

Securities & Futures Bill Part X

Supplement to the Comparison Table for Part X (Annex I to LC Paper No. CB(1) 1002/00-01(01))

References to clauses (*cl.*), subclauses (*sc.*) or paragraphs in the comments column are to those of the Bill unless otherwise expressly stated.

Commission = the Securities and Futures Commission

CFI = the Court of First Instance

LFETO= Leveraged Foreign Exchange Trading Ordinance (Cap. 451)

SFCO = Securities and Futures Commission (Cap. 24).

SO = Securities Ordinance (Cap. 333)

Blue Bill Clause Ref.	SFCO section	LFETO section	SO section	Comments
197	40	51	-	References to "assets" are replaced by "property". The existing legislation states expressly that the prohibition applies to assets whether in Hong Kong or elsewhere.
198	41	52	-	References to "assets" are replaced by "property". The clause is subject to the conditions set out in clause 200.
199	-	-	-	New. It is not clear what purposes the mandatory requirement of applying to CFI by the Commission after the transfer of custody would serve.
200	38(1)	49(1)	-	The new clause incorporates the existing legislation.
201	43(1)	54(1)	-	<i>Sc.</i> (2) to (5) are new.
202	42	53	-	<i>Sc.</i> (5), (6), & (13) are new.
202(3)	43(2)	54(2)	-	Paragraph (a) is added to cover the situation when a request is granted.
202(10)	38(3)	-	-	In the existing legislation, the notification of the exchange company & clearing house is a pre-condition for the lawful exercise of the powers. The new provisions have changed it to be a duty of the Commission to inform only.
203-204	-	-	-	New.

205	45 & 46	59 & 60	-	In the existing legislation, the notification of the exchange company & clearing house is a pre-condition for the lawful exercise of the powers. The new provisions have changed it to be a duty of the Commission to inform only.
206	55	13 & 55	144	<i>Sc.</i> (1)(a)(ii) to (v) & (b) are added. <i>Sc.</i> (3) change the notification of the recognized exchange company & clearing house as the condition precedent for making an application to a mere duty to inform. <i>Sc.</i> (6), (7), (8), (9) & (11) are new. <i>Sc.</i> (7) & (8) may have modified the law governing the grant of interim or final injunctions or restrain orders.
207	37A	-	-	In <i>sc.</i> (1), paragraphs (a), (b) & (c) are added as grounds for the Commission to make an application. Paragraph (d) is added in <i>sc.</i> (2) to empower the Court to make orders prohibiting a person from being a director, liquidator, receiver or manager. or directly or indirectly .being involved in corporate management. <i>Sc.</i> (3) excludes the application of <i>sc.</i> (2)(d) to director, liquidator, receiver or manager of an authorized financial institution. <i>Sc.</i> (4) is added to put the duty of filing an order under <i>sc.</i> (2)(d) on the court. <i>Sc.</i> (8) prescribes fines for contravening <i>sc.</i> (7). The level of fines appears to be much lower than those prescribed for other offences.
208	-	-	-	The nature of the civil liability created by the clause is not clear. It is therefore also unclear what principles should apply in determining the remoteness of damage and measure of damages.

Prepared by

Legal Service Division
 Legislative Council Secretariat
 18 April 2001