

立法會
Legislative Council

LC Paper No. CB(1)1268/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/SS/1/11/1

Subcommittee on Securities and Futures (Professional Investor)
(Amendment) Rules 2011

Fourth Meeting on
Wednesday, 16 November 2011, at 8:30 am,
in Conference Room 2A of the Legislative Council Complex

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Ting-kwong, BBS, JP
Hon KAM Nai-wai, MH

Member absent : Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, SBS, JP
Hon CHIM Pui-chung

Public officers attending : Financial Services and the Treasury Bureau

Miss Belinda KWAN
Principal Assistant Secretary (Financial Services)

Miss Sara TSE
Assistant Secretary (Financial Services)

Securities and Futures Commission

Mr Stephen PO
Senior Director
(Intermediaries Supervision)

Ms Yvonne MOK
Director (Intermediaries Supervision)

Ms Alexandra YEONG
Director (Corporate Finance)

Miss April KWONG
Senior Manager (Corporate Finance)

Miss Clara CHIU
Senior Manager (Intermediaries Supervision)

Clerk in attendance : Ms Annette LAM
Chief Council Secretary (1)7

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Mr Fred PANG
Council Secretary (SC)2

Miss Iris CHEUNG
Legislative Assistant (1)7

I Meeting with the Administration

- (LC Paper No. CB(1)344/11-12(02) -- List of follow-up actions arising from the discussion at the meeting on 11 November 2011
- LC Paper No. CB(1)281/11-12(05) -- Administration's response to item 1 on the list of follow-up actions arising from the discussion at the meeting on 1 November 2011
- LC Paper No. CB(1)313/11-12(01) -- Administration's response to item 2 to item 4 on the list of follow-up actions arising from the discussion at the meeting on 1 November 2011

- LC Paper No. CB(1)344/11-12(01) -- Administration's response to item 5 on the list of follow-up actions arising from the discussion at the meeting on 1 November 2011
- LC Paper No. CB(1)223/11-12(01) -- Marked-up copy of the Rules (Restricted to Members)
- LC Paper No. CB(1)223/11-12(02) -- Letter dated 22 September 2011 from Assistant Legal Adviser to the Securities and Futures Commission
- LC Paper No. CB(1)223/11-12(03) -- The Securities and Futures Commission's response to Assistant Legal Adviser's letter dated 22 September 2011)

Relevant papers

- (L.N. 135 of 2011 -- Securities and Futures (Professional Investor) (Amendment) Rules 2011
- (issued by the Securities and Futures Commission on 14 September 2011) -- The Legislative Council Brief
- LC Paper No. LS99/10-11 (issued on 4 October 2011) -- Legal Service Division Report
- (issued by the Securities and Futures Commission on 4 October 2010) -- Consultation Paper on the Evidential Requirements under the Securities and Futures (Professional Investor) Rules
- (issued by the Securities and Futures Commission on 23 February 2011) -- Consultation Conclusions on the Evidential Requirements under the Securities and Futures (Professional Investor) Rules)

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

II Any other business

Legislative timetable

2. The Chairman said that the Subcommittee had completed the scrutiny of the Securities and Futures (Professional Investor) (Amendment) Rules 2011 (the Amendment Rules). He would make a verbal report on the deliberations of the Subcommittee to the House Committee on 18 November 2011. The Chairman reminded members that the deadline for giving notice to amend the Amendment Rules was 23 November 2011.

3. There being no other business, the meeting ended at 8:47 am.

Council Business Division 1
Legislative Council Secretariat
12 March 2012

**Proceedings of the Subcommittee on Securities and Futures
(Professional Investor) (Amendment) Rules 2011**

**Fourth Meeting on Wednesday, 16 November 2011, at 8:30 am,
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000419 – 000440	Chairman	Opening remarks	
000441 – 000633	Administration	Briefing by the Administration on its response to list of follow-up actions arising from the discussion at the meeting on 11 November 2011, which was tabled in the meeting (LC Paper no. CB(1)367/11-12(01) dated 16 November 2011). Members raised no comments on the Administration's response.	
000634 – 001523	Ms Alexandra YEONG Ms Audrey EU Ir Dr Raymond HO Legal Adviser Chairman Administration	Clause-by-clause examination of the Securities and Futures (Professional Investor) (Amendment) Rules 2011 (the Amendment Rules) <u>Clause 3 of the Amendment Rules – Amendments to Section 3 of the Securities and Futures (Professional Investor) Rules (Cap. 571 sub. leg. D) (persons prescribed as professional investors)</u> <u>Clause 3(1)</u> Members raised no questions on	

Time Marker	Speaker	Subject(s)	Action Required
		<p>clause 3(1).</p> <p><u>Clauses 3(2) to 3(3)</u></p> <p>Ms Audrey EU enquired about the addition of "or her" after "any of his". She noted that section 7 of the Interpretation and General Clauses Ordinance (Cap. 1) provided that words and expressions importing the masculine gender included the feminine and neuter genders.</p> <p>SFC's response that the addition was made upon the advice of the Department of Justice (DoJ).</p> <p>Ms Audrey EU's view that the addition might not be necessary. She was also concerned about the efforts required to make similar addition in all new legislation in future. Ir Dr Raymond HO concurred with Ms Audrey EU's views.</p> <p>In response to the Chairman's enquiry, the Legal Adviser shared the view that such addition might not be necessary. The Chairman requested the Administration to discuss the matter with DoJ again in the light of members' views and concerns.</p> <p><i>[Post-meeting note: The Administration's written response regarding the policy of gender-neutral drafting was</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>circulated to members vide LC Paper no. CB(1)386/11-12(01) dated 17 November 2011.]</p> <p><u>Clauses 3(4) to 3(5)</u></p> <p>Members raised no questions on clauses 3(4) to 3(5).</p> <p>In response to the Chairman's enquiry, the Legal Adviser advised that she had no specific comments on the Amendment Rules.</p>	
001524 – 001802	Chairman	Legislative timetable	

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