



**HONG KONG INTERBANK  
CLEARING LIMITED**  
香港銀行同業結算有限公司

## **Rules for Renminbi Faster Payment System (FPS)**

**(Redacted Version)**

**Date : October 2019**

This redacted version of the Rules for Renminbi Faster Payment System is a partially edited version of the main text of these documents and is made available publicly for general information purposes only. It has been edited to remove information that might compromise the security of the system if made available to the general public. For operational purposes, Participants of the Renminbi Faster Payment System should refer to the full text of the Rules for Renminbi Faster Payment System. Although due care has been taken to ensure that the information provided in this document is accurate and up-to-date, Hong Kong Interbank Clearing Limited does not warrant that all, or any part of, the information provided in it is up-to-date and accurate in all respects.

## Amendment Summary

Amendment	Effective Date
<p>1. Revised the following for FPS 2019 December Release:</p> <ul style="list-style-type: none"><li>• Definition of “Balance-triggered Balance Sweeping Transaction” (renamed)</li><li>• Definition of “FPS Transaction”</li><li>• Definition of “Settlement Account”</li><li>• Definition of “Transaction-triggered Balance Sweeping Transaction” (new)</li><li>• Rule 3.1.4</li><li>• Rule 6.2.1.2</li><li>• Rule 6.2.3.1</li><li>• Rule 6.2.6</li><li>• Rule 6.2.6.2</li><li>• Rule 6.2.7 (new)</li><li>• Rule 6.4.1.3</li><li>• Rule 6.4.1.4 (new)</li><li>• Renumbered Rule 6.4.1.4 to Rule 6.4.1.11</li><li>• Rule 6.4.2</li></ul>	8 December 2019

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## **Part I Introduction**

- 1.1 Expressions used herein are defined below.
- 1.2 The Renminbi FPS shall be the computer based system provided, operated and managed by HKICL through the Clearing House which is available to Participants for (i) the processing of direct debits and credits, funds transfers and other banking or payment transactions in each case in Renminbi which are presented by or on behalf of Participants or by CB; and (ii) the exchange and processing of instructions in relation to eDDA Service and Addressing Service which are presented by or on behalf of Participants.
- 1.3 HKICL owns the Clearing House and manages and operates the Clearing House and the FPS Facilities and CHATS in each case through the Clearing House.
- 1.4 CB has been authorised by PBOC to provide clearing and settlement services for Renminbi in Hong Kong, and has appointed HKICL as its system operator to carry out the clearing services.
- 1.5 These FPS Rules have been made by HKICL with the approval of CB and MA.
- 1.6 These FPS Rules will apply:
- 1.6.1 to Settlement Participants who satisfy the criteria as stipulated in Rule 4.2.1;
  - 1.6.2 to Clearing Participants who satisfy the criteria as stipulated in Rules 4.2.2 to 4.2.3;
  - 1.6.3 in relation to payments by CB to Participants, or by Participants to CB.
- 1.7 HKICL may from time to time amend these FPS Rules as it may consider necessary or desirable with prior approval of CB and MA. Any amendments made thereto shall become effective from the effective date(s) as stated in HKICL's prior notice to Participants and the amended version will be posted onto HKICL's website [www.hkicl.com.hk](http://www.hkicl.com.hk) (which shall specify the effective date(s) for the amendments according to the notice).
- 1.8 **Definitions**

**“Addressing Service”** means an overlay service of FPS which involves maintaining and operating the centralised addressing repository to facilitate Participants and their customers to address the recipient of a Credit Transfer Instruction or Direct Debit Instruction and other communications made in accordance with the FPS Rules and the FPS Operating Procedures using a predefined Proxy ID instead of using the account number.

**“Balance-triggered Balance Sweeping Transaction”** means a transaction initiated by a Settlement Participant manually or generated by FPS automatically to debit or credit funds from or to the FPS Ledger Account of a Settlement Participant through FPS for transferring funds to or from the CHATS Ledger Account of the Settlement Participant for the purpose of liquidity management, other than a Transaction-triggered Balance Sweeping Transaction.

**“bank”** means an institution which has been granted a banking licence under the Banking Ordinance (Cap. 155 of the Laws of Hong Kong) and such licence has not been revoked.

**“CB”** means a bank that has been authorised by the People's Bank of China to provide clearing and settlement services for Renminbi in Hong Kong, and which for the time being is Bank of China (Hong Kong) Limited. Unless stated otherwise herein, all references to CB refer to CB in its capacity as clearing bank.

**“CHATS”** means the computer based Clearing House Automated Transfer System in Renminbi provided, owned, operated and managed in Hong Kong by HKICL.

**“CHATS Ledger Account”** has the meaning given to it in the definition of **“Settlement Account”**.

“**CHATS Members**” means banks (including CB in its capacity as a CHATS Member) and other institutions which, in the case of other institutions, have been permitted by CB and MA to participate in CHATS and which, in case of banks (including CB in its capacity as a CHATS Member) and other institutions, have agreed with CB and HKICL to be bound by the Clearing House Rules. For the avoidance of doubt, this term does not include CB acting in its capacity as the clearing bank.

“**CHATS Working Day**” means a day which shall exclude a Saturday, Sunday and 1st January but shall include operating Saturdays and Sundays which are designated as working days in Mainland China for which RMB CHATS will be opened for settlement as determined by CB and notified to CHATS Members.

“**Clearing House**” means the medium and the location owned, provided, operated and managed by HKICL which is available (i) to Participants for the processing of FPS Instructions in Renminbi through FPS in accordance with the FPS Rules and the FPS Operating Procedures; and (ii) to CHATS Members for the processing of CHATS Transactions (as defined in the Clearing House Rules) and other payments in Renminbi through CHATS.

“**Clearing House Rules**” means the Clearing House Rules in relation to the operation of CHATS as amended from time to time by HKICL with prior approval of CB and MA.

“**Clearing Participant**” means a participant (other than a Settlement Participant that has access to the FPS Facilities) which has agreed with a Settlement Participant that such participant’s payments will be settled through that Settlement Participant’s FPS Ledger Account, such participant in relation to the Settlement Participant with whom it has agreed to settle its payments shall be referred to as “**its Clearing Participant**”.

“**Credit Card Subsidiaries of Banks**” means subsidiaries of banks that issue debit cards and/or credit cards in Hong Kong.

“**Credit Transfer Instruction**” means an instruction input by a payer Participant for the effecting of funds transfer to a payee Participant through FPS to settle an obligation of the payer Participant (or one of its customers) to the payee Participant (or one of its customers).

“**Data Subject(s)**” has the meaning given to that term in the Personal Data (Privacy) Ordinance (Cap. 486 of the Laws of Hong Kong).

“**Delayed Payment**” means the funds transferred through FPS which are credited to an account at a time significantly later than the time specified in the relevant transfer or payment details.

“**Deposit-taking company**” means an institution which is currently registered under section 16 of the Banking Ordinance.

“**Direct Debit Instruction**” means an instruction input by a payee Participant for the effecting of a debit of funds from a payer Participant through FPS to settle an obligation of the payer Participant (or one of its customers) to the payee Participant (or one of its customers).

“**eDDA Instruction**” means an electronic direct debit authorisation instruction input by a Participant who initiates such instruction (“**initiating Participant**”) to that Participant or another Participant who receives such instruction (“**receiving Participant**”) for the purpose of the setup, amendment or cancellation of a direct debit authorisation arrangement to enable the giving of an authorisation or direction by a customer of a Participant authorising or directing that Participant or another Participant which maintains an account for the customer to effect transfers from the customer’s account in accordance with the certain criteria bilaterally agreed between the customers of the initiating Participant and the receiving Participant.

“**eDDA Service**” means an overlay service of FPS which involves the exchange and processing of eDDA Instructions and related responses between Participants.

“**FPS**” means the computer based system provided, managed and operated by HKICL which is available to Participants for (i) the processing of direct debits and credits, funds transfers and other banking or payment transactions in each case in Renminbi which are presented by or on behalf of Participants or by CB; and (ii) the exchange and processing of instructions in relation to eDDA Service and Addressing Service which are presented

by or on behalf of Participants.

**“FPS Console”** means a terminal system provided by HKICL to which a Participant may gain access through terminals located within the premises of a Participant for the purpose of performing operation, administration and monitoring functions related to FPS as stipulated in the FPS Operating Procedures.

**“FPS Facilities”** means all premises, personnel, machinery, equipment, facilities, software, operational and processing systems, computer systems including FPS, arrangements and procedures for or in relation to the FPS services provided by HKICL in accordance with these FPS Rules and the FPS Operating Procedures.

**“FPS Identifier”** means a unique random number generated by FPS to be associated with the account of the customer of a Participant that requests it.

**“FPS Instructions”** means any instruction generated by FPS or input by a Participant or CB to FPS for (i) the effecting of an FPS Transaction; or (ii) the setup, amendment or cancellation of records in relation to the Addressing Service or the eDDA Service.

**“FPS Ledger Account”** has the meaning given to it in the definition of **“Settlement Account”**.

**“FPS Operating Procedures”** means the operating procedures issued by HKICL pursuant to Rule 2.4 and for the time being in force.

**“FPS Optimiser”** means a settlement mechanism allowing simultaneous gross settlement of selected eligible FPS Transactions in accordance with Rule 6.7.

**“FPS Rules”** or **“Rules”** means these Rules for Renminbi Faster Payment System in relation to the operation of FPS Facilities as amended from time to time by HKICL with prior approval of CB and MA.

**“FPS Transactions”** means transactions involving funds transfers effected through FPS including those initiated by Credit Transfer Instructions, Direct Debit Instructions, SI Direct Credit Transactions, SI Direct Debit Transactions, Balance-triggered Balance Sweeping Transactions and Transaction-triggered Balance Sweeping Transactions and for the avoidance of doubt (but without limitation), the general administrative or system messages transmitted through FPS.

**“HKICL”** means Hong Kong Interbank Clearing Limited.

**“ISO20022”** means a standard published by the International Organisation for Standardisation which is used for electronic data interchange between financial institutions.

**“MA”** means the Monetary Authority appointed under the Exchange Fund Ordinance (Cap. 66 of the Laws of Hong Kong).

**“overseas banks”** means an overseas bank (other than a bank) (i) which is regulated in its home jurisdiction as an institution equivalent to a bank; and (ii) whose participation in the Clearing House has been approved by CB and MA.

**“Participants”** means the Settlement Participants and Clearing Participants which in each case have agreed with HKICL to be bound by these FPS Rules.

**“People’s Bank of China”** or **“PBOC”** means People’s Bank of China acting as the central bank of the People’s Republic of China pursuant to the law of the People’s Republic of China.

**“Personal Data”** has the meaning given to that term in the Personal Data (Privacy) Ordinance.

**“Proxy ID”** means the proxy identifier registered by a customer of a Participant in the Addressing Service to identify the account of that customer with that Participant.

**“PSSVFO”** means the Payment Systems and Stored Value Facilities Ordinance (Cap. 584 of the Laws of Hong

Kong).

**“Renminbi”** means the principal lawful currency for the time being of the mainland of the People’s Republic of China.

**“restricted licence bank”** means an institution which has been granted a restricted banking licence under the Banking Ordinance and such licence has not been revoked.

**“Settlement Account”** means the account maintained by a CHATS Member being also a Settlement Participant with CB for the purpose of settlement of payments through CHATS or FPS which shall comprise two separate ledger accounts with separate account balances as follows: (i) the **“CHATS Ledger Account”** for the purpose of settlement of payments by or to the CHATS Member through CHATS and (ii) the **“FPS Ledger Account”** for the purpose of settlement of payments by or to the Settlement Participant through FPS and for the purpose of conducting Balance-triggered Balance Sweeping Transactions and Transaction-triggered Balance Sweeping Transactions, and all references to payment to or by the CHATS Ledger Account or to or by the FPS Ledger Account shall refer to payments to or by the Settlement Account which shall be credited or debited to the CHATS Ledger Account or the FPS Ledger Account (as the case may be).

**“Settlement Participant”** means a participant which maintains an FPS Ledger Account for the purpose of settlement of funds in FPS and **“its Settlement Participant”** means, in relation to a Clearing Participant, a Settlement Participant with respect to whom it has been agreed with such Clearing Participant that such Settlement Participant shall permit payments by or to such Clearing Participant to be settled through such Settlement Participant’s FPS Ledger Account.

**“SI Direct Credit Transaction”** means a transaction initiated by CB to credit a Settlement Participant’s FPS Ledger Account through FPS to settle an obligation of CB owed to that Settlement Participant.

**“SI Direct Debit Transaction”** means a transaction initiated by CB to debit a Settlement Participant’s FPS Ledger Account through FPS to settle an obligation of that Settlement Participant owed to CB.

**“stored value facility”** has the meaning given to that term in the PSSVFO.

**“Transaction-triggered Balance Sweeping Transaction”** means a transaction generated by FPS automatically in order to transfer funds from the CHATS Ledger Account of a Settlement Participant to the FPS Ledger Account of that Settlement Participant through FPS for the purpose of settlement of outstanding Direct Debit Instructions. For the avoidance of doubt, this term does not include a Balance-triggered Balance Sweeping Transaction.

## 1.9 Interpretation

Unless the context otherwise requires:

- (a) a word or expression defined in these FPS Rules hereto bears the defined meaning;
- (b) where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning;
- (c) a person includes individuals, bodies corporate (wherever and howsoever incorporated), unincorporated associations and partnerships;
- (d) a person includes its successor;
- (e) reference to the singular includes the plural and vice versa;
- (f) reference to one gender includes all genders;
- (g) “including” and similar expressions are not words of limitation;
- (h) reference to a group or thing includes any part thereof; and

- (i) headings are for convenience only and do not affect interpretation.



## **Part II      FPS Facilities and HKICL**

### **2.1      FPS Facilities**

No Participant shall use or provide in Hong Kong any facilities for (i) the processing of FPS related direct debits and credits, funds transfers and other banking or payment transactions in each case in Renminbi; and (ii) the exchange and processing of instructions in relation to eDDA Service and Addressing Service other than the FPS Facilities provided by CB, or by HKICL (either directly or through a sub-contractor) as system operator for CB. Each Participant shall be entitled to the use of all or part of the FPS Facilities subject to the provisions of these FPS Rules and any agreement between that Participant and CB.

### **2.2      Location**

The Clearing House for the operation of FPS through FPS Facilities shall be located at such place in Hong Kong as shall be notified from time to time by HKICL to CB and the Participants.

### **2.3      Responsibility for the Clearing House and/or the FPS Facilities**

2.3.1      HKICL shall as system operator for CB, subject to the provisions of these FPS Rules and in accordance with the FPS Operating Procedures, provide, manage and operate the Clearing House and/or the FPS Facilities and make available the services of the Clearing House and/or the FPS Facilities to the Participants. HKICL may (with the approval of both CB and MA) subcontract the performance of its obligations hereunder as system operator of CB.

2.3.2      HKICL shall exercise a degree of skill, care and responsibility commensurate with third parties in Hong Kong providing substantially similar services. The exercise of such skill, care and responsibility shall constitute a full and complete discharge of the obligations and duties of CB and HKICL to Participants and other persons in respect of and concerning the Clearing House and/or the FPS Facilities under these FPS Rules and the FPS Operating Procedures.

2.3.3      HKICL and CB shall not be liable to any Participant, any customer of a Participant and/or any other person in respect of any claim, loss, damage or expense (including without limitation, loss of business, loss of business opportunity, loss of profit, special, indirect or consequential loss, even if HKICL or CB knew or ought reasonably to have known of their possible existence) of any kind or nature whatsoever arising in whatever manner directly or indirectly from or as a result of anything done or omitted to be done by HKICL or CB bona fide, except that HKICL's liability for loss or damage (other than loss of business, loss of business opportunity, loss of profit, special, indirect or consequential loss) suffered by any Participant and/or any customer of a Participant and/or any other person as a result of any failure, error or inaccuracy in HKICL's provision, management or operation of the Clearing House and/or the FPS Facilities under these FPS Rules which is proved to have resulted substantially from (i) a reckless act or omission or the intentional misconduct of HKICL's servants or agents or (ii) fire or theft affecting the premises or property of HKICL shall not be so excluded.

2.3.4      Notwithstanding anything herein and for the avoidance of doubt, MA, CB and HKICL shall, when acting in good faith, not be liable in respect of any act or omission pursuant to Part V and/or Part VI of the Rules.

2.3.5      Each Participant shall in respect of all claims, losses, damages and expenses incurred by it, any of its customers or any of its correspondent banks, indemnify and hold each of MA, CB and HKICL harmless against all actions, proceedings, costs, claims, demands, liabilities, losses or expenses whatsoever and howsoever arising out of or in connection with HKICL's provision, management or operation of the Clearing House and/or the FPS Facilities and/or HKICL's performance of its obligations under these FPS Rules and the FPS Operating Procedures save and except those claims for which HKICL shall assume responsibility as provided in Rule 2.3.3.

2.3.6      MA shall not be liable to CB, HKICL, any Participant, any customer of a Participant or any

other person in respect of any claim, loss, damage or expense (including without limitation, loss of business, loss of business opportunity, loss of profit, special, indirect or consequential loss, even if MA knew or ought reasonably to have known of their possible existence) of any kind or nature whatsoever arising in whatever manner directly or indirectly from or as a result of anything done or omitted to be done by MA bona fide or by CB, HKICL, any Participant or any other person in the management, operation or use (including without limitation, the termination and/or suspension of CB, the FPS Facilities or any Participant) of the Clearing House and/or the FPS Facilities or any part of them. Each Participant shall jointly and severally indemnify and hold MA harmless in respect of any liability, claim, loss, damage or expense hereinbefore described in this Rule 2.3.6, such indemnity to survive the expiry or termination of any Participant's use of the Clearing House and/or the FPS Facilities.

- 2.3.7 The provisions in this Rule 2.3 shall be in addition to and shall not be affected by any other provisions of these Rules which (i) exclude or limit the liability of MA, CB and/or HKICL; or (ii) set out an indemnity provision in favour of MA, CB and/or HKICL.
- 2.3.8 HKICL shall not be responsible for debiting and crediting the FPS Ledger Accounts. CB shall settle all payments effected through FPS by debiting and crediting the FPS Ledger Accounts concerned in accordance with Rule 3.1.5.

## **2.4 FPS Operating Procedures**

HKICL shall be entitled with CB's and MA's approval to issue operating procedures for the FPS Facilities and to amend such FPS Operating Procedures from time to time as it thinks fit with CB's and MA's approval. To the extent of any inconsistency between these FPS Rules and the FPS Operating Procedures, these FPS Rules shall prevail save where otherwise specifically provided for in these FPS Rules. The current version of the FPS Operating Procedures can be found on HKICL's website [www.hkicl.com.hk](http://www.hkicl.com.hk). Any amendments made thereto shall become effective from the effective date(s) as stated in HKICL's prior notice to Participants and the amended version will be posted onto HKICL's website (which shall specify the effective date(s) for the amendments according to the notice). In the event of any inconsistency between the version of the FPS Operating Procedures on HKICL's website and any other version of the FPS Operating Procedures, the version on HKICL's website shall prevail.

## **2.5 FPS Facilities Expenses**

- 2.5.1 All expenses incurred by HKICL in providing, managing and operating the Clearing House and/or the FPS Facilities shall be borne by HKICL.
- 2.5.2 Participants shall pay to HKICL fees in Hong Kong dollars for the use of the FPS Facilities calculated in the manner determined by HKICL from time to time with CB's approval ("Fees").
- 2.5.3 Unless otherwise agreed, payment of the Fees shall be made monthly in arrears by direct debit instruction generated by HKICL pursuant to a direct debit authorisation issued by each Participant in HKICL's favour in respect of Fees due from such Participant. Failing due payment interest shall become payable on the outstanding sum at the rate which HKICL certifies from time to time to be equal to the average of the best lending rates for Hong Kong dollars for the time being quoted by three banks as selected by HKICL.

## **2.6 Confidentiality**

CB and HKICL shall keep confidential all information received from or collected on behalf of Participants in connection with the Clearing House and/or the FPS Facilities and shall, except as otherwise required by law or pursuant to these FPS Rules and/or the FPS Operating Procedures, disclose the same only to those of their respective staff who require the information for the purpose of providing, managing and operating the Clearing House and/or the FPS Facilities, or to MA. CB and HKICL shall take all reasonable steps to ensure that their respective staff is aware of CB's and HKICL's confidentiality obligations.

## **2.7 Contract**

CB, HKICL and each Participant agree that these FPS Rules constitute a contract between CB, HKICL, such Participant and all other Participants from time to time. It is recognised that HKICL may with CB's and MA's approval amend these FPS Rules from time to time as it thinks fit.

## **2.8 Compliance with the PSSVFO**

2.8.1 Each Participant, HKICL and CB shall comply with all obligations under the PSSVFO and all directions or regulations made by MA thereunder, as may be applicable to each of them.

2.8.2 Without prejudice to the generality of Rule 2.8.1, HKICL shall:

- (a) operate the Clearing House and/or the FPS Facilities in a safe and efficient manner calculated to minimise the likelihood of any disruption to the functioning of the Clearing House and/or the FPS Facilities; and
- (b) operate the Clearing House and/or the FPS Facilities in accordance with the PSSVFO insofar as it applies in relation to the Clearing House and/or the FPS Facilities.

For the avoidance of doubt, HKICL shall not be responsible for debiting and crediting the FPS Ledger Accounts.

2.8.3 Each of HKICL and CB shall provide (and be entitled to provide) all information and reports required to be provided by a system operator or settlement institution pursuant to the PSSVFO including Sections 6 (Obligation to inform MA of name and address etc.), 12 (MA may request information or documents from system operator, settlement institution, participant or licensee), 30 (Duty to report on completion of default proceedings) and 53 (Requirement to give information relating to default) of the PSSVFO.

2.8.4 Without prejudice to the generality of Rule 2.8.1, each Participant shall notify HKICL, CB and MA forthwith if there comes to its attention any of the following circumstances occurring in Hong Kong or any analogous circumstances occurring outside Hong Kong:

- (a) a Participant becoming unable to meet its obligations;
- (b) the presentation of a petition for winding up of the Participant;
- (c) the making of an order for winding up of the Participant;
- (d) the passing of a resolution for voluntary winding up of the Participant; or
- (e) the making of a directors' voluntary winding up statement in respect of the Participant.

HKICL shall inform CB and MA forthwith if it becomes aware of any of the foregoing.

2.8.5 Without prejudice to the generality of Rule 2.8.1, none of the Participants nor HKICL nor CB shall contravene Section 45 (Giving false information to MA) of the PSSVFO.

2.8.6 Each Participant shall have systems in place which are complementary to HKICL's contingency arrangements so as to enable HKICL to ensure the timely recovery of its usual operations in the event of the occurrence of an adverse contingency affecting such operations. Such contingency arrangements shall be modified from time to time in the manner required by HKICL or CB or MA, and HKICL shall notify Participants of the changes accordingly. Participants shall participate in the contingency drills arranged by HKICL from time to time so as to verify their readiness.

2.8.7 In the event of any inconsistency between the provisions of this Rule 2.8 and any of the other

provisions of these FPS Rules, this Rule 2.8 shall prevail.

**2.9 Monitoring of Compliance with these FPS Rules**

- 2.9.1 HKICL will monitor performance by Participants of their obligations under these FPS Rules.
- 2.9.2 In the event that HKICL becomes aware of any non performance by any Participant of its obligations under these FPS Rules, HKICL shall as soon as practicable inform (i) the Participant concerned and require it to ensure performance of the relevant provision; and (ii) CB and MA of such incident.

## **Part III Settlement**

### **3.1 Settlement Institution, Settlement Accounts and FPS Ledger Accounts**

- 3.1.1 The settlement institution is CB and each Settlement Participant shall open and keep a Settlement Account (including a CHATS Ledger Account and an FPS Ledger Account) with CB in such manner and upon such terms and conditions as agreed between each Settlement Participant and CB and MA for the purposes of settlement of payments effected through FPS.
- 3.1.2 Each Clearing Participant shall open and keep an account with a Settlement Participant and agree with such Settlement Participant the terms and conditions on which such Settlement Participant shall permit payments by or to such Clearing Participant to be settled through such Settlement Participant's FPS Ledger Account.
- 3.1.3 Each Settlement Participant shall maintain an available balance in its FPS Ledger Account sufficient to meet in time its and its Clearing Participants' payment obligations which are to be settled through such FPS Ledger Account as and when due.
- 3.1.4 Each Settlement Participant authorises CB to debit or, as the case may be, credit its FPS Ledger Account and its CHATS Ledger Account for the purpose of Balance-triggered Balance Sweeping Transactions and Transaction-triggered Balance Sweeping Transactions in accordance with the provisions of these FPS Rules and the Clearing House Rules.
- 3.1.5 Notwithstanding the mode and means by which they are made, all payments by or to each Participant which are effected through FPS shall be settled by CB through FPS debiting or crediting the FPS Ledger Account of the Settlement Participant through which the Participant settles its payments through FPS (including payments related to both the Settlement Participant itself and its Clearing Participants) and once debited or credited to such FPS Ledger Account, such payments shall be deemed made, completed, irrevocable and final.
- 3.1.6 Each Settlement Participant authorises CB to debit or, as the case may be, credit its FPS Ledger Account for payments by or to such Settlement Participant or its Clearing Participants which are effected through FPS in accordance with the provisions of these FPS Rules.

### **3.2 Settlement of FPS Transactions**

All FPS Transactions involving payments or funds transfers shall be settled as provided in Part VI of these FPS Rules.

### **3.3 Settlement Obligations**

Notwithstanding any provisions in these FPS Rules but without prejudice to HKICL's obligations in respect of the management and operation of the Clearing House and/or the FPS Facilities, MA, HKICL and CB shall be under no liability whatsoever for any FPS settlement obligations of or between Participants.

## **Part IV Participants**

### **4.1 FPS Rules and FPS Operating Procedures**

These FPS Rules and the FPS Operating Procedures are binding on the Participants. Participants shall comply with and observe these FPS Rules and the FPS Operating Procedures (as amended from time to time and insofar as the Participant participates in an activity that is a subject matter of the FPS Operating Procedures) from time to time in force.

### **4.2 Membership**

- 4.2.1 Banks that maintain a CHATS Ledger Account may become Settlement Participants. Restricted licence banks, deposit-taking companies, overseas banks, Credit Card Subsidiaries of Banks and other institutions that in each case maintain a CHATS Ledger Account may, subject to the approval of both CB and MA, become Settlement Participants.
- 4.2.2 Subject to CB's approval and by agreement with a Settlement Participant, licensees of a stored value facility licensed by MA under the PSSVFO, including banks that are licensed as licensees of a stored value facility, may become Clearing Participants through such Settlement Participant.
- 4.2.3 Subject to CB and MA's approval and by agreement with a Settlement Participant, any other institutions other than licensees of a stored value facility (including but not limited to banks, restricted licence banks, deposit-taking companies, overseas banks, Credit Card Subsidiaries of Banks and other institutions that in each case maintain a CHATS Ledger Account) may become Clearing Participants through such Settlement Participant.
- 4.2.4 For the avoidance of doubt, any party that meets the access criteria of both Settlement Participant and Clearing Participant as provided in Rules 4.2.1 to 4.2.3 must become a Settlement Participant and, in addition, may opt to become a Clearing Participant.
- 4.2.5 A Settlement Participant shall give 14 days' prior written notice to CB and HKICL before it allows an institution to become its Clearing Participant or before it terminates its agreement to allow an institution to become its Clearing Participant.
- 4.2.6 With respect to Rule 4.2.5, a Clearing Participant, through its Settlement Participant, shall give 14 days' prior written notice to CB and HKICL before it terminates an agreement to become its Clearing Participant with such Settlement Participant and agrees with another Settlement Participant to become its Clearing Participant.
- 4.2.7 Subject to Rule 4.2.4, a Participant shall give 14 days' prior written notice to CB and HKICL before it changes its status from a Settlement Participant to a Clearing Participant or vice versa as the case may be.

### **4.3 Withdrawal**

A Participant may withdraw from participation in FPS by giving 60 days' prior written notice to CB and HKICL and by paying the accrued fees and other payments, if any, due by it to HKICL in relation to the Clearing House and/or the FPS Facilities up to the date of withdrawal. A Clearing Participant shall also at the same time notify its Settlement Participant. A Settlement Participant may not terminate its FPS Ledger Account while it continues to be a Settlement Participant or while it continues to allow a Clearing Participant to be its Clearing Participant or during the running of any notice given under this Rule. Any such withdrawal shall be without prejudice to any liability accrued up to and including the date of withdrawal.

### **4.4 Participant Codes**

Participant codes which are used to identify each Participant and one for CB in its capacity as clearing

bank are allocated by HKICL to be used by Participants and CB for the purposes of the services provided by the Clearing House in relation to FPS. No Participant may use a participant code which is allocated to another Participant or the participant code of CB and CB will not use the participant code allocated to another Participant. All such rights as may subsist in the participant codes are owned by HKICL and such codes may be used by it for all purposes connected with or incidental to its businesses.

#### **4.5 Outsourcing by Participants**

Participants may outsource any of their systems required for the purpose of participation in FPS. In so doing Participants shall exercise reasonable skill and care in choosing the outsourcing party. Each of CB and HKICL is authorised to deal with any such outsourcing party notified to it as being authorised to act on such Participant's behalf provided that the Participant shall be responsible for all acts, omissions, neglects or defaults of its outsourcing party and such Participant appointing an outsourcing party will indemnify and hold each of CB and HKICL harmless against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever and howsoever arising out of or incurred by CB or HKICL as a result of the acts, omissions, neglects or defaults of its outsourcing party or arising out of or incurred by CB or HKICL by virtue of any dealings by CB or HKICL with an outsourcing party of a Participant which it would not have incurred if CB or HKICL had dealt with that Participant directly.

#### **4.6 Intra Participant Payments**

For the avoidance of doubt, a Participant can initiate funds transfers to itself in respect of FPS Transactions.

## **Part V Refusal/Suspension of FPS Facilities**

- 5.1 Part or all of FPS Facilities shall be refused by HKICL to (i) a Settlement Participant if its authorisation under the Banking Ordinance has been suspended or revoked; or (ii) a Clearing Participant if its licence or designation under PSSVFO has been suspended or revoked, unless in either case HKICL receives notice in writing by CB that FPS Facilities to such Participant may be continued in the manner as specified in such notice; or (iii) a Settlement Participant or Clearing Participant if HKICL receives notice in writing from CB (after CB has consulted with MA) that FPS Facilities are to be refused.
- 5.2 Part or all of FPS Facilities shall be suspended forthwith for a Participant by HKICL:
- (a) upon receipt by HKICL of a notice in writing from CB (with the prior consent of MA) that FPS Facilities to such Participant(s) have been suspended by CB (with the prior consent of MA) for such period as shall be stipulated in such notice; or
  - (b) if the Participant becomes insolvent.
- 5.3 In a case to which Rule 5.1 or 5.2 applies, FPS Facilities shall only be restored to the Participant or Participants in question or all such Participants upon receipt by HKICL of a notice in writing to such effect from CB (with the prior consent of MA).
- 5.4 In the event that a Clearing Participant becomes insolvent or is the subject of a winding up petition or other like process, the Settlement Participant which has agreed to become its Settlement Participant shall forthwith advise CB and MA thereof and forthwith stop initiating or otherwise processing or executing any FPS Instructions in respect of that Clearing Participant or crediting or otherwise making any payment in respect of any FPS Transaction by or to that Clearing Participant.
- 5.5 If any Participant's use of FPS Facilities has been refused or suspended, HKICL shall, as soon as practicable thereafter, notify all other Participants by a broadcast in the manner provided in the FPS Operating Procedures and thereafter all other Participants shall not initiate any other FPS Instructions involving the Participant for which FPS Facilities are refused or suspended while such refusal or suspension shall continue in effect.
- 5.6 If it appears that part or all of the FPS Facilities are inoperable, HKICL may at any time after consultation with CB and MA, declare by notice in writing to all Participants, that all or part of the FPS Facilities will be suspended and shall provide information as to which (if any) of the FPS Facilities will be available.
- 5.7 During the time when part or all of the FPS Facilities are inoperable, HKICL may at any time after consultation with CB and MA declare by notice in writing to all Participants that part or all of the FPS Facilities which have been suspended shall resume normal operation.
- 5.8 During the time when part or all of the FPS Facilities are inoperable, the FPS Facilities that are operable shall be operated in accordance with the FPS Operating Procedures and any other circulars issued by HKICL dealing with the operation of the FPS Facilities during periods of suspension.
- 5.9 The resumption of normal operation of the FPS Facilities shall be in accordance with the FPS Operating Procedures.
- 5.10 If for any reason CB suspends operations as the settlement institution, CB shall inform MA and HKICL in writing immediately. Upon giving prior notice in writing to MA, HKICL shall as soon as practicable notify all Participants by a broadcast in the manner provided in the FPS Operating Procedures. For so long as such suspension continues, no settlement of any payments shall take place under these FPS Rules.
- 5.11 Neither MA nor CB nor HKICL shall owe any duty or incur any liability to any Participant, any customer of a Participant or any other person whatsoever (each a "**Relevant Person**") by the giving of any notice or advice pursuant to or purporting to be given pursuant to this Rule 5 or by the failure to give or any delay in giving any such notice or advice. HKICL shall incur no liability to any Relevant Person for the



consequences of acting on these FPS Rules or the FPS Operating Procedures or any such notice or advice given or purportedly given to any Relevant Person pursuant to this Rule 5. Each Participant hereby agrees to indemnify and hold each of MA, CB and HKICL harmless against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever and howsoever arising out of or in connection with any of the matters referred to in this Rule or incurred by either MA, CB or HKICL to any Relevant Person in its capacity as such.

## **Part VI      FPS**

### **6.1      Introduction**

- 6.1.1 Each Participant shall access FPS via the HKICL network. FPS Instructions effected through FPS and their related requests shall be in designated ISO20022 format or any other format as stipulated in the FPS Operating Procedures and the related technical specifications pertaining to the FPS Operating Procedures.
- 6.1.2 All Participants must be connected to the FPS Console as provided in Rule 6.6 to perform operation, administration and monitoring functions as the case may be related to FPS Instructions as stipulated in the FPS Operating Procedures.
- 6.1.3 Requests for enhancement of or changes relating to FPS by a Participant shall be submitted by that Participant to HKICL, to enable HKICL to decide whether they should be implemented, subject to prior consultation by HKICL with MA and CB.

### **6.2      Settlement of FPS Transactions**

#### **6.2.1      Timing of Settlement**

- 6.2.1.1 FPS Transactions are not guaranteed to be settled in accordance with the sequence of receipt of such FPS Transactions by FPS nor the sequence of initiation of such FPS Transactions.
- 6.2.1.2 HKICL may process the Credit Transfer Instructions, including those initiated for the return of FPS Transactions, and Direct Debit Instructions involving the same payer Participants and the same payee Participants within the same batch in a group but on the basis that they are settled individually and simultaneously. If due to shortage of funds in the relevant FPS Ledger Account that the settlement in accordance with this Rule 6.2.1.2 is not possible, HKICL may at its discretion decouple a group and settle individual instructions in such order as it thinks fit. Any individual instruction which cannot be settled will be rejected subject to the exception stipulated in Rule 6.2.3.1.

#### **6.2.2      Credit Transfer Instruction**

- 6.2.2.1 A Credit Transfer Instruction will not be effected or settled through FPS unless:
  - (a) if the payer Participant is a Settlement Participant, the available balance in the payer Participant's FPS Ledger Account is; or
  - (b) if the payer Participant is a Clearing Participant, the available balance of that Clearing Participant maintained with its Settlement Participant and the available balance of the FPS Ledger Account of its Settlement Participant are

for the time being sufficient to make such funds transfer referred to in such Credit Transfer Instruction. If a Credit Transfer Instruction is not effected or settled under the above circumstances, the relevant Credit Transfer Instruction will be rejected immediately.

- 6.2.2.2 Subject to Rule 6.2.1 and Rule 6.2.2.1, a funds transfer initiated by a Credit Transfer Instruction will be settled through FPS immediately upon the completion of its processing.
- 6.2.2.3 Settlement of a Credit Transfer Instruction will be effected across the books of CB pursuant to Rule 3.1.5 by debiting the FPS Ledger Account of the payer Participant (or if the payer Participant is a Clearing Participant, the FPS Ledger Account of its

Settlement Participant) for the funds transferred and crediting the same to the FPS Ledger Account of the payee Participant (or if the payee Participant is a Clearing Participant, the FPS Ledger Account of its Settlement Participant). Upon the completion of settlement, the transaction will be reflected in the available balance of the relevant Clearing Participant and/or FPS Ledger Account of the relevant Settlement Participant.

### **6.2.3 Direct Debit Instruction**

6.2.3.1 A Direct Debit Instruction will not be effected or settled through FPS unless:

- (a) if the payer Participant is a Settlement Participant, the available balance in the payer Participant's FPS Ledger Account is; or
- (b) if the payer Participant is a Clearing Participant, the available balance of that Clearing Participant maintained with its Settlement Participant and the available balance of the FPS Ledger Account of its Settlement Participant are

for the time being sufficient to make the funds transfer referred to in such Direct Debit Instruction. If a Direct Debit Instruction is not effected or settled under the above circumstances, the relevant Direct Debit Instruction will be rejected immediately except in the case specified in the FPS Operating Procedures. If settlement of any Direct Debit Instructions in accordance with the first sentence of this Rule 6.2.3.1 is not possible and the settlement of such Direct Debit Instructions fall within the exception as specified in the FPS Operating Procedures, the relevant outstanding Direct Debit Instructions will be re-tried for settlement in accordance with the schedule and conditions as stipulated in the FPS Operating Procedures, and if any such outstanding Direct Debit Instructions cannot be settled by the cut-off time as stipulated in the FPS Operating Procedures, such outstanding Direct Debit Instructions will be rejected automatically.

6.2.3.2 Subject to Rule 6.2.1 and Rule 6.2.3.1, a funds transfer initiated by a Direct Debit Instruction will be settled through FPS immediately upon the completion of its processing.

6.2.3.3 Settlement of a Direct Debit Instruction will be effected across the books of CB pursuant to Rule 3.1.5 by debiting the FPS Ledger Account of the payer Participant (or if the payer Participant is a Clearing Participant, the FPS Ledger Account of its Settlement Participant) for the funds transferred and crediting the same to the FPS Ledger Account of the payee Participant (or if the payee Participant is a Clearing Participant, the FPS Ledger Account of its Settlement Participant). Upon the completion of settlement, the transaction will be reflected in the available balance of the relevant Clearing Participant and/or FPS Ledger Account of the relevant Settlement Participant.

### **6.2.4 Settlement of SI Direct Debit Transactions**

6.2.4.1 Rule 6.2.4 is only applicable to Settlement Participants.

6.2.4.2 An SI Direct Debit Transaction will be settled immediately in case the available balance in the relevant Settlement Participant's FPS Ledger Account for the time being is sufficient to make the funds transfer referred to in such transaction. In case the available balance in the relevant Settlement Participant's FPS Ledger Account is insufficient to make such funds transfer, the relevant SI Direct Debit Transaction will be rejected immediately.

6.2.4.3 Subject to Rule 6.2.1.1 and Rule 6.2.4.2, an SI Direct Debit Transaction will be settled through FPS immediately upon the completion of its processing.

6.2.4.4 Settlement of an SI Direct Debit Transaction will be effected across the books of CB pursuant to Rule 3.1.5 by debiting the relevant FPS Ledger Account for the payment referred to in such transaction.

#### **6.2.5 Settlement of SI Direct Credit Transactions**

6.2.5.1 Rule 6.2.5 is only applicable to Settlement Participants.

6.2.5.2 Subject to Rule 6.2.1.1, an SI Direct Credit Transaction will be settled through FPS immediately upon the completion of its processing.

6.2.5.3 Settlement of an SI Direct Credit Transaction will be effected across the books of CB pursuant to Rule 3.1.5 by crediting the relevant FPS Ledger Account for the payment referred to in such transaction.

#### **6.2.6 Settlement of Balance-triggered Balance Sweeping Transactions**

6.2.6.1 Rule 6.2.6 is only applicable to Settlement Participants.

6.2.6.2 A Balance-triggered Balance Sweeping Transaction will be triggered manually by a Settlement Participant or automatically by FPS in the following circumstances:

- (a) to complete the account balance sweeping request by transferring funds from the FPS Ledger Account of a Settlement Participant to its CHATS Ledger Account pursuant to Rule 6.4.1.3(a), 6.4.1.6 and 6.4.1.10(b). Such Balance-triggered Balance Sweeping Transaction is triggered to debit funds from the FPS Ledger Account of the Settlement Participant. Subject to Rule 6.2.1.1, the Balance-triggered Balance Sweeping Transaction will be settled through FPS immediately upon the completion of its processing; or
- (b) to complete the account balance sweeping request by transferring funds from the CHATS Ledger Account of a Settlement Participant to its FPS Ledger Account pursuant to Rule 6.4.1.3(b), 6.4.1.6 and 6.4.1.10(a). Such Balance-triggered Balance Sweeping Transaction is triggered to credit funds to the FPS Ledger Account of the Settlement Participant. Subject to Rule 6.2.1.1, the Balance-triggered Balance Sweeping Transaction will be settled through FPS immediately upon the completion of its processing.

#### **6.2.7 Settlement of Transaction-triggered Balance Sweeping Transactions**

6.2.7.1 Rule 6.2.7 is only applicable to Settlement Participants who have opted for the automatic transaction-triggered account balance sweeping function.

6.2.7.2 A Transaction-triggered Balance Sweeping Transaction will be triggered automatically by FPS if there are outstanding Direct Debit Instructions after the second settlement retry in accordance with the schedule and conditions stipulated in the FPS Operating Procedures. Such Transaction-triggered Balance Sweeping Transaction will be triggered in accordance with the schedule and conditions stipulated in the FPS Operating Procedures to complete the automatically-triggered account balance sweeping request by transferring the required funds from the CHATS Ledger Account of the relevant Settlement Participant to its FPS Ledger Account pursuant to Rule 6.4.1.4 to settle the outstanding Direct Debit Instructions. Subject to Rule 6.2.1.1, a Transaction-triggered Balance Sweeping Transaction will be settled through FPS immediately upon the completion of its processing.

### **6.3 Returns of FPS Transactions**

- 6.3.1 For the avoidance of doubt, Rule 6.3 is only applicable to FPS Transactions effected by Credit Transfer Instructions or Direct Debit Instructions. Returns of other FPS Transactions will be settled by the payee initiating another FPS Transaction in favour of the appropriate party or by a transfer outside FPS.
- 6.3.2 All returns of Credit Transfer Instructions or Direct Debit Instructions should be effected through FPS not later than the time appointed by HKICL, and must include in the instruction the information as stipulated in the FPS Operating Procedures.
- 6.3.3 A return of a Credit Transfer Instruction or Direct Debit Instruction may only be initiated by the payee Participant of the funds transfer. If a payee Participant is unable to apply funds from a credit transfer for any reason or is requested by its customer to refund a credit transfer or a direct debit for any reason, then that payee Participant must send the funds actually received or as requested through FPS back to the original payer Participant in accordance with the procedure set out in Rule 6.3.2.

## **6.4 Liquidity Management**

### **6.4.1 Account Balance Sweeping**

- 6.4.1.1 Rule 6.4.1 is only applicable to Settlement Participants.
- 6.4.1.2 The account balance sweeping facility shall be made available on a CHATS Working Day within the timeframe stipulated in the FPS Operating Procedures for the transfer of funds between an FPS Ledger Account of a Settlement Participant and its CHATS Ledger Account.
- 6.4.1.3 [This provision has been left blank intentionally]
- 6.4.1.4 [This provision has been left blank intentionally]
- 6.4.1.5 [This provision has been left blank intentionally]
- 6.4.1.6 [This provision has been left blank intentionally]
- 6.4.1.7 [This provision has been left blank intentionally]
- 6.4.1.8 [This provision has been left blank intentionally]
- 6.4.1.9 [This provision has been left blank intentionally]
- 6.4.1.10 [This provision has been left blank intentionally]
- 6.4.1.11 [This provision has been left blank intentionally]
- 6.4.1.12 MA, HKICL and CB shall not be liable for any claim, loss, damage or expense of any kind or nature whatsoever arising in whatever manner directly or indirectly out of or in connection with any transaction settlement delay or failure in FPS and/or CHATS due to insufficient funds with or without account balance sweeping facility applied.

### **6.4.2 Available Balance Adjustment**

- 6.4.2.1 Each Clearing Participant agrees that its Settlement Participant can adjust its available balance in accordance with the FPS Operating Procedures.
- 6.4.2.2 Each Clearing Participant shall separately agree with its Settlement Participant on a bilateral basis the terms and arrangement on which liquidity is provided by the

Settlement Participant and shall monitor its available balance to ensure it has sufficient funds for settlement of FPS Transactions.

- 6.4.2.3 If it is necessary to adjust the available balance of a Clearing Participant, its Settlement Participant should do so in accordance with the FPS Operating Procedures.

## **6.5 Overlay Services**

### **6.5.1 Addressing Service**

- 6.5.1.1 Each Participant must comply with the rules and guidelines as stipulated in these FPS Rules and the FPS Operating Procedures relating to the use of the Addressing Service.

6.5.1.2 [This provision has been left blank intentionally]

6.5.1.3 [This provision has been left blank intentionally]

6.5.1.4 [This provision has been left blank intentionally]

6.5.1.5 [This provision has been left blank intentionally]

- 6.5.1.6 Participants should implement all necessary measures to (i) avoid usage of the Addressing Service for the retrieval of data for purposes other than those contemplated in the FPS Rules and FPS Operating Procedures, either by the Participant or on behalf of its customers; and (ii) detect and monitor any customer behaviour other than as provided in paragraph (i) of this Rule 6.5.1.6, including but not limited to mass retrieval of payee information and misuse of the addressing record retrieved from FPS. None of MA, HKICL and CB shall be responsible for any claim, loss, damage or expense of any kind or nature whatsoever arising in whatever manner directly or indirectly out of or in connection with a Participant's failure to comply with this Rule 6.5.1.6.

- 6.5.1.7 Participants should ensure the correctness of information provided to HKICL via the Addressing Service. None of MA, HKICL and CB shall be responsible for any claim, loss, damage or expense of any kind or nature whatsoever arising in whatever manner directly or indirectly out of or in connection with any error or inaccuracy in the addressing record. Participants shall indemnify and hold each of MA, HKICL and CB harmless against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever and howsoever arising out of or as a result of a Participant's failure to perform any of its obligations under this Rule 6.5.1.

- 6.5.1.8 Each Participant shall indemnify and hold each of MA, HKICL and CB harmless from and against all actions, proceedings, claims, demands, liabilities, losses and expenses (including legal fees) directly or indirectly arising out of or resulting from:

- (a) cancellation of the addressing record of a customer of that Participant in accordance with Rule 6.5.1.2(e), and whether arising out of or resulting from any error or inaccuracy in the list of cancelled mobile phone numbers or other information provided to HKICL or for any other reason;
- (b) any delay or failure in cancellation of the addressing record of a customer of that Participant in accordance with Rule 6.5.1.2(e);
- (c) any error or inaccuracy in the processing of the cancellation of the addressing record of a customer of that Participant pursuant to Rule 6.5.1.2(e) or otherwise; and
- (d) any act or omission by Participants, their customers, employees or agents or any person authorised by Participants relating to the use (including disclosure),

of cancelled mobile phone numbers provided by HKICL to Participants.

#### **6.5.2 eDDA Service**

- 6.5.2.1 Each Participant must comply with the rules and guidelines as stipulated in these FPS Rules and the FPS Operating Procedures relating to the use of eDDA Service.
- 6.5.2.2 [This provision has been left blank intentionally]
- 6.5.2.3 [This provision has been left blank intentionally]
- 6.5.2.4 [This provision has been left blank intentionally]
- 6.5.2.5 Participants should ensure the correctness of information provided to HKICL via the eDDA Service. None of MA, HKICL and CB shall be responsible for any claim, loss, damage or expense of any kind or nature whatsoever arising in whatever manner directly or indirectly out of or in connection with any error or inaccuracy in the eDDA Instructions provided to HKICL. Participants shall indemnify and hold each of MA, HKICL and CB harmless against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever and howsoever arising out of or as a result of a Participant's failure to perform any of its obligations under this Rule 6.5.2.

#### **6.6 FPS Console**

- 6.6.1 Each Participant shall at its own cost install and maintain in good order a terminal which can access the FPS Console as prescribed or approved by HKICL from time to time. Use of the terminal which can access the FPS Console shall be restricted to that Participant's authorised personnel who use passwords or other systems to ensure only authorised personnel of Participants may access the FPS Console. HKICL is authorised to rely and act on instructions using such passwords or systems. Participants shall be liable for all consequences of misuse of such passwords or other systems.
- 6.6.2 Each Participant must connect its terminal to the FPS Console in order to connect to FPS. A terminal must be a computer or intelligent terminal device which can access the FPS Console. The connection must undergo formal verification and connection tests with final approval being at the discretion of HKICL. All telecommunications charges or charges levied by network service provider relating to the connection shall be borne by the relevant Participant.
- 6.6.3 Each Participant shall strictly observe and comply with the guidelines as stipulated in the relevant FPS Operating Procedures relating to its access or use of the FPS Console and/or the operation of the FPS Facilities by it.
- 6.6.4 Requests for enhancement of or changes to the FPS Console functions by a Participant shall be submitted by that Participant to HKICL, to enable HKICL to decide whether they should be implemented, subject to prior consultation by HKICL with MA and CB.
- 6.6.5 All software, data, specifications and similar intellectual property comprised within FPS Facilities are owned by, or licensed to, HKICL and may not be copied, downloaded, distributed or published in any way without the prior written consent of HKICL. Participants may utilise such proprietary information of HKICL solely for the purposes of performing administrative functions relating to FPS Instructions, and in accordance with the FPS Rules and the FPS Operating Procedures.
- 6.6.6 HKICL provides access to the FPS Console on an "as is" basis, and save as provided in these FPS Rules, makes no representation as to, and does not warrant, the accuracy or completeness of the FPS Console or data derived from its use. HKICL gives no warranties, express, implied or statutory, of any kind, including without limitation as to the merchantability, fitness for a particular purpose, title, non-infringement of third party rights or freedom from viruses, worms,

trojan horses or other contaminating programming or code relating to the use of the FPS Console, except to the extent the same cannot be excluded or limited at law or as otherwise given in these FPS Rules.

6.6.7 To the fullest extent permitted by law (and subject only to the provisions of Rule 2.3 of the FPS Rules), each of MA, HKICL and CB shall not be liable for, and expressly excludes any such liability for, any direct, indirect, consequential, special or incidental damage, loss or expense, whether caused by negligence or otherwise, which arises directly or indirectly as a consequence of the use of the FPS Console, whether or not MA, HKICL or CB has been notified of the possibility of such damage, loss or expense.

6.6.8 [This provision has been left blank intentionally]

## **6.7 FPS Optimiser**

FPS Optimiser effected through FPS can be enabled to enhance system efficiency by increasing the number of relevant FPS Transactions which can be processed by FPS (either through the FPS Optimiser or Rule 6.2.2 or 6.2.3 as applicable) at a given time. Where FPS Optimiser is so enabled, FPS Optimiser processes will be triggered automatically and repeatedly by FPS according to this Rule 6.7.

6.7.1 When an FPS Optimiser process starts, eligible FPS Transactions, comprising FPS Transactions that are initiated by Credit Transfer Instructions or Direct Debit Instructions (including those initiated for the return of FPS Transactions) and which are accepted for settlement and selected through the FPS Optimiser as specified in the FPS Operating Procedures will be extracted (“Selected Payments”) and processed according to the following provisions in this Rule 6.7.

6.7.2 For each involved Participant of the Selected Payments in the FPS Optimiser run (“Selected Participant”), FPS will compute:

- (a) if the Selected Participant is a Settlement Participant, the projected available balance in the FPS Ledger Account of the Selected Participant; and
- (b) if the Selected Participant is a Clearing Participant, the projected available balance of:
  - (i) the Selected Participant maintained with its Settlement Participant; and
  - (ii) the FPS Ledger Account of the Selected Participant’s Settlement Participant,

for the time being based on assumed settlement of the Selected Payments in the FPS Optimiser run through FPS immediately upon the completion of processing.

6.7.3 If the projected available balances of each of the Selected Participants and (where relevant) Selected Participants’ Settlement Participants computed pursuant to Rule 6.7.2 in the FPS Optimiser run are found positive or zero, the gross amount of the Selected Payments will each be effected through FPS automatically and settled immediately upon completion of its processing subject to Rule 6.2.1.1 and effected across the books of CB pursuant to Rule 3.1.5 by debiting and crediting the FPS Ledger Account of the Selected Participant (or if the Selected Participant is a Clearing Participant, the FPS Ledger Account of the Selected Participant’s Settlement Participant) for the funds transferred. Upon the completion of settlement of the Selected Payments, the transactions will be reflected in the available balances of the relevant Selected Participants and/or FPS Ledger Accounts of the relevant Selected Participants’ Settlement Participants.

6.7.4 In case the projected available balances computed pursuant to Rule 6.7.2 for some Selected Participants or (where relevant) some Selected Participants’ Settlement Participants in the FPS Optimiser run are found negative, FPS will exclude the relevant Selected Payments of such Selected Participants from the FPS Optimiser run in accordance with the FPS Operating Procedures in order to reach positive or zero projected available balances of each of the Selected



Participants and (where relevant) Selected Participants' Settlement Participants in the FPS Optimiser run, at which point the amount of the Selected Payments which have not been so excluded will each be effected through FPS according to Rule 6.7.3 (unless all Selected Payments in the FPS Optimiser run are so excluded, in which case Rule 6.7.5 applies).

- 6.7.5 Selected Payments that are excluded from the FPS Optimiser run pursuant to Rule 6.7.4 will be processed by FPS separately in accordance with Rules 6.2.2 and 6.2.3 (as applicable), and those which cannot be effected and settled through FPS according to Rule 6.2.2.1 or 6.2.3.1 (as the case may be) will be rejected immediately accordingly.

## **6.8 Input FPS Instructions**

FPS Instructions may only be input by Participants addressed to themselves, other Participants, CB or FPS, or by CB addressed to Participants or FPS.

## **6.9 Responsibility of Participants**

In addition to the other provisions of these FPS Rules, each Participant shall be responsible for the following matters:

- 6.9.1 the control of access to the FPS Console and the security of the Participant's terminal(s) connecting to HKICL and the FPS Console (including security and confidentiality of passwords or other systems to ensure that only authorised personnel of Participants may access the FPS Console), and lines, modems and other computer equipment relating thereto of the Participant and the security of the transmission lines between FPS and the Participant's terminals having access to the FPS Console;
- 6.9.2 the operation of all equipment and software relating to the access to the FPS Console and terminal(s) connecting to HKICL;
- 6.9.3 ensuring that:
- (a) the access to and/or use of the FPS Console is in full compliance with these FPS Rules;
  - (b) all data transmitted from terminals owned by, or under its control, through which it gains access to the FPS Console:
    - (i) do not infringe the copyright or other intellectual property rights of third parties; and
    - (ii) do not create and/or introduce into FPS any virus, worms, trojan horses or other destructive or contaminating program or codes;
  - (c) all data, including Personal Data, retrieved, obtained and archived from FPS shall be used solely for the purpose of operation of FPS and facilitating FPS Instructions in accordance with these FPS Rules and the FPS Operating Procedures, that no such Personal Data is used for any other purpose, including without limitation, direct marketing and that use of such data is in full compliance with the relevant laws and regulations in Hong Kong; and
  - (d) there are in place all necessary measures to:
    - (i) prevent usage by or on behalf of its customers of the FPS (and in particular the Addressing Service) for retrieval of data including Personal Data for purposes other than in accordance with Rule 6.9.3(c);
    - (ii) detect and monitor any misuse by or on behalf of its customers of data including Personal Data retrieved from FPS (including mass retrieval of

payee information); and

it shall indemnify and hold MA, HKICL, CB and other Participants harmless against the consequences of breach of any of the obligations under this Rule 6.9.3;

- 6.9.4 delay or non-delivery of FPS Instructions where the delay is due to force majeure or technical failure caused by act or omission of any carrier or vendor;
- 6.9.5 the correct dispatch to FPS and the correct receipt by FPS of all FPS Instructions;
- 6.9.6 the processing of and the timely provision of responses to certain FPS Instructions in compliance with the service level agreement as stipulated in these Rules and the FPS Operating Procedures;
- 6.9.7 any loss incurred due to a fraudulent transfer of funds and information originating from a Participant or the fraudulent insertion or alteration of a transfer of funds and information between a Participant and FPS;
- 6.9.8 the verification of the funds transfer result received from FPS after funds settlement. If the result is not in order the payee Participant must effect a return of the funds transfer quoting the original transaction details and giving the reason for the return by the allowable period as stipulated in the FPS Operating Procedures. If the funds transfer is returned to the payer Participant after the allowable period as stipulated in the FPS Operating Procedures then any loss of interest is for the account of the payer Participant;
- 6.9.9 as a Participant that initiates FPS Instructions, Delayed Payments in the following circumstances:
- (a) if the instruction has not been accepted by FPS;
  - (b) if the Participant addresses an instruction incorrectly; and/or
  - (c) if the Participant ignores FPS generated messages concerning the operational system;
- 6.9.10 as a Participant that receives FPS Instructions, Delayed Payments in the following circumstances:
- (a) if the Participant ignores FPS generated messages concerning the operational system;
  - (b) if the Participant does not reconcile its settlement total as supplied by FPS as shown in the FPS Console or through HKICL network and accounting totals to ensure receipt of all FPS Transactions involving funds transfers; and/or
  - (c) if the Participant is not connected to the FPS Console or the Participant is not connected to the HKICL network or unable to receive information relating to FPS Instructions;
- 6.9.11 such Participant's failure to report discrepancies for FPS Instructions as shown in the FPS Console.

## **6.10 Indemnity**

A Participant which delivers to HKICL FPS Instructions:

- (a) will be responsible for the correctness of the information in the FPS Instructions;
- (b) authorises HKICL and CB to rely exclusively on the relevant information in the FPS Instructions without making any other independent verification of such information; and
- (c) undertakes to indemnify CB, MA and HKICL against all liabilities and expenses incurred by

either of them arising out of or as a result of any error or discrepancy in the FPS Instructions.

## **6.11 Emergencies**

6.11.1 In the event that communications between FPS and the HKICL network or between the HKICL network and one or more of the Participants are halted, or if FPS or the HKICL network is halted, or if some other emergency affects HKICL's operation, FPS Instructions shall be handled in accordance with the FPS Operating Procedures.

HKICL may, at its own discretion or under the instruction of CB after CB has consulted with MA:

- (a) direct any, all or some of the Participants not to initiate FPS Instructions awaiting resolution of the problem; and/or
- (b) direct such other action as it may deem necessary or as required by CB after CB has consulted with MA.

6.10.2 During any such emergency all Participants should limit their communications through FPS and with HKICL to those which are essential.

## **6.12 Payee Participants**

No payee Participant shall be obliged to credit any funds received by it through FPS to its customer's account if the instructions for the funds transfer are incomplete or inaccurate.

## **Part VII Miscellaneous**

### **7.1 Personal Data (Privacy) Ordinance**

7.1.1 Each Participant represents to HKICL that:

- (a) all Personal Data provided by it to HKICL:
  - (i) have been collected by lawful means; and
  - (ii) are accurate in all material respects so far as it is aware;
- (b) in relation to Personal Data collected by it all necessary consents required from Data Subjects have been obtained:
  - (i) to enable Personal Data to be used for the purpose of the operation of the Clearing House and the FPS Facilities in accordance with these FPS Rules;
  - (ii) to enable Personal Data to be transferred or delivered to any other person to the extent necessary for the purpose of the operation of the Clearing House and the FPS Facilities in accordance with these FPS Rules; and
  - (iii) to enable HKICL to provide Personal Data to any party pursuant to any obligation binding upon it under the Personal Data (Privacy) Ordinance;
- (c) it has complied in all aspects with the provisions of the Personal Data (Privacy) Ordinance; and
- (d) use of the FPS Console and any equipment through which Participants gain access to the FPS Console complies with all applicable data protection laws, codes of practices and licences.

7.1.2 Each Participant confirms that the collection, use and retention of Personal Data by any outsourcing party in relation to the operation of the Clearing House and the FPS Facilities pursuant to these Rules comply with all relevant laws and regulations in Hong Kong.

### **7.2 Contracts (Rights of Third Parties) Ordinance, Cap. 623 of the Laws of Hong Kong**

7.2.1 Save in respect of MA, a person who is not a party to these FPS Rules pursuant to Rule 2.7 shall not have any rights to enforce or enjoy the benefit of any term or provision of these FPS Rules, and the application of the Contracts (Rights of Third Parties) Ordinance and/or any comparable law in any jurisdiction giving to or conferring on third parties the right to enforce or enjoy the benefit of any term or provision of these FPS Rules is expressly excluded.

7.2.2 Any rights or benefits granted to MA under these FPS Rules are personal to MA and may not be assigned or enforced by any person other than MA.

### **7.3 Law and Jurisdiction**

7.3.1 These FPS Rules and the FPS Operating Procedures shall be governed by and construed in accordance with the laws of the Hong Kong Special Administrative Region of the People's Republic of China.

7.3.2 The Courts of the Hong Kong Special Administrative Region of the People's Republic of China shall have jurisdiction to settle any disputes which may arise in connection with these FPS Rules or the FPS Operating Procedures and CB, HKICL and each Participant hereby submit to the jurisdiction of such Courts. Proceedings may also be initiated in any other courts of competent

jurisdiction.

**7.4 Effective Date**

This revision of the FPS Rules has consolidated all amendments up to the date HKICL announces that they will take effect and shall take effect from the same date. In the event of any inconsistency between the version of the FPS Rules on HKICL's website and any other version of the FPS Rules, the version on HKICL's website shall prevail.

Hong Kong Interbank Clearing Limited

Date: 8 December 2019