

L.N. 186 of 2002

Securities and Futures (Recognized
Counterparty) Rules

(Made by the Securities and Futures Commission
under section 397(1) of the Securities and
Futures Ordinance (Cap. 571))

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Securities and Futures Ordinance (Cap. 571).

2. Interpretation

In these Rules, unless the context otherwise requires---

"currency futures contract" (貨幣期貨合約) means a futures contract in respect of any currency;

"dealing in futures contracts" (期貨合約交易) has the meaning assigned to it by Part 2 of Schedule 5 to the Ordinance;

"equivalent corporation" (等同法團) means a corporation that---

(a) carries on a business in a specified jurisdiction in an activity which, if carried on in Hong Kong, would constitute dealing in futures contracts, under an authorization (however described) by an authority or regulatory organization in that jurisdiction; and

(b) has and maintains shareholders' funds of not less than \$30,000,000 or its equivalent in any foreign currency as calculated by---

(i) adding together the corporation's---

(A) issued and paid-up share capital; and

(B) retained profits and reserves with aggregate net credit balances; and

(ii) subtracting from the sum calculated under subparagraph (i) the corporation's accumulated losses and reserves with aggregate net debit balances;

"specified bank regulator" (指明銀行規管當局) means---

(a) an authority specified in column 3 of Schedule 1 as an authority in a specified jurisdiction set out opposite to it in column 2 of Schedule 1 with responsibility for regulating banks in that jurisdiction; or

(b) any successor of such authority;

"specified jurisdiction" (指明司法管轄區) means a jurisdiction specified in column 2 of Schedule 1.

3. Institutions that are recognized counterparties

For the purposes of paragraph (c) of the definition of "recognized counterparty" in section 1 of Part 1 of Schedule 1 to the Ordinance, the following institutions are recognized counterparties---

- (a) a corporation licensed for dealing in futures contracts that deals in currency futures contracts on any specified futures exchange;
- (b) an equivalent corporation that deals in currency futures contracts on any specified futures exchange, except where such corporation ceases to be authorized to carry out such dealing as a result of the action of the authority or regulatory organization that regulates it in the specified jurisdiction in which it is incorporated and regulated;
- (c) a bank that is incorporated in a specified jurisdiction and regulated by a specified bank regulator in that jurisdiction, except where the bank ceases to be authorized to operate as a bank as a result of the action of the specified bank regulator;
- (d) a corporation that has issued debt instruments which continue to attract a qualifying credit rating; and
- (e) an institution---

(i) in respect of which the Commission is satisfied that recognition as a counterparty---

(A) is appropriate; and

(B) would not prejudice the interest of the investing public; and

(ii) which is specified in Schedule 2.

SCHEDULE 1 [s. 2]

Specified Jurisdictions and Specified Bank Regulators

Item	Specified jurisdiction	Specified bank regulator
1.	Australia	Australian Prudential Regulation Authority
2.	Canada	Office of the Superintendent of Financial Institutions
3.	The Federal Republic of Germany	Bundesaufsichtsamt für das Kreditwesen
4.	The French Republic	La Commission Bancaire
5.	Japan	Financial Services Agency
6.	The Swiss Confederation	Eidgenössische Bankenkommision
7.	The United Kingdom of Great Britain and Northern Ireland	Financial Services Authority
8.	The United States of America	Board of Governors of the Federal Reserve System

The Office of the Comptroller of the Currency

SCHEDULE 2 [s. 3]

Specified Institutions that are Recognized Counterparties

- 1. Bear Stearns Forex Inc.
- 2. HSBC Broking Securities (Asia) Ltd.

Andrew Len Tao SHENG
Chairman,
Securities and Futures Commission
25 November 2002
Explanatory Note

These Rules are made by the Securities and Futures Commission under section 397(1) of the Securities and Futures Ordinance (Cap. 571). They prescribe certain institutions as recognized counterparties for the purposes of paragraph (c) of the definition of "recognized counterparty" in section 1 of Part 1 of Schedule 1 to the Ordinance. This means that such an institution would not be a client of a corporation licensed in Hong Kong for leveraged foreign exchange trading.