

L.N. 222 of 2002**SECURITIES AND FUTURES (LEVY) RULES****CONTENTS**

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SECURITIES AND FUTURES (LEVY) RULES

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

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Securities and Futures Ordinance (Cap. 571).

2. Interpretation

In these Rules, unless the context otherwise requires—

“Exchange Company” (交易所)—

(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 Futures Exchange Company;

“levy” (徵費) means a levy payable under section 394(1)(a) or (b) of the Ordinance;

“remittance” (轉付) means a payment, by way of remittance, by the Exchange Company to the Commission under section 4.

3. Payment of levy

A person who is liable to pay a levy shall pay the levy to the Exchange Company in such manner as may be specified from time to time in the rules of the Exchange Company.

4. Exchange Company to remit levies

Where the Exchange Company has collected the levy paid to it under section 3, it shall pay the levy, by way of remittance, to the Commission by paying it into such bank account as may be specified by the Commission, on the 15th day of the month following the month of the collection of the levy or, where the 15th day is not a business day, on the next business day.

5. Returns relating to remittance

(1) Within 7 days after the date of each remittance, the Exchange Company shall furnish to the Commission a return relating to the remittance.

(2) A return furnished under subsection (1) shall—

- (a) be in such form as may be specified by the Commission;
- (b) be signed by a director of the Exchange Company authorized by the Exchange Company either generally or specifically for that purpose; and
- (c) contain such information as may be specified by the Commission.

6. Adjustment of remittance and returns

A return or the amount of remittance to which it relates may be adjusted by the Exchange Company to reflect any error in a previous return or remittance (as the case may be).

7. Late remittance charge

(1) If the Exchange Company fails to remit any levy when required under these Rules, it shall pay to the Commission a late remittance charge of 2% above the average of the best lending rates respectively quoted by each note-issuing bank within the meaning of section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65), on the amount of the levy, calculated on a daily basis commencing on the date of default until remittance of the levy is made.

(2) The late remittance charge payable under subsection (1) is recoverable as a civil debt due to the Commission.

8. Accounts

The Exchange Company shall keep proper accounts in respect of all transactions relating to the collection and remittance of levies.

9. Inspection of accounts

For the purpose of ascertaining whether the Exchange Company is complying or has complied with any provision of these Rules, a person authorized in writing by the Commission may at any reasonable time, upon production of a copy of the authorization, inspect and make copies of the accounts kept under section 8.

10. Report

(1) The Exchange Company shall, within one month after 31 March in each year or such longer period as may be specified by the Commission either generally or in a particular case, furnish to the Commission a report certifying that the returns furnished under section 5 and relating to all remittances made

in the 12 months ending on 31 March in that year are correct and comply with these Rules, and that the levies to which the remittances relate have been paid in accordance with the Securities and Futures (Levy) Order (L.N. 221 of 2002).

- (2) The report furnished under subsection (1) shall be—
 - (a) in such form as may be specified by the Commission; and
 - (b) prepared and certified, at the expense of the Exchange Company, by an auditor appointed by the Exchange Company under the Companies Ordinance (Cap. 32).

11. Refund of levy

- (1) Where a person has paid a levy, he may apply to the Commission for the refund of the levy on the ground that—
 - (a) he was in fact not liable to pay the levy; or
 - (b) he subsequently became not liable to pay the levy.
- (2) An application under subsection (1) shall be—
 - (a) in writing; and
 - (b) accompanied by all relevant information.
- (3) If the Commission is satisfied that an applicant was or became not liable to pay a levy paid by him, it shall refund the levy to the applicant.

12. Notification of failure to pay levy

Where the Exchange Company is aware that any person has failed to pay a levy payable by him, it shall as soon as reasonably practicable notify the Commission in writing of the failure.

CHENG Mei-sze, Maisie
Clerk to the Executive Council

COUNCIL CHAMBER
10 December 2002

Explanatory Note

These Rules are made by the Chief Executive in Council under section 394 of the Securities and Futures Ordinance (Cap. 571). They prescribe the manner in which payment of levies under that section must be made and impose charges for late payment of such levies. They also prescribe matters relating to the keeping, examination and audit of the accounts of recognized exchange companies relating to the collection and payment to the Securities and Futures Commission of such levies.