



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2529 2075)

26 May 2015

Ms CHAN Man-yan, Ada
Prin AS for Financial Services & the Treasury
(Financial Services)
Financial Services and the Treasury Bureau
24/F, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Ms CHAN,

**Securities and Futures (OTC Derivative Transactions –
Reporting and Record Keeping Obligations) Rules (L.N. 96 of 2015)**

**Securities and Futures (Stock Markets, Futures Markets
and Clearing Houses) Notice (L.N. 97 of 2015)**

To assist our scrutiny of the captioned Legal Notices, we should be grateful for your clarifications on the following legal and drafting issues.

L.N. 96 of 2015

Proposed rule 19

1. In the proposed definition of "*concession period*" in rule 19(a), the elements stipulated in paragraphs (a) and (b) are linked with the conjunction "and". As the meaning of those paragraphs are mutually exclusive, should "or" be used instead? References are made to rules 22(2)(a) and 24(2)(b) of L.N. 96 where "or" is used in similar contexts.
2. Similarly, should "and" be replaced by "or" in the proposed definition of "*grace period*" in rule 19(b)?

Proposed rule 22 (6)(b)

3. The expression "substantially similar" is rendered as "大致上相同" in the Chinese text of this rule. Is it intended that the information should be "substantially the same" or "substantially similar"? If the latter, should the Chinese text be revised to "大致上相似"? Please note that "substantially similar" is rendered as "大體上相似" in the Chinese text of section 33(3) of the Personal Data (Privacy) Ordinance (Cap. 486) and as "相當程度上...相類似" in the Chinese text of section 109(4)(e) and (f) of the Lifts and Escalators Ordinance (Cap. 618).

Proposed rule 26(1)

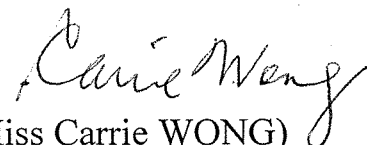
4. It is noted that "the person" is used as the acronym for "the prescribed person" in the English text of this rule, and "the person" is rendered as "該人士" in the Chinese text. It is however noted that where "the person" is used in similar contexts, the Chinese rendition used in rule 26(1)(b)(ii), 2(a) and (2)(b) and throughout the Chinese text is "該人". For the sake of consistency, should "該人士" in rule 26(1) be revised to "該人"?

L.N. 97 of 2015

5. Unlike items 1 to 39 of Part 1 of the Schedule to L.N. 97 of 2015 which specify the stock markets or futures markets operated by the respective market operators for the purpose of section 1B(2)(c) of Part 1 of the Schedule to Cap. 571, item 40 of Part 1 generally refers to any stock markets or futures markets operated by 33 market operators. Please advise the reasons for not specifying those markets in item 40 in the same way as in items 1 to 39 of that Schedule. Without specifying the same, it is not clear what those prescribed markets are. As the content of legislation should be certain, please consider specifying those markets in the same way as in items 1 to 39 of that Schedule.

As we need to advise members of the House Committee on whether a subcommittee should be formed to study the captioned Legal Notices in detail at the House Committee meeting on 29 May 2015, please let us have your reply in both English and Chinese by 12 noon on 27 May 2015.

Yours sincerely,



(Miss Carrie WONG)
Assistant Legal Adviser