

## **LEGISLATIVE COUNCIL BRIEF**

### **Securities and Futures Ordinance (Cap. 571)**

#### **SECURITIES AND FUTURES (CONTRACT NOTES, STATEMENTS OF ACCOUNT AND RECEIPTS) (AMENDMENT) RULES 2006**

### **INTRODUCTION**

The Securities and Futures Commission (the SFC) has made the Securities and Futures (Contract Notes, Statements of Account and Receipts) (Amendment) Rules 2006 (the Amendment Rules) at the **Annex**, pursuant to section 152 of the Securities and Futures Ordinance (Cap. 571).

### **BACKGROUND**

2. The SFC released the Consultation Paper on Proposed Measures to Address Risks Arising from Securities Margin Financing (the Consultation) together with the relevant draft rule amendments on 28 September 2004 for public comment. One of the proposals set out in the Consultation was that where an intermediary licensed for dealing in securities or securities margin financing or an associated entity of such intermediary repledges margin clients' securities collateral for financial accommodation provided to the intermediary, the intermediary should disclose this repledging status in the monthly account statement provided to their clients.

3. The Amendment Rules aim to amend the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules (Cap. 571 sub. leg. Q) (the principal Rules) to incorporate the proposed requirement.

### **PUBLIC CONSULTATION**

4. A total of twenty-four submissions were received and numerous discussions concerning the proposals have since been held with industry participants and other interested parties. In addition, the SFC reported twice, in December 2004 and February 2006, to the Panel on Financial Affairs (Panel) regarding the consultation feedback and subsequent discussions.

5. Respondents generally agreed that steps should be taken to enhance

investors' awareness of pooling risk. Most Panel members also urged the SFC to take steps to increase the transparency of a firm's repledging status in order to help investors make an informed decision when choosing their brokers.

## **MAJOR POLICY CONSIDERATIONS**

6. The SFC has considered all the comments received and revised the Rules as appropriate. We have decided that where an intermediary licensed for dealing in securities or securities margin financing, or an associated entity of such intermediary, has repledged any margin clients' collateral at any time during a given month, the intermediary should make appropriate disclosure of this fact in the monthly client statement to all of its margin clients. Such disclosure should increase margin clients' awareness of the risks arising from pooling and repledging of their collateral by their broker. Given that firms are already required to issue monthly statements to their clients, this requirement should not involve much additional administrative work.

## **THE AMENDMENT RULES**

7. The Amendment Rules amend the principal Rules to impose additional disclosure requirements in monthly client statements on any intermediary which is licensed for securities margin financing or dealing in securities where such intermediary or an associated entity of such intermediary has repledged securities collateral.

## **FINANCIAL AND STAFFING IMPLICATIONS**

8. There are no financial or staffing implications for the Government.

## **COMMENCEMENT DATE**

9. The Rules will come into operation on 1 October 2006.

## **PUBLICITY**

10. The Rules will be published in the Gazette on 19 May 2006. The SFC

will issue a press release on the same day.

## **ENQUIRIES**

11. For any enquiries on this brief, please contact Mrs. Yvonne Mok of the Intermediaries Supervision Department of the Commission at 2842 7638.

The Securities and Futures Commission  
17 May 2006

**SECURITIES AND FUTURES (CONTRACT NOTES,  
STATEMENTS OF ACCOUNT AND RECEIPTS)  
(AMENDMENT) RULES 2006**

(Made by the Securities and Futures Commission under section 152 of the  
Securities and Futures Ordinance (Cap. 571) )

**1. Commencement**

These Rules shall come into operation on 1 October 2006.

**2. Preparation and provision of monthly  
statements of account**

(1) Section 11(1) of the Securities and Futures (Contract Notes,  
Statements of Account and Receipts) Rules (Cap. 571 sub. leg. Q) is amended –

(a) by repealing –

“(1) In this section, “monthly accounting  
period” ( 按月會計期 ) means –

(a)”

and substituting –

“(1) In this section –

“monthly accounting period” ( 按月會計期 ) means –

(a)”;

(b) in paragraph (b), in the English text, by repealing the full  
stop at the end and substituting a semicolon;

(c) by adding –

““repledge” ( 再質押 ) , in relation to an intermediary or  
an associated entity of an intermediary, means an  
act by which the intermediary or the associated  
entity deposits securities collateral of the  
intermediary as collateral for financial  
accommodation provided to the intermediary.”.

(2) Section 11(2)(a) is amended by repealing “subsection (3)” and substituting “subsections (3) and (3A)”.

(3) Section 11 is amended by adding –

“(3A) In the case of an intermediary which is licensed for dealing in securities or securities margin financing, where –

(a) the intermediary or an associated entity of such intermediary has held securities collateral for that account at any time during that monthly accounting period; and

(b) at any time during that monthly accounting period, the intermediary or an associated entity of such intermediary has repledged securities collateral of the intermediary (whether or not the securities collateral repledged is the same as that referred to in paragraph (a)),

a statement of account referred to in subsection (2) shall also include a statement in a prominent position stating –

(c) whether the client has provided the intermediary or an associated entity of such intermediary with a standing authority as defined in section 2 of the Securities and Futures (Client Securities) Rules (Cap. 571 sub. leg. H), which has not been revoked, authorizing the intermediary or associated entity to repledge securities collateral provided by him or on his behalf; and

- (d) that the intermediary or an associated entity of such intermediary referred to in paragraph (b) has repledged securities collateral of the intermediary during that monthly accounting period.”.

Martin Wheatley  
Chairman,  
Securities and Futures Commission

15 May 2006

#### **Explanatory Note**

These Rules amend the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules (Cap. 571 sub. leg. Q) to impose additional disclosure requirements on any intermediary which is licensed for securities margin financing or dealing in securities where such intermediary or an associated entity of such intermediary has repledged securities collateral.