

Snapshot of Severe Weather Trading Arrangements

Yu, Chan & Yeung Solicitors

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INTRODUCTION

The Hong Kong Exchanges and Clearing Limited with the support of the HKSAR Government and the agreement of the SFC¹ and the HKMA², has proposed to call a halt to the current practice of trade suspension during severe weather in order that trading remains normal in the event of severe weather. Pursuant to the new arrangement, intermediaries shall remain open during severe weather conditions.

SEVERE WEATHER TRADING DAY

In this connection, it is worth noting that “severe weather” means the scenario where a typhoon signal No. 8 or above or a black rainstorm warning is issued by the Hong Kong Observatory, or an “extreme conditions” announcement is made by the HKSAR Government; and “severe weather trading day” (“**SWT Day**”) means any day from Monday to Friday except a Hong Kong public holiday on which severe weather falls. In addition, it would be considered an SWT Day for the derivatives market if severe weather falls on a Hong Kong public holiday which is a holiday trading day for selected derivatives products.

On 18 June 2024, the HKMA and the SFC had respectively issued circulars to address Severe Weather Trading (“**SWT**”). The HKMA’s circular³ made reference to the SFC’s circular⁴, establishing that intermediaries should adhere to the SFC’s circular for implementing SWT. To streamline the new arrangement, the SFC’s circular outlined the expected standards and procedures for intermediaries in preparation for SWT Day. In this explanatory note, we shall provide a snapshot of those expected standards and the regulated procedures.

¹ SFC means the Securities and Futures Commission of Hong Kong.

² HKMA means the Hong Kong Monetary Authority.

³ Circular issued by the HKMA titled “Banking Sector’s Support for Implementation of Severe Weather Trading” dated 18 June 2024.

⁴ Circular issued by the SFC titled “Circular to Intermediaries: Severe Weather Trading” dated 18 June 2024.

REGULATOR'S EXPECTED STANDARDS

For the purpose of SWT, intermediaries should make adequate preparations and implement appropriate measures for conducting business activities on an SWT Day in accordance with General Principle 3 of the Code of Conduct⁵. In particular, they are required to:

1. put in place effective and adequate arrangements to maintain business operations;
2. adopt remote operations to perform critical functions;
3. ensure their business operations continue uninterrupted;
4. ensure capability to fulfil money settlement or risk obligations (e.g. initial and variation margins) and review their operational arrangements for fund transfers;
5. put in place adequate and effective internal control procedures for operations as well as client communication, risk management, client asset protection and notifications to the SFC;
6. have regard to the operational resilience standards and required implementation measures as well as the regulatory standards for remote working⁶;
7. maintain sufficient records and documents to demonstrate adherence to the internal control procedures referred to in Paragraph 5 above;
8. communicate their SWT and related remote working arrangements with their staff, conduct trial runs, and remediate any inadequacies identified from the trials;
9. periodically test their SWT and related remote working arrangements; and

⁵ Code of Conduct means the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

⁶ Reference should be made to the SFC's Report on Operational Resilience and Remote Working Arrangements.

10. review their SWT and related remote working arrangements whenever necessary and at least annually.

CLIENT AGREEMENT AND COMMUNICATION

Intermediaries should communicate with clients clearly and in advance about their SWT policies and arrangements as well as any changes to client agreements as a result of SWT, and also encourage their clients to transfer funds electronically given that (i) bank branches will be closed on an SWT Day; and (ii) no paper cheques will be collected. Thus, intermediaries are required to do the followings:

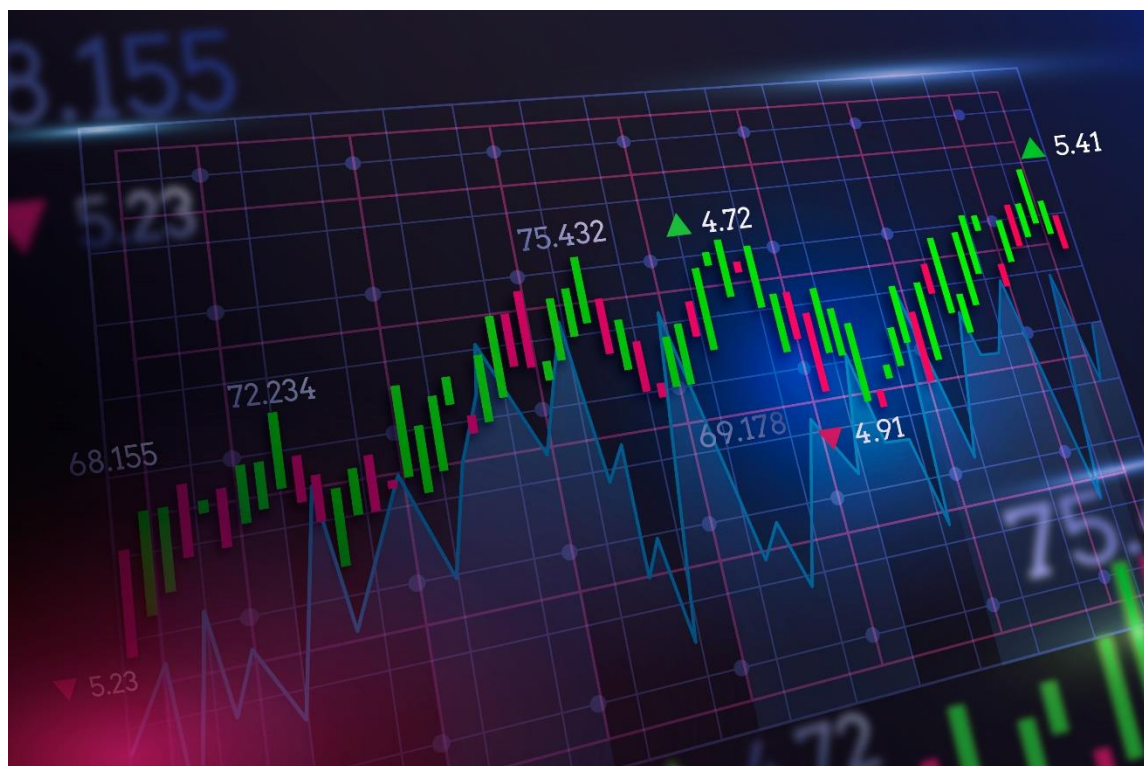
1. *“Business day”*: Review and update client agreements to ensure they align with SWT requirements and promptly notify clients of any changes to client agreements resulting from the review. It is the SFC’s observation that the definition “business day” in most client agreements reflects the interpretation under the definition of “business day” under Section 1 of Part 1 of Schedule 1 to the SFO⁷. It follows that such definition may not include an SWT Day which warrants an update on the client agreements accordingly.
2. *Notification to client*: Notify clients in writing before any service unavailability or limitations on SWT Days and draw their attention to related changes in client agreements to minimize potential disputes;
3. *Information to client*: Promptly inform clients about policies for orders, trade settlement, margin calls, and forced liquidation during SWT Days and adjust order placing channels as part of SWT arrangements. Where necessary, intermediaries may require funding in advance from their clients to honour payment obligations or additional margin requirement; and
4. *Electronic fund transfer*: Encourage clients to transfer fund electronically on an SWT Day (e.g. CHATS, FPS, eDDA) to meet clients’ trading needs and settlement or margin obligations punctually and in a timely manner.

⁷ SFO means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong).

RISK MANAGEMENT

According to the SFC's circular, intermediaries should develop robust arrangements so as to have timely and reliable access to funding on an SWT Day. In particular, intermediaries should:

1. evaluate liquidity needs to meet payment obligations and consider to require pre-funding from their clients to honour payment or margin obligations if they do not avail themselves of electronic fund transfer;
2. monitor market, credit and liquidity risks to ensure their financial resilience on an SWT Day; and
3. segregate client securities or securities collateral as far as practicable on an SWT Day. Where appropriate, they should also monitor securities collateral repledging limits and rectify any excess promptly.



STATUTORY TIME LIMIT WITH SWT

Since an SWT Day does not generally fall within the definition of “business day” under the SFO, therefore the time limit for rendering trade documents and transferring client money to a segregated account prescribed under the Contract Notes Rules⁸ and the Client Money Rules⁹ respectively shall remain unaffected under SWT:-

1. *Provision of trade documents under the Contract Notes Rules:* Where intermediaries are required to provide trade documents (e.g. contract notes and statements of account) to clients **no later than the end of the second business day** after entering into relevant contracts pursuant to the Contract Notes Rules, they need not take into account an SWT Day in determining the deadline by which the trade documents have to be provided to clients. Nevertheless, intermediaries should, as far as practicable, provide clients with trade documents on an SWT Day as scheduled if the documents are provided via electronic means (e.g. email or intermediaries’ websites) so that clients may receive timely information about transactions conducted with them or on their behalf.
2. *Transfer of Client Money to segregated account under Client Money Rules:* Where intermediaries are required to transfer client money to a segregated account **within one business day** after receipt *under* the Client Money Rules, they are not required to count an SWT Day in determining the deadline by which client money should be segregated as an SWT Day. That said, for better protection of client assets, intermediaries are urged to transfer funds electronically and employ adequate resources and control procedures enabling the segregation of client money to be performed as far as practicable on an SWT Day.

⁸ Contract Notes Rules means the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules (Cap. 571Q).

⁹ Client Money Rules means the Securities and Futures (Client Money) Rules (Cap.571I).