

立法會
Legislative Council

LC Paper No. LS 44/01-02

**Paper for the House Committee Meeting
of the Legislative Council
on 4 January 2002**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 28 December 2001**

Date of Tabling in LegCo : 9 January 2002

Amendment to be made by : 6 February 2002 (or 27 February 2002 if
extended by resolution)

Part I **Securities and Futures Commission Ordinance and Commodities
Trading Ordinance**

***Securities and Futures Commission Ordinance (Cap. 24)
Securities and Futures Commission (Levy) (Futures Contracts) (Amendment)
(No. 3) Order 2001 (L.N. 296)**

This Order amends the Securities and Futures Commission (Levy) (Futures Contracts) Order (Cap. 24 sub. leg.) so as to reduce the levy in relation to all options on stock futures contracts from \$1.0 to \$0.20 for every leviable transaction, for consistency with the levy payable for all stock futures contracts.

2. Members may refer to LegCo Brief (File Ref.: SUD42 (2001) VII) issued by Financial Services Bureau on 28 December 2001 for background information.

3. The Order will come into operation on a day to be appointed by the Secretary for Financial Services by notice published in the Gazette.

* Levy reduction.

***Commodities Trading Ordinance (Cap. 250)**

Commodities Trading (Contract Levy) (Amendment) (No. 3) Rules 2001 (L.N. 301)

4. Under section 79A(1) of the Commodities Trading Ordinance (Cap. 250) ("the Principal Ordinance"), a prescribed levy on every leviable transaction is payable by the Exchange Company to the Securities and Futures Commission for purposes of the compensation fund. The compensation fund levy payable for all stock futures contracts is \$0.10 per leviable transaction, whereas that payable for options on stock futures contracts is \$0.50 per leviable transaction. These Rules reduce the levy from \$0.50 to \$0.10 on every leviable transaction in respect of all options on stock futures contracts, same as that for all stock future contracts.

5. Members may refer to LegCo Brief (no reference number indicated) issued by The Securities and Futures Commission on 24 December 2001 for background information.

6. The Rules will come into operation on the same day as the commencement of the Securities and Futures Commission (Levy) (Futures Contracts) (No. 3) Order 2001 (L.N. 296 of 2001). Section 79A(3) of the Principal Ordinance provides that Rules made under section 79A(2) will be published in the Gazette and will come into operation not earlier than one month after such publication.

7. We have raised queries with the Administration and The Securities and Futures Commission on certain legal and drafting aspects in relation to L.N.s 296 and 301 respectively. The letter is attached for members' reference. We have not yet received the reply at the time of reporting. Members are recommended to defer decision on the two items pending our further report.

Part II Banking Ordinance

Banking Ordinance (Cap. 155)

Banking Ordinance (Declaration under section 2(14)(b)) Notice 2001 (L.N. 297)

8. Section 2(1) of the Banking Ordinance (Cap. 155) defines the term "money broker" which, according to the Administration, inadvertently covers the arranging of syndicated loans or the issue of debt securities. In removing the anomaly, this Notice declares that a person is not a money broker for the purposes of the definition of "money broker" in section 2(1) of the Banking Ordinance by reason only of his negotiating, arranging or facilitating -

* Levy reduction.

- (a) the syndication of loans under which two or more persons provide credit or lend money to one or more other persons; or
- (b) the issue of debt securities.

9. Members may refer to LegCo Brief (Ref: L/M 67/99 to G4/16C(99) XIII) in December 2001 issued by the Financial Services Bureau for background information.

10. The legal and drafting aspects of the Notice are in order.

Part III Commencement Notices

Companies Ordinance (Cap. 32)

Companies (Amendment) Ordinance 2001 (27 of 2001) (Commencement) Notice 2001 (L.N. 298)

11. The Secretary for Financial Services appoints 4 January 2002 as the day on which the Companies (Amendment) Ordinance 2001 (27 of 2001) ("the Amendment Ordinance") will come into operation. The Amendment Ordinance adds various provisions on -

- (a) summary financial reports of listed companies; and
- (b) financial documents and summary financial reports on computer networks,

to the Companies Ordinance (Cap. 32).

Companies Ordinance (Cap. 32)

Companies (Summary Financial Reports of Listed Companies) Regulation (L.N. 249 of 2001) (Commencement) Notice 2001 (L.N. 300)

12. The Secretary for Financial Services appoints 4 January 2002 as the day on which the Companies (Summary Financial Reports of Listed Companies) Regulation (L.N. 249 of 2001) ("the Regulation") will come into operation. The Regulation is made consequential to the enactment of the Companies (Amendment) Ordinance 2001 (27 of 2001).

**Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187)
Animals and Plants (Protection of Endangered Species) Ordinance (Amendment
of Schedules) Notice 2001 (L.N. 237 of 2001) (Commencement) Notice 2001
(L.N. 299)**

13. The Secretary for the Environment and Food appoints 18 February 2002 as the day on which the Animals and Plants (Protection of Endangered Species) Ordinance (Amendment of Schedules) Notice 2001 (L.N. 237 of 2001) ("the Amendment Notice") will come into operation. The Amendment Notice amends the Schedules to the Animals and Plants (Protection Endangered Species) Ordinance (Cap. 187) to give effect to the changes made in April 2000 to the listings of endangered species in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

14. The legal and drafting aspects of the Commencement Notices are in order.

Encl

Prepared by

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2 January 2002

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31 December 2001

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Dear Ms Mukadam,

**Commodities Trading (Contract Levy)
(Amendment) (No. 3) Rules 2001
(L.N. 301 of 2001)**

We are scrutinizing the legal and drafting aspects of the Amendment Rules. We should be grateful for your clarification of the following points.

The empowering provision

Would it be necessary to add "the" before "Hong Kong Futures Exchange Limited"?

Rule 2(a)

Why is it necessary to use capital letters for "Stock Futures Contracts"? (c.f. new paragraph 2(2) in section 2 of the Securities and Futures Commission (Levy) (Futures Contracts) (Amendment) (No. 3) Order 2001 (L.N. 296 of 2001)).

Rule 2(b)

Why is it necessary to define the terms "Options on Stock Futures Contracts" and "Stock Futures Contracts"? (c.f. section 2 of the Securities and Futures Commission (Levy) (Futures Contracts) (Amendment) (No. 3) Order 2001).

In facilitating us to report to the LegCo House Committee meeting to be held on 4 January 2002, it is appreciated that your reply, in both languages, could reach us by mid-noon of 2 January 2002.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

c.c. SFS (Attn: Ms Salina Yan, PAS) (Fax No. 2528 3345)
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