

LEGISLATIVE COUNCIL BRIEF

Securities and Futures Commission Ordinance
(Chapter 24)

**SECURITIES AND FUTURES COMMISSION
(LEVY) (SECURITIES) (AMENDMENT) ORDER 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 (Levy) (Securities) (Amendment) Order 2000, at Annex A, should be made under section 52 of the Securities and Futures Commission Ordinance.

BAKCGROUND AND ARGUMENT

Levy on Securities Trading

2. Securities trading in Hong Kong is currently subject to a transaction levy at 0.011% of the consideration of the transaction payable by both the buyer and the seller. The rate of the levy is specified under Securities and Futures Commission (Levy) (Securities) Order made pursuant to section 52(3)(c) of the Securities and Futures Commission Ordinance. The Order was last amended in 1998 when the rate was reduced from 0.013% to 0.011%. The levy income is now split between the Securities and Futures Commission ("SFC") and the Stock Exchange of Hong Kong Limited ("SEHK") in the ratio of 4:7, i.e. 0.004 percentage point of the consideration of the transaction goes to SFC and 0.007 percentage point of the consideration of the transaction goes to the SEHK.

Proposed Reduction in Levy

3. Out of the SEHK's share of 0.007 percentage point of the levy, 0.001 percentage point is currently diverted to its Development Reserve for funding activities or projects for the purpose of improving the productivity of the exchange and for the betterment and development of the securities market in Hong Kong.

4. After the merger, the SEHK has become a wholly-owned subsidiary of the Hong Kong Exchanges and Clearing Limited ("HKEx"), which is a soon-to-be publicly listed commercial and profit-making entity which may distribute dividends to its shareholders. The HKEx would also be able to raise capital through issue of new shares and leverage its expenditure and income to finance future development projects. It is therefore considered no longer appropriate to fund the Development Reserve of the SEHK, or for that matter its holding company, namely the HKEx through a statutory levy. It is thus proposed that, as a first step, the 0.001 percentage point out of the SEHK's share which is currently diverted to the Development Reserve should be removed.

5. This will reduce the overall transaction levy from 0.011% to 0.01%. Taking into account also the reduction of stamp duty from 0.125% (per side) to 0.1125% of the consideration of the transaction, the total transaction costs will be reduced from 0.386% to 0.3725% of the consideration of a transaction. A comparison of the transaction costs of Hong Kong vis-a-vis some selected major markets after the reduction is at Annex B for reference.

Proposed Change in the Share of Levy Income between the SFC and the SEHK

6. Following the merger, the function of supervision over the exchange participants of the stock exchange (i.e. previous members of the SEHK) is transferred from the SEHK to the SFC in order to rationalize the regulatory responsibilities. This change would lead to an increase in the operational expenditure of the SFC and a decrease in the operational expenditure of the SEHK. After discussion with SFC and the

HKEx/SEHK, it is proposed that 0.001 percentage point out of the SEHK's share of the levy be transferred to the SFC to cater for the increase in its operational costs while offsetting the savings in the SEHK.

7. Overall, the levy income for the SEHK will be reduced from 0.007 to 0.005 percentage point while that for the SFC will be increased from 0.004 to 0.005 percentage point. In other words, the levy income will be equally split between the SFC and the SEHK on a 50:50 basis.

Way Forward in the Longer Term

8. Given the commercial nature of the HKEx mentioned in paragraph 4 above, it is no longer justifiable for the HKEx or its subsidiary the SEHK to rely on the statutory levy as a significant source of income in the long term. It is considered that the levy should be phased out and replaced by alternative revenue sources, which may take the form of a substitute user transaction fee or any other fees and charges. Any such fees and charges will be subject to the approval of the SFC under the Exchanges and Clearing Houses (Merger) Ordinance. The Administration has already requested the HKEx to start consideration of the issue with a view to introducing a fee substitute for the statutory levy within a reasonable period of time after its listing which is currently planned for June this year.

THE ORDER

9. Section 2 of the Order provides that the rate of levy on securities transaction should be reduced from 0.011% to 0.01%. Section 3 decreases the amount of levy to be retained by the SEHK from 63.64% to 50% to reflect the equal sharing of the levy income between the SEHK and the SFC.

10. Subject to the negative vetting by LegCo, the Order will commence on 12 June 2000. The SFC and the SEHK consider that there would be sufficient lead time to allow for the necessary preparation for effecting the changes.

LEGISLATIVE TIMETABLE

11. The legislative timetable will be as follows -

Publication in the Gazette	20 April 2000
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Tabling at the Legislative Council	3 May 2000
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BASIC LAW IMPLICATIONS

12. The Department of Justice advises that the proposed Order is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

13. The Department of Justice advises that the proposed Order has no human rights implications.

BINDING EFFECT OF THE ORDER

14. The amendments will not affect the current binding effect of the Securities and Futures Commission (Levy) (Securities) Order.

FINANCIAL AND STAFFING IMPLICATIONS

15. The SFC expects that the additional operating costs arising from the extra workload to supervise the exchange participants in the stock exchange would be met by the transfer of 0.001 percentage point of the levy income from the SEHK based on the current projection of the SEHK turnover. The SFC therefore does not envisage that the proposed changes will give rise to any need for additional financial support from the Government.

ECONOMIC IMPLICATIONS

16. The reduction in levy will lower, albeit in a very limited manner, the overall securities transaction costs, which would be a positive development for the local securities market. Meanwhile, the HKEx is consulting market participants on a proposal to remove the minimum brokerage commission, which is at present charged at 0.25% of the consideration of a transaction, by April 2002. The Administration welcomes the proposal which would further help to lower the overall transaction costs thus enhancing the competitiveness of the market.

PUBLIC CONSULTATION

17. The proposed changes are supported by both the SFC and the HKEx. It is expected that the industry as well as the investing public will welcome the reduction of levy as this will be another step in bringing down the total securities transaction costs in Hong Kong. On the other hand, there should not be any concern about the change in the sharing of the levy income between the SFC and the SEHK as this will not bring any impact on the transaction costs. It is therefore considered that no further public consultation is necessary.

PUBLICITY

18. A press release has been issued on 19 April and the Order will be gazetted on 20 April.

Financial Services Bureau

File Reference: SUD 10(2000)IX

19 April 2000

**SECURITIES AND FUTURES COMMISSION (LEVY)
(SECURITIES) (AMENDMENT) ORDER 2000**

(Made by the Chief Executive in Council under section 52
of the Securities and Futures Commission
Ordinance (Cap. 24))

1. Commencement

This Order shall come into operation on 12 June 2000.

2. Rate of levy under section 52(1)

Paragraph 2(1) of the Securities and Futures Commission (Levy) (Securities) Order (Cap. 24 sub. leg.) is amended by repealing "0.011%" and substituting "0.01%".

3. Percentage specified under section 52(3) (c) as amount to be retained

Paragraph 3 is amended by repealing "63.64%" and substituting "50%".

Clerk to the Executive Council

COUNCIL CHAMBER

11 April 2000

Explanatory Note

This Order reduces the rate of levy payable under section 52(1) of the Securities and Futures Commission Ordinance (Cap. 24) in respect of every securities transaction recorded on the Unified Exchange or notified to it under its rules. The Order also decreases the proportion of levy collected under section 52(3) (a) of that Ordinance which is to be retained by the Stock Exchange Company pursuant to section 52(3)(b) of that Ordinance.

Major Transaction Costs in Selected Markets

(for a per side transaction of HK\$ 10 million in domestic stocks)

Market	Transaction Costs ¹	Percentage on Transaction value
US	\$15,000	0.15%
Australia	\$25,000	0.25%
Singapore	\$28,500	0.28%
London	\$30,000	0.30%
Japan	\$32,400	0.32%
Hong Kong	\$37,250 ²	0.37%
Taiwan	\$43,250	0.43%
Malaysia	\$60,000	0.60%
Thailand	\$60,000	0.60%

¹ The transaction costs in general include brokerage commission, stamp duty/transaction tax and levy.

² The figure has taken into account the reduction in the stamp duty on stock transactions and the proposed reduction of levy by 0.001 percentage point.