



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

## **Consultation Paper on Proposed Amendments to the Securities and Futures (Financial Resources) Rules**

May 2011



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## Foreword

The Securities and Futures Commission (**SFC**) invites the public to submit written comments on the proposals discussed in, and draft provisions attached to, this consultation paper, or to comment on related matters that might have a significant impact upon the proposals, **no later than 3 June 2011**.

Any person wishing to submit comments on behalf of any organization should provide details of the organization whose views they represent.

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

**You may not wish your name and / or submission to be published by the SFC. If this is the case, please state that you wish your name and / or submission to be withheld from publication when you make your submission.**

Written comments may be sent

By mail to: Intermediaries Supervision Department  
Securities and Futures Commission  
8th Floor, Chater House  
8 Connaught Road Central  
Hong Kong

By fax to: (852) 2523 4598

By on-line submission: <http://www.sfc.hk>

By e-mail to: [frconsultation@sfc.hk](mailto:frconsultation@sfc.hk)

All submissions received before expiry of the consultation period will be taken into account before the proposals are finalized. A consultation conclusions paper will be published as soon as practicable thereafter.

Additional copies of the consultation paper may be obtained from the SFC's address shown above. A copy of this consultation paper, together with a summary of the Public Consultation Procedures adopted by the SFC, can also be found on the SFC's website at <http://www.sfc.hk>.

Securities and Futures Commission  
Hong Kong

May 2011



## Personal Information Collection Statement

1. 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 Data<sup>1</sup> 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**).

### Purpose of Collection

2. The Personal Data provided in your submission to the SFC in response to this consultation paper may be used by the SFC for one or more of the following purposes:
  - (a) to administer the relevant provisions<sup>2</sup> and codes and guidelines published pursuant to the powers vested in the SFC;
  - (b) in performing the SFC's statutory functions under the relevant provisions;
  - (c) for research and statistical purposes;
  - (d) for other purposes permitted by law.

### Transfer of Personal Data

3. 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 this consultation paper. The names of persons who submit comments on this consultation paper together with the whole or part of their submission may be disclosed to members of the public. This will be done by publishing this information on the SFC's website and in documents to be published by the SFC during the consultation period or at its conclusion.

### Access to Data

4. 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

5. 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.

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<sup>1</sup> Personal Data means "personal data" as defined in the Personal Data (Privacy) Ordinance (Cap. 486).

<sup>2</sup> Defined in Schedule 1 to the Securities and Futures Ordinance (Cap. 571) (**SFO**) to mean provisions of the SFO and subsidiary legislation made under it; and provisions of Parts II and XII of the Companies Ordinance (Cap. 32) so far as those Parts relate, directly or indirectly, to the performance of functions relating to: prospectuses; the purchase by a corporation of its own shares; a corporation giving financial assistance for the acquisition of its own shares, etc.



## **Enquiries**

6. 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:

The Data Privacy Office  
Securities and Futures Commission  
8th Floor, Chater House  
8 Connaught Road Central  
Hong Kong

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



# Consultation Paper on Proposed Amendments to the Securities and Futures (Financial Resources) Rules

## Introduction

1. This consultation paper aims to consult the public on a proposal to update the list of exchanges specified in the Securities and Futures (Financial Resources) Rules (Cap. 571N) (**FRR**) so as to facilitate market development and reduce the compliance costs of licensed corporations.

## Background

2. Schedule 3 of the FRR currently specifies a list of exchanges (**specified exchanges**) by which the FRR prescribes treatments for assets and liabilities arising from, or related to, dealings in futures and options contracts traded on those exchanges, for example,
  - (a) amounts receivable from and cash deposited with a clearing house of a specified exchange or a clearing participant of such clearing house in respect of futures or options contracts trading can be included as liquid assets;
  - (b) physical commodities of a quantity, quality and condition suitable for delivery under a futures contract or options contract traded on a specified exchange can be treated as liquid assets or collateral; and
  - (c) proprietary positions in options contracts traded on a specified exchange can be treated as liquid assets.
3. Currently, we grant FRR modifications to licensed corporations dealing in futures or options products that are traded on exchanges which are not specified in the FRR on an individual firm basis in order to alleviate their FRR compliance burden. All modifications granted are published on our website for the reference of other licensed corporations.

## Proposals

4. We have recently reviewed the list of exchanges specified in the FRR and propose the following updates:
  - (a) to include in the list of specified exchanges in Schedule 3 of the FRR:
    - (i) Hong Kong Mercantile Exchange Limited (**HKMEx**);
    - (ii) Taiwan Futures Exchange Corporation;
    - (iii) Thailand Futures Exchange Public Company Limited; and
    - (iv) Tokyo Commodity Exchange, Inc.

to facilitate licensed corporations dealing in futures or options products. HKMEx has been authorised and is subject to supervision by the SFC. Licensed corporations have recently increased their dealing in futures and options products traded on the exchanges listed in items (ii) to (iv) above and it would therefore increase efficiency for both firms and the SFC to include these exchanges in the list



of exchanges rather than each firm having to apply for FRR modification on an individual basis;

- (b) to update the names of those overseas exchanges currently specified in Schedules 2 and 3 of the FRR as set out in Appendix A that have changed their names following the merger of the exchange with another exchange or for other reasons.
5. We also propose to include participants of HKMEx in the definition of “exchange participant” in section 2(1) of the FRR so that licensed corporations who introduce clients or orders to a participant of HKMEx may apply for approval as an approved introducing agent under section 58(4) of the FRR.
  6. Details of the proposed FRR amendments are set out in Appendix B.



## Appendix A

### Proposed updates to the list of exchanges specified in the Securities and Futures (Financial Resources) Rules

#### SCHEDULE 2

TABLE 2

#### HAIRCUT PERCENTAGES FOR SHARES LISTED IN THE UNITED KINGDOM, THE UNITED STATES OF AMERICA AND JAPAN

Item	Description	Haircut Percentage %
1.	Shares which are listed on a specified exchange in the United Kingdom <del>(other than the London Stock Exchange plc—SEAQ International)</del> , the United States of America (other than the <del>Nasdaq Stock Market, Inc.—Nasdaq National Market</del> <u>The NASDAQ Stock Market LLC—NASDAQ Global Market</u> ) or Japan (other than the <del>Japanese Association of Securities Dealers Automated Quotations Osaka Securities Exchange Co., Ltd.—JASDAQ</del> )-	
	(a) being a constituent of the FTSE-100 Index, Nikkei 500 Index or Standard & Poor's 500 Index; or	15
	(b) being any share not referred to in paragraph (a)	20
2.	Shares which are listed on a specified exchange in the United Kingdom <del>(other than the London Stock Exchange plc—SEAQ International)</del> , the United States of America (other than the <del>Nasdaq Stock Market, Inc.—Nasdaq National Market</del> <u>The NASDAQ Stock Market LLC—NASDAQ Global Market</u> ) or Japan (other than the <del>Japanese Association of Securities Dealers Automated Quotations Osaka Securities Exchange Co., Ltd.—JASDAQ</del> ), but are not stratified according to stock indices	20

TABLE 3

#### HAIRCUT PERCENTAGES FOR OTHER SHARES

Item	Description	Haircut Percentage %
1.	Shares listed on a specified exchange specified in Part 1 of Schedule 3 (other than the <del>London Stock Exchange plc—SEAQ International</del> , the <del>Nasdaq Stock Market, Inc.—Nasdaq National Market</del> <u>The NASDAQ Stock Market LLC—NASDAQ Global Market</u> or the <del>Japanese Association of Securities Dealers Automated Quotations Osaka Securities Exchange Co., Ltd.—JASDAQ</del> )	20
2.	Shares listed on a specified exchange specified in Part 2 of Schedule 3	30





- |    |   |    |
|----|---|----|
| 3. | <del>Shares listed on the London Stock Exchange plc—SEAI International, the Nasdaq Stock Market, Inc.—Nasdaq National Market, The NASDAQ Stock Market LLC—NASDAQ Global Market or the Japanese Association of Securities Dealers Automated Quotations</del> <u>Osaka Securities Exchange Co., Ltd.—JASDAQ</u> | 30 |
| 4. | Shares listed on any other stock exchange which is a member of the World Federation of Exchanges  | 50 |
| 5. | Listed shares not referred to in item 1, 2, 3 or 4 or Table 1, 1A or 2  | 75 |

### SCHEDULE 3

#### SPECIFIED EXCHANGES

##### PART 1

~~American Stock Exchange LLC~~ NYSE Amex LLC  
~~Australian Stock Exchange Limited~~ ASX Limited  
Board of Trade of the City of Chicago, Inc.  
~~Bolsa de Madrid~~ Sociedad Rectora de la Bolsa de Valores de Madrid, S.A. (Sociedad Unipersonal)  
Borsa Italiana S.p.A.  
~~Bourse de Montreal, Inc.~~ Montréal Exchange Inc.  
Chicago Board Options Exchange, Inc. ~~Inc.~~ Incorporated  
Chicago Mercantile Exchange, Inc.  
Commodity Exchange, Inc. (New York)  
~~Copenhagen Stock Exchange A/S~~ NASDAQ OMX Copenhagen A/S  
Deutsche Börse AG  
~~Eurex~~ Eurex Frankfurt AG  
Eurex Zürich AG  
Euronext Amsterdam N.V.  
Euronext Brussels S.A./ N.V.  
Euronext Paris S.A.  
~~Helsinki Securities and Derivatives Exchange, Clearing House Ltd.~~ NASDAQ OMX Helsinki Ltd  
Hong Kong Futures Exchange Limited  
Hong Kong Mercantile Exchange Limited  
~~Japanese Association of Securities Dealers Automated Quotations~~  
~~Korea Futures Exchange~~  
~~Korea Stock Exchange~~ Korea Exchange, Inc.  
LIFFE Administration and Management  
~~London Metal Exchange Limited~~ The London Metal Exchange Limited  
London Stock Exchange plc  
~~Luxembourg Stock Exchange~~ Société de la Bourse de Luxembourg S.A.



~~Nagoya Stock Exchange, Inc.~~  
~~Nasdaq Stock Market, Inc.~~ ~~Nasdaq National Market~~ The NASDAQ Stock Market LLC–  
NASDAQ Global Market  
~~New York Cotton Exchange~~ ICE Futures U.S., Inc.  
~~New York Futures Exchange, Inc.~~  
~~New York Mercantile Exchange, Inc.~~  
~~New York Stock Exchange, Inc.~~ New York Stock Exchange LLC  
~~New Zealand Futures and Options Exchange Limited~~  
~~New Zealand Stock Exchange~~ NZX Limited  
~~Osaka Securities Exchange Co., Ltd.~~  
~~Oslo Børs ASA~~  
~~Pacific Exchange, Inc.~~ NYSE Arca, Inc.  
~~Philadelphia Stock Exchange, Inc.~~ NASDAQ OMX PHLX LLC  
~~The Stock Exchange of Hong Kong Limited~~  
~~Stockholmsborsen AB~~ NASDAQ OMX Stockholm AB  
~~SWX Swiss Exchange~~ SIX Swiss Exchange AG  
~~Sydney Futures Exchange Limited~~ Australian Securities Exchange Limited  
Tokyo Commodity Exchange, Inc.  
~~Tokyo Grain Exchange Inc.~~  
~~Tokyo International Financial Futures Exchange~~ Tokyo Financial Exchange Inc.  
~~Tokyo Stock Exchange, Inc.~~  
~~Toronto Stock Exchange, Inc.~~ TSX Inc.  
~~Wiener Börse AG~~  
~~Winnipeg Commodities Exchange, Inc.~~ ICE Futures Canada, Inc.

## PART 2

~~Kuala Lumpur Stock Exchange~~ Bursa Malaysia Securities Berhad  
~~Malaysian Derivatives Exchange Berhad~~ Bursa Malaysia Derivatives Berhad  
~~Philippine Stock Exchange, Inc.~~ The Philippine Stock Exchange, Inc.  
~~Singapore Exchange Derivatives Trading Limited~~  
~~Singapore Exchange Securities Trading Limited~~  
~~Stock Exchange of Thailand~~ The Stock Exchange of Thailand  
Taiwan Futures Exchange Corporation  
Thailand Futures Exchange Public Company Limited

**Proposed Securities and Futures (Financial Resources) (Amendment)  
(No.2) Rules 2011**

**1. Commencement**

These Rules shall come into operation on [ ] 2011.

**2. Securities and Futures (Financial Resources) Rules amended**

The Securities and Futures (Financial Resources) Rules (Cap. 571 sub. leg. N) are amended as set out in sections 3 to 5 below.

**3. Section 2 amended (Interpretation)**

In section 2(1), in paragraph (b) of the definition of “exchange participant”, after “in relation to” –

**Add**

“Hong Kong Mercantile Exchange Limited or”.

**4. Schedule 2 amended (Haircut Percentages)**

Repeal Tables 2 and 3 of Schedule 2

**Substitute**

**“SCHEDULE 2**

**[ss. 2 & 43]**

**TABLE 2**

**HAIRCUT PERCENTAGES FOR SHARES LISTED IN THE UNITED KINGDOM, THE UNITED STATES OF AMERICA AND JAPAN**

Item	Description	Haircut Percentage %
1.	Shares which are listed on a specified exchange in the United Kingdom, the United States of America (other than The NASDAQ Stock Market LLC—NASDAQ Global Market) or Japan (other than the Osaka Securities Exchange Co., Ltd.—JASDAQ)-	
	(a) being a constituent of the FTSE-100 Index, Nikkei 500 Index or Standard & Poor's 500 Index; or	15
	(b) being any share not referred to in paragraph (a)	20

- |    |  |    |
|----|--|----|
| 2. | Shares which are listed on a specified exchange in the United Kingdom, the United States of America (other than The NASDAQ Stock Market LLC— NASDAQ Global Market) or Japan (other than the Osaka Securities Exchange Co., Ltd.—JASDAQ), but are not stratified according to stock indices | 20 |
|----|--|----|

TABLE 3

HAIRCUT PERCENTAGES FOR OTHER SHARES

Item	Description	Haircut Percentage %
1.	Shares listed on a specified exchange specified in Part 1 of Schedule 3 (other than The NASDAQ Stock Market LLC— NASDAQ Global Market or the Osaka Securities Exchange Co., Ltd.— JASDAQ)	20
2.	Shares listed on a specified exchange specified in Part 2 of Schedule 3	30
3.	Shares listed on The NASDAQ Stock Market LLC—NASDAQ Global Market or the Osaka Securities Exchange Co., Ltd.— JASDAQ	30
4.	Shares listed on any other stock exchange which is a member of the World Federation of Exchanges	50
5.	Listed shares not referred to in item 1, 2, 3 or 4 or Table 1, 1A or 2	75”

**5. Schedule 3 amended (Specified Exchanges)**

**Repeal** Schedule 3

**Substitute**

**“SCHEDULE 3**

**[s. 2 & Sch. 2]**

**SPECIFIED EXCHANGES**

PART 1

ASX Limited  
 Australian Securities Exchange Limited  
 Board of Trade of the City of Chicago, Inc.  
 Borsa Italiana S.p.A.  
 Chicago Board Options Exchange, Incorporated  
 Chicago Mercantile Exchange, Inc.  
 Commodity Exchange, Inc.  
 Deutsche Börse AG

Eurex Frankfurt AG  
Eurex Zürich AG  
Euronext Amsterdam N.V.  
Euronext Brussels S.A./ N.V.  
Euronext Paris S.A.  
Hong Kong Futures Exchange Limited  
Hong Kong Mercantile Exchange Limited  
ICE Futures Canada, Inc.  
ICE Futures U.S., Inc.  
Korea Exchange, Inc.  
LIFFE Administration and Management  
London Stock Exchange plc  
Montréal Exchange Inc.  
Nagoya Stock Exchange, Inc.  
NASDAQ OMX Copenhagen A/S  
NASDAQ OMX Helsinki Ltd  
NASDAQ OMX PHLX LLC  
NASDAQ OMX Stockholm AB  
New York Mercantile Exchange, Inc.  
New York Stock Exchange LLC  
New Zealand Futures and Options Exchange Limited  
NYSE Amex LLC  
NYSE Arca, Inc.  
NZX Limited  
Osaka Securities Exchange Co., Ltd.  
Oslo Børs ASA  
SIX Swiss Exchange AG  
Sociedad Rectora de la Bolsa de Valores de Madrid, S.A. (Sociedad Unipersonal)  
Société de la Bourse de Luxembourg S.A.  
The London Metal Exchange Limited  
The NASDAQ Stock Market LLC–NASDAQ Global Market  
The Stock Exchange of Hong Kong Limited  
Tokyo Commodity Exchange, Inc.  
Tokyo Financial Exchange Inc.  
Tokyo Grain Exchange Inc.  
Tokyo Stock Exchange, Inc.  
TSX Inc.  
Wiener Börse AG

## PART 2

Bursa Malaysia Derivatives Berhad  
Bursa Malaysia Securities Berhad  
Singapore Exchange Derivatives Trading Limited  
Singapore Exchange Securities Trading Limited  
Taiwan Futures Exchange Corporation  
Thailand Futures Exchange Public Company Limited  
The Philippine Stock Exchange, Inc.  
The Stock Exchange of Thailand”

[ ]  
Chief Executive Officer,  
Securities and Futures Commission

[ ] 2011

### **Explanatory Note**

1. These Rules amend the Securities and Futures (Financial Resources) Rules (Cap. 571 sub. leg. N) (“the principal Rules”) to make provision for the Hong Kong Mercantile Exchange Limited upon its approval as an automated trading services provider authorized under section 95(2) of the Securities and Futures Ordinance (Cap.571) and to make other miscellaneous changes updating the principal Rules.
2. Section 3 amends section 2(1) of the principal Rules by amending the definition of “exchange participant” to include a person who may trade through the Hong Kong Mercantile Exchange Limited.
3. Section 4 amends Tables 2 and 3 of Schedule 2 to the Principal Rules to reflect changes in the names of certain overseas exchanges following mergers or for other reasons.
4. Section 5 amends Schedule 3 to the principal Rules to update the list of specified exchanges to reflect changes in the names and status of such exchanges following restructuring, mergers, etc, to add certain overseas exchanges and to add the Hong Kong Mercantile Exchange Limited.