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財經事務及庫務局
財經事務科
香港添馬添美道二號
政府總部二十四樓



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FINANCIAL SERVICES BRANCH
FINANCIAL SERVICES AND
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GOVERNMENT OF THE HONG KONG
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本函檔號 OUR REF.: SF&C/1/2/11/6C
來函檔號 YOUR REF.: LS/S/31(2)/14-15

27 May 2015

Miss Carrie Wong
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss Wong,

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)

Thank you for your letter dated 26 May 2015. Having consulted the Securities and Futures Commission and the Hong Kong Monetary Authority, our consolidated reply to your questions is set out below.

L.N. 96 of 2015

Proposed rule 19

2. The conjunction “and” is used as there are two meanings for the term “concession period”. The meaning in paragraph (a) of the definition applies in respect of prescribed persons that are a regulated prescribed person on the product type specification day; and the meaning in paragraph (b) of the definition applies in respect of prescribed persons that become a regulated prescribed person within 6 months after the product type specification day. The same rationale applies in respect of the definition of “grace period”.

Proposed rule 22(6)(b)

3. Since 「大致上」 on its own could be construed to mean “approximately” or “roughly”, we have used 「大致上相同」 rather than 「大致上相似」 to better convey the concept of “substantially” in the phrase “substantially similar”.

Proposed rule 26(1)

4. In rule 26(1), 「該人士」(the person) refers to 「訂明人士」(the prescribed person). It is accurate to use 「該人士」 in such context.

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5. It is necessary to identify the prescribed markets by reference to their operator. Not all markets have official or legal names. It is therefore more reliable to list the markets by reference to their operator. Further, most jurisdictions regulate markets by reference to the market operator. In such cases, the market operator has a clear legal name as it is a legal entity.

6. The above said, some operators may operate more than one type of market, and different types of markets may be subject to different regulations. In the case of items 1 to 39 of Part 1 of the Schedule, the market operator operates traditional exchanges as well as other types of trading platforms, such as multilateral trading facilities. However, at this stage, the OTC derivatives regulatory regime will only cover traditional exchanges. We therefore have to identify the market by reference to both its operator and the market itself. In the case of item 40 of Part 1 of the Schedule, the market operator only operates traditional exchanges. It is therefore sufficient to identify the operator only.

Yours sincerely,



(Ms Ada Chan)

for Secretary for Financial Services and the Treasury

c.c. Department of Justice

(Attn: Ms Rayne Chai
Ms Phyllis Poon)

Securities and Futures Commission
Hong Kong Monetary Authority

(Attn: Ms Daphne Doo)
(Attn: Ms Polly Lee)