

立法會
Legislative Council

LC Paper No. LS70/14-15

**Paper for the House Committee Meeting
on 5 June 2015**

**Further Report by Legal Service Division on
Securities and Futures (Amendment) Ordinance 2014
(Commencement) Notice 2015 (L.N. 95),
Securities and Futures (OTC Derivative Transactions –
Reporting and Record Keeping Obligations) Rules (L.N. 96), and
Securities and Futures (Stock Markets, Futures Markets
and Clearing Houses) Notice (L.N. 97)
Gazetted on 15 May 2015**

Members may recall that at the House Committee meeting on 22 May 2015, the Legal Service Division (LSD) reported that a further report would be issued if necessary. To recap, by L.N. 95, the Secretary for Financial Services and the Treasury appointed 10 July 2015 as the day on which certain provisions of the Securities and Futures (Amendment) Ordinance 2014 (6 of 2014) come into operation. L.N. 96 was made by the Securities and Futures Commission to specify, for the purposes of the reporting and record keeping obligations, (a) the additional prescribed persons and the specified OTC derivative transactions that are subject to the obligations; (b) the circumstances relating to the transactions in which the obligations apply to prescribed persons; and (c) matters relating to compliance with the obligations. L.N. 97 was made by the Financial Secretary to prescribe certain stock markets, futures markets and clearing houses for the purpose of section 1B(2)(c) of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571).

2. LSD has sought clarification from the Administration on certain legal and drafting issues in relation to L.N. 96 and L.N. 97 but has not raised any queries on L.N. 95. One of the issues raised is the reason for the different ways of specifying prescribed markets in the Schedule to L.N. 97. The Administration confirmed that while item 40 of Part 1 of the Schedule to L.N. 97 generally refers to any stock markets or futures markets operated by the respective market operators for the purpose of section 1B(2)(c) of Part 1 of Schedule 1 to Cap. 571, items 1 to 39 of the Schedule to L.N. 97 specify the exact stock markets or futures markets operated by the respective market operators by names. Upon enquiry for the reason of the different ways of specifying those prescribed markets, the Administration explained that as not all prescribed markets have official or legal names, it is more reliable to list the prescribed markets by reference to their respective operators. The

Administration further explained that in the case of items 1 to 39, the respective market operators operate traditional exchanges as well as other types of trading platforms, such as multilateral trading facilities, but the over-the-counter derivative regulatory regime will only cover traditional exchanges at this stage. The Administration therefore considers that it is necessary to identify the markets by reference to both the market operators and the markets. In the case of item 40, the Administration explained that as the respective market operators only operate traditional exchanges, it is sufficient to identify the respective market operators only.

3. Having considered the Administration's reply, LSD has no further comments on the legal and drafting aspects of L.N. 95 to L.N. 97.

4. Members may wish to note that the scrutiny period for amending L.N. 95 to L.N. 97 under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) will expire at the Council meeting of 17 June 2015 (or that of 8 July 2015 if extended by resolution).

Prepared by

Carrie WONG
Assistant Legal Adviser
Legislative Council Secretariat
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