

LEGISLATIVE COUNCIL BRIEF

COMMODITIES TRADING ORDINANCE (CAP. 250)

COMMODITIES TRADING ORDINANCE (AMENDMENT OF SCHEDULE 1) ORDER 2002

INTRODUCTION

At the meeting of the Executive Council on 4 June 2002, the Council ADVISED and the Chief Executive ORDERED that –

the Commodities Trading Ordinance (Amendment of Schedule 1) Order 2002 at **Annex A**, be made under section 115 of the Ordinance to add “fixed income instruments which generate fixed periodic interest payment until the return of the principal” to the list of specified commodities in Schedule 1 to the Commodities Trading Ordinance (“the Ordinance”).

BACKGROUND AND ARGUMENT

2. Under section 59 of the Ordinance, the Commission is empowered to set trading and position limits on futures contracts of specified commodities. Pursuant to section 115 of the Ordinance, the CE in Council may by order published in the Gazette amend, among other things, the specified commodities listed in Schedule 1 to the Ordinance.

3. The Commission has authorized trading of Exchange Fund Note (“EFN”) futures contracts on the Hong Kong Futures Exchange (“HKFE”). The underlying commodity of such contracts is a three-year notional EFN with a fixed coupon of 6%.

4. EFNs are debt securities issued by the HKSAR Government under the Exchange Fund Ordinance (Cap. 66) which constitute direct, unsecured, unconditional and general obligations of the government for the account of the Exchange Fund. EFNs are a type of fixed income instruments that yield a fixed income, with return of the principal at maturity.

5. EFN futures contracts are already trading on the HKFE, and trading and position limits have been put in place pursuant to the non-statutory rules made by the HKFE. However, for effective risk management, it is necessary to impose statutory trading and position limits to encourage compliance by market players; and assist the Commission in reducing systemic risks in the securities and futures market and maintaining stability of the financial system in times of volatile market. This is because a breach of the statutory limits constitutes an offence, whereas a breach of the HKFE rules does not. Statutory backing on trading and position limits has been in place for other products trading on the HKFE.

6. In order for the Commission to impose statutory trading and position limits in respect of EFN futures contracts, it is necessary to first add “fixed income instruments which generate fixed periodic interest payment until the return of the principal” to Part I of Schedule 1 to the Ordinance under the category of “specified commodities”.

THE AMENDMENT ORDER

7. The Order amends Part I of Schedule 1 to the Ordinance by adding “fixed income instruments which generate fixed periodic interest payment until the return of the principal” to the list of specified commodities set out therein.

PUBLIC CONSULTATION

8. No public consultation is considered necessary for the technical amendment. The market has no problems with the trading and position limits currently prescribed under the HKFE rules.

BASIC LAW IMPLICATIONS

9. The Department of Justice advises that the proposed Order is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the proposed Order

has no human rights implications.

BINDING EFFECT OF THE ORDER

11. The proposed Order will not affect the current binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

12. There are no financial and staffing implications for the Government.

ECONOMIC IMPLICATIONS

13. There are no economic implications.

SUSTAINABILILTY IMPLICATIONS

14. The proposed Order has no major sustainability implications.

COMMENCEMENT DATE

15. Subject to negative vetting by the Legislative Council, the Order shall come into operation on 12 July 2002. This plan will only allow a 28-day negative vetting period to tie in with the current legislative session. Any extension for vetting would defer the provision of statutory backing due to the intervening summer recess. As the Order only involves technical amendments and is consistent with existing arrangements for regulating trading and position limits for similar HKFE products, we hope the Legislative Council would support this fast-track arrangement.

PUBLICITY

16. A press release will be issued on the day the Order is published in the Gazette, i.e. 7 June 2002. A spokesperson will be available for answering media enquiries.

ENQUIRIES

17. For any enquiries on this brief, please contact Ms Salina Yan, Principal Assistant Secretary for Financial Services at 2528 9161.

Financial Services Bureau
5 June 2002

**COMMODITIES TRADING ORDINANCE (AMENDMENT OF
SCHEDULE 1) ORDER 2002**

(Made by the Chief Executive in Council under section 115 of the
Commodities Trading Ordinance (Cap. 250))

1. Commencement

This Order shall come into operation on 12 July 2002.

2. Specified commodities

Part I of Schedule 1 to the Commodities Trading Ordinance (Cap. 250) is amended by adding –

"13. Fixed income instruments which generate fixed periodic interest payment until the return of the principal."

Clerk to the Executive Council

COUNCIL CHAMBER

2002

Explanatory Note

This Order amends Part I of Schedule 1 to the Commodities Trading Ordinance (Cap. 250) to include fixed income instruments as a specified commodity in respect of which futures contracts may be traded.