

A BILL

To

Amend the Securities and Futures Ordinance—

- (a) so that the chairman of the Securities and Futures Commission is no longer to be regarded as an executive director of the Commission;
- (b) to provide that the number of non-executive directors of the Commission shall exceed the number of executive directors of the Commission;
- (c) so that a non-executive director of the Commission may also be appointed to be the deputy chairman of the Commission or be designated to act as chairman of the Commission;
- (d) to empower the Chief Executive to appoint the chief executive officer of the Commission;
- (e) to provide expressly that the chairman, deputy chairman and chief executive officer of the Commission shall have such functions as are assigned to them by the Commission; and
- (f) to provide for related matters.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Securities and Futures (Amendment) Ordinance 2005.

2. Interpretation and general provisions

Section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571) is amended—

- (a) in the definition of “executive director”, by repealing “the chairman of the Commission, or any other” and substituting “a”;
- (b) in the definition of “member”, by repealing everything after “means” and substituting “the chairman of the Commission, or any executive director or non-executive director of the Commission (whether or not acting as the chairman, deputy chairman or chief executive officer);”.

3. Securities and Futures Commission

Part 1 of Schedule 2 is amended—

- (a) by repealing section 1(b) and substituting—
 - “(b) the number of non-executive directors of the Commission shall exceed the number of executive directors of the Commission.”;
- (b) by repealing section 2;
- (c) in the heading immediately before section 4, by repealing “**vacancies in office of chairman or deputy chairman**” and substituting “**chief executive officer**”;
- (d) in section 4, by adding “or non-executive director” after “director”;
- (e) by adding—
 - “4A. The Chief Executive may appoint an executive director of the Commission to be the chief executive officer of the Commission.”;
- (f) by adding immediately before section 5—
 - “**Vacancies in office of chairman or deputy chairman**”;
- (g) in section 6, by adding “or non-executive director” after “director”;
- (h) in section 7, by adding “or non-executive director” after “director”;
- (i) by repealing section 9 and substituting—
 - “9. A deputy chairman of the Commission who acts as chairman of the Commission under section 5, or an executive director or non-executive director of the Commission who acts as chairman of the Commission in accordance with a designation under section 6 or 7, shall be deemed for all purposes to be the chairman of the Commission.”;

- (j) in the heading immediately before section 10, by repealing “**Office**” and substituting “**Functions and office**”;
- (k) by adding immediately before section 10—
 - “9A. Subject to the other provisions of this Ordinance, the chairman, deputy chairman and chief executive officer of the Commission shall have such functions as are assigned to them by the Commission.”;
- (l) in section 10, by adding “, chief executive officer” after “deputy chairman”;
- (m) in section 11, by adding “, chief executive officer” after “deputy chairman”;
- (n) in section 12, by adding “, chief executive officer” after “deputy chairman”;
- (o) in section 13, by adding “, chief executive officer” after “deputy chairman”;
- (p) in section 27(b), by repealing “other”.

Explanatory Memorandum

This Bill amends the Securities and Futures Ordinance (Cap. 571). The main purpose is to provide for the separation of the role of the chairman of the Securities and Futures Commission from that of the executive directors of the Commission.

2. Clause 2 amends the definitions of “executive director” and “member” in Schedule 1 to the Ordinance as the chairman of the Commission is no longer to be regarded as an executive director of the Commission.

3. Clause 3 amends Part 1 of Schedule 2 to the Ordinance, and the main amendments are explained below—

- (a) paragraph (a) replaces section 1(b) of that Part by a new provision, which provides that the number of non-executive directors of the Commission shall exceed the number of executive directors of the Commission;
- (b) paragraph (b) repeals section 2 of that Part so that the chairman of the Commission is no longer to be regarded as an executive director of the Commission;

- (c) paragraphs (d), (g) and (h) amend sections 4, 6 and 7 of that Part respectively so that a non-executive director of the Commission may also be appointed to be the deputy chairman of the Commission or be designated to act as chairman of the Commission; and paragraph (i) introduces a new section 9 to that Part to tally with the amendments made by those 3 paragraphs;
- (d) paragraph (e) adds a new section 4A to that Part to empower the Chief Executive to appoint an executive director of the Commission to be the chief executive officer of the Commission;
- (e) paragraph (k) adds a new section 9A to that Part, which provides that the chairman, deputy chairman and chief executive officer of the Commission shall have such functions as are assigned to them by the Commission.