

Guidance for Clearing Participants upon Occurrence of Delivery Failure on a Record Date

Japan Securities Clearing Corporation

1. About this Guidance

This Guidance sets forth concepts that a delivering Cash Products Clearing Participant in the delivery failure (hereinafter referred to as “Fail_Deliverer Participant”) should refer to as a guidance in the rights adjustment process upon occurrence of a delivery failure in respect of Stocks, etc. on a Record Date¹ for the receiving Clearing Participant in the delivery failure (hereinafter referred to as “Fail_Receiver Participant”) pursuant to Article 5 of the Rules on Handling of the Case of Delivery Failure and Buy-in².

Because, as set forth in the said Rules, the rights adjustment shall eventually be a matter of individual arrangement between the Clearing Participants, Fail_Deliverer Participant is expected to be flexible in responding to Fail_Receiver Participant’s request. However, in the absence of specific request from Fail_Receiver Participant according to individual case, Fail_Deliverer Participant is required to adjust rights in accordance with this Guidance to the extent possible.

¹ In this Guidance, a “Record Date” means any date specified in Article 64, Paragraph 3, Items (1) to (3) of the Business Rules (or, if such date falls on a non-business day, immediately preceding business day).

² This Guidance does not cover any event that is to be the cause of restriction on the delivery failure (prohibition of causing delivery failure) (reverse split of stocks, and de-listing event resulting from merger, stock exchange, stock transfer, acquisition of all stocks and request for sale of stocks, etc.).

2. Principles to be Followed by Fail_Deliverer Participant upon Delivery Failure on Record Date

When a Fail_Deliverer Participant caused a delivery failure on a Record Date, it shall take measures in the order set forth below promptly after the occurrence of the failure, and make efforts so that the Fail_Receiver Participant can acquire/exercise the rights it is originally supposed to retain without suffering from disbenefit, such as additional operational burden or economic loss.

- (1) On the date of occurrence of the delivery failure, the Fail_Deliverer Participant shall make efforts to have Fail_Receiver Participant or its client directly acquire the rights under the Book-Entry Transfer System for Shares, etc.³ through delivery of the securities subject to the delivery failure to the Fail_Receiver Participant by using Non-Exchange Transaction Deliveries under the Book-Entry Transfer System for Shares, etc.;
- (2) If (1) is not possible, on the date of occurrence of the delivery failure, the Fail_Deliverer Participant shall make efforts to have Fail_Receiver Participant or its client directly acquire the rights under the Book-Entry Transfer System for Shares, etc. through delivery of the securities subject to the delivery failure to the Fail_Receiver Participant by using, upon coordination with the Fail_Receiver Participant, Additional Transfer under the Book-Entry Transfer System for Shares, etc.;
- (3) If neither (1) nor (2) is possible, promptly on or after the date of occurrence of the delivery failure, the Fail_Deliverer Participant shall adjust the rights with the Fail_Receiver Participant according to the method specified in Section 3 of this Guidance.

³ Even in the case where the securities subject to the delivery failure is the issues subject to the Depository and Book-Entry Transfer System for Foreign Stock Certificates, etc., it shall be treated according to the statement in this Guidance.

3. Guidance on Ex-post Facto Processing of Rights Adjustment related to Delivery Failure on Record Date between Fail_Deliverer Participant and Fail_Receiver Participant

When it is not possible to cause the Fail_Receiver Participant directly acquire the rights under the Book-Entry Transfer System for Shares, etc. as specified in (1) and (2) of Section 2 above, and the Fail_Deliverer Participant processes rights adjustment related to the delivery failure occurred on the Record Date with Fail_Receiver Participant ex-post facto, the Fail_Deliverer Participant is required to adjust rights according to the method outlined below by each corporation action. Cash, etc. needed for the process is required to be borne by the Fail_Deliverer Participant in principle, unless Fail_Receiver Participant agrees otherwise.

(1) Dividends (Dividend of Surplus)/Distributions

On or after the date of commencement of the dividend⁴ payment by the issuer, the Fail_Deliverer Participant shall pay the amount considered sufficient to avoid the Fail_Receiver Participant from incurring any loss of dividends which should have otherwise been received by the Fail_Receiver Participant (capped at “number of stocks subject to the delivery failure x dividend per share”) to the account, etc. designated by the Fail_Receiver Participant without delay.

(2) Shareholder Benefits

When the Fail_Receiver Participant desires to receive/deliver shareholder benefits, the Fail_Deliverer Participant shall confirm with the Fail_Receiver Participant the type and quantity of the subject of the shareholder benefit which the Fail_Receiver Participant or its client would have received had the delivery failure not occurred, and shall make efforts to pay/receive the subject of the shareholder benefits or cash equivalent thereof without delay in any

⁴ Including distributions on the securities, such as beneficial interests in the investment trust or investment securities.

of the methods specified below:

- (i) The Fail_Deliverer Participant shall deliver the item of the shareholder benefits itself in the manner and at the place designated by the Fail_Receiver Participant by alternatively procuring the subject of the shareholder benefits from another shareholder or market, or by other method;
- (ii) When the measure described in (i) above is difficult and, based on an agreement between the Fail_Deliverer Participant and the Fail_Receiver Participant, the Fail_Receiver Participant is to alternatively procure the subject of the shareholder benefits on a voluntary basis, the Fail_Deliverer Participant shall pay the amount equivalent to the actual cost incurred by the Fail_Receiver Participant in such alternative procurement and delivery to its client to the account, etc. designated by the Fail_Receiver Participant.
- (iii) When it is difficult to procure the same item due to limitation on the aggregate number of the subject of the shareholder benefits, or difficulty in procurement at market or the like because of its nature as commemorative gift or shareholders-only gift, the Fail_Deliverer Participant shall, based on consent of the Fail_Receiver Participant, clear the rights with money or goods that can be an alternative for such subject of shareholders benefit.

(3) Stock Split⁵

As to the number of shares which should have been newly allocated to the Fail_Receiver Participant or its client as a result of the stock split had the delivery failure not occurred (it shall be the number of shares calculated as those supposed to be allocated against the number of shares subject to the delivery failure, truncating fraction less than 1 share), the Fail_Deliverer Participant shall deliver the relevant securities to the Fail_Receiver Participant via Non-Exchange Transaction Deliveries under the Book-Entry Transfer System for Shares, etc. promptly on or after the effective date of the relevant stock split.

As to the fraction less than 1 share truncated in the calculation process, if the issuer supposed to deliver money through distribution of consideration of disposition of the fractional shares, the Fail_Deliverer Participant shall confirm the amount of money to be delivered had the delivery failure not occurred, and pay the full amount thereof to the account, etc. designated by the Fail_Receiver Participant.

⁵ Including split of beneficial interest of investment trusts and division of investment unit of investment securities.

(4) Allotment of Shares without Consideration

As to the number of shares which should have been newly allocated to the Fail_Receiver Participant or its client as a result of the allotment of shares without consideration had the delivery failure not occurred (it shall be the number of shares calculated as those supposed to be allocated against the number of shares subject to the delivery failure, truncating fraction less than 1 share), the Fail_Deliverer Participant shall deliver the relevant securities to the Fail_Receiver Participant via Non-Exchange Transaction Deliveries under the Book-Entry Transfer System for Shares, etc. promptly on or after the effective date of the allotment of shares without consideration.

As to the fraction less than 1 share truncated in the calculation process, if the issuer supposed to deliver money through distribution of consideration of disposition of the fractional shares, the Fail_Deliverer Participant shall confirm the amount of money to be delivered had the delivery failure not occurred, and pay the full amount thereof to the account, etc. designated by the Fail_Receiver Participant.

(5) Allotment of Stock Acquisition Rights without Contribution⁶

In response to the request of the Fail_Receiver Participant, the Fail_Deliverer Participant shall deliver the stock acquisition rights which should have been newly allocated to the Fail_Receiver Participant or its client as a result of the allotment of stock acquisition rights without contribution had the delivery failure not occurred to the Fail_Receiver Participant via Non-Exchange Transaction Deliveries under the Book-Entry Transfer System for Shares, etc. promptly after the issuance of such stock acquisition rights (allotment)⁷, or, in response to the request of the Fail_Receiver Participant, provide the Fail_Receiver Participant with the opportunity of exchanging the stock and funds (amount equivalent to paid-in capital) on the same condition as a partial or full exercise of the stock acquisition rights which should have been allocated to the Fail_Receiver Participant or its client had the delivery failure not occurred.

⁶ Including allotment of options to acquire new investment units without contribution.

⁷ In case of allotment of stock acquisition rights without contribution for which the stock acquisition rights is eligible for transfer at Japan Securities Depository Center, Inc.

(6) Capital Increase through Shareholders Allocation⁸

When the Fail_Receiver Participant has expressed its intention to accept shareholders allocation for capital increase by the closing date for the shareholders allocation, the Fail_Deliverer Participant shall, in response to the request of the Fail_Receiver Participant, provide the Fail_Receiver Participant with the opportunity of exchanging the shares and funds (amount equivalent to paid-in capital) on the same condition as the case assuming application of the part or all of the pre-emptive rights which Fail_Receiver Participant or its client should have had as a result of the shareholders allocation had the delivery failure not occurred.

(7) Other Rights

In respect of any right falling under none of (1) through (6) above, the Fail_Deliverer Participant shall decide on the treatment upon consultation and arrangement with the Fail_Receiver Participant.

4. Other

The establishment, revision and abolition of this Guidance shall be determined by Japan Securities Clearing Corporation upon consultation with the Listed Products Management Committee established by Japan Securities Clearing Corporation.

End of Document

⁸ Including allotment with contribution to the investors of the investment securities.