

**SECURITIES AND FUTURES (LEVERAGED FOREIGN EXCHANGE
TRADING - EXEMPTION) RULES**

(Made by the Securities and Futures Commission
under section 397(1) of the Securities and
Futures Ordinance (5 of 2002))

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of Part XVI of the Securities and Futures Ordinance (5 of 2002).

2. Interpretation

In these Rules, unless the context otherwise requires –
“listed currency warrant” (上市貨幣權證) means a warrant –

- (a) that gives the holder of the warrant a right to receive from the issuer of the warrant a cash payment, on exercise, in the event that one specified currency is worth more or less (as the case may be) in relation to another specified currency on a specified date; and
- (b) that -
 - (i) is listed; or
 - (ii) it is reasonably foreseeable will be listed within a period of 14 days from the date that the warrant is first offered for sale;

“foreign exchange trading” (外匯交易) and “leveraged foreign exchange trading” (槓桿式外匯交易) have the same meaning as in Part 2 of Schedule 5 to the Ordinance.

3. Exemption under paragraph (xiii) of the definition of “leveraged foreign exchange trading” in Part 2 of Schedule 5 to the Ordinance

For the purposes of the Ordinance, other than section 174(1) of the Ordinance, “foreign exchange trading” (外匯交易) and “leveraged foreign exchange trading” (槓桿式外匯交易) do not include any act performed for or in connection with a contract or arrangement or a proposed contract or arrangement by any person belonging to the class specified –

- (a) in section 4;
- (b) in section 5;
- (c) in section 6.

4. Qualifying class 1

(1) A person belongs to the class referred to in section 3(a) if it is a corporation that -

- (a) satisfies the conditions set out in subsection (2); and
- (b) complies with the provisions of subsection (3).

- (2) The conditions referred to in subsection (1)(a) are that -
- (a) (i) the corporation has a qualifying credit rating; or
 - (ii) the shares of the corporation are wholly-owned, directly or indirectly, by another corporation, or by a partnership, which has such a rating; and
 - (b) (i) the principal business of the corporation is not in leveraged foreign exchange spot transactions; or
 - (ii) the average principal amount of each transaction in the corporation's leveraged foreign exchange spot trading, calculated for each financial year of the corporation, is not less than \$7.8 million.
- (3) The corporation must, annually, within 4 months after the end of its financial year -
- (a) notify the Commission in writing that it satisfies the conditions referred to in subsection (2); and
 - (b) provide the Commission with sufficient information to enable the Commission to verify that the corporation does satisfy the conditions referred to in subsection (2).
- (4) If a corporation ceases to satisfy the conditions set out in subsection (2)(a) it shall within 7 days thereof notify the Commission in writing of the cessation.
- (5) For the purposes of this section, the average principal amount of each transaction shall be computed by dividing the aggregate of all principal amounts of leveraged foreign exchange spot transactions during the relevant financial year by the total number of such transactions for that year.

5. Qualifying class 2

A person belongs to the class referred to in section 3(b) if it is—

- (a) a licensed person and the act performed is for or in connection with a contract or arrangement, or a proposed contract or arrangement for the sale, purchase or transfer of a listed currency warrant; or
- (b) a client of the licensed person and the act performed is for or in connection with a contract or arrangement, or a proposed contract or arrangement for the sale, purchase or transfer of a listed currency warrant through the licensed person.

6. Qualifying class 3

A corporation belongs to the class referred to in section 3(c) if it is the issuer of the listed currency warrant, or a member of the same group of companies as the issuer of the currency warrant, and the act performed is for or in connection with a contract or arrangement, or a proposed contract or arrangement for the sale, purchase or transfer of a listed currency warrant -

- (a) between the issuer of the listed currency warrant, or members of the same group of companies as the issuer of the currency warrant, and a licensed person referred to in section 5;
- (b) between the issuer of the listed currency warrant and members of its group of companies; or
- (c) between members of the same group of companies as the issuer of the listed currency warrant.

Chairman,
Securities and Futures
Commission

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Explanatory Note

These Rules are made by the Securities and Futures Commission under section 397(1) of the Securities and Futures Ordinance (5 of 2002). They prescribe certain persons as belonging to a qualifying class of persons for the purposes of paragraph (xiii) of the definition of “leveraged foreign exchange trading” in Part 2 of Schedule 5 to the principal Ordinance. This means that the foreign exchange trading and leveraged foreign exchange trading activities of such persons are excluded from the definitions of “leveraged foreign exchange trading” and “foreign exchange trading” in Part 2 of Schedule 5 to the principal Ordinance. As a consequence, persons belonging to the qualifying classes need not be licensed for such activities.