

L.N. 44 of 2017

**Securities and Futures (Contracts Limits and Reportable
Positions) (Amendment) Rules 2017**

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Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2017

(Made by the Securities and Futures Commission under section 35 of the Securities and Futures Ordinance (Cap. 571))

1. Commencement

These Rules come into operation on 1 June 2017.

2. Securities and Futures (Contracts Limits and Reportable Positions) Rules amended

The Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571 sub. leg. Y) are amended as set out in sections 3 to 7.

3. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *reportable position*, paragraph (b)—

Repeal the full stop

Substitute a semicolon.

- (2) Section 2(1)—

Add in alphabetical order

“adequate financial capability (充足財政能力), in relation to an exchange participant or an affiliate of an exchange participant, means any one of the exchange participant, the affiliate or their holding company, has—

- (a) a net asset value of not less than \$5 billion as set out in its latest audited financial statements;
or
(b) a qualifying credit rating;

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affiliate (聯屬公司), in relation to an exchange participant, means any corporation belonging to the same group of companies as the exchange participant;

specified contract (指明合約) means any of the following futures contracts—

- (a) Hang Seng Index futures contracts and options contracts;
- (b) Hang Seng China Enterprises Index futures contracts and options contracts;

specified percentage (指明百分率) means 300%.”.

4. Section 4 amended (restrictions on number of contracts held or controlled)

- (1) Section 4(1)—

Repeal

“and (4)”

Substitute

“and (3)”.

- (2) Section 4(2)—

Repeal

“in subsection (3)”

Substitute

“in section 4A”.

- (3) Section 4—

Repeal subsections (3), (4) and (5)

Substitute

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- “(3) A person may hold or control a futures contract or stock options contract in excess of the prescribed limit if the person is authorized by the Commission to do so under section 4B, 4C, 4D or 4E.
- (4) The Commission may, under section 4B, 4C, 4D or 4E, authorize a person to hold or control a futures contract or stock options contract in excess of the prescribed limit—
- (a) except in circumstances where holding or controlling the excess for which authorization is sought may be authorized under the rules of the recognized exchange company concerned as referred to in subsection (2);
 - (b) only if the Commission is satisfied that the excess would not be prejudicial to the interest of the investing public having regard to the prescribed limit and the liquidity of the futures contract or stock options contract in question; and
 - (c) by giving the person a notice of authorization in writing.
- (5) An authorization granted under section 4B, 4C, 4D or 4E—
- (a) subject to paragraph (b), is valid for the period (if any) that the Commission may specify in the notice of authorization given under subsection (4)(c);
 - (b) may be withdrawn by the Commission, at any time, by at least 5 business days’ notice in writing to the person authorized and, where the person authorized is an affiliate of an exchange

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participant, also to the exchange participant;
and

- (c) is subject to any reasonable conditions that the Commission may specify in the notice of authorization given under subsection (4)(c) and the Commission may, at any time, by at least 5 business days' notice in writing to the person authorized and, where the person authorized is an affiliate of an exchange participant, also to the exchange participant, amend or revoke any condition or impose new conditions as may be reasonable in the circumstances.”.

(4) Section 4—

Repeal subsections (6), (7), (8), (9) and (10).

5. Sections 4A to 4E added

After section 4—

Add

“4A. Authorization under rules of recognized exchange company to hold or control contracts in excess of prescribed limit

A person who may be authorized for the purposes of section 4(2) is—

- (a) a person registered with the Futures Exchange Company for the purpose of performing market making or liquidity providing activities in respect of futures contracts in accordance with its rules;
- (b) a person registered with the Stock Exchange Company for the purpose of performing market making or liquidity providing activities, in accordance with its rules—

- (i) in respect of stock options contracts; or
- (ii) in respect of exchange traded funds, where the person holds or controls futures contracts or stock options contracts in the course of hedging the risks arising from performing market making or liquidity providing activities;
- (c) an issuer of securities listed under Chapter 15A of the Listing Rules who holds or controls futures contracts or stock options contracts in the course of hedging the risks of positions previously acquired in such listed securities for the purpose of performing liquidity providing activities in respect of such listed securities; or
- (d) a related corporation of an issuer of securities listed under Chapter 15A of the Listing Rules, where the related corporation holds or controls futures contracts or stock options contracts in the course of hedging the risks of positions previously acquired in such listed securities for the purpose of performing liquidity providing activities in respect of such listed securities.

4B. Authorization by Commission to hold or control contracts in excess of prescribed limit in special circumstances

Subject to section 4(4)(a) and (b), the Commission may authorize a person to hold or control a futures contract or stock options contract in excess of the prescribed limit if the Commission is satisfied that there are special circumstances which warrant the person holding or controlling the excess.

4C. Authorization by Commission to hold or control contracts in excess of prescribed limit for purposes of facilitating provision of services to clients

- (1) Subject to subsection (2) and section 4(4)(a) and (b), the Commission may authorize an exchange participant or an affiliate of an exchange participant to hold or control a specified contract in excess of the prescribed limit by up to the specified percentage.
- (2) The Commission must not authorize an exchange participant or an affiliate of an exchange participant to hold or control a specified contract in excess of the prescribed limit unless the exchange participant satisfies the Commission that—
 - (a) the exchange participant or the affiliate (as the case may be) has a relevant business need for holding or controlling the excess for which authorization is sought;
 - (b) either the exchange participant or the affiliate has adequate financial capability to cover the potential risks arising from the excess; and
 - (c) the exchange participant has effective internal control procedures and risk management systems to manage the potential risks arising from the excess.
- (3) In this section—

relevant business need (相關業務需要), in relation to an exchange participant or an affiliate of an exchange participant, means a business need that requires the exchange participant or the affiliate to engage in hedging activities to facilitate the provision of services to its clients.

4D. Authorization by Commission to hold or control contracts in excess of prescribed limit for purposes of index arbitrage activity

- (1) Subject to subsection (2) and section 4(4)(a) and (b), the Commission may authorize an exchange participant or an affiliate of an exchange participant to hold or control a specified contract in excess of the prescribed limit by up to the specified percentage.
- (2) The Commission must not authorize an exchange participant or an affiliate of an exchange participant to hold or control a specified contract in excess of the prescribed limit unless the exchange participant satisfies the Commission that—
 - (a) the exchange participant or the affiliate (as the case may be) engages in index arbitrage activities, and will, if authorization is granted, hold or control the excess for the purposes of those activities;
 - (b) either the exchange participant or the affiliate has adequate financial capability to cover the potential risks arising from the excess; and
 - (c) the exchange participant has effective internal control procedures and risk management systems to manage the potential risks arising from the excess.

- (3) In this section—

index arbitrage (指數套戥), in relation to an exchange participant or an affiliate of an exchange participant, means a trading strategy engaged in by the exchange participant or the affiliate—

- (a) involving—

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- (i) the purchase (or sale) of a stock index futures contract; or
 - (ii) the purchase (or sale) of a stock index call options contract together with the sale (or purchase) of a stock index put options contract, where both contracts have the same underlying index, expiry date and strike price;
- (b) in conjunction with the sale (or purchase) of some or all of the stocks comprised in the underlying basket of stocks used to compile the index underlying the stock index futures contract or the stock index options contracts; and
- (c) with a view to securing a profit from any difference in price between the stocks and the stock index futures contract or the stock index options contracts.

4E. Authorization by Commission for asset manager to hold or control contracts in excess of prescribed limit for purposes of asset management activity

- (1) Subject to subsection (2) and section 4(4)(a) and (b), the Commission may authorize a person referred to in subsection (3) to hold or control a specified contract in excess of the prescribed limit by up to the specified percentage.
- (2) The Commission must not authorize a person referred to in subsection (3) to hold or control a specified contract in excess of the prescribed limit unless the person satisfies the Commission that—

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- (a) the person has a need for holding or controlling the excess for which authorization is sought, for the purposes of the asset management activity for which the person is licensed or registered; and
 - (b) the person has effective internal control procedures and risk management systems to manage the potential risks arising from the excess.
- (3) Subsection (1) applies to a person that—
- (a) is a licensed corporation that is licensed for, or a registered institution that is registered for, Type 9 regulated activity; and
 - (b) in the course of that regulated activity, manages assets having a total value of not less than \$80 billion.”.

6. Schedule 1 amended (prescribed limit and reporting level for futures contracts)

(1) Schedule 1—

Repeal item 4

Substitute

“4.	Hang Seng Index futures contract and options contract, and Mini-Hang Seng Index futures contract and	10 000 long or short position delta limit for all contract months combined, provided that the position delta for the Mini-Hang Seng Index	500 open Hang Seng Index futures contracts for any one contract month; 500 open Hang Seng Index options contracts for any one
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options contract	futures contracts or Mini-Hang Seng Index options contracts must not at any time exceed 2 000 long or short for all contract months combined	series; 2 500 open Mini-Hang Seng Index futures contracts for any one contract month and 2 500 open Mini-Hang Seng Index options contracts for any one series”.
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(2) Schedule 1—

Repeal item 5

Substitute

“5. Hang Seng China Enterprises Index futures contract and options contract, and Mini-Hang Seng China Enterprises Index futures contract and options contract	12 000 long or short position delta limit for all contract months combined, provided that the position delta for the Mini-Hang Seng China Enterprises Index futures contracts or Mini-Hang Seng China Enterprises Index options contracts must not at any time exceed 2 400	500 open Hang Seng China Enterprises Index futures contracts for any one contract month; 500 open Hang Seng China Enterprises Index options contracts for any one series; 2 500 open Mini-Hang Seng China Enterprises
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long or short for all contract months combined	Index futures contracts for any one contract month and 2 500 open Mini-Hang Seng China Enterprises Index options contracts for any one series”.
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(3) Schedule 1—

Repeal item 9

Substitute

“9.	FTSE/Xinhua China 25 Index futures contract and options contract	6 000 long or short position delta limit for all contract months combined	500 open FTSE/ Xinhua China 25 Index futures contracts for any one contract month and 500 open FTSE/ Xinhua China 25 Index options contracts for any one series”.
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(4) Schedule 1—

Repeal item 13

Substitute

“13.	US Dollar vs Renminbi (Hong Kong) futures	8 000 long or short position delta limit for all contract months	500 open US Dollar vs Renminbi (Hong Kong)
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contract and options contract, and Renminbi (Hong Kong) vs US Dollar futures contract	combined, provided that the position delta for the spot month US Dollar vs Renminbi (Hong Kong) futures contracts and the spot month US Dollar vs Renminbi (Hong Kong) options contracts combined during the last 5 trading days must not exceed 2 000 long or short	futures contracts for any one contract month; 500 open US Dollar vs Renminbi (Hong Kong) options contracts for any one series and 500 open Renminbi (Hong Kong) vs US Dollar futures contracts for any one contract month”.
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(5) Schedule 1, after item 17—

Add

- | | | | |
|------|-------------------------------------|---|---|
| “18. | London Nickel Mini futures contract | 50 000 net long or short contracts for all contract months combined | 500 open contracts for any one contract month |
| 19. | London Lead Mini futures contract | 25 000 net long or short contracts for all contract months combined | 500 open contracts for any one contract month |
| 20. | London Tin Mini futures contract | 15 000 net long or short contracts for all contract months combined | 500 open contracts for any one contract month”. |

7. Schedule 2 amended (prescribed limit and reporting level for stock options contracts)

Schedule 2, items 1 and 2—

Repeal

“50 000 open contracts”

Substitute

“150 000 open contracts”.

Ashley ALDER
Chief Executive Officer,
Securities and Futures Commission

20 February 2017

Explanatory Note

The main object of these Rules is to amend the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571 sub. leg. Y) (*principal Rules*) by expanding the categories of persons who may be authorized to hold or control a futures contract or stock options contract in excess of the prescribed limit set out in Schedule 1 or 2 to the principal Rules (*excess authorizations*), and by increasing the prescribed limits for stock options contracts set out in Schedule 2 to the principal Rules.

2. Section 3 amends section 2 of the principal Rules by adding definitions used in new sections 4C, 4D and 4E, which respectively relate to excess authorizations granted by the Securities and Futures Commission (*Commission*) for the purposes of facilitating the provision of services to clients, index arbitrage activity and asset management activity, and amends the definition of *specified contract* for clarity.
3. Section 4 amends section 4 of the principal Rules (*existing section 4*) and section 5 adds new sections 4A to 4E to the principal Rules by expanding the scope of excess authorizations that may be granted, and by making consequential amendments that restructure the existing section 4 for better presentation, as follows—
 - (a) the categories of persons who may be granted excess authorizations under the rules of the relevant recognized exchange company under the existing section 4(2) are moved from the existing section 4(3) to the new section 4A, and expanded to include Stock Exchange Company market makers in exchange traded funds;

- (b) the Commission's power to grant excess authorizations to persons in special circumstances is moved from the existing section 4(5) to the new section 4B;
- (c) the new section 4(3) expands the categories of persons who may be granted excess authorizations by the Commission;
- (d) various matters set out in the existing section 4(4), (8) and (9) relating to granting and withdrawing excess authorizations by the Commission, are moved to the new section 4(4) and (5) without substantive changes;
- (e) the Commission's power to grant excess authorizations where there is a relevant business need for facilitating the provision of services to clients is moved from the existing section 4(6) and (7) to the new section 4C, without substantive changes (except in so far as the definitions of *adequate financial capability* and *specified percentage* are amended);
- (f) the new section 4D empowers the Commission to grant excess authorizations for the purposes of index arbitrage activity; and
- (g) the new section 4E empowers the Commission to grant excess authorizations for the purposes of asset management activity.

4. Section 6 amends Schedule 1 to the principal Rules by—

- (a) making minor drafting amendments to the descriptions of the contracts referred to in items 4, 5 and 9;
- (b) adding the Mini-Hang Seng China Enterprises Index options contract to item 5;

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- (c) adding the US Dollar vs Renminbi (Hong Kong) options contract and the Renminbi (Hong Kong) vs US Dollar futures contract to item 13; and
 - (d) adding London Metal Mini futures contracts for nickel, lead and tin, by adding items 18, 19 and 20.
- 5. Section 7 amends Schedule 2 to the principal Rules by increasing the prescribed limits for stock options contracts.