

## **LEGISLATIVE COUNCIL BRIEF**

### **SECURITIES AND FUTURES ORDINANCE (Chapter 571)**

### **SECURITIES AND FUTURES (LEVY) (AMENDMENT) ORDER 2010**

#### **INTRODUCTION**

At the meeting of the Executive Council on 11 May 2010, the Council ADVISED and the Chief Executive ORDERED that, in order not to continue accumulating reserves beyond what is necessary for the Securities and Futures Commission (SFC) and to reduce the burden on investors, pursuant to section 394 of the Securities and Futures Ordinance (SFO), the Securities and Futures (Levy) (Amendment) Order 2010, at **Annex**, should be made to provide for the reduction of the levy payable in respect of any trading in securities, futures or options contracts by 25 per cent.

#### **JUSTIFICATIONS**

2. Under section 396(1) of the SFO, if during a financial year of the 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 few years, the SFC has accumulated a sizable amount of reserves. As at end February 2010, the reserves (after deducting depreciation and all provisions) of the SFC reached \$5.95 billion, which amounted to 7.5 times of its revised estimated operating expenses for the 2009-10 financial year. The SFC estimated that by 31 March

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2011, the reserves (after deducting depreciation and all provisions) would still be about 7.5 times of the estimated operating expenses for 2010-11. The proposed levy reduction, if implemented, is estimated to reduce the transaction cost to the market by about \$386 million a year, based on the SFC's assumption that the average daily turnover for 2010-11 is \$74 billion and that the daily turnover of futures and options contracts is 187 000 contracts. We also note that the SFC has no outstanding borrowings. As the proposed levy reduction is reasonable having regard to the need to maintain a healthy financial position of the SFC, we support the proposed reduction of the levy.

### THE SECURITIES AND FUTURES (LEVY) (AMENDMENT) ORDER 2010 (THE ORDER)

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

- (a) **Section 2** of the Order reduces the levy payable by a seller or a purchaser in respect of the consideration for a sale and purchase of securities from 0.004% to 0.003%.
- (b) **Section 3** of the Order reduces the levy payable by a seller or a purchaser for the sale and purchase of a futures contract from \$0.80 to \$0.60.
- (c) **Section 4** of the Order reduces the levy payable by a seller or a purchaser for the sale and purchase of a Mini-Hang Seng Index Futures Contract, a Mini-Hang Seng Index Options Contract or a Mini-Hang Seng China Enterprises Index Futures Contract from \$0.16 to \$0.12.
- (d) **Section 5** of the Order reduces the levy payable by a seller or a purchaser for the sale and purchase of a stock futures contract or an option for such a contract from \$0.16 to \$0.12.

5. The Order will come into operation on 1 October 2010.

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### **LEGISLATIVE TIMETABLE**

6. The legislative timetable is as follows –

Publication in Gazette	20 May 2010
Tabling at the Legislative Council (LegCo) for negative vetting	26 May 2010

### **IMPLICATIONS OF THE PROPOSAL**

#### **Financial and Civil Service Implications**

7. There are no financial and civil service implications to the Government arising from the proposal. Section 14 of the SFO provides that the Government shall provide funding to the SFC as appropriated by the LegCo. In practice, the SFC has not requested for appropriation from the LegCo since 1993-94. Its funding basically comes from the market in the form of levies, fees and charges.

#### **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. The Panel on Financial Affairs of the LegCo was briefed on the proposal at the meeting on 1 March 2010 in the context of the budget for the SFC in 2010-11, and Members had no comments.

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## **PUBLICITY**

10. A press release will be issued upon gazette of the Order on 20 May 2010. 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 a rate specified by the Chief Executive in Council by order published in the Gazette.

## **ENQUIRIES**

12. Enquiries on this brief should be directed to Miss Mandy Wong, Principal Assistant Secretary for Financial Services and the Treasury at 2528 9493.

**Financial Services Branch**  
**Financial Services and the Treasury Bureau**  
**19 May 2010**

**SECURITIES AND FUTURES (LEVY)  
(AMENDMENT) ORDER 2010**

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

**1. Commencement**

This Order comes into operation on 1 October 2010.

**2. Securities**

Section 4(b)(i) and (ii) of the Securities and Futures (Levy) Order (Cap. 571 sub. leg. Z) is amended by repealing “0.004%” and substituting “0.003%”.

**3. Futures contracts**

Section 9(b)(i) and (ii) is amended by repealing “\$0.80” and substituting “\$0.60”.

**4. Mini-Hang Seng Index Futures Contracts,  
Mini-Hang Seng Index Options Contracts  
and Mini-Hang Seng China Enterprises  
Index Futures Contracts**

Section 10(b)(i) and (ii) is amended by repealing “\$0.16” and substituting “\$0.12”.

**5. Stock futures contracts**

Section 13(b)(i) and (ii) is amended by repealing “\$0.16” and substituting “\$0.12”.

Clerk to the Executive Council

COUNCIL CHAMBER

11 May 2010

### 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 a futures contract;
- (c) the sale and purchase of a Mini-Hang Seng Index Futures Contract, a Mini-Hang Seng Index Options Contract or a Mini-Hang Seng China Enterprises Index Futures Contract;
- (d) the sale and purchase of a stock futures contract or an option on such a contract.