

香港期貨交易所有限公司

(香港交易及結算所有限公司全資附屬公司)

**HONG KONG FUTURES EXCHANGE LIMITED**

(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)

## 通告 CIRCULAR

Subject: **Margin Requirements under Rule 617**

Enquiry: **Mr. Hins So 2211-6297**

Under Rule 617 of the Rules of the Hong Kong Futures Exchange Limited (“HKFE Rules”), Exchange Participants (“EPs”) are required to ensure that sufficient collateral to cover the minimum margin requirements is received from a Client before establishing any new positions for that Client.

EPs may nevertheless transact for an established Client even though adequate collateral to cover the Client’s minimum margin requirement has not been received if the established Client satisfies the criteria mentioned in Rule 617(b) of the HKFE Rules.

On 28 April 2017, the Securities and Futures Commission (“SFC”) published its *Report on the fact-finding exercise on retail futures brokers*. The exercise revealed that some futures brokers adopted inconsistent criteria to assess whether Clients are “established”.

After consultation with the SFC, this circular provides further guidance to EPs to determine whether a Client is an established Client which satisfies the criteria mentioned in Rule 617(b). It aims to provide clarity on the rule for established Clients and guidance on relevant compliance and operational details. With consistent standards when assessing established Clients, this guidance can further improve the overall risk management standard in the derivatives market and provide a level playing field among EPs.

### **Criteria for assessing established Clients**

In order to qualify as an established Client, the Client must have demonstrated to the EPs a **record of consistently meeting margin obligations** and **maintaining a sound financial position**.

#### ***A record of consistently meeting margin obligations***

One of the criteria specified in Rule 617(b) is that an established Client must have demonstrated to the EP a record of consistently meeting margin obligations.

Consistently meeting margin obligations shall mean that the established Client should show no record of failure to meet margin obligations within an immediately preceding record period of at

least one year (or, if the Client has not been a Client of the EP for at least one year, for a period since account opening, and with a minimum period of 3 months). The record should contain valid transactions to demonstrate that the established Client has consistently met his/her margin obligations. In particular, the Client must demonstrate that, during the relevant period, he/she has:

- No unfulfilled margin calls;
- No forced liquidation records; and
- No returned cheques.

In this regard, various forms of records for assessment are acceptable, such as: the Client's existing trading relationship with the EP or its affiliates and settlement pattern with the EP or its affiliates. For new Clients, letters, trading records and statements or other formal documentation issued by other licensed or regulated entities may also be acceptable forms or record for assessment.

### ***Maintaining a sound financial position***

Another criterion under Rule 617(b) is that an established Client must have consistently maintained a sound financial position. The assessment on the financial position of an established Client should be relative to the size of the Client's portfolio, trades, outstanding positions, etc.

In assessing the soundness of the Client's financial position, the EP must be satisfied that the Client will be able to immediately transmit the funds necessary to fully meet his/her initial margin obligations should such initial margin requirements apply. The Client should demonstrate his/her sound financial position on an ongoing basis.

EPs may make reference to various types of documents (whether such documents are internally or publicly available) in assessing the Client's financial position, such as:

- Bank statements;
- Securities account statements;
- Audited financial statements;
- Account opening documents;
- Credit rating reports from reputable credit rating agencies; and/or
- Any statements that prove the credit or financing facility available to the Client.

EPs should also set trading limits for their established Clients, based on the EP's assessment on the Client's financial position. The assessment should be subject to regular review which must be conducted at least annually.

**Margin requirement for “Exclusive Day Trader” in the case of Day Trades**

If an established Client has a history of transacting Day Trades<sup>1</sup> exclusively (i.e. an “Exclusive Day Trader”), EPs shall not transact a Day Trade on behalf of him/her unless and until the EP has received from the established Client collateral adequate to cover his/her minimum margin requirements.

EPs shall take into account any history of transacting Day Trade(s) and/or the number of days any open contract(s) is held by an established Client in determining whether he/she is an Exclusive Day Trader. An established Client will not be considered an Exclusive Day Trader in respect of a particular Day Trade for the purposes of Rule 617(b) if he/she can meet the requirement(s) under either scenario 1 or scenario 2 below:

**Scenario 1** - The established Client will not be considered an Exclusive Day Trader if he/she has not transacted any Day Trade of any Futures/Options Contracts during the preceding one month’s period before the proposed Day Trade is executed.

**Scenario 2** – If the established Client has transacted Day Trade(s) during the preceding one month’s period, he/she will not be considered an Exclusive Day Trader if he/she can satisfy both conditions (A) and (B) below:

- (A) before the relevant Day Trade is executed, he/she has held overnight positions<sup>2</sup> with the EP for (i) at least ten Business Days (consecutively or otherwise) during the preceding one year period; or (ii) at least one Business Day during the preceding one month period; and
- (B) the minimum margin requirements (per contract) applicable to the Futures/Options Contract(s) in respect of each of the overnight positions as required under condition (A) above are the same or higher than that of the relevant Day Trade (per contract).

To illustrate the requirements under condition (B) of Scenario 2 above:

**Example B1:**

If an established Client has held overnight positions on *HSI futures* with the EP for ten Business Days (consecutively or otherwise) during the preceding one year period before the relevant Day Trade is executed, the Client **will not** be considered an Exclusive Day Trader in respect of the relevant Day Trade he/she executes on *HSI futures*<sup>3</sup>.

**Example B2:**

If an established Client has held overnight positions on *mini HSI futures* with the EP for ten Business Days (consecutively or otherwise) during the preceding one year period before the

<sup>1</sup> “Day Trade” shall mean a position that is opened and closed out within the same T Session or within the same T+1 Session.

<sup>2</sup> “overnight positions” shall mean such open positions which are not closed out within the same T Session or the same T+1 Session when the trades are executed. For the purposes of determining whether an established Client is an Exclusive Day Trader, the open positions will not be considered overnight positions if the EP has not actually received the minimum margins in relation to such positions from the established Client.

<sup>3</sup> Or other futures and options contracts having lower minimum margin requirements (per contract) than that for HSI futures, e.g. HHI futures and options, mini HSI futures and options, mini HHI futures and options, etc.

relevant Day Trade is executed, the Client **will** nevertheless be considered an Exclusive Day Trader in respect of the relevant Day Trade he/she executes on *HSI futures*.

Example B3:

If an established Client has held overnight positions on *mini HSI futures* with the EP for ten Business Days (consecutively or otherwise) during the preceding one year period before the relevant Day Trade is executed, the Client **will not** be considered an Exclusive Day Trader in respect of the relevant Day Trade he/she executes on *mini HSI futures*<sup>4</sup>.

**Annual Review and Record Keeping**

***Ongoing review of the eligibility of established Clients***

EPs should conduct annual review on whether a Client satisfies the criteria for the established Clients, having regard to all the requirements prescribed in Rule 617.

***Record keeping***

EPs are reminded to maintain proper documentation of the assessment and approval for their established Clients. EPs are also reminded to observe the record keeping rules and relevant provisions in the SFC's Code of Conduct for Persons Licensed by or Registered with the SFC concerning the record keeping requirements.

**Implementation**

HKFE understands that some EPs may need time to revisit their criteria for assessing established Clients, upgrade their systems and update their records and procedures in light of the matters outlined in this circular. HKFE would expect all EPs to have implemented appropriate measures to fully comply with the requirements under Rule 617 as provided in this circular on or before 1 January 2018, including without limitation maintaining proper documentation to demonstrate qualifications of established Clients, putting in place appropriate internal control policies and procedures, as well as ensuring their record keeping systems are up to standard.

During the transitional period (i.e. from the date of this circular to 31 December 2017), EPs should nevertheless use their best efforts to comply with the standards herewith.

Derivatives Trading  
Markets Division

*This circular has been issued in the English language with a separate Chinese language translation. If there is any conflict in the circulars between the meaning of Chinese words or terms in the Chinese language version and English words in the English language version, the meaning of the English words shall prevail.*

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<sup>4</sup> Or other futures and options contracts having lower minimum margin requirements (per contract) than that for mini HSI futures, e.g. mini HHI futures and options, etc.