

立法會
Legislative Council

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**Paper for the House Committee Meeting
of the Legislative Council
on 7 January 2000**

**Legal Service Division Report on
Securities (Amendment) Bill 1999**

Object of the Bill

To amend the Securities Ordinance (Cap. 333) to provide for the regulation of short-selling activities.

LegCo Brief Reference

2. C9/29C issued by the Financial Services Bureau.

Date of First Reading

3. 5 January 2000.

Comments

4. The Bill seeks to implement measures regulating short selling activities, being one of the 30-Point Programme announced by the Financial Secretary in early September 1998.

5. The Bill defines "short selling order" as an order to sell securities given by a seller who has a presently exercisable and unconditional right to vest the securities in the purchaser ("the Right") by virtue of stock

borrowing arrangements made or having derivative instruments entitling him to obtain or acquire the relevant securities (proposed section 80A).

6. Before a person selling as principal conveys a short selling order at or through the Stock Exchange of Hong Kong (SEHK), he is required to provide his dealer an assurance in the form of a document ("the assurance") that he has the Right and that the counter parties to a stock borrowing or lending arrangement will provide the requisite securities. Similarly, a stockbroker selling as principal must not convey a short selling order to SEHK unless he is in possession of the necessary written confirmation from the counterparties.

7. A dealer shall not accept or execute a short selling order unless he has received the assurance from a short seller.

8. Any failure to comply with the abovementioned requirements will be a criminal offence and the offender will upon conviction be liable to a fine of \$50,000 and to imprisonment for 1 year.

9. The stockbroker and his representative are required to show that an order is a short selling order in accordance with the applicable rules of SEHK when inputting an order into the trading system. This is similar to the requirements under the existing Exchange Rules and Short Selling Regulations of SEHK. However, any contravention of the statutory provision will be a criminal offence subject to a fine of \$50,000 and to imprisonment for 1 year (proposed section 80C).

Public Consultation

10. According to the LegCo Brief, the SEHK at the executive level has been consulted and their views have been taken into account in the course of the preparation of the legislative proposal. The Securities and Futures Commission has separately consulted the stock lending and borrowing industry on the practical implementation of the proposed requirements.

Consultation with LegCo Panel

11. No LegCo Panel has been consulted.

Conclusion

12. The Bill does not appear to involve any important policy issues. The Legal Service Division is seeking clarification from the Administration on certain drafting points. Subject to Member's views, the Bill may resume Second Reading debate after the drafting points have been clarified.

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