

立法會
Legislative Council

LC Paper No. LS5/02-03

**Paper for the House Committee Meeting
on 18 October 2002**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 11 October 2002**

Date of Tabling in LegCo : 16 October 2002

Amendment to be made by : 13 November 2002 (or 4 December 2002 if extended by resolution)

PART I Miscellaneous Amendments

**Commodities Trading Ordinance (Cap. 250)
Commodities Trading (Trading Limits and Position Limits) (Amendment)
(No. 2) Rules 2002 (L.N. 142)**

By these Amendment Rules made by the Securities and Futures Commission (the Commission) under section 59 of the Commodity Trading Ordinance (Cap. 250), the Schedule to the Commodities Trading (Trading Limits and Position Limits) Rules (Cap. 250 sub. Leg.) is amended in the following manner:-

Item	Column	Repealing	substituting/adding(<i>italicized</i>)
31	1	-	Mine-Hang Seng Index futures <i>and options</i>
31	2	-	futures contracts <i>or Mini-Hang Seng Index options contracts</i>
31	3	and	1 250 open Mini-Hang Seng Index futures contracts for any one contract month, <i>and 1 250 open Mini-Hang Seng Index options contracts for any one series</i>
39	1	Pacific Century Cyberworks	<i>PCCW</i>
41	1	Holdings	<i>Legend Group Ltd.</i> stock futures contract
78	1	Korea Telecom	<i>KT Corporation</i> stock futures contract
98	1	Korea Telecom	Options on <i>KT Corporation</i> stock futures contract

2. Further, three new products, CNOOC Ltd. stock futures contract, Huaneng Power International, Inc. stock futures contract, and Three-Year Exchange Fund Notes futures contract are added as items 109, 110 and 111 with their respective trading and position limits.

3. The amendments update the Schedule to the Rules. No policy change or new policy is involved. Members may wish to refer to the LegCo Brief dated 11 October 2002 and issued by the Commission for further information. The Amendment Rules will come into operation on 6 December 2002.

4. The Panel for Financial Affairs has not been briefed of the Amendment Rules.

5. No difficulty in the legal or drafting aspect of the Amendment Rules is observed.

**Securities Ordinance (Cap. 333)
Securities (Exchange-Traded Stock Options) (Amendment) Rules 2002
(L.N. 143)**

6. By these Amendment Rules made by the Securities and Futures Commission (the Commission) under section 146(1)(p) of the Securities Ordinance (Cap. 333), the Schedule to the Securities (Exchange - Traded Stock Option) Rules (Cap. 333 sub. Leg.) is amended in the following manner:-

Item	Column	Repealing	Substituting(<i>italicized</i>)
54	2	Holdings	Legend <i>Group</i> Ltd. stock options contract
55	2	Pacific Century CyberWorks	<i>PCCW</i>

7. Further, two new products, CNOOC Ltd. stock options contract and Huaneng Power International, Inc. stock options contract are added as items 67 and 68 with respective trading and position limits.

8. The amendments update the Schedule to the Rules. No policy change or new policy is involved. Members may wish to refer to the LegCo Brief dated 11 October 2002 and issued by the Commission for further information. The Amendment Rules will come into operation on 6 December 2002.

9. The Panel for Financial Affairs has not been briefed of the

Amendment Rules.

10. No difficulty in the legal or drafting aspect of the Amendment Rules is observed.

Securities Ordinance (Cap. 333)

Securities (Miscellaneous) (Amendment) Rules 2002 (L.N. 144)

11. These Amendment Rules are made by the Securities and Futures Commission under section 146(1) of the Securities Ordinance (Cap. 333) (the Ordinance). They amend the Securities (Miscellaneous) Rules (Cap. 333 sub. leg.) by (i) repealing the existing rule 17(2), (3) and (4), (ii) substituting therefor the new rule 17(2), (3), (4) and (5); and (iii) adding a new rule 18.

12. The new rule 17(2) prescribes sales by agents of Monetary Authority-appointed market makers of Exchange Fund Bills, Exchange Fund Notes and specified instruments when such market makers are the principals of such sales as a class of transaction for the purpose of section 80(4)(d) of the Ordinance. Hence, such sales are exempted from the prohibition of short selling under section 80(1) of the Ordinance.

13. The new rule 17(3) prescribes sales of securities in the course of jobbing business as a class of transaction for the purpose of section 80(4)(d) of the Ordinance. They are consequently exempted from the prohibition under section 80(1). Rule 17(4) defines "a sale of securities in the course of jobbing business", which includes a sale for the purpose of hedging or performing market making or liquidity providing activities. Rule 17(5) defines specific expressions used in rule 17(4).

14. The new rule 18 provides for exemption of specified short selling order from the requirements under section 80B(1), (3) and (5) of the Ordinance upon the relevant conditions set out in rule 18 are satisfied and when the following mode of recording the requisite oral assurance has been followed:-

- (a) a time-stamped record of the assurance with prescribed particulars;
- (b) a tape-recording of the assurance; or
- (c) a documentary confirmation of the assurance delivered by the end of the day on which the assurance is given.

In addition, such records must be kept for not less than one year from the date of making such recording and be produced to the Commission upon request at any time within that period.

15. According to the Securities and Futures Commission, the amendments seek to implement relaxation of regulatory requirements proposed by market participants. Members may wish to refer to the LegCo Brief dated

11 October 2002 and issued by the Commission for further and background information. The Amendment Rules will come into operation on 15 November 2002.

16. The Panel for Financial Affairs has not been briefed of the Amendment Rules. Draft subsidiary legislation containing similar provisions has been considered by the Sub-committee on Subsidiary Legislation to be made under the Securities and Futures Ordinance (Cap. 571) on 15 July 2002. An earlier version of the same draft subsidiary legislation was released by the Commission for public consultation on 24 May 2002. The Amendment Rules reproduce in essence the relevant provisions of the revised draft subsidiary legislation.

17. No difficulty in the legal or drafting aspect of the Amendment Rules is observed.

PART II COMMENCEMENT NOTICE

Drug Trafficking and Organized Crimes (Amendment) Ordinance 2002 (26 of 2002)

Drug Trafficking and Organized Crimes (Amendment) Ordinance 2002 (26 of 2002) (Commencement) Notice 2002 (L.N. 145)

18. By this Notice made under section 1(2) of the Drug Trafficking and Organized Crimes (Amendment) Ordinance 2002 (the Ordinance), the Secretary for Security has appointed 1 January 2003 as the day on which the Ordinance will come into operation.

19. The Ordinance was enacted after the relevant bill has been scrutinized by a Bills Committee. It seeks to increase the effectiveness of the Hong Kong anti-money laundering legislation by making a number of new proposals, including creating a new offence of dealing with property if having reasonable grounds to suspect that the property in whole or in part represents a person's proceeds from drug trafficking or an indictable offence and increasing the maximum penalty for money laundering offence to 20 years. Members may wish to refer to the Report of the Bills Committee (Ref: CB(2)2511/01-02) for further information.

20. The legal and drafting aspects of the Notice are in order.

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