

LEGISLATIVE COUNCIL BRIEF

Securities and Futures Ordinance (Cap. 571)

SECURITIES AND FUTURES (REDUCTION OF LEVY) ORDER 2006

INTRODUCTION

At the meeting of the Executive Council on 13 June 2006, the Council ADVISED and the Chief Executive ORDERED that pursuant to section 394 of the Securities and Futures Ordinance (SFO), the Securities and Futures (Reduction of Levy) Order 2006 (the Order), at **Annex**, should be made to provide for a 20% reduction of the levy payable in respect of any trading in securities, futures or options contracts.

JUSTIFICATIONS

2. Under section 396(1) of the SFO, if during a financial year of the Securities and Futures Commission (SFC), the reserves of the SFC after deducting depreciation and all provisions are more than twice its estimated operating expenses for the financial year; and that the SFC has no outstanding borrowings, the SFC shall consult the Financial Secretary with a view to recommending to the Chief Executive-in-Council that the rate or amount of a levy be reduced under section 394 of the SFO.

3. Given the substantial increase in turnover in the past two years, the SFC has accumulated a sizable amount of reserves. As at end-March 2006, the reserves of the SFC reached \$1.21 billion, which amounted to 2.39 times its approved operating expenditure for the 2005/06 financial year. The proposed levy reduction, if implemented, is estimated to reduce the transaction cost to the market by about \$88 million a year, based on SFC's assumption that the average daily turnover for 2006/07 is \$16.5 billion and that the daily turnover of futures / options contracts is 60,000 contracts. The proposed scale of reduction is considered reasonable having regard to the need to enable the SFC to continue to maintain a healthy financial position.

THE ORDER

4. The Order (Annex) seeks to reduce the levy payable in respect of any trading in securities, futures or options contracts. The main provisions are –

- (a) **Clause 2** reduces the levy payable by a seller or a purchaser in respect of the consideration for a sale and purchase of securities from 0.005% to 0.004%;
- (b) **Clause 3** reduces the levy payable by a seller or a purchaser in respect of the consideration for a sale and purchase of pilot programme securities from 0.005% to 0.004%;
- (c) **Clause 4** reduces the levy payable by a seller or a purchaser in respect of the consideration for a sale and purchase of an exchange traded fund from 0.005% to 0.004%;
- (d) **Clause 5** reduces the levy payable by a seller or a purchaser in respect of the consideration for a sale and purchase of a futures contract from \$1.00 to \$0.80;
- (e) **Clause 6** reduces the levy payable by a seller or a purchaser in respect of the consideration for a sale and purchase of a Mini-Hang Seng Index Futures Contract or a Mini-Hang Seng Index Options Contract from \$0.20 to \$0.16; and
- (f) **Clause 7** reduces the levy payable by a seller or a purchaser in respect of the consideration for a sale and purchase of a stock futures contract or an option on such a contract from \$0.20 to \$0.16.

5. The Order will come into operation on 1 December 2006.

LEGISLATIVE TIMETABLE

6. The legislative timetable will be as follows –

Publication in the Gazette	16 June 2006
Tabling at the Legislative Council	21 June 2006

IMPLICATIONS OF THE PROPOSAL

Financial and Civil Service Implications

7. There are no financial and civil service implications to the Government as the SFC is an independent statutory body financed by transaction levies, fees and charges on services rendered to market operators and participants as provided in the SFO.

Other implications

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the existing provisions of the SFO and its subsidiary legislation. The proposed levy reduction will reduce the transaction cost to be borne by investors and thus be conducive to the development of Hong Kong's securities and futures markets. It has no environmental or sustainability implications.

PUBLIC CONSULTATION

9. In his 2006/07 Budget delivered on 22 February 2006, the Financial Secretary announced the proposal to reduce the levy on trading in securities, futures and options contracts by 20% within this year. The Financial Affairs Panel and the Special Finance Committee of the Legislative Council were also briefed on the proposal at the meetings on 6 and 13 March 2006 respectively.

PUBLICITY

10. A press release will be issued upon gazettal of the Order on 16 June 2006. A spokesman will be available to handle media enquiries.

BACKGROUND

11. Pursuant to section 394 of the SFO, the SFC is entitled to a levy at the rate specified by the Chief Executive-in-Council by order published in the Gazette.

ENQUIRIES

12. Enquiries on this brief should be addressed to Miss Alice Cheung, Principal Assistant Secretary for Financial Services and the Treasury (telephone number: 2528 9161) or Miss Aubrey Fung, Assistant Secretary for Financial Services and the Treasury (telephone number: 2529 2379).

Financial Services Branch
Financial Services and the Treasury Bureau

14 June 2006

SECURITIES AND FUTURES (REDUCTION OF LEVY) ORDER 2006

(Made by the Chief Executive in Council under section 394 of the Securities and Futures Ordinance (Cap. 571))

1. Commencement

This Order shall come into operation on 1 December 2006.

2. Securities

Section 4 of the Securities and Futures (Levy) Order (Cap. 571 sub. leg. Z) is amended –

- (a) in paragraph (b)(i), by repealing “0.005%” and substituting “0.004%”;
- (b) in paragraph (b)(ii), by repealing “0.005%” and substituting “0.004%”.

3. Pilot programme securities

Section 6 is amended –

- (a) in paragraph (b)(i)(A), by repealing “0.005%” and substituting “0.004%”;
- (b) in paragraph (b)(ii)(A), by repealing “0.005%” and substituting “0.004%”.

4. Exchange traded funds

Section 7 is amended –

- (a) in paragraph (b)(i)(A), by repealing “0.005%” and substituting “0.004%”;
- (b) in paragraph (b)(ii)(A), by repealing “0.005%” and substituting “0.004%”.

5. Futures contracts

Section 9 is amended –

- (a) in paragraph (b)(i), by repealing “\$1.00” and substituting “\$0.80”;
- (b) in paragraph (b)(ii), by repealing “\$1.00” and substituting “\$0.80”.

**6. Mini-Hang Seng Index Futures Contracts
and Mini-Hang Seng Index Options
Contracts**

Section 10 is amended –

- (a) in paragraph (b)(i), by repealing “\$0.20” and substituting “\$0.16”;
- (b) in paragraph (b)(ii), by repealing “\$0.20” and substituting “\$0.16”.

7. Stock futures contracts

Section 13 is amended –

- (a) in paragraph (b)(i), by repealing “\$0.20” and substituting “\$0.16”;
- (b) in paragraph (b)(ii), by repealing “\$0.20” and substituting “\$0.16”.

Clerk to the Executive Council

COUNCIL CHAMBER

13 June 2006

Explanatory Note

This Order amends the Securities and Futures (Levy) Order (Cap. 571 sub. leg. Z) to reduce the levy payable by a seller or a purchaser in respect of any of the following transactions –

- (a) the sale and purchase of securities;
- (b) the sale and purchase of pilot programme securities;
- (c) the sale and purchase of an exchange traded fund;
- (d) the sale and purchase of a futures contract;
- (e) the sale and purchase of a Mini-Hang Seng Index Futures Contract or a Mini-Hang Seng Index Options Contract;
- (f) the sale and purchase of a stock futures contract or an option on such a contract.