



**SECURITIES AND
FUTURES COMMISSION**
證券及期貨事務監察委員會

Consultation Conclusions on proposed changes to the Securities and Futures (Contracts Limits and Reportable Positions) Rules and the Guidance Note on Position Limits and Large Open Position Reporting Requirements

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Executive summary

1. On 26 April 2022, the Securities and Futures Commission (**SFC**) published a consultation proposing several enhancements to the position limit regime (**First Consultation Paper**) to align its requirements with its regulatory policies and objectives in light of recent developments in Hong Kong's derivatives market. The SFC sought comments on the proposed enhancements as well as related amendments to the Securities and Futures (Contracts Limits and Reportable Positions) Rules (**Rules**) and proposed updates to the Guidance Note on Position Limits and Large Open Position Reporting Requirements (**Guidance Note**).
2. After considering the feedback received, the SFC concluded some of the proposals¹ and proposed further amendments to the Rules and the Guidance Note in relation to the application of position limits and reporting requirements to funds. To facilitate the implementation of enhancements to the exchange-level position limit regime proposed by Hong Kong Exchanges and Clearing Limited (**HKEX**), the SFC also proposed revising the statutory position limits for stock options and stock futures contracts and removing the additional position limits for mini stock index futures and options contracts. A further consultation paper (**Second Consultation Paper**) was published on 22 November 2022 regarding the above proposals.
3. The further consultation ended on 23 December 2022. We received seven written submissions from various market participants and professional bodies. The list of respondents is set out in Appendix C and their comments, except for those who have requested the contents of their submissions not be published, can be viewed on the SFC's website. After considering the feedback received, the SFC will proceed with the proposals stated in the Second Consultation Paper.
4. This paper comprises four sections and should be read in conjunction with the First Consultation Paper and the Second Consultation Paper:
 - Section A provides our responses to market participants' comments on the following proposals in the Second Consultation Paper:
 - i. the proposed requirements for asset managers to observe position limit compliance and report positions at the individual fund or sub-fund level;
 - ii. the proposed requirements for determining trustees' compliance with the requirements of the Rules; and
 - iii. the proposed amendments to the Rules in response to HKEX's proposed enhancements to its position limit regime.

¹ The concluded proposals include: (i) expanding the list of "specified contracts"; (ii) introducing reporting requirements for contracts traded on holidays; (iii) clarifying the circumstances under which Clearing Participants are not considered as having discretion on clients' positions; (iv) introducing an excess position limit regime for Clearing Participants; (v) updating the list of contracts in Schedule 1 of the Rules; and (vi) revising the position limits for the USD/CNH futures and options contracts.

- Section B briefly discusses our responses to market participants' comments on other issues which are not within the scope of our consultation in the Second Consultation Paper;
 - Section C sets out the further amendments to the Rules; and
 - Section D sets out the further changes to the Guidance Note.
5. The SFC is working with the Department of Justice to finalise the text of the relevant amendments to the Rules for publication in the Government Gazette and submission to the Legislative Council for negative vetting. Subject to the legislative process, we expect the amended Rules to become effective in Dec 2023. In the meantime, to assist market participants to prepare for commencement of the new requirements, we attach at Appendix A the latest version of the amendments – this is not the final version, and participants are reminded that they will need to refer to the Gazetted version in due course.

Section A

Comments received and the SFC's responses

I. Application of position limits and reporting requirements to funds

Background

6. As discussed in the Second Consultation Paper, the SFC considers that it would be more appropriate for the person responsible for the day-to-day operation of funds (ie, the asset manager) to have the primary responsibility for position limit compliance and reporting obligations at the individual fund and sub-fund level because they control trading and have first-hand information about fund positions. However, as the Rules apply to any person who “holds or controls” positions, trustees are still subject to the requirements of the Rules. In this connection, if a trustee has measures in place to ensure an asset manager managing its unit trusts has observed position limit compliance and reported positions according to the requirements of the Rules, the SFC will consider that the trustee has discharged its obligations under the Rules. In this respect, we have proposed providing guidance under the new section 6.4 in the Guidance Note to specify the considerations that will be taken into account in determining trustees' compliance.

Public comments

7. An industry association suggested that the SFC provide more explicit specific guidance on what is expected from trustees and asset managers for trustees to demonstrate they fulfilled their obligations, eg, what information asset managers shall provide to trustees to facilitate trustees' ongoing monitoring of asset managers' compliance and how frequently they should provide it.
8. Another industry association commented that Clearing Participants (**CPs**) might also face similar challenges ensuring asset manager clients are in compliance. They would like to have similar guidance in the Guidance Note to clarify how CPs and their clients shall comply with the Rules so CPs can discharge their obligations.
9. Other comments suggested that the SFC give sufficient time or a transition period for market participants to comply with the requirements.
10. We received some questions regarding the practical application of the Rules to asset managers and related operational matters.

The SFC's response

11. Any person who holds or controls futures or options positions has the responsibility to comply with the Rules. The aim of the Guidance Note is to help market participants understand the requirements and it is not intended to provide detailed instructions on what they should do. Hence, the proposed guidance is not prescriptive. Nevertheless,

the SFC has carefully considered the suggestions in the responses and has adopted them where appropriate.

12. Unlike trustees who are the legal holders of the positions of funds and sub-funds and who are therefore required to comply with the statutory position limits and report positions at both the fund and sub-fund levels (as stipulated in the proposed new Sections 7A(1) and 7A(2) of the Rules), CPs are only required to comply with the Rules for their own accounts and for each of their clients' account (as stipulated in the existing Section 7(1) of the Rules). In cases where the client is an asset manager, the CP will only be required to ensure that the position it holds for this client does not exceed the statutory position limit. The CP is not required to monitor or report positions of this client at its fund or sub-fund level. In general, CPs do not have the obligation to monitor and ensure that the overall positions of their asset manager clients are within the position limit or are reported to the relevant exchanges. In fact, for asset manager clients who are using multiple CPs, a CP would not have a full picture of all of their clients' positions. Nevertheless, all CPs are required to ensure that all the positions they hold for their asset manager clients are within the statutory position limit. The proposed amendments to the Rules in respect of funds will not cause any change to the existing obligations of CPs.
13. We note market participants' concerns about the timing of compliance. We will provide sufficient time for the market to make necessary adjustments and arrangements to comply with the revised Rules.
14. For other questions seeking clarification, we will communicate with the respondents separately.

II. HKEX's proposed enhancements to its position limit regime

Public comments

15. Respondents were either supportive or had no comments on the proposed amendments to the Rules to facilitate the implementation of HKEX's proposals.
16. One respondent suggested that there should be a review process for the position limits of individual single stock options upon corporate actions involving the stocks. Another commented that single stock options and single stock futures, as well as other correlated products, should be treated aggregately for the purpose of margin calculations and reporting requirements given their correlations with each other. For stock index futures and options, some suggested that there should be revisions to the position limits generally to support market growth and development.
17. Separately, it was also suggested that the large open position reporting requirements for market makers should be abolished as their net positions are usually small and are identifiable by HKEX.

The SFC's response

18. The current position limit levels and arrangements for single stock futures and single stock options are appropriate. However, we appreciate the suggestions and will closely monitor market developments to see whether further changes to the regime would be necessary.
19. Regarding the suggestion to exempt market makers from large open position reporting, the SFC will consider it in a separate exercise after taking into account how positions of market makers are recorded in HKEX's clearing system.

Section B

Public comments on other issues

20. With respect to our requirements proposed in the Second Consultation Paper that a client who applies for an excess position limit should (i) appoint only one CP to hold its positions in the relevant contracts and (ii) notify the appointed CP of its excess position limit application, one respondent suggested that for enforcement purposes the client should make this explicit in its application.
21. Some respondents were concerned about the timing of the SFC's authorisation for the CP's excess position limit. One was also worried about the complications that could arise if the application is rejected.
22. One respondent commented that it would be duplicative to require quarterly reporting from CPs as the information should have already been covered in the client's reporting.
23. One respondent viewed that the proposed excess position limit regime for CPs negates the ability of Exchange Participants (**EPs**) to utilise multiple CPs simultaneously, a common market practice. The respondent also sought clarification of arrangements in the event of a CP default or exit.
24. Some respondents reflected that there were situations where CPs could breach the position limits even when their clients did not. For example, a client may hold large but offsetting positions through multiple CPs. The client's net positions do not exceed the position limit, but individual CPs holding the large positions for the client may breach the position limit given that the offsetting positions held by the client are not cleared by the same CP. It was suggested that the SFC clarify whether the CP would be considered to have breached the position limit in this.
25. A respondent sought clarification as to whether EPs, like CPs which normally do not have discretion over clients' positions, would be subject to the Rules for position limit compliance and reporting requirements.

26. One commented that the SFC should conduct a comprehensive and holistic review of the entire position limit regime as the existing framework has become onerous and at times hindered market makers from providing continuous liquidity.

The SFC's response

27. Regarding the suggestion for clients to make representations in their applications that they only appoint one CP, the SFC considers that it may not be necessary because when the client submits an excess position limit application, the SFC will review its clearing arrangement. Through this process, the client applicant will be made aware that it can use only one CP to hold its positions in the relevant contracts and the related CP will also need to submit an application to hold excess positions for its client. We have also set out this requirement in the Guidance Note.

28. If the client is using a third-party CP for clearing the relevant contracts, the SFC will review and approve (or reject) the applications of the client and CP together.

29. Concerning the reporting requirements, the SFC considers that dual reporting by both the client and the CP is appropriate because (i) the client and the CP are two separate and independent legal entities, and (ii) it allows the SFC to cross reference and verify the information about the excess positions provided in the client's and the CP's quarterly reports.

30. As regards the one-CP requirement, it was proposed to address market feedback to the First Consultation that a CP may not be able to effectively monitor its client's overall position if the use of multiple CPs is allowed. We understand that for various business reasons clients may choose to keep their positions at a single CP or different CPs. For a client who prefers to have its positions kept at more than one CPs and wants to apply for the excess position limit, it will need to assess the potential impact of the one-CP requirement on its business activities before submitting an application. On the other hand, for a client who uses a single CP, in the unlikely event that the CP suddenly stops providing its clearing services, the SFC may consider granting an excess position limit to the replacement CP pursuant to section 4B of the Rules (ie, under special circumstances) as an interim measure for the remaining authorisation period.

31. Regarding the comment on the potential breach of position limits by CPs in the multiple-CP scenario mentioned in paragraph 24, we note respondents' concerns and will provide further explanation in the Guidance Note to help market participants understand how the Rules apply. In general, CPs are advised to communicate and make arrangements with their clients and implement necessary monitoring procedures to prevent position limit breaches at the CP level. The SFC will take into account the monitoring process adopted by a CP to determine its compliance with the Rules. The SFC has also added a remark in the Guidance Note that clients who use multiple CPs to hold their positions should have measures in place to ensure their positions at any of the CPs remain within the statutory position limit.

32. Similar to CPs, EPs have the responsibility to ensure compliance with the requirements of the Rules. The “discretion” factor is only relevant when considering whether the EP’s or CP’s position and the positions of their clients should be aggregated for the purpose of determining compliance with the Rules.
33. Lastly, the SFC believes that the existing framework for the position limit regime is appropriate and has struck a proper balance between maintaining financial market stability and promoting the development of Hong Kong’s derivatives market. We will closely monitor market developments and consider further changes if necessary.

Section C

Proposed amendments to the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap 571Y)

34. In addition to the proposed amendments discussed in the First Consultation Paper and the Second Consultation Paper, the SFC will make further technical amendments to the Rules to enhance the clarity around the term “futures contract”. At present, the term “futures contract” is defined specifically in the Securities and Futures Ordinance to cover both “stock index futures contract” and “stock index options contract”. However, in the Rules, the term “futures contract” is also used as a general term to describe a stock index futures contract. Noting this may cause confusion to the market, we will replace, where appropriate, “futures contract” by “stock index futures contract” and “options contract” by “stock index options contract” and add a definition of “stock index futures options contract” for clarity. We will also make various further technical changes to the text, including streamlining the various definitions related to “fund”.
35. Appendix A1 consolidates the amendments discussed in the First Consultation Paper (in purple), in the Second Consultation Paper (in red) and in this conclusion paper (in blue). Appendix A2 is a clean version of the Rules incorporating all the amendments discussed above. As noted in paragraph 5, this is not the final version, and participants are reminded that they will need to refer to the Gazetted version in due course.

Section D

Proposed amendments to the Guidance Note on Position Limits and Large Open Position Reporting Requirements

36. As mentioned in paragraph 31, we have further revised the Guidance Note to explain the use of multiple CPs by a client. The further proposed revisions to the Guidance Note are set out in Appendix B (in blue) together with the proposed revisions discussed in the First Consultation Paper (in purple) and in the Second Consultation Paper (in red).



Appendix A – Proposed amendments to the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap 571Y)

Appendix A1 – Marked-up changes of proposed amendments to the Rules

Appendix A2 – Clean version of the amended Rules

Securities and Futures (Contracts Limits and Reportable Positions) Rules

(Cap. 571, section 35(1))

(Enacting provision omitted—E.R. 1 of 2012)

[1 April 2003] L.N. 12 of 2003

*(Format changes—E.R. 1 of 2012)*1. *(Omitted as spent—E.R. 1 of 2012)***2. Interpretation**

(1) In these Rules, unless the context otherwise requires—

adequate financial capability (充足財政能力); ~~—~~~~(a) in relation to a clearing participant—, means any of the clearing participant or its holding company ~~having—~~~~~~(i) a net asset value of not less than \$5 billion as set out in its latest audited financial statements; or~~~~(ii) a qualifying credit rating;~~~~(b) in relation to an exchange participant or an affiliate of an exchange participant—, means any one of the exchange participant, the affiliate of the exchange participant or their holding company, ~~having—~~~~~~(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; *(L.N. 44 of 2017)*~~**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; *(L.N. 44 of 2017)***constitutive documents** (組成文件), in relation to a collective investment scheme fund, means the principal documents governing the establishment of the scheme fund; *(L.N. 228 of 2015)***contract multiplier** (合約乘數); ~~means—~~~~(a) in relation to a stock index futures contract or a stock index options contract specified in item 4, 5 or 21 in Schedule 1 that has an index as an underlying index— means ~~with an index as an underlying~~, the cash value of one point of the index or otherwise as specified by the Futures Exchange Company to be the “contract multiplier” for the contract in its contract specifications set out in the rules of the Futures Exchange Company; or~~~~(b) in relation to an a stock index futures options contract specified in item 4, 5 or 21 in Schedule 1 that has a stock index futures contract as an underlying contract— means ~~with a futures contract as an underlying~~, the cash value of one point of the stock index futures contract’s underlying index or otherwise as specified by the Futures Exchange Company to be the “contract multiplier” for the stock index futures options contract in its contract specifications set out in the rules of the Futures Exchange Company;~~**corporate fund** (法團基金) ~~means a collective investment scheme constituted as a corporation including an open-ended fund company;~~**entity** (實體) ~~means—~~~~(a) a natural person;~~~~(b) a body of persons; or~~~~(c) a legal arrangement, including—~~

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~~(i) a corporation;~~

~~(ii) a trust; and~~

~~(iii) a sub-fund of an umbrella fund;~~

exchange traded fund (交易所買賣基金) means an open-ended ~~collective investment scheme~~fund the shares or units of which are listed or traded on a recognized stock market; (L.N. 228 of 2015)

~~**fund** (基金) means a collective investment scheme and includes but is not limited to a unit trust and a corporate fund;~~

HKFECC (期貨結算公司) means the recognized clearing house known as HKFE Clearing Corporation Limited;

Listing Rules (《上市規則》) means the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited made by the Stock Exchange Company;

offering document (要約文件), in relation to a ~~collective investment scheme~~fund, means a document—

- (a) inviting participation in the ~~scheme~~fund by prospective shareholders or prospective unit holders of the ~~scheme~~fund; and
- (b) containing information relating to the establishment or administration of the ~~scheme~~fund; (L.N. 228 of 2015)

open-ended ~~collective investment scheme~~fund (開放式集體投資計劃基金) means a ~~collective investment scheme~~fund the shares or units of which may be repurchased or redeemed at the request of any of its shareholders or unit holders—

- (a) at a price calculated wholly or mainly by reference to the net asset value of the ~~scheme~~fund; and
- (b) in accordance with the frequency for repurchase or redemption, requirements and procedures set out in the offering document or constitutive documents of the ~~scheme~~fund; (L.N. 228 of 2015)

prescribed limit (訂明上限), in relation to a futures contract or a stock options contract, means the limit on the number of contracts prescribed for it under section 5;

reportable position (須申報的持倉量) means an open position in futures contracts or stock options contracts the number of which is—

- (a) in the case of a futures contract specified in column 2 of Schedule 1 ~~—, in excess of the reporting level of the contract that specified opposite to it in column 4 of that Schedule;~~ and
- (b) in the case of a stock options contract specified in column 2 of Schedule 2 ~~—, in excess of that specified opposite to it in column 4 the reporting level of that Schedule~~the contract; (9 of 2012 s. 55; L.N. 44 of 2017)

reporting level (須申報水平) means—

- (a) in the case of a futures contract specified in column 2 of Schedule 1 —, the number of contracts specified opposite to it in column 4 of that Schedule; and
- (b) in the case of a stock options contract specified in column 2 of Schedule 2 —, the number of contracts specified opposite to it in column 4 of that Schedule;

scheme property (計劃財產), in relation to a ~~unit trust or a corporate~~fund, means the property under the ~~unit trust or the corporate fund (as the case may be);~~

SEOCH (期權結算公司) means the recognized clearing house known as The SEHK Options Clearing House Limited;

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

- (a) a stock index futures contract whose underlying index is that has one of the following indices as an underlying index—
- (i) Hang Seng Index ~~futures contracts and options contracts;~~
 - (ii) Hang Seng Index (Gross Total Return Index);
 - (iii) Hang Seng Index (Net Total Return Index);
 - (iv) ~~(b)~~ Hang Seng China Enterprises Index ~~futures contracts and options contracts;~~
 - (v) Hang Seng China Enterprises Index (Gross Total Return Index);
 - (vi) Hang Seng China Enterprises Index (Net Total Return Index);
 - (i) ~~(L.N. 44 of 2017)~~
 - ~~(c) Weekly Hang Seng Index options contracts;~~
 - ~~(d) Weekly Hang Seng China Enterprises Index options contracts;~~
 - ~~(e) Hang Seng Index Futures options contracts;~~
 - ~~(f) Hang Seng China Enterprises Index Futures options contracts;—~~
 - (vii) ~~(g)~~ Hang Seng TECH Index ~~futures contracts and options contracts;~~
 - (viii) Hang Seng TECH Index (Gross Total Return Index);
 - (ix) Hang Seng TECH Index (Net Total Return Index);
- (b) ~~an~~ stock index options contract whose underlying index is that has one of the indices referred to in paragraph (a)(i) to (ix) as an underlying index; or
- (c) ~~an~~ stock index futures options contract whose underlying asset is one of the that has a stock index futures contracts referred to in paragraph (a) as an underlying contract;

specified percentage (指明百分率) means 300%; (L.N. 44 of 2017)

(9 of 2012 s. 55)

stock index futures options contract (股票指數期貨期權合約) means a stock index options contract that has a stock index futures contract as an underlying contract;

sub-fund (子基金), in relation to an umbrella fund, means a separate part of the scheme property of the umbrella fund where assets of the part belong exclusively to the part and ~~cannot~~ can be used to discharge the liabilities of, or the claims against, ~~any other entity including the umbrella fund and any other part of the scheme property~~ the part only;

umbrella corporate fund (傘子法團基金) means ~~an umbrella fund constituted as a corporation including an open-ended fund company;~~

umbrella fund (傘子基金) means a ~~collective investment scheme fund whose the constitutive documents of which provide for the division of its scheme property into separate parts and may be constituted under the laws of Hong Kong or elsewhere, and includes but is not limited to an umbrella unit trust and an umbrella corporate fund;~~

umbrella unit trust (傘子單位信託) means ~~an umbrella fund constituted as a unit trust;~~

unit trust (單位信託), means a collective investment scheme that is a trust established for the purpose, or having the effect, of providing, for persons having funds available for investment, facilities for the participation or receipt by them, as beneficiaries under the trust, in any profits, income or other returns arising from the acquisition, holding, management or disposal of any property whatsoever.

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(2) For the purposes of these Rules, a reference to control, in relation to futures contracts or stock options contracts, ~~shall is to~~ be construed as a reference to control of such futures contracts or stock options contracts, either directly or indirectly.

~~(3) For the purposes of these Rules, if a collective investment scheme is constituted in the form of an umbrella fund with one or more sub-funds, each sub-fund of an umbrella fund is to be regarded as a separate entity in relation to from the umbrella fund and any of the other sub-funds of the umbrella fund.~~

~~(4) For the purposes of these Rules, a unit holder of a fund constituted as a trust is not to be regarded, only by virtue of the unit holder's holding one or more units in a unit trustthe fund, as holding or controlling futures contracts or stock options contracts in respect of a unit trustthe fund.~~

3. Application

These Rules apply to futures contracts and stock options contracts that are traded through the facilities of a recognized exchange company in accordance with the rules of the recognized exchange company.

4. Restrictions on number of contracts held or controlled

(1) No person, other than a person referred to in subsections (2) and (3), may hold or control futures contracts or stock options contracts in excess of the prescribed limit. (L.N. 44 of 2017)

Note—

For funds, see also section 7A.

(2) A person specified in section 4A may be authorized under the rules of the recognized exchange company concerned to hold or control futures contracts or stock options contracts in excess of the prescribed limit. (L.N. 44 of 2017)

(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, 4E or ~~4E~~4F. (L.N. 44 of 2017)

(4) The Commission may, under section 4B, 4C, 4D, 4E or ~~4E~~4F, 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. (L.N. 44 of 2017)

(5) An authorization granted under section 4B, 4C, 4D, 4E or ~~4E~~4F—

(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 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

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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. (L.N. 44 of 2017)

(6)-(10) (Repealed L.N. 44 of 2017)

(11) (Added L.N. 198 of 2007 and repealed L.N. 241 of 2007)

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; ~~or~~ or (L.N. 44 of 2017)

(e) a clearing participant of HKFECC or SEOCH ~~who that~~ clears futures contracts or stock options contracts for a person who is—

(i) specified in ~~subsections paragraph~~ (a), (b), (c) ~~to~~ or (d); and

(ii) authorized under the rules of the recognized exchange company concerned to hold or control futures contracts or stock options contracts in excess of the prescribed limit.

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. (L.N. 44 of 2017)

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.

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(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. (*L.N. 44 of 2017*)

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 (指數套戩), 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—

- (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. (*L.N. 44 of 2017*)

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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—

(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. (*L.N. 44 of 2017*)

4F. Authorization by Commission for clearing participants

(1) Subject to subsection (2) and section 4(4)(a) and (b), the Commission may authorize a person referred to in subsection (23) 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—

(a) the person has adequate financial capability to cover the potential risks arising from the excess; 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 clearing participant; and

(b) clears the specified contract for another person that has been authorized by the Commission under section 4C, 4D or 4E to hold or control the specified contract in excess of the prescribed limit.

5. Prescribed limits

For the purposes of section 4(1), the limit on the number of contracts that may be held or controlled is—

(a) in the case of a futures contract specified in column 2 of Schedule 1, that specified opposite to it in column 3 of that Schedule; and

(b) in the case of a stock options contract specified in column 2 of Schedule 2, that specified opposite to it in column 3 of that Schedule.

6. Notice of reportable positions

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(1) ~~Any~~Subject to subsection (1A), any person who holds or controls a reportable position ~~shall~~must lodge a notice in writing of that reportable position with the recognized exchange company concerned within one business day following— (9 of 2012 s. 56)

- (a) the day on which the person first holds or controls that reportable position; and
- (b) each succeeding day on which the person continues to hold or control that reportable position.

Note—

For funds, see also section 7A.

(1A) If the reportable position held or controlled by a person is in any holiday contract, the person must lodge a notice in writing of the reportable position with the Futures Exchange Company within one holiday contract trading day following—

- (a) the day on which the person first holds or controls the reportable position; and
- (b) each succeeding day on which the person continues to hold or control the reportable position.

(1B) For the avoidance of doubt, for the purposes of subsection (1A), section 71(1)(b) and (c) of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply.

~~(2) A~~Subject to subsections (3) and (4), a notice referred to in ~~subsections~~subsections (1) ~~shall~~and or (1A) must be accompanied by the following information—

- ~~(a) the number of futures contracts or stock options contracts held or controlled by the person in respect of which that comprise the reportable position in each relevant contract period (including but not limited to contract month or contract week) or option series; and~~
- ~~(b) subject to section 7A(5), if the reportable position consists of a position is held or controlled for one or more persons (including for his own account, where applicable) another person any other person—~~
 - ~~(i) the identity of that each other person; and~~
 - ~~(ii) the number of futures contracts or stock options contracts held or controlled for his the person's own account (if applicable) and for each such other person which that comprise in respect of the reportable position in each relevant contract period (including but not limited to contract month or contract week) or option series. (L.N. 35 of 2004)~~

~~(3) If a person holds or controls a reportable position in respect of a unit trust, a notice referred to in subsections (1) and (1A) must be accompanied by the following information—~~

- ~~(a) the name of the unit trust; and~~
- ~~(b) the number of futures contracts or stock options contracts held or controlled in respect of the unit trust for the reportable position in each relevant contract month or option series.~~

~~(4) If a person holds or controls a reportable position in respect of a sub-fund of an umbrella fund, a notice referred to in subsections (1) and (1A) must be accompanied by the following information—~~

- ~~(a) the name of the sub-fund; and~~
- ~~(b) the number of futures contracts or stock options contracts held or controlled in respect of the sub-fund for the reportable position in each relevant contract month or option series.~~

(53) In this section—

holiday contract (假期合約) means a futures contract that is determined by the Futures Exchange Company to be a “holiday trading exchange contract” in accordance with the rules of the Futures Exchange Company;

holiday contract trading day (假期合約交易日), means in relation to a holiday contract, means a day determined by the Futures Exchange Company to be a day on which the holiday contract

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may be traded through the facilities of the Futures Exchange Company in accordance with the rules of the Futures Exchange Company.

7. Compliance by certain persons

(1) ~~In~~Subject to section 7A subsection (5), in their application to a person holding or controlling futures contracts or stock options contracts for any other person, the prescribed limits and ~~reportable positions reporting levels~~ apply separately to any futures contracts or stock options contracts held or controlled by the first person—

- (a) for ~~his~~the first person's own account; and
- (b) for each other person.

(2) For the purposes of subsection (1), a person ~~shall~~is not to be regarded as holding or controlling futures contracts or stock options contracts for another person if ~~he~~the first person has discretion in relation to those futures contracts or stock options contracts.

(3) ~~For~~Subject to subsection (4), for the purposes of subsection (2), a person ~~shall~~is to be regarded as having discretion in relation to futures contracts or stock options contracts ~~he~~the person holds or controls for another person if—

- (a) ~~he~~the first person may originate orders to acquire or dispose of any of the futures contracts or stock options contracts under a general authorization from the other person, whether the authorization is pursuant to a written agreement, power of attorney or otherwise; and
- (b) such authorization enables the first person to make specific acquisitions or disposals without requiring further consent or instruction from the other person. *(L.N. 35 of 2004)*

(4) A clearing participant of HKFECC or SEOCH is not to be regarded as having discretion in relation to futures contracts or stock options contracts ~~he~~the clearing participant holds or controls for another person if the clearing participant's power to acquire or dispose of the other person's futures contracts or stock options contracts (as the case may be) may only be exercised in the event of a default in meeting any ~~payment contractual~~ obligation by the other person.

~~(5) This section does not apply in relation to a person holding or controlling futures contracts or stock options contracts held or controlled by a person in respect of funds.~~

7A. Compliance by persons with respect to a unit trust or a corporate funds

(1) Subject to subsections (2), (3) and (4), in their application to a person holding or controlling futures contracts or stock options contracts in respect of one or more ~~unit trusts~~ funds, the prescribed limits and ~~reportable positions reporting levels~~ apply separately to any futures contracts or stock options contracts held or controlled by the person—

- (a) for the person's own account; and
- (b) in respect of each ~~unit trust~~ fund.

(2) Subject to subsections (3) and (4), in their application to a person holding or controlling futures contracts or stock options contracts in respect of ~~a one or more~~ sub-funds of ~~an one or more~~ umbrella ~~unit trust or umbrella corporate~~ funds, the prescribed limits and ~~reportable positions reporting levels~~ apply separately to any futures contracts or stock options contracts held or controlled by the person—

- (a) for the person's own account; and
- (b) in respect of each sub-fund.

~~(3) For the purposes of section 4 subsections (1) and (2), the prescribed limits and reportable positions do not apply separately to any a person who holds or controls futures contracts or stock options~~

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~~contracts held or controlled by the person for the person's own account and in respect of one or more funds, each unit trust or each one or more sub-funds of an one or more umbrella unit trust or umbrella corporate funds, if the person and has discretion in relation to those futures contracts must, in applying the prescribed limits, ensure that none of the following exceeds the prescribed limits for such contracts—or stock options contracts the person holds or controls in respect of the unit trust or the sub-fund (as the case may be):~~

~~(a) the aggregate number of contracts ~~he the person~~ holds or controls—~~

~~(i) for ~~his the person's~~ own account; and~~

~~(ii) in respect of all funds and sub-funds (as the case may be):~~

~~(b) the number of contracts ~~he the person~~ holds or controls for ~~his the person's~~ own account;~~

~~(c) the number of contracts ~~he the person~~ holds or controls in respect of each fund;~~

~~(d) the number of contracts ~~he the person~~ holds or controls in respect of each sub-fund.~~

~~(4) For the purposes of section 6(1) or (1A), a person who holds or controls futures contracts or stock options contracts in respect of one or more funds, or one or more sub-funds of one or more umbrella funds, and has discretion in relation to those contracts, is to be regarded as holding or controlling a reportable position when the aggregate of the following reaches a reporting level—~~

~~(a) the number of contracts ~~he the person~~ holds or controls for ~~his the person's~~ own account;~~

~~(b) the number of contracts ~~he the person~~ holds or controls in respect of all funds and sub-funds (as the case may be).~~

~~(5) If a person is regarded as holding or controlling a reportable position under subsection (4) For the purpose of subsection (4), if a person holds or controls a reportable position, a notice referred to in section 6(1) and or (1A) must be accompanied by the following information—~~

~~(a) the name of each fund and sub-fund (if applicable); and~~

~~(b) the number of futures contracts or stock options contracts held or controlled for ~~his the person's~~ own account (if applicable) and in respect of each fund and sub-fund (if applicable) ~~which that~~ comprise the reportable position in each relevant contract period (including ~~but not limited to~~ contract month or contract week) or option series.~~

~~(4) For the purposes of subsection (3), a person is to be regarded as having discretion in relation to ~~futures contracts or stock options contracts the person holds or controls in respect of a unit trust or a sub-fund of a unit trust if—~~~~

~~(a) the person may originate orders to acquire or dispose of any of the futures contracts or stock options contracts under a general authorization from the trustee of the unit trust or the sub-fund, whether the authorization is pursuant to a written agreement, power of attorney or otherwise; and~~

~~(b) the general authorization enables the person to make specific acquisitions or disposals without requiring further consent or instruction from the trustee of the unit trust or the sub-fund.~~

~~(56) For the purposes of subsections (3) and (4) and subject to subsection (7), a person is to be regarded as having discretion in relation to futures contracts or stock options contracts the person holds or controls in respect of a fund or a sub-fund of an umbrella ~~corporate~~ fund if—~~

~~(a) the person may originate orders to acquire or dispose of any of the futures contracts or stock options contracts under a general authorization from the fund or umbrella ~~corporate~~ fund (as the case may be), whether the authorization is pursuant to a written agreement, power of attorney or otherwise; and~~

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(b) the general authorization enables the person to make specific acquisitions or disposals without requiring further consent or instruction from the fund or umbrella corporate fund (as the case may be).

(67) Subject to subsection (3), for the purposes of subsections (46), if the fund or sub-fund of an umbrella fund does not have the status of a legal person under the law of the place under which it is constituted, the a reference to general authorization referred to in subsection (6)(a) and the or further consent or instruction referred to in subsection (6)(b) shall is to be construed as a reference to such an authorization, consent or instruction be from the legal person holding the legal title to the and (2) in determining whether the positions in any futures contracts or stock options contracts held or controlled by a person have exceeded the prescribed limits or reached the reportable positions, the person must not aggregate or net such positions which are held or controlled by the person—

(a) for the person's own account; and—

(b) in respect of each unit trust or each the fund or the sub-fund of an umbrella unit trust or umbrella corporate fund.

(7) For the purposes of these Rules, a unit holder is not regarded, only by virtue of the unit holder's holding one or more units in a unit trust, as holding or controlling futures contracts or stock options contracts in respect of a unit trust.

8. Penalties

Any person who, without reasonable excuse, fails to comply with section 4(1) or 6 commits an offence and is liable—

- (a) on conviction on indictment to a fine at level 6 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 3 and to imprisonment for 6 months.

Schedule 1

[ss. 2(1) & 5(a)]

Prescribed Limit and Reporting Level for Futures Contracts

Item	Futures contract	Prescribed limit	Reporting level
1.	Stock futures contracts on shares listed on a stock market operated by the Stock Exchange Company	<u>25 000 open-net long or short contracts for any-all one-contract months combined</u>	1 000 open contracts for any one contract month
2.	Three-Month Hong Kong Interbank Offered Rate futures contract	Nil	1 000 open contracts for any one contract month; 4 000 open contracts for all contract months
3.	One-Month Hong Kong Interbank Offered Rate futures contract	Nil	1 000 open contracts for any one contract month; 4 000 open contracts for all contract months
4.	(a) <u>All-Stock index futures contract whose underlying index is that has one of the following indices as an underlying index—</u>	10 000 <u>net long or short position delta limit for all contract periods (including but not limited to contract months and contract</u>	(a) <u>500 open Hang Seng Index futures contracts for any one-contract month; 500 open Hang Seng Index options contracts for any one series; 2 500 open Mini-Hang Seng Index futures</u>

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Item	Futures contract	Prescribed limit	Reporting level
	<p>(i) Hang Seng Index;</p> <p>(ii) futures contract and options contract, and Mini-Hang Seng Index futures contract and options contract</p> <p>(iii)(ii) (L.N. 44 of 2017); <u>Weekly Hang Seng Index options contract, Hang Seng Index Futures options contract, Hang Seng Index (Gross Total Return Index) futures contract;</u></p> <p><u>(iii) and Hang Seng Index (Net Total Return Index);</u></p> <p>(b) <u>all stock index options contract whose underlying index is that has one of the indices referred to in paragraph (a)(i) to (iii) as an underlying index; and</u></p> <p>(c) <u>all stock index futures options contract whose underlying asset is one of the that has a stock index futures contracts referred to in paragraph (a) as an underlying contract</u>futures contract</p>	<p><u>or contract weeks)</u> combined, provided that the position delta for the Mini-Hang Seng Index 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</p>	<p>contracts for any one contract month and; 2 500 open Mini-Hang Seng Index options contracts for any one series; 500 open Weekly Hang Seng Index options contracts for any one series, 500 open Hang Seng Index Futures options contracts for any one series, 500 open Hang Seng Index (Gross Total Return Index) futures contracts for any one contract month and 500 open Hang Seng Index (Net Total Return Index) futures contracts for any one contract month <u>For a stock index futures contract, for any one contract period (including but not limited to contract month or contract week), 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index futures contract;</u></p>
5.	<p>(a) <u>All-Stock index futures contract whose underlying index is that has one of the following indices as an underlying index —</u></p> <p>(i) Hang Seng China Enterprises Index futures contract and options contract;</p> <p>(ii) — and Mini-Hang Seng China Enterprises Index futures contract and options contract</p> <p>(iii)(ii) (L.N. 44 of 2017); <u>Weekly Hang Seng China</u></p>	<p>12 000 <u>net</u> long or short position delta limit for all contract periods (including <u>but not limited to contract months and contract or contract weeks</u>) combined, provided that the position delta for the Mini-Hang Seng China Enterprises Index futures contracts or Mini-Hang Seng China Enterprises Index options</p>	<p>(a) 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 Index futures contracts for any one contract month and; 2 500 open Mini-Hang Seng China Enterprises Index options contracts for any one series; 500 open Weekly Hang Seng China Enterprises Index options contracts for any one series, 500 open Hang Seng China</p>

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Item	Futures contract	Prescribed limit	Reporting level
	<p>Enterprises Index options contract, Hang Seng China Enterprises Index Futures options contract, Hang Seng China Enterprises Index (Gross Total Return Index) futures contract; and</p> <p>(iii) <u>Hang Seng China Enterprises Index (Net Total Return Index);- futures contract</u></p> <p>(b) <u>all stock index options contract whose underlying index is that has one of the indices referred to in paragraph (a)(i) to (iii) as an underlying index; and</u></p> <p>(c) all stock index futures options contract whose underlying asset is one of the that has a stock index futures contracts referred to in paragraph (a) as an underlying contract</p>	<p>contracts must not at any time exceed 2-400 long or short for all contract months combined</p>	<p>Enterprises Index Futures options contracts for any one series, 500 open Hang Seng China Enterprises Index (Gross Total Return Index) futures contracts for any one contract month and 500 open Hang Seng China Enterprises Index (Net Total Return Index) futures contracts for any one contract month</p> <p><u>For a stock index futures contract, for any one contract period (including but not limited to contract month or contract week), 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index futures contract;</u></p> <p>(b) <u>for a stock index options contract or a stock index futures options contract, for any one option series, 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index options contract or the stock index futures options contract</u></p>
6.	<p>Hang Seng China H-Financials Index futures contract</p>	<p>10 000 <u>net</u> long or short position delta limit contracts for all contract months combined</p>	<p>500 open contracts for any one contract month</p>
7.	<p>Gold futures contract</p>	<p>Nil</p>	<p>500 open contracts for any one contract month</p>
8.	<p>Three Year Exchange Fund Note (EFN) futures contract</p>	<p>5 000 open contracts for any one contract month except that the limit for the spot month contract during the last 6 trading days is 1 000 open contracts</p>	<p>1 000 open contracts for any one contract month except that the reportable position reporting level for the spot month contract during the last 6 trading days is 200 open contracts</p>
9.	<p>FTSE/Xinhua China 25 Index futures contract and options contract</p> <p>(L.N. 44 of 2017)</p>	<p>6 000 long or short position delta limit for all contract months combined</p>	<p>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</p>

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Item	Futures contract	Prescribed limit	Reporting level
10.	HSI Dividend Point Index futures contract	Nil	1 000 open contracts for any one contract month
11.	HSCEI Dividend Point Index futures contract	Nil	1 000 open contracts for any one contract month
12.	HSI Volatility Index futures contract (L.N. 13 of 2013)	10 000 open contracts for any one contract month	1 000 open contracts for any one contract month
13.	US Dollar vs Renminbi (Hong Kong) futures contract and options contract, Mini US Dollar vs Renminbi (Hong Kong) futures contract , and Renminbi (Hong Kong) vs US Dollar futures contract- (L.N. 44 of 2017)	8 30 000 <u>net</u> long or short position delta limit for all contract months 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 <u>15</u> 000 long or short	500 open US Dollar vs Renminbi (Hong Kong) futures contracts for any one contract month; 500 open US Dollar vs Renminbi (Hong Kong) options contracts for any one <u>option</u> series; <u>2 500 open Mini US Dollar vs Renminbi (Hong Kong) futures contracts for any one contract month</u> ; and 500 open Renminbi (Hong Kong) vs US Dollar futures contracts for any one contract month
14.	London Copper Mini futures contract (L.N. 228 of 2015)	50 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
15.	London Aluminium Mini futures contract (L.N. 228 of 2015)	25 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
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16.	London Zinc Mini futures contract (L.N. 228 of 2015)	25 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
17.	Stock futures contracts on shares or units of exchange traded funds (L.N. 228 of 2015)	<u>25 000 net long or short open contracts for any one all contract months combined</u>	1 000 open contracts for any one contract month
18.	London Nickel Mini futures contract (L.N. 44 of 2017)	50 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month

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Item	Futures contract	Prescribed limit	Reporting level
19.	London Lead Mini futures contract (L.N. 44 of 2017)	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 (L.N. 44 of 2017)	15 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
21.	<p>(a) <u>All-Stock index futures contract whose underlying index is that has one of the following indices as an underlying index—</u></p> <p>(i) <u>Hang Seng TECH Index;- futures contract and options contract</u></p> <p>(ii) <u>Hang Seng TECH Index (Gross Total Return Index);</u></p> <p>(iii) <u>Hang Seng TECH Index (Net Total Return Index);</u></p> <p>(b) <u>all-stock index options contract whose underlying index is that has one of the indices referred to in paragraph (a)(i) to (iii) as an underlying index; and</u></p> <p>(c) <u>all-stock index futures options contract whose underlying asset is one of the that has a stock index futures contracts referred to in paragraph (a) as an underlying contract</u></p>	<p><u>21 000 net long or short position delta limit for all contract periods (including but not limited to contract months or contract weeks) combined</u></p>	<p>(a) <u>500 open Hang Seng TECH Index futures contracts for any one contract month and 500 open Hang Seng TECH Index options contracts for any one series</u>For a <u>stock index futures contract, for any one contract period (including but not limited to contract month or contract week), 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index futures contract;</u></p> <p>(b) <u>for a stock index options contract or a stock index futures options contract, for any one option series, 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index options contract or the stock index futures options contract</u></p>
22.	<u>MSCI China A 50 Connect (USD) Index futures contract</u>	<u>28 000 net long or short contracts for all contract months combined</u>	<u>500 open contracts for any one contract month</u>
23.	<u>CES China 120 Index futures contract</u>	<u>30 000 net long or short contracts for all contract months combined</u>	<u>1 500 open contracts for any one contract month</u>
24.	<u>Hang Seng Mainland Banks Index futures contract</u>	<u>15 000 net long or short contracts for all contract months combined</u>	<u>500 open contracts for any one contract month</u>
25.	<u>MSCI China (USD) Index futures contract</u>	<u>35 000 net long or short contracts for all</u>	<u>500 open contracts for any one contract month</u>

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Item	Futures contract	Prescribed limit	Reporting level
		<u>contract months combined</u>	
26.	<u>MSCI China Net Total Return (USD) Index futures contract</u>	<u>53 000 net long or short contracts for all contract months combined</u>	<u>500 open contracts for any one contract month</u>
27.	<u>MSCI Hong Kong Net Total Return (USD) Index futures contract</u>	<u>8 000 net long or short contracts for all contract months combined</u>	<u>500 open contracts for any one contract month</u>
28.	<u>Australian Dollar vs Renminbi (Hong Kong) futures contract</u>	<u>12 000 net long or short contracts for all contract months combined</u>	<u>500 open contracts for any one contract month</u>
29.	<u>Euro vs Renminbi (Hong Kong) futures contract</u>	<u>12 000 net long or short contracts for all contract months combined</u>	<u>500 open contracts for any one contract month</u>
30.	<u>Indian Rupee vs Renminbi (Hong Kong) futures contract</u>	<u>30 000 net long or short contracts for all contract months combined</u>	<u>500 open contracts for any one contract month</u>
31.	<u>Japanese Yen vs Renminbi (Hong Kong) futures contract</u>	<u>12 000 net long or short contracts for all contract months combined</u>	<u>500 open contracts for any one contract month</u>

(Schedule 1 replaced L.N. 117 of 2011)

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Schedule 2

[ss. 2(1) & 5(b)]

Prescribed Limit and Reporting Level for Stock Options Contracts

Stock options

Item contract	Prescribed limit	Reporting level
1. Stock options contracts on shares listed on a stock market operated by the Stock Exchange Company <i>(L.N. 228 of 2015)</i>	150-250 000 open contracts per option class in any one market direction for all expiry months combined <i>(L.N. 44 of 2017)</i>	1 000 open contracts per option class per expiry month
2. Stock options contracts on shares or units of exchange traded funds <i>(L.N. 228 of 2015)</i>	150-250 000 open contracts per option class in any one market direction for all expiry months combined <i>(L.N. 44 of 2017)</i>	1 000 open contracts per option class per expiry month

3-4. *(Repealed L.N. 228 of 2015)*

(Schedule 2 replaced L.N. 117 of 2011)

Securities and Futures (Contracts Limits and Reportable Positions) Rules

(Cap. 571, section 35(1))

(Enacting provision omitted—E.R. 1 of 2012)[1 April 2003] *L.N. 12 of 2003**(Format changes—E.R. 1 of 2012)*1. *(Omitted as spent—E.R. 1 of 2012)***2. Interpretation**

(1) In these Rules, unless the context otherwise requires—

adequate financial capability (充足財政能力)—

(a) in relation to a clearing participant—means any of the clearing participant or its holding company having—

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

(ii) a qualifying credit rating;

(b) in relation to an exchange participant or an affiliate of an exchange participant—means any one of the exchange participant, the affiliate of the exchange participant or their holding company, having—

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

(ii) a qualifying credit rating;

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; *(L.N. 44 of 2017)***constitutive documents** (組成文件), in relation to a fund, means the principal documents governing the establishment of the fund; *(L.N. 228 of 2015)***contract multiplier** (合約乘數)—

(a) in relation to a stock index futures contract or a stock index options contract specified in item 4, 5 or 21 in Schedule 1 that has an index as an underlying index—means the cash value of one point of the index or otherwise as specified by the Futures Exchange Company to be the “contract multiplier” for the contract in its contract specifications set out in the rules of the Futures Exchange Company; or

(b) in relation to a stock index futures options contract specified in item 4, 5 or 21 in Schedule 1 that has a stock index futures contract as an underlying contract—means the cash value of one point of the stock index futures contract’s underlying index or otherwise as specified by the Futures Exchange Company to be the “contract multiplier” for the stock index futures options contract in its contract specifications set out in the rules of the Futures Exchange Company;

exchange traded fund (交易所買賣基金) means an open-ended fund the shares or units of which are listed or traded on a recognized stock market; *(L.N. 228 of 2015)***fund** (基金) means a collective investment scheme;**HKFECC** (期貨結算公司) means the recognized clearing house known as HKFE Clearing Corporation Limited;**Listing Rules** (《上市規則》) means the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited made by the Stock Exchange Company;

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offering document (要約文件), in relation to a fund, means a document—

- (a) inviting participation in the fund by prospective shareholders or prospective unit holders of the fund; and
- (b) containing information relating to the establishment or administration of the fund; (*L.N. 228 of 2015*)

open-ended fund (開放式基金) means a fund the shares or units of which may be repurchased or redeemed at the request of any of its shareholders or unit holders—

- (a) at a price calculated wholly or mainly by reference to the net asset value of the fund; and
- (b) in accordance with the frequency for repurchase or redemption, requirements and procedures set out in the offering document or constitutive documents of the fund; (*L.N. 228 of 2015*)

prescribed limit (訂明上限), in relation to a futures contract or a stock options contract, means the limit on the number of contracts prescribed for it under section 5;

reportable position (須申報的持倉量) means an open position in futures contracts or stock options contracts the number of which is—

- (a) in the case of a futures contract specified in column 2 of Schedule 1—in excess of the reporting level of the contract; and
- (b) in the case of a stock options contract specified in column 2 of Schedule 2—in excess of the reporting level of the contract; (*9 of 2012 s. 55; L.N. 44 of 2017*)

reporting level (須申報水平) means—

- (a) in the case of a futures contract specified in column 2 of Schedule 1—the number of contracts specified opposite to it in column 4 of that Schedule; and
- (b) in the case of a stock options contract specified in column 2 of Schedule 2—the number of contracts specified opposite to it in column 4 of that Schedule;

scheme property (計劃財產), in relation to a fund, means the property under the fund;

SEOCH (期權結算公司) means the recognized clearing house known as The SEHK Options Clearing House Limited;

specified contract (指明合約) means—

- (a) a stock index futures contract that has one of the following indices as an underlying index—
 - (i) Hang Seng Index;
 - (ii) Hang Seng Index (Gross Total Return Index);
 - (iii) Hang Seng Index (Net Total Return Index);
 - (iv) Hang Seng China Enterprises Index;
 - (v) Hang Seng China Enterprises Index (Gross Total Return Index);
 - (vi) Hang Seng China Enterprises Index (Net Total Return Index);
 - (vii) Hang Seng TECH Index;
 - (viii) Hang Seng TECH Index (Gross Total Return Index);
 - (ix) Hang Seng TECH Index (Net Total Return Index);
- (b) a stock index options contract that has one of the indices referred to in paragraph (a)(i) to (ix) as an underlying index; or

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- (c) a stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract;

specified percentage (指明百分率) means 300%; (L.N. 44 of 2017)

(9 of 2012 s. 55)

stock index futures options contract (股票指數期貨期權合約) means a stock index options contract that has a stock index futures contract as an underlying contract;

sub-fund (子基金), in relation to an umbrella fund, means a separate part of the scheme property of the umbrella fund where assets of the part belong exclusively to the part and can be used to discharge the liabilities of, or the claims against, the part only;

umbrella fund (傘子基金) means a fund the constitutive documents of which provide for the division of its scheme property into separate parts.

(2) For the purposes of these Rules, a reference to control, in relation to futures contracts or stock options contracts, is to be construed as a reference to control of such futures contracts or stock options contracts, either directly or indirectly.

(3) For the purposes of these Rules, each sub-fund of an umbrella fund is to be regarded as separate from the umbrella fund and any of the other sub-funds of the umbrella fund.

(4) For the purposes of these Rules, a unit holder of a fund constituted as a trust is not to be regarded, only by virtue of the unit holder holding one or more units in the fund, as holding or controlling futures contracts or stock options contracts in respect of the fund.

3. Application

These Rules apply to futures contracts and stock options contracts that are traded through the facilities of a recognized exchange company in accordance with the rules of the recognized exchange company.

4. Restrictions on number of contracts held or controlled

(1) No person, other than a person referred to in subsections (2) and (3), may hold or control futures contracts or stock options contracts in excess of the prescribed limit. (L.N. 44 of 2017)

Note—

For funds, see also section 7A.

(2) A person specified in section 4A may be authorized under the rules of the recognized exchange company concerned to hold or control futures contracts or stock options contracts in excess of the prescribed limit. (L.N. 44 of 2017)

(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, 4E or 4F. (L.N. 44 of 2017)

(4) The Commission may, under section 4B, 4C, 4D, 4E or 4F, 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

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(c) by giving the person a notice of authorization in writing. *(L.N. 44 of 2017)*

(5) An authorization granted under section 4B, 4C, 4D, 4E or 4F—

(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 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. *(L.N. 44 of 2017)*

(6)-(10) *(Repealed L.N. 44 of 2017)*

(11) *(Added L.N. 198 of 2007 and repealed L.N. 241 of 2007)*

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;

(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; or *(L.N. 44 of 2017)*

(e) a clearing participant of HKFECC or SEIOCH that clears futures contracts or stock options contracts for a person who is—

(i) specified in paragraph (a), (b), (c) or (d); and

(ii) authorized under the rules of the recognized exchange company concerned to hold or control futures contracts or stock options contracts in excess of the prescribed limit.

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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. (*L.N. 44 of 2017*)

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. (*L.N. 44 of 2017*)

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 (指數套戩), 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. *(L.N. 44 of 2017)*

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—
- (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. *(L.N. 44 of 2017)*

4F. Authorization by Commission for clearing participants

- (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—
- (a) the person has adequate financial capability to cover the potential risks arising from the excess; 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 clearing participant; and
 - (b) clears the specified contract for another person that has been authorized by the Commission under section 4C, 4D or 4E to hold or control the specified contract in excess of the prescribed limit.

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5. Prescribed limits

For the purposes of section 4(1), the limit on the number of contracts that may be held or controlled is—

- (a) in the case of a futures contract specified in column 2 of Schedule 1, that specified opposite to it in column 3 of that Schedule; and
- (b) in the case of a stock options contract specified in column 2 of Schedule 2, that specified opposite to it in column 3 of that Schedule.

6. Notice of reportable positions

(1) Subject to subsection (1A), any person who holds or controls a reportable position must lodge a notice in writing of that reportable position with the recognized exchange company concerned within one business day following— (*9 of 2012 s. 56*)

- (a) the day on which the person first holds or controls that reportable position; and
- (b) each succeeding day on which the person continues to hold or control that reportable position.

Note—

For funds, see also section 7A.

(1A) If the reportable position held or controlled by a person is in any holiday contract, the person must lodge a notice in writing of the reportable position with the Futures Exchange Company within one holiday contract trading day following—

- (a) the day on which the person first holds or controls the reportable position; and
- (b) each succeeding day on which the person continues to hold or control the reportable position.

(1B) For the avoidance of doubt, for the purposes of subsection (1A), section 71(1)(b) and (c) of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply.

(2) A notice referred to in subsection (1) or (1A) must be accompanied by the following information—

(a) the number of futures contracts or stock options contracts held or controlled by the person that comprise the reportable position in each relevant contract period (including contract month or contract week) or option series; and

(b) subject to section 7A(5), if the reportable position consists of a position held or controlled for any other person—

- (i) the identity of each other person; and
- (ii) the number of futures contracts or stock options contracts held or controlled for the person's own account (if applicable) and for each other person that comprise the reportable position in each relevant contract period (including contract month or contract week) or option series. (*L.N. 35 of 2004*)

(3) In this section—

holiday contract (假期合約) means a futures contract that is determined by the Futures Exchange Company to be a “holiday trading exchange contract” in accordance with the rules of the Futures Exchange Company;

holiday contract trading day (假期合約交易日), in relation to a holiday contract, means a day determined by the Futures Exchange Company to be a day on which the holiday contract may be traded through the facilities of the Futures Exchange Company in accordance with the rules of the Futures Exchange Company.

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7. Compliance by certain persons

(1) Subject to subsection (5), in their application to a person holding or controlling futures contracts or stock options contracts for any other person, the prescribed limits and reporting levels apply separately to any futures contracts or stock options contracts held or controlled by the first person—

- (a) for the first person's own account; and
- (b) for each other person.

(2) For the purposes of subsection (1), a person is not to be regarded as holding or controlling futures contracts or stock options contracts for another person if the first person has discretion in relation to those futures contracts or stock options contracts.

(3) Subject to subsection (4), for the purposes of subsection (2), a person is to be regarded as having discretion in relation to futures contracts or stock options contracts the person holds or controls for another person if—

- (a) the first person may originate orders to acquire or dispose of any of the futures contracts or stock options contracts under a general authorization from the other person, whether the authorization is pursuant to a written agreement, power of attorney or otherwise; and
- (b) such authorization enables the first person to make specific acquisitions or disposals without requiring further consent or instruction from the other person. (*L.N. 35 of 2004*)

(4) A clearing participant of HKFECC or SEOCH is not to be regarded as having discretion in relation to futures contracts or stock options contracts the clearing participant holds or controls for another person if the clearing participant's power to acquire or dispose of the other person's futures contracts or stock options contracts (as the case may be) may only be exercised in the event of a default in meeting any contractual obligation by the other person.

(5) This section does not apply in relation to futures contracts or stock options contracts held or controlled by a person in respect of funds.

7A. Compliance by persons with respect to funds

(1) Subject to subsections (2), (3) and (4), in their application to a person holding or controlling futures contracts or stock options contracts in respect of one or more funds, the prescribed limits and reporting levels apply separately to any futures contracts or stock options contracts held or controlled by the person—

- (a) for the person's own account; and
- (b) in respect of each fund.

(2) Subject to subsections (3) and (4), in their application to a person holding or controlling futures contracts or stock options contracts in respect of one or more sub-funds of one or more umbrella funds, the prescribed limits and reporting levels apply separately to any futures contracts or stock options contracts held or controlled by the person—

- (a) for the person's own account; and
- (b) in respect of each sub-fund.

(3) For the purposes of section 4(1), a person who holds or controls futures contracts or stock options contracts in respect of one or more funds, or one or more sub-funds of one or more umbrella funds, and has discretion in relation to those contracts must, in applying the prescribed limits, ensure that none of the following exceeds the prescribed limits for such contracts—

- (a) the aggregate number of contracts the person holds or controls—
 - (i) for the person's own account; and
 - (ii) in respect of all funds and sub-funds (as the case may be);

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- (b) the number of contracts the person holds or controls for the person's own account;
 - (c) the number of contracts the person holds or controls in respect of each fund;
 - (d) the number of contracts the person holds or controls in respect of each sub-fund.
- (4) For the purposes of section 6(1) or (1A), a person who holds or controls futures contracts or stock options contracts in respect of one or more funds, or one or more sub-funds of one or more umbrella funds, and has discretion in relation to those contracts, is to be regarded as holding or controlling a reportable position when the aggregate of the following reaches a reporting level—
- (a) the number of contracts the person holds or controls for the person's own account;
 - (b) the number of contracts the person holds or controls in respect of all funds and sub-funds (as the case may be).
- (5) If a person is regarded as holding or controlling a reportable position under subsection (4), a notice referred to in section 6(1) or (1A) must be accompanied by the following information—
- (a) the name of each fund and sub-fund (if applicable); and
 - (b) the number of futures contracts or stock options contracts held or controlled for the person's own account (if applicable) and in respect of each fund and sub-fund (if applicable) that comprise the reportable position in each relevant contract period (including contract month or contract week) or option series.
- (6) For the purposes of subsections (3) and (4), a person is to be regarded as having discretion in relation to futures contracts or stock options contracts the person holds or controls in respect of a fund or a sub-fund of an umbrella fund if—
- (a) the person may originate orders to acquire or dispose of any of the futures contracts or stock options contracts under a general authorization from the fund or umbrella fund (as the case may be), whether the authorization is pursuant to a written agreement, power of attorney or otherwise; and
 - (b) the general authorization enables the person to make specific acquisitions or disposals without requiring further consent or instruction from the fund or umbrella fund (as the case may be).
- (7) For the purposes of subsection (6), if the fund or sub-fund of an umbrella fund does not have the status of a legal person under the law of the place under which it is constituted, a reference to general authorization in subsection (6)(a) or further consent or instruction in subsection (6)(b) is to be construed as a reference to such an authorization, consent or instruction from the legal person holding the legal title to the futures contracts or stock options contracts in respect of the fund or the sub-fund.

8. Penalties

Any person who, without reasonable excuse, fails to comply with section 4(1) or 6 commits an offence and is liable—

- (a) on conviction on indictment to a fine at level 6 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 3 and to imprisonment for 6 months.

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Schedule 1

[ss. 2(1) & 5(a)]

Prescribed Limit and Reporting Level for Futures Contracts

Item	Futures contract	Prescribed limit	Reporting level
1.	Stock futures contract on shares listed on a stock market operated by the Stock Exchange Company	25 000 net long or short contracts for all contract months combined	1 000 open contracts for any one contract month
2.	Three-Month Hong Kong Interbank Offered Rate futures contract	Nil	1 000 open contracts for any one contract month; 4 000 open contracts for all contract months
3.	One-Month Hong Kong Interbank Offered Rate futures contract	Nil	1 000 open contracts for any one contract month; 4 000 open contracts for all contract months
4.	(a) Stock index futures contract that has one of the following indices as an underlying index— (i) Hang Seng Index; (ii) Hang Seng Index (Gross Total Return Index); (iii) Hang Seng Index (Net Total Return Index); (b) stock index options contract that has one of the indices referred to in paragraph (a)(i) to (iii) as an underlying index; and (c) stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract	10 000 net long or short position delta limit for all contract periods (including contract months or contract weeks) combined	(a) For a stock index futures contract, for any one contract period (including contract month or contract week), 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index futures contract; (b) for a stock index options contract or a stock index futures options contract, for any one option series, 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index options contract or the stock index futures options contract
5.	(a) Stock index futures contract that has one of the following indices as an underlying index— (i) Hang Seng China Enterprises Index; (ii) Hang Seng China Enterprises Index (Gross Total Return Index); (iii) Hang Seng China Enterprises Index (Net Total Return Index); (b) stock index options contract	12 000 net long or short position delta limit for all contract periods (including contract months or contract weeks) combined	(a) For a stock index futures contract, for any one contract period (including contract month or contract week), 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index futures contract; (b) for a stock index options contract or a stock index futures options contract, for any one option series, 500 open contracts multiplied by the ratio of HK\$50 per index point to the

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Item	Futures contract	Prescribed limit	Reporting level
	<p>that has one of the indices referred to in paragraph (a)(i) to (iii) as an underlying index; and</p> <p>(c) stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract</p>		contract multiplier in relation to the stock index options contract or the stock index futures options contract
6.	Hang Seng China H-Financials Index futures contract	10 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
8.	Three Year Exchange Fund Note (EFN) futures contract	5 000 open contracts for any one contract month except that the limit for the spot month contract during the last 6 trading days is 1 000 open contracts	1 000 open contracts for any one contract month except that the reporting level for the spot month contract during the last 6 trading days is 200 open contracts
10.	HSI Dividend Point Index futures contract	Nil	1 000 open contracts for any one contract month
11.	HSCEI Dividend Point Index futures contract	Nil	1 000 open contracts for any one contract month
12.	HSI Volatility Index futures contract <i>(L.N. 13 of 2013)</i>	10 000 open contracts for any one contract month	1 000 open contracts for any one contract month
13.	US Dollar vs Renminbi (Hong Kong) futures contract and options contract, Mini US Dollar vs Renminbi (Hong Kong) futures contract, and Renminbi (Hong Kong) vs US Dollar futures contract	30 000 net long or short position delta limit for all contract months 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 15 000 long or short	500 open US Dollar vs Renminbi (Hong Kong) futures contracts for any one contract month; 500 open US Dollar vs Renminbi (Hong Kong) options contracts for any one option series; 2 500 open Mini US Dollar vs Renminbi (Hong Kong) futures contracts for any one contract month; and 500 open Renminbi (Hong Kong) vs US Dollar futures contracts for any one contract month
17.	Stock futures contract on shares or units of exchange traded	25 000 net long or short contracts for all	1 000 open contracts for any one

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Item	Futures contract	Prescribed limit	Reporting level
	funds (L.N. 228 of 2015)	contract months combined	contract month
21.	<p>(a) Stock index futures contract that has one of the following indices as an underlying index—</p> <p>(i) Hang Seng TECH Index;</p> <p>(ii) Hang Seng TECH Index (Gross Total Return Index);</p> <p>(iii) Hang Seng TECH Index (Net Total Return Index);</p> <p>(b) stock index options contract that has one of the indices referred to in paragraph (a)(i) to (iii) as an underlying index; and</p> <p>(c) stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract</p>	21 000 net long or short position delta limit for all contract periods (including contract months or contract weeks) combined	<p>(a) For a stock index futures contract, for any one contract period (including contract month or contract week), 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index futures contract;</p> <p>(b) for a stock index options contract or a stock index futures options contract, for any one option series, 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the stock index options contract or the stock index futures options contract</p>
22.	MSCI China A 50 Connect (USD) Index futures contract	28 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
23.	CES China 120 Index futures contract	30 000 net long or short contracts for all contract months combined	1 500 open contracts for any one contract month
24.	Hang Seng Mainland Banks Index futures contract	15 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
25.	MSCI China (USD) Index futures contract	35 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
26.	MSCI China Net Total Return (USD) Index futures contract	53 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
27.	MSCI Hong Kong Net Total Return (USD) Index futures contract	8 000 net long or short contracts for all contract months	500 open contracts for any one contract month

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Item	Futures contract	Prescribed limit	Reporting level
		combined	
28.	Australian Dollar vs Renminbi (Hong Kong) futures contract	12 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
29.	Euro vs Renminbi (Hong Kong) futures contract	12 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
30.	Indian Rupee vs Renminbi (Hong Kong) futures contract	30 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
31.	Japanese Yen vs Renminbi (Hong Kong) futures contract	12 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month

(Schedule 1 replaced L.N. 117 of 2011)

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Schedule 2

[ss. 2(1) & 5(b)]

Prescribed Limit and Reporting Level for Stock Options Contracts

Stock options

Item contract	Prescribed limit	Reporting level
1. Stock options contract on shares listed on a stock market operated by the Stock Exchange Company <i>(L.N. 228 of 2015)</i>	250 000 open contracts per option class in any one market direction for all expiry months combined <i>(L.N. 44 of 2017)</i>	1 000 open contracts per option class per expiry month
2. Stock options contract on shares or units of exchange traded funds <i>(L.N. 228 of 2015)</i>	250 000 open contracts per option class in any one market direction for all expiry months combined <i>(L.N. 44 of 2017)</i>	1 000 open contracts per option class per expiry month

3-4. *(Repealed L.N. 228 of 2015)*

(Schedule 2 replaced L.N. 117 of 2011)



Appendix B – Proposed amendments to the Guidance Note on Position Limits and Large Open Position Reporting Requirements



**SECURITIES AND
FUTURES COMMISSION**
證券及期貨事務監察委員會

Appendix B

Guidance Note on Position Limits and Large Open Position Reporting Requirements

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1. Introduction

- 1.1. Section 35(1) of the Securities and Futures Ordinance (Cap. 571) (“SFO”) empowers the SFC to make rules to (i) prescribe limits on the number of futures contracts¹ or options contracts² that may be held or controlled by a person; and (ii) require a person holding or controlling a reportable position to notify the recognized exchange company or the SFC³.
- 1.2. The Securities and Futures (Contracts Limits and Reportable Positions) Rules (“the Rules”) were made by the SFC under Section 35(1) of the SFO to prescribe limits and ~~reportable positions reporting levels~~ applicable to futures contracts and stock options contracts traded on the recognized exchange company.
- 1.3. This Guidance Note is issued to help market participants better understand how the Rules are intended to operate in practice and explain compliance requirements of the Rules.
- 1.4. The Guidance Note is intended to clarify the SFC’s policy intent and position on issues raised by the industry and does not have the force of law. The SFC will revise the Guidance Note to clarify its position in response to market developments and to reflect legislative changes in the future.

2. Prescribed Limits on Futures and Stock Options Contracts

Prescribed limits

- 2.1. Section 4(1) of the Rules imposes restrictions on the maximum number of futures contracts or stock options contracts that may be held or controlled by a person. The prescribed limits on futures contracts⁴ and stock options contracts are specified respectively in Schedule 1 and Schedule 2 of the Rules.
- 2.2. Schedule 1 of the Rules specifies the maximum number of futures contracts ~~for any one contract month or series~~ that may be held or controlled by a person. ~~In other words, the prescribed limits in this Schedule apply to individual contract months or options series.~~ For futures contracts such as stock futures, stock index futures, stock index options contracts and currency futures contracts, the prescribed limits are calculated on a net basis for all contract months combined. *For example, the prescribed limit on any stock futures contract is 25,000 net long or short contracts for any one all contract months combined. If a person is long 30,000 contracts of the September futures contract and long-short 20,000 contracts of the October futures contract, he will not reach the prescribed limit on this contract.*

¹ Section 35(1)(a)

² Section 35(1)(b)

³ Section 35(1)(c)

⁴ In accordance with Schedule 1 to the SFO, the definition of “futures contract” includes not only a futures contract but also an option on a contract made under the rules or conventions of a futures market. In other words, futures and options contracts traded on the Hong Kong Futures Exchange are referred to as “futures contracts” in the Rules.

- 2.3. ~~The prescribed limits on certain futures contracts such as stock index futures and stock index options contracts, currency futures contracts and commodity futures contracts are calculated on a net basis for all contract months combined.~~ Moreover, for stock index futures and stock index options contracts with the same underlying index, as well as currency futures and currency options contracts with the same underlying currency pair, the futures-equivalent positions in options contracts are added to the positions in futures contracts for purposes of determining compliance with the prescribed limits. The futures-equivalent position in an options contract is the delta value⁵ of the options contract determined by the Hong Kong Futures Exchange (“HKFE”) at the close of market on each trading day multiplied by the number of contracts held or controlled.

Example :

A person holds the following positions:

- Long 8,000 September HSI futures contracts
- Short 1,000 October HSI futures contracts
- Long 2,500 November Mini-HSI futures contracts
- Long 5,000 September HSI calls with a delta value of 0.5

Since the contract value of the Mini-HSI futures contract is one-fifth of that of the HSI futures contract, 2,500 Mini-HSI futures contracts are equivalent to 500 HSI futures contracts. The futures-equivalent positions in September HSI calls are 2,500 contracts which are obtained by multiplying the delta value (0.5) by the number of contracts held (5,000 contracts). In deciding whether the person has reached the prescribed limit of 10,000 contracts, positions in all contracts are netted, i.e. 8,000 contracts (long September HSI futures contract) minus 1,000 contracts (short October HSI futures contract) plus 500 contracts (long November Mini-HSI futures contract) plus 2,500 contracts (long September HSI calls). That means the person holds a net position of 10,000 contracts and has reached the prescribed limit.

- 2.4. Schedule 2 of the Rules specifies the maximum number of stock options contracts in any one market direction⁶ for all expiry months combined that may be held or controlled by a person. For example, the prescribed limit on any stock options contract is ~~150250~~,000 contracts in any one market direction. If a person holds 30,000 long calls in month A, ~~100200~~,000 short calls in month B and 50,000 long puts in month C, he will reach the prescribed limit on this contract for the short market direction, but will still be able to hold ~~120220~~,000 more contracts for the long market direction. (The position in the long market direction is 30,000 contracts (i.e. 30,000 long calls) and the position in the short market direction is ~~150250~~,000 contracts (i.e. ~~100200~~,000 short calls plus 50,000 long puts).)
- 2.5. ~~In general, Market participants should note that in addition to~~ the prescribed limits in Schedule 1 and Schedule 2 ~~are also reflected in rules of,~~ the HKFE and the Stock

⁵ Delta is the amount by which the price of an option will change for a corresponding change in price of the underlying market. Delta can be used to equate the directional risk of an option position with a position of similar size in the underlying market. For example, if a person holds 1,000 HSI options contracts (delta value of the contract is +0.6), he is long 600 deltas or in equivalent terms, 600 HSI futures contracts.

⁶ Long calls and short puts are in the same market direction; and short calls and long puts are in the same market direction.

Exchange of Hong Kong (“SEHK”). ~~Market participants should note that in addition to the prescribed limits, the HKFE and SEHK⁷)~~ may impose other position limits on a particular contract, Exchange Participant or client where situations warrant such action.

Aggregation requirements

(This section should be read in conjunction with paragraph 5 ~~below~~ on Compliance by Agents.)

- 2.6. The prescribed limits apply to all positions held or controlled by any person including positions held by the person for his own account and positions belonging to other persons but under the control of such person. While the word “control” is not defined in the SFO or the Rules, there are circumstances where the SFC takes the view that a person is regarded as having control of positions as for example where a person is allowed to exercise discretion⁷ to trade or dispose of the positions independently without the day-to-day direction of the owner of the positions.
- 2.7. Notwithstanding the foregoing, the SFC accepts that the prescribed limits do not apply to a person who controls positions merely by virtue of its corporate relationship (e.g. a parent company in relation to positions held by its affiliates/subsidiaries) provided that such person does not give its affiliates/subsidiaries any day-to-day direction with respect to trading.

Penalties

- 2.8. Except as otherwise authorized by the SFC, HKFE or SEHK (please refer to paragraph 3 below), a person who contravenes Section 4(1) of the Rules without reasonable excuse is liable (i) on conviction on indictment to a fine of HK\$100,000 and to imprisonment for 2 years; or (ii) on summary conviction to a fine of HK\$10,000 and to imprisonment for 6 months.
- 2.9. In addition to any other powers and sanctions contained in the SFO or the Rules, the HKFE and SEHK may require an Exchange Participant carrying an account in which a position is in excess of the prescribed limit to take immediate steps to reduce the position below the prescribed limit pursuant to their rules. Where the HKFE or SEHK becomes aware that any person holds or controls positions in accounts with more than one Exchange Participant such that the aggregate position in all accounts exceeds the prescribed limit, the HKFE or SEHK may require any of the Exchange Participants carrying such accounts to reduce positions in the relevant accounts so that the aggregate position in all accounts will comply with the prescribed limit.

⁷ Sections 7(3), ~~7A(4) and 7A(56)~~ of the Rules explains the situations in which a person is considered to have discretion to trade or dispose of positions independently. Section 7(4) of the Rules explains the situation in which a clearing participant is not considered to have discretion over its client's positions.

3. Authorization to Exceed Prescribed Limits

- 3.1. No person may hold or control futures contracts or stock options contracts in excess of the prescribed limits except as otherwise authorized by the HKFE or SEHK (as the case may be) in accordance with Section 4(2) of the Rules, or by the SFC in accordance with Section 4(4) of the Rules.

Authorization for excess positions by the HKFE/SEHK

- 3.2. Section 4(2) of the Rules provides that the HKFE or SEHK may authorize a person to hold or control futures contracts or stock options contracts in excess of the prescribed limits if the person is one of those described in Section 4A of the Rules.
- 3.3. In accordance with Section 4A, the following persons may be authorized by the HKFE or SEHK to hold or control excess positions:
- (1) a person registered with the SEHK for the purpose of performing market making or liquidity providing activities in accordance with its rules (i) in respect of stock options contracts (*e.g. an Options Trading Exchange Participant holds excess positions in stock options contracts for which it is registered with the SEHK to make a market*) 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;
 - (2) a person registered with the HKFE for the purpose of performing market making or liquidity providing activities in respect of futures contracts in accordance with its rules (*e.g. an HKFE Participant holds excess positions in futures contracts for which it is registered with the HKFE to make a market*);
 - (3) 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 (*e.g. an issuer of structured products like derivative warrants and equity-linked instruments holds excess positions in futures contracts or stock options contracts to hedge the risks of positions in the structured products issued by it*); ~~or~~
 - (4) a related corporation⁸ 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 (*e.g. an associate of an issuer of structured products like derivative warrants and equity-linked instruments holds excess positions in futures contracts or stock options contracts to hedge the risks of its positions in the structured products issued by the issuer*); or

⁸ The term “related corporation” is defined in Section 3 of Schedule 1 to the SFO.

(5) a Clearing Participant of HKFE Clearing Corporation Limited (“HKCC”) or The SEHK Options Clearing Limited (“SEOCH”) who provides clearing services to a person specified in paragraphs 3.3(1)-(4).

- 3.4. A person who has the need to exceed the prescribed limits pursuant to Section 4(2) should make an application to the HKFE or SEHK (as the case may be) in accordance with ~~its~~their rules. The approval from the HKFE or SEHK must be received prior to entering into positions which exceed the limits.

Authorization for excess positions by the SFC

- 3.5. Section 4(4) of the Rules provides that the SFC may authorize a person to hold or control futures contracts or stock options contracts in excess of the prescribed limits if (i) special circumstances exist (Section 4B); or if the person (ii) has a relevant business need (Section 4C); (iii) carries out index arbitrage activity (Section 4D); ~~or~~ (iv) is an asset manager that meets the specified criteria (Section 4E); or (v) is a Clearing Participant that clears the excess positions of a person that has been authorized by the SFC to hold or control the excess positions concerned (Section 4F). Section 4(4) is however only applicable to situations falling outside Section 4(2). That is, the SFC will not accept applications which may be dealt with by the HKFE or SEHK in accordance with Section 4(2).

- 3.6. Pursuant to Section 4(4), the SFC may authorize a person to hold or control futures contracts or stock options contracts in excess of the prescribed limits under Section 4B, 4C, 4D, 4E or 4E4F by giving the person a notice of authorization if:

- (1) the person is not one of those described in Section 4A; and
- (2) the SFC is satisfied that the excess positions would not be prejudicial to the interest of the investing public having regard to the prescribed limits and the liquidity of the futures contracts or the stock options contracts in question.

Authorization under Section 4B – in “special circumstances”

- 3.7. An authorization under Section 4B may only be granted where such person can show that there are special circumstances which warrant his holding or controlling the excess positions in question.
- 3.8. The phrase “special circumstances” is not defined in the SFO. However, the SFC considers that the reference to “special” implies that the circumstances should normally be unique or unusual (i.e. out of the ordinary) in some way. So, for example, requiring excess positions to serve a regular business need would not be regarded as constituting special circumstances.

Authorization under Section 4C – for purposes of facilitating provision of services to clients

- 3.9. An authorization under Section 4C may only be granted:
- (1) to an Exchange Participant or an affiliate of an Exchange Participant; and

- (2) where such person has a relevant business need for the excess positions in question.

3.10. The phrase “relevant business need” is defined in Section 4C(3) and essentially means a need to engage in hedging activities as a result of providing client facilitation services (i.e. services to facilitate client transactions – whether conducted on exchange or off exchange, and in futures or options contracts or other products). The definition is designed to ensure that excess positions are sought and authorized only for the purposes of helping Exchange Participants and their affiliates to better serve their clients, and not for purely proprietary trading. For instance, a client wants to buy a large number of futures contracts, but is concerned that the purchase will push up market prices materially and thus increase his execution prices. The Exchange Participant may facilitate this client’s purchase of the futures contracts by selling the contracts to the client as principal over-the-counter (“**OTC**”) and then buying the futures contracts in the exchange market throughout the day to minimize the impact on market prices and to cover the OTC position established for the client. In this case, the futures contracts traded on the exchange are the proprietary positions of the Exchange Participant resulting from client facilitation activities.

Authorization under Section 4D – for purposes of index arbitrage activity

3.11. An authorization under Section 4D may only be granted:

- (1) to an Exchange Participant or an affiliate of an Exchange Participant; and
- (2) where such person engages in index arbitrage activities and will hold or control the excess for the purposes of those activities.

3.12. The phrase “index arbitrage” is defined in Section 4D(3) to mean a trading strategy engaged in by the person-

- (a) involving (i) the purchase or sale of a stock index futures contract (***the 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 (***the options contracts***);
- (b) in conjunction with the sale or purchase of some or all of the stocks comprised in the underlying basket of stocks (***the stocks***) used to compile the index underlying the futures contract or the options contracts; and
- (c) with a view to securing a profit from any difference in price between the stocks and the futures contract or the options contracts.

The SFC accepts that “the stocks” do not necessarily include all the component stocks of the underlying index of the futures or options contracts, the SFC however expects the applicant to demonstrate that the tracking error of the stocks is immaterial.

3.13. The SFC may grant authorizations under Sections 4C and 4D to an Exchange Participant or persons who belong to a group of companies that includes an

Exchange Participant. This is because Exchange Participants and their affiliates generally have a greater need for holding excess positions to provide client facilitation services. In addition, Exchange Participants are licensed corporations under the SFO and therefore the SFC can better assess whether they would have the capabilities to hold excess positions and manage the resultant risks.

- 3.14 The SFC will determine the size of excess positions to be authorized for an applicant on a ~~case-by-case~~case-by-case basis after taking into consideration various factors including the prevailing market situation. It should be noted that although the upper limit set by the specified percentage is a per applicant upper limit, the SFC will take into account any excess positions already authorized to other members within the same group as the applicant. Under Section 4(4)(b), the SFC may authorise the excess sought only if it 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.
- 3.15 Additionally, the SFC may only authorize excess positions under Sections 4C and 4D if –
- (1) the Exchange Participant or affiliate in question has adequate financial capability to cover the potential risks arising from any authorized excess position; and
 - (2) the Exchange Participant in question has effective internal control procedures and risk management systems to manage such risks.

This is irrespective of whether the person authorized is the Exchange Participant or one of its affiliates.

- 3.16 The SFC will normally look to the Exchange Participant to ensure that excess positions are properly used and any resultant risks properly managed, as that is the regulated entity within the group. Consequently, the SFC will expect a single entity within the group (normally the Exchange Participant, as that is the regulated entity) to carry the relevant positions. In other words, if any member within a group (including the Exchange Participant) is authorized to hold excess positions in a particular specified contract⁹, the SFC will normally expect all of such person's holdings in that contract (i.e. not just the excess positions) to be held through an account carried by the Exchange Participant. Additionally, if the group Exchange Participant is not a ~~clearing participant~~ Clearing Participant (of a recognized clearing house), ~~those~~ positions must be carried through both the group Exchange Participant and a ~~general clearing participant~~ Clearing Participant (of a recognized clearing house) appointed by the group Exchange Participant. The following further points should be noted also –
- (1) Positions can be carried through any affiliate, but must be carried through the group Exchange Participant at the Exchange level. Hence, if an affiliate is not an Exchange Participant but the group wants the positions to be carried

⁹ The term “specified contract” is defined in the Rules.

through that affiliate, then the positions must be carried through both the group Exchange Participant (at the Exchange level) and that affiliate.

- (2) It is not necessary for execution (i.e. acquisitions and disposals) to be conducted through the group Exchange Participant. Accordingly, any execution broker may be used (including the group Exchange Participant).
- (3) If the ~~excess~~ positions are to be carried through a Clearing Participant appointed by the group Exchange Participant, the Clearing Participant will need to seek authorization for excess positions by the SFC under Section 4F. Although Clearing Participants generally do not have discretion over clients' positions and can apply the prescribed limits separately to their own account and to each of their clients' accounts, if one of their clients is authorized and holding or controlling excess positions, the appointed Clearing Participant will therefore be holding excess positions for that authorized client. As a result, the appointed Clearing Participant is required to be authorized for excess positions in order to clear trades for the client.
- (4) Further to point (3) above, it should be noted that the group Exchange Participant may appoint only one Clearing Participant to carry its positions in the relevant contract(s) and should notify the appointed Clearing Participant of its excess position limit application. This is to facilitate the Clearing Participant's monitoring of the Exchange Participant's positions. In this respect, both the Exchange Participant and the Clearing Participant should have the obligation and ability to ensure the positions are within the approved excess position limits.

The above requirements will facilitate the SFC in monitoring compliance with the prescribed limits and any authorized excesses.

Authorization under Section 4E – for purposes of asset management activity

3.17. An authorization under Section 4E may only be granted:

- (1) to an intermediary that is (i) licensed or registered for Type 9 regulated activity under the SFO (asset manager); and (ii) manages assets having a total value (“**AUM**”) of not less than HK\$80 billion;
- (2) where such asset manager needs excess positions to facilitate its asset management activity; and
- (3) the asset manager has effective internal control procedures and risk management systems to manage the potential risks arising from the excess.

3.18. For the purposes of Section 4E, the AUM of an asset manager is determined as follows:

- (1) in the case that the applicant is a Licensed Corporation (“**LC**”) under the SFO, it is the “Total aggregate net value of assets under management” figure

reported in its latest filing to the SFC under the Securities and Futures (Financial Resources) Rules; and

- (2) in the case that the applicant is a Registered Institution under the SFO, the applicant is to use the figure reported under its asset management activity in its latest filing to the Hong Kong Monetary Authority under Section 63 of the Banking Ordinance on securities related activities. This figure is to be used as the basis for further adjustment by the applicant to arrive at an adjusted figure equivalent to the “Total aggregate net value of assets under management” figure mentioned in sub-paragraph (1) above.

3.19. The SFC is mindful that any excess positions granted should be commensurate with the asset manager’s business need. Under Section 4(4)(b), the SFC may authorise the excess sought only if it 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. In this regard, the SFC in determining the size of the excess position to be granted to an asset manager under Section 4E will take into account the following:

- (1) investment mandates and size of all the funds managed by the asset manager; and
- (2) the investment strategies of the asset manager.

Authorization under Section 4F – for purposes of client clearing activity

3.20. An authorization under Section 4F may only be granted to a person that:

- (1) to a person that is a Clearing Participant of HKCC; and
- (2) clears the excess positions for another person that has been authorised by the SFC under sections 4C, 4D or 4E to hold or control the excess positions in question.
- (3) has adequate financial capability to cover the potential risks arising from any authorized excess position; and
- (4) has effective internal control procedures and risk management systems to manage such risks.

Application process for authorizations by the SFC

~~3.20~~3.21. An application for authorization from the SFC to hold excess positions may be submitted by the following persons:

- (1) where authorization is sought under Section 4B, either:
 - (a) the person acting as principal for the account(s) for which the authorization is sought; or

- (b) a person who acts as an agent for the principal;
- (2) where authorization is sought under Sections 4C and 4D, the Exchange Participant concerned; ~~and~~
- (3) where authorization is sought under Section 4E, the asset manager concerned; and
- ~~(3)~~(4) where authorization is sought under Section 4F, either the Clearing Participant concerned or its clearing client. The SFC appreciates that some clearing participants may find it more convenient to request their clearing client to submit the application on their behalf. To accommodate participants' operational needs and provide flexibility, the clearing client is allowed to submit the application on behalf of the Clearing Participant if it is considered more convenient and agreeable to both parties.

3.21-3.22. In the case of an authorization sought under Sections 4C and 4D, although the application must be submitted by the Exchange Participant concerned, the SFC will not dictate which members of its group should take the excess positions and hence need authorization. However, where any member of a group is authorized to hold or control excess positions in respect of a particular contract, the SFC will normally expect all of its holdings in that contract (i.e. not just the excess positions) to be carried through the Exchange Participant. It follows therefore that the Exchange Participant will in any event need to be authorized under Sections 4C and 4D of the Rules.

3.22-3.23. All applications to the SFC should be made in writing to the Supervision of Markets Division of the SFC. Applications may be made on the basis of an immediate need, or in advance in anticipation of prospective needs based on past experience.

3.23-3.24. There is no prescribed format for the application. It can be a letter or any written document supported by reasons and/or supporting documents for the application. The application must be approved by the SFC before positions in the relevant futures contracts or stock options contracts may be increased above the prescribed limit.

3.24-3.25. In the case of an application for authorization under Section 4C, the SFC will require the applicant to provide the following information:

- (a) a description of the nature of positions held or controlled (including transactions in other related markets which are an integral part of the entire portfolio);
- (b) a full and complete explanation of the needs for holding or controlling excess positions and how the excess positions will be used to support the business of the relevant Exchange Participant and (if applicable) the affiliate and such explanation to include:
- the nature and size of the positions established, or to be established, in connection with the excess positions for which authorization is sought,

and on which market (e.g. OTC market, overseas exchange markets) such positions have been, or will be executed;

- an estimate of the maximum level of the excess positions intended to be established; and
 - the estimated duration of holding or controlling the excess positions.
- (c) details of the relevant Exchange Participant's and (if applicable) the affiliate's or their holding company's financial position, such information to be sufficient to demonstrate that the Exchange Participant or affiliate or their holding company meets the adequate financial capability requirement and should normally include at least its latest annual audited financial statements or information on its credit rating (if any);
- (d) details of the relevant Exchange Participant's internal control procedures and risk management systems, such information to be sufficient to demonstrate that the Exchange Participant has effective internal control procedures and risk management systems to manage the potential risks arising from the excess positions, and should normally include at least the following:
- (i) a brief summary of the risk management policies and procedures that will be adopted to monitor and address the key risks connected with the excess positions (such as market risk, concentration risk, etc.), including:
 - *the counterparty due diligence process* that the Exchange Participant or its affiliate (as the case may be) will use when assessing the counterparty risk of clients who are, or will be, provided with client facilitation services by the Exchange Participant or its affiliate in relation to the excess positions held or controlled by it
 - *the contingency measures* that will be applied to minimize the impact of a default by the counterparties, including the procedures for dealing with the excess positions in the event of such default
 - *the techniques that will be used to measure, monitor, control and reduce various types of risks* arising as a result of the excess positions and the related position
 - (ii) a brief summary of the internal control procedures that will be put in place to ensure implementation of the risk management policies and procedures mentioned in the preceding sub-paragraph (i).

3.25-3.26. In the case of an application for authorization under Section 4D, the SFC will require the applicant to provide the following information:

- (a) the index arbitrage trading strategy and the relevant positions, which include:

- a description of how index arbitrage activities are conducted, or will be conducted, in connection with the excess positions for which authorization is sought;
 - a description of the current nature and size of the positions related to the index arbitrage trading strategy in question (including positions in other related markets which are an integral part of the index arbitrage portfolio);
 - the methodology adopted to determine the underlying stocks involved in the index arbitrage portfolio and their relative weighting of the entire portfolio;
 - the timing of execution in the stock market and the relevant stock index derivatives market;
 - an estimate of the maximum level of the excess positions intended to be established;
 - an estimate of the duration of holding or controlling the excess positions; and
 - the circumstances under which the index arbitrage portfolio will be unwound and the detailed unwinding strategy and process.
- (b) the monitoring process to ensure that the excess positions sought are executed according to the strategy described above;
- (c) information to demonstrate that the trading desk/book for index arbitrage activities is standalone;
- (d) details of the internal control measures and compliance monitoring process to prevent and detect potential misuse or abuse of the excess positions which should include a Chinese Wall (or equivalent internal control measures) in place between the index arbitrage trading desk and other trading desks;
- (e) details of the relevant Exchange Participant's and (if applicable) the affiliate's or their holding company's financial position, such information to be sufficient to demonstrate that the Exchange Participant or affiliate or their holding company meets the adequate financial capability requirement and should normally include at least its latest annual audited financial statements or information on this credit rating (if any);
- (f) details of the relevant Exchange Participant's internal control procedures and risk management systems to demonstrate that the Exchange Participant has effective internal control procedures and risk management systems to manage the potential risks arising from the excess position, and should normally include at least the following:
- (i) a brief summary of the risk management policies and procedures that will be adopted to monitor and address the key risks connected with the excess position (such as market risk, concentration risk, tracking error etc.). The summary should cover *the techniques that will be used to*

measure, monitor, control and reduce various types of risks arising as a result of the excess positions and the related position; and

- (ii) a brief summary of the internal control procedures that will be put in place to ensure the implementation of the risk management policies and procedures mentioned in the preceding sub-paragraph (i).

~~3.26-3.27.~~ In the case of an application for authorization under Section 4E, the SFC will require the applicant to provide the following information:

- (a) a summary of the investment objectives and characteristics of each of the funds under its management and a description of the nature of positions held or controlled by each of the funds (including investments in other related markets which are an integral part of the entire portfolio);
- (b) a full and complete explanation of the needs for holding or controlling excess positions and how the excess positions will be used for asset management purposes;
- (c) an estimate of the maximum level of the ~~excess~~ positions intended to be established for each of the funds and an estimate of the excess positions hence required by the asset manager;
- (d) the relevant asset manager's internal control procedures and risk management systems to demonstrate that the asset manager has effective internal control procedures and risk management systems to manage the potential risks arising from the excess position, and should normally include at least the following:
 - (i) a brief summary of the risk management policies and procedures that will be adopted to monitor and address the key risks connected with the excess position (such as market risk, concentration risk, etc.). The summary should cover the techniques that will be used to measure, monitor, control and reduce various types of risks arising as a result of the excess positions and the related position; and
 - (ii) a brief summary of the internal control procedures that will be put in place to ensure implementation of the risk management policies and procedures mentioned in the preceding sub-paragraph (i).
- (e) information showing that the applicant's total assets under management is not less than HK\$80 billion:
 - (i) For licensed corporations, the latest filing made by the applicant to the SFC under the Securities and Futures (Financial Resources) Rules which contains a "Total aggregate net value of assets under management" figure.

- (ii) For registered institutions, the latest filing made by the applicant to the Hong Kong Monetary Authority under Section 63 of the Banking Ordinance on securities related activities should be used as the basis for further adjustment by the applicant to arrive at a figure equivalent to the “Total aggregate net value of assets under management” figure mentioned in (i).

3.27-3.28. In the case of an application for authorization under Section 4F, the SFC will require the applicant to ~~submit an application with include~~ information of the identity of the clearing client, the name of the specified contract that it will be clearing for the client and the excess positions that it is applying for (which will be the same as that of its clearing client). For a more efficient and streamlined application process, the clearing client may submit the application on behalf of its Clearing Participant together with its application to the SFC for excess positions made pursuant to Sections 4C – 4E.

Other considerations for authorization

3.28-3.29. Depending on the facts and circumstances of each individual case, the SFC may also request other information as it considers necessary. The SFC may also have regard to any information or material in its possession which it considers relevant.

3.29-3.30. The SFC will determine an application to hold or control excess positions on the basis of the information supplied, the relevant prescribed limits, the liquidity of the futures contracts or stock options contracts for which the authorization is sought and such other factors as the SFC deems appropriate.

3.30-3.31. As a guiding principle, the SFC will not grant an authorization for any excess if the relevant preconditions set out in the Rules are not satisfied, or if the authorization is inconsistent with the SFC’s regulatory objectives in Section 4 of the SFO, in particular:

- (1) to maintain and promote the fairness, efficiency, competitiveness, transparency and orderliness of the securities and futures industry;
- (2) to reduce systemic risks in the securities and futures industry; or
- (3) to assist the Financial Secretary in maintaining the financial stability of Hong Kong by taking appropriate steps in relation to the securities and futures industry.

3.31-3.32. The SFC may decide to approve or deny the application or impose conditions on the authorization. Conditions imposed on an authorization may be varied or revoked subsequently on at least five business days’ notice. New conditions may also be imposed (Section 4(5)(c)). A notice of authorization will be provided to the applicant in writing (Section 4(4)(c)).

~~3.32-3.33.~~ The SFC will endeavour to notify the applicant of its decision within four weeks after all information as requested by the SFC to support the application is provided to its full satisfaction. However, since authorizations that may be granted by the SFC under Section 4B are special cases, it may take more time for the SFC to consider and review some particular cases. A person who has the need to exceed the prescribed limits is advised to submit an application accompanied by the supporting information to the SFC as soon as practicable.

Use and evidencing use of excess positions

~~3.33-3.34.~~ Excess positions authorized under Section 4C must be used to hold positions that facilitate client transactions. However, the SFC will not require that they be used in relation to a particular client transaction, or a particular client. Similarly, the SFC will not impose any limitation on the order in which excess positions are used. Example 1 in Appendix 1 further illustrates how excess positions may be used.

~~3.34-3.35.~~ The SFC will expect Exchange Participants/their affiliates to evidence the use of their excess positions. To this end, the SFC will expect authorized Exchange Participants/affiliates to submit regular reports (normally on a quarterly basis) confirming providing the following information:

- (1) the amount of excess used;
- (2) the type of clients involved;
- (3) a general description of the nature of the client transactions including their notional and market values; and
- (4) an overall description of the positions they have taken, but not details in relation to each client on an individual basis.

~~3.35-3.36.~~ Excess positions authorized under Section 4D must be used solely for index arbitrage activities. Please refer to Example 2 in Appendix 1 which illustrates how excess positions may be used for index arbitrage activities. The SFC will expect Exchange Participants/their affiliates to evidence the use of their excess positions. To this end, the SFC will expect authorized Exchange Participants/affiliates to submit regular reports (normally on a quarterly basis) confirming providing the following information:

- (1) the amount of excess used;
- (2) a general description of the size of the stock index derivatives positions used for index arbitrage activities;
- (3) details of the stock portfolio established; and
- (4) the daily risk position of the entire index arbitrage portfolio containing the stock index derivatives positions and the stock positions.

~~3.36-3.37.~~ Excess positions authorized under Section 4E must be used for asset management purposes. The SFC will expect asset managers to evidence the use of excess positions. To this end, the SFC will expect the asset manager authorized to submit regular reports (normally on a quarterly basis) providing details of the following:

- (1) ~~The~~ the amount of the excess positions used for ~~each of the funds under~~ its management;
- (2) ~~The~~ the total number of futures positions held by each of the funds under its management; and
- (3) ~~The~~ the notional value of futures positions as a percentage relative to the fund size for each of the funds under its management.

3.38. ~~For excess positions authorized under Section 4F, the authorized Clearing Participant will be holding the excess positions for its clearing client that has been authorized by the SFC under Sections 4C or 4D or 4E. To this end, the SFC will expect the Clearing Participant to submit regular reports (normally on a quarterly basis) providing details of the amount of the excess positions used for clearing its client's positions. Since a clearing client can only appoint one Clearing Participant to carry its position the information should be readily available to the Clearing Participant. The clearing client will be required to submit quarterly reports to evidence the use of excess positions as stipulated in the above paragraphs. Since the authorization granted to the Clearing Participant would be related to the same excess positions, there is no need for the authorized Clearing Participant to submit any quarterly reports.~~

~~3.37.~~3.39. The SFC will normally require reports mentioned above to be submitted ~~quarterly~~ within two weeks of the end of the relevant quarter. However, more frequent or additional reporting requirements may be required in individual cases as necessary.

Validity and renewal of authorizations by the SFC

~~3.38.~~3.40. A person who has been authorized by the SFC under Section 4B, 4C, 4D, 4E or ~~4E~~4F should submit a new application to the SFC if he wishes to continue to hold or control the excess positions after the expiration date of the initial authorization. The new application should be submitted to the SFC no later than two months prior to the expiration date of the initial authorization. If the SFC does not grant any further authorization for the excess positions, the person will be required to close out the position in excess of the prescribed limit upon the expiration date of the initial authorization.

Withdrawal of authorizations by the SFC

~~3.39.~~3.41. The SFC may at any time withdraw an authorization granted under Section 4B, 4C, 4D, 4E or ~~4E~~4F by giving at least five business days' notice to the person (Section 4(5)(b)). Upon a withdrawal coming into effect, the authorization will cease to apply.

~~3.40.~~3.42. In determining the effective date of a withdrawal, the SFC will consider:

- (1) whether any excess positions are already held or controlled and if so, whether they are within the limits of the authorization previously granted;
- (2) when the relevant contracts are due to expire; and

- (3) whether the withdrawal may be delayed until the time of such expiry taking into account the reasons for the withdrawal.

~~3.41-3.43.~~ As a guiding principle, the SFC will not normally consider withdrawing an authorization unless it believes:

- (1) one or more of the relevant preconditions set out in the Rules in respect of the authorization in question cease to exist;
- (2) the authorization ceases to be consistent with the SFC's regulatory objectives in Section 4 of the SFO; or
- (3) one or more of the conditions attached to the authorization have failed to be met and adequate steps have not been taken, or cannot be taken, to rectify the failure and avoid similar failures in future.

Appeals

~~3.42-3.44.~~ A person may appeal against a decision of the SFC to refuse to authorize excess positions under Section 4B, 4C, 4D, ~~4E~~ or ~~4E4F~~ of the Rules to the Securities and Futures Appeals Tribunal ("**Tribunal**") pursuant to Section 216 of the SFO (Section 4(4)(c) and item 78 under Division 1 of Part 2 of Schedule 8 of the SFO). An application for review of the decision must be made to the Tribunal by the person against whom the decision is made within 21 days of notice of the decision. Upon review of the decision under appeal, the Tribunal may confirm, vary or set aside the decision or substitute any other decision which the Tribunal considers more appropriate or it may remit the matter to the SFC with directions to revisit the decision. For the avoidance of doubt, before the Tribunal determines otherwise, the decision of the SFC shall remain valid and the person is required to act in accordance with the decision of the SFC.

Positions held or controlled indirectly by virtue of corporate relationship

~~3.43-3.45.~~ As discussed in paragraph 2.7 above, the SFC considers that the prescribed limits do not apply to a person who controls positions merely by virtue of its corporate relationship. In view of this, if a person is permitted by the SFC to hold or control excess positions, its affiliates (including any holding company), which indirectly controls the same positions by virtue only of the corporate relationship, will not be required to seek approval from the SFC separately to control the positions.

4. Notice of Reportable Positions

Reportable positions

- 4.1. In order to facilitate the HKFE and SEHK in monitoring market activities, ~~Section~~Sections 6(1) and 6(1A) of the Rules ~~requires~~require a person holding or controlling a reportable position to notify the recognized exchange company of that reportable position in writing.

4.2. Reportable positions-Reporting levels for futures contracts and stock options contracts are specified in Schedule 1 and Schedule 2 of the Rules respectively. ~~Similar to the prescribed limits, the reportable positions-Reporting levels~~ for futures contracts are calculated based on the number of contracts held or controlled for a contract period (e.g. a contract month or contract week) or series while the ~~reportable positions-reporting levels~~ for stock options contracts are calculated based on the number of contracts held or controlled in an expiry month.

For example, the reporting level for HSI contracts is specified as “For a futures contract, for any one contract period (including but not limited to contract month or week), 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the futures contract; for an options contract, for any one series, 500 open contracts multiplied by the ratio of HK\$50 per index point to the contract multiplier in relation to the options contract”. As the Mini-HSI futures contract has a contract multiplier of HK\$10 per index point, the reporting level applicable to each contract month of the Mini-HSI futures contract is therefore 2,500 open contracts (i.e. 500 open contracts multiplied by HK\$50/HK\$10). Likewise for Mini-HSI options contract, the reporting level applicable to each of the option series is 2,500 open contracts based on the same calculation.

4.2.4.3. The aggregation requirements as mentioned in paragraphs 2.6 and 2.7 above equally apply to the reportable positions for futures contracts and stock options contracts.

Responsibilities of reporting

4.3.4.4. The notice of a reportable position specified in ~~Section~~Sections 6(1) and 6(1A) may be submitted by:

- (1) a person (e.g. the Exchange Participant) acting as an agent for the principal to carry the account of the reportable position; or
- (2) the person acting as principal for the reportable position.

If one of the above parties has submitted the notice of the reportable position to the Exchange, the SFC accepts that the other ~~parties-party~~ will not be required to notify the Exchange of the same reportable position under ~~Section~~Sections 6(1) and 6(1A).

4.4.4.5. In other words, a person holding or controlling a reportable position can choose to submit the notice of the reportable position to the Exchange directly or through an Exchange Participant or its agent where the latter agrees to make the report on the person's behalf. However, no matter which party is chosen by the person to submit the notice to the Exchange, it is the responsibility of each person holding or controlling the reportable position to fulfill its obligations under ~~Section~~Sections 6(1) and 6(1A).

4.5.4.6. In the event that a person holds or controls a reportable position in accounts at more than one agent, the person should have the sole responsibility to notify the Exchange of the reportable position. If the person decides to submit the notice of the reportable position to the Exchange through the agents, it should provide to one agent with its total positions held at other agents so that the agent can submit the notice of the reportable position to the Exchange on its behalf. Alternatively, the

person can ask all agents to separately report positions in each of the accounts to the Exchange even though positions in the individual accounts may not exceed the reportable level.

4.6.4.7. Similar to the prescribed limits, the SFC agrees that a person controlling a reportable position merely by virtue of its corporate relationship is not required to submit the notice of the reportable position to the Exchange.

Reporting requirements

4.7.4.8. In accordance with Sections 6(1)(a), 6(1A) and ~~6(1B)~~, the notice of reportable positions should be made within one reporting business day (or in the case of holiday contacts, the next holiday contract trading day) following:

- (1) the day on which the person first holds or controls the reportable positions; and
- (2) each succeeding day on which the person continues to hold or control the reportable positions.

For the avoidance of doubt, once a person has held or controlled a reportable position, it will be required to file the notice of the reportable position to the HKFE or SEHK (as the case may be) on each reporting day even though his position remains unchanged.

4.8.4.9. ~~Section~~Sections 6(2) ~~— (4) and 7A(5)~~ of the Rules further ~~requires~~require that the notice of a reportable position shall be accompanied by the following information:

- (1) the number of futures contracts or stock options contracts held or controlled by the person ~~in respect of which comprise~~ the reportable position in each relevant contract period (including but not limited to contract month or contract week) or option series; and
- ~~(2)~~ (3) where the reportable position is held or controlled for ~~another one or more persons~~ (e.g. a client or clients), the identity of ~~that each other person, where it is for a unit trust or a sub-fund, the name of the unit trust or sub-fund~~ and the number of futures contracts or stock options contracts held or controlled for his own account (if applicable) and for each other such person, unit trust or sub-fund in respect of which comprise the reportable position in each relevant contract period (including but not limited to contract month or contract week) or option series.
- ~~(2)~~ (3) where the reportable position is held or controlled for one or more funds or sub-funds of one or more umbrella funds, the name of each fund and sub-fund (if applicable) and the number of futures contracts or stock options contracts held or controlled for his own account (if applicable) and for each fund and sub-fund (if applicable) which comprise the reportable position in each relevant contract period (including but not limited to contract month or contract week) or option series.

In respect of the information about the identity of a client, the requirements are set out in the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission and the Client Identity Rule Policy.

4.9.4.10. In the stock options market, positions held by a market maker are recorded by the SEHK Options Clearing House in a segregated clearing account. Under SEHK rules, positions held by market makers in segregated clearing accounts are treated as having been reported to the SEHK. The SFC accepts that if the segregated clearing account is used exclusively to keep positions of a single market maker, the market maker will be deemed to have fulfilled the reporting requirements as stated in Sections 6(1), 6(1A) and 6(2) of the Rules.

4.10.4.11. Appendix 2 provides examples to illustrate the application of the prescribed limits and ~~reportable positions~~reporting levels. Examples to illustrate the application of the prescribed limits and reporting levels with respect to funds are detailed in paragraph 6.

Other reporting requirements specified by the HKFE/SEHK

4.11.4.12. The HKFE and SEHK have developed more detailed reporting requirements to facilitate their monitoring of reportable positions as required under Section 6 of the Rules. These requirements include the use of a prescribed form for reporting and the specific deadline for submission of the notice of reportable positions¹⁰.

4.12.4.13. The HKFE and SEHK also request Exchange Participants and the person reporting to provide additional information other than those specified in ~~Section~~Sections 6(2) ~~—(4)~~ such as (i) the account number, account name and identity of the transaction originator of a reportable position; (ii) the nature of a reportable position (i.e. for hedging, arbitrage or trading purposes); and (iii) the account type (i.e. house account, client account or market maker account). Exchange Participants should refer to the relevant position reporting procedures prescribed by the HKFE or SEHK for details.

4.13.4.14. In order to assess the systemic impact of large reportable positions on the market and monitor concentration risk more effectively, the HKFE and SEHK may make enquiries into transactions/positions in other markets (e.g. OTC market) underlying the reportable positions held by Exchange Participants. For this reason, Exchange Participants may be requested by the HKFE or SEHK to obtain details of such transactions/positions from the clients or their counterparties. Failure to provide such information to the HKFE or SEHK could lead to the imposition of position limits other than the prescribed limits according to the HKFE or SEHK rules.

Penalties

4.14.4.15. A person who contravenes Section 6 of the Rules without reasonable excuse is liable (i) on conviction on indictment to a fine of HK\$100,000 and to imprisonment for 2 years; or (ii) on summary conviction to a fine of HK\$10,000 and to imprisonment for 6 months.

¹⁰ HKFE requires Exchange Participants to submit the notice of reportable positions by 12:00 noon on the reporting day (T+1).

5. Compliance by Agents

5.1. ~~Section~~Sections 7 and 7A of the Rules ~~enables~~stipulate that a person who holds or controls futures contracts or stock options contracts for ~~other persons~~another person or a unit trust or a sub-fund should apply the prescribed limits and ~~reportable positions-reporting levels~~ separately to his own position and to ~~each of~~ the positions he holds or controls for ~~the each~~ other ~~persons~~person or unit trust or sub-fund except where the person has discretion over the positions held or controlled by him for the other ~~persons~~person or unit trust or sub-fund. In other words, a person ~~can~~should disaggregate his own position and the positions he holds or controls for each of the other ~~persons~~person or unit trust or sub-fund in the application of prescribed limits and ~~reportable positions-reporting levels~~ provided that he does not have discretion over the positions ~~held or controlled for the other persons~~. ~~A typical example in~~question. Examples of such ~~person is~~persons are an Exchange Participant or a person providing intermediary services to its clients, ~~a trustee of a unit trust or trustee of a sub-fund of an umbrella unit trust~~.

5.2. In accordance with Sections ~~7(2)-(3) and 7A(3)-(5)~~ of the Rules, a person will be considered to have discretion in relation to a position he holds or controls for another person ~~if: or a unit trust or a sub-fund if:~~

- (1) he may originate orders to acquire or dispose of any position in futures contracts or stock options contracts under a general authorization from the other person, ~~whether the authorization is pursuant to a written agreement, power of attorney or otherwise or in the case of a unit trust or a sub-fund of an umbrella unit trust, a general authorisation from the trustee of the unit trust, and in the case of a sub-fund of a corporate fund, a general authorisation from the company;~~ and
- (2) such authorization enables him to make specific acquisitions or disposals without requiring further consent or instruction from the other person ~~or trustee or company,~~

and in such case, he will not be regarded as holding or controlling the position for the other person, ~~unit trust or sub-fund~~ for the purpose of applying the disaggregation provision to this position.

~~An E~~Examples of such person ~~would be include a fund manager controlling positions for his funds and~~ a trader managing discretionary accounts. However, it does not include a trader with a short-term discretion from his client to manage an order (e.g. if a client leaves an order to buy or sell futures contracts at any price within a specified range, the agent will not be regarded as having discretion) or a firm initiating orders to close out a position held for its client for risk control purposes ~~or due to contractual breaches~~ (e.g. the client has defaulted on his payment to the firm ~~or has made material misrepresentation to the firm~~). In this regard, Section 7(4) provides that a Clearing Participant in exercising its right to initiate orders to close out a client's positions in the event of the client's default in meeting any contractual obligation defaulting on a payment is not to be regarded as having discretion over the positions of its clearing client.

5.3. If a person has discretion over positions held with him for other persons, all these positions should be aggregated with his own position in the application of the prescribed limits and ~~reportable positions~~reporting requirements.

5.4. For example, an agent holds ~~400~~800 long, 3,000 long, and 8,000 long futures contracts for Clients A, B and C respectively. Client A is a discretionary account operated by the agent. The agent ~~also~~ holds 200 short futures contracts for his own account. Since the agent has discretion over the position held for Client A, the agent's own position and Client A's position should be aggregated in the application of the prescribed limits and ~~reportable positions~~reporting levels.

Assume that the reportable level is 500 open contracts and the prescribed limit is 10,000 contracts.

For reporting, ~~t~~The agent should notify the Exchange of each of the reportable positions held with him (i.e. ~~600–1,000 open~~ contracts held by him (with the breakdown of 200 short contracts for its own account and 800 long contracts for Client A), 800 long contracts held by Client A, 3,000 long contracts held by Client B and 8,000 long contracts held by Client C) and identities of the persons.

For determination of compliance with the prescribed limits, the agent, Client A, Client B and Client C are regarded as holding or controlling 600 net long contracts (800 long minus 200 short contracts), 800 net long contracts, 3,000 net long contracts and 8,000 net long contracts respectively. Since these ~~reportable~~ positions are within the prescribed limit, the agent and all the clients fully complies with the Rules.

5.4.5.5. If a person is aware that a number of its client accounts are held for the same person, all positions in these accounts should not be treated separately. They should be aggregated for purposes of determining compliance with the Rules.

5.5.5.6. There are situations where a person holds or controls positions for the other person who is acting as agent. In accordance with the Client Identity Rule Policy, a person holding or controlling positions for an agent should find out who are the ultimate clients and obtain the client identity information from the agent. As an agent is allowed to disaggregate positions held for his clients, his total positions may exceed the prescribed limits even though each of the client positions is within the limits. The SFC accepts that a person is in compliance with the prescribed limits in respect of the positions held for an agent provided that he has obtained the client identity information to determine that the agent is allowed to hold excess positions in accordance with the Rules. If the person is not able to obtain the client identity information to decide whether the agent complies with the prescribed limits (e.g. the agent does not want to disclose the information for commercial reasons), the person should not apply the disaggregation provision to this agent account (i.e. all positions held by the agent should be aggregated in applying the prescribed limits).

6. Compliance by Persons with respect to Funds

6.1. Sections 7A(1) and 7A(2) of the Rules stipulate that a person who holds or controls futures contracts or stock options contracts for one or more funds or sub-funds should apply the prescribed limits and reporting levels separately to his own position and to the positions he holds or controls for each fund or each sub-fund. The "person"

referred to in these sections is the legal holder of the positions of the funds or sub-funds. If the fund is constituted in a structure with legal personality, e.g. a corporate fund, then the legal holder is the corporate fund itself. If the fund is constituted in a structure with no legal personality, e.g. a unit trust, then the legal holder is the legal person holding the legal title to the positions of the funds or sub-funds, i.e. the trustee.

6.2. Sections 7A(3) and 7A(4) of the Rules further stipulate that a person who holds or controls futures contracts or stock options contracts for one or more funds or sub-funds and has discretion in relation to those contracts should apply the prescribed limits and reporting levels at two layers – (i) aggregately to his own position and the positions he holds or controls for each fund or each sub-fund; and (ii) separately to his own position and to the positions he holds or controls for each fund or each sub-fund. In general, the “person” referred to in Sections 7A(3) and 7A(4) is the fund manager of the funds or sub-funds.

6.3. For market monitoring purposes, it is our policy intention to require both the legal owners and fund managers of funds and sub-funds to fulfil the requirements of the Rules. We note that some legal holders such as trustees may not have the necessary information and expertise to comply with the requirements of the Rules. On the other hand, fund managers who are responsible for the day-to-day investment and operation of the funds or sub-funds are more capable to comply with the requirements.

6.4. Although some legal owners such as trustees may not have the necessary information or expertise, they are not exempted from the obligations of compliance with the Rules. For those legal persons, generally the SFC will require them to take an active role in overseeing and ensuring the fund managers who manage their funds and sub-funds are in compliance with the requirements of the Rules. In this regard, the SFC will consider the following:

- (i) Whether the legal person has ensured the prescribed limits and reporting requirements and any other related obligations have been clearly communicated to the fund manager or the delegated party (if applicable) and the arrangements have been properly documented;
- (ii) Whether the legal person has sample checked the relevant reports on a regular basis; and
- (iii) Whether the legal person has established mechanism with the fund manager or the delegated party (if applicable) to handle breaches of prescribed limits and reporting errors, etc.

6.5. Below are some examples illustrating how a fund manager is expected to report positions and comply with the prescribed limits under the Rules.

Assume that the reporting level is 500 open contracts and the prescribed limit is 10,000 net long or short contracts.

Example 1: A fund manager managing multiple funds

Assume Fund A holds 300 long futures, Fund B holds 200 short futures and Fund C holds 100 short futures.

For reporting, the fund manager should first determine whether the aggregate position under its control exceeds the reporting level of 500 open contracts. In this case, it is yes because the aggregate position is 600 open contracts. The fund manager should notify the Exchange that it has a large open position of 600 contracts and the breakdown is as follows:

- 300 long futures held by Fund A
- 200 short futures held by Fund B
- 100 short futures held by Fund C

(Note: If the aggregate position under its control does not exceed the reporting level, no reporting is needed. As the reporting requirement is measured on a gross basis (i.e. number of open contracts), if any one of the funds exceeds the reporting level, the aggregate position will exceed the reporting level, hence triggering the fund manager's reporting requirement. The fund manager is required to report all the funds' positions contributing to the reportable position even though all or some of them are below the reporting level.)

For determination of compliance with the prescribed limit, fund manager should calculate both the aggregate position under its control and the positions of each of the funds and ensure none of them exceeds the prescribed limit of 10,000 net long or short contracts. In this case,

- The fund manager is not holding any position on its own
- Fund A is holding 300 long futures
- Fund B is holding 200 short futures
- Fund C is holding 100 short futures

As the aggregate net position is zero, and the fund manager and each of the funds has an open position below the prescribed limit, the fund manager is considered to have complied with the requirements stipulated in Section 7A(3).

Example 2: A fund manager managing multiple sub-funds of an umbrella fund

Assume an umbrella fund comprises Sub-fund A which holds 3,000 long futures, Sub-fund B which holds 300 short futures and Sub-fund C which holds 200 short futures. The fund manager is not holding any position on its own.

For reporting, the fund manager should first determine whether the aggregate position under its control exceeds the reporting level of 500 open contracts. In this case, it is yes because the aggregate position is 3,500 open contracts. The fund manager should notify the Exchange that it has a large open position of 3,500 contracts and the breakdown is as follows:

- 3,000 long futures held by Sub-fund A
- 300 short futures held by Sub-fund B
- 200 short futures held by Sub-fund C

For determination of compliance with the prescribed limit, the fund manager should calculate both the aggregate position under its control and the positions of each of the

sub-funds and ensure none of them exceeds the prescribed limit of 10,000 net long or short contracts. In this case,

- The fund manager is considered holding or controlling on an aggregate basis of 2,500 long futures
- Sub-fund A is holding 3,000 long futures
- Sub-fund B is holding 300 short futures
- Sub-fund C is holding 200 short futures

As all of the positions are under the prescribed limit, the fund manager is considered to have complied with the requirements stipulated in Section 7A(3).

Example 3: A fund manager managing multiple funds and sub-funds of multiple umbrella funds

Assume a fund manager manages the following funds:

- Fund A holds 300 long futures
- Fund B holds 200 short futures
- Fund C holds 100 short futures
- Umbrella fund D comprises Sub-fund D1 which holds 3,000 long futures, Sub-fund D2 which holds 300 short futures and Sub-fund D3 which holds 200 short futures
- Umbrella fund E comprises Sub-fund E1 which holds 8,000 short futures, Sub-fund E2 which holds 400 long futures and Sub-fund E3 which holds 1,000 short futures.

The fund manager is not holding any position on its own.

For reporting, the fund manager should first determine whether the aggregate position under its control exceeds the reporting level of 500 open contracts. In this case, it is yes because the aggregate position is 13,500 open contracts. The fund manager should notify the Exchange that it has a large open position of 13,500 contracts and the breakdown is as follows:

- 300 long futures held by Fund A
- 200 short futures held by Fund B
- 100 short futures held by Fund C
- 3,000 long futures held by Sub-fund D1
- 300 short futures held by Sub-fund D2
- 200 short futures held by Sub-fund D3
- 8,000 short futures held by Sub-fund E1
- 400 long futures held by Sub-Fund E2
- 1,000 short futures held by Sub-Fund E3

For determination of compliance with the prescribed limit, the fund manager should calculate both the aggregate position under its control and the positions of each of the funds and each of the sub-funds and ensure none of them exceeds the prescribed limit of 10,000 net long or short contracts. In this case,

- The fund manager is considered holding or controlling on an aggregate basis of 6,100 short futures
- Fund A is holding 300 long futures
- Fund B is holding 200 short futures
- Fund C is holding 100 short futures
- Sub-fund D1 is holding 3,000 long futures
- Sub-fund D2 is holding 300 short futures
- Sub-fund D3 is holding 200 short futures
- Sub-fund E1 is holding 8,000 short futures
- Sub-fund E2 is holding 400 long futures
- Sub-fund E3 is holding 1,000 short futures

As all of the positions are under the prescribed limit, the fund manager is considered to have complied with the requirements stipulated in Section 7A(3).

5.6.6.6. A Fund manager may report the reportable position to the HKFE or SEHK (as the case may be) itself or through its agent (e.g. an Exchange Participant) which agrees to make the report on its behalf.

6.7. Application of the Rules to Different Entities

Persons holding or controlling positions at multiple firms

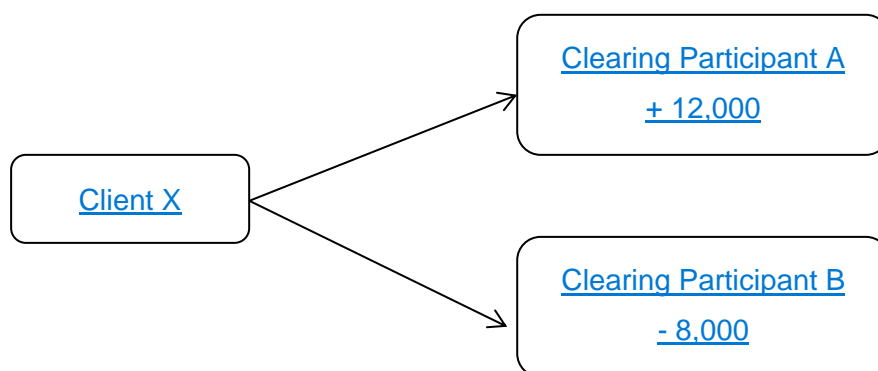
6.1.7.1. If a person holds or controls positions in accounts at more than one firm, the person should have the obligation to aggregate positions for purposes of applying the prescribed limits and ~~reportable position-reporting~~ requirements.

6.2.7.2. If a person holding or controlling positions at multiple firms chooses to submit the notice of reportable positions to the Exchange through one of the firms (e.g. an Exchange Participant) where the firm agrees to submit the notice on the person's behalf, it should provide to the firm with its total positions held at other firms.

6.3.7.3. For the avoidance of doubt, if a person holds a reportable position but only part of the position (which has not exceeded the reportable level) is held by a firm, the firm will not need to report that position to the Exchange unless it knows that the total position held by the person in other firms has exceeded the reportable level.

Clearing participants

- 7.4. In the case where a person (or the clearing client) is clearing its positions through multiple Clearing Participants, all the parties (i.e. the clearing client and the Clearing Participant(s)) individually should ensure that their positions do not exceed the prescribed limits.
- 7.5. In particular, it should be noted that while a clearing client may aggregate and net off its positions held across Clearing Participants to determine its compliance with the prescribed limits, a Clearing Participant may breach the prescribed limits if any of the clearing client's positions held with it exceeds the limits.
- 7.6. Assume the prescribed limit for the concerned contract is 10,000 net long or short contracts. Client X is holding 12,000 long contracts with Clearing Participant A and 8,000 short contracts with Clearing Participant B.



In the above scenario, Clearing Client X is considered holding or controlling 4,000 net long contracts which is within the prescribed limit. However, Clearing Participant A is considered to have breached the prescribed limit as it is holding 12,000 long contracts for Client X. Noting that Clearing Participants generally do not have discretion on their clients' positions, Clearing Participants are advised to take note of such possibility of breaching the prescribed limits and communicate or make arrangements with their clients to avoid any breaches. On the other hand, clients who are using multiple Clearing Participants to hold their positions should also take necessary measures to ensure that their positions at any of the Clearing Participants are within the prescribed limits.

Transaction originators

- 6.4.7.7. A transaction originator is a person who is ultimately responsible for originating instructions for transactions on behalf of the other person. ~~The most common type of transaction originator is a fund manager who manages assets of a fund at his own discretion according to the investment policy of the fund.~~ As explained in paragraph 5.2 above, since the transaction originator has discretion in relation to positions he holds or controls for his principals, he is not allowed to disaggregate the positions held or controlled for each of the principals for the purpose of applying the Rules.

6.5.7.8. If the total positions controlled by a transaction originator (including positions belonging to different principals, ~~e.g. different funds,~~ but under his control) have exceeded the reportable-reporting level, the transaction originator will be required to notify the HKFE or SEHK (as the case may be) of such positions. As required in Section 6(2) of the Rules, the transaction originator should also provide the information about identities of each of his principals whose positions have exceeded contributed to the transaction originator's reportable level position. For example, assume a fund-manager-trader is in charge of the investment of three discretionary accountsfunds, namely, Fund-Account A, Fund-Account B and Fund-Account C. Currently, there are 1,000, 800 and 200 futures contracts held by Account Fund-A, Fund-Account B and Fund-Account C respectively. If the reportable level for the futures contract is 500 open contracts, the fund-manager-trader should notify the Exchange of the total positions under his control (i.e. 2,000 open contracts), names of the accounts contributing to the trader's reportable position funds in which position has exceeded the reportable level (i.e. Fund-Account A, and Fund Account B and Account C) and the positions held in these fundsaccounts.

6.6.7.9. A transaction originator can choose to notify the HKFE or SEHK (as the case may be) of the reportable positions by himself or through its agent (e.g. an Exchange Participant) which agrees to make the report on his behalf.

6.7.7.10. The prescribed limits apply to the total positions controlled by a transaction originator even if the positions are held for different principals.

Unit trusts and corporate funds

Unit trusts

~~A unit trust is a collective investment scheme ("CIS") constituted under a trust deed which pools investors' money into a single fund managed by a fund manager. In most cases, the trustee is the legal holder of positions of the unit trust. As the holder of positions of a unit trust, the trustee is required to comply with the prescribed limits and report reportable positions in relation to the positions of the unit trust of which it is acting as the trustee.~~

~~As the trustee does not typically have discretion over the positions of the unit trust or the positions of the sub-funds under an umbrella unit trust, if a trustee is acting for multiple unit trusts, it must apply the prescribed limits and the reportable positions separately to each of the unit trusts (i.e. no netting of positions between different unit trusts), and in the case of sub-funds under an umbrella unit trust, apply the prescribed limits and the reportable positions separately to each of the sub-funds (i.e. no netting of positions between different sub-funds under an umbrella unit trust).~~

~~For example, assume a trustee holds positions for two unit trusts (UT A and UT B) and one umbrella trust where there are three sub-funds (SF X, SF Y and SF Z) under the umbrella trust. UT A has 6,000 long futures contracts, UT B has 6,000 short futures contracts, SF X has 200 long futures contracts, SF Y has 500 short futures contracts and SF Z has 800 long futures contracts. Assume that the reportable level is 500 contracts and the prescribed limit is 10,000 contracts. The trustee should notify the Exchange of each of the reportable positions held by him at the unit trust~~

level or at the sub-fund level of an umbrella trust (i.e. 6,000 contracts each held by UT A and UT B respectively, 500 contracts held by SF Y and 800 contracts held by SF Z). Since these reportable positions are within the prescribed limit, the trustee fully complies with the Rules.

- If the above unit trusts and umbrella unit trust are managed by the same fund manager, the fund manager would have to aggregate all the positions of the unit trusts and the umbrella trust in the application of the prescribed limits and reportable positions, i.e. the fund manager should notify the Exchange of 500 long futures contracts under his control and the aggregated positions should not exceed the prescribed limits of 10,000 contracts.
- A trustee may report the reportable position to the HKFE or SEHK (as the case may be) itself or through its agent (e.g. an Exchange Participant) which agrees to make the report on its behalf.
- Fund manager(s) of unit trusts or of sub-funds of an umbrella unit trust will have to comply with the prescribed limits and report positions in respect of the positions held by the unit trust or sub-funds of an umbrella unit trust as explained in the previous section on “Transaction originators”.

Corporate funds

- In the case of a standalone corporate fund, the company should comply with the prescribed limits and report reportable positions in respect of the standalone corporate fund. In the case of an umbrella corporate fund that have sub-funds, the company should apply the prescribed limits and the reportable positions separately to each of the sub-funds under the umbrella corporate fund, i.e. no netting of positions between different sub-funds under an umbrella corporate fund.
- For example, assume there are three sub-funds under an umbrella corporate fund (SF X, SF Y and SF Z), SF X has 200 long futures contracts, SF Y has 500 short futures contracts and SF Z has 800 long futures contracts. Assume that the reportable level is 500 contracts and the prescribed limit is 10,000 contracts. The company should notify the Exchange of each of the reportable positions of each of the sub-funds (i.e. 500 contracts held by SF Y and 800 contracts held by SF Z). Since these reportable positions are within the prescribed limit, the company fully complies with the Rules.
- The company may report the reportable positions to the HKFE or SEHK (as the case may be) itself or through its agent (e.g. an Exchange Participant) which agrees to make the report on his behalf.
- Fund manager(s) of sub-funds of an umbrella corporate fund will have to comply with the prescribed limits and report positions in respect of the positions held by the sub-funds as explained in the previous section on “Transaction originators”.

Omnibus accounts

6.8-7.11. In the case of an omnibus account, the Rules apply separately to the positions held by each of the underlying clients of the omnibus account except where the omnibus account operator has discretion over the positions. For this reason, positions held by different underlying clients should not be netted off for purposes of calculating and reporting reportable positions or determining compliance with the prescribed limits.

6.9-7.12. If an underlying client of the omnibus account holds or controls a reportable position, the omnibus account operator should inform the HKFE or SEHK (as the case may be) of such reportable position. An omnibus account operator can notify the Exchange of the reportable positions by itself or ask its agent (e.g. an Exchange Participant) carrying the account to submit the notice of reportable positions. The notice of reportable positions should be accompanied by the information about identities of the underlying clients whose positions have exceeded the reportable level.

6.10-7.13. There are situations where an underlying client of the omnibus account is also an omnibus account, i.e. there are more than one layer of omnibus accounts. If the omnibus account operator in one layer has notified the Exchange of the reportable positions held by the ultimate clients including identities of each of them (either by itself or through its agent), the SFC accepts that the other omnibus account operators below this layer will not be required to notify the Exchange of any reportable positions held in their accounts.

Example:

Suppose that Exchange Participant A has an omnibus account B holding 1,000 long futures contracts. One of the underlying clients of omnibus account B is also an omnibus account (account C) which holds 900 long futures contracts. Positions in omnibus account C are owned by Company D (800 long futures contracts) and other small investors (a total of 100 long futures contracts).

Assume that the reportable level is 500 open contracts. Exchange Participant A should inform the Exchange of the position held by the omnibus account B (i.e. 1,000 long contracts). If the operator of omnibus account B has obtained the information about the ultimate client from the operator of omnibus account C and notified the Exchange of the reportable position held by Company D including its identity (the reportable position can be reported to the Exchange by the operator B itself or through the Exchange Participant A), the operator of omnibus account C will not be required to submit any notice of reportable positions to the Exchange.

6.11-7.14. Where the omnibus account operator has discretion over positions held with it, it should aggregate such positions with its own position in the application of the prescribed limits.

Examples illustrating the use of excess positions

Example 1:

Assume a firm's proprietary trading desk has a position of HSI futures contracts equivalent to 9,000 position delta, and that its sales desk wants to facilitate clients' trades resulting in the use of about 30,000 HSI futures contracts for hedging purpose. Assume also that the specified percentage is 300%. Can the firm apply for excess?

- Yes, it can apply for excess of up to 30,000 contracts. However, the size of excess positions authorized for an applicant will be determined on a case by case basis after taking into consideration various factors such as the prevailing market situation.

If an excess of 30,000 contracts is authorized, the firm's limit will increase to 40,000 contracts—

- The firm can use up to 10,000 contracts for proprietary trading purposes and any remaining balance for client facilitation purposes. The firm may therefore also use the entire 40,000 limit for client facilitation purposes if it holds no proprietary trading position.
- The SFC is not concerned as to the order in which the limit is consumed (i.e. whether the limit is first used to acquire contracts for client facilitation purposes and then for proprietary trading purposes or vice versa). ~~However, the firm should be concerned to~~ ensure that any holdings over 10,000 contracts are held only for client facilitation purposes – i.e. that holdings for proprietary trading purposes do not exceed the statutorily prescribed limit.

Example 2:

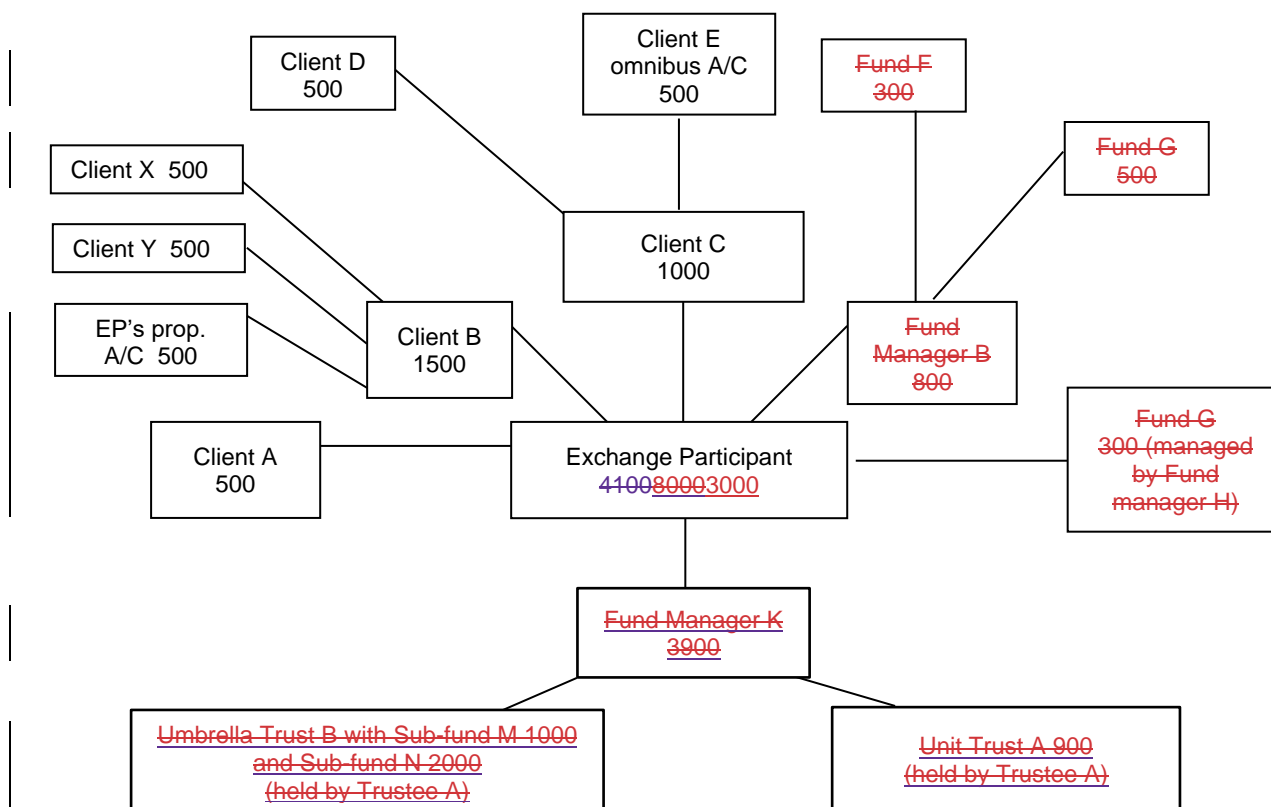
Assume a firm already holds a short position in HSI futures contract equivalent to 8,000 position delta for its proprietary trading business, and that it wishes to hold another 30,000 position delta for its index arbitrage activities in the same short direction. Assume that the specified percentage is 300%. Can the firm apply for excess?

- Yes, it can apply for excess of up to 30,000 contracts. However, the size of excess positions authorized for an applicant will be determined on a case by case basis after taking into consideration various factors such as the prevailing market situation.

If an excess of 30,000 contracts is authorized, the firm's limit will increase to 40,000 contracts—

- The firm can use up to 10,000 contracts for its proprietary trading business (not including index arbitrage activities) and any remaining balance for its index arbitrage activities. The firm may therefore also use the entire 40,000 limit for its index arbitrage activities if it holds no other proprietary trading position.

For example: Reportable Position is 450 contracts



Client A has an account with the Exchange Participant which contains 500 contracts.

The Exchange Participant has a client account under the name of **Client B** which it uses for booking transactions for his **proprietary trading** and for the trading of **Clients X and Y**. Client X and Client Y each holds 500 contracts. The Exchange Participant's proprietary position booked into the Client B account is also 500 contracts. The Client B account therefore has a total of 1500 contracts. Provided that the Exchange Participant does not have discretion over Client X's and Client Y's positions, Client X, Client Y and the Exchange Participant's proprietary position can each be treated separately (i.e. disaggregated) by virtue of Section 7 of the Rules.

Client C is a non-exchange participant agent. He holds positions for Clients D and E who have 500 contracts each. Client E is an omnibus account. Provided that Client C does not have discretion over Client D's and Client E's positions, positions held for Clients D and E can be treated separately. In respect of the omnibus account itself, if the operator of Client E does not have discretion over positions in the account, it can apply disaggregation to the positions held for each of the underlying clients.

~~**Fund Manager B** has an account with the Exchange Participant. He manages **Funds F and G** which hold 300 and 500 contracts respectively. Separately, Fund G has an account with the Exchange Participant. This account is managed by Fund Manager H. Fund G, through this account, holds 300 contracts. Funds F and G's trades held by Fund Manager B are executed by him. The positions held~~

~~for Funds F and G cannot be treated separately as Fund Manager B has discretion over these positions.~~

~~Trustee A acts for Unit Trust A which holds 900 contracts and Umbrella Trust B which has Sub-fund M with 1,000 contracts and Sub-fund N with 2,000 contracts. Both Unit Trust A and Umbrella Trust B are managed by Fund Manager K. Trustee A should disaggregate the positions of Unit Trust A, Sub-fund M and Sub-fund N as it does not have discretion over these positions. However, Fund manager K should aggregate the positions of Unit Trust A, Sub-fund M and Sub-fund N.~~

Notices of Reportable Positions to be filed –

(a) the Exchange Participant should notify the Exchange of –

- 500 contracts each for its proprietary position and Client A, 1500 contracts held by Client B, 1000 contracts held by Client C, ~~and 800 contracts held by Fund Manager B and 3,900 contracts held by Fund Manager K.~~

(b) Client B should notify the Exchange of 500 contracts each held by the EP's Exchange Participant's proprietary account, Client X and Y.

(c) Client A, Client X, Client Y, Client D, Client E, should each notify the Exchange of their own positions of 500 contracts.

(d) Client C should notify the Exchange of 500 contracts each held by Client D and Client E.

~~(e) Fund Manager B should notify the Exchange of the 800 contracts he controls and that 500 contracts are for Fund G.~~

~~(f)(e) Fund G should notify the Exchange of its 800 contracts, 500 of which are held by Fund Manager B and 300 held by Fund Manager H.~~

~~(g)(f) Trustee A should notify the Exchange separately of the 900 contracts held for Unit Trust A, the 1,000 contracts held for Sub-fund M under Umbrella Trust B, and the 2,000 contracts for Sub-fund N.~~

~~(h) Fund manager K should notify the Exchange of 3,900 contracts he controls that comprises of 900 contracts of Unit Trust A, 1,000 contracts of Sub-fund M under Umbrella Trust B and 2,000 contracts of Sub-fund N.~~


Notwithstanding the above filing requirements, the notice of a reportable position may be submitted by the agent or the person acting as principal (see paragraph 4.4). As long as there is an arrangement in place for reporting such positions, the SFC accepts that if one of the parties appointed agent has submitted the notice of reportable position, the other parties principal will not be required to notify the Exchange of the same reportable positions.



Appendix C – List of respondents to the Second Consultation

(in alphabetical order)

1. Futures Industry Association
2. Hong Kong Investment Funds Association
3. Hong Kong Trustees' Association
4. Anonymous – two respondents requested not to publish their identities
5. Anonymous – two respondents requested not to publish their identities and the contents of their submissions



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