

L.N. 117 of 2006**SECURITIES AND FUTURES (FINANCIAL RESOURCES)
(AMENDMENT) RULES 2006****CONTENTS**

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**SECURITIES AND FUTURES (FINANCIAL RESOURCES)
(AMENDMENT) RULES 2006**

(Made by the Securities and Futures Commission under section 145
of the Securities and Futures Ordinance (Cap. 571)
after consultation with the Financial Secretary)

1. Commencement

(1) These Rules, except sections 3 and 9, shall come into operation on 1 October 2006.

(2) Sections 3 and 9 shall come into operation on 1 August 2007.

2. Interpretation

(1) Section 2(1) of the Securities and Futures (Financial Resources) Rules (Cap. 571 sub. leg. N) is amended by repealing the definition of “concentration discounting factor”.

(2) Section 2(1) is amended, in the definition of “haircut amount”, by repealing paragraph (a) and substituting—

“(a) in relation to any shares—

- (i) that are listed in Hong Kong, and specified in column 2 of Table 1 in Schedule 2;
- (ii) that are listed in Hong Kong, and specified in column 2 of Table 1A in Schedule 2;
- (iii) that are listed in the United Kingdom, the United States of America or Japan, and specified in column 2 of Table 2 in Schedule 2; or
- (iv) that are listed, and specified in column 2 of Table 3 in Schedule 2,

means an amount derived by multiplying the market value of the shares by the haircut percentage in relation to such shares;”.

(3) Section 2(1) is amended, in the definition of “haircut percentage”, by repealing paragraph (a) and substituting—

“(a) in relation to any shares—

- (i) that are listed in Hong Kong, and specified in column 2 of Table 1 in Schedule 2;
- (ii) that are listed in Hong Kong, and specified in column 2 of Table 1A in Schedule 2;
- (iii) that are listed in the United Kingdom, the United States of America or Japan, and specified in column 2 of Table 2 in Schedule 2; or

(iv) that are listed, and specified in column 2 of Table 3 in Schedule 2,

means—

- (v) subject to subparagraphs (vi), (vii), (viii) and (ix), the percentage specified in column 3 of the Table concerned opposite the applicable description set out in column 2 of that Table;
- (vi) where the shares fall within any of the descriptions in column 2 of Table 1A in Schedule 2 and within any of the descriptions in column 2 of Table 1, 2 or 3 in Schedule 2, subject to subparagraphs (vii) and (ix) and for the purpose of calculating the haircut amount under section 22(1)(b)(i), the percentage specified in column 3 of Table 1A in Schedule 2 opposite the applicable description set out in column 2 of that Table;
- (vii) where the shares fall within 2 or more of the descriptions in column 2 of Table 1A in Schedule 2, subject to subparagraph (ix) and for the purpose of calculating the haircut amount under section 22(1)(b)(i), such percentage specified in column 3 of that Table opposite the applicable description set out in column 2 of that Table as may be elected by a licensed corporation;
- (viii) where the shares fall within 2 or more of the descriptions in one or more of column 2 of Table 1, 2 or 3 in Schedule 2, subject to subparagraph (vi), such percentage specified in column 3 of the Table concerned opposite the applicable description set out in column 2 of that Table as may be elected by a licensed corporation; or
- (ix) where the shares described in item 1(a), (b), (c) or (d) in column 2 of Table 1A in Schedule 2—
 - (A) cease to be a constituent of the applicable index; and
 - (B) the cessation would result in the assignment to the shares of a higher percentage specified in that Table, in relation to the month in which the cessation occurs and for the period of the next 3 consecutive months and for the purpose of calculating the haircut amount under section 22(1)(b)(i), the percentage specified in column 3 of Table 1A in Schedule 2 which was applicable to the shares immediately prior to the cessation;”.

(4) Section 2(1) is amended by adding—

““no sponsor work licensing condition” (不任保薦人發牌條件), in relation to a licensed corporation licensed for Type 6 regulated activity, means a licensing condition that the licensed corporation shall not act as a sponsor in respect of an application for the listing on a recognized stock market of any securities;

“repledge” (再質押), in relation to a licensed corporation, means an act by which the licensed corporation or an associated entity of such licensed corporation deposits securities collateral of the licensed corporation as collateral for financial accommodation provided to the licensed corporation;”.

3. Paid-up share capital requirement for licensed corporations

(1) Section 5(*d*) is amended—

(a) by repealing “, Type 6”;

(b) by repealing the comma at the end and substituting a semicolon.

(2) Section 5 is amended by adding—

“(da) a licensed corporation licensed for Type 6 regulated activity, which is subject to both the specified licensing condition and the no sponsor work licensing condition,”.

4. Amounts receivable in respect of providing securities margin financing

(1) Section 22(1)(*b*)(i) is amended by repealing “and multiplied by the concentration discounting factor in relation to such collateral”.

(2) Section 22(1)(*b*)(ii) is repealed and the following substituted—

“(ii) the market value of all illiquid collateral provided by the client, multiplied by—

(A) in the case of listed shares, 20%; and

(B) in the case of listed warrants, 0%;”.

5. Provision of securities margin financing

Section 42(2) is amended by repealing “65%” and substituting “80%”.

6. Licensed corporations to notify Commission of circumstances relating to financial resources and trading activities and to submit returns in certain cases

- (1) Section 55(1)(h) is repealed.
- (2) Section 55(2)(a) is amended by adding “and” at the end.
- (3) Section 55(2)(b) is amended by repealing the semicolon and substituting a full stop.
- (4) Section 55(2)(c) and (d) is repealed.

7. Licensed corporations to submit returns to Commission

- (1) Section 56(5) is amended by repealing “or section 55(2)(c) or (d)”.
- (2) Section 56(6) is amended by repealing “or section 55(2)(c) or (d)”.

8. Transitional

Section 60 is amended by adding—

“(6A) Where a licensed corporation is licensed immediately prior to 1 October 2006 for Type 1 or Type 8 regulated activity, for the period from 1 October 2006 to 30 September 2007, the reference in section 42(2) to 80% shall be construed as a reference to 65%.”.

9. Financial resources requirements

Schedule 1 is amended, in Table 1, by repealing the entry relating to “Type 6” and substituting—

“Type 6—

- | | |
|--|---------------|
| (a) in the case where the licensed corporation in question is not subject to the no sponsor work licensing condition | \$10,000,000 |
| (b) in any other case | \$5,000,000”. |

10. Haircut percentages

- (1) Schedule 2 is amended, in Table 1—
 - (a) in the heading, by repealing everything after “HONG KONG” and substituting “FOR THE PURPOSES OF THESE RULES (EXCEPT FOR THE PURPOSE OF CALCULATING THE HAIRCUT AMOUNT UNDER SECTION 22(1)(b)(i))”;

- (b) by repealing item 2 and substituting—
 “2. Shares which are listed on a recognized stock market but are not stratified according to stock indices 30”.
- (2) Schedule 2 is amended by adding—

“TABLE 1A

HAIRCUT PERCENTAGES FOR SHARES LISTED IN HONG KONG FOR THE PURPOSE OF CALCULATING THE HAIRCUT AMOUNT UNDER SECTION 22(1)(b)(i)

Item	Description	Haircut Percentage %
1.	Shares which are listed on a recognized stock market—	
	(a) being a constituent of the Hang Seng Index or the Hang Seng Hong Kong LargeCap Index	15
	(b) being a constituent of the Hang Seng Hong Kong MidCap Index	20
	(c) being a constituent of the Morgan Stanley Capital International Inc. Hong Kong Index or the Morgan Stanley Capital International Inc. China Index	30
	(d) being a constituent of the Hang Seng Composite Index	30
	(e) being any share not referred to in paragraph (a), (b), (c) or (d)—	
	(i) for a licensed corporation which does not repledge securities collateral	30
	(ii) for a licensed corporation which repledges securities collateral	60
2.	Shares which are listed on a recognized stock market but are not stratified according to stock indices—	
	(a) for a licensed corporation which does not repledge securities collateral	30
	(b) for a licensed corporation which repledges securities collateral	60”.

- (3) Schedule 2 is amended, in Table 2—
- (a) in the heading—
- (i) by repealing “HONG KONG,”;
- (ii) by repealing “(SHARES NOT STRATIFIED ACCORDING TO STOCK INDICES)”;
- (b) by repealing item 1 and substituting—
- “1. Shares which are listed on a specified exchange in the United Kingdom (other than the London Stock Exchange plc—SEAQ International), the United States of America (other than the Nasdaq Stock Market, Inc.—Nasdaq National Market) or Japan (other than the Japanese Association of Securities Dealers Automated Quotations)—
- (a) being a constituent of the FTSE-100 Index, Nikkei 500 Index or Standard & Poor’s 500 Index; or
- (b) being any share not referred to in paragraph (a)
- (c) in item 2, in column 2, by adding “, but are not stratified according to stock indices” after “Quotations)”.
- (4) Schedule 2 is amended, in Table 3, in item 5, in column 2, by adding “, 1A” after “Table 1”.
- (5) Schedule 2 is amended, in Table 7, in item 1, in column 3, by repealing “40%” and substituting “100%”.

Martin WHEATLEY
Chairman,
Securities and Futures Commission

15 May 2006

Explanatory Note

These Rules amend the Securities and Futures (Financial Resources) Rules (Cap. 571 sub. leg. N) (“the principal Rules”) to address risks related to securities margin financing by licensed corporations and to provide for paid-up share capital requirements for licensed corporations licensed for Type 6 regulated activity which act as sponsors in respect of an application for the listing of any securities on a recognized stock market.

2. Section 2 amends section 2(1) of the principal Rules by repealing the definition of “concentration discounting factor”, amending the definitions of “haircut amount” and “haircut percentage” and adding definitions of “no sponsor work licensing condition” and “repledge”.
3. Section 3 amends section 5 of the principal Rules to provide that licensed corporations licensed for Type 6 regulated activity are exempt from the paid-up share capital requirement only if they are subject to both the specified licensing condition and the no sponsor work licensing condition.
4. Section 4(1) amends section 22(1)(b)(i) of the principal Rules to abolish the application of the concentration discounting factor to securities collateral. Section 4(2) amends section 22(1)(b)(ii) of the principal Rules to effect an increase in the haircut percentage on listed warrants to 100%.
5. Section 5 amends section 42(2) of the principal Rules. Section 42(2) originally provides that where a licensed corporation obtains any financial accommodation wholly or partly secured by collateral provided by its margin clients, it is required to adjust its ranking liabilities if such financial accommodation exceeds the threshold of 65% of the aggregate of amounts receivable from its margin clients. Section 5 raises the threshold from 65% to 80%.
6. Section 6 repeals section 55(1)(h) and (2)(c) and (d) of the principal Rules to remove the notification requirements for licensed corporations under the said section 55(1)(h). Section 7 makes consequential amendments to section 56(5) and (6) of the principal Rules.
7. Section 8 adds section 60(6A) to the principal Rules which contains a transitional provision for the amendment to section 42(2) of the principal Rules.
8. Section 9 amends Table 1 in Schedule 1 to the principal Rules to provide for the paid-up share capital requirement for licensed corporations which are not subject to the no sponsor work licensing condition.
9. Section 10(1) amends Table 1 in Schedule 2 to the principal Rules so that it contains haircut percentages for shares listed in Hong Kong for the purposes of the principal Rules except for the purpose of calculating the haircut amount under section 22(1)(b)(i) of the principal Rules.

10. Section 10(2) adds Table 1A to Schedule 2 to the principal Rules which contains haircut percentages for the purpose of calculating the haircut amount under section 22(1)(b)(i) of the principal Rules. These haircut percentages apply to shares listed in Hong Kong and held by a licensed corporation providing securities margin financing as security against amounts owed by its clients in their margin accounts. In the case of shares which are not constituents of any of the specified stock indices, a higher haircut percentage is prescribed in Table 1A for a licensed corporation that repledges securities collateral (60% in item 1(e)(ii)) than that prescribed for a licensed corporation that does not repledge securities collateral (30% in item 1(e)(i)).
11. Section 10(3) amends Table 2 in Schedule 2 to the principal Rules so that it contains haircut percentages for specified overseas listed securities.
12. Section 10(4) makes a consequential amendment to Table 3 in Schedule 2 to the principal Rules.
13. Section 10(5) amends Table 7 in Schedule 2 to the principal Rules so as to specify a 100% haircut percentage for warrants.