

Press release

Securities and Futures (Amendment) Bill 2013 gazetted today

Friday, June 28, 2013

The Securities and Futures (Amendment) Bill 2013 was gazetted today (June 28).

"The Bill seeks to provide for a regulatory framework for the over-the-counter (OTC) derivative market in Hong Kong and incorporate other technical improvements to the regulation of the financial market. It will enable Hong Kong to put in place an appropriate and effective regime which meets the requirements of the Group of Twenty (G20) and is in line with developments in other international financial centres," the Secretary for Financial Services and the Treasury, Professor K C Chan, said.

The Bill comprises three key aspects, namely (a) to introduce mandatory reporting, clearing and trading obligations in line with the G20 commitments as appropriate; (b) to provide for the establishment and regulation of the necessary infrastructure through which the mandatory obligations will be fulfilled; and (c) to provide for the regulation and oversight of key players in the OTC derivative market, i.e. authorised institutions (which covers licensed banks, restricted licence banks and deposit-taking companies), approved money brokers, licensed corporations and other persons to be prescribed by subsidiary legislation.

Under the proposed regulatory regime, two new regulated activities (RAs) in relation to OTC derivatives will be introduced, namely (a) a new Type 11 RA to cover the activities of dealers and advisers, and (b) a new Type 12 RA to cover the activities of clearing agents. In addition, the existing Type 9 RA (asset management) and Type 7 RA (provision of automated trading services) will be expanded to cover OTC derivative portfolios and transactions respectively.

The Bill will also provide for the regulation of systemically important participants who are not licensed or registered with either the Hong Kong Monetary Authority (HKMA) or the Securities and Futures Commission (SFC), but whose positions or transactions in the OTC derivative market are so significant that they may nevertheless raise concerns of potential systemic risks.

In addition, the Bill will incorporate other amendments to the Securities and Futures Ordinance (SFO) and the Organized and Serious Crimes Ordinance so that notifications and reports under Part XV "Disclosure of Interests" of the SFO will have to be filed electronically and criminal courts will be enabled to make disgorgement

orders for the purpose of recouping illegal gains from committing a market misconduct offence.

The HKMA and the SFC conducted a joint consultation on the proposed regulatory regime for the OTC derivative market in 2011 and issued a supplemental consultation paper in 2012.

The Secretary for Financial Services and the Treasury has given notice to present the Bill to the Legislative Council for first reading on July 10.

Ends