

立法會
Legislative Council

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by the Securities and Futures
Commission and the Administration)

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**Subcommittee on Securities and Futures (Contracts Limits and
Reportable Positions) (Amendment) Rules 2015**

**Minutes of first meeting
held on Tuesday, 8 December 2015, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Alan LEONG Kah-kit, SC
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon SIN Chung-kai, SBS, JP

**Public Officers
attending** : **For item II**

Financial Services and the Treasury Bureau

Ms Ada CHAN
Principal Assistant Secretary for Financial Services
and the Treasury (Financial Services)²

Securities and Futures Commission

Mr Keith LUI
Executive Director
Supervision of Markets Division

Mr Rico LEUNG
Senior Director
Supervision of Markets Division

Mr Stanley NG
Associate Director
Supervision of Markets Division

Miss Amy LAM
Counsel
Legal Services Division

Clerk in Attendance : Ms Angel SHEK
Chief Council Secretary (1)1

Staff in attendance : Miss Joyce CHAN
Assistant Legal Adviser 1

Ms Mandy LI
Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Ms PANG Yin-shan
Clerical Assistant (1)1

Action

I. Election of Chairman

Mr CHAN Kam-lam, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr CHAN Kam-lam nominated himself for the chairmanship and the nomination was seconded by Mr Christopher CHEUNG. There being no other nominations, Mr CHAN Kam-lam was declared Chairman of the Subcommittee.

3. Members agreed that there was no need to elect a Deputy Chairman.

Action

II. Meeting with the Administration

- (L.N. 228 of 2015 — Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2015
- (issued by the Securities and Futures Commission on 17 November 2015)* — Legislative Council Brief
- LC Paper No. LS11/15-16 — Legal Service Division Report
- LC Paper No. CB(1)259/15-16(01) — Marked-up copy of relevant provisions to be amended by the subsidiary legislation prepared by the Legal Service Division (Restricted to members)
- LC Paper No. CB(1)259/15-16(02) — Background brief prepared by the Legislative Council Secretariat)

Discussion

4. The Subcommittee deliberated (index of proceedings attached at the **Annex**).
5. The Chairman concluded that the Subcommittee had completed scrutiny of the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2015 ("the Amendment Rules").

III. Any other business

Legislative timetable

6. Members noted that the scrutiny period of the Amendment Rules would expire at the Council meeting of 16 December 2015, and that the deadline for giving notice of amendment to Amendment Rules would be 9 December 2015 if the scrutiny period was not extended. To allow more time for the Subcommittee to prepare a report on its deliberations for submission to the House Committee, members agreed that the Chairman should move a motion at

Action

the Council meeting of 16 December 2015 to extend the scrutiny period of the Amendment Rules to 13 January 2016. The Chairman would report the deliberations of the Subcommittee to the House Committee at its meeting on 18 December 2015.

7. There being no other business, the meeting ended at 9:30 am.

Council Business Division 1
Legislative Council Secretariat
28 December 2015

**Subcommittee on Securities and Futures (Contracts Limits and Reportable Positions)
(Amendment) Rules 2015**

**Proceedings of the first meeting
on Tuesday, 8 December 2015, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I - Election of Chairman			
000511 - 000620	Mr CHAN Kam-lam Mr Christopher CHEUNG	Election of Chairman	
Agenda Item II - Meeting with the Administration			
000621 - 000804	Chairman	Opening remarks	
000805 - 001346	Chairman Securities and Futures Commission ("SFC")	Briefing by SFC on the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2015 ("the Amendment Rules")	
001347 - 001709	Chairman Mr SIN Chung-kai SFC	<p>Mr SIN sought assessment of the potential risks of the three types of London Metal Mini futures contracts to the stability of the local financial market.</p> <p>SFC advised that –</p> <p>(a) the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571Y) ("the Rules") were introduced in the aftermath of the Asian Financial Crisis in 1997 with a view to curbing over-concentration of positions held by hedge funds at that time, as well as minimizing the risks to clearing houses in case of insolvency of the futures/options contract holders;</p> <p>(b) the risks posed by the three types of London Metal Mini futures contracts in question to the local financial market were relatively low as the underlying instruments were global commodities; and</p> <p>(c) the reporting requirements would facilitate SFC to conduct market surveillance of the London Metal Mini futures contracts closely, given that the notice of reportable positions was required</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>to be made within one business day following the day on which a person first held or controlled the reportable positions, and thereafter on each succeeding day on which the person continued to hold or control the reportable positions.</p>	
<p>001710 - 002100</p>	<p>Chairman Mr Christopher CHEUNG SFC</p>	<p>Mr CHEUNG considered that the three types of London Metal Mini futures contracts might not appeal to local or Mainland investors as a hedging tool because they were settled without physical delivery of the underlying metals.</p> <p>Mr CHEUNG enquired about –</p> <p>(a) whether local investors could trade the three types of London Metal Mini futures contracts on the London Metal Exchange ("LME") directly, and if so, the incentives for the investors to trade them on HKFE; and</p> <p>(b) whether reference had been drawn from Singapore for setting the position limits and reportable positions for the London Metal Mini futures contracts in question.</p> <p>SFC responded that –</p> <p>(a) the London Metal Mini futures contracts traded on HKFE (and cleared by the clearing house of HKFE) had different specifications and smaller contract size compared to similar contracts traded on LME;</p> <p>(b) while commodity futures contracts had yet to capture more interest from local investors, the launching of the three types of London Metal Mini futures contracts and similar products by HKFE would help enhance investors' understanding of and interest in commodity futures contracts progressively over time; and</p> <p>(c) position limits and reportable positions were prescribed for certain futures and options contracts traded on the Singapore Exchange, together with a mechanism for granting exemptions. However, the London Metal Mini futures contracts in question were not tradable on the Singapore Exchange at present.</p>	

Time marker	Speaker	Subject(s)	Action required
002101 - 002657	Chairman Mr Alan LEONG SFC	<p>Mr LEONG enquired about the criteria for setting or adjusting the position limits and reportable positions in respect of the three types of London Metal Mini futures contracts, and the timing of review.</p> <p>SFC advised that –</p> <ul style="list-style-type: none">(a) the position limits and reportable positions set for the London Metal Mini futures contracts by the Amendment Rules mirrored the corresponding large open position reporting requirements and position limits specified in the relevant contract specifications of HKFE. In setting or reviewing the position limits, SFC would take into account factors such as the market capitalization and trading volume of the underlying instruments of the futures contracts (e.g. stocks), and the latest positions held by market participants for the futures contract;(b) while SFC would review the reportable positions regularly, it would not adjust them unless the existing reportable positions had become too high to capture sufficient information for effective market surveillance; and(c) given that the exchanges launched new products from time to time, SFC would determine the timing to prescribe the relevant position limits and reportable positions in the Rules, taking into account the time required for undergoing the legislative process.	
002658 - 004224	Chairman Mr SIN Chung-kai SFC	<p>Mr SIN sought elaboration on –</p> <ul style="list-style-type: none">(a) whether the reporting was required to be made by the investor or the intermediary who held or controlled the position on the investor's behalf or both;(b) the penalties for non-compliance with the requirements on position limits and reportable positions; and(c) whether a mechanism was in place to alert an investor that the futures or options contracts held by the investor had reached the relevant reportable position.	

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		<p>SFC advised that –</p> <ul style="list-style-type: none"><li data-bbox="544 315 1235 640">(a) a person holding or controlling a reportable position might choose to submit the notice of reportable position to the recognized exchange company concerned directly, or through an exchange participant or its agent. If either party (i.e. the intermediary or its client) had submitted the notice to the exchange, the other party would not be required to notify the exchange of the same reportable position;<li data-bbox="544 680 1235 965">(b) any person who, without reasonable excuse, failed to comply with the requirements committed an offence and was liable on conviction on indictment to a fine at level 6 (currently \$100,000) and to imprisonment for two years; or on summary conviction to a fine at level 3 (currently \$10,000) and to imprisonment for six months;<li data-bbox="544 1010 1235 1223">(c) where an intermediary held or controlled positions on behalf of its client, both the intermediary and the client were liable to the penalties for non-compliance, and the penalties would be determined by the court having regard to the actual circumstances of individual cases;<li data-bbox="544 1267 1235 1480">(d) if the non-compliance involved errors or omissions on the part of a person licensed by SFC, the licensed person might be subject to disciplinary actions taken by SFC, in addition to the levying of penalties under the Rules by the court;<li data-bbox="544 1525 1235 1850">(e) as the average daily trading volume of the three types of London Metal Mini futures contracts together was only some 250 contracts and their total position held by market participants was about 500 contracts at present, it was envisaged that the prescribed position limits and reportable positions under the Amendment Rules would not have any immediate impact on existing investors; and<li data-bbox="544 1895 1235 2096">(f) when an exchange launched a new futures or options contract, it would publicize the relevant margin and reporting requirements, etc. Moreover, it was incumbent upon an intermediary to notify its clients for taking necessary actions to report, or make the report	

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		<p>on the clients' behalf, if the intermediary was aware that the positions held by a client had reached the specified reportable level.</p>	
004225 - 004610	<p>Chairman Mr Christopher CHEUNG SFC</p>	<p>Mr CHEUNG expressed concern about the potential risks on the local futures market if an intermediary deposited margin on behalf of its clients based on the net long or short futures contracts held by different clients.</p> <p>SFC clarified that under the current margin requirements, only the long or short futures contracts held or controlled by the same person were nettable. A mechanism was in place by the clearing house for calling of margin when the price volatility of a futures contract exceeded a specified level.</p>	
<p><i>Section-by-section examination of the Amendment Rules</i> [The Amendment Rules (L.N. 228 of 2015)] [Marked-up copy of the Amendment Rules prepared by the Legal Service Division (LC Paper No. CB(1)259/15-16(01)]</p>			
004611 - 005416	<p>Chairman Mr SIN Chung-kai SFC</p>	<p><u><i>Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2015 (L.N. 228 of 2015)</i></u></p> <p><i>1 – Commencement</i></p> <p><i>2 – Securities and Futures (Contracts Limits and Reportable Positions) Rules amended</i></p> <p><i>3 – Section 2 amended (interpretation)</i></p> <p>Since the exchange traded fund ("ETF") market had developed in Hong Kong for some years already, Mr SIN queried why a definition of ETF was only incorporated into the Rules at this stage. He also enquired about the differences between open-ended and close-ended CISs.</p> <p>SFC explained that –</p> <p>(a) ETFs were open-ended collective investment schemes ("CIS") the shares or units of which were listed or traded on a recognized stock market. SFC had been authorizing ETF products via the regulatory framework of CIS under the Securities and Futures Ordinance (Cap. 571) and the trading aspects of ETFs were regulated by the relevant rules of SEHK; and</p>	

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		(b) the shares or units of an open-ended CIS could be created/redeemed at any time and there were no restrictions on the amount of shares/units to be issued, whereas the amount was fixed in the case of a close-ended CIS by issuing a limited number of shares which were not redeemable.	
005417 - 005850	Chairman Mr SIN Chung-kai SFC	<p><i>4 – Schedule 1 amended (prescribed limit and reporting level for futures contracts)</i></p> <p>Mr SIN sought explanation as to why the position limits and reportable positions for stock futures and stock options contracts on ETFs varied substantially from those prescribed for the three types of London Metal Mini futures contracts.</p> <p>SFC advised that it was because the underlying instruments were different, i.e. metals in the case of London Metal Mini futures contracts, and individual share or ETF for stock futures and stock options contracts. To facilitate compliance by market participants, the position limits and reportable positions for stock futures and stock options contracts on ETFs followed those prescribed respectively for stock futures and stock options contracts on shares listed on a stock market operated by SEHK.</p>	
005851 - 010040	Chairman SFC	<p><i>5 – Schedule 2 amended (prescribed limit and reporting level for stock options contracts)</i></p> <p>Members raised no query.</p> <p>Completion of scrutiny of the Amendment Rules</p>	
Agenda Item III – Any other business			
010041 – 010124	Chairman	Legislative timetable	