

LEGISLATIVE COUNCIL BRIEF

SECURITIES ORDINANCE

SECURITIES (SECURITIES MARGIN FINANCIERS AND REPRESENTATIVES) RULES

SECURITIES (ACCOUNTS AND AUDIT) (AMENDMENT) RULES 2000

SECURITIES (DEALERS, INVESTMENT ADVISERS, PARTNERSHIPS AND REPRESENTATIVES) (AMENDMENT) RULES 2000

SECURITIES (MISCELLANEOUS) (AMENDMENT) RULES 2000

SECURITIES AND FUTURES COMMISSION ORDINANCE

SECURITIES AND FUTURES COMMISSION (ANNUAL RETURNS) (AMENDMENT) RULES 2000

INTRODUCTION

Following the enactment of the Securities (Margin Financing) (Amendment) Ordinance 2000 on 15 March 2000, securities margin financiers and securities margin financier's representatives will be required to register with and be subject to the supervision of the Securities and Futures Commission ("the SFC"). It is necessary to amend the existing subsidiary legislation and to introduce a set of new rules to govern securities margin financiers and their representatives.

2. At its meeting on 29 March 2000, the SFC made the Securities (Accounts and Audit) (Amendment) Rules 2000, Securities (Dealers, Investment Advisers, Partnerships and Representatives) (Amendment) Rules 2000 and Securities and Futures Commission (Annual Returns) (Amendment) Rules 2000, the texts of which are attached hereto (Annex A, B and C respectively). The Securities (Securities Margin Financiers and Representatives) Rules and Securities (Miscellaneous) (Amendment) Rules

2000 were made by the SFC on 30 March 2000 and 6 April 2000 respectively, the texts of which are attached hereto (Annex D and E respectively).

BACKGROUND

3. In December 1997, following the recommendation of the SFC, an inter-agency working group (“the Working Group”) was established under Financial Services Bureau to study the issue of regulating the share margin financing activities carried out by finance companies associated with securities dealers in particular. The C. A. Pacific incident added impetus and urgency to the deliberations of the Working Group.

4. The main features of the Working Group's recommendations were given effect to in the Securities (Margin Financing) (Amendment) Ordinance 2000, thereby creating a new class of registrant called “securities margin financier”. The regulatory regime now brings securities margin financing activities into the purview of the Securities Ordinance and subjects them to the supervision of the SFC. It also improves the regulatory requirements with respect to the custody and disposition of clients’ securities by dealers and securities margin financiers.

5. On 24 March 2000, the Securities (Margin Financing) (Amendment) Ordinance 2000 was gazetted. It is now proposed that it be brought into effect on 12 June 2000.

6. Under section 146 of the Securities Ordinance, as amended, and section 34 of the SFC Ordinance, the SFC has power to make Rules to govern specific matters relating to the regulation of securities margin financiers. The subject Rules deal with the following specific aspects:

- a. The Securities (Securities Margin Financiers and Representatives) Rules set out matters relating to the registration of securities margin financiers and their representatives;
- b. The Securities (Accounts & Audit) (Amendment) Rules 2000 deal with the accounting and audit requirements of a securities margin financier;
- c. The Securities (Dealers, Investment Advisers, Partnerships and Representatives) (Amendment) Rules 2000 deal with the form to

be submitted by the registered persons for notifications of changes of particulars;

- d. The Securities (Miscellaneous) (Amendment) Rules 2000 deal with additional miscellaneous matters concerning the registration and supervision of securities margin financiers and their representatives; and
- e. The Securities and Futures Commission (Annual Returns) (Amendment) Rules 2000 deal with the annual return form to accommodate the inclusion of securities margin financiers and their representatives.

PUBLIC CONSULTATION

7. The proposals relating to the regulatory regime were made after a public consultation from 8 May to 8 July 1998. These rule changes are mainly consequential changes of a minor nature where no consultation is considered to be necessary.

FINANCIAL AND STAFFING IMPLICATIONS

8. There are no financial and staffing implications for Government.

COMMENCEMENT DATE

9. The commencement date for the subject Rules will be 12 June 2000. This date is set to coincide with the commencement date of the Securities (Margin Financing) (Amendment) Ordinance 2000.

PUBLICITY

10. The subject Rules will be published in the Gazette on 14 April 2000. SFC will conduct the necessary activity to publicize the matter to registrants, investors and other interested parties.

ENQUIRIES

11. For any enquiries on this brief, please contact Ms Yvonne Mok at 2842 7638, Mr Hing-hing Chung at 2842 7679 in the Intermediaries and

Investment Products Division or Ms Helen H.Y. Lee at 2840 9246 in the
Legal Services Division.

The Securities and Futures Commission
10 April 2000