

L.N. 39 of 2016

**Securities and Futures (Short Position Reporting)
(Amendment) Rules 2016**

(Made by the Securities and Futures Commission under section 397(1) and (2) of the Securities and Futures Ordinance (Cap. 571) after consultation with the Financial Secretary)

1. Commencement

These Rules come into operation on 15 March 2017.

2. Securities and Futures (Short Position Reporting) Rules amended

The Securities and Futures (Short Position Reporting) Rules (Cap. 571 sub. leg. AJ) are amended as set out in rules 3 to 9.

3. Rule 2 amended (interpretation)

- (1) Rule 2, definition of *specified shares*, after “corporation”—
Add

“, or interests in a collective investment scheme (whether or not the interests are shares in a corporation),”.

- (2) Rule 2—

Repeal the definition of *business day*.

4. Rule 3 amended (reportable short position)

- (1) Rule 3—

Repeal subrule (1)

Substitute

“(1) In these Rules, a person has a reportable short position—

- (a) in any specified shares, except specified shares which are interests in a collective investment scheme, if the person has a net short position value in the specified shares that is equal to or more than the threshold specified in subrule (2)(b); or
 - (b) in any specified shares which are interests in a collective investment scheme, if the person has a net short position value in the specified shares that is equal to or more than the threshold specified in subrule (2)(ba).”.
- (2) Rule 3(2)(b)—
Repeal
“subrule (1)”
Substitute
“subrule (1)(a)”.
- (3) After rule 3(2)(b)—
Add
“(ba) in subrule (1)(b), the threshold in relation to a reporting day is \$30 million;”.
- (4) Rule 3(2)(c), after “is”—
Add
“, subject to paragraph (d)”.
- (5) Rule 3(2)(c)—
Repeal the full stop
Substitute a semicolon.

- (6) After rule 3(2)(c)—

Add

“(d) if, in relation to any specified shares, the closing price referred to in paragraph (c)(i) or (ii) is expressed in a currency other than Hong Kong dollars, the closing price is taken to be its equivalent in Hong Kong dollars on the reporting day, calculated using the rate of exchange for the currency that is the buying rate for telegraphic transfers at the commencement of business on the reporting day, as determined by the Monetary Authority.”.

5. Rule 4 amended (reportable short positions to be notified to Commission)

- (1) Rule 4(2), after “this rule”—

Add

“and rule 4A”.

- (2) Rule 4(3), after “shares”—

Add

“to which the notice relates”.

- (3) Rule 4(4), after “this rule”—

Add

“and rule 4A”.

- (4) Rule 4(8)—

Repeal

“subrule (9)”

Substitute

“rule 4A”.

(5) Rule 4—

Repeal subrule (9).

6. Rule 4A added

After rule 4—

Add

“4A. Submitting notification to Commission

Notification to the Commission required under rule 4(2) or (4)—

(a) must contain—

- (i) particulars identifying the person who has a reportable short position in specified shares;
- (ii) particulars of the net short position value and number of specified shares comprised in the reportable short position; and
- (iii) the name and stock code of the specified shares comprised in the reportable short position; and

(b) is to be regarded as duly submitted only if it is submitted—

- (i) by means of an electronic system designated by the Commission under rule 5(1); and
- (ii) in accordance with the directions and instructions relating to the system referred to in rule 5(2).”.

7. Rule 5 substituted

Rule 5—

Repeal the rule

Substitute

“5. Commission may designate electronic system

- (1) The Commission may, for the purposes of these Rules, designate one or more electronic systems.
- (2) Where the Commission designates an electronic system under subrule (1), it must as soon as reasonably practicable publish, in the manner it considers appropriate, directions and instructions relating to the use of, and the submission of notifications under rule 4(2) or (4) by means of, that system.”.

8. Rule 7 amended (daily reporting requirement notice)

- (1) After rule 7(2)(a)—

Add

“(ab) must identify the specified shares to which the notice relates;”.

- (2) Rule 7(3), after “positions”—

Add

“in one or more of the specified shares to which the notice relates”.

- (3) Rule 7(3), after “effect”—

Add

“in relation to the specified shares identified in the cessation notice”.

9. Schedule 1 substituted

Schedule 1—

Repeal the Schedule

Substitute

“Schedule 1

[r. 2]

Specified Shares

Shares, or interests in a collective investment scheme, which are determined by the Stock Exchange Company to be a “designated security” in accordance with the rules of the Stock Exchange Company.”.

Ashley ALDER
Chief Executive Officer,
Securities and Futures Commission

22 February 2016

Explanatory Note

The object of the Securities and Futures (Short Position Reporting) Rules (Cap. 571 sub. leg. AJ) (***SPR Rules***) is to impose a duty on a person who has a net short position in specified shares that amounts to or exceeds certain thresholds to report the short position to the Securities and Futures Commission (***Commission***) on or before a reporting deadline.

2. Rule 3(2) repeals the definition of ***business day*** in rule 2 of the SPR Rules so that the term has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571).
3. For the purpose of expanding the scope of securities in respect of which positions must be reported—
 - (a) rule 3(1) amends the definition of ***specified shares*** in rule 2 of the SPR Rules by providing that it includes interests in a collective investment scheme;
 - (b) rule 4(1), (2), (3) and (4) amends rule 3 of the SPR Rules by providing for separate thresholds for positions in shares and interests in collective investments schemes; and
 - (c) rule 9 amends Schedule 1 to the SPR Rules by providing that specified shares are those that the Stock Exchange Company determines (under its rules) to be “designated securities”.
4. Rule 4(6) amends rule 3(2) of the SPR Rules by adding rule 3(2)(d) which provides for the calculation of positions in specified shares where the closing price of the specified shares is not expressed in Hong Kong dollars.

5. The SPR Rules require notifications to be submitted to the Commission by means of an online communication system designated by the Commission. Rule 7 amends rule 5 of the SPR Rules by providing that the Commission may designate one or more electronic systems. Rules 5(4) and 6 make consequential amendments to the requirements in the SPR Rules relating to submitting notifications to the Commission.
6. The SPR Rules empower the Commission, in a contingency situation, to require daily reporting of reportable short positions by publishing a daily reporting requirement notice. Rule 8 amends rule 7(2) and (3) of the SPR Rules by adding a requirement that the daily reporting requirement notice must identify the specified shares to which the notice relates. Rule 5(2) makes a consequential amendment to rule 4(3) of the SPR Rules.