

CHAPTER III

EXCHANGE PARTICIPANTSHIP AND FUTURES EXCHANGE TRADING RIGHTS

General

301. Subject to these Rules and the Regulations, an Exchange Participant of the Exchange is entitled, by virtue of its Exchange Participantship, to trade on or through the facilities of the Exchange and to enjoy the other rights and benefits from time to time made available to Exchange Participants by the Exchange, in exchange for acceptance and discharge of the obligations and liabilities from time to time attaching to its Exchange Participantship.
302. The Board shall have power to establish categories of Exchange Participantship and to attach different rights, benefits, obligations and liabilities to each category established.

Application for Exchange Participantship

303. (a) Exchange Participants must ordinarily be companies.
- (b) Every new applicant for Exchange Participantship shall complete, sign and deliver to the Exchange an application in writing in such form as the Board may from time to time prescribe.
- (c) Every applicant must specify in its application the category of Exchange Participantship under which it seeks to be registered. No company which applies for Exchange Participantship as a Trader may be admitted to that category of Exchange Participantship unless ownership of its share and loan capital, and its management and control, are effectively vested in one individual.
- (d) In applying for Exchange Participantship or in applying to change the category of Exchange Participantship under which it is registered, every person shall follow the procedures from time to time prescribed by the Board.
304. (a) The Board shall decide on each application.
- (b) The decision as to whether or not an applicant should be admitted as an Exchange Participant is entirely in the discretion of the Board .

Approval or Refusal

305. (a) Every applicant shall be informed by notice in writing within 7 days after the relevant decision as to whether its application is approved or refused.
- (b) A copy of every notice of approval shall be sent to the Clearing House and the Commission.
- (c) Any notice of approval issued pursuant to this Rule may be subject to such conditions as the Board thinks fit.
- (d) If the Board refuses an application to be an Exchange Participant, the applicant may, within 14 Business Days after it is notified of the Board's decision, appeal in writing to the Exchange Participant Admission Appeals Committee whose decision will be final.

Conditions

306. An applicant approved pursuant to Rule 305 shall not be admitted as an Exchange Participant unless and until he shall have satisfied all of the following conditions:-
- (a) paid in full all fees from time to time prescribed by the Board;
- (b) executed in the prescribed form an undertaking to be bound by these Rules and the Regulations and delivered to the Exchange a certified copy of a board minute authorising a director to sign the undertaking on behalf of the company;
- (c) (deleted)
- (d) become the holder of a Futures Exchange Trading Right;
- (e) satisfied the Exchange that there are no reasons why it should not be licensed as a licensed corporation to carry on Type 2 regulated activity under the Ordinance or duly licensed to carry on such regulated activity pursuant to any other regulatory provisions from time to time in force;
- (f) fulfilled the Financial Resources Rules and such other financial requirements as may be prescribed by the Exchange; and
- (g) complied with any other conditions specified in the notice of approval.
307. The conditions in Rule 306 must be satisfied within the time specified in the notice of approval or, if no such time is specified, within three months of such notice. If the conditions are not so satisfied, and the period for satisfaction is not extended by the Board, the approval in question will lapse and the application will be deemed to have been refused.

Date of Becoming Exchange Participant

308. A person is deemed to have become an Exchange Participant on the later of the date on which notice of approval of its application is given by the Board or the date on which all the conditions attached to such approval have been met to the satisfaction of the Exchange.

Regulatory Procedures

309. (a) Except as provided in paragraph (b) of this Rule, forthwith upon a person becoming an Exchange Participant, it shall as soon as practicable become a licensed corporation licensed to carry on Type 2 regulated activity under the Ordinance, or become duly licensed to carry on such regulated activity pursuant to any other regulatory provisions from time to time in force.
- (b) A person need not become registered, licensed or authorised as provided in paragraph (a) of this Rule if the Commission confirms in writing that, on the basis of the information available to it, it is satisfied that such person is not required by any statutory or regulatory provision to be so registered, licensed or authorised.
- (c) The Exchange may enter into an arrangement, provided that the Board considers the arrangement to be conducive to the object of the market, with any person or body which, in the opinion of the Board, exercises a regulatory function under Hong Kong or under foreign law. Where the Exchange has entered into such an arrangement, the Board may from time to time prescribe, in the context of such arrangement, the characteristics of a person an Exchange Participant is or is not entitled to treat as a Client, the types of orders that an Exchange Participant may accept from a Client and the procedures that an Exchange Participant must follow in accepting and handling orders from a Client, including the documentation which must be provided to the Client and the documentation and any representations that must be obtained from the Client and maintained by the Exchange Participant, and such other criteria as the Board may consider appropriate with reference to particular Exchange Contracts specified by the Board.
310. Notwithstanding its approval and admission as an Exchange Participant, no person shall be entitled to commence trading on or through the facilities of the Exchange until it is duly licensed as a licensed corporation to carry on Type 2 regulated activity under the Ordinance or is duly licensed to carry on such regulated activity pursuant to any other regulatory provisions from time to time in force, or until the Commission has given written confirmation that it is not required to be so registered, licensed or authorised pursuant to Rule 309(b).

Certificates

311. (a) As soon as practicable after the later of the date on which a person becomes an Exchange Participant and the date on which an Exchange Participant (other than an Exchange Participant to whom Rule 309(b) applies) becomes duly registered, licensed or authorised by any regulatory body in accordance with Rule 309(a), the Secretary shall register such person as an Exchange Participant under the relevant category. Registration of an Exchange Participant on the register of Exchange Participants shall be proof of its Exchange Participantship and the Register of Exchange Participants shall be conclusive as to the information registered thereon.
- (b) The Exchange will no longer issue any certificate of Exchange Participantship to a new Exchange Participant or re-issue any certificate of Exchange Participantship issued to an Exchange Participant prior to 1 January 2021 that has been defaced, lost or destroyed.

Categories of Exchange Participantship

312. (a) An Exchange Participant may be a Trader, a Broker, a Futures Commission Merchant or a Merchant Trader, each such category having the rights and obligations set out in these Rules.
- (b) All categories of Exchange Participant, subject to any requirements and/or conditions that the Board may impose from time to time, are entitled to trade in any Markets operated by the Exchange.
- (c) A Trader is entitled to trade in Futures Contracts and/or Options Contracts on its own account only.
- (d) A Broker is entitled to trade in Futures Contracts and/or Options Contracts on its own account only. A Broker may also act as the agent of an Exchange Participant for the sole purpose of concluding trades on any Markets operated by the Exchange. In no circumstances may a Broker carry a trading account for an Exchange Participant for whom it acts as such agent.
- (e) A Futures Commission Merchant is entitled to trade in Futures Contracts and/or Options Contracts on its own account, for the account of other Exchange Participants and for the account of any other persons.
- (f) A Merchant Trader is entitled to trade in Futures Contracts and/or Options Contracts only on its own account and only ancillary to its

principal business or that of its holding company, as set out in Rule 502(h).

- (g) Where an Exchange Participant is the Client of another Exchange Participant, the Client Exchange Participant shall, except for such purposes as the Exchange may prescribe, be treated, and F.O. Business transacted on its behalf, in exactly the same way as any other Client and any other Client's F.O. Business is required to be treated and transacted under these Rules.

Financial Requirements

- 313. Every Exchange Participant shall at all times comply with the Financial Resources Rules and where applicable the financial resources requirements made under Rule 313A.
- 313A. Notwithstanding the Financial Resources Rules, the Chief Executive may increase the requirements thereunder in respect of any Exchange Participant to suit the circumstances of a particular case or of Exchange Participants generally, if he deems that circumstances so justify. Such increased requirements may be subsequently varied by the Chief Executive as various circumstances may exist which require the Chief Executive to make ad hoc decisions. However, every Exchange Participant must still comply with the Financial Resources Rules.
- 314. (deleted)
- 315. (a) The Chief Executive shall ensure that changes in the prevailing minimum financial resources requirements determined pursuant to Rule 313A are promptly notified to all relevant Exchange Participants in such manner as the Board may specify.
- (b) The Chief Executive shall ensure that the Commission is notified of all prevailing minimum financial resources requirements as determined by the Chief Executive pursuant to Rule 313A and shall notify the Commission immediately of any changes in the minimum financial resources requirements prevailing from time to time.
- (c) If any discrepancy exists between the financial resources requirements set forth in these Rules and those set forth in the Financial Resources Rules, the level which is higher or more stringent shall prevail.
- 315A. (1) In addition to giving the notification required under Rule 506(f), an Exchange Participant shall, where it becomes aware of the matter stated in section 146(1) of the Ordinance, cease dealing in Futures Contracts and Option Contracts otherwise than for the purpose of completing such transactions as the Commission may permit under section 146(1) of the Ordinance, or unless otherwise permitted by the Commission under section 146(2) of the Ordinance.

- (2) An Exchange Participant is and shall be deemed to have been aware of any of the matters which require notification under Rule 506(f) if it or any of its Responsible Officers is or would, with the exercise of reasonable diligence, have been aware of such matters.
- 315B. (1) The Exchange is required to notify forthwith the Commission if it becomes aware:-
- (a) that an Exchange Participant is unable to comply with the financial resources requirements made under Rule 313A or the Financial Resources Rules; and
 - (b) of any financial irregularity or other matter which in the opinion of the Exchange may indicate that the financial standing or integrity of an Exchange Participant is in question.
- (2) If the Exchange gives notification to the Commission pursuant to section 21(5) of the Ordinance upon becoming aware of any matter referred to in Rule 315B(1)(a) or (b), then even if the Exchange Participant concerned subsequently establishes that it is not the case, such Exchange Participant shall not be entitled to claim against the Exchange or the Board or any recognized exchange controller which is the controller of the Exchange for any loss or damage whatsoever.

Register of Exchange Participants

316. (a) The Secretary shall keep a register of Exchange Participants containing the full names and addresses of each Exchange Participant, particulars of the category of Exchange Participantship under which each Exchange Participant is registered, the date of admission of each Exchange Participant and registration, licence or authorisation by the appropriate regulatory body and, if the Board has so determined in any particular case, a note of any disciplinary action to which any Exchange Participant has been subject under these Rules, and such other information required by law or by the Exchange from time to time.
- (b) The register of Exchange Participants shall be open for inspection at any time during normal office hours by the Commission, any Exchange Participant, any representative of the Clearing House or any member of the public. Members of the public inspecting the register shall pay such inspection fee as may from time to time be prescribed by the Chief Executive.

Publication of a list of Exchange Participants

- 316A. The Exchange shall maintain and keep up to date at regular intervals a list of Exchange Participants in each category in existence at the time. The Exchange

shall publish such lists on the HKEX website or by such other means as it considers appropriate.

Legislative Council Ordinance

317. Pursuant to Section 20U of the Legislative Council Ordinance (Cap. 542), the following class of Exchange Participants shall not be exchange participants for the purposes of the Legislative Council Ordinance: Exchange Participants which are suspended by the Exchange pursuant to Rule 702(a)(ii) or 706.