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SECURITIES AND FUTURES (LEVY) ORDER

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

PART 1

PRELIMINARY

1. Commencement

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

2. Interpretation

In this Order, unless the context otherwise requires—

“currency futures contract” (貨幣期貨合約) means a futures contract in respect of any currency;

“exchange traded fund” (交易所買賣基金) means a collective investment scheme that—

(a) holds portfolios of securities;

(b) is designed generally to correspond to the price and yield performance of the underlying portfolios of securities with in kind creation and redemption facilities; and

(c) is listed or traded on a recognized stock market operated by the Stock Exchange Company as a single security;

“exchange traded funds market maker” (交易所買賣基金莊家) means any person who is registered as an exchange traded funds market maker by the Stock Exchange Company in accordance with the rules of the Stock Exchange Company;

“Mini-Hang Seng Index Futures Contract” (小型恒生指數期貨合約) means a futures contract entitled “Mini-Hang Seng Index Futures Contract” for which the contract specifications are set out in the rules of the Futures Exchange Company;

“Mini-Hang Seng Index Options Contract” (小型恒生指數期權合約) means a futures contract entitled “Mini-Hang Seng Index Options Contract” for which the contract specifications are set out in the rules of the Futures Exchange Company;

“new futures contract” (新期貨合約) means a futures contract that—

(a) has been approved by the Commission for the purposes of section 20(2)(a) of the Ordinance; and

(b) has not been traded on a recognized futures market operated by the Futures Exchange Company prior to the commencement of this Order;

“pilot programme” (試驗計劃) has the meaning assigned to it by the rules of the Stock Exchange Company;

“pilot programme market maker” (試驗計劃莊家) has the meaning assigned to it by the rules of the Stock Exchange Company;

“pilot programme securities” (試驗計劃證券) means securities that are traded on a recognized stock market operated by the Stock Exchange Company under the pilot programme;

“relevant period” (有關期間), in relation to a new futures contract, means the period of 6 months commencing on the first day of trading in the contract on a recognized futures market operated by the Futures Exchange Company;

“stock futures contract” (股票期貨合約) means a futures contract entitled “Stock Futures Contract” for which the contract specifications are set out in the rules of the Futures Exchange Company.

PART 2

LEVY PAYABLE IN RESPECT OF SALE AND PURCHASE OF SECURITIES DESCRIBED IN SECTION 394(1)(a) OF ORDINANCE

3. Application of Part 2

This Part does not apply in relation to a sale and purchase of securities unless it is recorded on a recognized stock market or notified to a recognized exchange company under its rules.

4. Securities

Subject to sections 5, 6 and 7, for the purposes of section 394(1)(a) of the Ordinance, the levy payable for a sale and purchase of securities—

(a) is payable by the seller and purchaser; and

(b) is—

(i) in the case of the seller, 0.005% of the consideration for the sale; or

(ii) in the case of the purchaser, 0.005% of the consideration for the purchase.

5. Stock options

For the purposes of section 394(1)(a) of the Ordinance, the levy payable for a sale and purchase of a stock option—

- (a) is payable by the seller and purchaser; and
- (b) is—
 - (i) in the case of the seller, 0% of the consideration for the sale; or
 - (ii) in the case of the purchaser, 0% of the consideration for the purchase.

6. Pilot programme securities

For the purposes of section 394(1)(a) of the Ordinance, the levy payable for a sale and purchase of pilot programme securities—

- (a) is payable by the seller and purchaser; and
- (b) is—
 - (i) in the case of the seller—
 - (A) subject to sub-subparagraph (B), 0.005% of the consideration for the sale;
 - (B) where the seller is a pilot programme market maker, 0% of the consideration for the sale; or
 - (ii) in the case of the purchaser—
 - (A) subject to sub-subparagraph (B), 0.005% of the consideration for the purchase;
 - (B) where the purchaser is a pilot programme market maker, 0% of the consideration for the purchase.

7. Exchange traded funds

For the purposes of section 394(1)(a) of the Ordinance, the levy payable for a sale and purchase of an exchange traded fund—

- (a) is payable by the seller and purchaser; and
- (b) is—
 - (i) in the case of the seller—
 - (A) subject to sub-subparagraph (B), 0.005% of the consideration for the sale;
 - (B) where the seller is an exchange traded funds market maker, 0% of the consideration for the sale; or
 - (ii) in the case of the purchaser—
 - (A) subject to sub-subparagraph (B), 0.005% of the consideration for the purchase;

- (B) where the purchaser is an exchange traded funds market maker, 0% of the consideration for the purchase.

PART 3

LEVY PAYABLE IN RESPECT OF SALE AND PURCHASE OF FUTURES CONTRACTS DESCRIBED IN SECTION 394(1)(b) OF ORDINANCE

8. Application of Part 3

This Part does not apply in relation to a sale and purchase of a futures contract unless it is traded on a recognized futures market.

9. Futures contracts

Subject to sections 10, 11, 12 and 13, for the purposes of section 394(1)(b) of the Ordinance, the levy payable for a sale and purchase of a futures contract—

- (a) is payable by the seller and purchaser; and
- (b) is—
 - (i) in the case of the seller, \$1.00; or
 - (ii) in the case of the purchaser, \$1.00.

10. Mini-Hang Seng Index Futures Contracts and Mini-Hang Seng Index Options Contracts

For the purposes of section 394(1)(b) of the Ordinance, the levy payable for a sale and purchase of a Mini-Hang Seng Index Futures Contract or a Mini-Hang Seng Index Options Contract—

- (a) is payable by the seller and purchaser; and
- (b) is—
 - (i) in the case of the seller, \$0.20; or
 - (ii) in the case of the purchaser, \$0.20.

11. Currency futures contracts

For the purposes of section 394(1)(b) of the Ordinance, the levy payable for a sale and purchase of a currency futures contract—

- (a) is payable by the seller and purchaser; and

- (b) is—
- (i) in the case of the seller, nil; or
 - (ii) in the case of the purchaser, nil.

12. New futures contracts

For the purposes of section 394(1)(b) of the Ordinance, the levy payable for a sale and purchase of a new futures contract during the relevant period of the contract—

- (a) is payable by the seller and purchaser; and
- (b) is—
 - (i) in the case of the seller, nil; or
 - (ii) in the case of the purchaser, nil.

13. Stock futures contracts

For the purposes of section 394(1)(b) of the Ordinance, the levy payable for a sale and purchase of a stock futures contract or an option on such a contract—

- (a) is payable by the seller and purchaser; and
- (b) is—
 - (i) in the case of the seller, \$0.20; or
 - (ii) in the case of the purchaser, \$0.20.

CHENG Mei-sze, Maisie
Clerk to the Executive Council

COUNCIL CHAMBER
10 December 2002

Explanatory Note

This Order is made by the Chief Executive in Council under section 394 of the Securities and Futures Ordinance (Cap. 571). It specifies the rate of levy payable for a sale and purchase of securities. It also specifies the amount of levy payable for a sale and purchase of a futures contract.