

《證券及期貨(徵費)規則》
(第 571 章, 附屬法例 AA)

Securities and Futures (Levy) Rules
(Cap. 571 sub. leg. AA)

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制定史

本為 2002 年第 222 號法律公告——2011 年第 116 號法律公告，2012 年第 1 號編輯修訂紀錄，2012 年第 28 號

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《證券及期貨(徵費)規則》

(第 571 章第 394 條)

(略去制定語式條文——2012 年第 1 號編輯修訂紀錄)

[2003 年 4 月 1 日] 2003 年第 12 號法律公告

(格式變更——2012 年第 1 號編輯修訂紀錄)

1. (已失時效而略去——2012 年第 1 號編輯修訂紀錄)

2. 釋義

在本規則中，除文意另有所指外——

市場營辦者 (Market Operator) ——

- (a) 就根據本條例第 394(1)(a) 條須繳付的徵費而言，指聯交所；
- (b) 就根據本條例第 394(1)(b) 條須繳付的徵費而言，在有關期貨合約於某期貨市場交易的情況下，指營辦該期貨市場的認可交易所；
- (c) 就根據本條例第 394(1)(c) 條須繳付的徵費而言，在有關期貨合約是透過使用認可自動化交易服務交易的情況下，指提供該服務的人；(2011 年第 116 號法律公告)

徵費 (levy) 指根據本條例第 394(1) 條須繳付的徵費；(2011 年第 116 號法律公告)

轉付 (remittance) 指市場營辦者根據第 4 條以轉付方式向證監會作出付款。(2011 年第 116 號法律公告)

(2011 年第 116 號法律公告)

Securities and Futures (Levy) Rules

(Cap. 571, section 394)

(Enacting provision omitted—E.R. 1 of 2012)

[1 April 2003] L.N. 12 of 2003

(Format changes—E.R. 1 of 2012)

1. (Omitted as spent—E.R. 1 of 2012)

2. Interpretation

In these Rules, unless the context otherwise requires—

levy (徵費) means a levy payable under section 394(1) of the Ordinance; (L.N. 116 of 2011)

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; (L.N. 116 of 2011)

remittance (轉付) means a payment, by way of remittance, by the Market Operator to the Commission under section 4. (L.N. 116 of 2011)

(L.N. 116 of 2011)

3. 繳付徵費

- (1) 有法律責任繳付徵費的人，須以市場營辦者規章不時指明的方式向市場營辦者繳付徵費。(2011 年第 116 號法律公告)
- (2) 在第 (1) 款中——
市場營辦者規章 (rules of the Market Operator) ——
 - (a) 就提供認可自動化交易服務的人而言，指證監會根據本條例第 97(3)(a) 條批准 (如有規定) 的該人的規則；
 - (b) 就任何其他市場營辦者而言，該營辦者的**規章**的涵義，具有本條例附表 1 第 1 部第 1 條中**規章**的相同涵義。(2011 年第 116 號法律公告)

4. 市場營辦者須轉付徵費

(2011 年第 116 號法律公告)

市場營辦者凡收取根據第 3 條繳付予它的徵費，它須以轉付方式將徵費付予證監會，方法是在收取徵費的月份的下一個月第 15 天將徵費付入證監會指明的銀行戶口，如第 15 天當天不是營業日，則須在下一個營業日付入該戶口。

(2011 年第 116 號法律公告)

5. 關於轉付的申報表

- (1) 市場營辦者須在每次轉付徵費的日期後 7 天內，向證監會提交一份關於該次轉付的申報表。

3. Payment of levy

- (1) A person who is liable to pay a levy shall pay the levy to the Market Operator in such manner as may be specified from time to time in the rules of the Market Operator. (*L.N. 116 of 2011*)
- (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. (*L.N. 116 of 2011*)

4. Market Operator to remit levies

(*L.N. 116 of 2011*)

Where the Market Operator 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.

(*L.N. 116 of 2011*)

5. Returns relating to remittance

- (1) Within 7 days after the date of each remittance, the Market Operator shall furnish to the Commission a return relating to

- (2) 根據第 (1) 款提交的申報表須 ——
- (a) 採用證監會指明的表格；
 - (b) 由獲市場營辦者給予一般授權或特別為此目的而授權的市場營辦者董事簽署；及
 - (c) 載有證監會指明的資料。

(2011 年第 116 號法律公告)

6. 調整轉付款額及申報表

市場營辦者可調整任何申報表或它所關乎的轉付款額，以反映之前的申報表或轉付(視屬何情況而定)的任何錯誤。

(2011 年第 116 號法律公告)

7. 逾期轉付附加費

- (1) 如市場營辦者沒有在本規則規定的時間轉付徵費，它須向證監會繳付逾期轉付附加費，款額為徵費款額乘以每間屬《法定貨幣紙幣發行條例》(第 65 章)第 2 條所指的發鈔銀行各別提供的最優惠貸款利率的平均息率加 2%，按日計算，從開始拖欠當日起計直至有關徵費獲轉付為止。(2011 年第 116 號法律公告)
- (2) 根據第 (1) 款須繳付的逾期轉付附加費，可作為拖欠證監會的民事債項追討。

8. 帳目

市場營辦者須就所有關於徵費的收取和轉付的財務往來備存妥善帳目。

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 Market Operator authorized by the Market Operator either generally or specifically for that purpose; and
 - (c) contain such information as may be specified by the Commission.

(L.N. 116 of 2011)

6. Adjustment of remittance and returns

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

(L.N. 116 of 2011)

7. Late remittance charge

- (1) If the Market Operator 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. (L.N. 116 of 2011)
- (2) The late remittance charge payable under subsection (1) is recoverable as a civil debt due to the Commission.

8. Accounts

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

*(2011 年第 116 號法律公告)***9. 查閱帳目**

為確定市場營辦者是否正遵從或已遵從本規則的任何條文，獲證監會書面授權的人可於任何合理時間，在出示有關授權書的文本後查閱和複印根據第 8 條備存的帳目。

*(2011 年第 116 號法律公告)***10. 報告**

(1) 市場營辦者須在每年 3 月 31 日後的 1 個月內，或在證監會一般地或就個別個案指明的較長限期內，向證監會提交一份報告，證明根據第 5 條提交的關乎於截至該年 3 月 31 日為止的 12 個月內作出的所有轉付的申報表均正確無誤並且是符合本規則，並證明該等轉付所關乎的徵費已按照《證券及期貨(徵費)令》(第 571 章，附屬法例 Z)繳付。*(2011 年第 116 號法律公告)*

(2) 根據第 (1) 款提交的報告須 ——

(a) 採用證監會指明的表格；並

(b) 由 ——

(i) 市場營辦者根據《公司條例》(第 622 章)或《有關條例》委任的核數師擬備和核證；或

(ii) (如市場營辦者屬《公司條例》(第 622 章)第 2(1)條所界定的註冊非香港公司)該市場營辦者委任的核數師擬備和核證，

但擬備和核證開支均須由該市場營辦者負擔。*(2011 年第 116 號法律公告；2012 年第 28 號第 912 及 920 條)*

*(L.N. 116 of 2011)***9. Inspection of accounts**

For the purpose of ascertaining whether the Market Operator 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.

*(L.N. 116 of 2011)***10. Report**

(1) The Market Operator 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 (Cap. 571 sub. leg. Z).
(L.N. 116 of 2011)

(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 Market Operator, by—

(i) an auditor appointed by the Market Operator under the Companies Ordinance (Cap. 622) or the relevant Ordinance; or

(ii) if the Market Operator is a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622), an auditor

11. 退還徵費

- (1) 已繳付徵費的人可以下述理由，向證監會申請退還該筆徵費——
 - (a) 他事實上無法律責任繳付該筆徵費；或
 - (b) 他其後變為無法律責任繳付該筆徵費。
- (2) 根據第 (1) 款提出的申請須——
 - (a) 以書面提出；及
 - (b) 附有所有有關資料。
- (3) 如證監會信納申請人實屬無法律責任繳付或變為無法律責任繳付已繳付的徵費，則須退還該筆徵費予申請人。

12. 沒有繳付徵費的通知

凡市場營辦者察覺有人沒有繳付該人須繳付的徵費，它須在合理地切實可行的範圍內盡快以書面將此事通知證監會。

(2011 年第 116 號法律公告)

appointed by the Market Operator. *(L.N. 116 of 2011; 28 of 2012 ss. 912 & 920)*

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 Market Operator 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.

(L.N. 116 of 2011)