

## Securities & Futures Bill Part V

### Supplement to the Comparison Table for Part V (Annex B to LC Paper No. CB(1) 569/00-01(01))

References to sections (s.), subsections (ss.) or paragraphs (para.) in the comments column are to those of the Bill unless otherwise expressly stated.

Any alteration in the Bill due to mere change in section number cross references or cross references of a similar nature is not considered as substantive.

SFCO = Securities and Futures Commission (Cap. 24)

SO = Securities Ordinance (Cap. 333).

CTO = Commodities Trading Ordinance (Cap. 250)

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

Blue Bill Clause Ref.	SO section	CTO section	LFETO section	SFCO section	Comments
114(1) & (3)	48(1), 49(1), 50(1), 121C(1) & 121D(1)	26(1), 27(1), 28(1) & 29(1)	3(1) & 6(2)	-	Dealers are no longer registered but licensed.
114(2) & (4)	-	-	-	-	New.
114(5)	121B(2)	-	-	-	No change in end effect.
114(6)	121C(3)	-	-	-	Ditto
114(7)	48(2), 49(2), 121C(2) & 121D(2)	26(5) & 27(4)	3(2)	-	Contravening ss. (1) for dealers may now be an indictable or a summary offence & the terms of imprisonment are imposed. For all, the amounts of fines are increased.
114(8)	50(2)	28(2) & 29(2)	6(6)	-	For dealer's & investment adviser's representative, acting without a licence may now be an indictable or a summary offence & the terms of imprisonment are imposed. For all, the amounts of fines are increased.

117(1)(a)	52	31	-	-	Every licensee is required to lodge & maintain security as prescribed in the rules or insured to the satisfaction of the Commission against prescribed risks. The requirement of a responsible officer being available at all times to supervise the business is added.
117(1)(b)	-	-	7(5)	-	The legal effect is substantially the same.
117(1)(c)	-	-	-	-	New.
117(1)(d)	121E(1)(b) & 121B(3)	-	-	-	The activities specified in the respective relevant schedules are not the same.
117(2)	-	-	7(10)	-	The paragraph (h) of s. 7(10) is omitted.
118	60 & 61	-	-	-	New. Exemption is restricted to authorized financial institutions only.
119	51 & 63(4)	30 & 41(4)	6(1) & 7	-	New. Representatives are now licensed and not registered. Each licence may be made subject to conditions. The Commission is empowered under ss. (2) to grant provisional licences which will expire upon the grant or refusal of the licences applied for and may be revoked at any time. Revoked provisional licences must be returned within 7 days.
124	48(1A), 49(1A), 49C & 49D	26(2) & (3)	5	-	The criminal liability is limited to the contravening corporation only. Every executive director is required to be approved as responsible officer. Exempt persons shall be governed by similar provisions to be enacted by the Banking (Amendment) Bill 2000.
128	121G(5) to (7), 121H(4) to (5), 121I(5) to (6)	-	9	-	The clause has substantially incorporated the existing provisions.

129	-	-	16	-	Under s. 27 of the existing SFCO, the registered person has to inform the Commission of the location of the premises for the keeping of records. The Commission may require the registered person to notify of another premises if it is not satisfied of the suitability of the premises notified. The clause now requires a licensed corporation to apply for approval of premises use for keeping of records.
130	-	-	14A	26A	The procedural aspects of an application for approval are now to be prescribed presumably by rules. Under ss. (5), the Commission may amend or revoke conditions & impose new conditions. A defence is now afforded under ss. (11) to a person contravening the prohibition against exercise of any rights of the shares concerned.
131	121BE	-	69	29 & 55A	Revocation of modification or waiver in respect of FRR would not require 7 days prior notice. All modification & waiver as well as any amendment or revocation are to be published in the Gazette. Ss. (6) to (12) are new.
132	63	41	14	-	The clause follows substantially s. 14 of LFETO. There are differences in the following aspects: (a) the notification of intended cessation shall be prior to such cessation(ss. (1)); (b) the provisions cover all licensed & exempt persons; (c) the Authorities to which report should be made are respectively the Commission for licensed persons & MA for the exempt persons; (d) the obligation to notify would cease when an application is refused or withdrawn (ss. (5)); & (e) the fine has been increased to Level 5 but the imprisonment term has been removed.(ss. (7)).

133	64 & 1200	42	15(1) to (3)	-	Under <i>ss.</i> (2)(c) & (d), it is prescribed that a register shall contain the name of a licensed representative's principal & the name & address of every executive officers of a licensed corporation. <i>Ss.</i> (3) is added to provide for the forms in which a register may be kept. Previously all applications for registration are also open to inspection by members of the public. There does not appear to be provisions for rectifying any inaccurate entries or any right to rectification of licensed persons.
134	65 & 121P	43	15(4) to (6)	-	The clause incorporates substantially the existing legislation. The difference between the old & new are: (a) the nationality or domicile of the licensed person is not specifically required to be published; & (b) conditions of licences or exemption need to be publish as the Commission considers appropriate.
136	142	106(2)	-	-	The provision is new except in respect of the commodity dealer or futures dealer. The maximum fine is increased to level 6 but the daily fine is reduced. Previously similar effect is achieved by making holding out an offence.
137	53(2) & (3), 121G(8) & (9), & 121H(6) & (7)	32(3)	7(9)	26A(6) & (7)	The clause ensures that every applicant would have reasonable opportunity to be heard before any final decision is made.
138	-	-	61	60(1)	Two other modes of service are added, i.e. by facsimile transmission & by electronic mail transmission. <i>Ss.</i> (2) stipulates the time when service by each mode is effected.
Schedule 6 Part II "advising on corporate finance"	-	-	-	-	New. The definition would include merchant banks and other financial institutions participating in the public offer or listing of a corporation on a stock market.

Schedule 6 Part II "dealing in securities"	2 "dealing in securities"	-	-	-	Para. (b) is added to cover the provision of facilities for bringing together sellers & purchasers regularly for the sale & purchase of securities.
Schedule 6 Part II "leveraged foreign exchange trading"	-	-	2(1) "leveraged foreign exchange trading" & 2(2)	-	References to "limited company" are replaced by "corporation". "An approved money broker within the meaning of section 2 of Banking Ordinance (Cap. 155)" is replaced by "a member of the Hong Kong Foreign Exchange and Deposits Brokers Association" (para. (iv)). 3 more exclusions are added, i.e. para. (ix), (xii), & (xiv).
Schedule 6 Part II "foreign exchange trading"	-	-	2(1) "foreign exchange trading" & 2(2)	-	Ditto
Schedule 6 Part II "securities margin financing"	2(1) "securities margin financing" & Schedule 4 para. 1-3, 5,6 & 10	-	-	-	The definition now expressly includes securities listed in stock markets outside Hong Kong.

Schedule 6 Part III	Schedule 4 para. 4 & 7-9				No change.
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