

# 立法會 *Legislative Council*

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

### **Background brief**

#### **Purpose**

This paper provides background information on the Securities and Futures (Contracts Limit and Reportable Positions) (Amendment) Rules 2015 ("the Amendment Rules"). It also gives a brief account of the major views and concerns expressed by Members when related issues were discussed by the relevant committees of the Legislative Council ("LegCo") in the 2010-2011 to 2012-2013 legislative sessions.

#### **Background**

2. Under section 35(1) of the Securities and Futures Ordinance (Cap. 571), the Securities and Futures Commission ("SFC") may prescribe limits on the number of futures and options contracts that may be held or controlled by any person ("position limits"). SFC may also prescribe the reportable positions in respect of such contracts requiring notification to the recognized exchange company (i.e. Hong Kong Futures Exchange Limited ("HKFE") or The Stock Exchange of Hong Kong Limited ("SEHK")) or SFC. These position limits and reportable positions are prescribed in the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571Y) ("the Rules").

#### Position limits and reportable positions of London Metal Mini futures contracts

3. On 1 December 2014, the Hong Kong Exchanges and Clearing Limited launched three types of London Metal Mini futures contracts (i.e. London Copper Mini futures contract, London Aluminium Mini futures contract and London Zinc Mini futures contract), which are similar to the corresponding metal futures contracts traded on the London Metal Exchange. The contracts are based on the same underlying metals as those traded on the London Metal Exchange but have a smaller contract size and are denominated in Renminbi

and cash-settled without physical delivery of the underlying metals. For the purpose of the Rules, SFC proposes to set –

- (a) a reportable position at 500 open contracts for any one contract month for each of the three types of London Metal Mini futures contracts<sup>1</sup>;
- (b) a position limit of 50 000 net long or short contracts for all contract months combined for the London Copper Mini futures contract; and
- (c) a position limit of 25 000 net long or short contracts for all contract months combined each for the London Aluminium Mini futures contract and the London Zinc Mini futures contract<sup>2</sup>.

Introduction of general terms to cover all stock futures and stock options contracts on exchange traded funds

4. At present, all stock futures and stock options contracts on individual shares are covered by the general terms in Schedules 1 and 2 to the Rules respectively<sup>3</sup>, which were introduced by amendments to the Rules that commenced in February 2006. Rules are required to be made to include new stock futures and stock options contracts on exchange traded funds ("ETFs") in Schedules 1 and 2 to the Rules respectively<sup>4</sup>.

5. In view of the rapid growth of the ETF market in Hong Kong in recent years, SFC considers it necessary to introduce the following general terms in Schedules 1 and 2 to the Rules to cover all stock futures and stock options contracts on ETFs respectively (while defining ETF and its related expressions in the Rules) –

- (a) "stock futures contracts on shares or units of exchange traded funds"; and
- (b) "stock options contracts on shares or units of exchange traded funds".

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<sup>1</sup> According to SFC, the prescribed reporting requirements mirror the corresponding large open position reporting levels and position limits specified in the contract specifications of HKFE.

<sup>2</sup> According to SFC, the prescribed position limits in paragraph 3(b) and (c) above are generally in line with the levels established by major overseas exchanges for similar contracts.

<sup>3</sup> With the general terms, when the Hong Kong Exchanges and Clearing Limited launches new stock futures and stock options contracts based on individual shares, SFC does not need to make rules to include them one by one in the Rules.

<sup>4</sup> This requirement had taken into account that there was no stock futures contract on ETFs and only one stock options contract on ETF at the time when the Rules were amended in 2006.

## **The Securities and Futures (Contracts Limit and Reportable Positions) (Amendment) Rules 2015**

6. To set the position limit and reportable position for each of the London Metal Mini futures contracts and introduce general terms to cover all stock futures and stock options contracts on ETFs, the Amendment Rules were published in the Gazette on 20 November 2015 and tabled before LegCo on 25 November 2015. The Amendment Rules will come into effect from 15 January 2016.

### **Members' views and concerns**

7. The Subcommittee on Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2011<sup>5</sup> and the Subcommittee on Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013<sup>6</sup> were formed respectively to study the relevant amendments made to the Rules in recent years. The major views and concerns raised by Members on related issues during these discussions are summarized in the ensuing paragraphs.

### Position limits and reporting requirements

8. Some Members enquired whether there were cases of non-compliance which prompted the need for amending the Rules in previous cases. SFC advised that in order to minimize the potential impact of the futures and stock options contracts on financial market stability and to facilitate market surveillance, it was necessary to impose reporting requirements and/or position limits on the futures and options contracts launched by HKFE and SEHK from time to time.

9. There was a suggestion that the position limits and reportable positions for futures contracts should be set as a certain percentage of all open futures contracts, which would be more dynamic and reflect the changing market conditions more accurately. SFC explained that it would be preferable to set

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<sup>5</sup> The Securities and Futures (Contracts Limits and Reportable Positions)(Amendment) Rules 2011 sought to set the position limit and reportable position for A50 ETF stock options contract and CSI 300 ETF stock options contract launched by SEHK in July 2010, as well as the reportable position for the HSI Dividend Point Index futures contract and HSCEI Dividend Point Index futures contract launched by HKFE in November 2010.

<sup>6</sup> The Securities and Futures (Contracts Limits and Reportable Positions)(Amendment) Rules 2013 sought to add the HSI Volatility Index futures contract and the US Dollar vs Renminbi (Hong Kong) futures contract and their respective position limits and reportable positions to Schedule 1 of the Rules.

the position limits and reportable positions on the basis of a fixed number of contracts, such that the market participants would not have to keep a close monitoring of their positions in order to fulfill the reporting requirements. SFC further advised that HKFE might impose other position limits on market participants for a particular futures contract where situations warranted such action.

### Control measures

10. On Members' concerns about potential circumvention of the position limits and reportable positions for futures contracts or options contracts by holding the positions in accounts at more than one company, SFC advised that in accordance with section 4(1) of the Rules, no person might hold or control futures contracts or options contracts in excess of the prescribed limit. Therefore, the position limit applied to all positions held or controlled by a person. If a person held the positions through different companies which were under his or her control, the person would be required to aggregate the positions for the purpose of applying the position limit and reportable position requirements. SFC had issued a Guidance Note on Position Limits and Large Open Position Reporting Requirements to explain to investors and market participants the requirements of the Rules. SFC and HKFE/SEHK had procedures in place to monitor the positions reported by market participants, and would make enquiries if there were questions about the identity of position holders.

11. As regards the penalties for non-compliance of the reporting requirements, SFC advised that a person who contravened the relevant Rules without reasonable excuse was liable on conviction to a fine or imprisonment.

### **Latest development**

12. At the House Committee meeting on 27 November 2015, Members agreed to form a subcommittee to study the Amendment Rules.

### **Relevant papers**

13. A list of relevant papers is in the **Appendix**.

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

**List of relevant papers**

<b>Date</b>	<b>Event</b>	<b>Paper/Minutes of meeting</b>
13 July 2011	Securities and Futures (Contracts Limit and Reportable Positions) (Amendment) Rules 2011 was tabled before the Legislative Council	<a href="#">The Amendment Rules</a> <a href="#">Legislative Council Brief</a> <a href="#">Legal Service Division report</a> (LC Paper No. LS99/10-11)  <a href="#">Report of the Subcommittee</a> (LC Paper No. CB(1)239/11-12)
6 February 2013	Securities and Futures (Contracts Limit and Reportable Positions) (Amendment) Rules 2013 was tabled before the Legislative Council	<a href="#">The Amendment Rules</a> <a href="#">Legislative Council Brief</a> <a href="#">Legal Service Division report</a> (LC Paper No. LS23/12-13)  <a href="#">Report of the Subcommittee</a> (LC Paper No. CB(1)699/12-13)
25 November 2015	Securities and Futures (Contracts Limit and Reportable Positions) (Amendment) Rules 2015 was tabled before the Legislative Council	<a href="#">The Amendment Rules</a> <a href="#">Legislative Council Brief</a> <a href="#">Legal Service Division report</a> (LC Paper No. LS11/15-16)