

LEGISLATIVE COUNCIL BRIEF
COMMODITIES TRADING ORDINANCE
COMMODITIES TRADING (CONTRACT
LEVY) (AMENDMENT) RULES 2002

INTRODUCTION

1. The Securities and Futures Commission (“**the Commission**”) has made the Commodities Trading (Contract Levy) (Amendment) Rules 2002 (“**the Amendment Rules**”) at the Annex.

BACKGROUND AND ARGUMENT

2. The Amendment Rules :
 - (a) repeal the Commodities Trading (Contract Levy) (Amendment) (No. 3) Rules 2001 (L.N. 301 of 2001) (“**the No. 3 Rules**”); and
 - (b) propose amendments that the No. 3 Rules intend, but adopt the drafting style of the Securities and Futures Commission (Levy) (Futures Contracts) (Amendment) (No. 3) Order 2001.

Proposed reduction in levy

3. By virtue of section 79A(1) of the Commodities Trading Ordinance (Cap.250) (“**the Ordinance**”), the Hong Kong Futures Exchange Limited (“**the HKFE**”) is required to pay to the Commission a levy on every contract traded on the HKFE, which is then paid into the compensation fund established pursuant to section 77 of the Ordinance (“**the compensation fund levy**”).

4. The power to prescribe the rate of such levy is vested in the Commission by section 79A(2)(a) of the Ordinance. The rates currently prescribed by the Commission are –
 - (a) \$0.10 per leviable transaction in relation to Mini-Hang Seng Index Futures Contracts and all stock futures contracts; and
 - (b) \$0.50 per leviable transaction in relation to all other contracts traded on the HKFE.

5. In order to broaden the profile of derivatives traded on the HKFE and to increase the competitiveness of Hong Kong’s financial markets, the HKFE introduced trading in 20 international stock

futures contracts and their corresponding options on 4 October 2001. The design of international stock futures contracts is similar to that of other stock futures contracts currently traded on the HKFE, except that they are based on stocks listed overseas.

6. The compensation fund levy payable for all stock futures contracts, including international stock futures contracts, is \$0.10 per leviable transaction, whereas that payable for options on stock futures contracts is \$0.50 per leviable transaction.

7. The contract multiplier for options on international stock futures contracts is the same as that of the corresponding international stock futures contracts on which they are based. Furthermore, it is expected that if options on local stock futures contracts are introduced in the future, their contract multiplier will be comparable to that of the corresponding local stock futures contracts on which they are based. For these reasons, the Commission is of the view that the compensation fund levy payable in respect of all options on stock futures contracts should be reduced from \$0.50 to \$0.10, same as that for all stock futures contracts.

Repeal and remaking of rules

8. The No. 3 Rules published in the Gazette on 28 December 2001 proposed to reduce the compensation fund levy payable in respect of all options on stock futures contracts from \$0.50 to \$0.10 for the reasons aforementioned.

9. Concurrent to the making of the No. 3 Rules, the Securities and Futures Commission (Levy) (Futures Contracts) (Amendment) (No. 3) Order 2001 (L.N. 296 of 2001) (“**the Amendment Order**”) was also made to reduce the levy payable to the Commission in respect of all options on stock futures contracts under section 52(2) of the Securities and Futures Commission Ordinance, Cap. 24 (“**SFCO**”) (“**the SFC levy**”). The Amendment Order was gazetted on 28 December 2001.

10. Although both the No. 3 Rules and the Amendment Order dealt with reduction of levies payable in respect of options on stock futures contracts, their respective drafting styles were different. Specifically, the No. 3 Rules defined the terms “*stock futures contracts*” and “*options on stock futures contracts*” while the Amendment Order did not.

11. In order to achieve consistency of the two amendments and avoid any doubt as to the implication of including definitions that may arise, the Commission proposes to repeal the No. 3 Rules and adopt the drafting style of the Amendment Order for the Amendment Rules.

12. Deletion of definitions for “*stock futures contracts*” and “*options on stock futures contracts*” will not affect the range of options in respect of which the levy reduction will apply given other provisions in the legislation. The terms “*stock futures contracts*” and “*options on stock futures contracts*” necessarily refer to those stock futures contracts and options on stock futures contracts whose specifications are set out in HKFE’s rules.

THE AMENDMENT RULES

13. The Amendment Rules amend the Commodities Trading (Contract Levy) Rules to the effect that the compensation fund levy payable in respect of all options on stock futures contracts shall be \$0.10 for every leviable transaction.

PUBLIC CONSULTATION

14. Public consultation is considered unnecessary, as the amendments are straightforward and technical in nature.

FINANCIAL AND STAFFING IMPLICATIONS

15. There are no financial or staffing implications for the Government.

COMMENCEMENT DATE

16. The Amendment Rules shall come into operation on the same day as the commencement of the Amendment Order, which shall be a day appointed by the Secretary for Financial Services by notice published in the Gazette.

PUBLICITY

17. The Amendment Rules will be published in the Gazette on 25 January 2002. The HKFE will issue a circular to its participants

when the new levy takes effect.

ENQUIRIES

18. For any enquiries on this brief, please contact Ms Thrity Mukadam, Senior Counsel of the Legal Services Division of the Commission, at 2840 9209 or Mr Rico Leung of the Supervision of Markets Division of the Commission, at 2840 9357.

The Securities and Futures Commission

25 January 2002

**COMMODITIES TRADING (CONTRACT LEVY)
(AMENDMENT) RULES 2002**

(Made by the Securities and Futures Commission under section 79A(2)
of the Commodities Trading Ordinance (Cap. 250) after consultation
with the Hong Kong Futures Exchange Limited)

1. Commencement

Section 3 shall come into operation on the day appointed for the commencement of the Securities and Futures Commission (Levy) (Futures Contracts) (Amendment) (No. 3) Order 2001 (L.N. 296 of 2001).

2. Repeal

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

3. Rate of contract levy

Rule 2(2) of the Commodities Trading (Contract Levy) Rules (Cap. 250 sub. leg.) is repealed and the following substituted –

“(2) The rate of the contract levy for the purpose of section 79A(1) of the Ordinance shall, in relation to –

- (a) Mini-Hang Seng Index Futures Contracts; and
- (b) all stock futures contracts and all options on such contracts,

be \$0.10 for every leviable transaction.”.

Andrew Len Tao SHENG
Chairman,
Securities and Futures Commission

January 2002

Explanatory Note

These Rules –

- (a) repeal the Commodities Trading (Contract Levy) (Amendment) (No. 3) Rules 2001 (L.N. 301 of 2001);
- (b) amend the Commodities Trading (Contract Levy) Rules (Cap. 250 sub. leg.) to reduce the contract levy in relation to all options on stock futures contracts to \$0.10 for every leviable transaction.