

LEGISLATIVE COUNCIL BRIEF

SECURITIES AND FUTURES ORDINANCE (CAP. 571)

SECURITIES AND FUTURES (CONTRACTS LIMITS AND REPORTABLE POSITIONS) (AMENDMENT) (NO. 2) RULES 2003

INTRODUCTION

1. At its meeting on 15 September 2003, the Securities and Futures Commission (“**the Commission**”) made the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) (No.2) Rules 2003 (“**the Amendment Rules**”) at the Annex.

BACKGROUND AND ARGUMENT

2. Section 35(1) of the Securities and Futures Ordinance (Cap. 571) provides that the Commission may prescribe limits and reportable positions on futures contracts and options contracts. These limits and positions are prescribed in the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571Y, “**Rules**”).
3. In 1999, Hong Kong Exchanges and Clearing Limited (“**HKEx**”) proposed launching two new index products – Hang Seng China

Enterprises Index futures contracts and Hang Seng China Enterprises Index options contracts (respectively referred to herein as “**HSCEI futures contracts**” and “**HSCEI options contracts**” and collectively as “**the HSCEI contracts**”). Statutory contract limits and reportable positions for each product were accordingly prescribed then.¹

4. The launch of the products was subsequently postponed due to the unfavourable market conditions prevailing at the time. However, in the light of recent positive market sentiment and growing market interest in H-shares, HKEx has expressed a renewed interest in launching these products, beginning with HSCEI futures contracts, which it proposes to launch in December 2003. HSCEI options contracts will be launched at a later time subject to market demand.
5. The reportable positions for the HSCEI contracts, prescribed in 1999, are on the low side (250 open contracts for any one contract month in respect of HSCEI futures contracts; and 250 open contracts for any one series in respect of HSCEI options contracts). Set amidst the financial crisis of the late 1990s, these levels are now out of step with those of other futures contracts.²

¹ The limits and positions were introduced into the Commodities Trading (Trading Limits and Position Limits) Rules (“**CT Rules**”) in 1999. That piece of subsidiary legislation has since been repealed, but its provisions have been re-enacted in the Rules.

² For example, the 1999 amendment to the CT Rules, which prescribed the low reportable positions for HSCEI contracts, also prescribed similarly low reportable positions for Hang Seng Index futures and options contracts. The reportable positions for the latter were however subsequently increased from 250 open contracts to 500 open contracts. (That increase was effected when the Rules were first enacted in 2002 – ie L.N. 220 of 2002.) A similar increase was not proposed in respect of HSCEI contracts at that time because HSCEI contracts had not then been launched, nor was there then any proposal to launch them in the then near future. Hang Seng Index futures and options contracts on the other hand were already trading at that time.

6. In view of the above and in the light of market comment and after discussion with HKEx, the Commission proposes to increase the reportable positions for HSCEI futures contracts and HSCEI options contracts to 500 open contracts for any one contract month and 500 contracts for any one series respectively. The Commission considers that the proposed increase will reduce administrative burden for market participants without unduly increasing systemic risks in the market.

THE AMENDMENT RULES

7. The Amendment Rules amend Schedule 1 to the Rules by increasing the reportable positions for HSCEI contracts from 250 to 500 open contracts for any one contract month or series.

PUBLIC CONSULTATION

8. As the amendment is essentially of a technical nature and not controversial, the Commission does not consider it necessary to conduct a public consultation. HKEx has consulted 129 exchange participants on the introduction of the HSCEI futures contracts. About two-thirds of the 80 participants who responded indicated that their clients would be interested in trading such contracts.

FINANCIAL AND STAFFING IMPLICATIONS

9. There are no financial or staffing implications for the Government.

COMMENCEMENT DATE

10. The Amendment Rules will come into operation on 12 December 2003.

PUBLICITY

11. The Amendment Rules will be gazetted on 17 October 2003. HKEx, HSI Services Limited³ and a number of exchange participants will work together to promote HSCEI futures contracts among institutional and retail investors when the product is launched in December 2003. Their marketing and education programmes will include briefings, seminars, media coverage and incentives.

³ HSI Services Limited is the entity responsible for compiling, computing and disseminating the Hang Seng China Enterprises Index.

ENQUIRIES

12. For any enquiries on this brief, please contact Ms. Thrity Mukadam, Senior Counsel with the Legal Services Division of the Commission (at 28409209), or Mr. Stanley Ng, Senior Manager with the Supervision of Markets Division of the Commission (at 22836133).

The Securities and Futures Commission

9 October 2003

SECURITIES AND FUTURES (CONTRACTS LIMITS AND REPORTABLE POSITIONS) (AMENDMENT) (NO. 2) RULES 2003

(Made by the Securities and Futures Commission under section 35(1) of the Securities and Futures Ordinance (Cap. 571))


1. Commencement

These Rules shall come into operation on 12 December 2003.

2. Prescribed limit and reporting level for futures contracts

Schedule 1 to the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571 sub. leg. Y) is amended –

- (a) in item 33, in column 4, by repealing “250” and substituting “500” ;
- (b) in item 34, in column 4, by repealing “250” and substituting “500”.


Andrew Len Tao SHENG
Chairman,
Securities and Futures Commission

9th October 2003

Explanatory Note

Under section 35(1) of the Securities and Futures Ordinance (Cap. 571), the Securities and Futures Commission may prescribe limits on the number of futures contracts that may be held or controlled by any person. It may also prescribe the reportable positions in respect of such contracts.

2. Such limits and reportable positions are established and fixed for the futures contracts specified in Schedule 1 to the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571 sub. leg. Y). Schedule 1 is now amended by relaxing the reporting level of one existing index futures contract and one existing index options contract.