

**Bills Committee on Securities and Futures Bill
and Banking (Amendment) Bill 2000**

**Distribution of the loss recovered between the claimant and
the SFC in exercise of the subrogated rights under clause 235**

When considering Part XII of the Securities and Futures Bill at the Bills Committee meeting on 4 May 2001, Members asked for some examples to illustrate the subrogation of the Securities and Futures Commission to rights, etc. of the claimant on payment from the compensation fund under clause 235. We have accordingly prepared a few scenarios at the Annex.

**Securities and Futures Commission
Financial Services Bureau
13 September 2001**

Examples showing the distribution of the loss recovered between the claimant and the SFC in exercise of the subrogated rights under clause 235

Scenario	A	B	C	D	E	F	G
	Allowed claim for securities/cash	Compensation payment ¹	Securities/cash recovered	Entitlement of the claimant to the securities/cash recovered $C \times (A-B)/A$	Entitlement of the SFC to the securities/cash recovered ² $C \times B/A$	Total amount recovered by the claimant B+D	Net payment from the compensation fund B-E
	\$	\$	\$	\$	\$	\$	\$
1	100,000	100,000	80,000	$80,000 \times (100,000 - 100,000) / 100,000 = 0$	$80,000 \times 100,000 / 100,000 = 80,000$	$100,000 + 0 = 100,000$	$100,000 - 80,000 = 20,000$
2	250,000	150,000	125,000	$125,000 \times (250,000 - 150,000) / 250,000 = 50,000$	$125,000 \times 150,000 / 250,000 = 75,000$	$150,000 + 50,000 = 200,000$	$150,000 - 75,000 = 75,000$
3	500,000	150,000	250,000	$250,000 \times (500,000 - 150,000) / 500,000 = 175,000$	$250,000 \times 150,000 / 500,000 = 75,000$	$150,000 + 175,000 = 325,000$	$150,000 - 75,000 = 75,000$
4	250,000	150,000	100,000	$100,000 \times (250,000 - 150,000) / 250,000 = 40,000$	$100,000 \times 150,000 / 250,000 = 60,000$	$150,000 + 40,000 = 190,000$	$150,000 - 60,000 = 90,000$
5	250,000	150,000	250,000 ³	$250,000 \times (250,000 - 150,000) / 250,000 = 100,000$	$250,000 \times 150,000 / 250,000 = 150,000$	$150,000 + 100,000 = 250,000$	$150,000 - 150,000 = 0$

¹ Assuming compensation limit at \$150,000.

² Under the proposed CSA to clause 235, the SFC and the claimant will share in the same ratio as creditors in the winding up. SFC's subrogated rights are limited to the amount of its payment and the claimant may repay the SFC to release the SFC's subrogated rights.

³ If the value of the securities available to the claimant has risen above \$250,000, the excess would belong to the claimant. Moreover, as mentioned in footnote (2), the claimant may repay the compensation received to release the SFC's subrogated rights.