer's representative;
 - Discrepancy in registration record in relation to a dealer, dealing director or dealer's representative upon checking the relevant information received from HKEx; and
 - Failure in paying the annual registration fee by a dealer, dealing director or dealer's representative

2. As and when approval is given by the SFC on the following matters, the SFC shall pass to HKEx a copy of the approval letter that is issued to an exchange participant:
 - (a) SFC approved modification of provisions under the Financial Resources Rules relating to liquid assets, ranking liabilities, minimum liquid capital requirement and capital requirement of an exchange participant;
 - (b) SFC approved designation of an exchange participant's subordinated loan as an approved subordinated loan;
 - (c) SFC approved repayment or partial payment of an exchange participant's approved subordinated loan;
 - (d) SFC approved designation of an exchange participant's stand-by subordinated loan facility as an approved stand-by subordinated loan facility; and
 - (e) SFC approved a person to become a substantial shareholder of an exchange participant that is a corporation.

3. As and when the SFC completes an inspection on an exchange participant, the SFC shall as soon as reasonably practicable pass a copy of its letter issued to the exchange participant to HKEx. The SFC shall, upon the request of HKEx, inform HKEx to the extent permitted by law and relevant to the functions of HKEx as a recognized exchange controller of the follow up actions taken by the SFC and the exchange participant.
4. As and when the SFC exercises its power of intervention restricting the business and / or the handling of assets by an exchange participant, the SFC shall as soon as reasonably practicable provide HKEx with particulars relating to the circumstances leading to the intervention and the financial status of the exchange participant, including but not limited to details of the amount owed to clients, the status of clients' assets and collateral, extent of client assets at risk and extent of deficiency in exchange participant's assets in meeting its obligations due to the clients.
5. In relation to monthly financial returns of exchange participants filed with the SFC, the SFC shall provide HKEx with the following information in an agreed manner and within the time period agreed between the SFC and HKEx under side letter:-
 - (a) agreed data extracted from the financial returns pursuant to the Financial Resources Rules of exchange participants;
 - (b) agreed exception reports generated from the financial returns pursuant to the Financial Resources Rules of exchange participants;
 - (c) other data in the financial returns pursuant to the Financial Resources Rules of exchange participants as soon as reasonably practicable upon the request of HKEx where such data are readily available to the SFC.
6. The SFC shall notify HKEx as soon as reasonably practicable all subsequent amendments to exchange participants' liquid capital if the SFC has been notified the same by exchange participants.
7. As and when an exchange participant files an ad hoc financial return with the SFC and where the SFC considers that such information has significant and material impact on the operation and the financial position of the exchange participant, the SFC shall notify HKEx of such a case. The SFC shall, upon the request of HKEx, provide the relevant data in the financial return to HKEx as soon as reasonably practicable to the extent permitted by law and relevant to the functions of HKEx as a recognized exchange controller.
8. In relation to financial returns of exchange participants filed with the SFC, the SFC shall, upon an enquiry of HKEx, provide an explanation concerning the financial

returns to HKEx where such explanations are readily available to the SFC, or shall endeavour to do so as soon as reasonably practicable to the extent permitted by law and relevant to the functions of HKEx as a recognized exchange controller.

9. The SFC shall as soon as practicable provide HKEx with particulars relating to an exchange participant's failure in complying with the minimum liquid capital requirement under the Financial Resources Rules. The SFC shall also advise HKEx on the major actions that it may take pertaining to the rectification of the failure and the remedial action taken or to be taken by the exchange participant as and when the SFC becomes aware of the circumstances.
10. Pursuant to clause 18 of the MOU, a cross market contingency plan shall be formulated by HKEx after consultation with the SFC. The SFC shall, in the crises circumstances outlined in that contingency plan, liaise and exchange information with the HKEx about market participants. Such information may include information on participants regarding stockholding and financial position; or compliance with the minimum liquid capital requirement as defined under the Financial Resources Rules. The manner and the time frame for such liaison and exchange of information shall be in accordance with those specified in the cross market contingency plan.
11. The SFC shall notify HKEx as soon as reasonably practicable of complaint of a serious nature against an exchange participant to the extent permitted by law and relevant to the functions of HKEx as a recognized exchange controller.
12. As and when the SFC issues a warning letter to a market participant or one of its officers or employees, or institutes disciplinary action in respect of a market participant or one of its officers or employees, the SFC shall as soon as reasonably practicable pass to HKEx a copy of the letter that is issued. The SFC shall thereafter inform HKEx of the result of the disciplinary action and any appeal action initiated by the market participant, its officers or employees.
13. The SFC shall provide HKEx as soon as reasonably practicable with the following information:
 - (a) possible breaches of trading and clearing rules by market participants detected by the SFC in the performance of its functions;
 - (b) commission of serious trading malpractice (e.g. rat trading, front running and market manipulation) by market participants or their staff detected by the SFC in the performance of its functions; and
 - (c) disciplinary or restrictive actions of a serious nature to be taken by the SFC against market participants.

14. As and when the SFC becomes aware of an alleged conduct by an exchange participant which if substantiated would be in breach of provisions relating to client asset protection or pose a risk to client assets, the SFC shall notify HKEx details of the particulars as soon as practicable.
15. The SFC shall provide HKEx regularly with an updated organisation chart containing names of senior executives and their contact telephone numbers.

**CONSULTATION IN THE EVENT OF CERTAIN MATTERS AFFECTING
CCASS**

1. HKEx hereby undertakes to consult the SFC if HKSCC intends:
 - a) to waive any or all of the conditions or requirements of participation in CCASS of any Participant under CCASS Rule 303;
 - b) to enter into arrangements with other clearing entities concerning clearing and settlement services related to CCASS or to provide services to Participants other than in respect of Eligible Securities under CCASS Rule 702;
 - c) to cease or suspend operation of the CCASS or to restrict any one or more of its services in respect to any Eligible Securities previously admitted for settlement under the CNS System of CCASS;
 - d) to declare a Securities Loss under CCASS Rule 2401 or to allocate such Securities Loss to Participants under CCASS Rule 2403;
 - e) to allow Broker Participants to provide Guarantee Fund Contributions in any form other than cash or bank guarantee under CCASS Rule 2503;
 - f) to establish additional arrangements for the Guarantee Fund, or appropriate HKSCC's own resources to the Guarantee Fund, or to terminate any Guarantee Fund arrangements, or to appropriate any of HKSCC's own resources out of the Guarantee Fund, including under CCASS Rule 2504; HKSCC will also consult the SFC if the Guarantee Fund is not or is likely not to be maintained at the minimum level of

\$100 million in Contributions plus additional coverage of \$100 million comprised of insurance and/or such other facilities as may be agreed to by the parties hereto;

- g) to require reimbursement from Broker Participants under CCASS Rule 2504 other than pro-rata to the minimum amount of their respective Contributions under CCASS Rule 2502;
 - h) to suspend the whole or any part of the operations of CCASS or the services and facilities of CCASS available to all Participants;
 - i) to make any material change to: its insurance coverage concerning clearing and settlement services related to CCASS; HKSCC form of bank guarantee; or any HKSCC agreement with Participants or Designated Banks, as shall from time to time be in existence;
 - j) to enter into, revoke or make any material change to any agreement, arrangement or the like, between itself and any Appointed Depositary concerning CCASS;
 - k) to make a determination under CCASS Rule 201 that the Operational Procedures shall prevail over the CCASS Rules; or
2. In consulting the SFC, the procedures set out in Appendix V shall be followed.

RULE FILING PROCEDURES

Procedures relating to amendments to the constitution and Rules of HKEx, Exchange Companies or clearing houses.

1. HKEx shall forward to the SFC for its approval, any amendments to the constitution and Rules of HKEx or an Exchange Company or clearing house.
2. In seeking the SFC's approval for any amendments to the constitution and Rules of HKEx or an Exchange Company or clearing house, the following procedures shall be followed :
 - (a) HKEx shall engage the involvement of the relevant SFC staff at a stage of the amendment process which will reasonably enable the SFC to have sufficient knowledge of the nature of the proposed amendments and raise issues of concern. HKEx and the relevant SFC staff shall endeavour to resolve all issues of concern within 1 month from the time HKEx shall first approach the relevant SFC staff or such other time frame as agreed between the parties.
 - (b) If the matter referred to in paragraph 2(a) above cannot be resolved between the relevant SFC staff and HKEx, the relevant SFC staff shall immediately upon the expiry of the 1 month period or such other time frame as agreed between the parties notify HKEx in writing the issues and reasons of concern and the proposals or recommendations that the relevant SFC staff may have. Upon the issue of the notification by the relevant SFC staff to HKEx, HKEx shall have the right to make written representations to the Commission and seek the Commission's views on the matter.

- (c) There is a statutory requirement that within six weeks of the receipt of the submission, the SFC must give a decision on the proposed amendments. The SFC undertakes to process the submission as soon as practicable in order to give a decision as quickly as possible within the six week period.
 - (d) The submission package should include the reasons for the proposed amendments and the tentative effective date and upon request, such information which is directly relevant to the proposed amendment that the relevant SFC staff reasonably requires during the process referred to in paragraph 2(a) above.
 - (e) HKEx shall upon the request of the SFC provide to the SFC a copy of the circular that it will dispatch to market participants containing the information in relation to the Rule amendments and the effective date.
 - (f) This paragraph applies to procedures, guidance notes, practice notes and participants circulars or any other published requirement that is intended to alter the rights and obligations of market participants save for emergency situation.
3. HKEx shall consult the SFC prior to the issuance of procedures, practice note, guidance note, participants circular which have the effect of interpreting the Rules or will have the binding effect on the market participants. HKEx and the relevant SFC staff shall endeavour to resolve all issues of concern within 1 week from the time HKEx shall first approach the relevant SFC staff or such other time frame as agreed between the parties. If the matter cannot be resolved between the relevant SFC staff and HKEx, the relevant SFC staff shall immediately upon the expiry of the 1 week period or such other time frame as agreed between the parties notify HKEx in writing the issues and reasons of concern and the proposals or recommendations that the relevant SFC staff may have. Upon the issue of the notification by the relevant SFC

staff to HKEx, HKEx shall have the right to make written representations to the Commission and seek the Commission's views on the matter.

4. The SFC agrees that no prior consultation is required in respect of the issuance by the HKEx of procedures, guidance notes, practice notes and participants circulars or any other published requirements that is intended to be administrative in nature.

CONSULTATION PROCEDURES

Where it is specified in the Rules of HKEx (or any of its Exchange Companies or clearing houses) that consultation with the SFC is required, or where the SFC needs to consult HKEx on certain matters pursuant to the relevant Ordinances, the consulting party shall adopt the following procedures:

1. Under normal circumstances:
 - (i) The party to be consulted shall be given all the relevant information so that it is able to take advice and tender its views. The information provided should include an assessment of the impact of the proposal contained in the consultation, a proposed plan of action and the reasons behind the consultation and the proposed plan of action.
 - (ii) There must be sufficient time as agreed between the parties for the party being consulted to take such advice and tender such views back to the consulting party.
 - (iii) The consulting party shall have the right to make written representations to the Commission or the Board of HKEx, as the case may be, to seek further views of the party being consulted.
2. During emergency situations:

- (i) The consultation may be given orally but the person communicating the consultation must clearly state the relevant information so that a decision may be made. A written copy documenting the consultation information should follow as soon as possible.

- (ii) The consultation should be addressed to the SFC or HKEx, as the case may be. Any supporting information or documentation in relation to the consultation shall be given to either the relevant Executive Directors, Deputy Chairman, Chairman or Chief Executive, as appropriate, who have been authorised to accept the consultation on behalf of the party to be consulted. These same persons may also tender the views of the consultation on behalf of the party to be consulted to the consulting parties.