

L.N. 116 of 2011

Securities and Futures (Levy) (Amendment) Rules 2011

(Made by the Chief Executive in Council under section 394 of the Securities and Futures Ordinance (Cap. 571))

1. Commencement

These Rules come into operation on 18 November 2011.

2. Securities and Futures (Levy) Rules amended

The Securities and Futures (Levy) Rules (Cap. 571 sub. leg. AA) are amended as set out in sections 3 to 12.

3. Section 2 amended (Interpretation)

(1) Section 2—

Repeal the definition of *Exchange Company*.

(2) Section 2, definition of *levy*—

Repeal

“(a) or (b)”.

(3) Section 2, definition of *remittance*—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

(4) Section 2—

Add in alphabetical order

“*Market Operator* (市場營辦者)—

- (a) in relation to a levy payable under section 394(1)(a) of the Ordinance, means the Stock Exchange Company;
- (b) in relation to a levy payable under section 394(1)(b) of the Ordinance, means the recognized exchange company that operates the futures market on which the futures contract is traded;
- (c) in relation to a levy payable under section 394(1)(c) of the Ordinance, means the person who provides the authorized automated trading services by means of which the futures contract is traded;”.

4. Section 3 amended (Payment of levy)

- (1) Section 3—

Re-number the section as section 3(1).

- (2) Section 3(1)—

Repeal

“Exchange Company” (wherever appearing)

Substitute

“Market Operator”.

- (3) After section 3(1)—

Add

“(2) In subsection (1)—

rules of the Market Operator (市場營辦者規章)—

- (a) in the case of a person who provides authorized automated trading services, means the rules of the person as approved, if required, by the Commission under section 97(3)(a) of the Ordinance;

(b) in the case of any other Market Operator, has the same meaning as *rules* has, in relation to that Market Operator, under section 1 of Part 1 of Schedule 1 to the Ordinance.”.

5. Section 4 amended (Exchange Company to remit levies)

(1) Section 4, heading—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

(2) Section 4—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

6. Section 5 amended (Returns relating to remittance)

(1) Section 5(1)—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

(2) Section 5(2)(b)—

Repeal

“Exchange Company” (wherever appearing)

Substitute

“Market Operator”.

7. Section 6 amended (Adjustment of remittance and returns)

Section 6—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

8. Section 7 amended (Late remittance charge)

Section 7(1)—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

9. Section 8 amended (Accounts)

Section 8—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

10. Section 9 amended (Inspection of accounts)

Section 9—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

11. Section 10 amended (Report)

(1) Section 10(1)—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

(2) Section 10(2)—

Repeal paragraph (b)

Substitute

“(b) prepared and certified, at the expense of the Market Operator, by—

(i) an auditor appointed by the Market Operator under the Companies Ordinance (Cap. 32); or

(ii) if the Market Operator is a non-Hong Kong company and is registered under Part XI of that Ordinance, an auditor appointed by the Market Operator.”.

12. Section 12 amended (Notification of failure to pay levy)

Section 12—

Repeal

“Exchange Company”

Substitute

“Market Operator”.

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Manda CHAN
Clerk to the Executive Council

COUNCIL CHAMBER

28 June 2011

Explanatory Note

The Securities and Futures (Levy) Rules (Cap. 571 sub. leg. AA) (*principal Rules*) provide for various matters relating to the payment of levies payable to the Securities and Futures Commission in respect of the sale and purchase of futures contracts and securities, including the imposition of charges for late payment of such levies and the keeping and inspection of accounts relating to the collection and payment of such levies. The object of these Rules is to amend the principal Rules to extend the application of the principal Rules to cover levies payable in respect of the sale and purchase of futures contracts traded by means of authorized automated trading services.

2. The definition of *Exchange Company* is replaced by the new definition of *Market Operator* which includes the Stock Exchange Company, a recognized exchange company and an authorized automated trading services provider.
3. The Rules amend section 10(2)(b) of the principal Rules to include an auditor appointed by a Market Operator otherwise than under the Companies Ordinance (Cap. 32) if it is a non-Hong Kong company registered under Part XI of that Ordinance.
4. The Rules also make consequential amendments to sections 3, 4, 5, 6, 7, 8, 9, 10 and 12 of the principal Rules by replacing “Exchange Company” with “Market Operator”.