立法會
Legislative Council

LC Paper No. CB(1)1496/12-13
(These minutes have been seen by the Administration)

Ref: CB1/SS/6/12

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

Minutes of the second meeting held on
Friday, 1 March 2013, at 4:30 pm
in Conference Room 2A 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
Member absent	:	Hon SIN Chung-kai, SBS, JP
Public Officers attending	:	**Agenda item I** Miss Sara TSE Principal Assistant Secretary for Financial Services & the Treasury (Financial Services)1
Attendance by invitation	:	**Agenda item I** 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

Miss Kitty LAI
Head
Monetary Operations
Hong Kong Monetary Authority

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

Action

I Meeting with the Administration

(File Ref: Nil	-	Legislative Council Brief
LC Paper No. LS23/12-13	-	Legal Service Division Report on subsidiary legislation gazetted on 1 February 2013

Clause-by-clause examination

LC Paper No. L.N. 13 of 2013	-	The Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013
LC Paper No. CB(1)601/12-13(01)	-	Marked-up copy of the Rules prepared by the Legal Service Division)

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

Action

Clause-by-clause examination

2. The Subcommittee completed clause-by-clause examination of the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013 ("the Amendment Rules") and it would not propose any amendments to them.

Legislative timetable and report to the House Committee

3. Members noted that the deadline for giving notice to amend the Amendment Rules and the date of moving the motion to amend the Amendment Rules at the Council meeting were 20 and 27 March 2013 respectively. Members agreed that the Chairman would report the Subcommittee's deliberations to the House Committee on 15 March 2013.

II Any other business

4. There being no other business, the meeting ended at 5:20 pm.

Council Business Division 1
Legislative Council Secretariat
10 July 2013

Annex

Proceedings of the second meeting of Subcommittee on Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013 on Friday, 1 March 2013, at 4:30 pm in Conference Room 2A of the Legislative Council Complex

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with the Administration			
000038 – 000735	Chairman Hong Kong Monetary Authority ("HKMA") Securities and Futures Commission ("SFC")	The Chairman recapped that the Subcommittee had studied SFC's proposal to set the position limit for the US Dollar vs Renminbi (Hong Kong) ("USD/CNH") futures spot month contract during the last five days before expiry at 2 000 contracts. Members had expressed concern about the aforesaid position limit and that the settlement of large quantity of outstanding contracts would have an impact on the CNH spot market. The Subcommittee had invited HKMA to attend the meeting to discuss with members on the issue. HKMA explained that -- (a) with the current CNH spot market daily turnover at US$3 billion, the position limit level at 2 000 contracts which represented about 10% of the daily turnover was considered appropriate. (b) the liquidity pool of Renminbi ("RMB") in Hong Kong was about 720 billion RMB and the market should be able to meet the demand for RMB for settlement of the outstanding USD/CNH futures contracts under normal circumstances. (c) while most USD/CNH futures contracts would be closed before settlement, the Hong Kong Futures Exchange ("HKFE") would monitor the outstanding futures contracts and remind the relevant brokers and clients holding large open positions to prepare for delivery of RMB on the settlement day. SFC also expressed the view that - (a) the CNH spot market had been growing and the market mechanism should be able to meet the demand for RMB for settlement of the expired USD/CNH contracts. (b) the 2 000 contract level was a statutory maximum. If the market conditions	

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		warranted more stringent control, HKFE could implement measures, such as reducing the position limit or increasing the margin requirements for the futures contract trading to discourage clients from holding a large open position.	
000736 – 001307	Chairman Mr Christopher CHEUNG SFC	Mr Christopher CHEUNG enquired about the purpose of the provision of the USD/CNH futures contract. He expressed concern that the spot market might be manipulated and the small investors would suffer loss due to the fluctuation in the exchange rate between USD and RMB. SFC explained that - (a) the USD/CNH futures contract was provided for both financial institutions and other market participants. The contract with a value of US$100,000 could be used by small investors as a tool for hedging their risk exposures; (b) despite limited exchange rate fluctuation of RMB against USD, there were still risks with the USD/CNH futures contract. Investors should study the risks of the product before making any investment. However, as the product was only launched in September 2012 and relatively new, the market was still studying the product and the daily turnover was relatively low at around 500 contracts on average. (c) given that the local futures market was transparent with the availability of public information, such as the number of open contracts and trading volume, any unusual movement in the market could be reflected through the statistics. HKFE and SFC would closely monitor the market movements and examine, if necessary, unusual circumstances.	
001308 – 002430	Chairman Mr Ronny TONG SFC Administration HKMA	Mr Ronny TONG enquired about – (a) justifications for not lowering the position limit of the USD/CNH future contracts to control the risk exposures of the spot market; and (b) in case of default and one of the parties could not deliver RMB according to the provisions in	

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		the USD/CNH futures contracts, the impact of it on Hong Kong as a financial centre. Echoing Mr TONG's views, the Chairman also opined that the 2 000 contract position limit was too high given the current daily turnover of the USD/CNH futures contracts was only around 500 contracts. It would be more prudent to set a lower limit to reduce the risk exposure. SFC, the Administration and HKMA explained that – (a) a balance had to be struck between risk management and market development in setting the position limit. A low limit would hinder market growth as raising the position limit involving statutory procedures and would take a few months. (b) the proposed limit of 2 000 contract was arrived at after very cautious consideration involving studying statistics and overseas experience as well as consulting market participants. The level was able to meet the market needs and had taken into account risk management considerations. (c) if required, HKFE could lower the position limit. SFC would also consider lowering the position limit should there be any special circumstances that warrant a stricter control on the USD/CNH futures contract market. (d) the offshore RMB market in Hong Kong had been growing strongly in recent years as the daily spot market turnover had increased from US$2 billion to around US$3 billion recently in just around one year. The market forces could deal with the demand for RMB for settlement of the USD/CNH futures contracts. The probability for a market participant failing to deliver RMB to settle outstanding contracts was slim. (e) Chicago Mercantile Exchange ("CME") also offered a similar deliverable USD/CNH futures contract and imposed a similar position limit. If SFC lowered the proposed limit, some local and overseas investors might find the limit too	

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		low for their purposes and trade the futures contracts at CME. As such, the local market would lose business and there would be a lack of market information for HKFE and local regulators. According to HKFE's statistics, only 10% of the USD/CNH futures contracts were traded by individual investors, while 60% and 30% were traded by bankers/market dealers and institutional investors respectively. Institutional investors mainly used this product for hedging their risk exposure. (f) As the product was a physical delivery futures contract, companies would use this product to hedge the currency fluctuation risk if they expected to receive RMB payments in future. These companies should have no problem in delivering RMB even if the contracts were held until settlement.	
002431 – 003724	Chairman Mr Christopher CHEUNG SFC Administration	Mr Christopher CHEUNG pointed out that unlike CME, the local futures market was played by asset management companies against individual investors. He reiterated his concern about the relatively high position limit of USD/CNH futures contract that might lead to manipulative activities in the USD/CNH spot market and hence the small investors might suffer loss. The Chairman enquired why there would be a lack of supervisory information for HKFE and local regulators if investors traded the USD/CNH futures contract on CME instead on HKFE. SFC explained that – (a) CME USD/CNH futures contracts which were launched in February 2013 were also settled in Hong Kong. HKFE could not oversee the transactions at CME as the local reporting requirements were not applicable to them. (b) due to the lack of information about contracts traded on CME, HKFE and the local regulatory bodies could not monitor any build-up of large positions. (c) settlement of outstanding USD/CNH futures contracts traded on CME would have same impact on the spot market as they were settled in	

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		Hong Kong like those traded on HKFE. The Administration pointed out that the position limits for the USD/CNH futures contract were set very prudently and HKFE and SFC would monitor the market operation very closely. In case of unusual market movements, HKFE and SFC had special measures to deal with the situations. As such, the Administration appealed to the Subcommittee's support to the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013.	
003725 – 004041	Chairman Mr Ronny TONG SFC	Mr Ronny TONG was of the view that if SFC considered that the position limits for USD/CNH futures contract reasonable, he had no objection to them. In view of the aforesaid discussion, the Chairman supported setting 2 000 contracts as the position limit for the USD/CNH futures spot month contract during the last five trading days.	
004042 – 004334	Chairman Mr Christopher CHEUNG SFC	Mr Christopher CHEUNG asked about the impact on HKFE if a market participant defaulted and could not deliver RMB to settle the outstanding USD/CNH futures contracts. SFC explained that – (a) HKFE had established lines with local banks that RMB could be provided for settlement of outstanding USD/CNH futures contracts if a market participant defaulted; (b) In the case that a significant amount of RMB was required for settlement of the outstanding USD/CNH futures contracts and the banks could not provide sufficient RMB, HKFE was allowed under its rules to settle the contracts in other currencies. The Chairman and Mr Christopher CHEUNG considered that when a significant amount of RMB was required in Hong Kong for settlement of outstanding contracts, this would have impact on the RMB liquidity in Hong Kong and might affect the RMB currency market in the region.	

Time marker	Speaker	Subject(s)	Action required
004335 – 004853	Chairman SFC	Clause-by-clause examination of the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013 Noting that the new item on USD/CNH futures contract in Schedule 1 to the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571, sub. Leg. Y) ("the Rules") did not specify that it was a physical delivery contract, the Chairman enquired whether the position limits would apply to other non-deliverable USD/CNH futures contracts. SFC replied that all futures contracts trading on HKFE were included under the Rules. At present, HKFE has not offered non-deliverable USD/CNH futures contract as a product and the Rules would have to be further amended for such a new product.	
004854 – 004949	Chairman	Legislative timetable and report to the House Committee on 15 March 2013.	

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10 July 2013