

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

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**Subcommittee on Securities and Futures (Contracts Limits and
Reportable Positions) (Amendment) Rules 2013**

**Minutes of the first meeting held on
Tuesday, 26 February 2013, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Ronny TONG Ka-wah, SC
Hon Starry LEE Wai-king, JP
Hon Christopher CHEUNG Wah-fung, JP
Hon SIN Chung-kai, SBS, JP
- Member absent** : Hon Abraham SHEK Lai-him, SBS, JP
- Public Officers attending** : **Agenda item II**
Miss Sara TSE
Principal Assistant Secretary for Financial Services
& the Treasury (Financial Services)¹
- Attendance by invitation** : **Agenda item II**
Mr Keith LUI
Executive Director
Supervision of Markets Division
Securities and Futures Commission

Mr Rico LEUNG
Senior Director
Supervision of Markets Division
Securities and Futures Commission

Mr Stanley NG
Senior Manager
Supervision of Markets Division
Securities and Futures Commission

Miss Amy LAM
Assistant Counsel
Legal Services Division
Securities and Futures Commission

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (1)2

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Ms Macy NG
Senior Council Secretary (1)2

Mr Anthony CHU
Senior Council Secretary (1)6

Ms Emily LIU
Legislative Assistant (1)2

Action

I Election of Chairman

Mr James TO, the member who had the highest precedence among those present at the meeting, presided at the election of Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr SIN Chung-kai nominated Mr James TO, and the nomination was seconded by Mr Ronny TONG. Mr James TO accepted the nomination.

3. There being no other nominations. Mr James TO was elected Chairman of the Subcommittee.

II Meeting with the Administration

- (LC Paper No. L.N. 13 of 2013
- The Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013
- File Ref: Nil
- Legislative Council Brief
- LC Paper No. LS23/12-13
- Legal Service Division Report on subsidiary legislation gazetted on 1 February 2013
- LC Paper No. CB(1)601/12-13(01)
- Marked-up copy of the Rules prepared by the Legal Service Division)

4. The Subcommittee deliberated (index of proceedings attached at **Annex**).

5. The Subcommittee agreed that the next meeting tentatively scheduled for 8:30 am on 1 March 2013 would be held for members to discuss with the Hong Kong Monetary Authority ("HKMA") the impact of substantial quantity of open US Dollar vs Renminbi (Hong Kong) futures spot month contracts on the CNH spot market near expiration and HKMA's contingency measures in this connection.

(Post-meeting note: On the instruction of the Chairman, the second Subcommittee meeting had been rescheduled to be held at 4:30 pm on 1 March 2013. Members were informed of the arrangement vide LC Paper No. CB(1)621/12-13 issued on 27 February 2013.)

III Any other business

6. There being no other business, the meeting ended at 9:50 am.

**Proceedings of the first meeting of
Subcommittee on Securities and Futures (Contracts Limits and Reportable Positions)
(Amendment) Rules 2013
on Tuesday, 26 February 2013, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Election of Chairman			
000428 – 000455	Mr James TO Mr SIN Chung-kai Mr Ronny TONG	- Election of Chairman - Mr James TO was elected Chairman of the Subcommittee	
Agenda item II – Meeting with the Administration			
000456 – 000917	Chairman Securities and Future Commission ("SFC")	Briefing by SFC on the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013 ("the Amendment Rules")	
000918 – 002106	Chairman SFC	<p>The Chairman enquired about the basis upon which the prescribed limits and reporting levels under the Amendment Rules were arrived at. He expressed concern that the settlement of outstanding US Dollar vs Renminbi (Hong Kong) ("USD/CNH") futures contracts near expiration might have an impact on the CNH spot market.</p> <p>SFC explained that --</p> <p>(a) SFC would regularly review the contract limits and reportable levels of the futures contracts;</p> <p>(b) the HSI Volatility ("VHSI") and USD/CNH futures contracts ("two futures contracts") were relatively new products and the daily trading volume was relatively low. The proposed prescribed limits had been set, taken into account the trading volume of the two futures contracts;</p> <p>(c) in setting the proposed prescribed limits for VHSI futures contract, a balance had been struck between risk management and business operation. Reference had been made to the position limit of 10 000 contracts for HSI futures contract; and</p> <p>(d) the proposed position limit for USD/CNH futures contract had been set to be 8 000 contracts net long or short contracts for all contract months combined (except that the limit</p>	

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		<p>for the spot month contract during the last five trading days was set at 2 000 open contracts). SFC advised that the limits had been set having made reference to the current CNH spot daily turnover at around US\$3 billion. The reporting level of 500 contracts was the same as the other major products, i.e. HSI futures. Reference had been drawn to the Chicago Mercantile Exchange ("CME") which formally launched the USD/CNH futures in February 2013 and used 2 000 open contracts as the upper limit, whereas Johannesburg Securities Exchange and Brazilian Securities, Commodities & Futures Exchange did not set any position limit for such contracts.</p>	
002107 – 002302	Mr SIN Chung-kai SFC	<p>Mr SIN Chung-kai suggested that the reportable position and position limit could be set as a percentage of all open futures contracts which would be more dynamic and more suited to the changing market conditions.</p> <p>SFC explained that while consideration might be given to setting the reportable position and position limit as a percentage of the total outstanding contracts, it would be more preferable to use an absolute number of contracts for the following reasons –</p> <p>(a) if a percentage of all open contracts was used, the total number of open contracts would have to be announced regularly and the market participants would have to do the calculation of their share in percentage; and</p> <p>(b) all overseas futures exchanges set the reportable position and position limit using the number of contracts.</p>	
002303 – 002834	Chairman SFC	<p>The Chairman sought details of the public consultation on the proposed reporting levels and the position limits under the Amendment Rules.</p> <p>SFC explained that for the VHSI futures contract, Hong Kong Futures Exchange ("HKFE") had formed a working group comprising market participants to study the subject matter. The working group had recommended the proposed reporting levels and position limits to SFC. In the case of USD/CNH futures contract, apart from</p>	

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		<p>consulting the market participants, HKFE had also consulted the regulatory bodies, such as SFC and the Hong Kong Monetary Authority ("HKMA"). All parties consulted considered the proposed position limits acceptable.</p> <p>In response to the Chairman's enquiry, SFC advised about the position limits, if any, on Renminbi futures contract adopted by overseas futures exchanges.</p>	
002835 003035	Chairman Ms Starry LEE SFC	<p>Ms Starry LEE enquired about –</p> <p>(a) whether the position limit would be retained for futures contracts after a regulatory regime for the over-the-counter ("OTC") derivatives market was implemented; and</p> <p>(b) whether enforcement actions would be taken against non-compliance cases with the reporting requirements.</p> <p>SFC explained that –</p> <p>(a) a bill introducing a regulatory regime for OTC derivatives market would be introduced to the Legislative Council later. As OTC derivatives market and futures contracts were regulated under different regimes, the position limit would be retained even after the implementation of the OTC derivatives market regulatory regime; and</p> <p>(b) SFC could instigate civil actions against non-compliance cases with the reporting requirements.</p>	
003036 – 003504	Chairman Mr Christopher CHEUNG SFC Administration Ms Starry LEE	<p>Mr Christopher CHEUNG enquired –</p> <p>(a) whether general investors had been consulted on the position limits and reporting levels under the Amendment Rules; and</p> <p>(b) whether Mainland investors were required to open accounts in Hong Kong to trade the two futures contracts.</p>	

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		<p>SFC and the Administration explained that –</p> <p>(a) consultation had been made with the market participants on the positions limits and reporting levels before the launch of the two futures contracts;</p> <p>(b) mainly institutional investors had participated in the trading the two futures contracts and individual investors had so far expressed little interest in the new products. Since market participants were required to comply with the reporting requirements and the position limits specified in the HKFE rules, SFC did not consider it necessary to conduct any public consultation on the Amendments Rules as the proposed limits and reporting levels were the same as those in the HKFE rules;</p> <p>(c) overseas investors, including Mainland investors, would have to follow similar arrangements to trade futures contracts, including the VHSI and USD/CNH future contracts as financial intermediaries were regulated by the same regulations on trading of futures contracts.</p>	
003505 – 004835	Chairman SFC Administration Ms Starry LEE Mr Christopher CHEUNG	<p>Mr Christopher CHEUNG expressed concern about the potential impact of an accumulation of huge position of USD/CNH futures contracts should there be a change in the exchange rate of Hong Kong Dollar vs USD.</p> <p>The Chairman expressed concern about the adverse effect the USD/CNH futures contracts would have on the CNH spot market near expiration if several market participants had to deliver a significant amount of CNH for settlement.</p> <p>SFC explained that –</p> <p>(a) the limit for the USD/CNH spot month contract during the last five trading days was set at 2 000 open contracts. The level, which was determined with reference to the level of CNH spot daily turnover in Hong Kong, was about 10% of the current CNH spot daily turnover at around US\$3 billion. Consultation had been made with HKMA which considered this level acceptable;</p>	

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		<p>(b) as the actual number of market participants who would hold open USD/CNH futures contracts until settlement was uncertain, a conservative approach was adopted in setting the position limit; and</p> <p>(c) in case that market participants defaulted in delivering the required CNH for settlement of the USD/CNH futures contracts, there were provisions for HKFE to settle the outstanding contracts in other currencies.</p> <p>Members agreed that HKMA should be invited to attend the next meeting for discussion on the impact of substantial quantity of open USD/CNH futures spot month contracts on the CNH spot market near expiration and HKMA's contingency measures in this connection.</p>	<p>Clerk to invite HKMA to attend the next meeting</p>
004836 – 004945	Chairman Administration	Date for next meeting	