



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

Consultation on proposed increase of position limits for exchange-traded derivatives based on Hang Seng Index, Hang Seng China Enterprises Index and Hang Seng TECH Index

February 2025

Contents

Foreword	3
Personal Information Collection Statement	4
Executive summary	6
Part I	
Background	7
Proposal	7
Rationale	8
Part II	
Proposed amendments to the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap 571Y)	11
Part III	
Proposed amendments to the Guidance Note on Position Limits and Large Open Position Reporting Requirements	11
Concluding remarks	11
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	
Appendix B	
Proposed amendments to the Guidance Note on Position Limits and Large Open Position Reporting Requirements	



Foreword

The Securities and Futures Commission (**SFC**) invites market participants and interested parties to submit written comments on the proposals discussed in this consultation paper or on related matters that might have a significant impact upon the proposals by no later than 28 March 2025.

Written comments may be sent as follows:

Mail : The Securities and Futures Commission
54/F One Island East
18 Westlands Road
Quarry Bay, Hong Kong

Re: Consultation on changes to the Position Limit Regime

Fax : (852) 2521 7917

Online : <http://apps.sfc.hk/edistributionWeb/gateway/EN/consultation/doc?refNo=25CP2>

Email : position-limit@sfc.hk

Any person who wishes to submit comment on behalf of any organisation should provide the details of the organisation whose views are represented.

Please note that the names of the commentators and the contents of their submissions may be published on the SFC's website and in other documents to be published by the SFC. In this connection, please read the Personal Information Collection Statement set out in this consultation paper.

If you do not want your personal information, affiliation or the contents of your submission to be disclosed to the public, please state this clearly in your submission. In this regard, a standard confidentiality statement in an email will not be considered as a request for non-disclosure.

After the consultation ends, a consultation conclusions paper will be published in due course.

Securities and Futures Commission
Hong Kong

February 2025

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This Personal Information Collection Statement (**PICS**) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which your Personal Data¹ will be used following collection, what you are agreeing to with respect to the SFC's use of your Personal Data and your rights under the Personal Data (Privacy) Ordinance (Cap. 486) (**PDPO**).

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- (ii) in performing the SFC's statutory functions under the relevant provisions;
- (iii) for research and statistical purposes; or
- (iv) for other purposes permitted by law.

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Personal Data may be disclosed by the SFC to members of the public in Hong Kong and elsewhere as part of the public consultation on the consultation paper. The names of persons who submit comments on this consultation paper, together with the whole or part of their submissions, may be disclosed to members of the public. This will be done by publishing this information on the SFC website and in documents to be published by the SFC during the consultation period or at its conclusion.

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You have the right to request access to and correction of your Personal Data in accordance with the provisions of the PDPO. Your right of access includes the right to obtain a copy of your Personal Data provided in your submission on this consultation paper. The SFC has the right to charge a reasonable fee for processing any data access request.

Retention

Personal Data provided to the SFC in response to this consultation paper will be retained for such period as may be necessary for the proper discharge of the SFC's functions.

¹ Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance (Cap. 486).

² The term "relevant provisions" is defined in Section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571) and refers to the provisions of that Ordinance together with certain provisions in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32), the Companies Ordinance (Cap. 622) and the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615).



Enquiries

Any enquiries regarding the Personal Data provided in your submission on this consultation paper, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

Data Privacy Officer
Securities and Futures Commission
54/F One Island East
18 Westlands Road
Quarry Bay, Hong Kong

A copy of the Privacy Policy Statement adopted by the SFC is available upon request.

Executive summary

1. Pursuant to section 35(1) of the Securities and Futures Ordinance (Cap. 571) (**SFO**), the SFC is empowered to prescribe position limits on futures and options contracts traded on Hong Kong Futures Exchange Limited (**HKFE**) and stock options contracts traded on The Stock Exchange of Hong Kong Limited (**SEHK**). The statutory prescribed limits cap the number of specified futures/options contracts and stock options contracts that any person may hold or control. The SFC regularly reviews and enhances the position limit regime to ensure it stays relevant for the Hong Kong financial market.
2. In view of market growth over the years, the SFC proposes to raise the position limits for the futures and options contracts based on Hang Seng Index, Hang Seng China Enterprises Index and Hang Seng TECH Index (collectively, **Hang Seng Indexes Derivatives**) traded on HKFE to 15,000, 25,000 and 30,000 position deltas respectively, such that the limits remain appropriate and fit-for-purpose.
3. In determining the limit levels, the SFC has taken into account various factors, including the growth in market size and liquidity, as well as the existing utilisation of position limits by market participants. Overall, it is considered that the proposed changes will meet the needs of most market participants, without introducing additional risks to the Hong Kong financial market.
4. To facilitate implementation of the proposal, amendments will be made to the Securities and Futures (Contracts Limits and Reportable Positions) Rules (Cap. 571Y) (**Rules**) and the Guidance Note on Position Limits and Large Open Position Reporting Requirements (**GN**).
5. This paper comprises three parts:
 - (a) Part I sets out the background, the proposed changes and the rationale behind them.
 - (b) Part II sets out the proposed amendments to the Rules.
 - (c) Part III sets out the proposed changes to the GN.

Part I

Background

6. The position limit regime, which comprises statutory position limits and reportable position reporting requirements, was put in place in 1999 after the Asian Financial Crisis. Its purpose is to strengthen the transparency of the Hong Kong securities and futures markets, and prevent and discourage the buildup of large positions which may affect the orderly functioning and stability of the Hong Kong financial market.
7. Under the regime, the SFC is empowered to prescribe position limits in the Rules, which apply to futures and options contracts traded on HKFE and stock options contracts traded on SEHK. The prescribed limits cap the number of specified futures/options contracts and stock options contracts that any person may hold or control (unless the person is authorized to hold or control those contracts in excess of the prescribed limits).
8. At present, the Rules stipulate the position limits for HKFE's Hang Seng Indexes Derivatives. The prescribed limits of these derivatives contracts are the same as those stipulated in the rules of HKFE. Therefore, any person holding a position above the prescribed limit does not only breach the exchange rules but may also commit a criminal offence under the Rules. The creation of the offence under the Rules gives regulatory teeth to the position limit regime and enhances deterrence against disruptive behaviour that may affect the stability of the Hong Kong financial market.
9. Over the years, the SFC has reviewed the position limit regime regularly to ensure it keeps pace with market development. To date, the regime has helped fulfil the SFC's regulatory objectives of maintaining and promoting orderly securities and futures markets.

Proposal

10. In view of market growth, the SFC, after discussing with the Hong Kong Exchanges and Clearing Limited (**HKEX**), proposes to increase the position limits of the Hang Seng Indexes Derivatives traded on HKFE as follows. The proposal will help bolster the Hong Kong financial market's competitiveness.

Underlying Index	Existing position limit (net long/short position delta)	Proposed position limit (net long/short position delta)
Hang Seng Index (HSI)	10,000	15,000
Hang Seng China Enterprises Index (HSCEI)	12,000	25,000
Hang Seng TECH Index (HSTECH)	21,000	30,000

11. In considering the limit adjustment, the SFC is mindful that the primary objective of establishing statutory position limits is to manage systemic risk of the Hong Kong financial market. Therefore, besides market growth, we also look into the utilisation of existing position limits by market participants and the potential impact that adjustment to these limits might have on the Hong Kong financial market. We set forth our assessment in respect of the different factors in the following paragraphs.

Rationale

Facilitating market growth

12. Among others, position limits need to factor in the underlying market size and its growth. Over the past decade, the Hong Kong stock market has grown significantly, in part due to an increasing number of large-cap listings.
13. For HSI and HSCEI, their market capitalisations have risen by around 60% and 250% respectively in a decade. The average daily turnover of their constituents has also increased by about 160% and 300% respectively. However, the notional values (NV) of the position limits of the HSI and HSCEI contracts did not reflect similar growth during this period.
14. Too small a position limit may unduly hinder the hedging and trading activities in the underlying market. In this regard, the SFC considers that there is room to increase the position limits of HSI and HSCEI derivatives to facilitate the growth of the Hong Kong financial market.
15. For the HSTECH derivatives, we note a discrepancy between the growth in the NV of position limits and the growth in the underlying market size or liquidity. However, the discrepancy is less pronounced as these products have only been introduced since 2020.

Utilisation of position limits

16. While market growth might indicate a need for higher position limits, it is important to ascertain whether the demand indeed exists. Considering market participants may establish positions in the over-the-counter (OTC) market if they are not allowed to open new positions in HKFE due to the position limit restriction, we analyse the combined positions held by market participants in both the exchange-traded and OTC markets in 2024 based on regulatory reporting data. This analysis allows us to better assess the adequacy of the existing position limits.
17. For the HSI, HSCEI and HSTECH derivatives contracts, a notable number of market participants had their combined positions (ie. exchange-traded and OTC derivatives) once exceeding the statutory position limits in notional terms.
18. To better calibrate the limits, we also examine the usage by market participants who are authorised by the SFC to hold or control excess position limits. Under the Rules, market participants may apply to the SFC for excess position limits of Hang Seng Indexes Derivatives for specified business needs, ie, client facilitation, index

arbitrage, asset management, and the provision of clearing services. At present, a number of firms have been granted excess position limits in the HSI, HSCEI and/or HSTECH derivatives for client facilitation purposes. Based on the filings by these firms, which show their utilisation of the excess position limits, we note the following:

- i. For HSI derivatives, the firms generally requested an excess limit of no more than 200% of the statutory limit. However, their utilisation was very low, as the excess limit serves as a buffer to meet their potential business needs.
- ii. For HSCEI derivatives, the requested excess limits ranged between 100-200% of the statutory limit, and the usage was higher. The maximum usage observed was about two times the statutory level.
- iii. For HSTECH derivatives, which were launched in recent years, limited data are available, and the maximum usage observed so far was around 150% of the statutory level.

19. Based on the above observations, it appears that only a limited number of market participants might require a position limit that goes beyond two times the current statutory levels.

Proposed increase of position limits

20. Taking into consideration market growth and the utilisation of existing position limits, we propose raising the position limits for Hang Seng Indexes Derivatives as follows:

- i. For HSI derivatives, while the NV of its position limit has declined relative to the underlying market size and turnover, there does not appear to be a strong need from market participants to hold or control positions exceeding the current limit. Raising the position limit to 15,000 position delta (from the current 10,000) is proposed.
- ii. For HSCEI derivatives, the NV of its position limit has also declined relative to the underlying market size and turnover. Yet, given that there seems to be stronger demand from market participants for a higher limit, raising the position limit to 25,000 position delta (from the current 12,000) is proposed.
- iii. For HSTECH derivatives, the NV of its position limit has remained relatively stable compared to market size and turnover. Nevertheless, various data (eg, the positions established in OTC market) suggests market participants have potential need to establish positions exceeding the current limit in the exchange-traded market. We propose to raise the position limit to 30,000 position delta (from the current 21,000).

21. The SFC's policy is to set position limits at levels which are adequate to meet the business needs of the majority of market participants. If a market participant needs a higher position limit due to specific business consideration, it may seek the SFC's authorisation for an excess limit under sections 4B to 4F of the Rules. This authorisation process allows the SFC to assess the need for an excess limit on a case-by-case basis.

22. We are aware that even if the position limits are raised, some market participants may still prefer to use OTC derivatives to establish positions, given that the nature of OTC trades may better serve their trading or hedging needs. Hence, the proposed increase in the position limits is not intended to attract activities from the OTC market to the exchange-traded market. Separately, as a result of implementing the OTC derivatives regulatory regime in recent years, the SFC has enhanced its ability to monitor activities in the OTC market and take swift action in the event of any irregularities.

Potential systemic impact of raising the position limits

23. As of end-October 2024, the NV of the aggregate position limits of Hang Seng Indexes Derivatives accounted for 4% of their total open positions, or 8% of their total turnover. To assess the potential systemic impact of raising the position limits as proposed, we have conducted an assessment in respect of both the exchange and OTC markets. The result shows that the impact on the markets would not be excessive.

24. More importantly, the SFC has developed a comprehensive framework for market monitoring over the years, enabled by the short position reporting regime for the stock market, the large open position reporting regime for the exchange-traded futures and options market, and the mandatory reporting regime for the OTC derivatives market. This framework allows comprehensive monitoring of positions across the markets, timely detection of position buildups, as well as early identification and assessment of potential systemic risk to the Hong Kong financial market.

25. On the whole, we are of the view that the proposed increase of position limits for the Hang Seng Indexes Derivatives will not introduce additional risks to the Hong Kong financial market. With their sizes properly recalibrated based on market data, even under extreme scenarios, the position limits will remain effective in serving their purposes, ie, to prevent position buildups that could pose systemic risk to the Hong Kong financial market.

Question (please provide reasons in support of your comments):

Do you support the proposed increase of position limits for the Hang Seng Indexes Derivatives as set out in this paper?

Part II

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

26. Appendix A1 to this consultation paper contains the Rules with proposed amendments (which are marked up for easy reference) to reflect the above proposals. Moreover, in light of HKEX's recent launch of weekly stock options, housekeeping changes are proposed to clarify that the current prescribed limits and reporting levels for stock options are not confined to monthly contracts. Appendix A2 is a clean version of the amended Rules. The amendments are as follows:

- i. The prescribed limit for HSI futures, options and futures options contracts in item 4 of Schedule 1 to the Rules is amended to 15,000 net long or short position delta.
- ii. The prescribed limit for HSCEI futures, options and futures options contracts in item 5 of Schedule 1 to the Rules is amended to 25,000 net long or short position delta.
- iii. The prescribed limit for HSTECH futures, options and futures options contracts in item 21 of Schedule 1 to the Rules is amended to 30,000 net long or short position delta.
- iv. The prescribed limits and reporting levels for stock options contracts in Schedule 2 to the Rules are amended to replace references to “expiry month” with references to “expiry”, so that weekly stock options can be covered.

Part III

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

27. In addition to the Rules, corresponding amendments to the GN are required. The proposed revisions to the GN are set out in Appendix B and marked up for easy reference.

Concluding remarks

28. The proposed increase of position limits for exchange-traded Hang Seng Indexes Derivatives will be conducive to the further development of the Hong Kong financial market, and strengthen the city's status as an international financial and risk management centre. Based on our assessment, the proposal will not introduce undue systemic risk to the Hong Kong financial market.

29. We invite the public and other stakeholders to submit written comments on the proposal **on or before 28 March 2025**.



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; and
- (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; (L.N. 149 of 2023)

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; L.N. 149 of 2023)

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; (L.N. 149 of 2023)

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; L.N. 149 of 2023)

fund (基金) means a collective investment scheme; (L.N. 149 of 2023)

HKFECC (期貨結算公司) means the recognized clearing house known as HKFE Clearing Corporation Limited; (L.N. 149 of 2023)

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 fund, means a document— (*L.N. 149 of 2023*)

- (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; L.N. 149 of 2023*)

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. 149 of 2023*)

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 in excess of the reporting level of such a contract; (*L.N. 149 of 2023*)

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; (*L.N. 149 of 2023*)

scheme property (計劃財產), in relation to a fund, means the property under the fund; (*L.N. 149 of 2023*)

SEOCH (期權結算公司) means the recognized clearing house known as The SEHK Options Clearing House Limited; (*L.N. 149 of 2023*)

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), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix) as an underlying index; or
- (c) a stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract; (*L.N. 149 of 2023*)

specified percentage (指明百分率) means 300%; (*L.N. 44 of 2017; L.N. 149 of 2023*)

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; *(L.N. 149 of 2023)*

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; *(L.N. 149 of 2023)*

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. *(L.N. 149 of 2023)*

(9 of 2012 s. 55; L.N. 149 of 2023)

- (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. *(L.N. 149 of 2023)*
- (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. *(L.N. 149 of 2023)*
- (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. *(L.N. 149 of 2023)*

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. *(L.N. 149 of 2023)*

- (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; L.N. 149 of 2023)*
- (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— *(L.N. 149 of 2023)*
 - (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 4F— *(L.N. 149 of 2023)*
 - (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; *(L.N. 149 of 2023)*
- (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. 149 of 2023)*
- (e) a clearing participant of HKFECC or SEOCH 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. *(L.N. 149 of 2023)*

(L.N. 44 of 2017)

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—
 - (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.

(L.N. 149 of 2023)

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; L.N. 149 of 2023*)
 - (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. (*L.N. 149 of 2023*)

- (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. (*L.N. 149 of 2023*)
- (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. (*L.N. 149 of 2023*)
- (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. 149 of 2023*)
- (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. (*L.N. 149 of 2023*)

7. Compliance by certain persons

- (1) Subject to section 7A, 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— (*L.N. 149 of 2023*)
 - (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— (*L.N. 149 of 2023*)
 - (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.
- (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. (*L.N. 149 of 2023*)
- (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. (*L.N. 149 of 2023*)

(L.N. 35 of 2004; L.N. 149 of 2023)

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);
 - (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.

(L.N. 149 of 2023)

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 contract on shares listed on a stock market operated by the Stock Exchange Company (<i>L.N. 149 of 2023</i>)	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.	<p>(a) Stock index futures contract that has one of the following indices as an underlying index—</p> <p>(i) Hang Seng Index;</p> <p>(ii) Hang Seng Index (Gross Total Return Index);</p> <p>(iii) Hang Seng Index (Net Total Return Index)</p> <p>(b) Stock index options contract that has one of the indices referred to in paragraph (a)(i), (ii) and (iii) as an underlying index</p> <p>(c) Stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract (<i>L.N. 149 of 2023</i>)</p>	<p>10 000 15 000 net long or short position delta limit for all contract periods (including contract months or contract weeks) combined</p>	<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</p> <p>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>

Item	Futures contract	Prescribed limit	Reporting level
5.	<p>(a) Stock index futures contract that has one of the following indices as an underlying index—</p> <p>(i) Hang Seng China Enterprises Index;</p> <p>(ii) Hang Seng China Enterprises Index (Gross Total Return Index);</p> <p>(iii) Hang Seng China Enterprises Index (Net Total Return Index)</p> <p>(b) Stock index options contract that has one of the indices referred to in paragraph (a)(i), (ii) and (iii) as an underlying index</p> <p>(c) Stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract (<i>L.N. 149 of 2023</i>)</p>	<p>12 000 <u>25 000</u> net long or short position delta limit for all contract periods (including contract months or contract weeks) combined</p>	<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>
6.	Hang Seng China H-Financials Index futures contract	10 000 net long or short contracts for all contract months combined (<i>L.N. 149 of 2023</i>)	500 open contracts for any one contract month
7.	<i>(Repealed L.N. 149 of 2023)</i>		
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 (<i>L.N. 149 of 2023</i>)
9.	<i>(Repealed L.N. 149 of 2023)</i>		

Appendix A1

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 (<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 (<i>L.N. 149 of 2023</i>)	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
14.	<i>(Repealed L.N. 149 of 2023)</i>		
15.	<i>(Repealed L.N. 149 of 2023)</i>		
16.	<i>(Repealed L.N. 149 of 2023)</i>		
17.	Stock futures contract on shares or units of exchange traded funds (<i>L.N. 149 of 2023</i>)	25 000 net long or short contracts for all contract months combined	1 000 open contracts for any one contract month
18.	<i>(Repealed L.N. 149 of 2023)</i>		
19.	<i>(Repealed L.N. 149 of 2023)</i>		
20.	<i>(Repealed L.N. 149 of 2023)</i>		
21.	(a) Stock index futures contract that has one of the following indices as an underlying index— (i) Hang Seng TECH Index; (ii) Hang Seng TECH Index (Gross Total Return Index); (iii) Hang Seng TECH Index	21 000 30 000 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

Appendix A1

Item	Futures contract (Net Total Return Index)	Prescribed limit	Reporting level (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
	(b) Stock index options contract that has one of the indices referred to in paragraph (a)(i), (ii) and (iii) as an underlying index		
	(c) Stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract (<i>L.N. 149 of 2023</i>)		
22.	MSCI China A 50 Connect (USD) Index futures contract (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	8 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
28.	Australian Dollar vs Renminbi (Hong Kong) futures contract (<i>L.N. 149 of 2023</i>)	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 (<i>L.N.</i>	12 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month

Appendix A1

Item	Futures contract	Prescribed limit	Reporting level
	<i>149 of 2023)</i>		
30.	Indian Rupee vs Renminbi (Hong Kong) futures contract <i>(L.N. 149 of 2023)</i>	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 <i>(L.N. 149 of 2023)</i>	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)

Schedule 2

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

Prescribed Limit and Reporting Level for Stock Options Contracts

Item	Stock options 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. 149 of 2023</i>)	250 000 open contracts per option class in any one market direction for all expiry months <u>expiries</u> combined	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. 149 of 2023</i>)	250 000 open contracts per option class in any one market direction for all expiry months <u>expiries</u> combined	1 000 open contracts per option class per expiry month
3-4.	<i>(Repealed L.N. 228 of 2015)</i>		

(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; and
- (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; (L.N. 149 of 2023)

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; L.N. 149 of 2023)

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; (L.N. 149 of 2023)

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; L.N. 149 of 2023)

fund (基金) means a collective investment scheme; (L.N. 149 of 2023)

HKFECC (期貨結算公司) means the recognized clearing house known as HKFE Clearing Corporation Limited; (L.N. 149 of 2023)

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 fund, means a document— (*L.N. 149 of 2023*)

- (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; L.N. 149 of 2023*)

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. 149 of 2023*)

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 in excess of the reporting level of such a contract; (*L.N. 149 of 2023*)

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; (*L.N. 149 of 2023*)

scheme property (計劃財產), in relation to a fund, means the property under the fund; (*L.N. 149 of 2023*)

SEOCH (期權結算公司) means the recognized clearing house known as The SEHK Options Clearing House Limited; (*L.N. 149 of 2023*)

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), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix) as an underlying index; or
- (c) a stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract; (*L.N. 149 of 2023*)

specified percentage (指明百分率) means 300%; (*L.N. 44 of 2017; L.N. 149 of 2023*)

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; *(L.N. 149 of 2023)*

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; *(L.N. 149 of 2023)*

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. *(L.N. 149 of 2023)*

(9 of 2012 s. 55; L.N. 149 of 2023)

- (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. *(L.N. 149 of 2023)*
- (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. *(L.N. 149 of 2023)*
- (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. *(L.N. 149 of 2023)*

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. *(L.N. 149 of 2023)*

- (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; L.N. 149 of 2023)*
- (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— *(L.N. 149 of 2023)*
 - (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 4F— *(L.N. 149 of 2023)*
 - (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; *(L.N. 149 of 2023)*
- (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. 149 of 2023)*
- (e) a clearing participant of HKFECC or SEOCH 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. *(L.N. 149 of 2023)*

(L.N. 44 of 2017)

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—
 - (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.

(L.N. 149 of 2023)

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; L.N. 149 of 2023*)
 - (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. (*L.N. 149 of 2023*)

- (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. (*L.N. 149 of 2023*)
- (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. (*L.N. 149 of 2023*)
- (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. 149 of 2023*)
- (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. (*L.N. 149 of 2023*)

7. Compliance by certain persons

- (1) Subject to section 7A, 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— (*L.N. 149 of 2023*)
 - (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— (*L.N. 149 of 2023*)
 - (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.
- (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. (*L.N. 149 of 2023*)
- (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. (*L.N. 149 of 2023*)

(L.N. 35 of 2004; L.N. 149 of 2023)

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);
 - (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.

(L.N. 149 of 2023)

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 contract on shares listed on a stock market operated by the Stock Exchange Company (<i>L.N. 149 of 2023</i>)	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.	<p>(a) Stock index futures contract that has one of the following indices as an underlying index—</p> <p>(i) Hang Seng Index;</p> <p>(ii) Hang Seng Index (Gross Total Return Index);</p> <p>(iii) Hang Seng Index (Net Total Return Index)</p> <p>(b) Stock index options contract that has one of the indices referred to in paragraph (a)(i), (ii) and (iii) as an underlying index</p> <p>(c) Stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract (<i>L.N. 149 of 2023</i>)</p>	15 000 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</p> <p>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>

Item	Futures contract	Prescribed limit	Reporting level
5.	<p>(a) Stock index futures contract that has one of the following indices as an underlying index—</p> <p>(i) Hang Seng China Enterprises Index;</p> <p>(ii) Hang Seng China Enterprises Index (Gross Total Return Index);</p> <p>(iii) Hang Seng China Enterprises Index (Net Total Return Index)</p> <p>(b) Stock index options contract that has one of the indices referred to in paragraph (a)(i), (ii) and (iii) as an underlying index</p> <p>(c) Stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract (<i>L.N. 149 of 2023</i>)</p>	<p>25 000 net long or short position delta limit for all contract periods (including contract months or contract weeks) combined</p>	<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>
6.	Hang Seng China H-Financials Index futures contract	10 000 net long or short contracts for all contract months combined (<i>L.N. 149 of 2023</i>)	500 open contracts for any one contract month
7.	<i>(Repealed L.N. 149 of 2023)</i>		
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 (<i>L.N. 149 of 2023</i>)
9.	<i>(Repealed L.N. 149 of 2023)</i>		

Appendix A2

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 (<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 (<i>L.N. 149 of 2023</i>)	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
14.	<i>(Repealed L.N. 149 of 2023)</i>		
15.	<i>(Repealed L.N. 149 of 2023)</i>		
16.	<i>(Repealed L.N. 149 of 2023)</i>		
17.	Stock futures contract on shares or units of exchange traded funds (<i>L.N. 149 of 2023</i>)	25 000 net long or short contracts for all contract months combined	1 000 open contracts for any one contract month
18.	<i>(Repealed L.N. 149 of 2023)</i>		
19.	<i>(Repealed L.N. 149 of 2023)</i>		
20.	<i>(Repealed L.N. 149 of 2023)</i>		
21.	(a) Stock index futures contract that has one of the following indices as an underlying index— <ul style="list-style-type: none"> (i) Hang Seng TECH Index; (ii) Hang Seng TECH Index (Gross Total Return Index); (iii) Hang Seng TECH Index 	30 000 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

Item	Futures contract (Net Total Return Index)	Prescribed limit	Reporting level (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
	(b) Stock index options contract that has one of the indices referred to in paragraph (a)(i), (ii) and (iii) as an underlying index		
	(c) Stock index futures options contract that has a stock index futures contract referred to in paragraph (a) as an underlying contract (<i>L.N. 149 of 2023</i>)		
22.	MSCI China A 50 Connect (USD) Index futures contract (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	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 (<i>L.N. 149 of 2023</i>)	8 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month
28.	Australian Dollar vs Renminbi (Hong Kong) futures contract (<i>L.N. 149 of 2023</i>)	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 (<i>L.N.</i>	12 000 net long or short contracts for all contract months combined	500 open contracts for any one contract month

Appendix A2

Item	Futures contract	Prescribed limit	Reporting level
	<i>149 of 2023)</i>		
30.	Indian Rupee vs Renminbi (Hong Kong) futures contract <i>(L.N. 149 of 2023)</i>	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 <i>(L.N. 149 of 2023)</i>	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)

Schedule 2

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

Prescribed Limit and Reporting Level for Stock Options Contracts

Item	Stock options 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. 149 of 2023</i>)	250 000 open contracts per option class in any one market direction for all expiries combined	1 000 open contracts per option class per expiry
2.	Stock options contract on shares or units of exchange traded funds (<i>L.N. 149 of 2023</i>)	250 000 open contracts per option class in any one market direction for all expiries combined	1 000 open contracts per option class per expiry
3-4.	<i>(Repealed L.N. 228 of 2015)</i>		

(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

Contents

目錄

1. Introduction	3
2. Prescribed Limits on Futures and Stock Options Contracts.....	3
3. Authorization to Exceed Prescribed Limits.....	5
4. Notice of Reportable Positions.....	19
5. Compliance by Agents	22
6. Compliance by Persons with respect to Funds	24
7. Application of the Rules to Different Entities	27
Appendix 1	31
Appendix 2	32

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 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 that may be held or controlled by a person. 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~~periods combined. *For example, the prescribed limit on any stock futures contract is 25,000 net long or short contracts for all contract months combined. If a person is long 30,000 contracts of the September futures contract and short 20,000 contracts of the October futures contract, he will not reach the prescribed limit on this contract.*
- 2.3. 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

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.

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~~13,000 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 ~~40~~15,000 contracts, positions in all contracts are netted, i.e. ~~8~~13,000 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 ~~40~~15,000 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~~ies combined that may be held or controlled by a person. For example, the prescribed limit on any stock options contract is 250,000 contracts in any one market direction. If a person holds 30,000 long calls in month A, 200,000 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 220,000 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 250,000 contracts (i.e. 200,000 short calls plus 50,000 long puts).)
- 2.5. Market participants should note that in addition to the prescribed limits in Schedule 1 and Schedule 2, the HKFE and the Stock Exchange of Hong Kong (“**SEHK**”) may impose other position limits on a particular contract, Exchange Participant or client where situations warrant such action.

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.

Aggregation requirements

(This section should be read in conjunction with paragraph 5 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.

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.

⁷ Sections 7(3) and 7A(6) of the Rules explain 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.

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*);
 - (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
 - (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 their rules. The approval from the HKFE or SEHK must be received prior to entering into positions which exceed the limits.

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

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); (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 4F 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 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 (of a recognized clearing house), those positions must be carried through both the group Exchange Participant and a 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 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 positions are to be carried through a Clearing Participant appointed by the group Exchange Participant, the Clearing Participant will need to seek

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

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) is a Clearing Participant of HKCC;
- (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

3.21. 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;
- (3) where authorization is sought under Section 4E, the asset manager concerned; and

- (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.
- 3.22. 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.
- 3.23. 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.
- 3.24. 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.
- 3.25. 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).

3.26. 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).

- 3.27. 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 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).

- 3.28. In the case of an application for authorization under Section 4F, the SFC will require the applicant to 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

- 3.29. 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.
- 3.30. 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.
- 3.31. 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.
- 3.32. 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)).
- 3.33. 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

- 3.34. 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.
- 3.35. 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) 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.
- 3.36. 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) 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.
- 3.37. 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 amount of the excess positions used for its management;
 - (2) the total number of futures positions held by each of the funds under its management; and
 - (3) 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.
- 3.39. The SFC will normally require reports mentioned above to be submitted 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

- 3.40. A person who has been authorized by the SFC under Section 4B, 4C, 4D, 4E or 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

- 3.41. The SFC may at any time withdraw an authorization granted under Section 4B, 4C, 4D, 4E or 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.
- 3.42. 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.
- 3.43. 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

- 3.44. A person may appeal against a decision of the SFC to refuse to authorize excess positions under Section 4B, 4C, 4D, 4E or 4F 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

- 3.45. 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, Sections 6(1) and 6(1A) of the Rules require a person holding or controlling a reportable position to notify the recognized exchange company of that reportable position in writing.
- 4.2. Reporting levels for futures contracts and stock options contracts are specified in Schedule 1 and Schedule 2 of the Rules respectively. 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 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.

- 4.3. 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

- 4.4. The notice of a reportable position specified in 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 party will not be required to notify the Exchange of the same reportable position under Sections 6(1) and 6(1A).

- 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 Sections 6(1) and 6(1A).
- 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.
- 4.7. 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

- 4.8. In accordance with Sections 6(1), 6(1A) and 6(1B), the notice of reportable positions should be made within one 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.

4.9. Sections 6(2) and 7A(5) of the Rules further 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 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) where the reportable position is held or controlled for one or more persons (e.g. a client or clients), the identity of each other person and the number of futures contracts or stock options contracts held or controlled for his own account (if applicable) and for each other person which comprise the reportable position in each relevant contract period (including but not limited to contract month or contract week) or option series.
- (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.

4.10. 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.

4.11. Appendix 2 provides examples to illustrate the application of the prescribed limits and 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

- 4.12. 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.
- 4.13. The HKFE and SEHK also request Exchange Participants and the person reporting to provide additional information other than those specified in Section 6(2) 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.
- 4.14. 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

- 4.15. 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.

5. Compliance by Agents

- 5.1. Section 7 of the Rules stipulate that a person who holds or controls futures contracts or stock options contracts for another person should apply the prescribed limits and reporting levels separately to his own position and to the positions he holds or controls for each other person except where the person has discretion over the positions held or controlled by him for the other person. In other words, a person should disaggregate his own position and the positions he holds or controls for each of the other person in the application of prescribed limits and reporting levels provided that he does not have discretion over the positions in question. Examples of such persons are an Exchange Participant or a person providing intermediary services to its clients.
- 5.2. In accordance with Sections 7(2)-(3) of the Rules, a person will be considered to have discretion in relation to a position he holds or controls for another person if:

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

- (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; and
- (2) such authorization enables him to make specific acquisitions or disposals without requiring further consent or instruction from the other person,

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

An example of such person would be 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 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 reporting requirements.
- 5.4. *For example, an agent holds 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 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 reporting levels.*

Assume that the reportable level is 500 open contracts and the prescribed limit is ~~40~~15,000 contracts.

For reporting, the agent should notify the Exchange of each of the reportable positions held with him (i.e. 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 positions are within the prescribed limit, the agent and all the clients fully comply with the Rules.

- 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.

- 5.6. 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 ~~40~~15,000 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 ~~40~~15,000 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 ~~40~~15,000 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 ~~40~~15,000 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).

- 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.

7. Application of the Rules to Different Entities

Persons holding or controlling positions at multiple firms

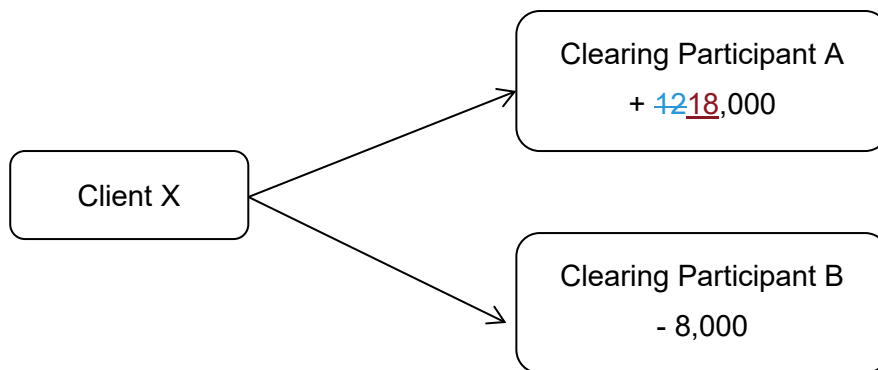
- 7.1. If a person holds or controls positions in accounts at more than one firm, the person should have the obligation to aggregate positions for purposes of applying the prescribed limits and reporting requirements.
- 7.2. If a person holding or controlling positions at multiple firms chooses to submit 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.

- 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 4015,000 net long or short contracts. Client X is holding 4218,000 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 410,000 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 4218,000 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

- 7.7. A transaction originator is a person who is ultimately responsible for originating instructions for transactions on behalf of the other person. 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.
- 7.8. If the total positions controlled by a transaction originator (including positions belonging to different principals but under his control) have exceeded the 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 contributed to the transaction originator's reportable position. *For example, assume a trader is in charge of the investment of three discretionary accounts, namely, Account A, Account B and Account C. Currently, there are 1,000, 800 and 200 futures contracts held by Account A, Account B and Account C respectively. If the reportable level for the futures contract is 500 open contracts, the 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 (i.e. Account A, Account B and Account C) and the positions held in these accounts.*
- 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.
- 7.10. The prescribed limits apply to the total positions controlled by a transaction originator even if the positions are held for different principals.

Omnibus accounts

- 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.
- 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.
- 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.

- 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 3045,000 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 3045,000 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 3045,000 contracts is authorized, the firm's limit will increase to 4060,000 contracts—

- The firm can use up to 4015,000 contracts for proprietary trading purposes and any remaining balance for client facilitation purposes. The firm may therefore also use the entire 4060,000 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 ensure that any holdings over 4015,000 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:

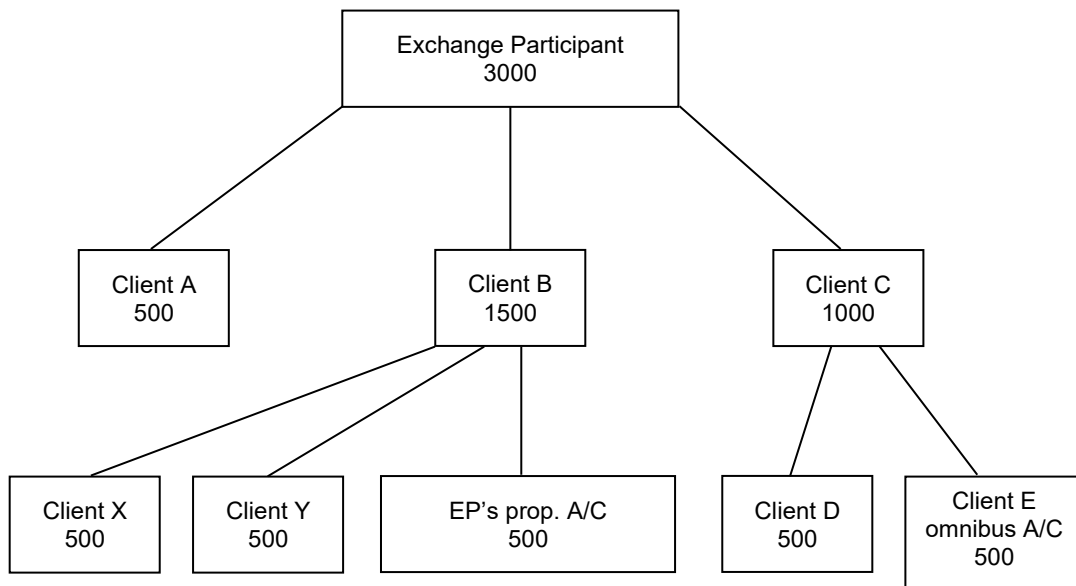
Assume a firm already holds a short position in HSI futures contract equivalent to 8,000 position delta for its proprietary trading business, and that it wishes to hold another 3045,000 position delta for its index arbitrage activities in the same short direction. Assume that the specified percentage is 300%. Can the firm apply for excess?

- Yes, it can apply for excess of up to 3045,000 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 3045,000 contracts is authorized, the firm's limit will increase to 4060,000 contracts—

- The firm can use up to 4015,000 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 4060,000 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.

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.

- (b) Client B should notify the Exchange of 500 contracts each held by the 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.

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 the appointed agent has submitted the notice of reportable position, the principal will not be required to notify the Exchange of the same reportable positions.