

LEGISLATIVE COUNCIL BRIEF

Securities and Futures Commission Ordinance
(Chapter 24)

SECURITIES AND FUTURES COMMISSION (FEES) (AMENDMENT) RULES 2000

INTRODUCTION

At the meeting of the Executive Council on 11 April 2000, the Council ADVISED and the Acting Chief Executive ORDERED that the Securities and Futures Commission (Fees) (Amendment) Rules 2000, at the Annex, be made under section 54 of the Securities and Futures Commission Ordinance.

BACKGROUND AND ARGUMENT

General Background

2. The Securities and Futures Commission (“the SFC”) was established in 1989 with a view to developing and regulating the securities and futures markets in Hong Kong. According to Part VII of the Securities and Futures Commission Ordinance (“the Ordinance”), the SFC is to be funded by levies on leviable securities transaction on the Stock Exchange and the Futures Exchange, Government appropriation, and fees and charges for functions performed for, or work undertaken on account of, specific identifiable market participants or users.

3. The level of fees and charges for the SFC services are determined on a cost-recovery basis and are set out in the Securities and Futures Commission (Fees) Rules (“the Rules”), which are subsidiary legislation made under section 54 of the Ordinance. Section 54 of the Ordinance and section 11 of Schedule 8 of the Interpretation and General Clauses Ordinance provide that the Chief Executive in Council may, after consultation with the SFC, make

rules providing for the payment of fees or other charges in relation to services provided by the SFC.

4. At present, applications for registration and waiver or modifications of certain specific requirements under the relevant ordinances administered by the SFC are subject to fees on a cost-recovery basis as specified in Schedule 1 of the Rules. The Securities and Futures Commission (Fees) (Amendment) Rules 2000 (“the Amendment Rules”) seek to introduce a new set of fees applicable to securities margin financiers and their representatives, at the same levels as those fees presently payable by other classes of SFC registrants in relation to applications for similar purposes. The additional items of fees will prevent cross-subsidisation by existing registrants for the services to be provided by the SFC specifically for the financiers and their representatives, which is considered fair.

5. It should be noted that the fees and charges of SFC have remained unchanged since 1994. There were two attempts in 1997 and 1998 respectively to revise the level of fees under the cost recovery principle but both were rejected by the Provisional Legislative Council, on the ground of excessive reserves for the SFC on the first occasion and adverse market conditions after the financial turmoil on the second. As noted above, the proposed Amendment Rules are based on the existing level of fees and do not seek any revision to reflect the increases in cost since 1994.

6. In line with the policy of the Administration to gradually revise the public fees and charges to achieve full cost recovery, we have asked the SFC to review its level of fees and charges and consider necessary adjustments to recover costs. After the SFC has completed its review, we will make a separate submission for a comprehensive revision of its fees and charges.

THE AMENDMENT RULES

7. Schedule 1 of the Rules is amended to introduce a set of new fees relating to –

- (a) the regulation of securities margin financiers and securities margin financier’s representatives; and
- (b) the waiver or modification of the requirements of certain provisions of the Securities Ordinance.

PUBLIC CONSULTATION

8. The proposed amendments are technical and straight forward. We do not think any public consultation is necessary.

BASIC LAW IMPLICATIONS

9. The Department of Justice advises that the Amendment Rules are consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the Amendment Rules have no human rights implications.

FINANCIAL AND STAFFING IMPLICATIONS

11. The proposals have no financial and staffing implications for the Government.

PUBLICITY

12. The Amendment Rules will be published in the Gazette on 14 April 2000. A press release will be issued on the same day.

ENQUIRY

13. For any enquiries on this brief, please contact Mr. Bryan Chan, Principal Assistant Secretary for Financial Services at 2528 9161.

Financial Services Bureau
13 April 2000
File Ref.: SUB 49(2000)XIX

**SECURITIES AND FUTURES COMMISSION
(FEES) (AMENDMENT) RULES 2000**

(Made by the Chief Executive in Council under section 54 of the
Securities and Futures Commission Ordinance (Cap. 24) after
consultation with the Securities and Futures Commission)

1. Commencement

These Rules shall come into operation on 12 June 2000.

2. Application fees, annual fees, etc.

Schedule 1 to the Securities and Futures Commission (Fees) Rules (Cap. 24 sub. leg.)
is amended -

(a) in item 1, by adding -

"(f)	a securities margin financier	4,900
(g)	a securities margin financier's representative	1,850";

(b) in item 3, by adding -

"(e)	a securities margin financier	4,900
(f)	a securities margin financier's representative	1,850";

(c) by repealing item 17;

(d) in item 22, by adding -

"(c)	for allowing a registered financier to vary the date on which its financial year ends under section 121AH(2)	2,000
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- (d) for an extension of time for lodging documents under section 121AI(2) 2,000";
- (e) in item 26 -
 - (i) in paragraph (c), by repealing "81(1)" and substituting "81(2)";
 - (ii) by adding -
 - "(ca) for a waiver or modification of the requirements of section 81(4) of the Securities Ordinance (Cap. 333) 6,500
 - (cb) for a waiver or modification of the requirements of section 81A(2) of the Securities Ordinance (Cap. 333) 6,500
 - (cc) for a waiver or modification of the requirements of section 81A(4) of the Securities Ordinance (Cap. 333) 6,500";

333)

- (iii) in paragraph (d), by adding ",(ca), (cb) or (cc)" after "(c)";

(f) by adding -

"31. Fee payable on application under section 121BE of the Securities Ordinance (Cap. 333) -

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|-----|--|---------|
| (a) | for a waiver or modification of the requirements of section 121AB | 6,500 |
| (b) | for renewal of a waiver or modification referred to in paragraph (a) | 4,500 |
| (c) | for a waiver or modification of any or all of the requirements of section 121AJ, 121AK, 121AM or 121AP | 4,500 |
| (d) | for a waiver or modification of the requirements of any other | 6,500". |

provision prescribed in
section 121BE

Clerk to the Executive Council

COUNCIL CHAMBER

11 April 2000

Explanatory Note

The purposes of these Rules are to introduce a set of new fees relating to -

- (a) the regulation of securities margin financiers and securities margin financier's representatives;
- (b) the waiver or modification of the requirements of certain provisions of the Securities Ordinance (Cap. 333).