

L.N. 81 of 2012

Securities and Futures (Futures Contracts) Notice 2012

(Made by the Financial Secretary under section 392 of the Securities and Futures Ordinance (Cap. 571))

1. Commencement

This Notice comes into operation on 27 June 2012.

2. Structured product to be regarded as futures contract

The structured product set out in the Schedule is to be regarded as a futures contract for the purposes of the following provisions of the Ordinance—

- (a) Division 3 of Part III;
- (b) section 63(1)(b);
- (c) section 71(1)(a)(iii);
- (d) the definition of *clearing house* in section 1 of Part 1 of Schedule 1 in so far as the definition applies to the following provisions of the Ordinance—
 - (i) section 37;
 - (ii) section 43; and
 - (iii) the definition of *clearing participant* in section 1 of Part 1 of Schedule 1; and
- (e) the definition of *market contract* in section 1 of Part 1 of Schedule 1 in so far as the definition applies to the following provisions of the Ordinance—
 - (i) section 18;
 - (ii) Division 3 of Part III;
 - (iii) section 271(9);

Securities and Futures (Futures Contracts) Notice 2012

L.N. 81 of 2012

Section 2

B5383

- (iv) section 292(9); and
 - (v) Part 5 of Schedule 3.
-

Schedule

[s. 2]

Structured Product to be Regarded as Futures Contract

Item	Description of structured product
1.	Any structured product that— <ol style="list-style-type: none">does not fall within the definition of <i>securities</i> in section 1 of Part 1 of Schedule 1 to the Ordinance; andis not a contract or an option on a contract made under the rules or conventions of a futures market.

K. C. CHAN
Acting Financial Secretary

26 April 2012

Explanatory Note

This Notice prescribes that, for the purposes of certain provisions of the Securities and Futures Ordinance (Cap. 571), any structured product set out in the Schedule to the Notice is to be regarded as a futures contract so that the structured product, when cleared and novated through a recognized clearing house, may constitute a market contract and accordingly enjoy the insolvency override protection conferred under Division 3 of Part III of that Ordinance.