

立法會
Legislative Council

LC Paper No. CB(1)487/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/SS/3/07/1

**Subcommittee on
Securities and Futures (Contracts Limits and Reportable
Positions)(Amendment) (No.2) Rules 2007**

**Minutes of the second meeting
held on Tuesday, 27 November 2007, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon SIN Chung-kai, SBS, JP (Chairman)
Hon Margaret NG
Hon CHAN Kam-lam, SBS, JP
- Members absent** : Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
- Public officers attending** : Miss Alice CHEUNG
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services)
- Mr Paul CHEUNG
Assistant Secretary for Financial Services and the
Treasury (Financial Services)
- Attendance by invitation** : Securities and Futures Commission
- Mr Keith LUI
Executive Director
Supervision of Markets Division
- Mr Rico LEUNG
Director
Supervision of Markets Division

Ms Thrity MUKADAM
Associate Director
Supervision of Markets Division

Ms Mary AHERN
Legal Consultant
Legal Services Division

Clerk in attendance : Miss Polly YEUNG
Chief Council Secretary (1)5

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Rosalind MA
Senior Council Secretary (1)8

Mr Justin TAM
Council Secretary (1)3

Action

I Meeting with the Administration and the Securities and Futures Commission

(LC Paper No. CB(1)329/07-08(01) — Marked-up copy for the proposed resolution to be moved by the Administration prepared by the Legal Service Division

LC Paper No. CB(1)318/07-08(01) — List of follow-up actions to be taken by the Administration/the Securities and Futures Commission (SFC) for the meeting on 16 November 2007 prepared by the Legislative Council Secretariat

LC Paper No. CB(1)318/07-08(02) — Administration/SFC's response to members' views expressed at the meeting on 16 November 2007

LC Paper No. CB(1)254/07-08(01) — Paper provided by SFC

- LC Paper No. CB(1)254/07-08(02) — Marked-up copy of Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) (No.2) Rules 2007 as amended by L.N. 198 of 2007
- L.N. 198 of 2007 — Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) (No.2) Rules 2007
- LC Paper No. CB(1)254/07-08(03) — Letter dated 9 November 2007 from the Assistant Legal Adviser (ALA) to SFC
- LC Paper No. CB(1)254/07-08(04) — SFC's reply dated 13 November 2007 to ALA's letter of 9 November 2007
- LC Paper No. LS7/07-08 — Legal Service Division's Report on the subsidiary legislation
- LC Paper No. LS12/07-08 — Legal Service Division's further Report on the subsidiary legislation
- Legislative Council Brief issued by SFC
- LC Paper No. CB(1)253/07-08 — Background brief on the subsidiary legislation prepared by the Legislative Council Secretariat)

The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Proposed resolution

2. Members noted that in light of members' concerns, the Administration had put forward a revised proposal to set out the "specific percentage" and "specific contracts" in the Securities and Futures (Contracts Limits and Reportable Positions) Rules (the Rules) instead of by notice published in the Gazette which is not subsidiary legislation. The Administration would move a motion to amend the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) (No. 2) Rules 2007 (the Amendment Rules) accordingly.

3. The Chairman summed up that the Subcommittee had no objection to the Amendment Rules and the Administration's proposed amendments. The Subcommittee would not move any amendment in its name.

Legislative timetable

4. The Chairman said that the Subcommittee had completed scrutiny of the Amendment Rules and drew the meeting's attention to the following timetable:

Expiry of scrutiny period (date of Council meeting)	Deadline for giving notice of amendments	Date of reporting to House Committee
19 December 2007 (Wednesday)	12 December 2007 (Wednesday)	7 December 2007 (Friday)

II Any other business

5. There being no other business, the meeting ended at 9:00 am.

Council Business Division 1
Legislative Council Secretariat
20 December 2007

**Proceedings of the
Subcommittee on Securities and Futures (Contracts Limits and Reportable
Positions)(Amendment) (No.2) Rules 2007
Second meeting on Tuesday, 27 November 2007, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 – 001459	Chairman Ms Margaret NG Securities and Futures Commission (SFC)	<p data-bbox="724 501 1169 539"><u>Discussion on policy issues</u></p> <p data-bbox="724 577 1169 902">(a) Members noted SFC's revised proposal and the proposed resolution to amend the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) (No. 2) Rules 2007 (the Amendment Rules).</p> <p data-bbox="724 943 1169 1084">(b) The Chairman and Ms Margaret NG's enquiry on the need for introducing the Amendment Rules.</p> <p data-bbox="724 1124 1169 2074">(c) SFC's advice that the existing position limits were inadequate to meet the full business needs of exchange participants who needed to hold larger proprietary positions, particularly in Hang Seng Index futures and options contracts (HSI contracts) and Hang Seng China Enterprises Index futures and options contracts (H-share contracts), to conduct hedging activities for the provision of facilitation services to clients. If the current proposal to enable SFC to authorize an exchange participant (or its affiliate) to exceed the statutorily prescribed limits was not introduced to accommodate the relevant business need of exchange participants, they might shift part of their</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>positions to the over-the-counter and overseas markets. This would not be conducive to the development of Hong Kong's derivatives market.</p>	
001500 – 001659	Ms Margaret NG SFC	<p>In response to Ms Margaret NG's enquiry about the persons who might apply for the excess positions, SFC's advice that it would mainly be exchange participants and their affiliates, such as international securities firms. For the vast majority of market participants, the existing prescribed limits should suffice. Nevertheless, authorization would be granted to any exchange participant (or its affiliate) who could meet the preconditions of, inter alia, having a "relevant business need" for the excess positions, adequate financial capacity and effective internal control procedures as well as risk management systems. The need or otherwise for further relaxation of the 50% limit on excess position would be reassessed in light of operational experience.</p>	
001700 – 002142	Chairman SFC	<p>(a) In reply to the Chairman's enquiry, SFC's advice that under the existing prescribed limit of 10 000 HSI contracts, for the past 12 months, the top three exchange participants each held or controlled about 6 000 to 8 000 contracts.</p> <p>(b) SFC's further advice that for monitoring the number of contracts held by a person, the current reportable position for HSI contracts was 500 held by any</p>	

Time Marker	Speaker	Subject(s)	Action Required
		individual/company.	
002143 – 002244	Chairman SFC	SFC's confirmation that as the "specified percentage" and "specified contracts" would be set out in the Rules, any future changes thereto would be subject to negative vetting by the Legislative Council. Prior to introducing any change to the "specified percentage" and "specified contracts", SFC would also conduct consultation.	
002245 – 002920	Chairman SFC	<p><u>Section-by-section examination</u></p> <p>(a) In reply to the Chairman's enquiry, SFC's advice that the notice referred to in section 4(4)(c) would be issued to the applicant only.</p> <p>(b) Members raised no queries on the other provisions.</p>	
002921 – 003109	Chairman	<p>(a) The Chairman summed up that the Subcommittee had no objection to the Amendment Rules and the Administration's proposed amendments.</p> <p>(b) The proposed legislative timetable</p>	