

LEGISLATIVE COUNCIL BRIEF

Securities Ordinance
(Chapter 333)

SECURITIES (STOCK LENDING) RULES

INTRODUCTION

Pursuant to section 146(1)(oa) of the Securities Ordinance, as amended by the Securities (Margin Financing) (Amendment) Ordinance and the Securities (Amendment) Ordinance 2000, the Securities and Futures Commission (“the Commission”) made the Securities (Stock Lending) Rules (“the Rules”) on 29 May 2000. The text of the Rules is at the Annex.

BACKGROUND

2. The Securities (Amendment) Ordinance 2000 (“Amendment Ordinance”), which seeks to strengthen the regulation of short selling in Hong Kong was passed by the Legislative Council on 24 May 2000. Section 146(1)(oa) of the Securities Ordinance as provided by the Amendment Ordinance, empowers the Commission to make rules to provide that a lender under a securities borrowing and lending agreement within the meaning of section 80A of the Securities Ordinance shall:

- (a) keep such records or documents and in such manner and form as may be prescribed by the rules; and
- (b) give copies of any such records or documents to the Commission at the Commission’s request and in such form and manner, and within such time, as may be prescribed by the rules.

3. Under the current proposal, a lender under a securities borrowing and lending agreement is required to keep certain documentary records when he gives a confirmation to a borrower that he has the securities concerned available to lend to the borrower or when he enters into a borrow as defined in the Rules. The documentary records must be kept for at least one year and provided to the Commission upon request within such time. The proposal

would provide a proper audit trail for strengthening the regulation of stock short selling.

THE RULES

4. The Rules provide that a lender under a securities borrowing and lending agreement within the meaning of section 80A of the Securities Ordinance shall make such documentary record as prescribed by these Rules and retain such documentary record for not less than one year from the date the relevant record was made and within such time provide any such record to the Securities and Futures Commission at its request.

PUBLIC CONSULTATION

5. The Pan Asia Securities Lending Association (“**PASLA**”), which comprises active lenders, borrowers and custodians, was consulted and did not have any objection to the Rules. PASLA also assisted in extending the consultation to other major international lending groups, none of which indicated any objection to the Rules.

6. Industry representatives were made aware of the proposed requirements at the meetings of the Bills Committee set up to study the Securities (Amendment) Bill 1999 and indicated no objection. The Stock Exchange of Hong Kong Limited supports the introduction of the Rules.

FINANCIAL AND STAFFING IMPLICATIONS

7. There are no financial and staffing implications for the Government.

COMMENCEMENT DATE

8. The commencement date for the Rules is 3 July 2000, which is the same as that for the Amendment Ordinance.

PUBLICITY

9. The Rules will be published in the Gazette on 30 May 2000. A spokesman will be available for answering media enquiries.

ENQUIRIES

10. For any enquiries on this brief, please contact Ms Noelle Tai, Counsel of the Legal Services Division, at 2840 9252 or Mr George Tam, Senior Manager of the Supervision of Markets Division, at 2840 9223.

Securities and Futures Commission
29 May 2000