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Mrs Florence Lam
Clerk to Bills Committee on Securities and Futures Bill
and Banking (Amendment) Bill 2000
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**Bills Committee on
Securities and Futures Bill and Banking (Amendment) Bill 2000**

Part X – Powers of Intervention and Proceedings

When the Bills Committee met on 27 April to discuss Part X of the Securities and Futures Bill, we undertook to provide Members with a list of court cases which have been taken into account in ensuring the appropriateness of “fair, just and reasonable” and “assumption of responsibility” in clauses 208(3)(a) and (b). The list as provided by the Department of Justice is now attached.

Yours sincerely,

(Miss Vivian Lau)
for Secretary for Financial Services

Encl.

c.c. DoJ (Attn. : Ms Beverly Yan)
SFC (Attn. : Mr Andrew Procter
Mrs Alexa Lam)

Securities and Futures Bill
Part X – Clause 208
List of court cases taken into account in
ensuring appropriateness of “fair, just and reasonable”
and “assumption of responsibility”

Smith v. Bush ([1990] 1 A.C. 831)

Caparo v. Dickman ([1990] 2 A.C. 605)

Spring v. Guardian Assurance plc ([1994] 3 W.L.R. 354)

White and Jones ([1995] 2 A.C. 207)

Henderson v Merrett Syndicates Ltd. ([1995] 2 A.C. 145)

March Rich & Co AG v. Bishop Rock Marine Co. Ltd. The Nicholas H ([1995] 3 All ER 307)

BCCI v Price Waterhouse (No. 2) ([1998] P.N.L.R. 564)

Williams and another v. Natural Life Health Foods Ltd. and another ([1998] 2 All ER 577)

Burns v. Shuttlehurst Ltd. and another ([1999] 2 All ER 27)

Phelps v. Hillingdon London Borough Council ([1999] 1 All ER 421)

British Telecommunications plc. James Thomson & Sons (Engineers) Ltd. ([1999] 2 All ER 241)

Law Society v. KPMG Peat Marwick and others ([2000] 1 All ER 515)

[N.B. Peat Marwick’s petition for leave to appeal to the House of Lords against the finding of the Court of Appeal that the imposition of a duty of care was “fair, just and reasonable” was recently refused.]

Kent v Griffiths and Others (No. 2) ([2000] 2 All ER 474)

Greatorex v. Greatorex and Others (The Times, June 5, 2000)

Bailey and Another v HSS Alarms Ltd. (The Times, June 20, 2000)

Gorham and Others v. British Telecommunications plc and Others (The Times, August 16, 2000)